

**UNITED STATES ATTORNEY'S OFFICE  
DISTRICT OF NEBRASKA  
2017 ANNUAL REPORT**



**ROBERT C. STUART  
ACTING UNITED STATES ATTORNEY**

## WELCOME TO THE DISTRICT OF NEBRASKA



Nebraska, is a state that lies in both the Great Plains and the Midwestern United States. It is the 16th largest state geographically, and became the 37th state to join the Union on March 1, 1867. Its 77,000 square miles encompass 93 counties, and a population of over 1.9 million people. As one of the 26 states with only one federal judicial district, Nebraska boasts a diversity and variety of topography, geography, and economy. Nebraska is also unique in having the only state legislature that is a unicameral and non-partisan. Nebraska has more underground water reserves than any other state in the continental U.S. The name Nebraska is from an Oto Indian word that means "flat water" (referring to the Platte River, which means "flat river" in French).

The Omaha and surrounding cities make up a population of over 900,000 which accounts for a large majority of the District's population. Lincoln, the state's capital, is home to over 280,000 residents. Much of the state however is rural, with over 90% of Nebraska's cities and towns having fewer than 3,000 people.

The state has a mixed economic base with substantial agricultural and agri-business sectors, as well as significant manufacturing, technical and service sectors. More than 93% of Nebraska's land is in production agriculture with approximately 46,000 farms and ranches. The state is a national leader in production of beef, pork, corn, and soy beans. Other economic sectors include freight transport by rail and truck, manufacturing, telecommunications, information technology, and insurance. Nebraska is also known for its production of ethanol, accounting for an estimated 12 percent of the nation's operating production. Several Fortune 500 companies, including Berkshire Hathaway, Union Pacific, Mutual of Omaha, and Peter Kiewit & Sons, are headquartered in Nebraska, and many others such as TD Ameritrade, Valmont, and Woodmen of the World have substantial operations in the District. In 1974 Lincoln's Kawasaki Motors plant was established which manufactures various all-terrain, utility and recreational vehicles, along with passenger rail cars.



The United States Strategic Command is headquartered at Offutt Air Force Base, located just south of Omaha in Bellevue. Various other federal sites, including the Niobrara Scenic River, the Missouri National National Recreational River, several national monuments, historic sites, National Wildlife Refuges, and U.S. Army Corp of Engineers recreational sites are located throughout Nebraska.

The National Park Service Regional Headquarters is located along the Nebraska side of the Missouri River at Omaha. The U.S. Department of Agriculture operates several facilities in the District, including research national forests, and a national grassland. Omaha's Henry Doorly Zoo & Aquarium, ranked as one of the best zoos in the world, is home to the world's largest indoor desert, the largest indoor rainforest in the United States, and the largest zoo aquarium in the country.



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# STRATEGIC GOALS OF THE UNITED STATES ATTORNEY'S OFFICE — DISTRICT OF NEBRASKA

## **I. PREVENT TERRORISM AND PROMOTE THE NATION'S SECURITY CONSISTENT WITH THE RULE OF LAW**

- STRENGTHEN PARTNERSHIPS TO PREVENT, DETER AND RESPOND TO TERRORIST INCIDENTS

## **II. COMBAT CRIME, PROTECT THE RIGHTS OF THE AMERICAN PEOPLE AND ENFORCE FEDERAL LAW**

- COMBAT THE THREAT, INCIDENTS AND PREVALENCE OF VIOLENT CRIME
- PREVENT, SUPPRESS AND INTERVENE IN CRIMES AGAINST NATIVE AMERICANS AND IMPROVE SERVICES TO CRIME VICTIMS
- COMBAT THE THREAT, TRAFFICKING, AND USE OF ILLICIT DRUGS AND THE DIVERSION OF PRESCRIPTION DRUGS
- COMBAT CORRUPTION, ECONOMIC CRIMES, FRAUD, CYBER-CRIMES, HUMAN TRAFFICKING AND INTERNATIONAL ORGANIZED CRIME
- PROMOTE AND PROTECT AMERICAN'S CIVIL RIGHTS
- PROTECT THE FEDERAL MONIES AND DEFEND THE INTERESTS OF THE UNITED STATES

## **III. ENSURE AND SUPPORT THE FAIR, IMPARTIAL, EFFICIENT AND TRANSPARENT ADMINISTRATION OF JUSTICE AT THE FEDERAL, STATE, LOCAL , TRIBAL, AND INTERNATIONAL LEVELS**



## MESSAGE FROM THE ACTING UNITED STATES ATTORNEY

Happy New Year! 2017 was another busy and productive year for all of us in the United States Attorneys Office, District of Nebraska (USAO) as we doubled our efforts to ensure public safety, execute our strategic goals and accomplish the mission. I am honored to work with an exceptional team of Assistant U.S. Attorneys, Special Assistant U.S. Attorneys and support staff for whom mission comes first and no challenge is too difficult.

Of course, the USAO accomplishes nothing without the stellar work of the brave men and women, from federal, tribal, state and local law enforcement with whom we partner. Their hard work and selfless dedication to duty is inspirational to all.

Additionally, we are grateful for our numerous community partners. These organizations and individuals are vital to our community outreach and education, and significantly contribute to a safer community for all. I, along with my colleagues, are privileged to serve the United States Department of Justice, the U.S. Attorney's Office - District of Nebraska, and all Nebraskans.



*Robert C. Stuart  
Acting United States Attorney*

A blue ink handwritten signature of Robert C. Stuart.

Robert C. Stuart  
Acting United States Attorney  
District of Nebraska

## United States Attorney's Office—Mission Statement

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

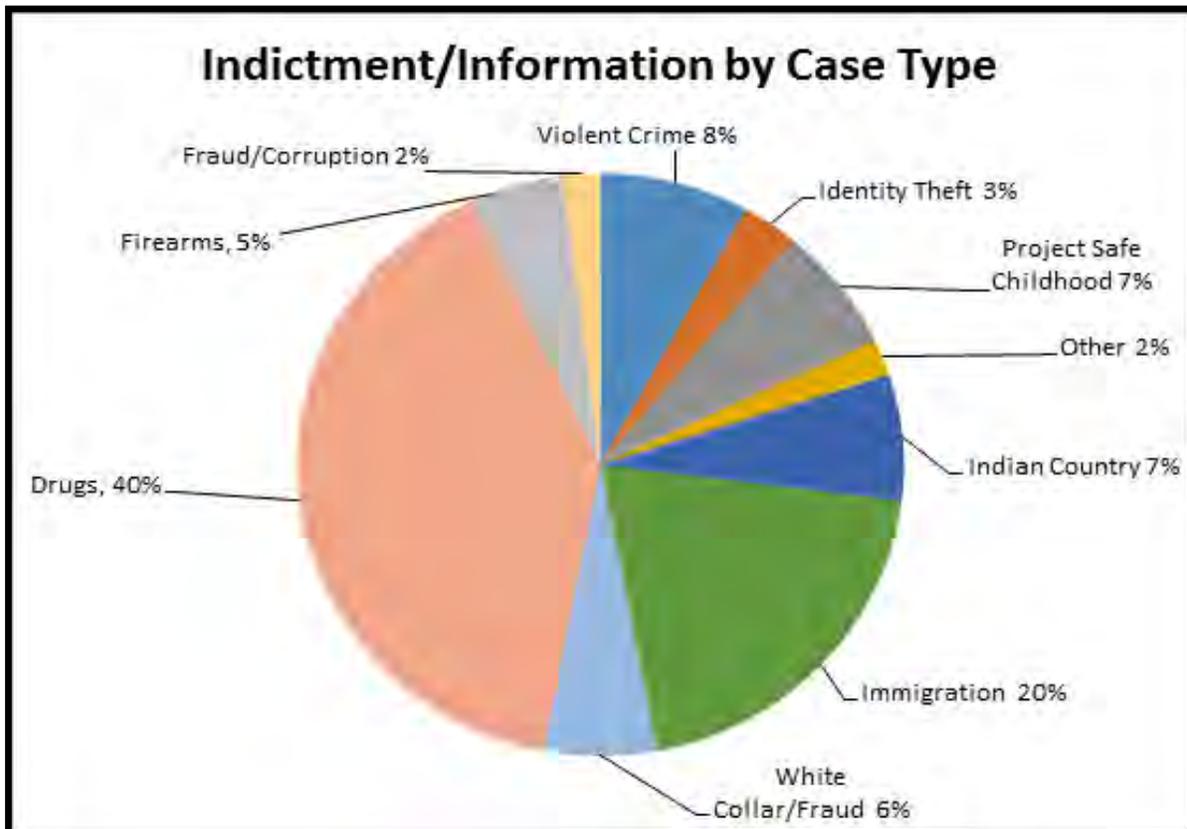


## CRIMINAL DIVISION

The USAO Criminal Division, which consists of the General Crimes Unit and the Narcotics Enforcement Unit, prosecutes violations of federal criminal law. The attorneys in the General Crimes Unit are supervised by the Criminal Chief Jan Sharp, while John Higgins, supervises the Narcotics Enforcement Unit and Asset Forfeiture. AUSA Michael Norris is the Senior Litigation Counsel/Appellate Coordinator.

For the year 2017, the USAO filed 527 criminal cases involving 672 defendants. General criminal cases include child pornography, financial crimes, criminal immigration, identity theft, robbery, Indian Country major crimes, etc. The Narcotic's Unit cases include drugs, guns, money laundering, structuring and interstate transportation in aid of racketeering. Between the two units, there were a total of 16 trials and 45 civil and criminal 8th Circuit court appeals.

In 2017 the Criminal Division continued to focus its efforts on areas identified as national priorities by the Department of Justice; anti-terrorism, assuring the safety of our communities, and drug enforcement. Working closely with federal, state, tribal, and local law enforcement agencies, the 21 Assistant United States Attorneys and four Special Assistant United States Attorneys in the office's general criminal and drug units. The majority of these cases related to illegal drugs; however, firearms cases, immigration cases, and offenses involving identity theft and fraud comprised a significant portion of the criminal cases filed.



## GENERAL CRIMES UNIT

The General Crimes Unit, under the direction of the Criminal Division, handles a wide range of criminal cases to include terrorism, violent crime, white collar crime, child pornography and child enticement cases. Crimes occurring in Indian country are also handled by the General Crimes Unit. Jan Sharp is the Chief of the General Crimes Unit.

## ANTI-TERRORISM

The fight against terrorism, both international and domestic, continues to be the first priority of the Department of Justice. The USAO Criminal Division, in the District of Nebraska, has committed significant resources to this effort. Working closely with the FBI and other federal, state, and local law enforcement agencies, office personnel continue their active membership in the Joint Terrorism Task Force (JTTF) and the Nebraska Information Analysis Center (NIAC) to detect indications or warnings of terrorist activities, identify potential targets of terrorist activities within the District, disrupt activities that support terrorism, and prevent through aggressive prosecution, any crimes that may in some way contribute to terrorism.



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

The USAO also serves as a member of the U.S. Strategic Command Threat Working Group, whose mission is to identify and mitigate threats to the command and its supporting Department of Defense elements, including innumerable private contractors. Attenuation of these threats requires a concerted effort which includes information-sharing and networking among law enforcement personnel at every level.



## PROJECT SAFE NEIGHBORHOODS CASES

In cooperation with federal and local law enforcement agencies and prosecutors, Project Safe Neighborhoods continues to be a high priority of this office. Project Safe Neighborhoods (PSN) is a nationwide commitment to reduce gun and gang crime in America by networking existing local programs that target gun and gun crime, and providing these programs with additional tools necessary to be successful. The goal of PSN is to create safer neighborhoods through a sustained reduction in gang violence and gun crime. Assistant U.S. Attorney Matt Lierman serves as the point of contact on PSN related matters for the USAO.

In 2017, 1,067 guns were traced and tracked as part of Project Safe Neighborhoods. The Grand Jury returned numerous indictments which included firearms associated with the delivery or conspiracy to deliver controlled substance. In the summer of 2017, The Omaha Police Department with the assistance of PSN and the OPD Bomb Squad and Firearms Squad held a combined firearms and fireworks Amnesty Project. They received 43 long guns, (2 short shotguns), 47 handguns, 1000 lbs of ammunition, 800 lbs of fireworks, 100 lbs of loose powders and various other military munitions.

Although federal prosecution is a powerful tool in the fight to reduce violent crime, not every offender needs to be prosecuted federally. In some cases, prosecution in the state, local, or tribal system can effectively remove a criminal from the community and provide the most appropriate sanction for violent offenders.

The USAO, in conjunction with state, local, and tribal prosecutors—will continue to ensure that violent criminals are met with the most effective and efficient criminal justice sanction. At a minimum, this protocol should include coordinating with each other when making prosecutorial decisions. Some of the specific PSN prosecutions are highlighted below.

**Kyntral Watkins**, along with a co-defendant, robbed five convenience stores in the Omaha metro area with a firearm. At two of the locations the firearm was fired. A task force investigation identified both parties and resulted in the seizure of a handgun which matched the shell casings from the two firearm discharges. Watkins was charged with five counts of Hobbs Act robbery, five counts of using a firearm in a crime of violence and three counts of felon in possession of a firearm. Watkins ultimately pled guilty to an agreed sentence of 20 years' incarceration. His co-defendant is set to plead guilty to an agreed sentence of 18 years.

### Operation Brass Catcher

The Omaha ATF Illegal Firearms Squad and the Omaha Police Department Gang Unit developed a proactive violent crime initiative targeting gang members in the Omaha area. The focus is to identify and target violent gang members who are responsible for firearm violence as well as identify and target individuals who provide firearms to these gang members via straw purchases or other means. This proactive investigation resulted in federal charges against thirteen defendants. The charges included felon in possession of a firearm, use of a firearm in drug trafficking, straw purchase of a firearm and distribution of controlled substances. So far, the cases against seven defendants have been resolved, resulting in sentences between 18 and 151 months.

### Scott Wiseman

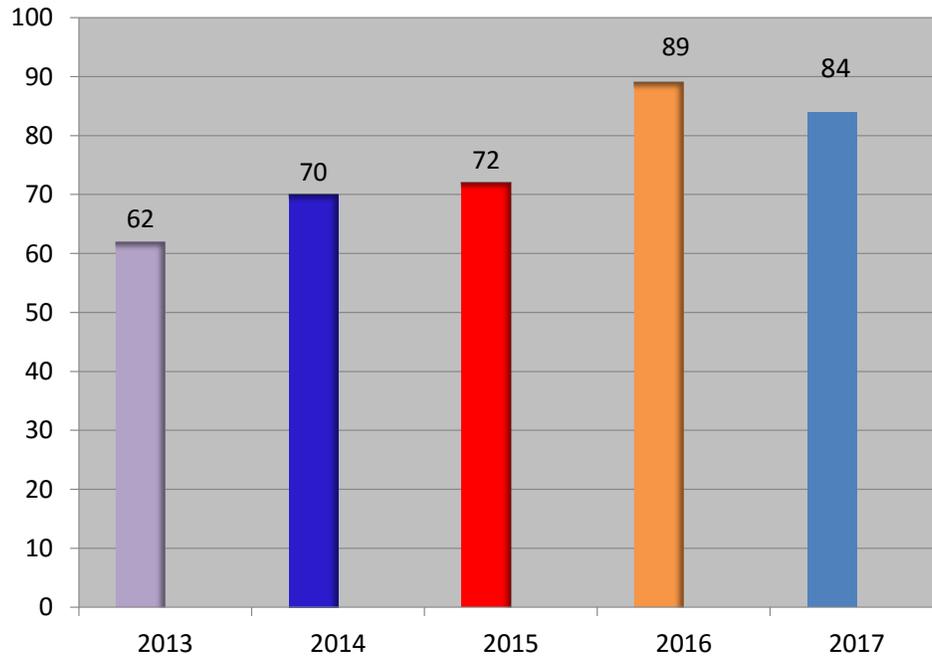
Omaha Police Department officers arrested Scott Wiseman following a reported domestic disturbance. Officers searched Wiseman, a convicted felon, and recovered an unspent .22 caliber bullet from his shirt pocket. Wiseman pled guilty to possession of ammunition by a prohibited person and was sentenced to 18 months in prison.

PROJECT SAFE NEIGHBORHOODS



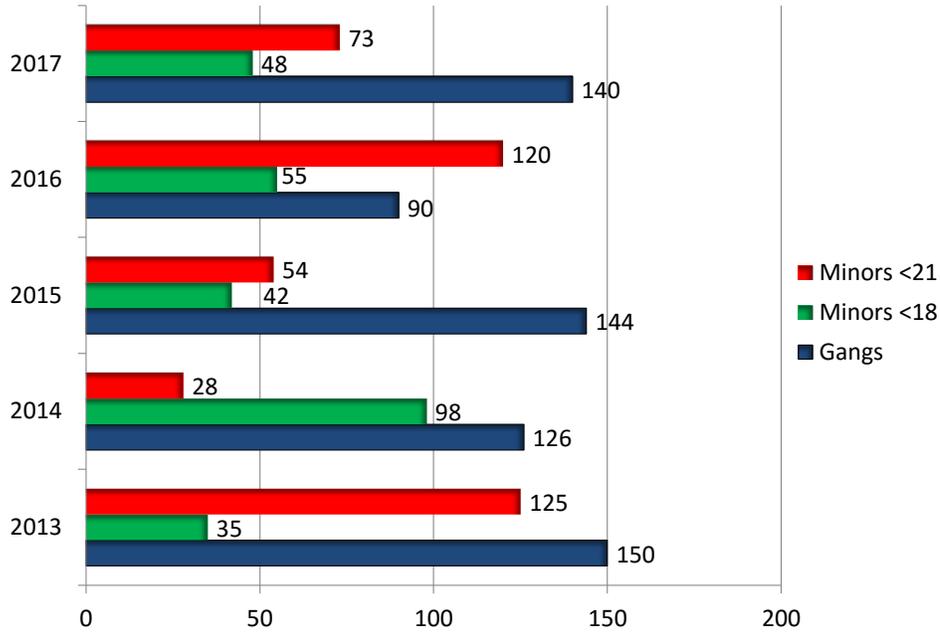
Firearms recovered/surrendered at the firearms amnesty event in 2017.

### FEDERAL GUN INDICTMENTS

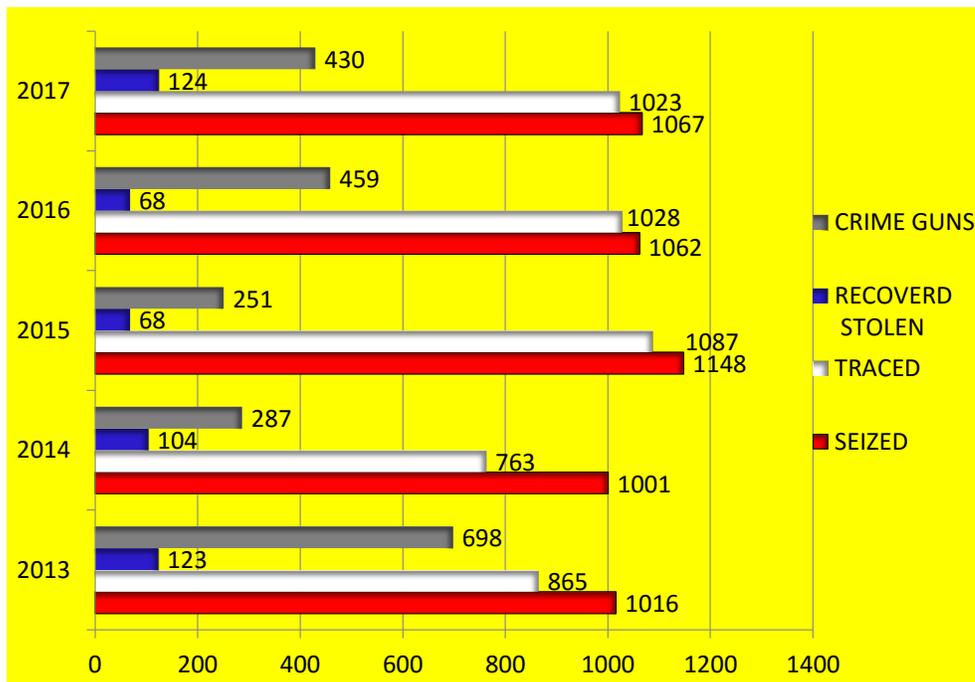


PROJECT SAFE NEIGHBORHOODS

SEIZED FIREARMS TIED TO MINOR AND GANG MEMBERS / ASSOCIATES



FIREARMS SEIZED BY OPD FOR TRACKING



## PROJECT SAFE CHILDHOOD CASES

**P**roject Safe Childhood (PSC) is a nationwide initiative to combat the growing epidemic of child sexual exploitation and abuse. Launched in May of 2006 by the United States Department of Justice, it is led by United States Attorneys' Offices nationwide and the Criminal Division's Child Exploitation and Obscenity Section (CEOS). The program marshals federal, state and local resources to better locate, apprehend and prosecute individuals who exploit children via the Internet, as well as to identify and rescue victims. Assistant U.S. Attorney Mike Norris serves as the point of contact for PSC.

In calendar year 2017, the USAO filed charges involving the receipt or production of child pornography against 44 people. In total, 36 people were convicted and sentenced in 2017 for sentences involving child pornography. In addition, charges were brought against 26 others who failed to register as sex offenders. Indictments were returned against several individuals for other crimes involving the exploitation of children via the Internet.

Those indictments included charges for interstate travel to engage in sexual acts with a juvenile. The Nebraska Attorney General's office has collaborated with the USAO on child pornography cases and cross-designated assistant attorney generals assist in bringing federal charges on individuals throughout the state.

Here are a number of the significant cases that were prosecuted under this initiative.

**Patrick Amen** was sentenced to 72 months imprisonment for receiving child pornography. Officers from the Douglas County Sheriff's Office and agents of the FBI Cyber Crimes Task Force served a search warrant at Amen's residence. Amen admitted to downloading child pornography from the Internet. A search of his computer and digital devices recovered 200 videos of children engaged in sexually explicit conduct. Most of the children depicted ranged from two to 12 years of age.

**Gale Robert Gibbs** was sentenced to 37 months in prison and 10 years of supervised release for possessing child pornography. The North Platte Police Department was contacted by a technician at a computer shop in North Platte after Gibbs took his computer in for repairs.

While examining the computer, the technician found a number of thumbnails of images depicting child erotica and child pornography. Approximately 67 images were found on his computer including 27 images identified by the National Center for Missing and Exploited Children as known victims from outside the State of Nebraska.

**Randy Arnold** was sentenced to 84 months imprisonment for receiving child pornography. Officers with the Omaha Police Department were called to Arnold's home where a thumb drive, belonging to Arnold, was provided to the police. A search warrant was obtained to thoroughly search the drive for child pornography. A total of 74 videos of minor children engaged in sexually explicit conduct, many with children in the seven-to nine-year-old range, were found on the drive.

**Kyle Brenner** was convicted of receiving child pornography and was sentenced to five years of imprisonment. Brenner used his credit card to purchase access to a website which provided child pornography. He then accessed that site to download videos and photographs containing child pornography. Brenner left the United States after his home in Bellevue was searched, but he was subsequently located in England and was extradited back to the United States for prosecution.

**Cody Childers** was sentenced to 20 years of imprisonment for producing child pornography. Upon his release of imprisonment, he will begin a 10-year term of supervised release. Childers used Facebook to "friend" minor girls both in and outside of Nebraska. Once friended, he would ask the girls to send him sexually explicit photographs. Three girls in Nebraska, ranging in age from 13-15 sent Childers sexually explicit photographs. Childers also directed minors in other states to take and send pornographic photos.

**Chad Hedglin** was sentenced to 96 months in prison following his conviction for receipt of child pornography. Hedglin used Facebook to contact girls who were teenagers and then requested that they send him photographs that were sexually explicit.

## PROJECT SAFE CHILDHOOD CASES

**Zechariah Hazard** was sentenced to 60 months in prison following his conviction for receipt of child pornography. After his release from prison, Hazard will serve five years of supervised release and will be required to register as a sex offender. The Department of Homeland Security Investigations received information that Hazard was distributing images of child pornography through the Internet. A search warrant of Hazard's computer revealed over 9,000 images and video files of child pornography.

**Michael W. Kruse** was sentenced to 4 years in prison for possession of child pornography. In addition to his prison term, Kruse will be required to serve 5 years of supervised release and register as a sex offender. The Columbus Police Department executed a search warrant at Kruse's residence and officers made contact with Kruse who admitted to using a file sharing program to download child pornography. Later forensic investigation of the computers and storage media uncovered over 600 videos and still images of child pornography, including videos of victims known by law enforcement from previous investigations outside the state of Nebraska.

**Jose Manuel Garcia Vargas** was sentenced to five years imprisonment for receiving child pornography. After his release from prison, he will be deported to Mexico. A search warrant was executed on Garcia Vargas's home on February 16, 2016. He admitted to receiving child pornography during Skype chats. He admitted to soliciting images from young girls and requesting that they be sexually explicit.

**Scott Wellensiek** was sentenced to 10 years of imprisonment for possessing child pornography. After his release from prison, Wellensiek will begin a 15-year term of supervised release. Wellensiek had a prior conviction for possessing child pornography. While on supervised release following his earlier conviction, he moved to Dunbar, Nebraska, and again began to download child pornography.

**Keith B. Noden** was sentenced to four years in prison for possessing child pornography. Officers of the Sarpy County Sheriff's Office and the FBI Cyber Crimes Task Force served a search warrant on Noden's residence. The IP address assigned to Noden had been observed on numerous occasions with images of child pornography available for sharing. The videos included prepubescent children, including a 6-year-old child, engaged in sexual acts with adults. Noden admitted to downloading child pornography.

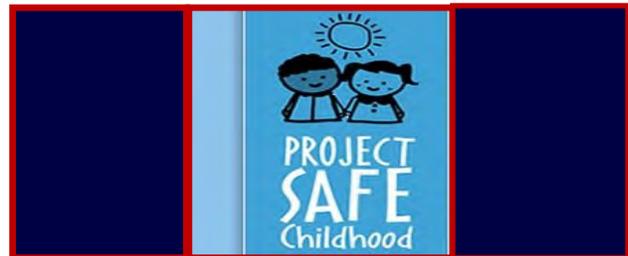
**Joshua Just** was sentenced to 66 months in prison and ordered to register as a sex offender following his conviction for possession of child pornography. His criminal activities were discovered by the Nebraska Attorney General's Office during an investigation into the use of file sharing software to distribute and possess child pornography. Investigation determined that Just was receiving child pornography through the Internet at his home. A search warrant revealed more than 200 images and videos of child pornography found on computer equipment owned by Just.

**Martin Hanson** was sentenced to 66 months in prison for possessing child pornography. Agents with the FBI Cyber Crimes Task Force searched Hanson's home for child pornography. Agents had observed Hanson on more than 10 previous occasions in possession of child pornography available for sharing on the Internet. He admitted to downloading child pornography and using search terms targeting preteen children.

**Joel Palmer** was sentenced to 12 years of imprisonment for possessing child pornography. Palmer was previously convicted of possessing child pornography in 2012. After his release from a two-year sentence, he again downloaded child pornography. He shared some of the images with a woman in Florida hoping to engage in sexual relations with the woman's 11- and 13-year-old daughters. A search warrant on Palmer's Omaha residence recovered 9 videos and 59 images of child pornography. The videos and images involved prepubescent children, as young as a toddler, engaged in sexual acts.

## PROJECT SAFE CHILDHOOD CASES

**Richard Sandoval** was sentenced to 10 years in prison following his conviction for possession of child pornography. Sandoval will also serve an additional 15 years on supervised release and will continue to be required to register as a sex offender. Sandoval had been previously convicted of Sexual Assault of a Child in Lincoln County, Nebraska, in December of 2001. Sandoval's criminal conduct was discovered by the Lincoln Police Department during an investigation into the use of file sharing programs to distribute and possess child pornography. Investigation determined that Sandoval was receiving child pornography through the Internet at his home. A search warrant revealed more than 195 videos of child pornography found on computer equipment owned by Sandoval.



**Diego Vigil** was sentenced to seven years of imprisonment for receiving and distributing child pornography. After his release from prison, Vigil will begin a 10-year term of supervised release. On three separate occasions between May, 2016 and January, 2017, investigators downloaded images of child pornography from Vigil's computer. Many of the images involved infants and toddlers engaged in sexual activity. A search warrant on his Omaha residence recovered more than 200 videos and 4,000 images of child pornography. The children portrayed ranged from infant and toddler to approximately 13 years of age.



## VIOLENT CRIME CASES

The USAO prosecutes violent crimes that violate the United States Code, such as robberies of financially insured banks and commercial establishments involved in interstate commerce. In addition, the USAO assists in the investigation of matters conducted by federal law enforcement officers, offenses involving interstate threats, threats against judges and threats against, or assaults of, federal law enforcement are all within the office's area of responsibility.

**Cameron Ammons** was sentenced to two years in prison for attempting to rob a Centris Federal Credit Union branch. On March 4, 2016, Ammons ran through the first door of the vestibule of the Centris Federal Credit Union. As he approached the second door, the door that allows access into the bank, a uniformed off-duty officer that was working there drew his weapon and chased Ammons, who ran from the bank. Other officers were able to catch and arrest Ammons approximately one-half hour later.

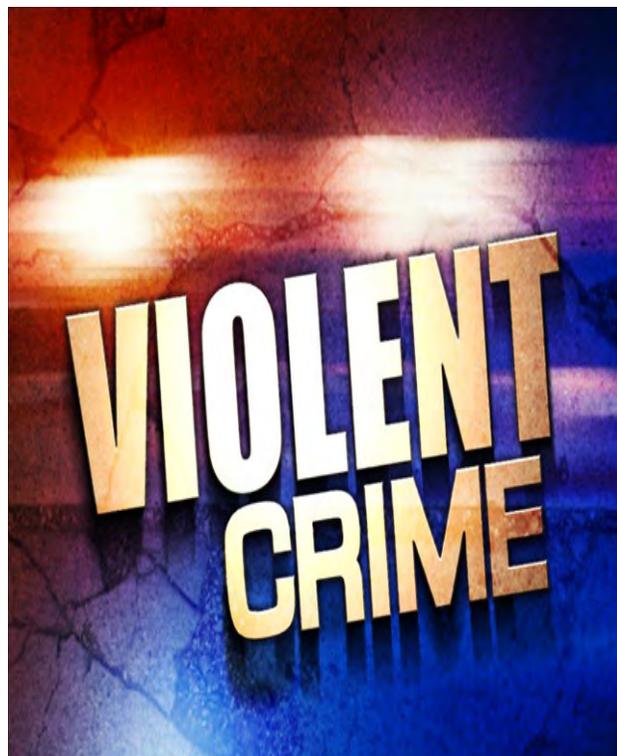
**Robert M. Brannon** was sentenced to 6 years of imprisonment, 3 years of supervised release, and ordered to pay \$3,139.82 in restitution following his guilty plea to interference with commerce by means of robbery and being a felon in possession of a firearm. On January 10, 2016, Brannon, a former employee of Dunkin Donuts, entered the Dunkin Donuts at 10611 Fort Street, carrying what appeared to be a gun, and took approximately \$150.00 from the cash registers. During the robbery he herded employees into a freezer and closed the door.

**Tommy L. Catchings** of Grand Haven, Michigan, was sentenced to 37 months of imprisonment upon his conviction for transmitting threatening interstate communications. Catchings threatened to come to the place of employment of a Plattsmouth resident and kill her.

**Richard Killebrew** of Newport News, Virginia, was sentenced to a 41-month term of imprisonment and a 3-year term of supervised release for the crime of Cyber Stalking. In March, 2016, Killebrew used a cell phone to send a text message to a victim located in Nebraska, which contained death threats.

Between March, 2016, and July, 2016, Killebrew also posted numerous death threats directed at victims, located in Nebraska and elsewhere, on an internet blog. Phone and internet records obtained by law enforcement confirmed Killebrew had made the threats while he was located in Virginia.

**Nyunt Kyi and Po Kwe**, were sentenced to 15 months each in prison for receipt and possession of an unregistered silencer. On May 6, 2016, Nebraska Conversation Officers made contact with the defendants at a campsite on a Water Management Area in Pawnee County and observed various fishing violations. Officers were given consent to search a tent. Officers found a rifle and a silencer in the tent. The silencer was submitted for a forensic examination which determined it was, in fact, a silencer and required to be registered under federal law. The defendants had not registered the silencer as required by law.



## WHITE COLLAR CRIME CASES

The USAO investigates and prosecutes a broad range of “white collar” offenses. Cases involving government program fraud, tax fraud, financial institution fraud, health care fraud and frauds targeting the elderly and other citizens are prosecuted every year. Prosecutions of such crimes can often yield substantial prison sentences and/or fines, along with restitution.

**Kayne Farquharson** was sentenced to 21 months in prison and ordered to pay \$18,809.00 in restitution following his conviction for submitting a false statement on a passport application. Farquharson submitted an Application for a U.S. Passport at the Passport Acceptance Office, in Grand Island, Nebraska, falsely identifying himself as another person. As proof of identity, Farquharson presented a Nebraska driver’s license and a Florida birth certificate in the name of the other individual. A United States Passport was issued in the name of the other individual and sent to Farquharson. Investigation determined that Farquharson had made the false representations on the application.

**Kathy L. Hansen** was sentenced to a 3 year term of probation for misprison of a felony for her involvement in an income tax scheme. Hansen was also ordered to make restitution in the amount of \$11,557. In 2014 Hansen opened a bank account used for the deposit of illegally obtained federal tax refunds. The illegally obtained refunds were deposited as part of a tax refund scheme being operated by individuals believed to be located outside of the United States. After the refunds were deposited into her account, Hansen would send the money to individuals operating the scheme believed to be located outside of the United States.

**Lisa Holmes** was sentenced to 18 months in prison upon her conviction for submitting false claims to the government in connection with a tax fraud scheme. Holmes worked for several different tax preparation locations and on her own. She would create fraudulent Schedules C for clients, claiming they owned businesses that they did not actually own. This increased the taxpayer’s earned income credit and therefore their refund.

**Alan Ostrander** was sentenced to five years of probation following his guilty pleas to criminal charges of wire fraud and willful failure to file tax returns. The prosecution stemmed from actions by Mr. Ostrander while he managed the Big Drive Cattle feed yard near Fullerton NE during 2009 and 2010. Ostrander was also ordered to pay restitution in the approximate amount of \$48,000. He was accused of selling mortgaged cattle and not remitting the proceeds of the sale and for not filing tax returns.

**Mark A. Tincher** was sentenced to five years of supervised release, a fine of \$50,000, and ordered to pay restitution of \$833,404.65 to Plattsmouth State Bank after pleading guilty to one count of bank fraud. From approximately April 1, 2010, to approximately June 2, 2010, Tincher maintained separate checking accounts at Plattsmouth State Bank, Arbor Bank, Murray State Bank and Glenwood State Bank. Tincher conducted a scheme, known as check kiting, whereby he manipulated checks between the four banks to create artificially inflated bank balances through the utilization of float, then used the inflated bank balances for business purposes.

**Jacob McClure** was sentenced to a three year term of probation, 160 hours of community service, eight consecutive weekends in jail and ordered to pay restitution of \$4,679.00 to Rochester Armored Car, Inc. following his guilty plea to one count of bank larceny. As an employee of Rochester Armored Car, Inc., one of his duties was to fill ATM machines. On December 1, 2016, he filled a SAC Federal Credit Union ATM located at the Offutt Air Force Base with \$50,000. An audit was done and it was discovered McClure had taken \$47,030.00.

**Jesus Rivera Cruz**, the owner of Rivera Mexican Foods, a Mexican restaurant in Omaha, was sentenced to probation for two years and was also required to pay back an additional \$242,000 for filing a false tax return. Rivera Cruz failed to disclose his restaurant’s lunch sales for 2012.

## WHITE COLLAR CRIME CASES

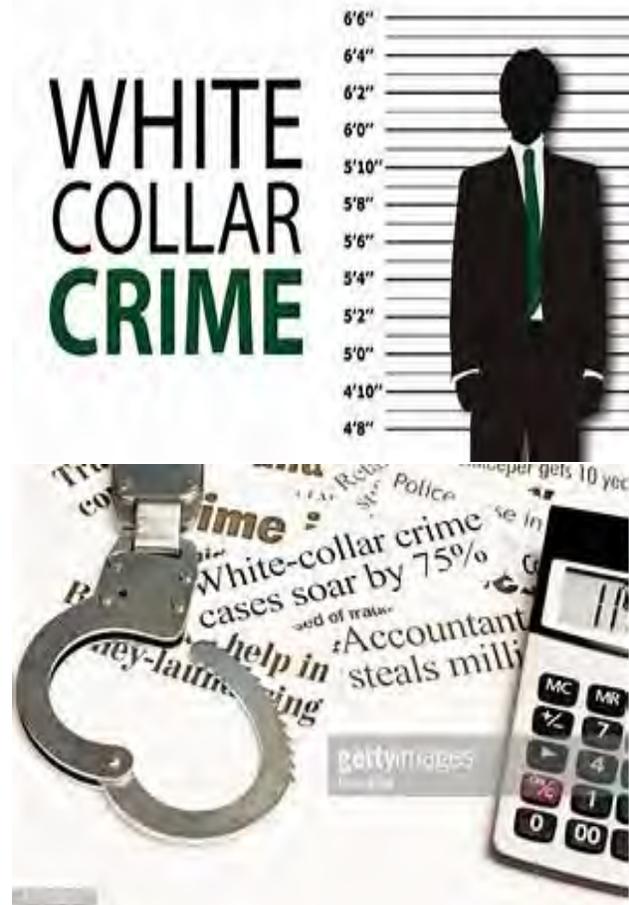
**Patricia Urbanovsky** was sentenced to a term of sixty-three months imprisonment and 3 years of supervised release for sixteen counts of wire fraud. From on or about May 2014, and continuing through on or about at least March 2015, Urbanovsky personally, and through her company Creative Creations, marketed and promoted the sale of fraudulent vacation packages and vouchers associated with Southwest Airlines and Southwest Vacations. Urbanovsky falsely represented to employees and customers she had a professional relationship with a purported Vice President of Southwest Vacations and that through this individual she was able to receive a discounted price on Southwest Airline tickets, however, Southwest Airlines had no affiliation with Urbanovsky or Creative Creations. Urbanovsky was also ordered to make restitution of approximately \$4.7 million dollars.

**Patrick Keough** was sentenced to six months of imprisonment upon his conviction for violating the Clean Air Act. Keough was the owner of America's Fiberglass Animals which uses gel coats and Hazardous Air Pollutant paints to manufacture fiberglass animals. The Nebraska Department of Environmental Quality determined that AFA required a construction permit and fabric filters in the manufacturing area to operate its business. Keough continued to operate his business in Shelton, Nebraska, without securing a permit or installing fabric filters. He then moved the business to Minden, Nebraska, without advising NDEQ and without securing the required permit. The business continued to operate without fabric filters.

**Alan Kappler, Jr.** was sentenced to 5 years, 3 months in federal prison to be followed by 3 years of supervised release and ordered to pay \$911,428.99 in restitution following his guilty plea to wire fraud. From 2007 through 2012, Kappler devised a scheme in which he represented to a relative that he was suffering from methicillin-resistant staphylococcus aureus, also known as MRSA. Kappler told the relative that he was involved in a study sponsored by Pfizer Pharmaceuticals and said he needed to pay for all of his medical care and once his treatment concluded, Pfizer would pay him \$5,000,000. When the relative's funds were depleted, she sought more money from other relatives and friends.

In total, Kappler received at least \$911,428.99 as part of his scheme. Co-defendant and cooperator, Alicia Weir was also sentenced to probation for five years and ordered to pay \$22,678.99 in restitution for her involvement in this scheme.

**Benedict Palen** was convicted of mail fraud and sentenced to five years of probation and ordered to perform 200 hours of community service. Palen, executed a scheme to defraud in which he purported to sell the same John Deere tractors to multiple buyers located in different states. These tractors were sold under his company name, Great Plains Farms. However, further investigation revealed that several of these same tractors had previously been sold by Palen under a different corporate name, Pull Pans, Inc.



## INDIAN COUNTRY CRIME

The USAO has jurisdiction on three Indian reservations located in the State of Nebraska. These are: the Winnebago, the Omaha, and the Santee Sioux reservations.

The Omaha and Winnebago reservations are contiguous to one another and are situated 80 miles north of the City of Omaha. The Santee Sioux Reservation is located 190 miles northwest of the City of Omaha and 115 miles west of the Winnebago and Omaha reservations.

The population on the Winnebago Indian Reservation is approximately 2,600. The Omaha Reservation is home to 5,194 Native Americans and the Santee Sioux has approximately 800 people residing on their reservation.

Although Nebraska was originally designated as a Public Law 280 state, each of these reservations has retroceded jurisdiction so that the USAO has jurisdiction under Title 18, United States Code, Section 1153 for major crimes committed by Native Americans against other Native Americans or property owned by other Native Americans. Additionally, the USAO has jurisdiction under Title 18, United States Code, Section 1152 for all offenses committed by non-Native Americans against Native Americans or property owned by Native Americans.

The USAO also has jurisdiction for all offenses committed by a Native American against the person or property of a non-Native American except where said Native American has already been punished by the local law of the tribe for the same conduct. Federal laws of general applicability which are not dependent on Indian Country or exclusive federal jurisdiction as a jurisdictional basis also apply in Indian Country. These crimes include, but are not limited to, mail and wire fraud, felon in possession of a firearm, use of a weapon during a crime of violence, interstate violence against women, interstate violation of protection orders, and illegal distribution of controlled substances.

Felony assaults, rapes, child sexual assaults and child physical abuse are the main offenses routinely prosecuted federally on the three reservations.

Anecdotal information received from the tribal council meetings indicates serious drug problems, particularly a methamphetamine problem. The three tribes report a drug problem but lack the necessary resources to investigate and prosecute the cases. Tribal authorities from Omaha and Winnebago suggest there is a methamphetamine problem on the reservations in regard to usage, and the users travel to Sioux City, Iowa to purchase their meth.

The Santee Sioux, through interviews with the Child Protective Service personnel, indicate a methamphetamine problem. In all likelihood the source of the drugs is either from Lincoln, Nebraska or the Yankton, South Dakota area, 46 miles away. There are no indicators of meth labs or significant meth distribution on any of these reservations.

The Federal Bureau of Investigation (FBI) assumes primary responsibility for these investigations on the Omaha and Santee Sioux Reservations to investigate major crimes. A Bureau of Indian Affairs (BIA) criminal investigator assumes primary responsibility on the Winnebago Reservation.

There is one Bureau of Indian Affairs (BIA) investigator assigned in Nebraska and this agent covers criminal matters on the Winnebago Reservation.

The Winnebago Reservation is covered by uniformed BIA sworn officers with federal certification and Winnebago Tribal Police officers without federal certification. The Omaha Reservation and the Santee Sioux Reservation are covered by tribal officers who do not have federal certification. There is a tremendous amount of turnover of tribal law enforcement personnel on all three reservations.

The USAO devotes a Tribal Liaison AUSA and one SAUSA to the prosecution of Indian Country cases. The USAO designated a Special Assistant United States Attorney (SAUSA) to address domestic violence, sexual assaults, child and domestic violence physical assaults and dating violence on the Winnebago, Omaha and Santee Sioux Indian reservations.

## INDIAN COUNTRY CRIME

This SAUSA, is cross-designated to prosecute these cases in federal court as well as in the Winnebago and Santee Sioux Tribal Courts. The SAUSA is co-located at the Winnebago Reservation and the USAO.

The goals of this project are to increase coordination among the three tribes and local, state, and federal investigators and prosecutors; bridge gaps in jurisdictional coverage; establish cohesive relationships between federal prosecutors and tribal communities; and improve the quality of violence against women cases through effective case management. This program is privately funded and administrated through the HoChunk Community Development Corporation in Winnebago.

All Three reservations have DV shelters. The SAUSA and the Victim advocate work closely with the directors of these shelters in regard to domestic violence cases. The shelter directors are kept informed of the status of cases concerning their residents and the directors aid in facilitating contact with victims. The USAO Tribal Liaison, Tribal SAUSA and the Victim Assistance Specialist are members of the Child Abuse multi-disciplinary teams for the tribes. These teams monitor the coordination of services in regard to child abuse and neglect cases.

### Ponca Tribe of Nebraska

The Ponca Tribe of Nebraska with a population of slightly over 3,100 nationwide, does not have a reservation. In 1858, the Ponca Tribe relinquished most of its land to the federal government. In 1962, Congress terminated its relationship with the Ponca Tribe. However, federal recognition was restored in 1990 when Congress re-recognized the Ponca Tribe. Although the Ponca Tribe lacks a land base in Nebraska, the Tribe does have designated "Service Delivery Area" counties; fifteen counties in Nebraska with 1,100 members in these counties.

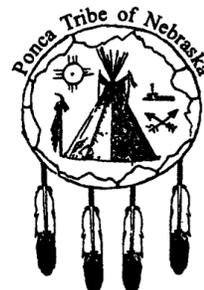
The following cases highlight some of the Indian Country cases prosecuted on the Omaha, Winnebago and Santee Indian Reservations in 2017.

**Charles W. Aldrich** was sentenced to five years probation and 150 hours of community service upon his conviction for theft from an Indian gaming establishment. He was further ordered to pay restitution in the amount of \$36,500. Aldrich was a member of the tribal council of the Winnebago Tribe of Nebraska. Beginning in 2013 and continuing through September of 2014, Aldrich began taking unauthorized disbursements from the WinnaVegas Casino and Resort in the total amount of \$36,500.

**Michael Blackfish** was sentenced to a term of 84 months imprisonment and a 3 year term of supervised release for robbery, brandishing a firearm during a crime of violence. Blackfish used a stolen weapon taken from the Winnebago Tribe of Nebraska Wildlife & Parks Department Office to rob an individual on the Omaha Indian Reservation.

**Francis Walker** was sentenced to 46 months' imprisonment following a guilty plea to a count of domestic assault by a habitual offender. Walker punched his wife, held a knife to her throat, and threatened to kill her.

**John Blackhawk** was sentenced to five years probation and ordered to pay \$36,000 in restitution following his conviction for theft from an Indian gaming establishment. Blackhawk served as the Chairman of the Winnebago Tribe of Nebraska. Beginning in 2013 and continuing through September of 2014, Blackhawk and other members of the Winnebago Tribal Council began taking unauthorized disbursements from the WinneVegas Casino and Resort.



## INDIAN COUNTRY CRIME

**Kylan Dale** was sentenced to one year in prison upon his conviction for motor vehicle homicide. Dale was driving a car with one passenger in the early morning hours on the Winnebago Indian Reservation. As Dale turned to reach for a beer, the car left the roadway, and rolled before catching fire. The passenger was killed. Dale admitted drinking before the accident.

**Newton Dale** was convicted of failing to register as a sex offender and was sentenced to 30 months of imprisonment. Dale was convicted of statutory rape on the Omaha Indian Reservation in 2013. He was required to register as a sex offender when he began a term of supervised release in 2017. Despite maintaining residences on the Omaha Indian Reservation and in Norfolk, Nebraska, Dale failed to register with either the Madison County Sheriff or the Omaha Nation Law Enforcement Services.

**Dalton Denney** was sentenced to 42 months imprisonment, to be followed by a lifetime term of supervised release, on one count of sexual abuse of a minor and one count of abusive sexual contact with a minor. Denney was charged with sexually assaulting young girls, under the age of 16.

**Dustin Earth** was sentenced to 21 months in prison following his conviction for assault resulting in serious bodily injury. Earth beat up another tribal member causing a fractured skull and several other severe injuries.

**Arturo Garcia** was sentenced to 46 months imprisonment, followed by 3 years of supervised release on one count of assault of an intimate partner by strangling, after Garcia strangled his girlfriend on the Omaha Reservation.

**Lawrence Hawkghost** was sentenced to 15 months imprisonment on 3 separate counts of abusive sexual contact with a minor, to run consecutively, for a total term of 45 months' imprisonment, followed by a 15-year term of supervised release. Hawkghost was convicted by a jury of sexually abusing a 12-13 year old girl while she was in the 6th grade.

**Orlando Lasley** was sentenced to 33 months imprisonment after a jury convicted him of one count of assault resulting in serious bodily injury and one count of assault resulting in substantial bodily injury to an intimate partner. Lasley assaulted his girlfriend, breaking her arm.

**Wyatt Thomas** was sentenced to 48 months imprisonment, followed by a 10-year term of supervised release after he pled guilty to one count of sexual abuse of a minor under age 16. The victim was in Thomas's custody, care, and supervisory control.

**Thomas Snowball** was sentenced to five years probation and 150 hours of community service upon his conviction for theft from an Indian gaming establishment. He was further ordered to pay restitution in the amount of \$36,500. Snowball was the treasurer of the tribal council of the Winnebago Tribe of Nebraska. Beginning in 2013 and continuing through September of 2014, Snowball began taking unauthorized disbursements from the WinnaVegas Casino and Resort in the total amount of \$36,500.

**Anthony Whitewater and Marcus Blackhawk** were sentenced to prison after they were found guilty by a federal jury of assault with a dangerous weapon and use of a firearm during a crime of violence. Whitewater was sentenced to a total of 241 months in prison. Blackhawk was sentenced to a total of 121 months in prison.

Whitewater had attended a party at the residence of another enrolled Winnebago Tribe member in Winnebago, Nebraska. While at the party, Whitewater became involved in a conflict with an enrolled member of the Omaha Nation Indian Tribe. The conflict resulted in Whitewater being punched in the face. Whitewater left the party vowing to return. Mistakenly believing that the person with whom he had fought was traveling in the vehicle of other Omaha Nation Tribe members, Whitewater, while being driven in a vehicle operated by his brother, Marcus Blackhawk, began shooting at the occupants of that vehicle. The fleeing vehicle was hit seven times.

## INDIAN COUNTRY CONTACTS

### USAO District of Nebraska Indian Country Contacts

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### District of Nebraska Tribal Police Chiefs

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#### **Santee Sioux Nation**

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#### **Winnebago Tribe of Nebraska**

Chief Jason Lawrence  
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## IMMIGRATION CASES

The USAO prosecutes numerous individuals for immigration-related offenses every year. Those offenses can involve charges of illegal reentering the United States after removal, identity theft, possession of false documents, or distributing false documents. During 2017, the USAO saw a sharp increase in the filing of immigration cases. The office charged 125 cases involving immigration offenses, an increase of 92 percent as compared to calendar year 2016.

**James Manske and Alex Pearson** pleaded guilty to knowingly hiring undocumented workers at Elkhorn Lawn Care which they owned and operated. They were fined \$25,000.

**Fernando Nevarez-Carreon** was sentenced to 53 months of imprisonment upon his conviction for conspiracy to distribute false identification documents, distribution of counterfeit social security cards and aggravated identity theft. Nevarez-Carreon had been identified by agents of Homeland Security as being a street vendor distributing counterfeit identification documents.

**Luis Lorenzo-Urbina** was sentenced to 15 months of imprisonment following his conviction for being an illegal alien in possession of a firearm. Lorenzo-Urbina is a citizen of Guatemala. Although he had illegally entered the United States, he was placed on an immigration bond and was allowed to remain in the United States pending completion of proceedings in immigration court.

In May 2017, Bellevue Police responded to a disturbance call and encountered Lorenzo-Urbina. A search of his vehicle yielded a shotgun and a revolver that had been stolen from a home in Iowa a few days earlier.

**Jesus Rivera Cruz**, the owner of Rivera Mexican Foods, a Mexican restaurant in Omaha, was sentenced to probation for two years and was also required to pay back an additional \$242,000 for filing a false tax return. Rivera Cruz failed to disclose his restaurant's lunch sales for 2012.



## NARCOTICS ENFORCEMENT UNIT

The fight against illegal drug trafficking continued to be a major priority of the USAO in 2017. Nebraska is a significant trans-shipment area for drug traffickers due to its location in the central United States, between western drug sources and eastern drug markets, and a major interstate and other highways which pass through the State. Omaha, Lincoln, Grand Island, and other Nebraska cities serve as redistribution points for drug markets within Nebraska and neighboring states and markets, and to smaller rural communities within the District.

The coordinated efforts of Assistant United States Attorneys (AUSAs) and Special Assistant United States Attorneys (SAUSAs) addressed the comprehensive threat posed to the United States and the District of Nebraska by the trafficking, diversion and abuse of illegal drugs. SAUSAs from the Douglas and Hall County Attorney's Offices have multiplied the prosecutorial resources dedicated to this effort. Attorneys who prosecuted drug cases were supported by the cooperative investigative efforts of federal, state and local enforcement agencies throughout the District. To enforce the Nation's drug and firearm laws, prosecutors in the Narcotics Enforcement Unit obtained 210 indictments this year charging 265 defendants. This was a decrease in the number of defendants from 2016 but nearly the same number of defendants as in 2015.

### PRESCRIPTION DRUG DIVERSION & SYNTHETICS CASES

In addition to traditional controlled substances, defendants continued to traffic in prescription medications and synthetic drugs. The DEA's Diversion Task Force in Omaha coordinated with pharmacies and with state and local law enforcement to investigate those obtaining and distributing prescription controlled substances unlawfully. The DEA and FBI also partnered with State and local authorities to investigate persons distributing synthetic drugs. Significant cases included the following.

#### **Operation SYN-ister**

The Lincoln/Lancaster County Drug Task Force, the Food and Drug Administration, Homeland Security Investigations and the Nebraska State Patrol conducted a 14-month investigation into the activities of two Lincoln headshops. The investigation resulted in federal charges against Allen Peithman, Jr., Sharon Elder and two companies they controlled. After a three-week trial, Peithman, Elder and one corporation were found guilty of conspiracy to distribute drug paraphernalia, investment of drug profits, conspiracy to sell misbranded substances, conspiracy to commit mail fraud, and conspiracy to structure financial transactions. The other company was convicted of conspiracy to structure. Peithman was sentenced to a total of 10 years and nine months in prison and was fined \$500,000. Elder was sentenced to five years and three months in prison and fined \$500,000.

Both Peithman and Elder were ordered to pay over \$5,000 in restitution. The restitution compensated persons who ingested synthetic cannabinoids sold at one of the stores and suffered serious medical reactions that required hospitalization. One company was fined over \$2 million, and the other was fined \$450,000. All four defendants were found liable for a money judgment of over \$1.1 million. The jury also found large quantities of synthetic cannabinoids and drug paraphernalia should be forfeited.

#### **Fentanyl Manufacture**

Investigators with DEA's Tactical Diversion Squad and the Omaha Police Department's narcotics and homicide units investigated an organization that was producing and distributing fentanyl and similar substances. The investigation took on even greater urgency after several fentanyl overdoses occurred in the metro area. In October 2017, investigators executed a search warrant at the Omaha residence of two targets and seized approximately 977 grams of carfentanil and numerous items consistent with carfentanil manufacture, such as notebooks and reference materials concerning the process for manufacturing carfentanil. A lethal dose of this drug is equal to a grain of salt. The amount of carfentanil that was seized was enough to kill everyone in the Omaha area. Three defendants face federal charges. The investigation is ongoing.

## DRUG TRAFFICKING CASES

### Amoeba

This long-term investigation ultimately targeted two inter-related networks responsible for obtaining methamphetamine from Mexico and distributing it in the Omaha metro area. Several search warrants resulted in the seizure of approximately 12 pounds of methamphetamine and two kilograms of cocaine, firearms and cash. In 2017, the most culpable local defendant, Adalberto Martinez Ramirez, pled guilty to drug trafficking and money laundering. Following a contested sentencing hearing, he was sentenced to 324 months in prison.

### Operation Windstream

A total of six persons have been indicted for drug and/or financial crimes for their roles in an organization which was transporting methamphetamine and cocaine to Lincoln and Omaha from southern Texas and laundering the proceeds through funnel accounts. One defendant pled guilty to possession with intent to distribute 50 grams or more of actual methamphetamine and interstate transportation in aid of racketeering. A second defendant pled guilty to conspiracy to distribute 50 grams or more of actual methamphetamine and cocaine and conspiracy to launder money. A third defendant pled guilty to possession with intent to distribute 50 grams or more of actual meth. Cases for the other three defendants remain pending.

### Milquetoast

The ATF investigated a conspiracy involving several defendants who were distributing different kinds of drugs and who possessed and sold firearms. Victor Salazar received a sentence of 170 months for distributing both methamphetamine and cocaine. Salazar was also in the country illegally and was found in possession of a firearm. Brandi Wieland received a sentence of 120 months for selling a firearm and methamphetamine to undercover officers. Other defendants who pled guilty and were sentenced were: Michael Packett (60 months for distributing cocaine and methamphetamine); Carlos Moore (37 months for distributing cocaine); Deandre Cooper (18 months for distributing cocaine); and Eric Hert (48 months for being a felon in possession of a firearm).

### Giovanny Nava, et al.

A series of cases that resulted from a long term investigation by HSI concluded this year with the sentencing of two defendants.

The investigation resulted in indictments against five individuals for conspiracy to distribute methamphetamine and cocaine and for money laundering. All five defendants were arrested in March 2016, after months-long surveillance. The surveillance revealed that some of the members were using an Omaha address as a stash house.

On the date of the arrests, two targets were seen trading items with a semi-truck driver at a truck stop. They were stopped after they left the truck stop and found to have approximately 12 kilos of cocaine and 14 lbs of methamphetamine. The semi-truck was later stopped as well, and officers recovered \$17,020 cash. At approximately the same time, two other targets were stopped after they left the stash house. They had \$237,000 in cash. All five pled guilty to drug trafficking and money laundering charges. The sentences ranged from 78 to 140 months imprisonment.

### Francisco Sanchez-Valencia and Raul Amezcua

Investigators from the Central Nebraska Drug and Safe Streets Task Force received information about methamphetamine and marijuana drug sales at a farm near Doniphan, Nebraska. The investigators were able to infiltrate the drug dealers' operation by utilizing a cooperating individual (CI) to make controlled buys at the farm. Investigators executed a search warrant and recovered about 1 ½ pounds of methamphetamine, over 200 pounds of marijuana and \$48,509 in cash. Sanchez-Valencia and Amezcua both pled guilty to possession with intent to distribute methamphetamine, forfeited their claim to the cash and were sentenced to 135 months imprisonment.

### Miguel Garza, Michael Garman et al.

The Omaha Police Department investigated this methamphetamine trafficking conspiracy. When Garza was arrested, he had in his possession two pounds of meth and a firearm. Michael Garman, who obtained methamphetamine from Garza, was arrested after making controlled deliveries to a confidential informant. Two other defendants were arrested after five pounds of methamphetamine and \$13,757 was found in their vehicle on a trip to Omaha from Arizona. Garza and Garman have pled guilty and are pending sentencing. The cases against the other two defendants have not yet been resolved.

## DRUG TRAFFICKING CASES

### Joshua Rodriguez

In December 2014, officers with the Nebraska State Patrol's Commercial Interdiction Unit suspected Rodriguez was involved in manufacturing marijuana. Officers knocked on the front door of Rodriguez's residence. When Rodriguez answered, they detected a strong odor of marijuana. Officers were allowed to step inside where they continued to smell the odor of marijuana. Based on their observations that day as well as previous surveillances, they obtained a search warrant. Officers discovered a marijuana grow operation, two pounds of marijuana in seven separate packages and more than 20 firearms. One of the firearms qualified as a "machine gun" under federal law.

Rodriguez filed a motion to suppress, claiming he did not grant consent for the officers to enter his residence. The district court granted the motion and ordered suppression of all the evidence the officers had recovered.

The USAO appealed that decision, and the Eighth Circuit Court of Appeals reversed the decision of the district court. Rodriguez then pled guilty and was sentenced.

### Juan Arredondo

A trespassing report lead to the arrest and indictment of Juan Arredondo in Buffalo County, Nebraska. A Sergeant stopped the SUV reported to be involved. Two occupants of the SUV stated that Arredondo had handed about ½ pound of methamphetamine to one of them just before the stop. Arredondo's prints were on the container that the two occupants said the methamphetamine had been in. Arredondo also had \$5,453.84 cash in his pocket. Arredondo is scheduled to plead to possession with intent to distribute methamphetamine and agree to forfeit the cash.

Investigators determined that members of the organization rotate into and out of the U.S. from Mexico. To date, 20 defendants have been charged in federal court with drug trafficking and/or money laundering offenses. Investigators have seized over 100 lbs. of methamphetamine and seized over a half a million dollars.

### Javilina

In November 2016, the DEA initiated an investigation of a methamphetamine trafficking and money laundering organization with a base of operations in Mexico and a distribution network consisting of multiple cells in the Omaha/Council Bluffs area. Early on, investigators developed a target list through an exhaustive evaluation and analysis of wire transfers, financial databases, toll analysis and information derived from prior investigations. Investigators determined that the organization uses multiple methods to launder money: "trade based" (i.e. purchasing used vehicles and providing ownership of the vehicle as payment for narcotics), bulk cash smuggling, and through international wire transfers and bank deposits, some to funnel accounts. Furthermore, Javilina is an ongoing investigation.

### Jerrad Carranza

Following two controlled buys, Omaha Police Department investigators executed a search warrant at Carranza's residence. They recovered about 3 ounces of actual methamphetamine and conducted a Mirandized interview. Carranza pled guilty to distribution and possession with intent to distribute methamphetamine and was sentenced to a total of 120 months.

### Insecticide

Thirteen individuals were indicted and charged with distributing methamphetamine and/or money laundering as a result of a long term investigation in Nebraska and Colorado led by the FBI. The two primary targets in Nebraska were obtaining their methamphetamine from a confederate in Mexico. The two Nebraska targets wired money themselves or through other individuals to the confederate in Mexico. The prosecutions and investigation remain ongoing.



## GANG ENFORCEMENT CASES

The Omaha Police Department and the Bureau of Alcohol, Tobacco, Firearms & Explosives conducted an extensive investigation into the 40th and 44th Avenue Crips Gangs in Omaha, Nebraska, culminating in indictments against six defendants. All but one of the cases have been resolved. The three main defendants in this case are:

**Jerell Haynie** (a/k/a “Bootie,” and “T”) is charged with conspiracy to violate the racketeering laws of the United States, attempted murder in aid of racketeering, attempted assault with a dangerous weapon in aid of racketeering and discharge of a firearm during a crime of violence. The allegations against him center on two shootings. In both, Haynie allegedly shot at a person who he suspected was cooperating with police. Trial is pending.

**Gregory Bahati** (a/k/a “Pooh Bear” and “Murk 2x”) pled guilty to a RICO conspiracy, threats in aid of racketeering and brandishing a firearm during a crime of violence. Among other acts, Bahati admitted to pointing a firearm at a victim. Bahati was sentenced to a total of 8 years imprisonment and five years of supervised release.

**Dionte Dortch** (a/k/a “Killa Tay”) was charged with a RICO conspiracy, felon in possession of a firearm, witness tampering and attempted obstruction of justice. Dortch pled guilty to all counts. In his plea agreement, Dortch admitted that, among other acts that were part of the RICO conspiracy, he fired a gun at a vehicle occupied by four persons. Also as part of his plea agreement, Dortch admitted to attempting to arrange the murder of a person who Dortch suspected would be a witness against him at trial. Dortch received a 20-year sentence.

## CIVIL FORFEITURE

In 2017, the Department of Justice revised its asset forfeiture policies, effectively streamlining the process for initiating federal forfeiture. Attorneys at a federal agency proposing to adopt a forfeiture must review the seizure to ensure compliance with applicable laws. Under some circumstances, the seizure must be reviewed by counsel at the USAO as well. This reflects the continuing effort in this District and throughout the Nation to strike a proper balance between protecting public safety by depriving criminal enterprises of the fruits of their crimes while safeguarding the exercise of personal freedoms.

In fiscal year 2017, the Asset Forfeiture Unit had three civil forfeiture cases go to judgment. All were by default. The cases were the result of seizures made during traffic stops along Interstate 80. The cases presented facts typically seen in such traffic stop cases: third-party rental or titled owner not present; vague travel story; drug dog indication; and vacuum-sealed packages of rubber-banded bundles of money.

In these cases, typically someone in the vehicle claims the money, irrespective of that person’s actual standing. But often such claimants will not maintain their claim to the cash. Once discovery process begins, particularly when depositions are taken of witnesses who could provide the rest of the story, claimants do not want those depositions to occur. Rather, claimants will withdraw their claims and allow the entry of default judgment rather than having statements taken from third parties who might contradict the story the claimant told the officer at the scene.

In one such case this year, the man from whom the money was seized was stopped in a vehicle supposedly rented for him by his girlfriend. Rather than allowing the government to depose the girlfriend so she could corroborate or contradict the man’s story, he withdrew his claim and answer, allowing the government to obtain a default judgment.

## MIDWEST HIDTA AWARDS

The Narcotics Unit works closely with the Midwest High Intensity Drug Trafficking Area (HIDTA) Program. HIDTA provides funding for prosecutors and drug investigators in designated geographic areas to enhance America's drug-control efforts among local, state and Federal law enforcement agencies in order to eliminate or reduce drug trafficking and its harmful consequences in critical regions of the United States. The mission includes coordination efforts to reduce the production, manufacturing, distribution, transportation and chronic use of illegal drugs, as well as the attendant money laundering of drug proceeds.

In 2017 the Midwest HIDTA recognized these Nebraska task forces and individuals for their outstanding work in the investigation and prosecution of drug cases.

### **2017 HIDTA NOMINATION - Outstanding Cooperative Effort Operation Windstream**

Lincoln/Lancaster County Narcotics Task Force in concert with the specific agencies: FBI, DEA, HSI, USAO (NE), Nebraska State Patrol, Omaha Police, Lincoln Police, UNL Police, Lancaster County Sheriff's Office, Crete Police, Nebraska Army National Guard - Counterdrug.

This was a long term investigation into a major methamphetamine and cocaine drug trafficking organization. Investigators identified a significant and entrenched methamphetamine drug trafficking organization in the greater Lincoln area involving suspects who had eluded past arrest and prosecution.

The investigation began with an informant and undercover purchases of methamphetamine. Based upon informant cooperation, investigators identified other co-conspirators and the operating structure of the organization. The organization was believed to be responsible for transporting large quantities of methamphetamine and cocaine from south Texas to southeast Nebraska for redistribution. The USAO designated the investigation an Organized Crime Drug Enforcement Task Force (OCDETF) investigation.

Investigators utilized federal Title III wiretaps, intercepting both telephone calls and text messages in Spanish. In addition, pen registers were used; cellular telephone tolls were obtained and analyzed;

GPS technology was utilized; stationary, mobile (aerial) and electronic surveillance was conducted; video cameras were used extensively; and confidential informants were cultivated and used.

Eleven search warrants were served in Omaha, Lincoln, and Crete, Nebraska. More than 20 other locations were identified and searched as consensual 'knock and talk' targets. As a result, more than 43 ounces of cocaine, 23 ounces of methamphetamine, one pound of marijuana, three firearms and the arrests of 10 persons for state and federal drug related offenses.

This investigations success was largely due to the collaborative efforts of SSRA Phillip J. Lens, SA Noah B. Eames (case agent), and SA Matthew P. Saad as well as SSA Zac Cherrington and SA Travis Ocken (case agent) along with the special assistance of AUSA John Higgins and AUSA Sara Fullerton for sponsoring and leading this successful cooperative effort.

### **Outstanding Intelligence Analyst**

Jennifer Reshetar, Intelligence Research Specialist, Omaha District Office of the DEA in support of Enforcement Group 51 and Task Force Group 51A. Both enforcement groups are HIDTA funded Task Force groups. As an analyst, she extensively supports the Omaha DTO enforcement groups through the identification, tracking, and extensive analysis of numerous intelligence products to include telephone tolls analysis and tactical target analysis. In November, 2016, Omaha DTO Group 51 initiated an investigation of the Francisco Javier TINOCO-Pinata DTO. This joint investigation was submitted and approved as an OCDETF investigation, Operation JAVILINA.

This complex investigation incorporated a target list, which was initially established following an exhaustive evaluation and analysis of wire money transfers, financial databases, toll analysis, and previous investigations by DEA Omaha by case agents and Reshetar. Her meticulous attention to detail and ability to link targets, telephone subscribers, addresses and historical investigative information has led to or assisted in the indictment of 18 federal defendants under this investigation in the Southern District of Iowa and District of Nebraska.

## MIDWEST HIDTA AWARDS

Reshetar was instrumental in the identification of several leaders within the DTO operating in the Omaha and Council Bluffs areas and she provided critical support for case agents and investigators with her meticulous work products, which were incorporated in applications and subsequent approvals for multiple T-III wire intercept investigations under this operation. Reshetar's ability to forecast case necessities, limitations, obstacles and self-initiate solutions has proven to be an essential asset during this investigation.

Operation JAVILINA has proven to be one of the most significant and complex investigations that DEA Omaha has encountered. This investigation has led to three T-III wire intercepts, management of PEN/PING data, financial data, issuance and tracking/compliance of administrative subpoenas. IRS Reshetar has enthusiastically supported this investigation as well as additional demands and requests from enforcement groups in the Omaha District Office.

The operation has led to the seizure of over \$250,000.00 of U.S. currency; over 130 pounds of methamphetamine and IRS Reshetar's efforts have illustrated the influence of Mexico-based DTO's operating and directing methamphetamine distribution efforts in the United States.

### **Outstanding Investigative Effort Omaha ATF Illegal Firearms Squad**

"Operation Brass Catcher". The Omaha ATF Illegal Firearms Squad and the Omaha Police Department Gang Unit developed a proactive violent crime initiative targeting gang members in the Omaha area. This initiative is part of an ongoing strategy implemented by the task force to address gang related firearms violence occurring in Omaha. The focus of this strategy is to identify and target violent gang members who are responsible for firearm violence as well as identify and target the individuals who provide firearms to these gang members via straw purchases or other means.

In October of 2016, the task force, working in conjunction with the Omaha Police Gang Unit began to target armed and violent Blood and Crip gang members and their associates operating in Northeast Omaha, responsible for numerous acts of violence to include homicides, armed robberies, home invasions, and gang related shootings. These gangs rely heavily on narcotics trafficking as a main source of income.

ATF Agents, ATF Task Force Officers, and Omaha Police Gang Unit Investigators developed a strategy to identify the most active and violent gang members in Omaha. This strategy included the systemic reviewing of leads produced by the National Integrated Ballistic Information Network (NIBIN), crime gun intelligence reports, UCR crime reports, and social media activity.

The task force identified several "hot spots" for violent crime in North Omaha and focused investigative efforts in those geographical areas. With the use of this strategy and proactive investigative efforts, a confidential informant was developed. Over the next eight months, the task force conducted over 40 controlled purchases of evidence, utilized GPS vehicle trackers, GPS phone pings, executed five search warrants and conducted a reverse sting operation.

As a result of this action a total of 27 defendants were arrested for firearms, narcotics, and witness tampering charges. The investigation resulted in the purchase or seizure of 40 firearms, 15 pounds of marijuana, and multi-ounce quantities of crack cocaine, and methamphetamine. Agents also seized one vehicle and approximately \$10,000 NIBIN analysis linked 8 of the seized firearms to 17 unsolved shooting incidents in the city. This information has been forwarded to the assigned investigators and the investigations are still ongoing.

The majority of these defendants had been previously identified as suspects or persons of interest in numerous gang shootings and several homicides. One of the defendants had been previously identified as the primary suspect in 10-15 bank robberies in the metropolitan area. These efforts have been instrumental in the overall reduction of gun homicides and gun assaults in the Omaha Metropolitan area.

## CIVIL DIVISION

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

The Civil Division worked on 233 civil cases and matters. Included in that number are defensive cases in which the validity of federal laws, or the acts of federal agencies and employees, was challenged. As has been the case in recent years, foreclosure cases showed slight decreases from recent years. A variety of cases involving the agencies within the Department of Justice also made up a significant portion of the overall civil workload again this past year. Also included were affirmative cases brought to enforce federal statutory and regulatory requirements, and to collect debts owed to the United States. The chart contained in this section depicts the types of civil cases and matters completed during 2017.

The Internal Revenue Service, Housing and Urban Development, and Department of Justice, were the agencies involved in the largest number of civil cases in the District during 2017. There was a sharp rise in the number of bankruptcy matters and affirmative cases filed this past year and a substantial increase in the number of social security appeals.

In 2017, the number of foreclosure cases dropped slightly while defensive cases in the areas of torts and employment matters held steady with the prior year. A variety of cases involving the agencies within the Department of Justice also made up a significant portion of the overall civil workload again this past year. The number of cases completed for various federal agencies is reflected in the charts in this section.

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

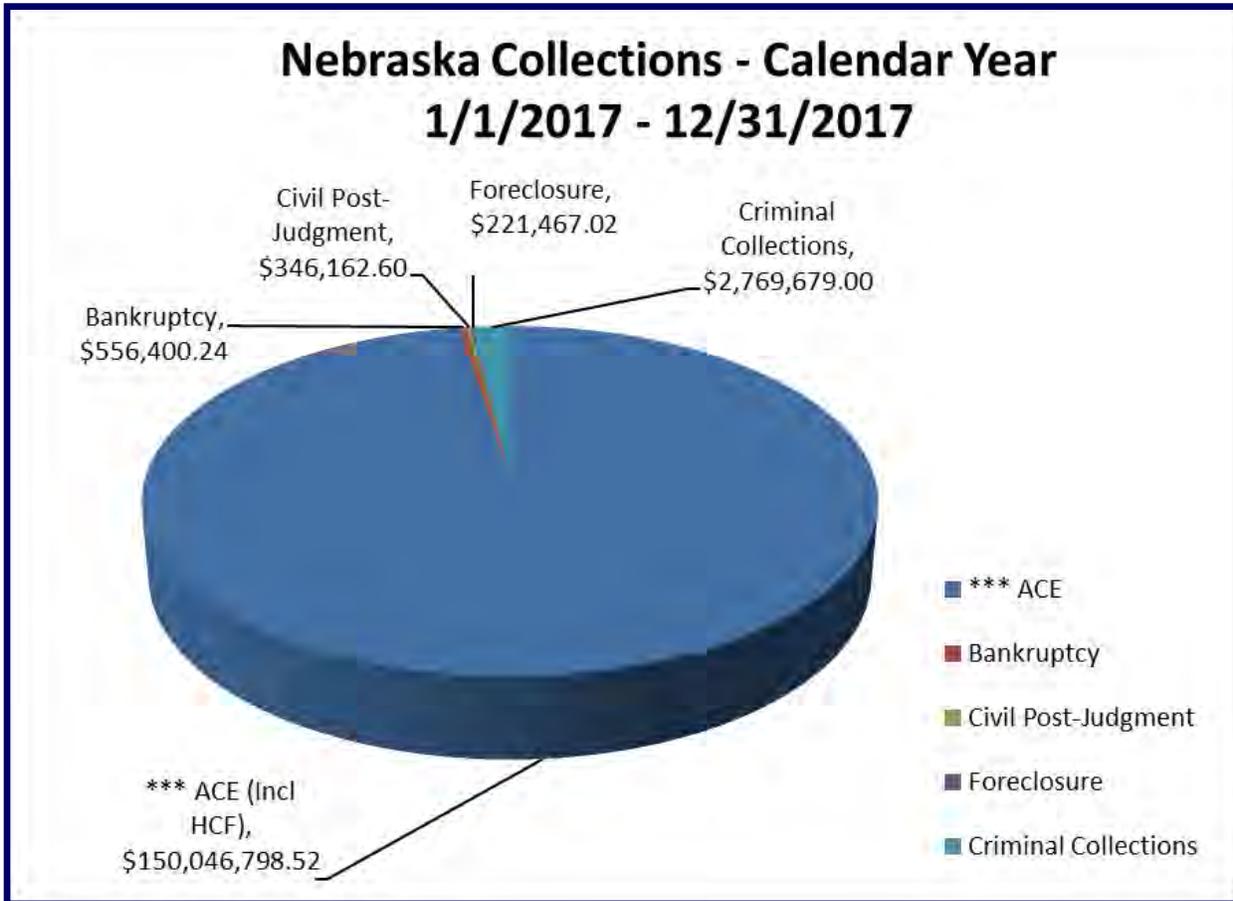
During 2017, Civil Division AUSAs defended a number of cases brought in federal court to set aside or modify the actions of federal agencies and officers. Civil Division AUSAs also handled several cases seeking damages for alleged negligence or other wrongful conduct by federal employees, as well as cases alleging discrimination in federal employment.

In the area of affirmative litigation, the Civil Division continued its Affirmative Civil Enforcement (ACE) program, which involves various initiatives designed to collect civil monetary penalties and damages for violations of federal law, to recover costs incurred by agencies as a result of violations of federal statutes and regulations, and to obtain compliance with the requirements of federal law through civil litigation. In calendar year 2017, ACE cases resulted in monetary recoveries of \$150,046,798.52. The lion's share of that amount involved a multi-district shared recovery in connection with a healthcare fraud matter. ACE cases also led to court orders directing various defendants to comply with federal laws and regulatory requirements.

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

As in most years, Civil Division AUSAs also conducted a significant amount of litigation in 2017 to collect debts owed to the United States. Suits to obtain judgments for unpaid balances of delinquent loans made by agencies such as the U.S. Department of Agriculture, the U.S. Department of Education, the U.S. Department of Veteran's Affairs, and the U.S. Department of Health and Human Services comprise a significant portion of the Office's civil workload. Those cases are litigated in federal district court, in bankruptcy court, and in state courts throughout Nebraska.

CIVIL DIVISION



Criminal Collections	\$2,769,679.00
Bankruptcy	556,400.24
Civil Collections	346,162.60
Foreclosure	221,467.02
ACE (Incl. HCF)	***150,046,798.52

Total Collections for Calendar Year 1/1/2017 – 12/31/2017: \$153,940,507.38

\*\*\* It should be noted that the amount of \$150,000,000.00 represents the shared collection efforts of 12 districts with respect to a health care fraud case.

## AFFIRMATIVE CIVIL ENFORCEMENT CASES

### **McKesson Corporation**

McKesson, one of the nation's largest distributors of pharmaceutical drugs, agreed to pay a record \$150 million civil penalty for alleged violations of the Controlled Substances Act (CSA). Nebraska and eleven other U.S. Attorney's offices investigated McKesson's failure to design and implement an effective system to detect and report "suspicious orders" - i.e. orders that are unusual in their frequency, size, or other patterns - for controlled substances distributed to its independent and small chain pharmacy customers. The local investigation involved the McKesson Distribution Center in La Vista, which closed and was relocated to a facility in Iowa in October 2016. In addition to the monetary penalties and suspensions, McKesson agreed to enhance compliance and to engage an independent monitor to assess compliance – the first independent monitor of its kind in a CSA civil penalty settlement.

### **Baxter Arena**

This office initiated an Americans with Disabilities Act (ADA) compliance review of this venue. Owned and operated by the University of Nebraska, Omaha, Baxter Arena was completed in 2015 at a cost of \$81.6 million. The 7,898 fixed seat arena is home to UNO men's ice hockey, men's and women's basketball, and women's volleyball teams, and concerts and high school graduations. At least a third of the venue's ice time is reserved for community purposes.

The University undertook a variety of measures to address ADA compliance issues we identified from architectural drawings and site visits. The University's efforts included, but were not limited to the provision of four (4) additional van-accessible parking stalls, relocation of the staff check-in area, confirmation of ADA compliant cross-slope requirements, installation of protection against contact with lavatory supply and drain pipes, provision of transfer systems for hydrotherapy pools, installation of cane detection, provision of accessible drink rails, provision of ADA compliant ambulatory compartments in restrooms, and confirmation of the required number of wheelchair spaces and pricing for various event configurations.

### **Werner Park**

Another sports venue for which this office initiated a compliance review was Werner Park. The stadium opened in 2011 at a cost of \$36 million, and seats 9,023 people. This office worked with the Sarpy County Attorney's Office to obtain architectural drawings and specifications from which the DOJ architect for the U.S. Attorney ADA Program issued a report. We conducted site visits and exchanged photographs, measurements, legal authorities, and progress reports. As a result, the County added additional handicap accessible parking (13 car spaces and 3 van spaces), removable armrests on aisle seats, and will make accessible seating available in the field club box (accessible by an ADA-compliant ramp) to satisfy the vertical dispersion seating requirement, among other things.

### **Nebraska Tax Equalization and Review Commission (TERC)**

The DOJ Civil Rights Division, Disabilities Rights Section, forwarded our office a complaint that the TERC failed to accommodate a disabled individual's request that his hearing be held at a more accessible location than Lincoln. While the TERC does hold hearings at a variety of locations, the complainant's request was denied without comment. We investigated and found the TERC had no ADA policies or procedures. As a result of our efforts, the TERC scheduled a hearing at a location accessible to the complainant, implemented an ADA policy, appointed an ADA Coordinator, and implemented a procedure to request accommodations and auxiliary aids and services. Notice of the new policies and procedures was posted on the TERC's website.

### **Lincoln Community Playhouse**

An individual, the caretaker for her disabled sister, filed a complaint indicating the accessible seating area was overcrowded and that they were asked to make room for late arriving patrons. The complainant interpreted the request to mean that she and her sister leave. Counsel for the playhouse denied the allegations. Regardless, this office worked with the playhouse to evaluate the accessibility of the facility. A site visit occurred and it was determined that at the time of the complaint, the number of accessible seats did meet the relevant scoping requirements. There were some deficiencies with the curb ramp and some issues with the restrooms, which the playhouse agreed to address.

## DEFENSE IMMIGRATION

**Ramon Mendoza v. United States Immigration and Customs Enforcement**

In this appeal to the Eighth Circuit Court of Appeals, Appellant Ramon Mendoza appealed the District Court's decision granting summary judgment for Immigration and Customs Enforcement ("ICE") Deportation Officer Justin Osterberg and Sarpy County officials in a Bivens case. Mendoza, a U.S. citizen, alleged Appellees violated his substantive due process rights and other Constitutional rights when he was held on an ICE detainer issued by Osterberg over a weekend in Sarpy County Jail.

Osterberg issued the detainer because the information he had available showed Mendoza had the same date of birth, social security number, and father's name as an aggravated felon who was previously removed from the United States to Mexico. In a published opinion, the Eighth Circuit affirmed the District Court decision, finding Osterberg had arguable probable cause to issue the ICE detainer and he was entitled to qualified immunity. The Eighth Circuit also dismissed Mendoza's conspiracy claim, because there was no evidence of any agreement between Defendants to deprive Mendoza of his constitutional rights.

**Kvach Jarwang v. Immigration and Customs Enforcement**

In the District Court for the District of Nebraska, Petitioner Kvach Jarwang, a citizen of South Sudan, filed a Petition for Writ of Habeas Corpus to release him from the custody of ICE. Jarwang had been detained nine months after the Immigration Judge entered a Final Order of Removal. The Government responded by describing the steps taken to secure a travel document for Jarwang, and declaring Jarwang's removal was reasonably foreseeable. The District Court denied Jarwang's Petition with prejudice. Jarwang was removed to South Sudan in October.

## FEDERAL TORT CLAIMS ACT

**Federal Tort Claims Act ("FTCA") Involving ICE, Department of Homeland Security and U.S. Customs and Border Patrol.**

In this District Court action, Plaintiff, a United States citizen and minor, brought a FTCA action against the United States because she was detained for 44 days in a facility for unaccompanied alien children after she illegally entered the United States. When officers contacted Plaintiff near the Texas border, she had conflicting birth certificates from Florida and Guatemala. Plaintiff also alleged the United States prosecuted removal proceedings against her for a year after her release, despite her U.S. citizenship. After investigation, the United States and Plaintiff agreed to settle the case for an agreed upon sum and the case was dismissed.

**FTCA Medical Malpractice Involving the U.S. Department of Defense - Air Force**

This was a District Court action where Plaintiff filed suit alleging medical negligence against the United States and claimed an Air Force surgeon left hardware in Plaintiff following a surgery at Barksdale Air Force Base in Louisiana in 1997 and required a second, unnecessary surgery to remove the hardware.

The United States challenged the action based upon Louisiana's statute of repose and obtained a recommendation for dismissal by the Magistrate Judge. Upon appeal by Plaintiff, the recommendation was overturned by the Article III Judge and the action proceeded. After negotiations between the parties, the matter settled for an agreed upon sum well below the amount being sought originally by Plaintiff.

**FTCA Medical Malpractice Involving the Indian Health Service**

Plaintiff filed suit in District Court alleging medical negligence against the United States and claimed that emergency room and clinical medical personnel at the Winnebago Hospital in Winnebago, Nebraska, failed to timely diagnose Plaintiff's symptoms for appendicitis. On a subsequent visit, Plaintiff was emergently transported to a nearby medical facility for imaging tests and surgery. Prior to engaging in significant discovery in the case, the parties were able to negotiate a mutually agreeable settlement and the case was dismissed.

## DEFENSE OF EMPLOYMENT CASES

**Department of Veterans Affairs, Nebraska-Western Iowa Health Care System**

In the District Court for the District of Nebraska, Plaintiff brought suit pursuant to Title VII against the Department of Veterans Affairs, Nebraska-Western Iowa Health Care System (“VA NWHCS”) alleging discrimination, retaliation and a hostile work environment based on his race. Plaintiff was employed with the VA Police Service who alleged the VA Police illegally changed his shift assignments and days off, assigned fewer officers to his shift, suspended his credentials, and created an environment that caused him to take another job. After discovery, the Government filed for summary judgment. The District Court found Plaintiff had not established that he had been constructively discharged, and that he failed to show any adverse employment action by the VA. The District Court dismissed the case with prejudice.

**United States Postal Service**

In this District Court action, Plaintiff brought an employment discrimination lawsuit alleging that the United States Postal Service (“USPS”) discriminated against him based upon a known disability and retaliated against him for engaging in protected activity. The United States conducted discovery, including Plaintiff’s deposition. Eventually, after the discovery deadline closed, the United States moved for summary judgment. Plaintiff did not submit a brief in opposition to the dispositive motion, but rather filed a motion to dismiss without prejudice. The Court granted the motion to dismiss without prejudice.

**American Postal Workers Union v. USPS**

This case involved the filing of a complaint in District Court where the local APWU, representing more than 160 bargaining unit employees at the main postal plant in downtown Omaha, sought injunctive relief to suspend implementation of several proposed changes to work schedules, mail operations, and allocation of human resources, aimed at improving efficiencies at the main plant. At the close of oral arguments, the Court ruled from the bench in holding that Plaintiff had not met its burden and failed to show a sufficient basis for the issuance of injunctive relief in the form of a TRO. Shortly thereafter, and prior to any hearing on the issuance of a preliminary injunction, Plaintiff voluntarily dismissed the action.

## PROGRAM LITIGATION CASES

**Federal Campaign Assessment**

Following an unsuccessful bid for U.S. Senate, Plaintiff, a campaign treasurer, for an unsuccessful candidate, brought suit against the Federal Election Commission (FEC) and the United States of America, challenging the imposition of a civil fine or assessment issued by the FEC. The FEC determined that the campaign had failed to timely disclose contributions to the campaign that were to be reported under federal election laws. The assessment was in the approximate sum of \$12,000. This office filed a motion to dismiss as to the United States for the Court’s lack of jurisdiction over certain claims and Plaintiff’s failure to state a claim as to the remaining claims.

The FEC has exclusive jurisdiction over election fines. The case was dismissed by the District Court and the matter was appealed to the Eighth Circuit Court of Appeals. While the case is still pending in Circuit, the United States was granted dismissal in the appeal because Appellant’s briefing did not raise issues on appeal challenging dismissal as to the United States in the District Court. The United States is no longer a party to the appeal and only the FEC remains.



## CIVIL LITIGATION CASES

### **United States v. Stabl, Inc., et al.**

The United States obtained a judgment for civil penalties in District Court against a corporate Defendant operating an animal rendering facility. The corporation was sold prior to filing the penalty case. The Defendant was defunct when it was referred to this office to assert a fraudulent transfer cause of action against the shareholder/principals of the corporation to collect a judgment owed to the United States in the amount of \$1.2 million.

Discovery revealed that when the corporation was sold, the primary owner/shareholder transferred \$8 million of the sales proceeds accounts in his and his spouse's names. The defendant alleged that the transferred proceeds were from titled real property that the shareholder owned in his individual capacity. It became necessary to amend the complaint to include an alter ego theory of recovery.

The defendant attempted to dismiss the alter ego cause of action claiming that as a common law remedy, it is applicable only as allowed under the forum state's laws. Defendants argued that the application of the state's statute of limitations barred the United States' alter ego cause of action. In a significant preliminary ruling, the District Court rejected Defendants' line of reasoning and held that the Federal Debt Collection Procedures Act is controlling in cases brought to collect a debt owed to the United States. Notwithstanding a state statute of limitations, the alter ego cause of action was timely filed under the FDCPA. This case is ongoing.

### **U.S. v. Angela Colgan**

A criminal case was filed against the Defendant to recover funds fraudulently obtained from the Social Security Administration (SSA) in the amount of \$473,496. If found guilty, the monetary losses would be mandatory under the Mandatory Victims Restitution Act. After indictment, and while the criminal case was pending, Defendant attempted to sell real property she owned, which was free and clear of liens. The property was titled in Defendant's name only, and valued in excess of \$300,000. She failed to disclose her attempts to liquidate assets to counsel for the United States.

The sale of the real property would have allowed Defendant to easily transfer or conceal the cash proceeds, and would have rendered her insolvent. If convicted, the United States would be unable to collect the mandatory restitution judgment against her. The United States filed a Motion for Pre-Judgment Attachment, Sequestration, Temporary Restraining Order and Preliminary Injunction to freeze the dissipation Defendant's assets and to stop the sale of the house or transfer of monetary accounts. The government relied on the MVRA's provisions allowing the United States to enforce restitution judgments in accordance with civil enforcement powers, including pre-judgment attachment under the FDCPA.

In addition, the United States relied on the All Writs Act found at 28 U.S.C. 1651(a) for the authority it provides to the Court to enforce recognized principles of law. The United States was granted its request to attach the Defendant's assets, which resulted in the collection of the full restitution judgment.

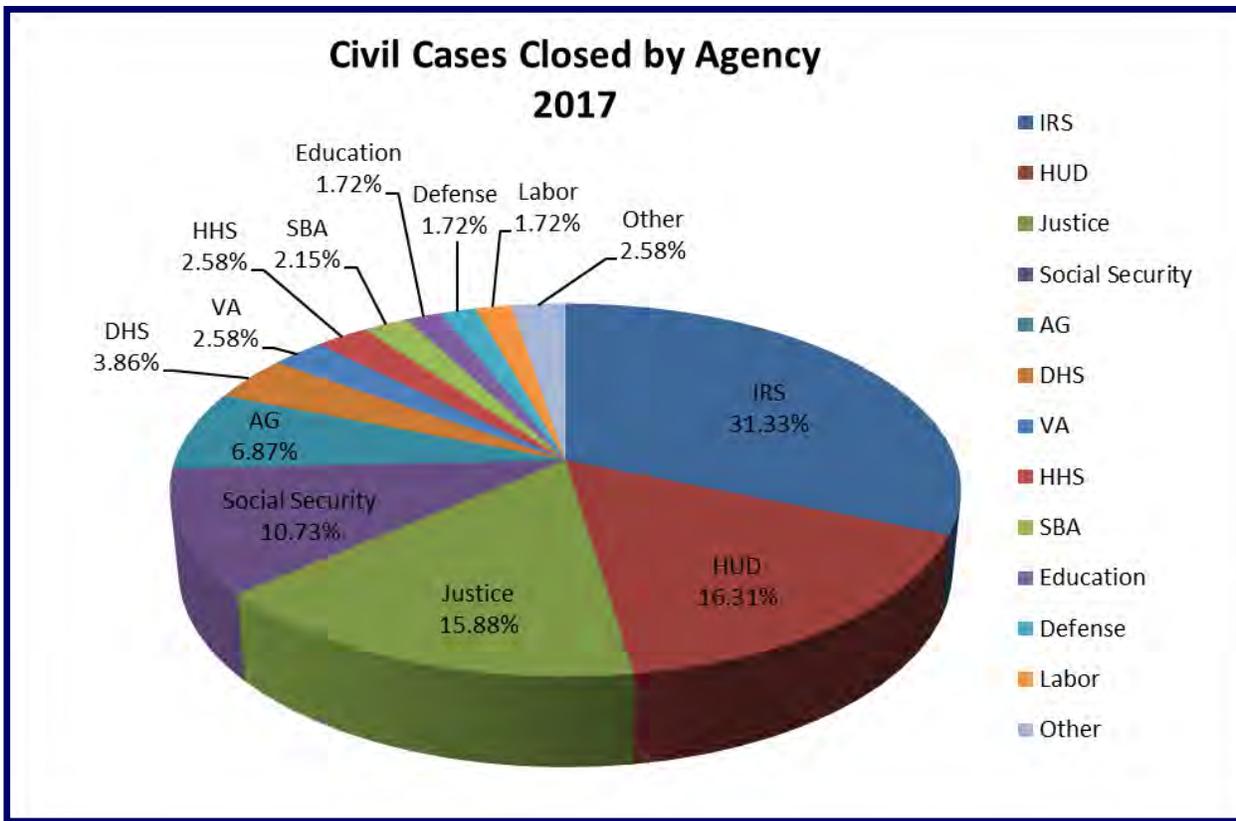
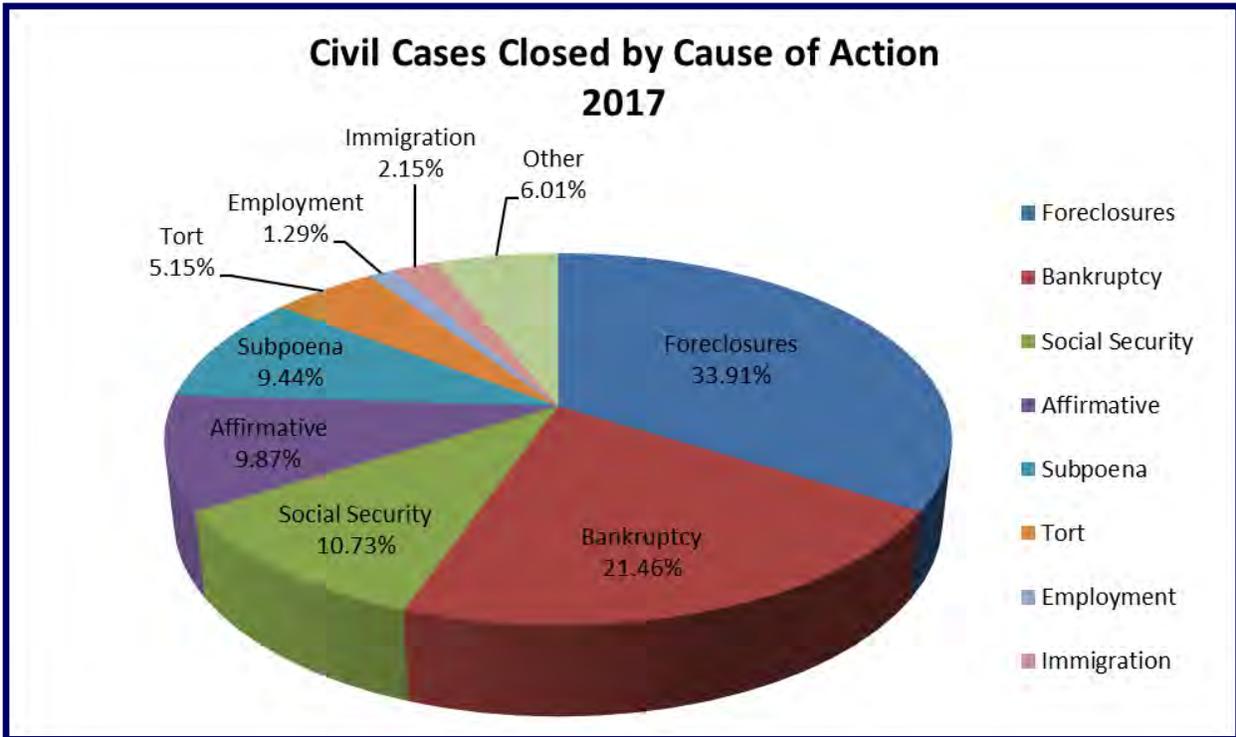
### **Judicial Review - Department of Health and Human Services**

Plaintiff brought a judicial review action in District Court where the United States successfully obtained a grant of summary judgment. This was a judicial review case in which a hospital challenged two decisions by the United States Department of Health and Human Services (HHS) relating to the hospital's initial eligibility to participate in the voluntary Medicare program, and by virtue of participation, receive reimbursement for care and treatment of Medicare eligible patients.

The challenged HHS decision found that the hospital was not eligible to participate in the Medicare program as a "hospital" at the time that it was denied certification because it was not primarily engaged in treating inpatients.

The Court granted Defendant's Motion for Summary Judgment, finding that defendants' decision was supported by substantial evidence; was not arbitrary, capricious, or an abuse of discretion; was in accordance with the law; and did not constitute a deprivation of due process. This matter is currently on appeal to the Eighth Circuit Court of Appeals.

CIVIL DIVISION



## LAW ENFORCEMENT COORDINATION /VICTIM SERVICES UNIT

The USAO Law Enforcement and Community Coordination (LECC) and Victim's Unit facilitate a number of programs designed to support and coordinate the objectives of the criminal justice system at various levels, provides services to victims of federal crime, conducts training, and apprises the community at large about issues related to the criminal justice system. In 2017, the Unit continued its work to maintain strong collaborative partnerships with federal, state, tribal, and local law enforcement agencies to maintain the effectiveness of law enforcement in the District. The Law Enforcement Coordination/Victim Services Unit is headed up by Joe Jeanette.

The LECC works with the Nebraska Sheriff's Association, the Police Officers' Association of Nebraska, the Police Chiefs' Association of Nebraska, Nebraska Coalition for Victims of Crime and the Nebraska County Attorneys Association to develop and present training on subjects related to criminal justice and victim assistance. A three-day criminal justice conference hosted by the USAO and co-sponsored by the Nebraska County Attorneys Association is held in Kearney each year. Awards recognizing accomplishments in law enforcement presented at the 2017 conference are described in the following section of this report. Trainings and conferences are held across the state at various venues. The trainings hosted by the USAO in 2017 focused on a number of topics.

- ◆ Speaking of Children Annual Conference
- ◆ Victim Services Training and Academy
- ◆ Crime Victim Issues in Indian Country
- ◆ Opioid/Heroin Summit Findings Press Conference
- ◆ Regional Human Trafficking Trainings
- ◆ Sikh and Arab Outreach Training
- ◆ Crime Victim's Rights Week Training
- ◆ Valor Essentials Training

In April 2017, the USAO continued the partnership with Project Harmony and Children's Hospital & Medical Center to host the annual Speaking of Children conference and luncheon. This conference provides training on the most current issues regarding crimes against children; specifically child sexual/physical abuse, on-line enticement, and child pornography. The conference features national and local experts in these fields, and is an excellent opportunity for various disciplines to build partnerships with local, state and federal agencies to benefit child victims, and contribute to a more effective investigation and prosecution of the offenders. The 2018 Speaking of Children Conference will be held at the Embassy Suites, LaVista, Nebraska in April 4– 5, 2018.

This annual conference is designed to address the needs of law enforcement, prosecutors, victim service providers, social workers, probation/parole/correctional officers, judges, child advocates, therapists, educators and health care providers. The conference addresses the priority initiatives of the Department of Justice, through Project Safe Childhood.

In May the USAO and the Boys Town Police Department hosted a three-day VALOR Essentials training that focused on the most salient topics facing law enforcement today:

- Dynamics of Officer Citizen Encounters
- Characteristics of Weapon Concealment
- Indicator of a Potential Assault or Flight
- Officer Approaches to De-Escalation and Responses to Individuals in Crisis
- Casualty Care and Rescue Tactics
- Healthy Hire—Healthy Retire
- Officer Survival Lessons

## LAW ENFORCEMENT COORDINATION AND COMMUNITY OUTREACH

One of the most successful initiatives in Omaha in regard to gun violence is Omaha 360, a collaborative effort under the Umbrella of Omaha's Empowerment Network. The focus of Omaha 360 is to work together to end gun and gang violence; develop peaceful and prosperous neighborhoods. The collaborative effort brings together residents and stakeholders to reduce gun violence (gun assaults), reduce youth violence and gang violence, provide positive alternatives and activities. The Omaha Police Department gang units and precinct captains attend these weekly meetings with members of the community, government officials and non-profit organizations to focus on the timeline of gun violence and discuss on-going prevention efforts to address the gun violence.

The meetings are also attended by the Law Enforcement Coordinator. The meetings feature shooting timeline reports, scheduling of prayer walks for homicide victims, mentoring efforts and reports of reward money paid out each week for gun assault/homicides from Omaha Crimestoppers. The interaction between the police and the community has been phenomenal. The combined efforts of PSN and 360 have contributed to 271% decrease in gun assaults over a ten-year period in the City of Omaha (247 in 2007 to 90 in 2017).

### Charting the Road to Recovery: Nebraska's Response to Opioid Abuse

In October 2016, the Nebraska Attorney General's Office, USAO, University of Nebraska Medical Center UNMC, and the Nebraska Health and Human Services, held an Opioid/Heroin Summit at UNMC with 300 prevention, treatment and law enforcement stakeholders in attendance. The purpose of the summit was to develop a unified approach between the law enforcement and medical communities operating in Nebraska regarding the prevention and treatment of both prescription and illicit opioid abuse in Nebraska. In October 2017 a press conference was held at the University of Nebraska Medical Center to discuss the annual progress of the Coalition to Prevent Opioid Abuse. The measures, guided by the three prongs of the summit: prevention, treatment, and law enforcement, are outlined below.

#### Prevention

- ◆ Educate opioid prescribers and dispensers regarding best practices and requirements for Nebraska's Prescription Drug Monitoring Program.
- ◆ Expand public awareness of opportunities for prescription drug take back.
- ◆ Promote awareness of opioid abuse through the "Dose of Reality" advertising campaign, school presentations, and other forums.
- ◆ Educate prescribers and dispensers on comprehensive pain management guidelines.

#### Treatment

- ◆ Expand the number of Medication-Assisted Treatment (MAT) providers for opioid use disorders.
- ◆ Provide training for health professions students and providers on evidence-based diagnosis and treatment of pain and opioid use disorders, including the exploration of an addiction fellowship for physicians.
- ◆ Reduce barriers for treating opioid use disorders in primary care settings.

#### Law Enforcement

- ◆ Partner with the Drug Enforcement Administration to develop a "DEA 360" program in Nebraska.
- ◆ Expand Naloxone availability and training for law enforcement.

The complete report can be found at:

<https://ago.nebraska.gov/sites/ago.nebraska.gov/files/doc/Nebraska%20Opioid%20Coalition%20Strategic%20Initiative%20Summary.pdf>

## LAW ENFORCEMENT AND COMMUNITY OUTREACH



Opioid Summit press conference. Pictured L-R: UNMC Chancellor Jeff Gold, Governor Pete Ricketts, Acting U.S. Attorney Robert C. Stuart and Nebraska Attorney General Doug Peterson.

## VICTIM SERVICES

The Victim Specialists are integral to the USAO. They provide direct services to victims of federal crime from the time of the occurrence of the crime through the completion of the prosecution. They are responsible for notifying victims of the status of investigations and developments in cases accepted for prosecution. In 2017, the VNS provided 17,323 notices to victims of federal crime in Nebraska. There were 111 new victim cases involving 652 new victims of federal crime identified in 2017. There are currently 169 active victim cases providing notice and services to 1,662 victims.

Services include: coordinating communication with victims between federal investigative agencies and the Assistant United States Attorney; providing advocacy related activities specific to the unique needs of the crime victim; provides in-court advocacy during prosecution; assists in obtaining services and assistance through specific federal programs and funding resources. Kim Roewert serves as the Victim Specialist for the USAO.

There is a special emphasis on serving the tribal communities located on the three Indian Reservation lands within the district of Nebraska.

The Victim Specialist provides oversight and coordination to the Multi-disciplinary Child Abuse Investigation Teams located on the three Tribal Reservations.

The Victim Assistance Unit is involved in providing multiple training opportunities across the district. In recognition of Crime Victims' Rights, the USAO Victim Specialist co-sponsored the 13th Annual Crime Victims' Rights Conference along with the Nebraska Coalition for Victims of Crime and the Nebraska Alliance of Child Advocacy Centers. This conference provides training for victim service providers, mental health professionals, law enforcement and corrections personnel, social workers, child protection workers and other allied professionals on coordinating and enhancing services to victims as well as affording victims their statutory rights.

An Indian Country Conference is co-hosted by the District of Nebraska, the District of Kansas, and the Northern District of Iowa on an annual basis. The 2017 conference was held June 20-21 in Overland Park, Kansas. This annual conference focuses specifically on the cultural issues surround victims of crime on Indian Country.

## 2017 LECC AWARDS

In May, the USAO co-sponsored the 30th annual Law Enforcement Coordination Conference with the Nebraska County Attorney's Association in Kearney, Nebraska. The conference provides a great opportunity to engage the county attorneys, police chiefs, sheriffs and Nebraska State Patrol leaders. It is important to keep the communication and collaboration strong with state and local partners to enhance public safety. In addition to the fine training presented at the annual LECC conference, a number of awards are presented to individuals and groups/agencies at the conference banquet. Each year we honor individuals from police agencies, sheriff agencies, state agencies, federal agencies, and prosecutors. Individuals who have made a major contribution to the sponsorship, development, or maintenance of cooperation between agencies. These award narratives and photos are featured over the next several pages of this report.

### Outstanding Group Investigation Award—Garcia Homicide Case

County Attorney Don Kleine Douglas County Attorney's Office	Officer Travis Oetter Omaha Police Department
Chief Deputy County Attorney Brenda Beadle Douglas County Attorney's Office	Officer Christopher Perna Omaha Police Department
Deputy County Attorney Sean Lynch Douglas County Attorney's Office	Officer David Schneider Omaha Police Department
Chief Todd Schmaderer Omaha Police Department	Officer Christopher Spencer Omaha Police Department
Deputy Chief Mary Newman Omaha Police Department	Officer Scott Warner Omaha Police Department
Officer Nicholas Herfordt Omaha Police Department	Senior Crime Lab Technician Amanda Miller Omaha Police Department
Officer Derek Mois Omaha Police Department	Special Agent Jonathan Robitaille Federal Bureau of Investigation
Captain Kerry Neumann Omaha Police Department	Supervisory Special Agent Kevin Hytrek Federal Bureau of Investigation
Lieutenant Stefanie Fidone Omaha Police Department	Investigator Stephen Rasgorshek Nebraska State Patrol
Sergeant Teresa Negron Omaha Police Department	Officer Oscar Dieguez Omaha Police Department
Officer Daniel Martin Omaha Police Department	Sergeant Michael Ratliff Omaha Police Department
Officer Ryan Davis Omaha Police Department	Lieutenant Jason Scott Nebraska State Patrol
Officer Doug Herout Omaha Police Department	

## 2017 LECC AWARDS

## Outstanding Group investigation - Homicide

A years-long series of revenge killings that started with Anthony Garcia's firing from a residency program at Nebraska's Creighton University School of Medicine were solved by a team of investigators from three jurisdictions and a team of prosecutors.

In 2008, Garcia fatally stabbed 11-year-old Thomas Hunter, the son of Creighton faculty member Dr. William Hunter. Also killed in the family's Omaha, Nebraska, home was the family's housekeeper, 57-year-old Shirlee Sherman, who was reportedly stabbed more than 15 times. Homicide detectives were baffled by what appeared to be a double-murder without a motive. In the months following the killings, detectives questioned former Creighton medical students who had played video games with Dr. Hunter's son. They also questioned disgruntled former employees of the university. An FBI criminal profiler classified the slayings as a random attack by a transient serial killer. No one had reason to suspect that the boy and the housekeeper had been murdered by Dr. Anthony Garcia.

For years, the case was ice cold, with no suspects and few leads to investigate. But in 2013, another Creighton staffer, pathology doctor Roger Brumback, was found slain in his Omaha residence, along with his wife, Mary. Garcia shot and stabbed Roger before stabbing Mary. Just inside the front door of the Brumback home, a crime scene investigator discovered the clip to a 9 mm pistol. A firearms identification expert reported that the clip had been used in a model SD9 Smith & Wesson handgun.

Members of a task force comprised of local, state and federal investigators noticed the similarity between the Brumback murders and the stabbing deaths of Dr. Hunter's 11-year-old boy and the physician's housekeeper. Dr. Anthony Garcia, because he had a history with both physicians, emerged as a suspect in the murder cases. The investigation team and prosecutors were convinced the murders were revenge killings — Hunter and Brumback dismissed Garcia from Creighton's residency program in 2001.

In subsequent years, Garcia had trouble landing positions with other medical schools and blamed the two doctors for informing them of the firing. Garcia also couldn't secure medical licenses in other states — something he faulted the doctors for as well. Dr. Garcia became the prime suspect when homicide investigators learned that on March 8, 2013, he had purchased a Smith & Wesson SD 9 at a store in Terre Haute, IN. Moreover, detectives were able to place Garcia in Omaha around the time of both killings. A probe into Garcia's cell phone records and credit card transactions proved he was in the Omaha area the night the Brumbacks were murdered. Internet search results also showed Garcia had looked up the couple's home address.

Police also discovered several incriminating items at Garcia's Indiana home including odd notes to himself (such as to remember to wear Band-Aids on his fingertips and park away from the home), a plan to impersonate another Anthony Garcia and an escape plan by boat. Forensic investigators were also able to link evidence recovered from the Brumback killings to the Hunter home homicides five years earlier.

On July 18, 2013, Garcia, charged with four counts of first-degree murder, was transported from the Jackson County Jail in Illinois to Omaha, Nebraska.

In October 2016, Garcia was convicted of first-degree murder in the 2008 stabbing deaths of 11-year-old Thomas Hunter, the Hunter family's housekeeper, Shirley Sherman, and the 2013 deaths Dr. Roger Brumback, and his wife, Mary.

2017 LECC AWARDS



Garcia homicide investigators and prosecutors



## 2017 LECC AWARDS

### Outstanding Group Drug Investigation Award

Special Agent Aaron Bowen  
Drug Enforcement Administration

Special Agent Kelly Quernemoen  
Drug Enforcement Administration

Special Agent Travis Ocken  
Drug Enforcement Administration

Officer Dennis O'Connor  
Bellevue Police Department

Officer Jon Edwards  
Omaha Police Department

Investigator Alan Eberle  
Nebraska State Patrol

Investigator Christopher Apley  
Nebraska State Patrol

Assistant U.S. Attorney Unit Chief John Higgins  
United States Attorney's Office - District of Nebraska

Assistant U.S. Attorney Christopher Ferretti  
United States Attorney's Office - District of Nebraska

Investigators from DEA – Omaha Group 51A, the Nebraska State Patrol, and the FBI in Omaha learned of a drug trafficking organization (DTO) that was responsible for shipping several hundred pounds of methamphetamine about every three weeks, from Mexico to the Midwest, since at least early 2011. The main source of supply (SOS) was identified as Quinton MUNOZ, who resided in Sinaloa, Mexico. MUNOZ shipped methamphetamine to his two adult children and his juvenile daughter, all in Omaha.

During the course of the investigation, which included a wire-tap, investigators learned that the targets were using WhatsApp (a mobile device communications app) to communicate. Investigators were subsequently able to conduct one of the few successful interceptions of WhatsApp communications in the United States, using law enforcement sensitive investigative technique that leveraged cell phone technology to improve the rate of interception of calls involving targets in Mexico.

A second supply source was identified during the investigation and an additional wiretap was authorized. During this interception investigators identified several targets from Omaha, Fresno, Phoenix and Mexico. Those interceptions provided investigators with probable cause to execute five federal search warrants and four bank account seizure warrants in Omaha on June 15th, 2016. One additional consent search was conducted in Omaha on that date.

As a result of those searches and seizures investigators recovered approximately 12 pounds of methamphetamine, wrappers for another 11 pounds of methamphetamine, approximately two kilograms of cocaine, a small amount of marijuana, three handguns, one Volkswagen Jetta, approximately \$35,000, and four bank cashier's checks.

## 2017 LECC AWARDS

Throughout the course of the investigation AUSAs Higgins and Ferretti reviewed and facilitated the issuance of 150 legal orders and warrants to include: 22 WhatsApp pen registers, 10 cell phone wire taps and 8 related text message wiretaps, 1 WhatsApp wiretap, 41 traditional pen registers, 23 phone ping (GPS) warrants, 8 residence/storage unit search warrants, 4 financial (bank account) seizure warrants, 6 search warrants for cell phone content, 9 search warrants for vehicle trackers, and 18 complaints/arrest warrants.

They were the first AUSAs in the District of Nebraska to facilitate and prosecute a case involving the interception of WhatsApp communications, as well as communications originating in Mexico. They were in the listening post with investigators daily (including weekends and holidays), and at all hours of the day and night, in order to provide timely legal advice and expertise.

AUSAs Higgins and Ferretti prepared a complex indictment, and subsequent superseding indictments, for all members of the DTO and are currently in the process of following the defendants through the legal process. If not for the availability of AUSAs Higgins and Ferretti, their willingness to learn and try new things, and their outstanding legal reasoning, this case would not have been successful.

This investigation resulted in the dismantlement of a DTO that spanned from Mexico, to Fresno, Phoenix, and Omaha, that was responsible for the trafficking of multi-pound and multi-kilogram quantities of methamphetamine and cocaine, respectively. The case detailed above would not have been successful were it not for the outstanding cooperation, coordination and diligence of all of these participating agencies.



## 2017 LECC AWARDS

### Federal Investigation of the Year—Health Care Fraud

**Special Agent Carrie Sawicki — Federal Bureau of Investigation**

**Assistant U.S. Attorney Alan Everett — USAO Nebraska**

In the summer of 2014, the Nebraska Medicaid Program Integrity (MPI) Unit referred a case to the Nebraska Medicaid Fraud and Patient Abuse Unit (MFAU) involving a business called Home Care Services owned by Zenia Miller and which employed many people. Home Care Services was contractually obligated to the State of Nebraska to provide personal services to people unable to fully provide for themselves. These services included cleaning services, buying groceries, and chore services to aid primarily Nebraska Medicaid beneficiaries living in Omaha, some disabled, with daily living activities. The allegation was that Miller was billing, and receiving reimbursement, for services which had not been provided.

The Nebraska Medicaid Fraud and Patient Abuse Unit contacted the Department of Health and Human Services, Office of Inspector General, SA Jennifer Whitaker regarding the referral. SA Whitaker discussed the case with FBI Special Agent Carrie Sawicki. Both agents opened a case for investigation regarding Home Care Services and Ms. Miller.

Once the case was referred, SA Sawicki immediately started to organize assistance from all of the agencies and units involved. By September of 2014, SA Sawicki had amassed a large group of FBI agents, state MFAU investigators and auditors, state MPI individuals, to conduct an onslaught of interviews of Home Care Services employees and clients. By coordinating this massive interview task to take place on just a few dates, the results of the interviews were extraordinary and prompted the State of Nebraska to immediately stop paying money to Home Care Services.

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The investigation revealed hundreds of thousands of dollars in federal grant monies had been used by the state of Nebraska to pay false claims submitted by Miller and Home Care Services. By closing the path for those funds to end up in the hands of Ms. Miller, SA Sawicki freed up both Federal and State funds to be funneled into legitimate Omaha businesses that could provide needed services to Nebraska beneficiaries. This administrative closure of the money path to Miller, however, did not stop SA Sawicki from pursuing a criminal healthcare fraud prosecution of Home Care Services and Zenia Miller.

In addition, evidence was uncovered that Ms. Miller, as the owner of Home Care Services, was the sole beneficiary of the monies received pursuant to the fraudulent claims, and that she was well aware of the fraudulent claims being submitted on behalf of her business. Gleaning information through the examination of records, in combination with the interviews, resulted in a seventeen count indictment in June 2015 charging Zenia Miller with healthcare fraud and wire fraud totaling \$294,264.

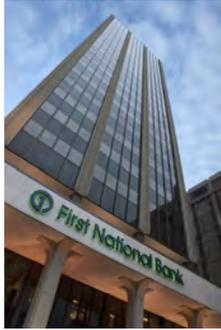
Between the fall months of 2015 into 2016, SA Sawicki and AUSA Alan Everett met with several of Zenia Miller's attorneys. AUSA Everett and SA Sawicki were key in the meetings with defense counsel. The case organization of the evidence against Ms. Miller was instrumental in convincing defense counsel, and ultimately Ms. Miller, that Miller was guilty of the charges in the indictment, and the government was prepared to prove the charges.

Ultimately Ms. Miller pleaded guilty to the charges, saving the government the expense of what would have been a long trial. Miller was sentenced to prison for a year and a day, followed by three years of supervised release, and ordered to pay full restitution totaling \$294,264.





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## WEBSITES OF INTEREST



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

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

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

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

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

Bureau of Alcohol, Tobacco, and Firearms and Explosives:  
<https://www.atf.gov/kansas-city-field-division/nebraska-field-offices>

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

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

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

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



Photos courtesy of The Nebraska Tourism

