

United States Attorney's Office
District of South Dakota
Annual Report
2013



Brendan V. Johnson
United States Attorney

Message from United States Attorney Brendan V. Johnson



Our mission is to improve the quality of life for all our citizens, provide public safety, and protect the American taxpayer. Despite federal budget cuts and staff reductions due to sequestration, our offices in Sioux Falls, Pierre, and Rapid City produced significant accomplishments in 2013.

Our office has become a national leader within the federal government in the area of human trafficking. In 2013, several of our most heinous sex trafficking prosecutions came to a close, with one defendant being sentenced to three life sentences. Three more defendants received sentences of 33-½ years, 30 years, and 10 years. During that same timeframe, 11 more people were indicted on sex trafficking and related charges, and others were convicted and scheduled for sentencing. That is an extraordinary number. It is due in large part to the tremendous collaboration and support of our federal, state, local, and tribal law enforcement partners who investigate the leads and help build the cases against these perpetrators. Today, South Dakota leads the nation in the percentage of sex offenders and violent predators under active federal supervision.

This past year also brought movement to stop human trafficking across the country as public awareness was heightened through federal initiatives and grass-roots activism. In South Dakota, task forces were formed that include law enforcement, government officials, advocacy groups, health care professionals, religious leaders, and education officials.

This year's report also highlights our efforts in other high priority areas. We have focused on making tribal communities safer, and even with the budget cuts, 2013 produced increases in prosecutions on the Cheyenne River, Flandreau, and Yankton Sioux reservations. We do not believe that prosecutions alone will make tribal communities safer, and that is why we have also engaged in extensive community outreach with our tribal partners to build a cooperative and productive relationships based on mutual trust and respect. In 2014, J.R. LaPlante, South Dakota Secretary of Tribal Relations, will be joining our office to continue building these relationships and helping to empower the tribes in the judicial arena.

In regards to recovery efforts, our office collected over \$2.8 million from civil and criminal actions. Of this amount, over \$2.1 million was collected in criminal actions and over \$673,000 was collected in civil actions. Additionally, the District of South Dakota worked with other U.S. Attorney's Offices and components of the Department of Justice to collect an additional \$21.7 million 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 U.S. Attorney's Office, 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Brendan V. Johnson", with a long horizontal flourish extending to the right.

Brendan V. Johnson
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 40 United States Attorneys dating back to 1861 when Harvey M. Vale 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

America's Most Productive Federal District Courts: According to the Administrative Office Statistics Division of U.S. District Courts, the District of South Dakota was ranked among the top twenty most productive Federal District Courts in America in 2013.

Also released in the FY 2013 data, the District had the second highest number of criminal trials in the country.

USA Johnson Completes Term as Chairman of National Committee: In February, USA Johnson completed his term as Chairman of the Department of Justice's Native American Issues Subcommittee (NAIS). Johnson had served as chairman of the NAIS since 2009, shortly after his confirmation as U.S. Attorney for the District of South Dakota. The NAIS is a subcommittee of the Attorney General's Advisory Committee, of which USA Johnson remains a member.

As NAIS chair, Johnson was instrumental in bringing South Dakota Indian country issues to the forefront. In July 2011, Attorney General Eric Holder, Associate Attorney General Thomas J. Perrelli, and approximately 30 U.S. Attorneys from across the country visited South Dakota to meet with tribal leaders in Rapid City and Pine Ridge. The Department of Justice has worked closely with tribal communities to empower tribal courts, increase law enforcement cooperation, and improve public safety in Indian country. This spirit of cooperation has produced a significant increase in prosecutions as well as the development of new programs designed to empower tribal court systems.

Violence Against Women Advocacy Group Names USA Johnson Prosecutor of the Year: In March, the South Dakota Domestic Violence Coordinating Committee (SDDVCC) chose USA Johnson as their Prosecutor of the Year. The SDDVCC is an organization led by the South Dakota Coalition Ending Domestic & Sexual Violence and the South Dakota Network Against Family Violence and Sexual Assault. The organization includes law enforcement leaders from the state, federal, and tribal levels and is designed to protect and represent the interests of survivors of domestic and sexual assault.

The group recognized that USA Johnson strongly supports their efforts and has made human trafficking, domestic abuse, and sexual violence priorities in the U.S. Attorney's Office. As a result, prosecution rates have increased.

University of South Dakota (USD) Women In Law Honor USA Johnson: In a ceremony held on October 7, the USD Women in Law named USA Johnson as their 2013 Attorney of the Year. Johnson, a graduate of USD, was bestowed with the honor for his leadership on issues affecting women, children, and minorities in South Dakota. Women In Law is an organization composed of both male and female law students, faculty members, and members of the South Dakota State Bar. The group works to increase awareness of current issues affecting women in law.



USA JOHNSON, US DISTRICT COURT JUDGE KAREN E. SCHREIER, AND MEMBERS OF THE USD WOMEN IN LAW ORGANIZATION

Johnson's nomination by the group was driven, in part, for his successful efforts to create a South Dakota Domestic Violence Coordinating Committee, his sponsorship and participation in regional Native American Youth Leadership listening conferences, spearheading the creation of a special domestic violence prosecutor on the Standing Rock reservation, and for sponsoring a Civil Rights Conference. Special recognition was given to his efforts to prosecute human trafficking cases. He has brought this issue to the forefront in the state, and has worked to create public awareness and educate the public on this topic.

Community Education: USA Johnson had the opportunity to visit several high school government classes, college classes, law school classes, and student associations to talk with students about the role of the U.S. Attorney's Office and the judicial system. As part of the presentation, he discussed the different priorities of the office and invited the students to share their thoughts and opinions on the priorities outlined.



USA JOHNSON SPEAKING TO GOVERNMENT CLASS



USA Johnson was honored to be the commencement speaker at the Oglala Lakota College (OLC) graduation ceremony at the Pow Wow grounds in Kyle on June 23. Photos commemorating the day are courtesy of OLC.



SD GEARUP (Gaining Early Awareness and Readiness for Undergraduate Programs) College and Career Expo: In June, the second annual college and career expo was held on the School of Mines and Technology campus in Rapid City. The expo was part of the SD GEARUP summer honors program, which is intended to increase the number of American Indian students who enter the STEM (Science, Technology, Engineering, Mathematics) career fields. There were students represented from all nine tribes in South Dakota, and they attended the expo to learn about post-secondary opportunities and STEM career choices. USA Johnson was one of several dignitaries in attendance who talked to the students about the importance of education.

Memorandum of Understanding with the Crow Creek Sioux Tribe: In August, USA Johnson was on hand in Fort Thompson for the signing of a memorandum of understanding between the Crow Creek Sioux Tribe and the South Dakota Highway Patrol. The agreement was for a joint tribal-state law enforcement operation during the Tribe's annual pow-wow. The 2013 Crow Creek Sioux Tribe Pow Wow coincided with the 150th anniversary of the founding of Fort Thompson and a large crowd was anticipated at the weekend events. In an effort to provide maximum public safety, the Tribe reached out to the State for law enforcement assistance. The troopers involved in the operation were sworn in by a tribal judge after a training and orientation program. This spirit of cooperation was recognized as an important step towards future joint law enforcement operations.





Law Enforcement Coordinating Committee (LECC) Annual

Conference: On November 12-13, the LECC Annual Conference was held in Sioux Falls. The LECC is co-chaired by the U.S. Attorney and the South Dakota Attorney General. The LECC sponsors a state-wide conference each year for the purpose of training and information sharing. It is held in conjunction with the South Dakota Annual Law Enforcement Appreciation Dinner and

Children’s Charity Fundraiser. The two-day conference focused on the identification of child sex trafficking and prescription drug abuse, two subjects that are high on the priority list for both the U.S. Attorney and the South Dakota Attorney General.

The sex trafficking portion of the training included an overview of various types of missing children and child victims, with an emphasis on runaways, making law enforcement officers aware of counter-intuitive behavior of child victims, various types of offenders, indicators specific to traffic stops relating to missing children, and of exploitations/trafficking of children.

The other session of the conference focused on prescription drug abuse and identification. Topics of discussion included the risk of prescription drug misuse, types of medications most frequently used in criminal activity, most commonly abused controlled drugs, and the responsibility of physicians, pharmacies, law enforcement and the general public in combating prescription drug abuse.

Town Hall Meeting: On November 14, USA Johnson; Sam Kooiker, the Mayor of Rapid City; and J.R. LaPlante, South Dakota Secretary of Tribal Relations; participated in a Town Hall meeting at Lakota Community Homes in Rapid City. The audience had a variety of questions, and several topics were discussed including public safety issues in Indian country.

AUSA Activity:

- In June, AUSA Meghan Dilges gave a presentation on the mandatory reporting of child abuse to the Indian Health Service (IHS) staff in Ft. Thompson. She initially met with the clinic director and community health nurse, and then provided the presentation to the staff as part of their monthly staff meeting.



- In December, AUSA's from the Rapid City office hosted a two-day trial training seminar for the Oglala Sioux Tribe Attorney General's Office and tribal judges. Topics addressed were Jurisdictional Parameters, Investigating Crimes, Reviewing Investigative Reports, Preparing to Charge, Preliminary Trial Considerations, Opening Statement, Direct Examination, Cross-Examination, Closing Statement, Offering Exhibits, Common Objections, and the Federal Rules of Evidence.
- AUSA's in the Rapid City office attend a monthly prosecutors' training hosted by the Pennington County States Attorney's office. This joint training includes participants from all the counties comprising the Black Hills.
- In 2013, as part of the Community Prosecution Pilot Program at Pine Ridge, the U.S. Attorney's Office placed a high priority on classroom visits to schools on the Pine Ridge reservation. AUSA Heather Thompson spearheaded the effort, and she reached out to other tribal law enforcement and tribal organizations working with students, and jointly formed an informal tribal-federal working group. The working group in turn reached out to the schools and community members who had participated in similar efforts in the past.

The working group formulated presentations for students on a series of serious topics, such as bullying, suicide prevention, teen dating, and crime prevention. The goal of the presentations was to introduce the students to a variety of healthy role models in the community, as well as empower them with information to help them make good decisions and smart choices.

As a result, the school in Wanblee was identified as having a high level of crime affecting children and a need for greater services. AUSA Thompson helped bring in three mental health providers to the Crazy Horse School in Wanblee from September 9-20. These three providers were from the U.S. Commissioned Corps, and provided triage-type mental health services to the students. The U.S. Attorney's Office coordinated with IHS Mental Health Services and the Multi-Disciplinary Team to assist with mental health follow-up as needed. The National Native Children's Trauma Center (University of Montana) also provided training September 19-20, to conduct secondary trauma training for the Tribal Child Welfare Agency, Crazy Horse, Little Wound, and Teach for America school staff.

- Staff of the Pierre U.S. Attorney's Office has been involved in the Circles of Care Suicide Prevention Program on the Crow Creek Reservation. The program supports mental health for youth and families on the reservation in a variety of ways. One way is through the Peers Helping Peers program, a 12-week summer program which provides training to young people. In the summer of 2013, the program purchased four teepees. The youth received instructions on how to put them up the proper way and they were displayed during the Crow Creek Sioux Tribe Annual Pow Wow and Celebration. During the 2014 summer program, the kids will paint the teepees in a traditional manner.



AUSA MEGHAN DILGES, BIA POLICE CHIEF FOR CROW CREEK AGENCY SCOTT SHIELDS, AUSA KATHRYN RICH, AND LT. ALAN WELSH, SD HIGHWAY PATROL

Retirements:

Two long-time valued members of the staff retired in 2013. From the Pierre office, Nancy Lampy, Victim Witness Coordinator, retired after 41 years of service with the Department of Justice. From the Sioux Falls office, Mary Dearborn retired from her position in the Financial Litigation Unit after many years of dedicated service.

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, then federal prosecution is sought, given that tougher sentences can be imposed because of the federal guidelines. Since 2009, the office has been involved in 23 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.

Regarding victim demographics, 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.

USA Johnson and law enforcement partners held a press conference on May 30th to discuss prosecutions of commercial sex traffickers in South Dakota and the formation of a Human Trafficking Task Force. The task force consists strictly of law enforcement to allow open and honest discussion of on-going cases and undercover operations.



Throughout the year, USA Johnson and Appellate Chief Kevin Koliner provided numerous Human Trafficking presentations to various groups and organizations. USA Johnson also participated in several media interviews and discussions on this topic.

- Confronting Sex Trafficking in South Dakota Workshop. Presented “Sex Trafficking Prosecutions in South Dakota.” March 5 and 6, in Rapid City.
- Human Trafficking in the Dakotas. Presented “Building the Strongest Case: Effectively Prosecuting Human Traffickers.” Panelist for “Spotting the Bad Guys While Protecting Child Human Trafficking Victims.” Presented “Best Practices: Working with Human Trafficking Victims.” July 26, University of South Dakota, Sioux Falls campus.
- “Protecting the Sacred Conference II: Protect the Women and Families from KXL Violence! Say No to Man Camps in Oceti Sakowin Territory!” Presented on sex trafficking in response to the Native Women’s Society of the Great Plains concern about potential “man camps.” August 16, Pickstown.
- Human Trafficking Conference. Presented “Building the Strongest Case: Effectively Prosecuting Human Traffickers.” October 3, University of South Dakota, Vermillion.
- Sanford/Child’s Voice Child Abuse Conference. Presented “Human Trafficking Investigations.” October 4, Sioux Falls.

“Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”

13th Amendment to the U.S. Constitution, December 6, 1865

SIGNIFICANT CASES

- A 59-year-old Sioux Falls man responded to an online advertisement posted by undercover police officers. The defendant agreed to pay to have sex with what he believed would be two 14-year-old girls in Sioux Falls. He was arrested when he arrived at the scene and was later tried and convicted by a federal jury. However, the jury's verdict was overturned by the district court and the government appealed the decision. The Eighth Circuit Court of Appeals entered a judgment reversing the U.S. District Court's Judgment of Acquittal and remanded the defendant back into federal custody for sentencing. The defendant received a 10-year prison sentence.

- Following a jury trial, the defendant was convicted of five counts of Sex Trafficking by Force, Fraud, or Coercion; two counts of Sex Trafficking of a Minor; Crossing State Lines for the Purposes of Prostitution; and Obstructing a Sex Trafficking Investigation. The defendant met vulnerable young women and minors in and around the Sioux Falls area and coerced them to engage in repeated commercial sex acts. He advertised the victims on the internet, and arranged for men to have sex with them at various area hotels and homes. With respect to one victim in particular, he engaged in a pattern of severe violence that included multiple beatings which resulted in bruised and fractured facial bones, burning her, and cutting her with a blade. He also took at least one victim to multiple neighboring states for the purposes of sex trafficking. The defendant was sentenced to three separate life sentences, and two additional terms of 20 years each.

- The defendant was arrested after he delivered a 14-year-old girl to a Sioux Falls hotel for commercial sex acts. Law enforcement was notified that an image of a girl who appeared to be young was being advertised for sex on the internet, and they set up a sting operation in which undercover officers placed an order for her to come to a hotel room that had been wired with video and audio recording devices. The defendant dropped the girl at the hotel, and was arrested shortly after the girl communicated with the undercover officer and received payment for the agreed-upon sex act. The defendant's name was also associated with the account used to place the internet advertisement and with the credit card account used to place the advertisement. Further investigation revealed that he had been providing the minor victim, a young runaway, to various prostitution customers in the Sioux Falls area in the months before his arrest. He had also been holding her

in a local hotel room, taking most of her prostitution proceeds, beating her, and otherwise coercing her to engage in the sex acts. The defendant was convicted by a jury of one count of Conspiracy to Engage in Sex Trafficking of a Minor and one count of Sex Trafficking of a Minor. He was sentenced to 30 years in prison.

- The defendant pled guilty to one count of Sex Trafficking by Force, Fraud, or Coercion and was sentenced to 33-1/2 years in prison. A multi-agency investigation determined that the defendant was operating a sex trafficking operation in the Sioux Falls area that involved over a dozen victims and spanned South Dakota and several neighboring states. The defendant would meet vulnerable girls and young women, mostly runaways and drug addicts, several who were developmentally disabled young women living on disability benefits. He would then coerce them into engaging in commercial sex acts through violence, often beating and threatening them. He advertised his victims on the internet, and he arranged commercial sex “dates” with customers at various area hotels.
- The defendant lived in an apartment within blocks of downtown Sioux Falls. He lured homeless, drug-addicted girls and young women to his home by offering them drugs, shelter and food. Once there, he would keep the victims intoxicated, and would force them to have sex with him and with other men who would frequent his home and pay him with drugs and money. He used a pattern of drug dependence and violence to coerce his victims, at times beating them. His victims ranged in age from 14 to mid-20s. The defendant was charged in federal court and was convicted by a jury of charges including Conspiracy to Commit Sex Trafficking of a Minor, Sex Trafficking of a Minor by Force, Fraud, or Coercion, and two counts of Sex Trafficking by Force, Fraud, or Coercion. He was sentenced to four terms of life imprisonment.
- 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 either a 12- or 13-year-old girl, and all nine showed up at the predetermined meeting spot and had the negotiated amount of money or goods to pay for sex with the child. Of the nine defendants, six have pled guilty and three of them have been sentenced, one was found guilty by a jury trial and awaits sentencing, and two more are scheduled for trial.

PROJECT SAFE CHILDHOOD



Transportation of Child Pornography

A 41-year-old North Dakota man met a 16-year-old girl from South Dakota on an internet chat room. The defendant arranged to meet the juvenile at a hotel room in South Dakota. After the two met, the defendant and the juvenile engaged in sexually explicit conduct. However, unknown to the juvenile, the defendant recorded the sexual activity surreptitiously on his computer and returned to his home in North Dakota. After the juvenile reported the encounter to police, a search of the defendant's residence in North Dakota led to the discovery of the child pornography. The defendant was sentenced to 60 months in custody for Transporting Child Pornography, followed by 5 years of supervised release, and is required to register as a sex offender.

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.

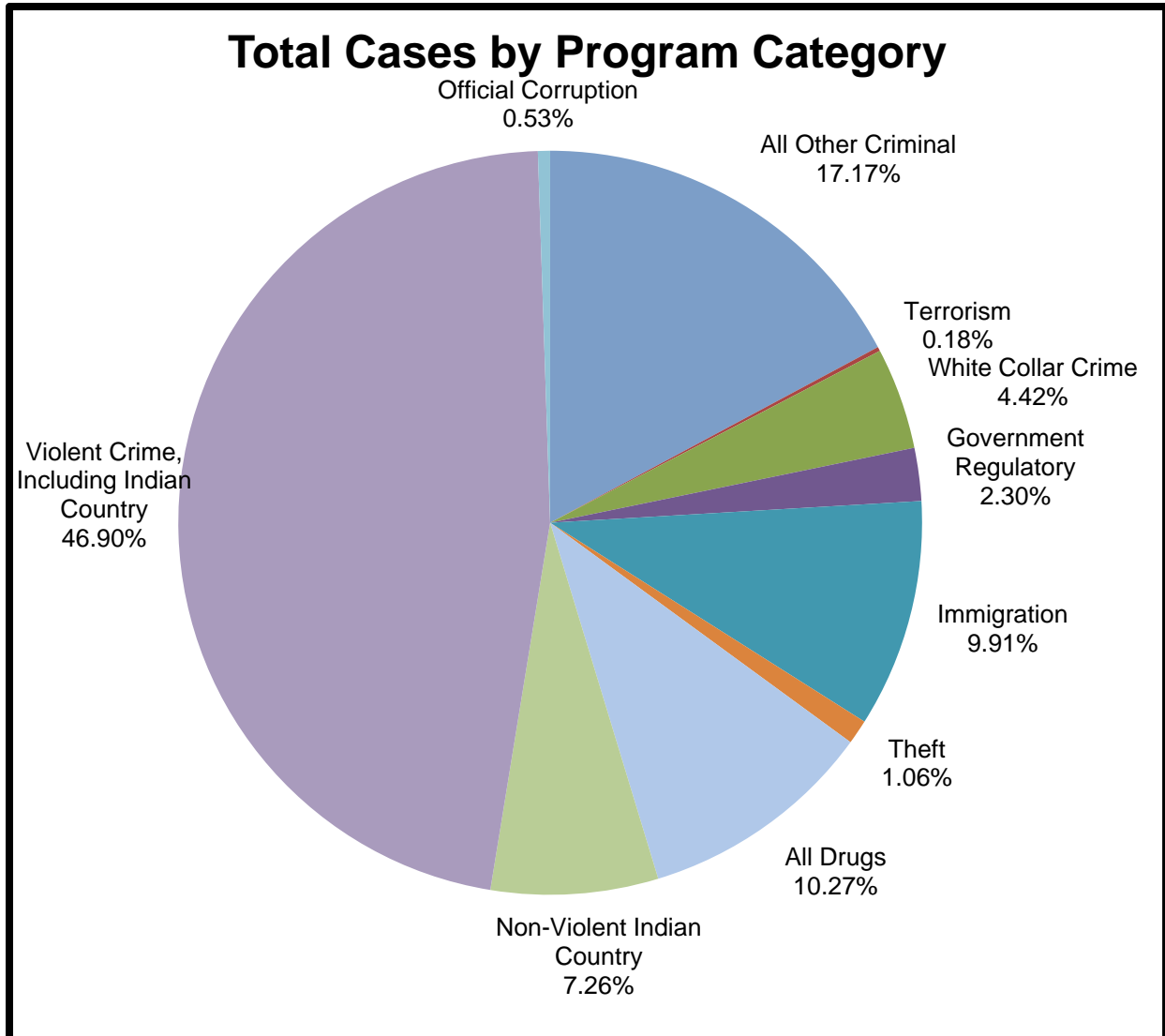
The other crimes prosecuted by Assistant U.S. Attorneys assigned to the Criminal Division cover a wide range of criminal activities, including drug trafficking, firearms violations, corporate and financial institution fraud, bankruptcy fraud, mail fraud, healthcare fraud, computer fraud, agricultural 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 attorney is also assigned to the Criminal Division.

STATISTICAL HIGHLIGHTS

Criminal Caseload Statistics

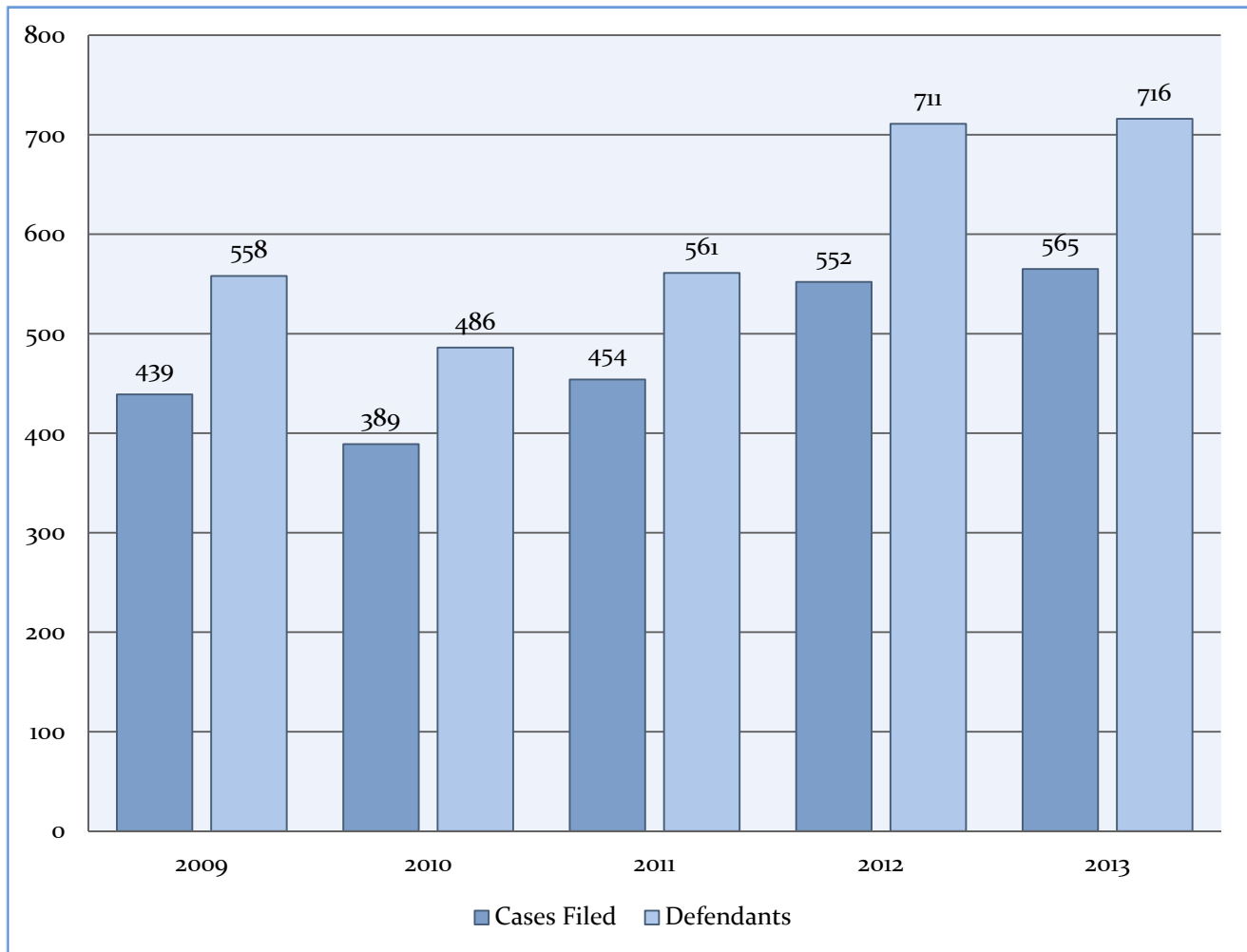
735 Total Cases Filed¹



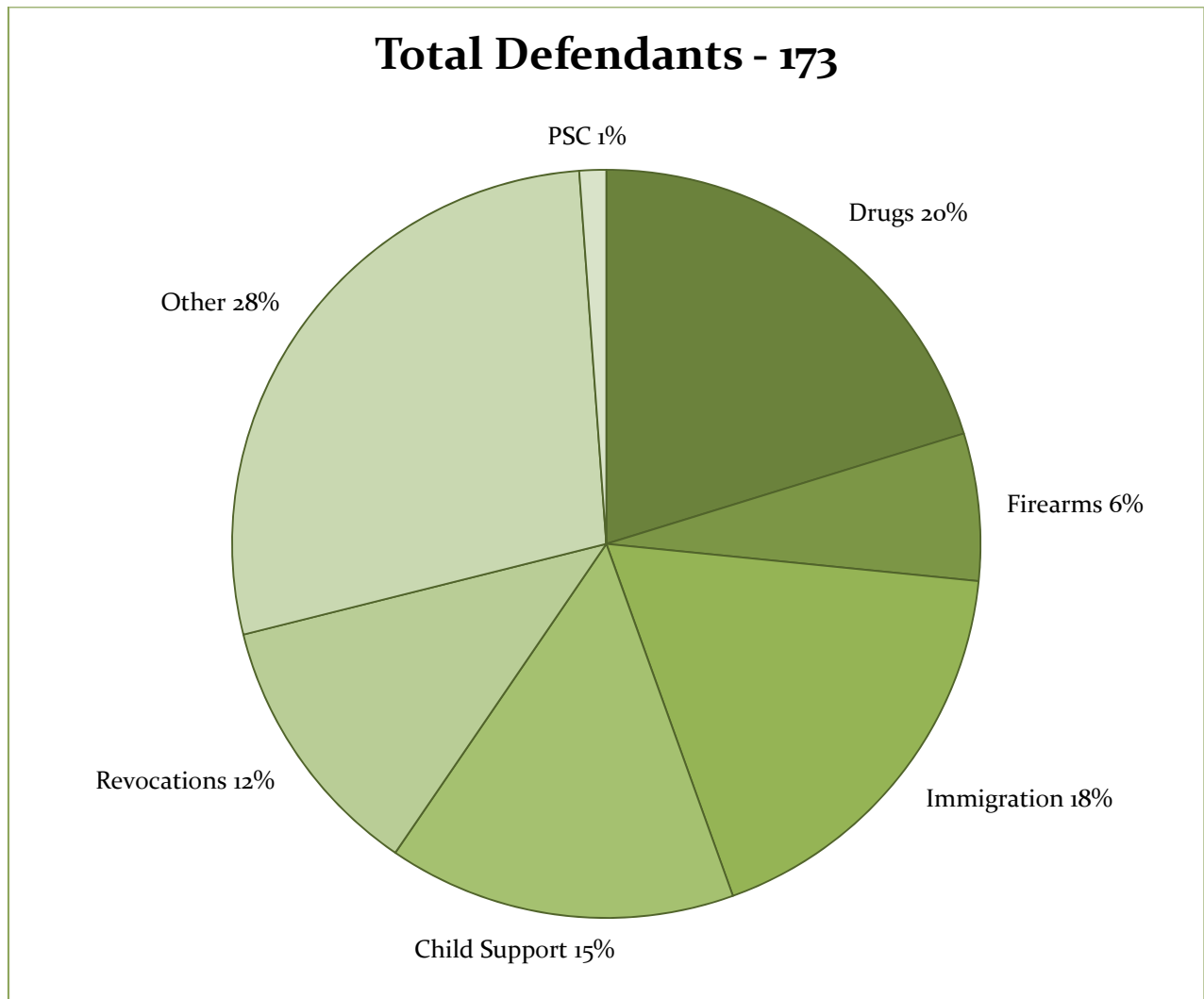
¹ Total cases filed calendar year 2013.

Cases & Defendants Filed

FY 2009 - 2013

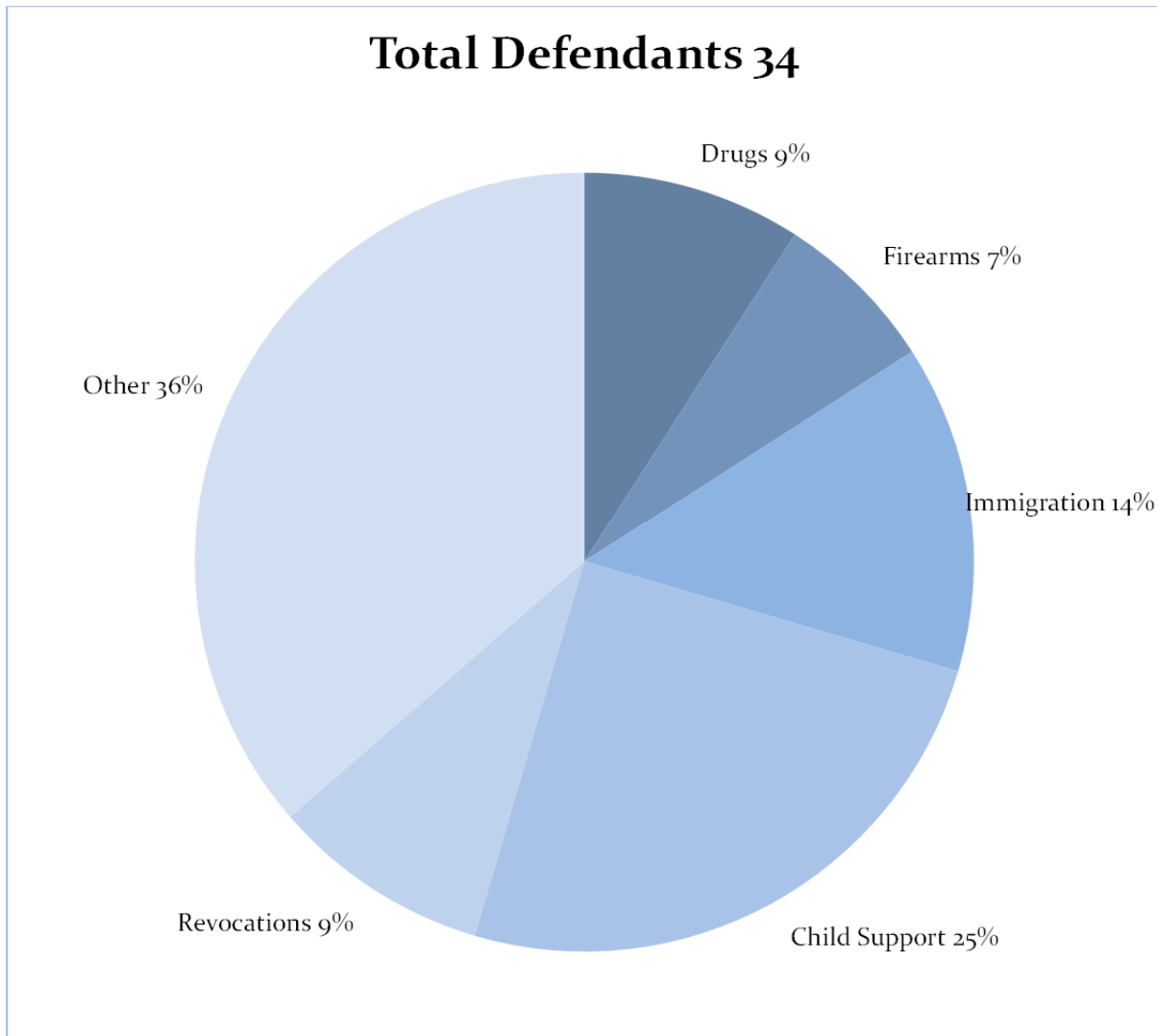


Non-Indian Country Defendants by Program Category Per Division Southern Division



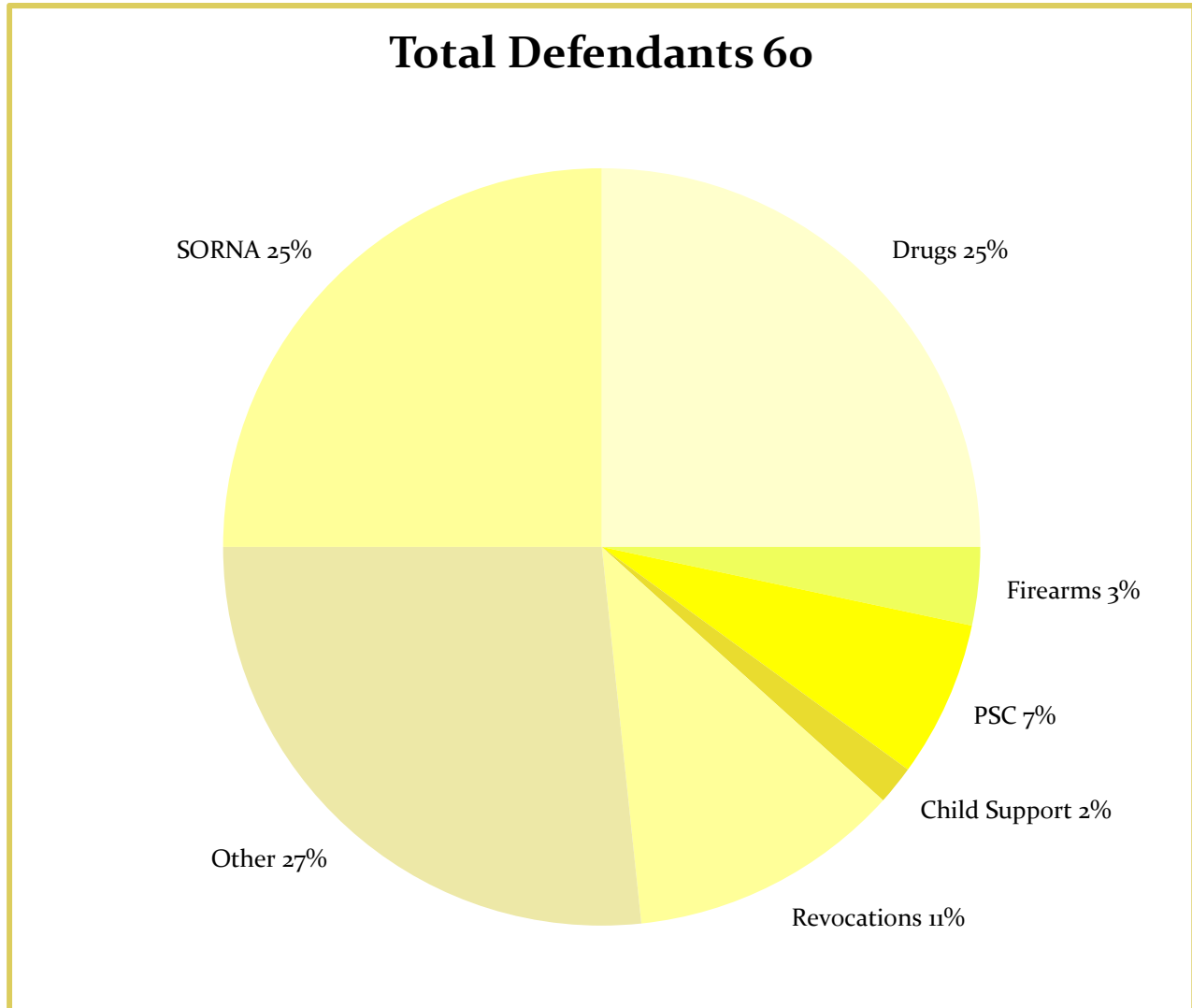
PSC (Project Safe Childhood) includes all cases concerning child pornography, sex trafficking, human trafficking, etc.

Northern Division



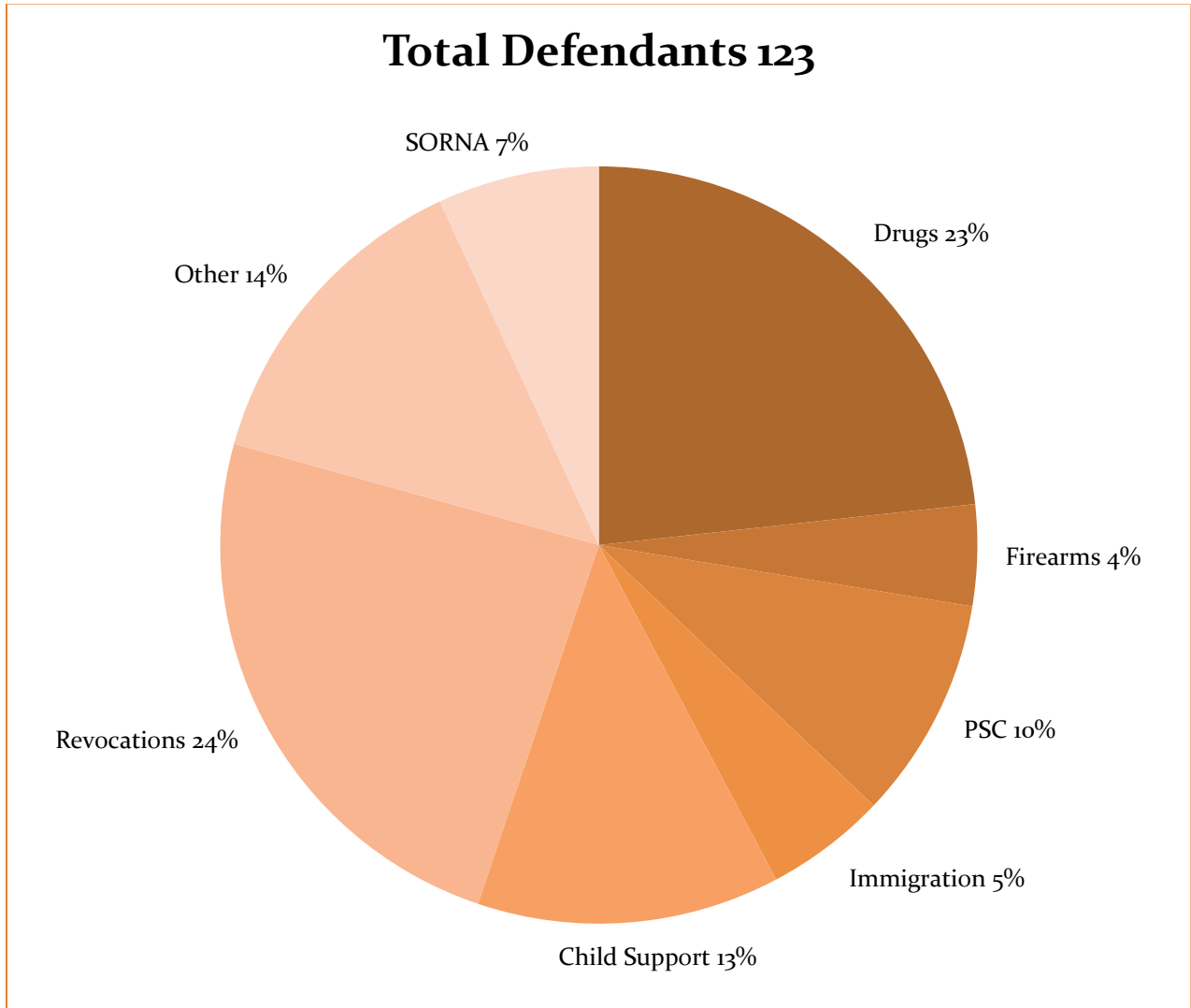
PSC (Project Safe Childhood) includes all cases concerning child pornography, sex trafficking, human trafficking, etc.

Central Division



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

Western Division



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

NON-INDIAN COUNTRY

WILDLIFE CASES

Unlawful Taking of Bald and Golden Eagles: The defendant illegally shot and killed at least three mature Bald and Golden Eagles and at least 15 hawks at his ranch in Lyman County. After killing the birds, he took the remains, burned them, and dumped the burned remains in a trash pit on his property. He illegally killed these federally protected birds with three firearms that were forfeited. He was sentenced to 1 year of probation, \$56,250 in restitution, and \$10,000 per eagle and \$1750 per hawk.

Unlawful Killing of Migratory Birds: A group of friends known as “Team Those Guys” were prosecuted for illegally hunting in Miner County. In total, the hunters illegally killed 417 geese and 6 Canadian geese using an electronic device. They all admitted they knew it was illegal to use the device while goose hunting during that time of year. After killing the geese, they were transported from the field to various locations in violation of federal law.



Each defendant was ordered to pay restitution for the geese they illegally killed. The amount of restitution varied from \$820 to \$4,875. They also had their hunting privileges revoked from one to three years depending on how many days they had illegally killed geese.

Lacey Act Violations: Eighteen defendants pled guilty in federal and state court for illegally killing deer and migratory birds at a commercial hunting operation in Todd County. The investigation, which was conducted by the U.S. Fish and Wildlife Service, South Dakota Department of Game, Fish and Parks, Iowa Department of Natural Resources, and the Rosebud Sioux Tribe, revealed that a married couple 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 also revealed that the couple, 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 unlawfully killed wildlife was documented to be over \$70,000.00.

In total, the 18 defendants have been fined and ordered to pay restitution in excess of \$235,000, with \$150,000 of that in federal court. Hunting privileges were revoked for everyone from one to three years. The owner of the hunting property was ordered to serve 2 months in custody and 2 years of supervised release. During this time he cannot be involved in any commercial hunting activities.

FRAUD CASES

Mail Fraud, Misbranding of a Drug: The defendant, who was not a physician, fraudulently claimed that he could treat cancer and other diseases. He instructed individuals with health concerns to send money and samples of blood, saliva, and hair to him for testing. The defendant would often inform individuals that they had various serious diseases; including cancer, multiple sclerosis, and Lou Gehrig's disease. He would tell the individuals that he could cure these diseases and instructed them to go to Spearfish or Belle Fourche and check into a hotel for treatment. In one instance, a person sent money and samples of blood, saliva, and hair to be tested for cancer. The defendant informed the individual that he had colon cancer and to travel to Spearfish for treatment. The defendant charged the individual for treatment, prescribed herbal supplements, and later informed the individual that the cancer was cured. On another occasion, the defendant directed a person to take herbal supplement pills, which he provided, as a treatment for cancer. The defendant fraudulently told the person that he had liver cancer, and then prescribed 96 herbal supplements to treat the cancer, which caused the supplements to become "drugs" under federal law. The supplements lacked labeling bearing adequate directions for use in the treatment of cancer.

The defendant was charged with numerous counts of mail fraud and mislabeling of a drug. He pled guilty and was sentenced to 108 months in custody, 3 years of supervised release, and was ordered to pay over \$317,000 in restitution.

Bank Fraud: The defendant applied for a business line of credit with Dakotaland Federal Credit Union in Huron. To support his application, he created and submitted financial documents that grossly overstated and misrepresented his income from his crop insurance business. Based on those representations, the defendant received the line of credit, took approximately \$230,000 in draws, and used those funds for his own purposes.

He was indicted on one count of Bank Fraud and one count of False Statement to a Financial Institution. He pled guilty to Bank Fraud, and was sentenced to 33 months' imprisonment to be followed by 3 years of supervised release. The defendant was also ordered to pay restitution of \$238,969.59.

Wire Fraud: A 37-year-old Sioux Falls man devised a scheme to steal money from investment accounts at the trust company where he worked. Posing as an actual account holder, the defendant submitted requests for wire transfers providing actual account holder names, account numbers, and social security numbers that he obtained during his employment with the trust company. Overall, he requested over \$75,000 be wire transferred to an account he established at another financial institution. The defendant pled guilty, was sentenced to eight months in prison, and ordered to pay over \$23,000 in restitution.

Wire Fraud, Mail Fraud: The defendant was charged with multiple counts of Wire Fraud, Mail Fraud, and Unlawful Structure of Transactions to Evade Reporting Requirements for his criminal conduct related to his business, SCGS, which sold Iraqi Dinar over the internet. He would order the Dinar from a seller in Jordan and would tell the seller to split the packages into denominations lower than \$10,000 to evade reporting the shipments to U.S. Customs and Border Protection and FinCEN (Financial Crimes Enforcement Network). He agreed to pay \$178,876.88 in restitution to customers who had not received the Dinar they ordered. The restitution was ultimately paid by restoration process out of the approximately \$1.4 million in forfeited property. He was sentenced to 5 years' probation.

DRUG CASES

Methamphetamine

- The defendant was sentenced to 120 months in prison for his role in a conspiracy to distribute more than 50 grams of methamphetamine (actual) in South Dakota and elsewhere. After obtaining the methamphetamine, he provided it to a co-conspirator in Wichita, Kansas, who then brought the methamphetamine to South Dakota for further distribution.

The Northern Plains Safe Trails Drug Enforcement Task Force developed a confidential informant (CI) that provided information regarding narcotics trafficking in central South Dakota. As a part of the CI's cooperation, the CI introduced two individuals to a task force agent working in an undercover capacity as a local farmer.

During the course of the agent's involvement with one of those individuals, the undercover agent made three controlled purchases of cocaine from the defendant totaling approximately five ounces. This individual was obtaining cocaine in Texas, and transporting it back to South Dakota and North Dakota for distribution. The defendant pled guilty to Distribution of a Controlled Substance and was sentenced to 33 months' custody, with 3 years of supervised release to follow.

The other individual made two controlled purchases of methamphetamine totaling 28.23 grams to undercover agents. An undercover agent also provided her with \$2,800 to purchase an additional 14 grams of methamphetamine that the individual never provided. The defendant pled guilty to Distribution of a Controlled Substance and was sentenced to 27 months' custody to be followed by 3 years of supervised release.

- Law enforcement officers responded to a call from a hotel manager in Sioux Falls regarding an unruly customer who had stayed at the hotel the previous day. The customer said she had left money behind in the room and needed to retrieve it. When the manager denied her access to the room because it was occupied by someone else, she became belligerent, and the police were called. The customer left before the police arrived. The new occupant of the room gave the manager and police permission to enter the room where they found a bag containing \$87,300 under the bed.

The belligerent customer had given a Sioux Falls address as her home address when she checked into the hotel. A police surveillance unit began surveillance on that address. They saw a man and a woman loading items into a black SUV registered to the belligerent customer. The two then got into the black SUV and drove towards the hotel, with the boyfriend driving and the woman in the passenger seat.

Police stopped the SUV as it neared the area of the hotel. A drug dog alerted to the odor of drugs coming from the vehicle and it was searched. Many drug-related items were found, including cash and 7 one-pound packages of methamphetamine. The street price of seven pounds of methamphetamine is over \$300,000.

While the SUV was being searched, the police became aware of a man who was watching them. An undercover officer approached the area of the observer and overheard him discussing the traffic stop over his cell phone. Police contacted the

man and learned that he had an outstanding warrant. He was arrested on the warrant and interviewed. He admitted that he knew the woman who had left money in the hotel room and that she had paid him to check into the hotel and watch the room because she had forgotten to take the money when she checked out.

The police obtained a warrant and searched the woman's home. They found evidence that she and her boyfriend shared the home with her unemployed adult son. In the son's bedroom, the police found \$2,600 cash in a blue bag, and also found cash in the other bedroom.

Further investigation showed that the son had been stopped a year earlier in Iowa, and had thousands of dollars cash in his possession at the time. That cash was bundled in an unusual way, but very similar to the way the cash left under the hotel room bed was bundled.

Other drug investigations uncovered drug customers who had purchased methamphetamine from the son and his mother during the previous years. Drug customers also admitted that the boyfriend was involved in the methamphetamine conspiracy which had been going on for over a year.

The woman and her boyfriend pled guilty to Conspiracy to Distribute Methamphetamine and were both sentenced to 210 months in prison and 5 years of supervised release. Her son and the man who was paid to watch the hotel room went to trial. They were convicted of Conspiracy to Distribute Methamphetamine and are awaiting sentencing.

Marijuana & Hashish Oil

A South Dakota Highway Patrol trooper observed a motor home without a front license plate traveling on Interstate 90. He followed the vehicle and noticed it had a rear Pennsylvania license plate. The motor home exited at Presho and entered a gas station. The trooper spoke with the occupants of the motor home. After these conversations, the trooper deployed his service dog, who indicated to the odor of illegal drugs in the motor home.

The trooper searched the motor home and found garbage bags containing marijuana packaged in bundles. He also located four jars of hashish oil, totaling 673 grams. There

was also a smaller amount of personal use marijuana in the motor home. The total amount of marijuana found was 113 pounds.

The lead defendant purchased the marijuana and hashish oil in California to eventually take to Pennsylvania to sell. The co-defendant was on the trip to assist in driving to and from California, and was aware the purpose of the trip was to buy marijuana.

The co-defendant pled guilty to Conspiracy to Distribute Marijuana and was sentenced to 13 months in custody, 3 years supervised release, and a \$1,000 fine. The lead defendant pled guilty to Possession with Intent to Distribute Hashish Oil and is awaiting sentencing. The State of South Dakota forfeited the motor home in a separate action.

IMMIGRATION CASES

Trafficking in Stolen Identities: The defendant was arrested after selling Social Security cards with true identifying information to a confidential informant in exchange for \$1,800 cash. He received a sentence of eight months in prison.

Illegal Re-Entry: The defendant was arrested in Beadle County for Illegal Re-Entry following an arrest for having a fraudulent identification card. He had previously been deported from the United States on multiple occasions, and had been prosecuted on three prior occasions for illegally re-entering the United States. The prior felony convictions increased his possible sentence, and the defendant was sentenced to 13 months in prison.

FIREARMS

Bullying Felon Convicted of Firearm Charge

A Mitchell man was charged and convicted of illegally possessing a firearm after years of bullying and harassing his neighbors. The defendant had moved to the Mitchell area from California several years ago after receiving multiple felony convictions for methamphetamine and crimes of violence. His convictions had put him in various California prisons for most of the 1990's and prohibited him from possessing any firearms. When he moved to South Dakota, he purchased a residence just outside of the Mitchell city limits.





Soon after moving in, the defendant began to cause trouble for his neighbors. Many of the incidents involved the defendant shooting firearms on his property or hunting deer that were on his or his neighbors' property.

Other incidents were more chilling. In one, as a neighbor was walking her dog on her property, she saw the defendant with the rifle pointed at her as he watched her movements through the riflescope. She reported the incident to law enforcement who suggested she photograph the defendant if she saw him again in possession of a firearm. After that, the neighbor photographed the defendant in possession of a rifle three times.

Other incidents did not involve firearms, but involved the defendant raging at the neighbors and intimidating them. Neighbors described the defendant as "unpredictable, irrational, and volatile." The police investigated, but the defendant always denied the allegations.

At one point, law enforcement set up surveillance. They saw and photographed the defendant in possession of a high-powered rifle. An adult and an eight-year-old child were with the defendant. The officer approached the group, but by the time he contacted the defendant, the other adult in the group was in possession of the rifle. The defendant again denied that he had been in possession of a firearm, but when confronted with the photographic evidence, he admitted his crime. The defendant was charged with being a Felon in Possession of a Firearm and Ammunition. He pled guilty and was sentenced to 27 months in custody and 1 year of supervised release.

Felon and Drug User in Possession of Firearm

In 2004, the defendant was convicted of three felony offenses arising out of conduct occurring in Lyman and Pennington Counties. In 2002, the defendant was arrested by state authorities when he possessed a 12-gauge shotgun and a 22-caliber rifle. He had been smoking methamphetamine and assaulted and menaced his minor daughter with one of the firearms. He also used a firearm to kill the daughter's pet dog, which he did in front of her. The defendant pled guilty to being a Felon in Possession of a Firearm, and was sentenced to 51 months in custody, and 2 years of supervised release. He has also been sentenced in Lyman County state court to 25 years' incarceration for state aggravated assault charges based upon menacing and assaulting his daughter with a firearm.

COUNTERFEITING

Passing Counterfeit Currency: The three defendants in this case traveled from Eau Claire, Wisconsin, to Sioux Falls. While in South Dakota, they passed approximately \$3,200 in counterfeit \$100 bills at several area businesses.



The defendants were indicted on one count of Conspiracy to Pass Counterfeit Currency and several counts of Passing Counterfeit Currency. Each pled guilty to one count of Passing Counterfeit Currency. One of the three defendants was sentenced to 10 months' imprisonment to be followed by 2 years of supervised release, and was ordered to pay \$400 in restitution. Another defendant was sentenced to 24 months' imprisonment to be followed by 2 years of supervised release, and was ordered to pay \$600 in restitution, and the third defendant is awaiting sentencing.

Counterfeit Traveler's Checks: A 43-year-old Minnesota man passed numerous \$50 traveler's checks in grocery stores and convenience stores in Sioux Falls and Brookings. The defendant was caught in the Minneapolis, Minnesota, area passing counterfeit traveler's checks. When Secret Service agents in Minnesota and South Dakota shared surveillance photographs, the defendant was identified. After being arrested and charged, the defendant was released on bond. About a month later, law enforcement officers in North Dakota apprehended the defendant selling methamphetamine at a hotel in Fargo. The defendant subsequently pled guilty to the counterfeit charges in South Dakota. He was sentenced to 2 years in federal prison and ordered to pay restitution in the amount of \$1200. The defendant has appealed his conviction to the Eighth Circuit Court of Appeals.

Unlawful Trafficking in Counterfeit Goods and Services: The three defendants in this case all pled guilty for their prolific sale of goods carrying counterfeit trademarks of Monster Energy, Angry Birds (Rovio Entertainment), The North Face and American Eagle. All defendants forfeited \$277,574.31 in U.S. currency and equipment to the United States. One defendant was also ordered to pay \$70,000 in restitution to the victims and ordered to pay a \$10,000 fine. All defendants were sentenced to 2 years' probation.

OTHER SIGNIFICANT CASES

Tax Evasion

The defendant, a licensed physician, owned a company through which he diverted all of his business's gross receipts. The defendant directed patients to make payments to his other company in order to conceal some of his income. Through this scheme, the defendant evaded paying federal income tax for the years 2001-02 and 2005-10. The defendant was charged with Income Tax Evasion and pled guilty to the charge. He was sentenced to 14 months in custody, 2 years of supervised release, and ordered to pay \$110,015 in restitution to the Internal Revenue Service.

Bank Robbery

A man wearing a black mask entered the bank on Main Avenue in Toronto, South Dakota, carrying a handgun and two white garbage bags. There were two tellers working in the bank at the time. The man gave one of the tellers a garbage bag and ordered her to fill it with money from the vault. After she complied, he forced the two tellers into a back room of the bank and told them to stay there until they counted to 100. He then fled the bank with \$53,000.

After they heard the front door close, the tellers emerged from the back room and looked out the front windows of the bank. They saw the robber get into the driver's side of a red SUV and took note of the license plate number before the robber drove away.

The bank's video surveillance system provided good quality video. The video included clear pictures of the handgun used by the bank robber. Investigators recovered footprints and tire tread prints in the snow at the spot where the teller saw the red SUV parked. These footprints and tire tread prints were photographed and a plaster cast was made of a portion of the tire tread prints.

A convenience store east of the bank had a video camera that covered the front of the store, including a portion of Main Avenue. The video from that camera showed the SUV traveling east on Main Avenue past the convenience store, but was not clear enough to identify the driver.

About a week after the robbery, a citizen contacted the FBI and reported that on the previous day he had met a man in Estelline, who told the citizen he had hitched a ride into Estelline and requested help with his vehicle which was stuck in the snow. After the citizen helped the man remove his vehicle from the ditch, the man pulled a roll of cash

from his pocket and gave the citizen a 50-dollar bill for helping him. The man was driving a red SUV with Minnesota license plates. The man never told the citizen his name, but he said he lived on Lake Hendricks and had just been to a nearby gun shop and purchased a semi-automatic handgun.

The gun shop said the man bought two handguns for approximately \$1,500, and paid from a stack of \$50 bills. The paperwork revealed the name of the buyer, who had a Lake Hendricks address, less than 15 miles from the robbed bank.

The FBI obtained a search warrant for the suspect's home in Lake Hendricks. In the search, they found over \$20,000, including specially marked bills from the bank. They also found the firearm used by the bank robber and license plates that had been modified to display a fake plate number.

The defendant was charged with robbing the bank using a firearm. He pled guilty and was sentenced to 117 months imprisonment.

OSHA Violations Cause Death of Employee



Adams Thermal Systems Inc. entered into a deferred criminal prosecution agreement with the U.S. Attorney's Office and the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) to pay more than \$1.33 million to resolve criminal penalties and OSHA fines levied as a result of the death of a worker on Nov. 7, 2011, in the company's Canton, South Dakota, plant. Under the terms of the agreement, the company agreed to pay the worker's surviving spouse \$450,000, a criminal fine of \$450,000 and the full OSHA fine of \$435,000 stemming from the regulatory violations that caused the fatality and additional violations discovered in subsequent inspections.

OSHA's investigation found the worker was fatally crushed in a machine used to make radiator cores, after management instructed and authorized workers to bypass the manufacturer's barrier guard in order to adjust the machine to keep it running. OSHA also conducted two concurrent safety and health investigations at the company in February 2012, which resulted in 66 violations.

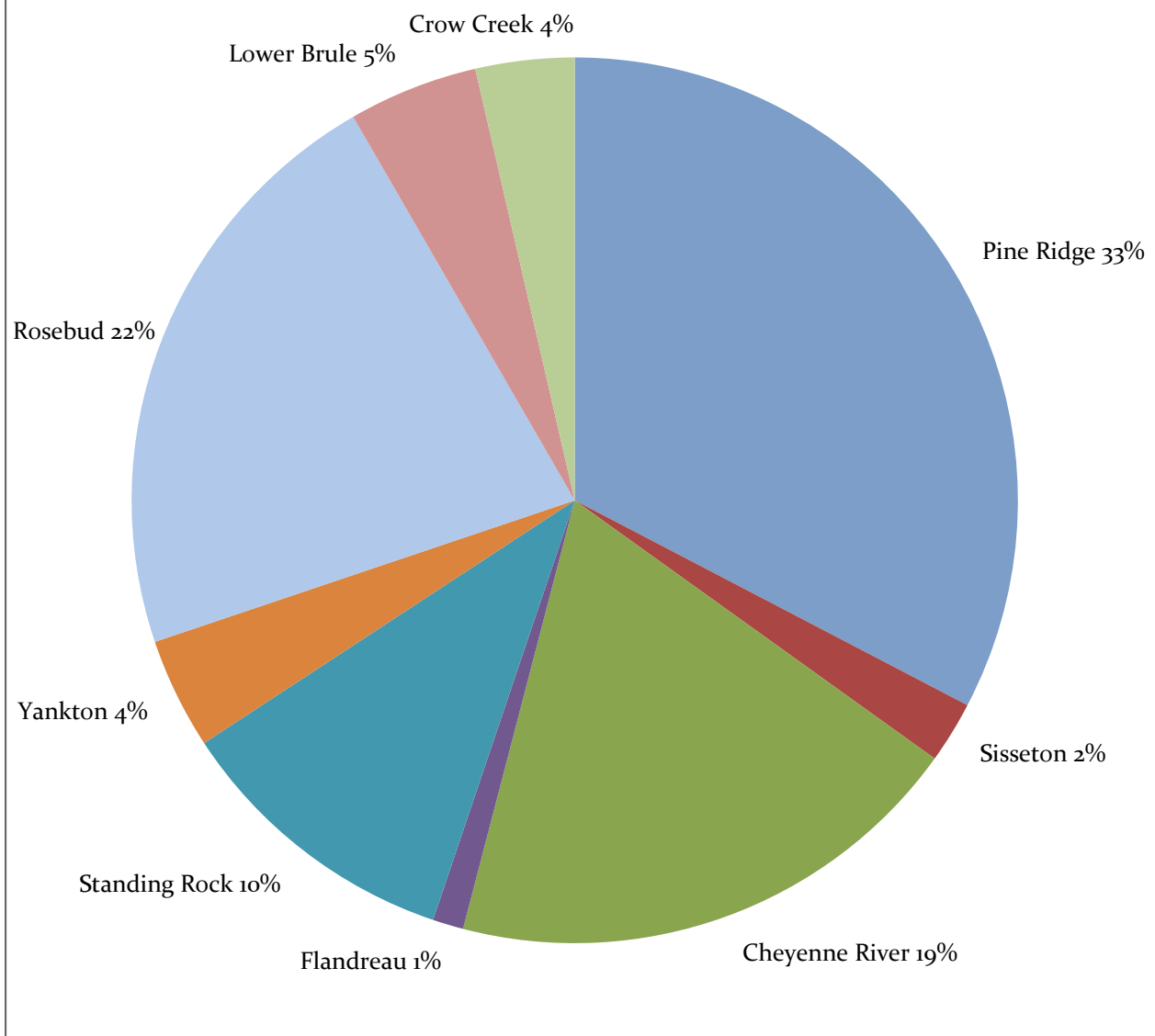
A criminal information was filed in United States District Court against the company charging a violation of 29 U.S.C. § 666(3) which provides criminal penalties for willful violations of OSHA standards or regulations which cause the death of an individual. Under the terms of the deferred prosecution agreement, prosecution of the case will be deferred for a period of three years. The company agreed in addition to paying the monetary penalties, to: increase the size of its safety and health department; implement a companywide safety and health program; provide incentives for managers and workers to report safety issues and make safety recommendations; and to hire a qualified third-party to review guarding and lockout/tagout for all plant machinery and to audit the abatement of all identified hazards. The company will also report quarterly to OSHA for three years on safety progress and reportable illnesses and injuries, and redesign the safety systems and procedures on the radiator core machine involved in the fatality.

STATISTICAL HIGHLIGHTS

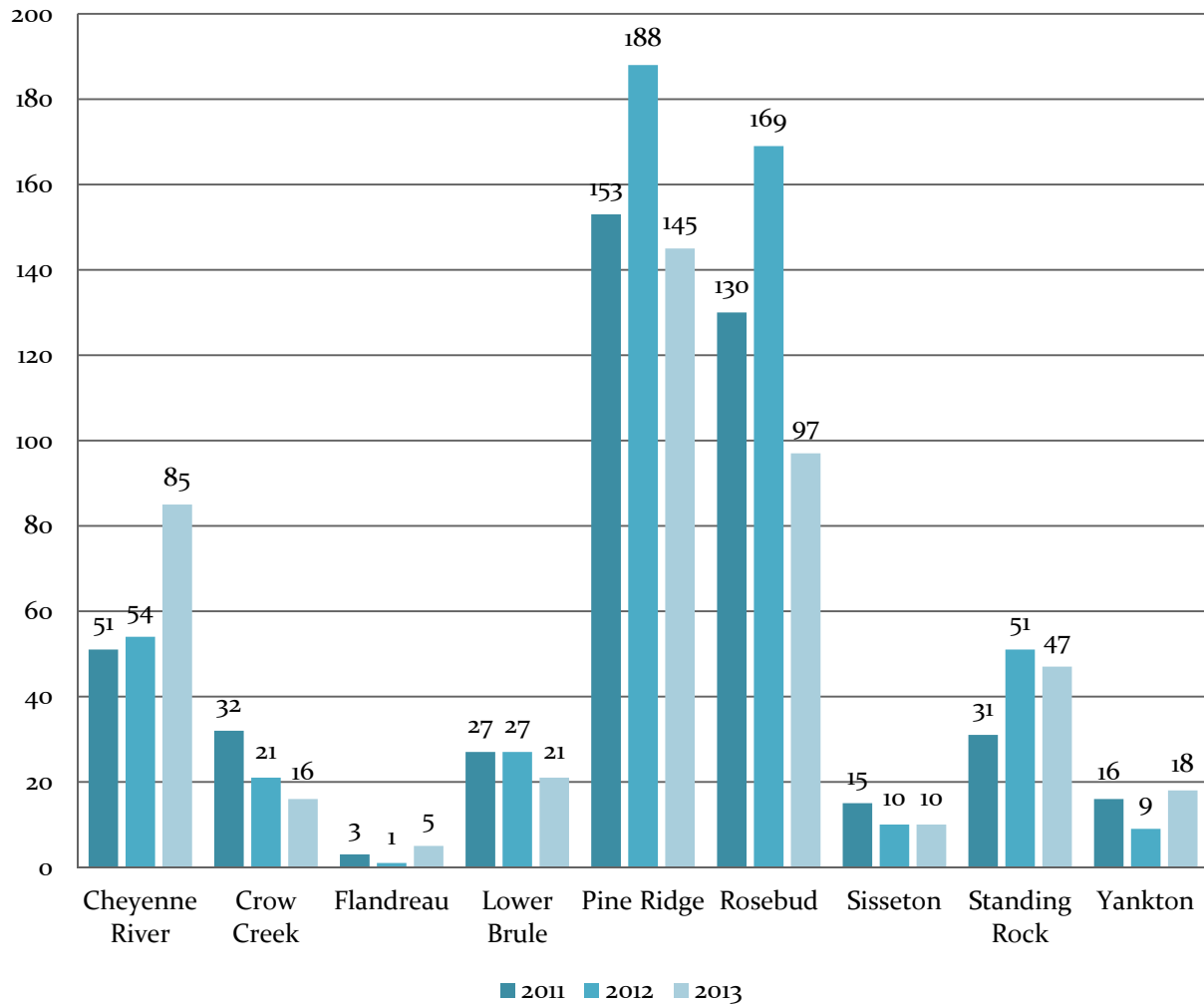
INDIAN COUNTRY

Calendar Year 2013

Percentage of Defendants Charged by Reservation



Defendants Charged by Reservation 2011 - 2013

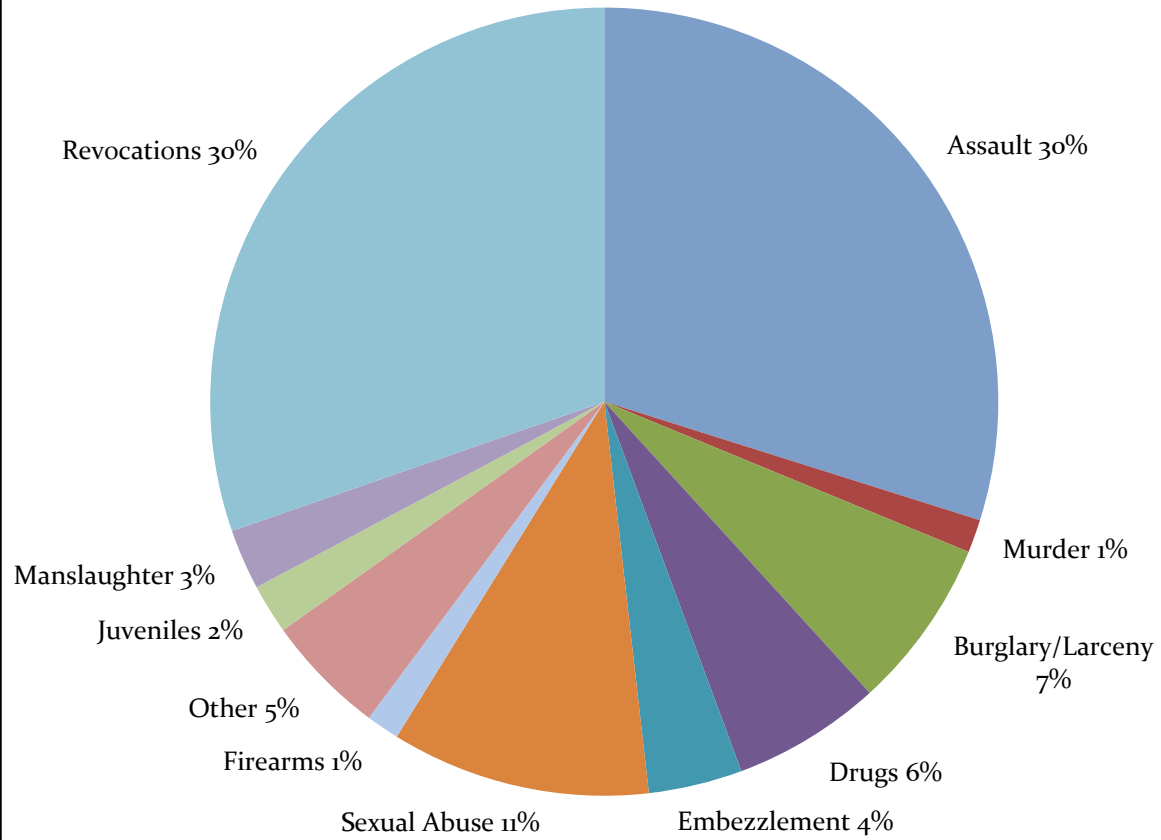


DEFENDANTS CHARGED BY PROGRAM CATEGORY

Reservation	Assault	Burglary/ Larceny/ Embezzlement	Drugs	Firearms	Juveniles	Manslaughter/ Murder
Cheyenne River	16	10	6	2	2	5
Crow Creek	3	2	0	2	0	0
Flandreau	1	0	2	0	0	0
Lower Brule	13	0	0	0	0	0
Pine Ridge	37	21	12	0	3	7
Rosebud	32	6	1	1	4	3
Sisseton	2	4	0	0	0	1
Standing Rock	24	3	1	0	0	1
Yankton	4	2	5	1	0	0
Totals	132	48	27	6	9	17

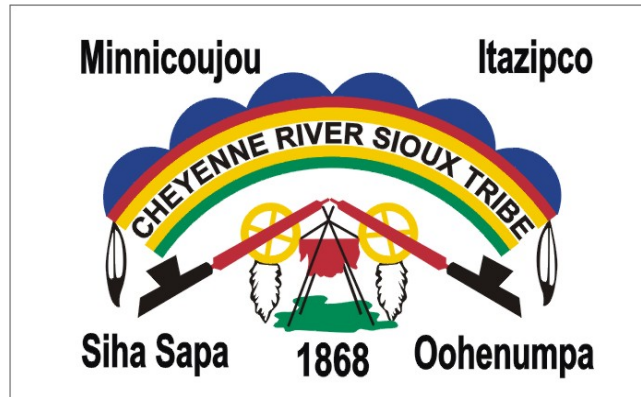
Reservation	Other	Revocations	Sexual Abuse of Minor	Rape Adult	SORNA	Total
Cheyenne River	10	22	8	3	1	85
Crow Creek	0	7	2	0	0	16
Flandreau	0	2	0	0	0	5
Lower Brule	0	6	1	1	0	21
Pine Ridge	2	54	6	3	0	145
Rosebud	8	27	9	5	1	97
Sisseton	0	3	0	0	0	10
Standing Rock	2	10	6	1	0	47
Yankton	0	3	2	1	0	18
Totals	22	134	33	14	2	444

Defendants by Actual Charge

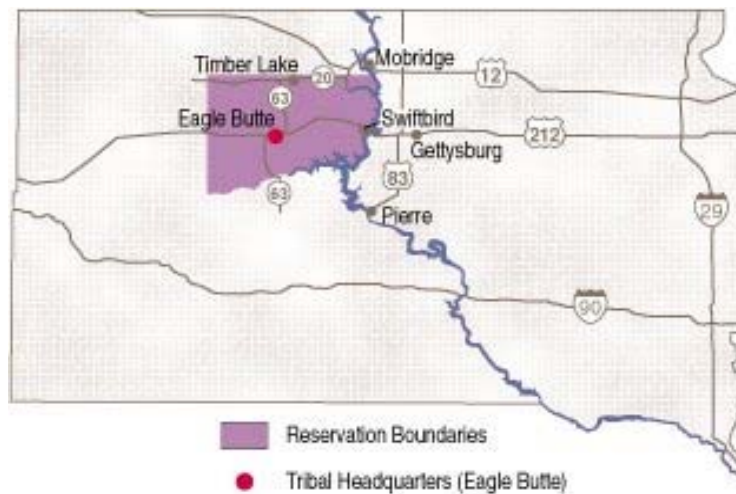


SOUTH DAKOTA RESERVATIONS

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

Theft from Indian Tribal Organization

The defendant was employed by the Cheyenne River Sioux Tribe as the Administrative Officer for the Tribe's police department. After acquiring her supervisor's approval on her time sheets, she manipulated her time sheets to include several overtime hours that she never worked. The defendant delivered her timesheets to the Tribe's Comptroller's Office and was paid for the claimed overtime hours. Between October 2010 and October 2012, she received approximately \$79,181 in unauthorized and unearned overtime wages. After the Tribe began an internal investigation, the defendant instructed a tribal police officer to shred her time sheets, which she had previously been instructed to preserve.

The defendant was indicted on one count of Theft From an Indian Tribal Organization and one count of Tampering with Documents. She pled guilty to the theft count and was sentenced to 3 months in custody and ordered to pay over \$87,000 in restitution.

Possession with Intent to Distribute a Controlled Substance

Cheyenne River tribal law enforcement conducted a vehicle stop and learned from the driver that he had purchased marijuana from the defendants' residence in Eagle Butte that evening. After obtaining a search warrant, law enforcement searched the residence and seized marijuana, in addition to grinders, rolling papers, snort tubes, scales, marijuana roaches, and cash. A few weeks later, another vehicle stop led to a search of the defendants' residence where law enforcement seized more marijuana and cash.

Three adult residents (a woman, her husband, and her son) were all charged with four counts of Distribution and Possession with Intent to Distribute Marijuana. They each pled guilty to one count and forfeited \$8,377.68 cash. One defendant received four months in custody, another received one month, and the third was sentenced to one week in custody. They were each ordered to pay a \$1,000 fine.

Aggravated Sexual Abuse of a Child

In the fall of 2005, a ten-year-old male victim told his mother that his father was sexually abusing him. The victim was taken to the Child Advocacy Center of the Black Hills where he disclosed incidents of sexual abuse by his father, but described the incidents as happening in southeast Minnesota.

In October 2011, the victim, who at this time was 16 years old, spoke to a special agent with the FBI Child Sexual Abuse Task Force and disclosed that his father had not only sexually abused him in Minnesota, but the abuse had also occurred on the Cheyenne River Sioux Reservation, in Eagle Butte. In June of 2012, FBI special agents interviewed the victim's father, and after the father initially denied sexually abusing his son, he confessed to sodomizing his eight-year-old son. In the interview, the father claimed he only did it twice while they were living in Minnesota.

A four-day jury trial was held in August 2013. The victim described repeated and systematic abuse by his father, including sexual abuse at a residence near Eagle Butte. Following the trial, the defendant was found guilty of two counts of Aggravated Sexual Abuse and was sentenced to 324 months of custody and 5 years of supervised release.

Sex with Person Incapable of Consenting

- ❖ An Eagle Butte man entered his sister's house after having a fight with his girlfriend and being kicked out of her residence. After entering the house, the defendant went into his 20-year-old niece's bedroom and found her passed out on her bed after she had engaged in a night of socializing and drinking.

After entering the bedroom, the defendant removed his niece's pants and underwear and engaged in sexual intercourse with her while she was incapable of consenting. The sexual assault woke the victim up and she discovered her uncle sexually abusing her. She yelled, pushed him away, and left the bedroom. The victim called her boyfriend, who took her to the Indian Health Service Hospital in Eagle Butte, where a sexual assault examination was conducted.

The defendant pled guilty to Sexual Assault of a Person Incapable of Consenting and was sentenced to 96 months of custody and 5 years of supervised release.

- ❖ The defendant was convicted of sexually abusing two 13-year-old girls near Dupree. He sexually abused the first victim in 2005. The defendant, who knew the victim through his younger sister, would take the victim out on the country roads near Dupree, in his vehicle, provide her with marijuana, and then get the underage victim to engage in sexual intercourse with him. The second victim was at a drinking party with the defendant in March of 2008, at Dupree. After the victim drank until she passed out, the defendant drove her to a secluded location on the edge of Dupree and sexually assaulted her. During the investigation, the victim's blood was located in the defendant's vehicle through DNA testing. The defendant

was convicted of both these sexual assaults following a five-day jury trial. The defendant was sentenced to 180 months on Count 1, and 240 months on Count 3, to run concurrently, followed by 5 years of supervised release.

Assault

- ❖ After a night of partying and drinking with his girlfriend and her uncle, the 39-year-old defendant returned to his girlfriend's residence in Eagle Butte. The defendant and his girlfriend found themselves locked out of her trailer, so the girlfriend climbed into the trailer to unlock the door. Once inside, the defendant's girlfriend was surprised to find a 61-year-old male friend of hers, who had entered her trailer to try to find his car keys. (The defendant's girlfriend had borrowed the victim's car several days before and failed to return it.) Knowing that the defendant was intoxicated and a jealous individual, the defendant's girlfriend tried to convince the 61-year-old victim to climb out one of her back windows of the trailer so the defendant would not find him in her home.

While trying to convince the victim to secretly leave, the defendant heard their voices. The defendant then broke the front door window of the trailer, and unlocked the front door. During this process, he severely cut his arm on the glass. Once he was inside the trailer, the defendant confronted the victim and in a jealous rage, hit and kicked the victim until the victim was severely injured and unconscious. As a result of this assault, the victim had to be taken by air ambulance to Rapid City Regional Hospital for a closed head injury and he was hospitalized for several months. The victim still suffers from balance problems, short-term memory loss, and brain injury dementia.

Following a four-day jury trial, the defendant was convicted of Assault with a Dangerous Weapon and Assault Resulting in Serious Bodily Injury. He was sentenced to 60 months of custody on Count 1 and 60 months of custody on Count 2, to be served concurrently, followed by 2 years of supervised release.

- ❖ Following a night of drinking, the defendants — two 18-year-old males and a 20-year-old female — went to a semi-abandoned house in Eagle Butte to continue partying with others. The victim, who was also intoxicated, knocked on the door expecting to join the party.

After coming into the residence, the victim recognized that he was at the wrong place. The defendants, who did not want the victim at their party, tried to make

the victim leave. A physical altercation began and the victim was soon struck in the head by an empty whiskey bottle rendering him unconscious. After a short while, the victim came to and walked into a room at the back of the house where the male defendants assaulted him again while the female defendant cheered them on. During this second assault, the male defendants again hit the victim with empty whiskey bottles, breaking several bottles over the victim's head.

As a result of the two assaults, the victim received bilateral subdural hematomas to his head and required emergency surgery to alleviate life-threatening pressure in his brain.

The first male defendant pled guilty to Assault Resulting in Serious Bodily Injury and was sentenced to 37 months of custody and 2 years of supervised release. The female defendant pled guilty to two counts of Aiding and Abetting Striking, Beating and Wounding and was sentenced to 3 months of custody on Count 1 and 3 months of custody on Count 2, to be served consecutively. The second male defendant took his case to trial and was found guilty. He was sentenced to 48 months of custody on each count and 2 years of supervised release.

- ❖ The defendant got into a verbal argument with his girlfriend. He then hit her repeatedly, shoved her down, and sexually abused her causing her extreme physical pain. The defendant then kicked her out of the house and dragged her back in several minutes later. He hit her several times, causing her nose and lips to bleed, and bruising and swelling to her face and arms.

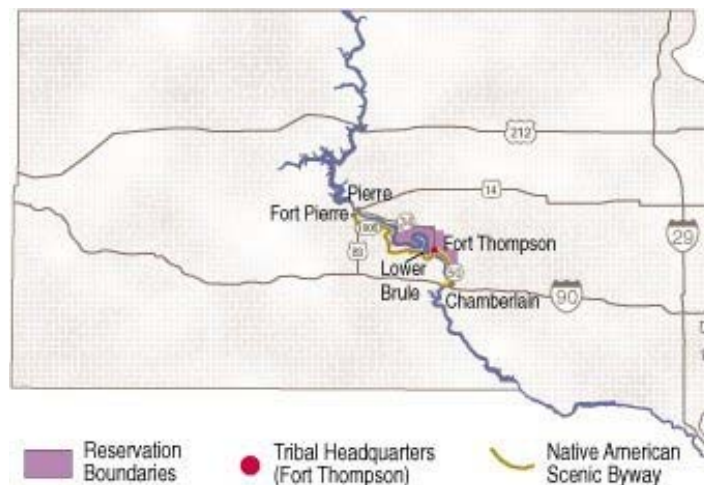
The defendant was charged with Aggravated Sexual Abuse, Kidnapping, and Assault Resulting in Serious Bodily Injury. He pled guilty to Assault Resulting in Serious Bodily Injury, and was sentenced to 72 months in custody and 2 years supervised release.

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

Voluntary Manslaughter

The defendant was driving while under the influence of alcohol with her boyfriend in the passenger seat when she was pulled over for a traffic stop. While the officer was reviewing the license plate on the vehicle, the defendant took off and drove the vehicle in excess of 100 miles per hour. She lost control of the vehicle causing the vehicle to crash and roll. The victim was ejected through the sunroof and died at the scene. The defendant was sentenced to 33 months of custody, and ordered to pay \$16,995 in restitution.

Sexual Abuse of a Person Incapable of Consent

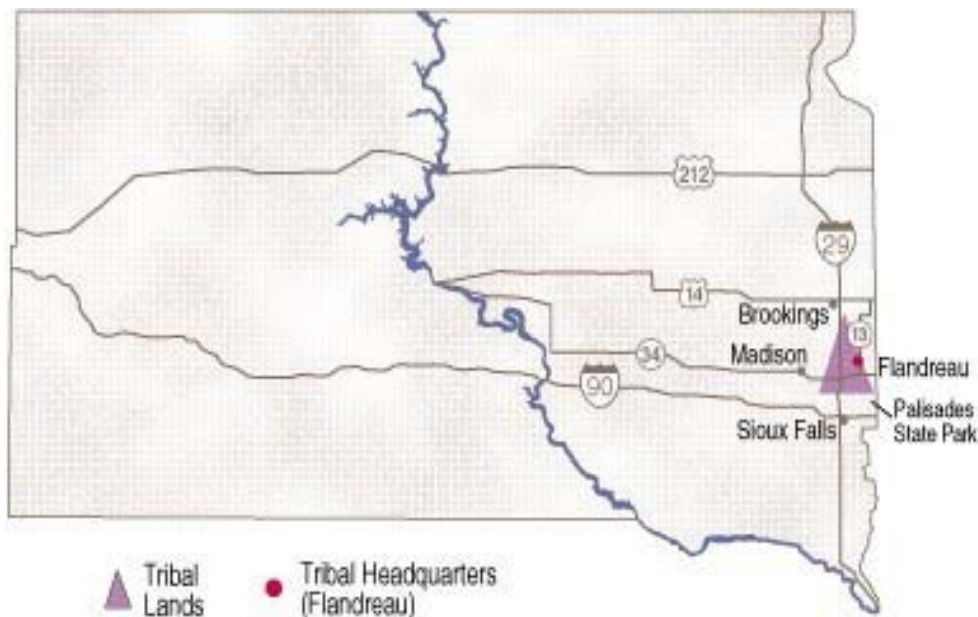
The defendant was dating the sister of the victim, and for a time was living in the same home as the victim in Fort Thompson. During this time period, the defendant and the victim engaged in sexual intercourse on two separate occasions. The victim has low cognitive functioning. While she is in her 40's, she has the mind of an 8- to 10-year-old child. A doctor in Colorado determined that at the time of the offense the victim was incapable of appraising the nature of the sexual contact and thus could not consent to the sexual activity.

The defendant was indicted on charges of Sexual Abuse and was sentenced to 36 months of custody and 5 years of supervised release. During the pendency of this case, the defendant and the victim's sister were married.

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

The defendant assaulted the victim on three separate occasions. The first assault occurred in January 2012, the second in July 2012, and the third in March 2013. Law enforcement was called after each assault. During one of the assaults, the defendant pulled a clump of hair from the victim's head. The other assaults involved beating, biting or kicking the victim. The investigation revealed that the victim and defendant had been dating and the defendant frequently physically abused the victim after he had consumed alcohol. The defendant was charged with Burglary, three counts of Assault with a Dangerous Weapon, and Aggravated Sexual Abuse. He pled guilty to Assault with a Dangerous Weapon, and is awaiting sentencing.

Supervised Release Revocation

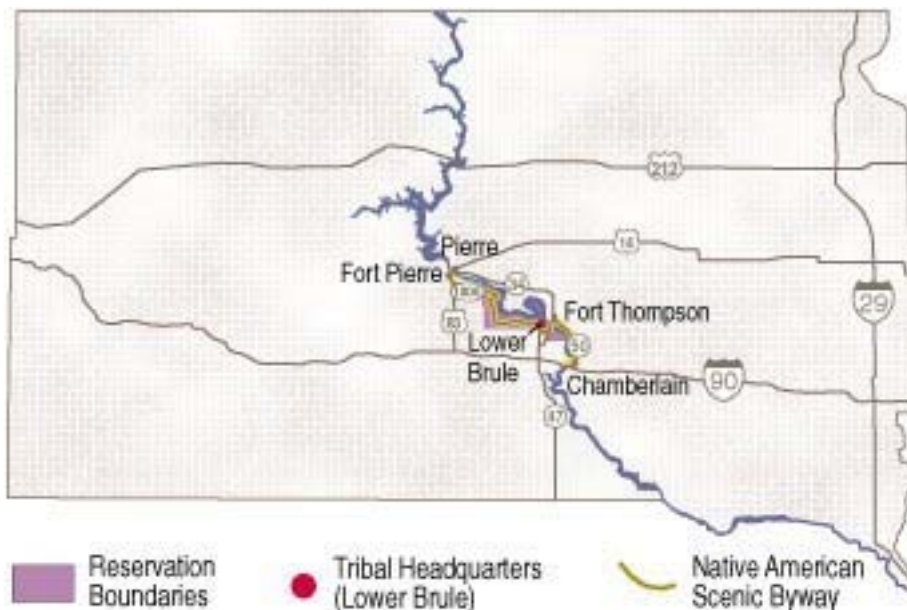
The defendant was involved in three separate assaults on three different individuals. Two of the assaults involved male victims, and one involved a female victim. The defendant pled guilty in federal court to felony assault and was sentenced to 22 months in prison. After serving his sentence, he was released from prison and placed on federal supervised release. After violating the conditions of supervised release a number of times, a petition to revoke supervised release was filed. The defendant was sentenced to 11 months in custody on that revocation.

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

Aggravated Sexual Abuse

- ❖ The charge stems from incidents occurring several years ago when the defendant was in an intimate relationship with the victim's mother. The defendant, who was watching the victim while her mother was away from the home, forced the victim to engage in sexual acts. The victim was 8 or 9 years old when the offense occurred and the defendant was 31 or 32. When confronted about the allegations, the defendant initially denied and blamed the child, calling her the aggressor. He was sentenced to 151 months of custody and 5 years of supervised release.
- ❖ The investigation of this case began as a result of the case listed above. The victim in that case was not only sexually abused by that defendant, but also by this defendant. She reported that this defendant had sexually abused her, her sister and her two cousins who are sisters. The defendant in this case was the boyfriend of the aunt of the two sets of sisters. As an uncle figure, the defendant would watch the girls at their grandmother's home in Lower Brule. During these occasions he would force the girls to engage in sexual acts when they were eight to ten years old. He was sentenced to 293 months of custody and 5 years of supervised release.

Felon in Possession of a Firearm

The defendant was driving on Highway 50 north of Chamberlain, rear-ended another vehicle, and was pulled over by SD Highway Patrol. The defendant became agitated during the stop and tried to re-enter his vehicle where he had a loaded firearm hidden between the driver seat and center console. He struggled with the officer and was detained. The defendant had previously been convicted in South Dakota for possession of a controlled substance.

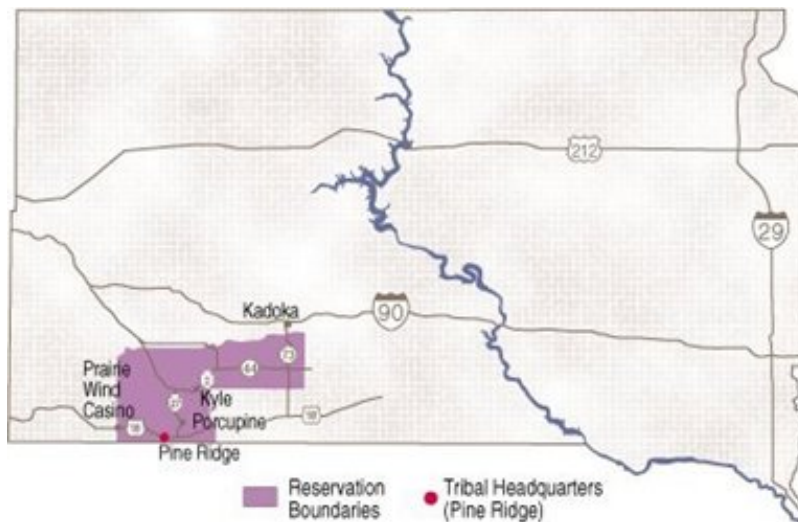
The defendant was indicted for Felon in Possession of Firearm, Possession with Intent to Distribute a Controlled Substance, and Firearm Offense. He pled guilty to being a Felon in Possession of a Firearm and was sentenced to 24 months' custody and 2 years supervised release. He also forfeited the handgun, ammunition, \$4,026 cash, and several cell phones.

Pine Ridge Reservation



The Pine Ridge reservation was established in 1889 and is the home of the Oglala Sioux Tribe. The reservation is located in Shannon and Jackson counties 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

Federal Program Theft

The four defendants in this case were employees of the Oglala Sioux Tribe; one worked for the Tribe's Low Income Home Energy Assistance Program (LIHEAP) office; one worked for the Tribe's Accounts Payable Department; and the others were contractors for the Tribe. The defendants stole tribal funds by preparing and submitting fraudulent invoices, quotes, and accounts payable vouchers for contracting work that was ineligible or was never completed. The documents were processed and checks were issued to the two defendants who were contractors. The defendants cashed the checks, divided the funds among themselves, and used the funds for their own purposes. Under this scheme, the defendants stole approximately \$109,135.

The defendants were indicted on one count of Conspiracy to Commit Federal Program Theft and two counts of Federal Program Theft. One defendant has pled guilty to the Conspiracy count and is awaiting sentencing. The case against the others is pending.

Sexual Abuse

Over the course of several years, beginning in 1991, the defendant molested different members of his own family, including his nieces and sisters. He sexually assaulted the 13-year old victim while she was asleep and unable to communicate her unwillingness to engage in the sexual act. The defendant was charged with Aggravated Sexual Abuse, Sexual Abuse, and Abusive Sexual Contact. After indictment, the defendant pled guilty to Sexual Abuse, and was sentenced to 180 months' imprisonment and 5 years of supervised release.

Abusive Sexual Contact of a Minor

The defendant became intoxicated while out with friends. He returned home and got into bed with his nine-year-old daughter. The defendant was inappropriately rubbing the child, and the child was too scared to tell the defendant to stop as he had his arms around her during the sexual contact. The defendant was charged with Aggravated Sexual Abuse and Abusive Sexual Contact of a Minor. After indictment, the defendant pled guilty to Abusive Sexual Contact and was sentenced to 120 months' imprisonment and 10 years of supervised release.

Felon in Possession of a Firearm

The defendant went to a neighbor's residence with a .38 caliber Colt Cobra revolver. When the neighbor got to the door, the defendant displayed the gun in his hand and asked where his "stuff" was. The defendant was prohibited from possessing firearms based on prior felony drug and theft convictions. He was charged with being a Felon in Possession of a Firearm, pled guilty, and was sentenced to 46 months of imprisonment and 2 years of supervised release.

Involuntary Manslaughter

The defendants, parents of the five-month-old infant victim, consumed large amounts of alcohol. While intoxicated, they went to bed taking their infant child with them. At some point during the night, the defendants both rolled over on the infant, and the child suffocated and died as a result. The defendants were indicted for Felony Child Abuse and Neglect and Involuntary Manslaughter. Both defendants pled guilty to Involuntary Manslaughter and each were sentenced to 9 months in custody and 3 years of supervised release.

Assault

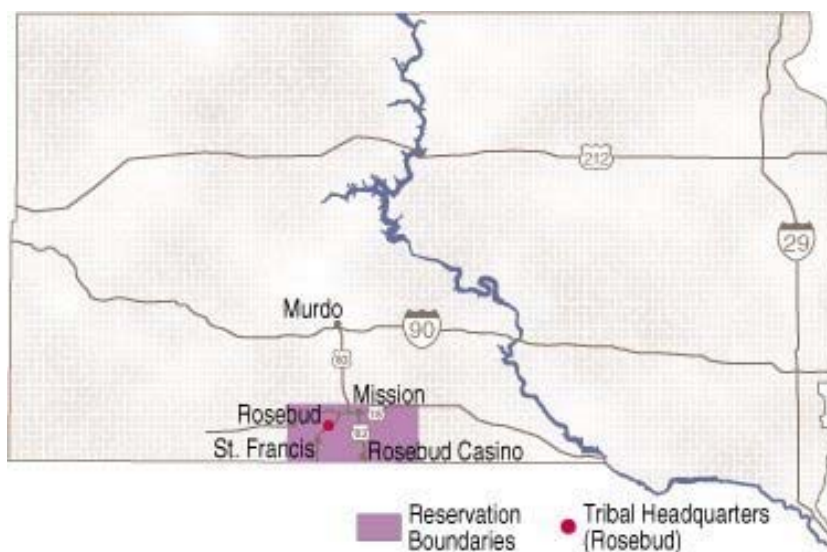
The defendant had a significant history of beating his wife. On the night of this incident, he attacked her with a blunt object, causing significant lacerations to her legs and bruising her back. He was convicted by a jury of Assault with a Dangerous Weapon and Assault Resulting in Serious Bodily Injury. He is awaiting sentencing.

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

Distribution of Cocaine and Methamphetamine

An individual distributed marijuana, cocaine, and methamphetamine on the Pine Ridge Reservation in Rapid City, and Gordon, NE. This individual distributed between 100 and 400 kilograms of marijuana that he received from Denver, Colorado; Texas; New Mexico; and South Dakota. During the course of his drug distribution, this individual also distributed multiple pounds of cocaine and methamphetamine. Twenty individuals were indicted as a result of the investigation.

As a part of this individual's drug distribution activities, he also expanded his network to the Rosebud Reservation. Six more individuals from Rosebud were indicted as a result of the investigation.

Two women from the Rosebud area, along with a boyfriend of one of the women, distributed drugs for this individual on the Rosebud Reservation. A second man from Rosebud also dealt directly with this individual in obtaining drugs from him and redistributing them. A third male and female obtained controlled substances from one of the previously listed females and redistributing them on the Rosebud Reservation.

The primary distributor pled guilty and was sentenced to 10 years in prison to be followed by 3 years of supervised release. The two original females that were this individual's point of contact at Rosebud, as well as the boyfriend of one of the women, pled guilty to being involved in a conspiracy to distribute between 60 and 80 kilograms (between 132 and 176 pounds) of marijuana and were sentenced to 57, 30, and 44 months of custody, respectively. The boyfriend was sentenced to an additional 6 months of custody for a separate and unrelated possession of methamphetamine. The other male defendant who dealt directly with the primary distributor had been convicted of a felony drug offense prior to his involvement in this conspiracy. This individual also pled guilty to being involved in a conspiracy to distribute between 60 and 80 kilograms of marijuana. He was sentenced to 21 months of custody to be followed by 3 years of supervised release. The two remaining individuals likewise pled guilty to being involved in conspiracy to distribute between 60 and 80 kilograms of marijuana and were sentenced to 28 and 21 months, respectively.

Conspiracy to Distribute Marijuana

Officers with the Rosebud Sioux Tribe were called in response to a disagreement between two individuals regarding the ownership of a vehicle. Based on the report, an officer

initiated a traffic stop on the vehicle in question. The car was driven by a female. Marijuana cigarettes and methamphetamine were found in the vehicle. The woman then gave law enforcement consent to search her residence. When law enforcement arrived at the residence, there were two males present. Officers found \$1,080.00 in U.S. currency, rolling papers, small empty plastic bags, a plastic bag containing 54.8 grams of methamphetamine, and another plastic bag containing approximately 4 grams of methamphetamine on one of the men. When interviewed by law enforcement, this individual admitted to selling methamphetamine in the past. The second male was also searched, and officers found a syringe and a plastic container with .68 grams of methamphetamine. As a part of the investigation, it was determined that the female and the second male had driven from Rosebud to Sioux Falls earlier that day, where they picked up the other male before returning to Rosebud.

The man that was picked up in Sioux Falls and the female defendant pled guilty to Possession with Intent to Distribute Methamphetamine. The male defendant was sentenced to 5 years of custody to be followed by 4 years of supervised release. The female defendant was sentenced to 325 days of custody with 2 years of supervision to follow. The other male was also charged in a separate case with Conspiracy to Distribute Marijuana. As a part of this offense, he pled guilty to Possession of Methamphetamine and was sentenced to 6 months of custody. This defendant was also given an additional 44 months in custody as a part of the conspiracy conviction.

Possession with Intent to Distribute Methamphetamine

A SD Highway Patrol Trooper came upon a disabled vehicle, located along the side of Highway 44. There was smoke coming from under the hood and the vehicle's hazard lights were flashing. The trooper stopped to provide assistance. There were three men with the vehicle and during the trooper's contact with the three men, a pack of Newport cigarettes stuffed with a plastic bag containing 12.8 grams of methamphetamine was found near the air intake by the front left fender of the vehicle. Additionally, trace amounts of marijuana were located inside the head band of a baseball cap located in the back seat. A glass pipe was also found stuffed in between the rear seat cushions. All three defendants tested positive for methamphetamine.

Two defendants pled guilty to Possession with Intent to Distribute Methamphetamine. One was sentenced to 37 months of custody with 3 years of supervised release to follow. He has since filed a Notice of Appeal with the Eighth Circuit Court of Appeals contesting the search conducted by the trooper. His appeal is still pending. The second defendant was sentenced to 28 months of custody to be followed by 3 years of supervised release. The third defendant pled guilty to Possession of a Controlled Substance. This individual

failed to appear for his sentencing, and a warrant was issued for his arrest. He remains a fugitive.

Possession with Intent to Distribute Marijuana

Rosebud tribal officers initiated a traffic stop on a vehicle operated by the defendant because the vehicle's headlight was out. While the officer ran a license status check on the defendant, another officer arrived on the scene and deployed his narcotics detection dog. The dog indicated on the defendant's vehicle. Law enforcement searched the vehicle and found four bags containing marijuana and several items of drug paraphernalia. The total weight of marijuana was 1.3596 kilograms.

The defendant was charged with Possession with Intent to Distribute Marijuana, to which he pled guilty. He was sentenced to 1 month in custody, 2 years supervised release, and ordered to pay a \$1,000 fine. The defendant also forfeited the firearm and his vehicle.

Sexual Abuse

A husband and wife were hosting a party at their residence. The victim, who is the wife's half-sister, attended the party. At some point the victim went to the couple's bedroom to sleep. She awoke later with her brother-in-law on top of her. Her clothing had been removed and her brother-in-law, who was completely naked, was having sexual intercourse with her. Her sister was next to her on the bed telling her to "let it happen, let it happen," and petting her on the head. She told her brother-in-law to get off of her, which he did and then started having sex with his wife. The victim left the bedroom.

The sister pled guilty to one count of Sexual Abuse and was sentenced to 72 months in custody and 5 years of supervised release. Her husband was convicted at trial on one count of Sexual Abuse. He was sentenced to 192 months in custody and 5 years of supervised release.

Aggravated Sexual Abuse of a Child

In 1991, the defendant was convicted in North Carolina, of Incest and Second Degree Rape of his then 12-year-old stepdaughter. He was sentenced to 25 years of imprisonment. He was paroled and released in October 2000, and moved back to the Rosebud Reservation in 2001. The defendant was convicted on a Failure to Register charge in federal court in 2011.

Two years later, the defendant was charged in an eight-count indictment with Aggravated Sexual Abuse of a Child, Aggravated Sexual Contact with a Child, and Abusive Sexual Contact for the molestation of three of his granddaughters, and an 11-year-old friend of

one of his granddaughters. The defendant pled guilty to Abusive Sexual Contact in exchange for the dismissal of the other counts.

The defendant was indicted for touching one of his granddaughters when she was six years old and living in the same home. The molestations ended when the granddaughter and her family moved out of the home.

Another charge stemmed from when the defendant was visiting family on the Cheyenne River Indian Reservation at a home where another granddaughter lived. This 11-year-old victim was sleeping on a couch in the home and the defendant was sleeping behind her. The victim woke up to the defendant rubbing his hand on the outside of her shorts and jumped off the couch. When she looked back at the defendant, he closed his eyes and acted like he was sleeping.

Another victim was approximately 11 years old when she was visiting the defendant's home in St. Francis, along with one of his granddaughters. The defendant offered the two girls white round pills several times, telling them that the pills would make them feel really good. The victim refused the pills at first, but eventually took one. It made her feel ill and she had to lie down. While the victim was lying down, the defendant started rubbing between her legs on the outside of her clothing. He then placed his hand underneath her shirt and rubbed her breasts. The victim became scared and tried to sit up. The defendant pushed her back down and kept saying "shhh," and told her not to tell anyone. The victim began to cry and did not know what to do. She was eventually able to get out of the home and end the sexual assault.

While on the Rosebud Reservation, the defendant was giving his 15-year-old granddaughter a ride home when he offered her some of his pain medication, which she refused. While they were in the defendant's vehicle, he began to rub her leg and try to put his hand down her shirt. She pushed the defendant's hand away and got out of the vehicle, ending the assault.

The defendant was sentenced to 144 months in custody, and 3 years of supervised release.

Assault Resulting in Serious Bodily Injury, Child Abuse

The defendant was home alone with his son and two of his girlfriend's three daughters, including the three-year-old victim. The defendant heard the victim "messing around" in the bathroom. Losing his temper, he went into the bathroom, picked her up and threw her to the floor. The victim's left leg went limp and she began cry.

The defendant did not seek medical care for the victim until that evening when an ambulance was summoned to the home. The victim was diagnosed with two broken

femurs that required her to wear a half-body cast for six weeks, before making a full recovery.

The defendant was sentenced to 33 months in custody, 2 years of supervised release, and \$2,691.66 in restitution.

Embezzlement

The two defendants in this case served as the chief and treasurer of the St. Francis Volunteer Fire Department. The chief wrote himself nine checks from the St. Francis Volunteer Fire Department's checking account totaling \$5,200, and had the treasurer, his co-defendant, countersign them. He also wrote ten checks out to his treasurer totaling \$2,100 and another \$600 in checks to other fire department volunteers, which the co-defendant also countersigned. The funds for these 21 checks were designated by the Todd County Treasurer to pay for insurance premiums for the fire department.

The defendant also took property that belonged to the St. Francis Volunteer Fire Department, including two radios, floodlights, and a backup generator and placed those items into use at his place of employment. He also took two fire trucks that belonged to the St. Francis Volunteer Fire Department and provided those trucks to other fire departments in Mission and Lakeview, without authority to do so. All the equipment except for the backup generator was located and returned to the ownership of the St. Francis Volunteer Fire Department.

The defendant was sentenced to 2 years' probation, a \$500 fine, and \$9,458.49 in restitution. The co-defendant was sentenced to 18 months' probation and \$4,900 in restitution.

Assault Resulting in Serious Bodily Injury

Several people attended a party at a home in Parmelee, including the 22-year-old defendant and two male friends. The defendant, his friends, and some males began to argue and a fight broke out. The defendant reached into his pocket and took out a 9 mm handgun. He pointed the handgun at the driveway and fired three rounds. Two of the rounds ricocheted and caused serious bodily injury to two male victims. The first adult male victim received two gunshot wounds to his right thigh, and the second adult male victim was struck once in the left thigh, just above his knee.

The defendant was indicted for the assault and was detained when he entered a guilty plea. He was granted a 12-hour funeral furlough to attend the funeral of his great uncle. The defendant failed to return from the furlough as ordered and was on the run for about a month before he was apprehended while hiding at the home of a former girlfriend.

The defendant was sentenced to 84 months in custody, and 2 years of supervised release for the two counts of Assault Resulting in Serious Bodily Injury, and was sentenced to 12 months in custody on the Escape conviction.

Wire Fraud, Larceny

The defendant was employed by the Family Dollar store in Mission as the store manager for approximately four years at the time of these events. One day the defendant stumbled into the Mission branch of the Wells Fargo Bank, collapsed to the floor saying she had been robbed. She had a welt on the back of her head. She claimed that she had a cloth bank bag in her hand with over \$16,000 in deposits when she was robbed, and she described the robber as being 5 foot, 9 inches tall, average build, and wearing a black hoody and black jeans.

After the robbery was reported to the Rosebud Police Department and the FBI, Family Dollar Store management alerted the FBI to an internal investigation it was conducting where the defendant was suspected of rolling deposits at the store during the previous 45 days. The FBI investigation revealed the defendant had devised a rolling deposit scheme to obtain money from the Family Dollar Store by taking cash out of the store deposit bags and delaying taking the deposits to the bank until she had enough cash from successive days to make up the difference in the bags from which she took the cash.

When Family Dollar management began to suspect the defendant was rolling deposits, they required her to fax deposit tickets, the store's deposit log, and the store's daily cash receipt totals to the Family Dollar's Loss Prevention Director in Shawnee, Kansas, on a daily basis. The defendant then persuaded a teller to issue five deposit tickets from the bank without depositing any cash into Family Dollar's bank account. She then faxed the fraudulently obtained deposit tickets from Mission to Shawnee in an attempt to conceal the rolling deposit scheme. The investigation revealed that the defendant had attempted to cover up the scheme by claiming she was robbed of store deposits outside the Wells Fargo Bank.

The defendant was charged with Wire Fraud and Larceny. She pled guilty to one count of Wire Fraud and was sentenced to 5 months in custody, 5 months of home confinement, 3 years of supervised release, \$16,852.38 in restitution to Family Dollar, and \$5,000 in restitution to Country Pride Cooperative. The restitution to Country Pride Cooperative was a part of the plea agreement in which larceny charges in another case against the defendant were dropped. Those charges were filed as a result of an investigation into missing deposits from Country Pride Cooperative, the defendant's previous employer, when she worked as the manager of one of their gas station/convenience stores.

Aggravated Sexual Abuse

A Parmelee man was indicted for Sexual Abuse, and was found guilty by a jury trial on all charges.

The conviction stems from several incidents which occurred between January 1, 1993, and May 15, 2007, in which the defendant sexually abused multiple victims under the ages of 12.

During the years of 1993 through 1997, the defendant visited Child Victim A, a young relative who was staying on the Rosebud Reservation. While visiting her, the defendant sexually abused her. In addition, he engaged in sexual acts with Child Victim A in a wooded area near the He-Dog housing community. As a result of this conduct, the defendant was convicted of Aggravated Sexual Abuse of a Child and Abusive Sexual Contact of a Child.

In the summer of 2000, the defendant was staying with relatives at a housing complex near Parmelee. While there, he sexually abused Child Victim B, another young relative. As a result of this conduct, the defendant was convicted of Abusive Sexual Contact of a Child.

The final incident occurred over Mother's Day weekend of 2007. The defendant was on the Pine Ridge Indian Reservation with a woman and her young daughter, Child Victim C. While at Pine Ridge, he grabbed Child Victim C, forced her to the ground, and abused her in a sexual manner. As a result of this conduct, the defendant was convicted of Abusive Sexual Contact of a Child and Abusive Sexual Contact of a Child while Registered as a Sex Offender.

As a result of these convictions, the defendant was sentenced to 444 months of custody, followed by 5 years of supervised release.

Sexual Contact with a Minor

The defendant, his wife, and their children, including four daughters, moved to Milk's Camp in Gregory County. The defendant had been sexually abusing the girls when they lived in other states, including when they previously lived in Arizona. After living in tribal housing on the Rosebud Reservation for a couple of months, law enforcement officers were summoned to the house because the defendant had assaulted his wife. She reported the spousal abuse to the police, at which time several of his daughters also reported that he had been molesting them. His wife confirmed she was aware the sexual abuse had been occurring. The defendant pled guilty to Sexual Abuse of a Minor and Sexual Contact with a Minor. He was sentenced to a total of 204 months in custody, 5 years of supervised release, and ordered to pay \$17,123.42 in restitution.

Aggravated Sexual Abuse

The defendant was at a house party in Mission, drinking alcohol with several people, including the victim. After several people passed out or went to sleep, he took the victim to a nearby shed and forcibly sexually assaulted her causing her serious injuries. The defendant was indicted and pled guilty to Aggravated Sexual Abuse. He was sentenced to 150 months in custody, and 5 years of supervised release.

Aggravated Sexual Abuse

The defendant, a former law enforcement officer, went to his ex-girlfriend's residence in Mission. The ex-girlfriend was in a new relationship. She was ill and had the flu, but allowed the defendant to come over to visit. He arrived and forced himself upon her twice. After he left, she reported the sexual assault to the police department. The defendant was indicted, pled guilty to Aggravated Sexual Abuse and was sentenced to 132 months in custody, and 5 years of supervised release.

Involuntary Manslaughter

- ❖ The defendant and her boyfriend were at a ranch drinking. The defendant was under the influence of alcohol, with a blood alcohol level determined to be .191. She was causing problems and was asked by the ranch owner to leave. She got into her boyfriend's truck, and he got in the passenger seat. She was driving recklessly down a gravel road when the truck "fish-tailed" causing an accident. Her boyfriend died from crushing injuries he sustained in the roll-over crash. The defendant pled guilty to Involuntary Manslaughter, and was sentenced to 48 months in custody, 2 years of supervised release, and \$7,160.48 in restitution. She was also ordered to pay restitution for a separate crime involving stealing a man's credit card and going on a spending spree with the stolen credit card.
- ❖ The defendant rolled his vehicle while driving under the influence of alcohol. The passenger in the vehicle died as a result of the injuries received in the accident. It was later determined that the defendant's blood-alcohol level was .268. The defendant was indicted and pled guilty to Involuntary Manslaughter. He was sentenced to 40 months in custody, and 2 years of supervised release.

Assault with a Dangerous Weapon

The victim was helping a client fix an appliance at his home when the two defendants approached him and started harassing him. The two then assaulted him with a bat and a rock causing a serious head injury. The victim fled the scene and the two defendants then damaged his truck and took some of his property.

Both defendants pled guilty to Assault with a Dangerous Weapon and each were sentenced to 36 months in custody, 2 years of supervised release, and were ordered to pay \$4,445 in restitution.

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 Reservation. On September 22, 2011, the Rosebud Sioux Tribal Court entered an order barring him from entering the lands of the Rosebud Reservation, and 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 custody, and 1 year of probation. He was also ordered to not re-enter the reservation.

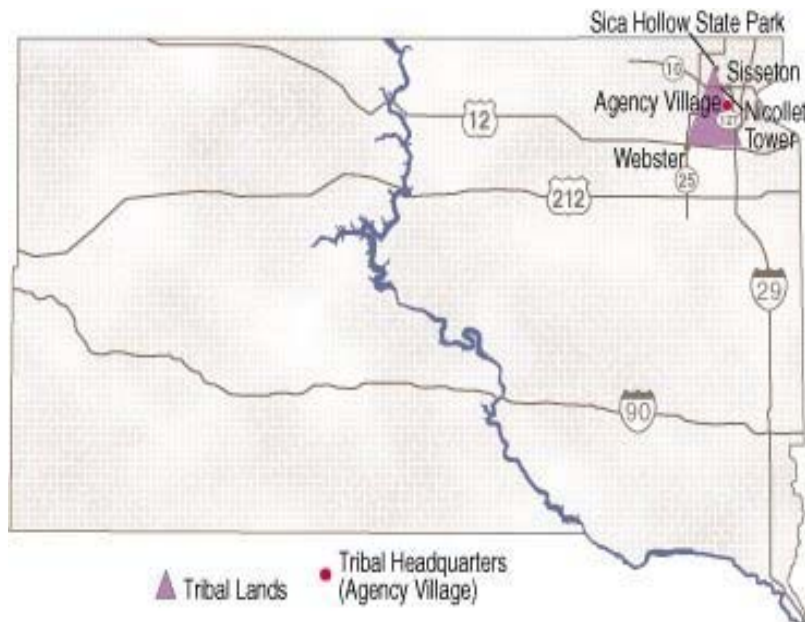
On August 27, 2013, the defendant defied the prior directives and orders and was at a home in St. Francis. On September 6, 2013, he was found at the St. Francis Indian School. Both locations are on the Rosebud Reservation. The defendant was arrested by tribal officers and transported off the reservation, 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 and was sentenced to 6 months custody, 1 year of probation, and again ordered to not re-enter the reservation.

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

Second Degree Murder

A biological father was asked to babysit his two-year-old daughter, and at the time he was also babysitting other children at his house. He lost his temper and beat his daughter several times about the face and head rendering her unconscious. The defendant took the child to his friend in an attempt to resuscitate her before finally bringing her to the hospital. She was eventually flown to Fargo, North Dakota, where she died two days later from massive head injuries. The autopsy report showed 18 separate contusions on four different planes of the child's head. The defendant maintained to physicians and investigators that the child had fallen from a chair.

A jury trial was held, and several experts testified that the child was a victim of battered child syndrome and the bruises and injuries were not caused by a fall from a chair. Expert testimony was heard that the cause of death was consistent with a homicide, and that the child died from physical blows to the head. Testimony was received that the child was primarily with defendant and no other adult during the five days preceding her death.

The jury found the defendant guilty of Second Degree Murder and Assault Resulting in Serious Bodily Injury. The defendant is facing a mandatory minimum sentence of 30 years in prison for the murder conviction and a mandatory minimum of 10 years in prison for the assault conviction. He is currently being held without bond pending sentencing.

Aggravated Sexual Abuse and Child Abuse

- ❖ The father of an eight-year-old child was convicted of child abuse for repeatedly engaging in anal sex with her. The investigation revealed that the child's mother was in prison, and the child's father was her primary caregiver. The father took the child to the Sisseton-Wahpeton reservation so that they could live with relatives. The child later reported that her father had sexually abused her on more than one occasion. Two of the acts of sexual abuse were witnessed by the child's twin sisters.

The victim and the twin sisters were interviewed and disclosed that their father had engaged in sexual abuse with the eight year old on a number of occasions. All three girls were forensically interviewed and disclosed the abuse to interviewers. Charges were filed against defendant who would later enter a plea of guilty to Child Abuse. The defendant was sentenced to 60 months in prison. He appealed his sentence to the 8th Circuit Courts of Appeals, and the sentence was upheld.

- ❖ The defendant lived with his 18-year-old girlfriend, his girlfriend's mother, and his girlfriend's 11-year-old sister. One evening, the girlfriend left to run an errand leaving the defendant alone at the house with the 11 year-old victim. The defendant had sexual intercourse with the child. The defendant and victim did not tell anyone of the incident until years later when the victim disclosed the incident to her sister and they eventually told their mother what the defendant had done.

The defendant had moved to Georgia, and it took several years to locate him. When found, the defendant was interviewed by FBI and he admitted to having sex with the girl years earlier. He was charged with Sexual Abuse and went to trial nearly ten years after the sexual act. The defendant was found guilty by the jury of Aggravated Sexual Abuse, and was sentenced 210 months in custody to be followed by 5 years of supervised release. He appealed his conviction to the Eight Circuit Court of Appeals, and that appeal is still pending.

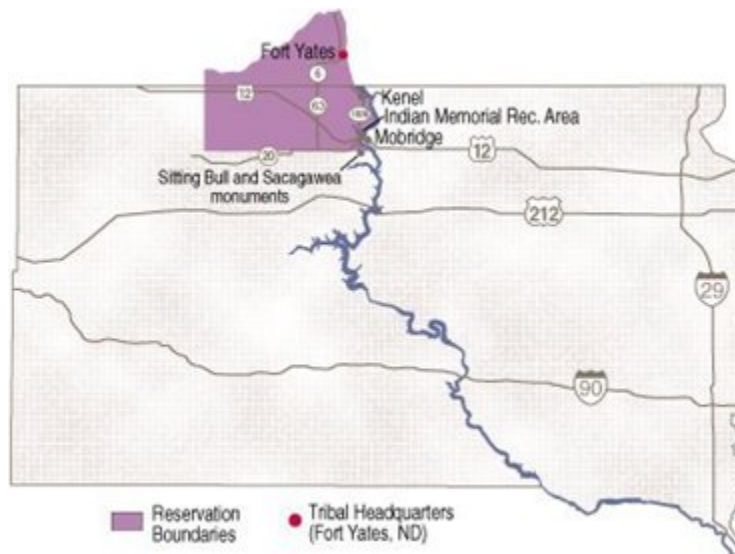
Involuntary Manslaughter

The defendant, who was under the influence of alcohol, got into his car and backed over a child in the driveway, killing the child. He was charged with Involuntary Manslaughter, and pled guilty in federal court. He was sentenced to 12 months in custody to be followed by 3 years of supervised release.

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

Distribution of Methamphetamine

The Mobridge Police Department received a report that four individuals were beaten at the Wakpala Pow Wow grounds for allegedly stealing cocaine, cash, and other property from some Hispanic individuals residing in the Mobridge area. A cooperative investigation involving the Northern Plains Safe Trails Drug Enforcement Task Force, the FBI in North Dakota, the BIA/Standing Rock Agency, and the Mobridge Police Department identified a significant organization that had connections to Iowa, California, and Mexico, and was led locally by one of the eight co-defendants. The organization was distributing methamphetamine, cocaine, and marijuana on the Standing Rock Reservation and in the Mobridge area.

The investigation revealed that the main co-defendant was living in the Mobridge area while working on a bridge reconstruction project. This individual began showing local residents that he had quantities of marijuana, methamphetamine, and cocaine. He then began recruiting local residents to sell these controlled substances for him. A few months later, the main co-defendant brought in a close associate of his to oversee the drug dealing operation in the Mobridge area.

The associate had a party at his residence in Mobridge that included significant drug usage. One of the party attendees was in a relationship with one of the other eight co-defendants. She told her boyfriend (co-defendant #6) about the large amount of drugs she observed at the party. At that point, co-defendant #6 decided to rip off his former associates. He, his girlfriend, and two others that he enlisted broke into the primary co-defendant's trusted associate's residence and stole what was estimated to be approximately \$30,000 in drugs, several thousands of dollars in cash, and other property from the residence.

The main co-defendant, his trusted associate, three of the other co-defendants, and another unidentified male conducted their own investigation and incorrectly identified four local residents that they suspected were responsible for the burglary and theft. These six individuals picked up each of the four victims individually, took them to the Wakpala Pow Wow grounds, and interrogated them about the location of the missing drugs and money. In addition to interrogating the victims, they were punched, pistol-whipped, and kicked. Guns were also pointed at their heads.

Eight defendants were indicted for multiple counts of Conspiracy to Distribute a Controlled Substance, Kidnapping, Assault with a Dangerous Weapon, and various firearm offenses. All eight defendants have pled guilty and have been sentenced. The leader of the conspiracy pled guilty to Kidnapping and Brandishing a Firearm During the Commission of a Crime of Violence and was sentenced to a total of 215 months of custody with 5 years of supervised release to follow. His trusted associate pled guilty to a superseding information alleging Conspiracy to Distribute between 50 and 100 grams of Cocaine and Brandishing a Firearm During the Commission of a Crime of Violence. He was sentenced to a total of 130 months' custody to be followed by 3 years of supervised release. Co-defendant #5 had at least two prior felony convictions for either a crime of violence or a controlled substance offense prior to his involvement in this incident. He was sentenced to 151 months in custody, to be followed by 3 years of supervised release following his plea of guilty to Conspiracy to Distribute between 40 and 50 100 grams of Methamphetamine. Co-defendant #8 was on supervised release for a firearm offense at the time he committed this recent offense. He pled guilty to Assault with a Dangerous Weapon and Brandishing a Firearm During the Commission of a Crime of Violence. The court upward departed from the advisory federal guideline sentencing range and imposed a total sentence of 125 months. Co-defendant #8 received an additional 18 months of custody for his supervised release violation. Co-defendant #4 absconded from pretrial supervision prior to entering his guilty pleas. Following his arrest for the bond violation, he entered guilty pleas to Conspiracy to Distribute between 50 and 100 grams of Cocaine, and Assault with a Dangerous Weapon. He was sentenced to a total of 109 months of custody, followed by 3 years of supervised release. Co-defendant #3 was on supervised release for a prior felony drug conviction at the time she committed the instant offense. She pled guilty to Conspiracy to Distribute at least 50, but less than 200 grams, of methamphetamine, and to being a repeat offender – a charge which increased the maximum possible penalty she was facing at the time of sentencing. She was sentenced to 105 months of custody, with 6 years of supervised release to follow. Co-defendant #3 also received an additional 24 months of custody for the supervised release violation. Co-defendant #7 was sentenced to 51 months of custody following his pleas of guilty to two counts of Assault with a Dangerous Weapon. Co-defendant #6 pled guilty to Possession with Intent to Distribute at least 30, but less than 40, grams of methamphetamine. He was sentenced to 37 months of custody, with 3 years of supervised release to follow. His role in the burglary offense was handled at the state court level.

Distribution of a Controlled Substance
Child Abuse and Neglect

The defendant's child was prescribed by a physician to take methylphenidate, commonly known as Ritalin. The prescription for Ritalin began in July 2009, and continued at least through July 30, 2012. The defendant admitted to law enforcement that she took and distributed her child's Ritalin medication to others and would sometimes compensate the child for taking his medication. Methylphenidate is a Schedule II controlled substance. The defendant pled guilty to Distributing a Controlled Substance (Ritalin) and is awaiting sentencing.

Domestic Assault by an Habitual Offender

While living in Bullhead, the defendant assaulted his wife and step-son. He first assaulted his wife by hitting her in the face multiple times. The Defendant's 11-year-old step-son saw that his mother was being assaulted and attempted to intervene. The defendant stopped assaulting the mother and struck the 11 year old in the face with a closed fist. The defendant had at least two previous convictions in tribal court for domestic abuse. The defendant was indicted for four counts of Domestic Abuse by an Habitual Offender, and pled guilty to two of those counts. He was sentenced to 46 months in prison, with 3 years of supervised release to follow.

Domestic Abuse

- ❖ A White Eagle man struck his longtime girlfriend about the head and face, causing numerous injuries. The defendant had been found guilty on two or more occasions for offenses that would have been, if subject to federal jurisdiction, an assault against a spouse and intimate partner in Standing Rock Tribal Court. All the offenses occurred against the same victim. The defendant pled guilty to one count of Domestic Assault by an Habitual Offender, and was sentenced to 33 months of imprisonment, with 3 years of supervised release to follow.
- ❖ A McLaughlin man was at his home when his ex-girlfriend came by and found him lying in bed with another person. The defendant saw the victim, became enraged, and began to assault the victim with his fists and a knife. As a result of the assault, the victim sustained multiple stab wounds and a broken nose. The defendant pled guilty to one count of Domestic Abuse by an Habitual Offender and one count of Assault with a Dangerous Weapon. He was sentenced to 30 months on each count, to run consecutive, followed by 2 years of supervised release.

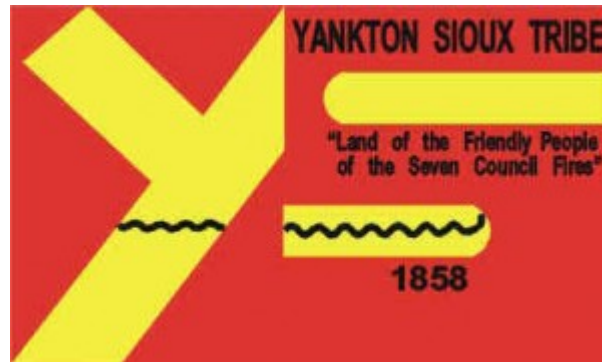
Attempted Aggravated Sexual Abuse and Abusive Sexual Contact

While living in McLaughlin, the defendant allowed the victim, who was a house guest, to use his shower. While she was showering, the defendant entered the bathroom, fondled her, and attempted to rape her. The victim was able to escape the bathroom, flee the residence, and contact the authorities. A jury trial was held and the jury found the defendant guilty of the charges of Attempted Aggravated Sexual Abuse by Force and Abusive Sexual Contact by Force. He was sentenced to 120 months in custody on both counts to run concurrently, to be followed by 5 years of supervised release.

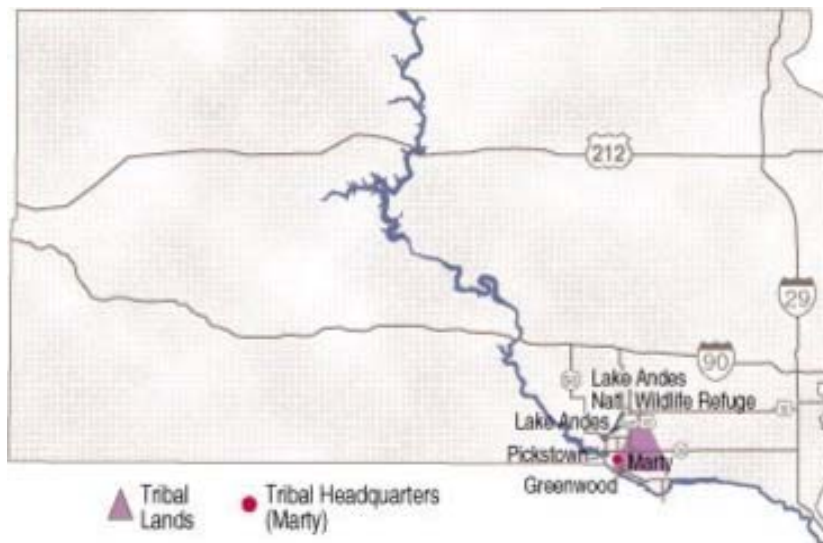
Assault with Intent to Commit Murder

A McLaughlin man was socializing with the victim and others at his home. At some point the victim went to sleep on the floor. The defendant, outraged by a perceived slight he had received from either the victim or another person, found the victim, pulled him off the mattress onto the cement floor, and proceeded to repeatedly stomp the victim's head and face with his feet. The victim suffered major injuries, including severe head trauma which required emergency surgeries and had to be placed in a medically induced coma. The defendant was sentenced to 121 months of imprisonment, followed by 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

Sexual Assault and Burglary

The defendant, who had been consuming alcohol most of the day, attended a get-together and met up with the victim. Without the victim's knowledge, the defendant followed her home, entered her apartment, and attempted to undress her as she was sleeping on the couch. The victim woke up, screamed for help, and the defendant ran out of her apartment. The defendant was eventually found and arrested for Attempted Sexual Assault and Burglary. Charges were filed, he pled guilty, and was sentenced to 37 months in custody.

Murder

The defendant and others were socializing and consuming alcohol at a house party in the Wagner area. The defendant left the kitchen area and returned with a firearm, and without provocation he started shooting. He shot and killed his uncle at close range, and also shot and seriously injured his cousin in an attempt to kill him. The defendant dropped the firearm after the shootings, and fled the residence on foot. He was arrested a short time later at a different location. The defendant pled guilty to Second degree Murder and Assault with Intent to Commit Murder. He was sentenced to 210 months in prison on each count, to be served concurrently, and will be followed by 3 years of supervised release.

Aggravated Sexual Abuse

The defendant had a party at his house, and one of the individuals who attended ended up sleeping at the defendant's residence. The defendant went into the bedroom, attempted to undress the victim, and tried to engage in sexual intercourse with her. The victim awoke during the attempted sexual act and ran out the house partially clothed. She immediately reported the sexual act to the police, and the defendant was taken into custody and charged with Attempted Aggravated Sexual Abuse. He pled guilty and was sentenced to over 4 years in prison.

Burglary

The defendant was visiting friends on the Yankton Sioux Reservation when he became intoxicated and got into a dispute with a property owner. He picked up a large rock and threw it against the door attempting to break into the house. The defendant yelled several times to the occupants in the house that he intended to break in and kill them.

The homeowners called the police who arrested the defendant in the yard. The defendant was highly intoxicated and very unruly with the arresting officers.

The defendant pled guilty to Intentional Damage to Property and was ordered to pay restitution to the victim in the amount of \$400.

Assault with a Dangerous Weapon

A Lake Andes man and his girlfriend were driving home when they came upon a fight. The man recognized one of the individuals involved in the fight as a relative of a friend of his so he thought he should step in and try to break up the fight. With the help of another man, they got the two separated and stopped the fight. After that, the individual involved in the fight went into a house, retrieved a knife, and charged at the man who had stopped the fight. The man was stabbed on top of his head and on his arms. At that point, this man's girlfriend started yelling at the defendant, who in turn came after her with the knife. Both victims were able to get to their vehicle and drive away. The defendant was charged with two counts of Assault with a Dangerous Weapon. He pled guilty to one count of Assault with a Dangerous Weapon, and sentencing is pending at this time.

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 2013. 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	State Justice Statistics Program	\$66,523
SD Office of the Attorney General	John R. Justice Program	\$51,769
SD Office of the Attorney General	Paul Coverdell Forensic Science Improvement Grants Program	\$58,186
SD Office of the Attorney General	DNA Backlog Reduction Program	\$250,000
SD Office of the Attorney General	National Criminal History Improvement Program	\$100,812
SD Office of the Attorney General	Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program	\$650,000
SD Office of the Attorney General	Internet Crimes Against Children Task Force	\$239,100
SD Office of the Attorney General	Support for Adam Walsh Act: Implementation Grant Program	\$262,367
SD Department of Social Services	Victims of Crime Act (VOCA) Victim Assistance Formula	\$1,543,344
SD Department of Social Services	Residential Substance Abuse Treatment for State Prisoners Program	\$64,132
SD Department of Social Services	VOCA Victim Compensation Formula	\$305,000
SD Department of Social Services	STOP Violence Against Women Formula Grant Program	\$825,007

SD Department of Social Services	Sexual Assault Services Program	\$237,903
Wiconi Wawokiya, Inc. – Fort Thompson	Consolidated & Technical Assistance Grant Program to Address Children & Youth Experiencing Domestic & Sexual Violence & Engage Men and Boys as Allies	\$350,000
Wiconi Wawokiya, Inc. Fort Thompson	Tribal Governments Program	\$454,000
Wiconi Wawokiya, Inc. Fort Thompson	Children’s Justice Act Partnerships for Indian Communities Program	\$450,000
Wiconi Wawokiya, Inc. Fort Thompson	Comprehensive Tribal Victim Assistance Program	\$450,000
Rosebud Sioux Tribe	Edward Byrne Memorial Justice Assistance Grant Program	\$33,042
Rosebud Sioux Tribe	Support for Adam Walsh Act Implementation Grant Program	\$327,396
Rosebud Sioux Tribe	State and Community Development Division Invited Awards	\$360,000
SD Network Against Family Violence and Sexual Assault	Transitional Housing Grant Program	\$300,000
SD Network Against Family Violence and Sexual Assault	Education, Training and Enhanced Services to End Violence Against and Abuse of Women with Disabilities Discretionary Grant Program	\$550,000
SD Network Against Family Violence and Sexual Assault	State Victim Assistance Academy Initiative Competitive Solicitation	\$35,000
SD Department of Corrections	Juvenile Accountability Block Grants Program	\$116,919
SD Department of Corrections	Title II Formula Grants Program	\$403,949
Sisseton-Wahpeton Oyate of The	Support for Adam Walsh Act	\$389,934

Lake Traverse Reservation	Implementation Grant Program	
Sisseton-Wahpeton Oyate of The Lake Traverse Reservation	Corrections and Correctional Alternatives Program	\$156,003
City of Sioux Falls	Edward Byrne Memorial Justice Assistance Grant Program: Local	\$66,905
City of Rapid City	Edward Byrne Memorial Justice Assistance Grant Program: Local	\$55,215
SD State Board of Pharmacy	Harold Rogers Prescription Drug Monitoring Program: Implementation and Enhancement Grants	\$400,000
SD Coalition Ending Domestic Violence and Sexual Violence	Grants to State Sexual and Domestic Violence Coalition Programs	\$190,301
Oglala Sioux Tribe Department of Public Safety	Edward Byrne Memorial Justice Assistance Grant Program	\$23,139
Oglala Sioux Tribe Department of Public Safety	COPS – 1 Officer	\$143,283
Rapid City Police Department	COPS – 4 Officers	\$500,000
Aberdeen Police Department	COPS – 1 Officer	\$118,268

Bullet Proof Vest Grants

Agency Name	BVP Amount	Number of Vests
Aberdeen	\$2,393.20	10
Belle Fourche	\$2,110.10	11
Brookings	\$4,749.29	16
Brown County	\$1,001.80	4
Butte County	\$1,714.20	7
Clark	\$248.58	1
Custer County	\$767.31	4
Davison County	\$1,007.49	4
Eagle Butte	\$519.45	2
Edmunds County	\$734.66	3
Elk Point	\$884.93	3
Faith	\$519.45	2
Flandreau	\$2,077.81	8
Gettysburg	\$244.89	1
Kingsbury County	\$753.88	3
Martin	\$489.76	3
Miller	\$1,261.53	4
Mitchell	\$5,877.25	24
Pennington County	\$12,734.04	52
Rapid City	\$4,526.67	20
Union County	\$929.01	4
Vermillion	\$1,122.39	5
Watertown	\$1,959.05	8
Yankton County	\$1,155.78	5
TOTAL	\$54,256.56	222

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 U.S. Attorney's Office.

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 U.S. Attorney's Office. 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, 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 \$5 million dollars. The Division also manages equipment and facilities in three locations valued at approximately \$2 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.

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 Financial Litigation Unit in the Civil Division pursues debts owed to the United States and collects criminal restitution, fines, and penalties owed after sentencing. The Civil Division also operates a successful asset forfeiture program to seize and forfeit illegal proceeds of crime. The office investigates and pursues allegations of health care fraud, seeking monetary reimbursement for Medicare, Medicaid, and Tricare, where appropriate. In addition, this office investigates and pursues civil fraud cases involving a variety of program fraud for the U.S. Department of Agriculture, Department of Defense, Department of Housing and Urban Development, and Department of 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. These employees are covered under the Federal Tort Claims Act because they fall under a special law which makes the United States liable for the tribal entity. Significant defensive cases which were resolved in 2013 include the following:

- Settlements of \$200,000 and \$150,000 were reached with the estates of two women who were involved in separate fatal accidents on the Lower Brule Reservation, when a road suddenly eroded in a flash flood caused by unprecedented rain. The flash flooding caused a culvert running under the highway to fail, creating a gorge that was 50 feet wide by 50 feet deep where the road had been. The two women were unable to see the gorge due to heavy rainfall at the time of the accidents. They drove their vehicles into the gorge and were killed. The road and the culvert were both maintained by the Bureau of Indian Affairs.
- Settlement in the amount of \$30,000 was paid in a wrongful death lawsuit which occurred in the Adult Offenders Jail Facility south of Pine Ridge. The inmate committed suicide by hanging.
- Settlement in the amount of \$15,000 was paid to a woman who was injured in a motor vehicle accident. Three passengers in the car were uninjured. A tribal officer was responding to an emergency at the time of the collision. Plaintiff was stopped

in the highway attempting to turn left at the time she was rear-ended by the patrol car.

- A lawsuit filed in Lower Brule Sioux Tribal Court against the Lower Brule Police Department and a Bureau of Indian Affairs police officer was dismissed with prejudice due to the Tribal Court's lack of jurisdiction over federal entities and officials. The Lower Brule Police Department is operated by the Bureau of Indian Affairs.
- Summary judgment in favor of the United States was awarded in a case stemming from an alleged misdiagnosis of an acute infected gallbladder by medical professionals at Indian Health Service. In this case, the plaintiffs were unable to produce any medical expert report showing a breach of the standard of care by the treating physician.
- A voluntary dismissal of a lawsuit filed by a World War II veteran against the Veteran's Administration (VA) was obtained. The plaintiff alleged that a VA physician committed medical malpractice with regard to the hernia repair surgery and that the VA providers also failed to identify and repair an abdominal aortic aneurism. The plaintiff was unable to produce a medical expert supporting his allegations.
- Summary judgment was granted in favor of the United States in a case arising out of a slip-and-fall incident at an Indian Health Service facility. A sudden drop in temperature on a misty day caused ice to form on the sidewalk. An Indian Health Service employee was spreading ice melt at a different part of the sidewalk when plaintiff fell. Applying South Dakota law, the court held that there was no liability because plaintiff's fall was the result of a natural accumulation of ice rather than any negligence on the part of the government.

AFFIRMATIVE FRAUD

The U.S. Attorney's Office 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 for services not rendered or not provided by qualified medical personnel. Highlights of our affirmative enforcement efforts in 2013 include:

- A \$625,000 settlement was obtained in a qui tam (whistleblower) lawsuit where a relator alleged that a hospital and neurosurgeon who own a company that produces medical device implants violated the Anti-Kickback Statute by paying cash to other neurosurgeons to use the implants. Although the government

declined to intervene in the litigation, it monitored the case and participated in settlement negotiations. The relator, who brought forth the issue of concern, received 25 percent of the settlement.

- A \$248,000 settlement was obtained in a matter involving an ophthalmologist who was submitting improper bills to Medicare and Medicaid for consultations, visual field exams, and prescribing bi-focal and even tri-focal lenses for children. The ophthalmologist entered into a corporate integrity agreement which required him to hire an independent review organization to validate his Medicare billings on a quarterly basis for three years.
- A permanent injunction to stop unfair lending practices and partial summary judgment was obtained against multiple corporate defendants who engaged in a variety of illegal “payday” lending and collection practices. These predatory lenders targeted, through Internet and television ads, financially distressed consumers seeking short-term payday loans. Their practices included filing debt collection lawsuits in tribal courts which are both remote to consumers and without subject matter jurisdiction. In addition, they engaged in illegal wage garnishment practices without obtaining a court order. Defendants ceased their illegal lending practices and were ordered to disgorge profits of \$417,740 for violating the Federal Trade Commission Act. Pending approvals, an additional settlement of \$550,000 in civil penalties was reached for said violations.
- A \$40,000 civil settlement was paid by a chiropractor who had previously pled guilty to criminal charges of submitting false billings to Medicare and Medicaid. The allegations arose out of evidence that the chiropractor paid patients a small fee to submit their provider information to Medicare for treatments which were never provided. In addition to a criminal conviction and this civil suit, the chiropractor lost his license and is permanently debarred from ever billing Medicare or Medicaid. The amount of this settlement was based upon a determination of his assets and ability to pay.
- The U.S. Attorney’s Office seeks to recover \$1.3 million in damages 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 suit was successfully brought following the conclusion of the criminal case. The defendants argued that diminished capacity of one of the defendants created a material issue of fact which precluded summary judgment in the civil case. The court held that by pleading guilty to conspiracy to defraud the government, the defendants waived that defense and were statutorily estopped from denying they conspired to defraud the United States. The U.S. Attorney’s Office is awaiting the entry of judgment. It is believed that the defendants own land which could be used to recover the judgment amount.

- The U.S. Attorney's Office, working with the Department of Justice's Antitrust Division, determined that the Chiropractic Association of South Dakota's activities concerning collective contracting violated the Antitrust Procedures and Penalties Act. A consent judgment was obtained enjoining the illegal practices.
- Pendleton Woolen Mills, Inc. changed its marketing practices in response to concerns raised by the Indian Arts and Crafts Board. Pendleton's Internet marketing of the "Sioux Star Blanket" was alleged to violate the Indian Arts and Crafts Act by implying that it was made by Native American Sioux quilters. Pendleton changed the name of its "Native American" section of its website to "Native American Inspired" to clarify that these products were not actually made by Native American artists. In addition, Pendleton changed the name of the blanket to "Plains Star Blanket," so as not to reflect a particular tribe. Pendleton also agreed to pay \$41,250 to the Red Cloud Indian Heritage Center in Pine Ridge, which preserves and displays authentic Native American art, crafts, weapons, and cultural items.
- An investigation was completed regarding a qui tam case alleging that concrete supplied for the construction of an Indian Health Service hospital did not meet contract specifications. The government declined to intervene, but is monitoring the case, which has been unsealed.
- Resolution was reached in two other investigative matters involving alleged health care fraud and one case involving the alleged misuse of federal travel funds. The U.S. Attorney's Office determined a civil suit was not warranted in those cases. Other fraud investigations are ongoing.

PROGRAM LITIGATION

- **Food and Drug Administration (FDA) Warning To Cease Selling Unapproved Lasers Upheld On Appeal:** A Rapid City dentist sued the FDA and two employees personally after the FDA sent him a warning letter asking him to voluntarily stop selling laser devices for unapproved use. The dentist claimed the lasers were effective in healing numerous conditions, including wounds and injuries, pain, inflammation, tendonitis, arthritis, burns, sprains, cuts, bruises, muscle pulls, sore throat, re-energizing of brain and heart cells, normalization of neuropeptides, and macular degeneration. Moreover, his pamphlets made sweeping promises that the devices could treat "any unknown condition." The FDA disagreed, and issued a warning letter to the dentist. The lawsuit sued the federal employees in their individual capacity, seeking damages for constitutional, civil rights, tort, and other violations. The district court dismissed the case against the FDA and the dentist appealed. The Eighth Circuit affirmed the dismissal of this case.

- **FDA Litigation Round II:** A dentist marketing laser devices refused to cooperate with FDA demands for information. As a result, an administrative search warrant was sought and obtained to retrieve documents from his place of business, related to the ongoing marketing of laser devices for unapproved use. The dentist filed a second lawsuit against the FDA, seeking to challenge the issuance of the administrative search warrants and to enjoin the FDA from investigating him or his companies' sale of the laser device. The dentist sought a temporary restraining order and a declaratory judgment from the court that would allow him to represent the private membership associations related to the laser devices. The court ruled that the dentist could not represent corporations, as corporations must be represented by an attorney. The dentist appealed that ruling to the Eighth Circuit Court of Appeals and the Court of Appeals dismissed the appeal for lack of jurisdiction. The United States' motion to dismiss the dentist's remaining claims is currently pending.

- **U.S. Forest Service Easement Preserved:** A peaceful settlement was reached in an ongoing dispute between a private landowner involving a public road easement owned by the U.S. Forest Service. The landowner sought to prevent members of the public from using a road which went across his property. The landowner resorted to placing a padlocked gate across the road, which he was required to remove at his expense. When it became clear that the U.S. Attorney's Office was prepared to file suit, the landowner sold the property to a third party who acknowledged the easement.

- **Special Needs Trust Disqualified Beneficiary from SSI:** The U.S. Attorney's Office successfully defended the Social Security Administration in a case where a disabled individual sought to exclude the proceeds of a lawsuit from being calculated as an asset for purposes of excluding her from supplemental security income. The agency held that even though the proceeds were placed in trust, it was not a valid special needs trust and accordingly, the settlement amount counted as an asset. The district court affirmed the agency's decision. The case is currently being appealed to the Eighth Circuit Court of Appeals.

- **Indian Health Service Housing Eviction:** A former Indian Health Service employee refused to vacate government housing after her employment ended. The former employee also refused to make rental payments. Once the U.S. Marshal showed up to serve her with a federal eviction complaint, the holdover tenant moved, freeing up the house for another government employee.

- **Individuals Claim To Tribal Funds Rejected:** A group of individual Native Americans filed suit challenging a planned monetary distribution to the Cheyenne River Sioux Tribe. Congress created the distribution fund to compensate for the loss

of Native American ancestral lands which 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 for the lost value of their lands. The district court denied their claims based on the language of the distribution statute which showed that Congress intended the fund to provide compensation only to the Tribe for the benefit of all tribal members, and not to individual landowners.

EMPLOYMENT DISCRIMINATION

- The U.S. Attorney's Office successfully defended the Transportation and Security Administration (TSA) in an employment discrimination case. The plaintiff claimed that he was retaliated against by the TSA and denied a supervisory position after he assisted a coworker who complained of sexual harassment. In addition, plaintiff claimed he was subjected to a hostile work environment. A five-day bench trial resulted in a verdict for the agency. Plaintiff did not appeal and costs were assessed against plaintiff.
- Another case was brought by a female who alleged age and gender discrimination, hostile work environment, and retaliation for past conduct of bringing employment-related claims against the U.S. Post Office. The plaintiff claimed she lost seniority status, hours, wages, and other job benefits or privileges. The U.S. Attorney's Office successfully obtained dismissal of untimely claims and summary judgment as to all other claims.
- The U.S. Attorney's Office revisited an old Equal Employment Opportunity (EEO) case which had been settled in 2008, after plaintiff filed a new lawsuit claiming that the Bureau of Indian Affairs had breached the settlement agreement, and that the former settlement agreement was not valid. He sought to reinstate all of his former claims, which began as far back as 1999. The government successfully obtained a dismissal of the case on grounds of res judicata, meaning that all issues related to the dispute have been finally resolved and there were no allegations sufficient to state any new claim upon which relief could be granted. This case is currently on appeal.

BANKRUPTCY

The United States of America is often listed as a creditor in a bankruptcy matter because the debtor owes student loans to the department of education, taxes to the Internal Revenue Service (IRS), tax liens filed by the IRS, or other debt is owing to a

governmental agency. The majority of the bankruptcy cases opened in 2013 by the U.S. Attorney's Office involved the IRS. In 2013, the South Dakota bankruptcy filings decreased by 15 percent from 2012. According to the U.S. Bankruptcy Court, District of South Dakota, the total bankruptcy cases filed in South Dakota were 1311 for 2013. The breakdown by chapter was Chapter 7-1187; Chapter 11-5; Chapter 12-4; and Chapter 13-115. Our office handled 27 bankruptcy matters in 2013. The majority of the cases opened by our office involved Chapter 13 cases.

ASSET FORFEITURE

The U.S. Attorney's Office brings civil forfeiture cases as well as criminal forfeiture cases. In a civil forfeiture case, the property involved in the forfeiture is the defendant. Our office did not file any civil forfeiture complaints this year, but a significant amount of assets were listed as forfeiture allegations in criminal indictments. As part of the forfeiture process, individuals that may potentially have an interest in the property are served with notice. The notice is also published online.

An interesting pending civil forfeiture case involves the forfeiture of approximately \$95,000 in cash or money seized from bank accounts and two vehicles. The forfeiture case filed occurred as a result of an investigation into businesses operating in Sioux Falls regarding the sale of synthetic drugs. The case was stayed in 2013 pending the resolution of the related criminal case.

In another civil forfeiture matter, the court entered a final order of forfeiture in 2012 authorizing the forfeiture of specified property, including a home located in Brandon. Based upon the forfeiture, the home was marketed, with the assistance of the U.S. Marshal's Service, and sold for more than \$600,000.

FREEDOM OF INFORMATION ACT (FOIA)

In 2013, the U.S. Attorney's Office opened seven cases relating to requests for information under the FOIA. FOIA defines when an individual or a third-party can receive records from a government agency. There are exemptions which 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.

- **Mt. Rushmore Memorial Society Sues Mt. Rushmore National Park for Information:** The Mt. Rushmore Memorial Society sought information from the National Park Service (NPS) about an inspection performed by private contractors through a FOIA request. After the NPS provided them with only a summary of the

inspection findings, the Society sued, seeking to obtain the entire report. The U.S. Attorney's Office defeated a request for injunctive relief, and worked with the agency to provide additional information to the Society, along with a privilege log explaining why other information was redacted or not produced. The Society agreed to voluntarily dismiss the case and negotiated attorney fees were paid to the Society's attorneys.

- **Food Stamp Redemption Appeal:** The *Argus Leader*, a Sioux Falls newspaper, sought information from the United States Department of Agriculture (USDA) asking for the reimbursement amount received by each business nationwide that participates in what is commonly referred to as the food stamp program. USDA's position is that the release of this information is prohibited by statute. The district court agreed with the USDA, and the *Argus Leader* appealed to the Eight Circuit Court of Appeals.

The USDA's decision that the food stamp redemption information was protected from disclosure was reversed by the Eighth Circuit Court of Appeals. The USDA also asserted that the information was protected by Exemption 4 of the Freedom of Information Act. That was not an issue before the Eighth Circuit. The application of Exemption 4 is the issue which remains before the district court.

DEFENSIVE FORECLOSURES

The U.S. Attorney's Office opened 82 defensive foreclosure files in 2013. This is compared to 84 defensive foreclosure files 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, Department of Housing and Urban Development, Farm Service Agency, and Rural Housing Service. The majority of the office's defensive foreclosure cases involve tax liens filed by the Internal Revenue Service.

PRISONER LITIGATION

The U.S. Attorney's Office responds to habeas petitions by inmates incarcerated in the federal prison camp. A habeas petition allows an inmate to challenge their sentence or conviction on constitutional grounds.

In 2013, the U.S. Attorney's Office upheld the determination of the Federal Bureau of Prisons that because the manufacture of methamphetamine may cause explosions, fires,

and toxic and lethal waste products that are harmful to people and property, an inmate who is convicted of the manufacture of methamphetamine is properly excluded from early release eligibility.

OTHER LITIGATION

- The U.S. Attorney's Office assisted the Social Security Administration in responding to numerous new Social Security disability appeal cases filed during 2013.
- Upon finding out that defendant had used illegal proceeds from a fraud scheme to purchase gifts of diamond and platinum jewelry, the recipient of the gifts decided she did not want the jewelry and turned it over to federal investigators. The U.S. Attorney's Office obtained a court order allowing the U.S. Marshal's Service to place the jewelry with a private auctioneer, and the sale proceeds were turned over to the clerk for distribution to defendant's victims.

FINANCIAL LITIGATION UNIT

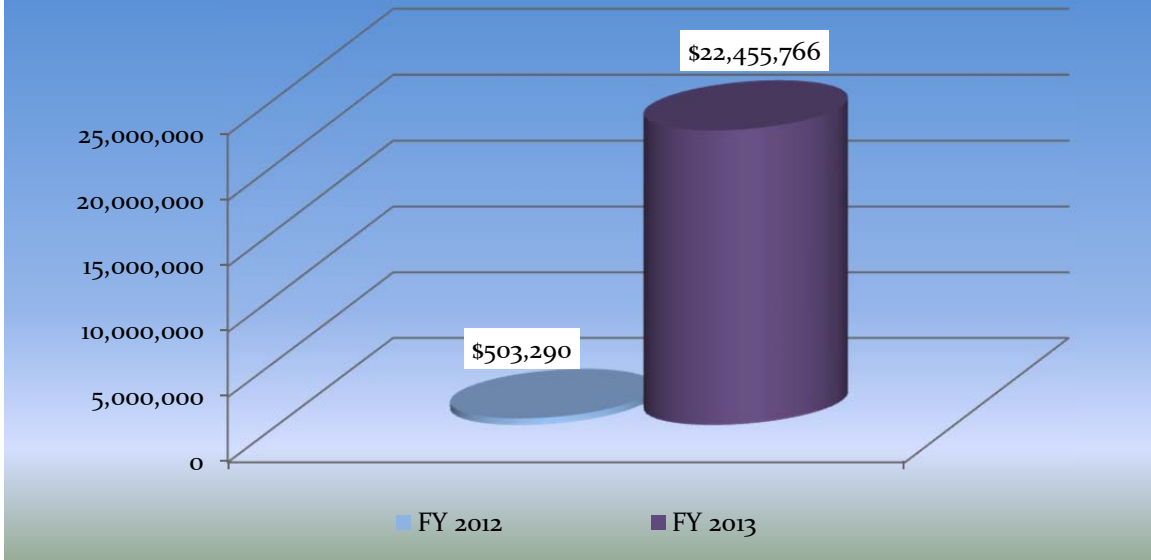
The Financial Litigation Unit (FLU) is responsible for activities related to the collection of civil judgment debts owed to federal agencies, as well as the collection of restitution, fines, penalties, assessments, and court costs imposed by the court in criminal judgments. The goal of the U.S. Attorney's 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 crime in a timely, aggressive, efficient, and cost-effective manner.

Collection Efforts

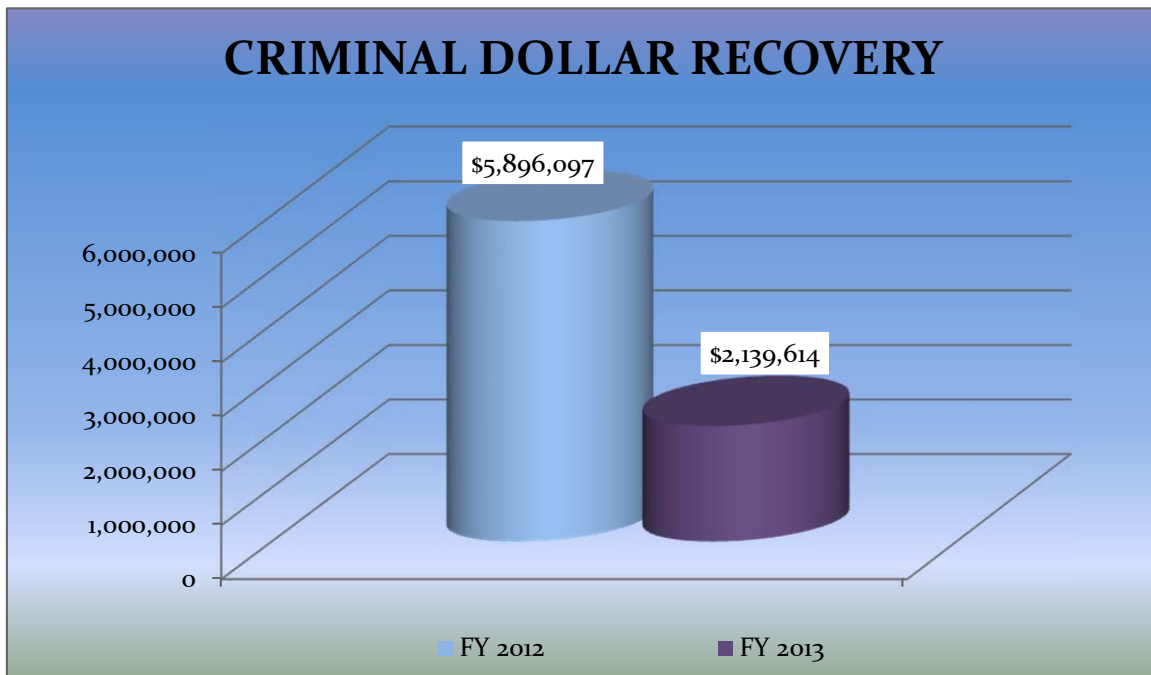
FLU collected \$24.6 million in civil judgments and criminal payments in fiscal year 2013, averaging \$2 million per month. Of this amount, \$32,148.49 stemmed from health care fraud cases.

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 2013, of the \$2,139,614 recovered from criminal judgments, \$1,838,169 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.

CIVIL DOLLAR RECOVERY



CRIMINAL DOLLAR RECOVERY



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 discreet 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. Jungers*, 702 F.3d 1066 (8th Cir. 2013), the Eighth Circuit reversed the district court's judgments of acquittal in two related cases, reinstating convictions and remanding for resentencing. Bonestroo and Jungers were arrested as part of an undercover sting operation, after they had each contacted undercover officers posing as "pimps" offering fictional children for commercial sex acts. The

defendants arrived at a designated house with money in hand, and they were arrested and charged under 18 U.S.C. § 1591, which criminalizes commercial sex trafficking. Following separate jury trials that resulted in guilty verdicts, each defendant was released after the district court granted motions of acquittal finding that the statute at issue did not reach “customers” of the commercial sex trade, only suppliers. The Eighth Circuit disagreed and held that the plain language of the statute encompassed both the supply and the demand side of commercial sex trafficking. The published opinion stands as the first such decision in the country on this important question regarding the scope of the sex trafficking statute.

Bonestroo was sentenced to 120 months in prison and Daron Jungers is deceased.

- In *United States v. Crow Eagle*, 705 F.3d 325 (8th Cir. 2013), the Eighth Circuit held that the defendant’s trial court did not abuse its discretion in determining certain evidence in his child sexual assault trial was admissible while other evidence was not. In particular, the appellate court held that it was within the trial court’s discretion to exclude certain “propensity evidence,” namely, that witnesses had made allegedly false allegations of sexual abuse against others. The appellate court also held that the 192-month sentence was reasonable.
- In *United States v. Seibel*, 712 F.3d 1229 (8th Cir. 2013), following a lengthy jury trial, the defendant was convicted on four separate counts of abusive sexual contact of a child. On appeal, the Eighth Circuit held that the district court acted within its discretion when it allowed into evidence various inculpatory pieces of evidence. The appellate court also held that the trial court did not err when it denied defendant’s motion for acquittal and when it determined a child’s recantation letter was not credible.
- In *United States v. Long*, 721 F.3d 920 (8th Cir. 2013), the defendant, when first being interviewed by law enforcement about his sexual assault crimes, decided to answer questions, and he said at one point, “I don’t want to incriminate myself.” At trial, the government introduced those statements and discussed them during closing. On appeal, the Eighth Circuit affirmed Long’s convictions, holding that under plain error review, there was no requirement for the court to sua sponte strike such evidence and argument.
- In *United States v. Mackey*, 717 F.3d 569 (8th Cir. 2013), the defendant was charged with failing to register as a sex offender. Before trial, the parties agreed that

Mackey was incompetent to stand trial, and over his objection, the United States moved to have him medicated to restore him to competence. The district court conducted a *Sell* hearing, and ordered involuntary medication. On appeal, the Eighth Circuit found that the district court correctly determined that all of the *Sell* factors were met and, in particular, affirmed that the United States has a compelling interest appropriate for such an order in a “status offense” case such as one alleging failure to register as a sex offender.

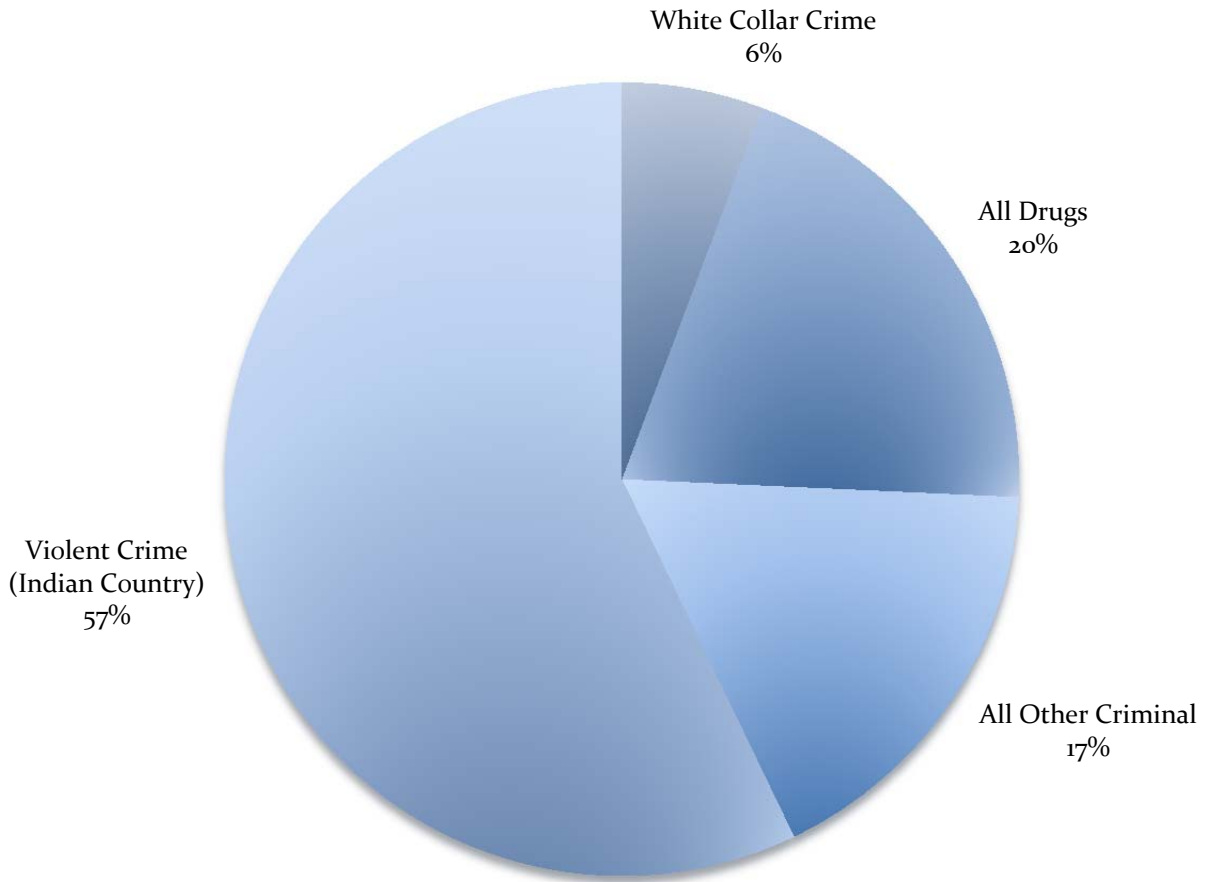
- In *United States v. St. John*, 716 F.3d 491 (8th Cir. 2013), the defendant was convicted of domestic assault by a habitual offender. Following a jury trial, he appealed on a discreet issue: Whether his victim, with whom he lived and had been with for years, was his “intimate partner” as required by the statute. The Eighth Circuit agreed with St. John’s jury that she was, and his conviction was affirmed.
- In *United States v. Dillon*, No. 13-2027, 2013 WL 6211795 (8th Cir. Nov. 29, 2013), the Eighth Circuit affirmed a 60-month sentence for a child abuse conviction. The Court found that the district court did not err in finding reliable sentencing testimony regarding various sexual assaults and, on that basis, applying two upward departures.
- In *United States v. Ford*, 726 F.3d 1028 (8th Cir. 2013), the Eighth Circuit affirmed the defendant’s conviction for kidnapping in a case in which the jury acquitted him of sexually abusing his victim, but nonetheless found him guilty of kidnapping her. The Court held that several jury instructions were proper, and it affirmed the district court’s denial of Ford’s motions for acquittal and for a new trial that argued he had been rendered a factually inconsistent verdict.
- In *United States v. Yankton*, 734 F.3d 828 (8th Cir. 2013), the defendant pled guilty to second degree murder and was sentenced to 30 years imprisonment. On appeal, the Eighth Circuit affirmed the lengthy sentence as substantively reasonable under the circumstances of the case.
- In *United States v. Olson*, 716 F.3d 1052 (8th Cir. 2013), the Eighth Circuit affirmed an upward departure to 30 months’ imprisonment for a defendant who had a lengthy criminal history that was underrepresented in his guidelines calculation. The appellate court affirmed the sentence despite a technical disparity between the district court’s oral statements at sentencing and the written judgment. The decision provides clarity that a sentencing court is not held to a standard of

technical perfection in reciting its reasoning at sentencing so long as its intentions are clear.

- In *Lytle v. Berg*, 500 Fed. Appx. 562 (8th Cir. 2013), the Eighth Circuit affirmed the dismissal of a lawsuit filed by a promoter of a supposed medical device against two Food and Drug Administration (FDA) employees who he sued in their individual capacities. FDA sent Lytle a warning letter to cease and desist marketing his “cold laser” device and its supposed ability to cure multiple ailments. In doing so, the appellate court held that Lytle brought a non-cognizable claim for damages, that his suit failed as a matter of law, and that he had failed to exhaust administrative remedies.
- In *United States v. Sun Bear*, 502 Fed. Appx. 618 (8th Cir. 2013), the Eighth Circuit held constitutional Attorney General Holder’s promulgated rule applying retroactively the Sex Offender Registration and Notification Act (SORNA). Sun Bear was initially convicted of sexual abuse of a minor in 2002, four years before Congress enacted SORNA. After being released from prison, Sun Bear complied initially with SORNA, then failed to update his registration. The Eighth Circuit’s decision affirmed Sun Bear’s SORNA conviction.
- In *United States v. Never Misses a Shot*, 715 F.3d 1048 (8th Cir. 2013), the Eighth Circuit affirmed a 36-month prison sentence for a defendant who made a false report to the FBI in the course of its unsolved missing-person investigation, falsely claiming that two individuals told him they beat and murdered the missing person. The appellate court held the district court did not err in considering Never Misses a Shot’s criminal history and the imposed sentence was reasonable under the circumstances.

FY 2013

Appeals Filed by Program Category



VICTIM RIGHTS AND ADVOCACY

The Victim/Witness Assistance Program of the U.S. Attorney's Office 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 victim/witness staff works 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;
- ✓ 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;
- ✓ 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/Rapid City	800-603-3750 605-224-1256, ext. 2211
Pine Ridge	Ace Crawford Rapid City	800-603-3750 605-341-1915
Flandreau Sisseton-Wahpeton Yankton	Jan Long Sioux Falls	800-804-6790 605-357-2309

- Emergency Witness Assistance Program (EWAP). This program allows the U.S. Attorney’s Office 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 64 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 U.S. Attorney’s Office, 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 2013, the District of South Dakota generated over 30,900 notifications. Notification and assistance services were provided to more than 375 victims and their families. Questions about this program may be directed to our victim/witness staff.

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