



**United States Department of Justice
Executive Office for United States Trustees**

Report to Congress:

**Criminal Referrals by the
United States Trustee Program
Fiscal Year 2021**

*(As required by Section 1175 of the Violence Against Women and
Department of Justice Reauthorization Act of 2005, Public Law 109-162)*

August 2022

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EXECUTIVE SUMMARY

The Director of the Executive Office for United States Trustees (EOUST) is required to submit an annual report to Congress under the provisions of Section 1175 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162). Section 1175 states:

The Director of the Executive Office for United States Trustees shall prepare an annual report to the Congress detailing—(1) the number and types of criminal referrals made by the United States Trustee Program; (2) the outcomes of each criminal referral; (3) for any year in which the number of criminal referrals is less than for the prior year, an explanation of the decrease; and (4) the United States Trustee Program’s efforts to prevent bankruptcy fraud and abuse, particularly with respect to the establishment of uniform internal controls to detect common, higher risk frauds, such as a debtor’s failure to disclose all assets.

The United States Trustee Program (USTP or Program) made 2,244 bankruptcy and bankruptcy-related criminal referrals during Fiscal Year (FY) 2021. This represents a 9.8 percent decrease from the 2,489 criminal referrals made during FY 2020. This decline may be attributable to multiple factors, most notably the dramatic decline in bankruptcy filings during the COVID-19 pandemic.

The five most common allegations contained in the FY 2021 criminal referrals involved tax fraud, false oaths or statements, identity theft or use of false/multiple Social Security numbers, a bankruptcy fraud scheme, and concealment. Of the 2,244 criminal referrals, as of August 31, 2022, formal criminal charges had been filed in connection with 15 of the referrals, 1,233 of the referrals remained under review or investigation, 992 of the referrals were declined for prosecution, and 4 were administratively closed.

In FY 2021, despite ongoing challenges associated with the COVID-19 pandemic, the USTP continued to strengthen its partnerships with law enforcement through participation on bankruptcy fraud working groups and other specialized task forces; through the development and presentation of joint training programs; and by assisting in the investigation and prosecution of bankruptcy and bankruptcy-related crimes, including serving as Special Assistant United States

Attorneys (SAUSAs), consulting on bankruptcy law, and testifying as expert, process, or fact witnesses. The Program also continued to receive valuable information through its Internet email “Hotline,” which offers a convenient means for individuals to report suspected bankruptcy crimes.

INTRODUCTION

Section 1175 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162) requires the Director of the EOUST to submit a “report to Congress detailing—(1) the number and types of criminal referrals made by the United States Trustee Program; (2) the outcomes of each criminal referral; (3) for any year in which the number of criminal referrals is less than for the prior year, an explanation of the decrease; and (4) the United States Trustee Program’s efforts to prevent bankruptcy fraud and abuse, particularly with respect to the establishment of uniform internal controls to detect common, higher risk frauds, such as a debtor’s failure to disclose all assets.”

The Program is the component of the Department of Justice whose mission is to promote the integrity and efficiency of the bankruptcy system for the benefit of all stakeholders—debtors, creditors, and the public. It consists of 21 regions with 90 field offices nationwide and an Executive Office in Washington, DC. Each field office is responsible for carrying out numerous administrative, regulatory, and litigation responsibilities under title 11 (the Bankruptcy Code) and title 28 of the United States Code.^{1/}

The USTP has a statutory duty to refer matters to the United States Attorneys’ offices (USAOs) for investigation and prosecution that “relate to the occurrence of any action which may constitute a crime” and to assist the United States Attorney in “carrying out prosecutions based on such action.” 28 U.S.C. § 586(a)(3)(F). In addition, 18 U.S.C. § 158 requires designation of a prosecutor and a Federal Bureau of Investigation (FBI) agent in each district to address bankruptcy-related crimes, affirming the importance of the partnership between the USTP and law enforcement in protecting the integrity of the bankruptcy system.

^{1/} The Program has jurisdiction in all federal judicial districts except those in Alabama and North Carolina.

I. NUMBER AND TYPES OF CRIMINAL REFERRALS

The Program tracks criminal referrals using its internal automated Criminal Enforcement Tracking System (CETS). Program personnel enter information into CETS as each case progresses and review the status of all referrals at least once every six months. The system is designed to provide an accurate measure of criminal enforcement actions, assist in trend identification, and facilitate management improvements.

In FY 2021, the USTP made 2,244 bankruptcy and bankruptcy-related criminal referrals. Each referral may be sent to multiple agencies, but it is counted only once in CETS. Similarly, each referral may contain multiple allegations. The breadth of allegations involved in criminal referrals is evident in Table 1, with referral allegations in 50 separate categories. The five most common allegations contained in the FY 2021 criminal referrals involved tax fraud (52.0%), false oaths or statements (24.2%), identity theft or use of false/multiple Social Security numbers (21.5%), a bankruptcy fraud scheme (20.9%), and concealment (19.8%).

Table 1: Criminal Referrals by Type of Allegation¹		
Type of Allegation	Referrals	
	Number	Percent²
Tax Fraud [26 U.S.C. § 7201, <i>et seq.</i>]	1,167	52.0%
False Oath/Statement [18 U.S.C. § 152(2) and (3)]	544	24.2%
Identify Theft or Use of False/Multiple SSNs	483	21.5%
Bankruptcy Fraud Scheme [18 U.S.C. § 157]	470	20.9%
Concealment [18 U.S.C. §§ 152(1) and (7)]	445	19.8%
Mail/Wire Fraud [18 U.S.C. §§ 1341 and 1343]	293	13.1%
Perjury/False Statement	190	8.5%
Concealment/Destruction/Withholding of Documents [18 U.S.C. § 152(8) and (9)]	154	6.9%
Bank Fraud [18 U.S.C. § 1344]	113	5.0%
Mortgage/Real Estate Fraud	102	4.5%
Forged Document	93	4.1%
Destruction, Alteration, or Falsification of Documents in Federal Investigations and Bankruptcy [18 U.S.C. § 1519]	89	4.0%
Federal Program Fraud	88	3.9%
Paycheck Protection Program Fraud [COVID-19 Related]	66	2.9%
Disregard of Bankruptcy Law/Rule by Bankruptcy Petitioner [18 U.S.C. § 156]	64	2.9%
Conspiracy [18 U.S.C. § 371]	55	2.5%
Embezzlement [18 U.S.C. § 153]	32	1.4%
State Law Violation	32	1.4%
Post-Petition Receipt of Property [18 U.S.C. § 152(5)]	28	1.2%

Type of Allegation	Number	Percent
Obstruction of Justice	24	1.1%
Money Laundering [18 U.S.C. §§ 1956 and 1957]	20	0.9%
Corporate Fraud	18	0.8%
Serial Filer	18	0.8%
Investor Fraud	14	0.6%
Criminal Contempt [18 U.S.C. § 402]	12	0.5%
False Claim [18 U.S.C. § 152(4)]	12	0.5%
Bribery [18 U.S.C. § 152(6)]	8	0.4%
Corporate Bust-Out/Bleed-Out	8	0.4%
Misuse of Seals of Courts; Seals of Departments or Agencies [18 U.S.C. §§ 505/506]	8	0.4%
Credit Card Fraud/Bust-Out	7	0.3%
Internet Fraud	7	0.3%
Insurance Fraud	6	0.3%
Professional Fraud	6	0.3%
Threat of Violence	6	0.3%
Extortion	5	0.2%
Health Care Fraud [18 U.S.C. § 1347]	4	0.2%
Immigration Offense	2	0.1%
Embezzlement and Theft from Indian Tribal Organizations [18 U.S.C. § 1163]	1	<0.1%
Bribery of Public Official and Witnesses [18 U.S.C. § 201]	1	<0.1%
Prohibited Acts (Tampering with Air Pollution System) and Civil Penalties [42 U.S.C. §§ 7522(a)(3)(A) and 7524(a)]	1	<0.1%
Abusive Reaffirmation of Debt/Creditor Abuse	1	<0.1%
Adverse Interest and Conduct of Officers [18 U.S.C. § 154]	1	<0.1%
Child Pornography [18 U.S.C. § 2252A]	1	<0.1%
Drug Offense	1	<0.1%
Public Money, Property or Records/Embezzlement [18 U.S.C. § 641]	1	<0.1%
Fee Agreements in Cases Under Title 11 and Receiverships [18 U.S.C. § 155]	1	<0.1%
Odometer Tampering	1	<0.1%
Racketeer Influenced and Corrupt Organizations Act	1	<0.1%
Structuring	1	<0.1%
Firearms [18 U.S.C. Chapter 44] and Unlawful Acts [18 U.S.C. § 922]	1	<0.1%
¹ Allegation information can change over time. Table 1 reflects information contained within CETS as of August 31, 2022.		
² Percent based on 2,244 referrals. One referral often contains more than one allegation, so the sum of the percentages for referrals will exceed 100 percent.		

II. OUTCOMES OF CRIMINAL REFERRALS

Table 2 shows the collective outcome/disposition of the 2,244 criminal referrals the Program made during FY 2021 as of August 31, 2022.^{2/} Of those referrals, 1,233 are under review by the USAOs (43.2%) or with an investigative agency (11.7%), 15 referrals (0.7%) resulted in formal charges, 992 referrals (44.2%) were declined for prosecution, and 4 were administratively closed (0.2%).

Table 2: Outcome/Disposition of FY 2021 Referrals¹		
Outcome/Disposition	Referrals	
	Number	Percent²
Under Review in United States Attorney’s Office	970	43.2%
With Investigative Agency	263	11.7%
Formal Charges Filed (Case Active)	13	0.6%
Formal Charges Filed (Case Closed)	2	0.1%
– At least One Conviction or Guilty Plea	2	
– At least One Pre-trial Diversion	0	
– At least One Dismissal	0	
– At least One Acquittal	0	
Prosecution Declined by United States Attorney	992	44.2%
Administratively Closed	4	0.2%

¹ Outcome and disposition information will change over time. The information contained within Table 2 reflects information contained within CETS as of August 31, 2022.

² Rounded percent based on 2,244 referrals.

The 15 cases referenced in Table 2 in which formal charges were filed between October 1, 2020, and August 31, 2022, are prosecutions that originated from an FY 2021 referral as derived from CETS.^{3/} It is important to note that white-collar criminal referrals like those

^{2/} The Program is not the source of official disposition information. CETS is designed primarily to track referrals made by the USTP to United States Attorneys. While Program staff work with local USAOs to update disposition information semi-annually, delays in reporting, as well as differences in tracking systems, may result in reporting variances between the agencies.

^{3/} Table 2 reflects only disposition information related to referrals the USTP made in FY 2021. It does not reflect the entirety of prosecutions with bankruptcy charges brought by the Department of Justice in FY 2021. A reporting of all prosecutions would include those that originated from Program referrals in prior fiscal years, as well as prosecutions related to referrals not made by the Program.

made by the Program often require significant time and resources to investigate. As a result, it generally takes more than two years before there is a reportable action in CETs. Therefore, it is reasonable that a high percentage of cases referred in FY 2021 are still under investigation or review.

III. COMPARISON WITH CRIMINAL REFERRALS MADE IN PREVIOUS YEAR

As shown in Table 3, the number of criminal referrals made during FY 2021 represents a 9.8 percent decrease from the number of referrals made in FY 2020. Prior to FY 2021, the Program experienced seven consecutive years of growth in the number of bankruptcy and bankruptcy-related criminal referrals it made. The decline in FY 2021 may be attributable to multiple factors, most notably the dramatic decline in bankruptcy filings during the COVID-19 pandemic (44 percent overall since FY 2019 and 29 percent from FY 2020 to FY 2021). With that said, FY 2021 referrals were comparable to FY 2020 as a percentage of overall filings.

FY 2020	FY 2021	Percent Change
2,489	2,244	-9.8%

IV. USTP EFFORTS TO PREVENT BANKRUPTCY FRAUD AND ABUSE

The USTP is committed to identifying and referring for investigation and prosecution bankruptcy fraud and bankruptcy-related crimes. The EOUST’s Office of Criminal Enforcement oversees and coordinates the Program’s enforcement efforts and has strengthened its ability to detect, refer, and assist in the prosecution of criminal violations. Through issuing guidance and resource materials, participating in working groups and task forces, collaborating with its law enforcement partners, and providing extensive training, the USTP has established the necessary systems to detect fraud schemes and to combat fraud and abuse that threaten the integrity of the bankruptcy system.

Following are some highlights of the Program’s criminal enforcement efforts in FY 2021.

Bankruptcy Fraud Working Groups and Other Specialized Task Forces. The Program participates in approximately 50 local bankruptcy fraud working groups and other specialized

task forces throughout the country. Members of these working groups and task forces include representatives from the USAOs, FBI, United States Postal Inspection Service, Internal Revenue Service-Criminal Investigation, and offices of the Inspector General for the Social Security Administration, the Department of Housing and Urban Development, the United States Secret Service, and the Federal Housing Finance Agency.

Working groups and task forces provide an effective forum for consultation between the USTP and its law enforcement partners and allow the Program to draw on the collective expertise of the groups to investigate and effectively address fraud and abuse in the bankruptcy system. One example of a success of these collaborations involves the Central District of California's Bankruptcy Fraud Working Group. The USTP's Riverside office referred to law enforcement an individual who, despite bankruptcy court orders and injunctions barring him from acting as a bankruptcy petition preparer (BPP) due to multiple prior violations of the Bankruptcy Code provision governing BPPs, continued to prepare bankruptcy documents for debtors for a fee. To conceal his involvement, the enjoined preparer directed his consumer clients to falsely claim that no one had assisted them with their cases and he repeatedly failed to disclose his involvement in the cases. The preparer pleaded guilty in May 2021 to one felony count of making a false statement during a bankruptcy proceeding and was sentenced in August 2021 to one year and one day in prison, followed by three years of supervised release, and ordered to pay \$84,005 in restitution to be shared by his 30 victims. The United States Attorney's press releases on this matter recognized the substantial investigative assistance provided by the USTP.

Special Assistant United States Attorneys (SAUSAs). Nearly two dozen Program attorneys in field offices across the country are designated as SAUSAs to assist USAOs in the investigation and prosecution of bankruptcy and bankruptcy-related crimes. For example, in the District of Utah, a USTP Salt Lake City trial attorney served as a SAUSA in a matter referred by the Program that resulted in the defendant, an attorney, being sentenced to 12 months and one day in federal prison after pleading guilty to bankruptcy fraud. The defendant also was ordered to serve two years of supervised release and pay \$266,843 in restitution to the victims of his crimes. In his plea agreement, the defendant admitted that before filing bankruptcy cases for two of his clients, he facilitated transfers totaling \$288,843 from them to his client trust account,

telling the clients he would pay his attorney's fees of \$22,000 from the funds and hold the rest in the trust account to "keep it safe," and then return the remaining \$266,843 to them after their bankruptcy cases were closed. The defendant then used about \$259,000 of the fund for his business and personal benefit without the clients' permission. He filed three separate bankruptcy cases for his clients that failed to disclose the clients' interest in the funds. Thereafter, the defendant filed two of his own bankruptcy cases in an effort to hide and conceal the fact that he embezzled the money and used it for his business and personal use.

Other Staff Support. Nationally, the EOUST's Office of Criminal Enforcement regularly coordinates with USAOs and other members of law enforcement on cases referred by the Program. Staff at the field office level also are frequently relied on to provide post-referral assistance. The following examples illustrate the types of support the Program provides to its partners.

In July 2021 the former general counsel of a big law firm pleaded guilty in the Eastern District of Virginia to obstructing an official proceeding in connection with his attempts to derail a 2019 investigation by the USTP's Richmond office into his fraudulent conduct while serving as a post-confirmation liquidating plan trustee in a chapter 11 bankruptcy case. In 2019, several years after the bankruptcy case was closed by the bankruptcy court, the Richmond office received a tip alleging that the defendant had misappropriated funds of the debtors' post-confirmation trust account. The office initiated an inquiry that substantiated the allegations and referred the matter to law enforcement and provided significant post-referral assistance. The ensuing criminal investigation uncovered multiple instances of embezzlement from the liquidating trust between 2015 and 2018, totaling approximately \$800,000. It also revealed that the defendant had manipulated the budget for the company's post-bankruptcy wind down period that enabled him to siphon away more than \$3.2 million for personal payments to himself and others, depleting the trust account more than two years before the end of the wind down period. The defendant was sentenced in November 2021 to 44 months in prison followed by three years of supervised release. The U.S. Attorney's press release recognized the substantial assistance provided by the USTP.

Another example of assistance involved a matter referred by the USTP's Tyler office to law enforcement in the Eastern District of Texas that resulted in a successful prosecution. On January 21, 2021, the defendant was sentenced to 42 months in federal prison followed by three years of supervised release after pleading guilty to bankruptcy fraud, wire fraud, and aggravated identity theft. The defendant admitted that, in an effort to stop an eviction action pending against her, she engaged in a scheme to defraud an apartment complex where she resided by filing a false bankruptcy case using the name and Social Security number of a third-party without the person's knowledge or permission. The U.S. Attorney's press release thanked the USTP's Tyler office for its work on the case. In addition to the criminal referral, the U.S. Trustee previously had filed a motion to dismiss the case with prejudice, which was granted by the bankruptcy court and enjoined the defendant from filing any bankruptcy case for five years and barred her from discharging any debts listed in the fraudulent filing in any future cases.

In addition to the support provided on matters that are referred by the Program, in FY 2021, staff also responded to more than 200 requests for assistance from USAOs, the FBI, and other law enforcement agencies on matters not originating from a Program referral. In the Western District of Missouri, for example, the USTP's Kansas City office supported law enforcement in its successful prosecution of a defendant who pleaded guilty to one count of bankruptcy fraud and one count of wire fraud. The defendant admitted that she impersonated her ex-spouse to illegally obtain his Social Security benefits while he was residing outside of the country. She also admitted that she failed to disclose in multiple bankruptcy cases she filed the receipt of these funds and the financial account in which she deposited them. At sentencing, a USTP Kansas City trial attorney testified that the defendant violated her plea agreement by continuing to engage in fraud after her guilty plea, including attempting to sell property of the bankruptcy estate without court approval. The defendant was sentenced in November 2020 to two years of incarceration followed by three years of supervised release.

Training. During FY 2021, the Program sponsored more than 60 bankruptcy and bankruptcy-related fraud training programs that reached about 3,300 federal, state, and local law enforcement personnel; private bankruptcy trustees; USTP staff; and members of the bar and other professional associations throughout the country. Each program is customized to

maximize impact and a variety of educational formats are utilized, including in-person presentations, online meeting technology, and video teleconferences.

Included among the programs this year was the resumption of a series of joint training programs in partnership with the Economic Crimes Unit of FBI Headquarters designed to provide law enforcement with an overview of the bankruptcy process, the information available from bankruptcy documents, and the value of building strong partnerships with the USTP. Two remote training sessions were provided to approximately 275 FBI and USTP staff located in the Eastern and Central parts of the country.

Bankruptcy Fraud Internet “Hotline.” In FY 2021, the USTP documented nearly 400 Hotline submissions from the public via its National Bankruptcy Fraud Hotline email box (USTP.Bankruptcy.Fraud@usdoj.gov). The Hotline offers a convenient means for individuals to report suspected bankruptcy fraud and provide supporting documentation and specific factual information that may be useful in pursuing allegations. In FY 2021, 118 referrals resulted from a Hotline submission made in either FY 2021 or a prior fiscal year. While not all submissions rise to the level of a criminal referral, they may lead to a civil enforcement action.

SUMMARY

The United States Trustee Program’s criminal enforcement program remained robust in FY 2021, despite the challenges presented by the pandemic. By detecting and referring fraud schemes, collaborating with its law enforcement partners, and providing specialized training, the USTP continues to prioritize its enforcement efforts to combat fraud and abuse and to protect the integrity of the bankruptcy system.