



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

Report to Congress:

**Criminal Referrals by the
United States Trustee Program
Fiscal Year 2022**

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

June 2023

Table of Contents

EXECUTIVE SUMMARY	1
INTRODUCTION.....	2
I. NUMBER AND TYPES OF CRIMINAL REFERRALS	3
II. OUTCOMES OF CRIMINAL REFERRALS	5
III. COMPARISON WITH CRIMINAL REFERRALS MADE IN PREVIOUS YEAR	6
IV. USTP EFFORTS TO PREVENT BANKRUPTCY FRAUD AND ABUSE.....	6
SUMMARY	12

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 2,104 bankruptcy and bankruptcy-related criminal referrals during Fiscal Year (FY) 2022. This represents a 6.2 percent decrease from the 2,244 criminal referrals made during FY 2021. 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 2022 referrals involved tax fraud, false oaths or statements, a bankruptcy fraud scheme, concealment, and identity theft or use of false/multiple Social Security numbers. Of the 2,104 criminal referrals, as of June 1, 2023, formal criminal charges had been filed in connection with 7 of the referrals, 1,123 of the referrals remained under review or investigation, 965 of the referrals were declined for prosecution, and 9 were administratively closed.

In FY 2022, 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 2022, the USTP made 2,104 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 45 separate categories. The five most common allegations contained in the FY 2022 criminal referrals involved tax fraud (53.1%), false oaths or statements (27.4%), a bankruptcy fraud scheme (21.4%), concealment (18.8%), and identity theft or use of false/multiple Social Security numbers (18.2%).

Type of Allegation	Referrals	
	Number	Percent ²
Tax Fraud [26 U.S.C. § 7201, <i>et seq.</i>]	1,118	53.1%
False Oath/Statement [18 U.S.C. § 152(2) and (3)]	577	27.4%
Bankruptcy Fraud Scheme [18 U.S.C. § 157]	451	21.4%
Concealment [18 U.S.C. §§ 152(1) and (7)]	396	18.8%
Identify Theft or Use of False/Multiple SSNs	382	18.2%
Mail/Wire Fraud [18 U.S.C. §§ 1341 and 1343]	294	14.0%
Perjury/False Statement	243	11.5%
Federal Program Fraud	146	6.9%
Bank Fraud [18 U.S.C. § 1344]	132	6.3%
CARES Act Fraud	101	4.8%
Conspiracy [18 U.S.C. § 371]	88	4.2%
Concealment/Destruction/Withholding of Documents [18 U.S.C. § 152(8) and (9)]	86	4.1%
Mortgage/Real Estate Fraud	74	3.5%
Destruction, Alteration, or Falsification of Documents in Federal Investigations and Bankruptcy [18 U.S.C. § 1519]	65	3.1%
Forged Document	42	2.0%
Money Laundering [18 U.S.C. §§ 1956 and 1957]	27	1.3%
Embezzlement [18 U.S.C. § 153]	23	1.1%

Type of Allegation	Number	Percent
Post-Petition Receipt of Property [18 U.S.C. § 152(5)]	23	1.1%
Obstruction of Justice	17	0.8%
Corporate Bust-Out/Bleed-Out	16	0.8%
Investor Fraud	16	0.8%
State Law Violation	15	0.7%
Disregard of Bankruptcy Law/Rule by Bankruptcy Petitioner [18 U.S.C. § 156]	14	0.7%
Corporate Fraud	12	0.6%
False Claim [18 U.S.C. § 152(4)]	12	0.6%
Internet Fraud	12	0.6%
Misuse of Seals of Courts; Seals of Departments or Agencies [18 U.S.C. §§ 505/506]	11	0.5%
Criminal Contempt [18 U.S.C. § 402]	10	0.5%
Serial Filer	10	0.5%
Credit Card Fraud/Bust-Out	6	0.3%
Insurance Fraud	3	0.1%
Threat of Violence	3	0.1%
Bribery [18 U.S.C. § 152(6)]	2	0.1%
Child Pornography [18 U.S.C. § 2252A]	2	0.1%
Health Care Fraud [18 U.S.C. § 1347]	2	0.1%
Professional Fraud	2	0.1%
Postage Stamps, Postage Meter Stamps, and Postal Cards [18 U.S.C. § 501]	1	<0.1%
Trafficking in Counterfeit Goods or Services [18 U.S.C. § 2320]	1	<0.1%
Murder for Hire [18 U.S.C. § 1958]	1	<0.1%
FIRREA [31 C.F.R. § 801.205]	1	<0.1%
Firearms [18 U.S.C. Chapter 44] and Unlawful Acts [18 U.S.C. § 922]	1	<0.1%
Mann Act [18 U.S.C. §§ 2421 - 2424]	1	<0.1%
Racketeer Influenced and Corrupt Organizations Act	1	<0.1%
Subornation of Perjury [18 U.S.C. § 1622]	1	<0.1%
Terrorism	1	<0.1%
<p>¹ Percent based on 2,104 referrals. One referral often contains more than one allegation, so the sum of the percentages for referrals will exceed 100 percent.</p> <p>² Allegation information can change over time. Table 1 reflects information contained within CETS as of June 1, 2023.</p>		

II. OUTCOMES OF CRIMINAL REFERRALS

Table 2 shows the collective outcome/disposition of the 2,104 criminal referrals made by the Program during FY 2022 as of June 1, 2023.^{2/} Of those referrals, 1,123 are under review by the USAOs (36.8%) or with an investigative agency (16.6%), 7 referrals (0.3%) resulted in formal charges, 965 referrals (45.9%) were declined for prosecution, and 9 referrals (0.4%) were administratively closed.^{3/}

Table 2: Outcome/Disposition of FY 2022 Referrals¹		
Outcome/Disposition	Referrals	
	Number	Percent²
Under Review in United States Attorney’s Office	774	36.8%
With Investigative Agency	349	16.6%
Formal Charges Filed (Case Active)	2	0.1%
Formal Charges Filed (Case Closed)	5	0.2%
– At least One Conviction or Guilty Plea	5	
– At least One Pre-Trial Diversion	0	
– At least One Dismissal	0	
– At least One Acquittal	0	
Prosecution Declined by United States Attorney	965	45.9%
Administratively Closed	9	0.4%

¹ Outcome and disposition information will change over time. The information contained within Table 2 reflects information contained within CETS as of June 1, 2023.

² Rounded percent based on 2,104 referrals.

The seven cases referenced in Table 2 in which formal charges were filed between October 1, 2021, and June 1, 2023, are prosecutions that originated from an FY 2022 referral as

^{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/} Administratively closed referrals may still be under review/investigation by agencies (other than USAOs) that historically have not provided updates to the USTP on referrals. After a referral has been open for a period of time and if the Program is not able to verify the outcome/disposition, the referral is administratively closed in CETS. Referrals that are administratively closed may be reopened at a later date.

derived from CETS.^{4/} It is important to note that white-collar criminal referrals like those 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 2022 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 2022 represents a 6.2 percent decrease from the number of referrals made in FY 2021. 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 2022 may be attributable to multiple factors, most notably the dramatic decline in bankruptcy filings during the COVID-19 pandemic (51 percent overall since FY 2019 and 12 percent from FY 2021 to FY 2022).

FY 2021	FY 2022	Percent Change
2,244	2,104	-6.2%

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.

^{4/} Table 2 reflects only disposition information related to referrals the USTP made in FY 2022. It does not reflect the entirety of prosecutions with bankruptcy charges brought by the Department of Justice in FY 2022. 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.

Following are some highlights of the Program's criminal enforcement efforts in FY 2022.

Bankruptcy Fraud Working Groups and Other Specialized Task Forces. The Program participates in nearly 60 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 experience and expertise of the groups to investigate and effectively address fraud and abuse in the bankruptcy system. An example of one such successful collaboration involves the Northern District of Indiana where a former attorney pleaded guilty to one count of wire fraud in August 2022, after being indicted by a federal grand jury on three counts of wire fraud and one count of embezzlement against a bankruptcy estate.

The defendant was initially hired to represent two individuals in connection with a personal injury and worker's compensation lawsuit. Without the knowledge of his clients, the defendant settled the lawsuit for \$348,388 and took the proceeds for his personal use. A few months after the undisclosed settlement, his clients filed a chapter 13 case through bankruptcy counsel, disclosed what they believed to be a still pending lawsuit as an asset, and sought to retain the defendant as special counsel to continue to pursue the litigation. As part of that process, the defendant signed and filed with the bankruptcy court a document under penalty of perjury falsely stating he did not have any conflicts that would disqualify him from serving as special counsel. Based on his representations, the bankruptcy court approved his retention, which obligated him to turn over any settlement proceeds received on behalf of the debtors to the bankruptcy estate.

The chapter 13 trustee made several unanswered requests to the defendant to provide an update on the litigation and subsequently filed a motion asking the court to compel the defendant to turnover settlement proceeds to him based on trustee's belief that the litigation had been

settled. The defendant then responded to the trustee's inquiries, falsely stating that the lawsuit had recently settled for \$350,000 but claiming he was owed more than \$181,00 in legal fees and expenses. The court ordered the defendant to transfer the settlement proceeds to the trustee, and after his repeated failures to comply, the trustee notified the United States Trustee. Following an investigation by the South Bend office, the United States Trustee referred the matter to the United States Attorney and the office provided substantial assistance to law enforcement in collaboration with the Northern District of Indiana Bankruptcy Fraud Working Group. The defendant was sentenced in April 2023 to 33 months in prison and two years of supervised release and was ordered to pay \$348,388 in restitution.

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. This year, SAUSAs were involved in the prosecution of at least 15 cases, including two of note from the District of Puerto Rico and the Eastern District of Michigan.

In the District of Puerto Rico case, two trial attorneys in the USTP's San Juan office, serving as SAUSAs, prosecuted the case of a former chapter 13 debtor who, between 2018 and 2022, filed five bankruptcy cases in which he made materially false statements to conceal assets and income in an effort to avoid paying court-imposed child support payments. Specifically, the defendant concealed income and assets received from a commercial maintenance and cleaning business he operated, funds he withdrew from a bank account in his grandmother's name that he controlled and used to pay his personal expenses, and the receipt of funds from a construction company controlled by close family members that collected monies from the public housing management company where he was employed. The USTP investigated and referred the matter to law enforcement and the defendant was indicted in August 2022. On the first day of his trial prior to jury selection, the defendant pleaded guilty to one count of failure to pay child support and five counts of bankruptcy fraud. He was sentenced in March 2023 to 24 months in prison followed by three years of supervised release and ordered to pay restitution of \$36,000 in unpaid child support.

In the case out of the Eastern District of Michigan, a Trial Attorney in the Detroit office assisted as a SAUSA with an investigation of the chapter 11 bankruptcy cases of a jeweler and a

related corporate entity, which included a well-known and respected jewelry and auction house and a smaller jewelry business. Prior to his bankruptcy filing, the defendant convinced a client that he could purchase a 77-carat diamond worth \$18 million at a reduced rate of \$12 million and suggested that, if the client would front the money for the purchase, it would produce an appreciable profit they could split. The client agreed and was instructed by the defendant to wire the funds to what the client was led to believe was the seller's account but was in fact the defendant's personal account. The defendant then used the funds to pay for his personal and business debts and expenses.

When the defendant filed for bankruptcy, he failed to disclose this pre-petition transfer of funds and, when questioned under oath at the section 341 meeting of creditors, invoked the Fifth Amendment. The United States Trustee filed a successful motion to convert the case to a chapter 7 liquidation and the Trial Attorney provided considerable investigative assistance to the USAO. The defendant pleaded guilty to devising and executing a wire fraud scheme and was sentenced in July 2022 to 151 months in prison followed by three years of supervised release and ordered to pay \$25.2 million in restitution that included losses not only to the client but other victims of the scheme as well.

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 substantial post-referral assistance. The following examples illustrate the types of support the Program provides to its law enforcement partners.

In July 2022, after a four-day trial, a former chapter 7 debtor was found guilty of one count of conspiracy to defraud the United States, two counts of theft of government funds, and one count of bankruptcy fraud. The Program's Little Rock office referred the matter to the United States Attorney for the Eastern District of Arkansas after uncovering that the defendant concealed multiple bank accounts, an insurance policy, and an interest in retirement funds. When questioned at his section 341 meeting of creditors, the defendant provided false testimony about the undisclosed assets. Further, despite having earned income from work as a contractor in the three years leading up to his bankruptcy filing, the defendant falsely represented to the Social Security Administration and the Veterans Administration that he was unable to work so he could

obtain disability payments of approximately \$209,000 from those agencies. The Little Rock office assisted law enforcement throughout the investigation and the Assistant United States Trustee and a Bankruptcy Analyst testified at the criminal trial. The defendant was sentenced in April 2023 to 24 months incarceration followed by 24 months of supervised release and was ordered to pay \$137,224 to the Social Security Administration and \$71,417 to the Department of Veterans Affairs. The Little Rock office also obtained waiver of the defendant's bankruptcy discharge.

In another matter, the USTP's Minneapolis office referred a debtor's attorney to the United States Attorney for the District of Minnesota, and in August 2022, the defendant pleaded guilty to one count of fraudulent concealment of bankruptcy assets and later was sentenced in December 2022 to 18 months incarceration followed by 12 months of supervised release. The defendant filed a chapter 7 case on behalf of a client and falsely certified on the bankruptcy petition that, after inquiry, he had no information or knowledge that his client's bankruptcy documents were false. An investigation by the USTP, however, revealed that before filing the bankruptcy case, the defendant created fake liabilities for his client to create the appearance that the client was insolvent when, in fact, the debtor could have easily paid all his creditors. The attorney also arranged to have a fictitious lawsuit filed against the client and instructed him to default in that lawsuit, which resulted in a judgment of approximately \$608,000 against the client. Further, the defendant created fictitious documents that made it appear that a company had loaned \$240,000 to his client that was unpaid and he assisted the client in concealing \$100,000 in gold coins, \$686,000 on deposit in bank accounts for two companies, and \$455,484 in uncashed checks. At the request of the United States Attorney, a USTP Trial Attorney addressed the district court at the sentencing hearing regarding the egregiousness of the defendant's conduct and the resulting harm to the bankruptcy system. The debtor client also was referred and prosecuted for his role in the concealment and received probation.

In addition to the support provided on matters that are referred by the Program, in FY 2022, 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. For example, the USTP's Houston office and the EOUST's Office for Criminal Enforcement assisted the United States Attorney for the Southern District of Texas and law enforcement in a matter concerning a separate investigation they were conducting of the sole partner of a chapter 11

corporate debtor. Under the debtor's confirmed chapter 11 plan of reorganization, as its sole partner, the defendant was responsible for making payments to the debtor's creditors under the plan. Notably, there was a specific provision in the plan that prohibited payments to insiders, including salary payments, ahead of creditors. Despite this, the defendant made multiple payments to himself and family members from the reorganized debtor, while failing to make payments to creditors. The defendant also admitted to evading income taxes for multiple years and failing to repay taxes owed on more than \$4 million he earned over a 10-year period by falsely claiming he had no significant assets or income. The defendant pleaded guilty to bankruptcy fraud and tax evasion and was sentenced in September 2022 to 18 months in federal prison, followed by 7 months supervised release, and ordered to pay \$250,000 in restitution.

Training. During FY 2022, the Program sponsored nearly 80 bankruptcy and bankruptcy-related fraud training programs that reached about 3,600 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 a joint training program conducted in partnership with the Economic Crimes Unit of FBI Headquarters in April 2022 that focused on the relationship between local FBI offices and the Program to further support investigations and enhance outcomes. The training reached about 115 FBI and USTP staff located in the Eastern and Central parts of the country. In addition, the United States Trustee for Region 7 spoke at the annual FBI Economic Crimes and Intellectual Property Rights Conference in June 2022 and an Assistant United States Trustee from Region 19 spoke at the FBI's Certified Public Accountants' Recertification course in August 2022.

Bankruptcy Fraud Internet "Hotline." In FY 2022, the USTP documented nearly 350 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 factual information that may be useful in pursuing allegations. In FY 2022, nearly 100 referrals were based on a

Hotline submission made in either FY 2022 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 2022, despite continuing challenges presented by the COVID-19 public health emergency. 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.