

# United States Attorney's Office

## District of South Dakota

Alison J. Ramsdell, U.S. Attorney

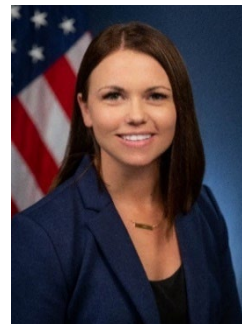


Photo: Courtesy of [TravelSouthDakota.com](http://TravelSouthDakota.com)



# 2022 Annual Report

**A Message from  
U.S. Attorney Alison J. Ramsdell**



It is an honor to serve as the 44<sup>th</sup> United States Attorney for the District of South Dakota, where our mission is to impartially enforce and uphold the laws of the United States while improving public safety in our communities, protecting the financial interests of the United States, and ensuring equal justice for all under the law. I am privileged to do this work alongside a team of bright, dedicated, and hard-working professionals at the U.S. Attorney’s Office.

What follows are case-related highlights from 2022. These highlights, however, do not tell the whole story. There are three distinct characteristics of the work accomplished by the U.S. Attorney’s Office in South Dakota that cannot be captured by any singular case highlight.

First, the work we do is made possible only by the unmatched collaboration between federal, state, tribal, and local law enforcement and prosecutive agencies. In the District of South Dakota, law enforcement resources are devoted, not to turf wars, but to the collective fight against crime in our communities. The District benefits immeasurably from multi-jurisdictional efforts such as the Sioux Falls Violent Crime Working Group, the Project Safe Neighborhood Task Force, the Badlands Safe Trails Drug Task Force, the Northern Plains Safe Trails Drug Task Force, the South Dakota Unified Narcotics Enforcement Team, and the Sioux Falls Area Drug Task Force. We are ever grateful for the many partnerships that support our collective goal of increasing and maintaining safety in communities across South Dakota.

Second, the case-related and statistical highlights do not alone reflect the sheer volume of matters handled by our colleagues. In 2022, the Criminal Division filed 508 new cases against 602 defendants, which made the District of South Dakota the most productive medium-sized federal district in the country, and the second most productive district of any size within the Eighth Circuit. What’s more, each of our colleagues filed an average of 22.62 new cases in 2022, and together, they conducted 29 jury trials. These figures are nearly triple the national averages and illustrate what we know to be true of our colleagues—they are tireless, tenacious, and second to none when it comes to carrying out the mission of the Department of Justice.

Finally, these highlights do not reflect the enormous amount of time and effort our colleagues devote to community engagement. In the District of South Dakota, we do not have outreach programs; we have an outreach culture, and in 2022, we saw a full return to in-person outreach efforts. For instance, we visited with each of the nine tribal governments, including at two separate convenings of the Great Plains Tribal Chairmen’s Association; our AUSAs responsible for prosecuting crimes in Indian Country maintained monthly meetings with Multi-Disciplinary Teams in each reservation; we provided multiple trainings throughout the state related to opioid overdose investigations and gun prosecutions, including at public schools; as part of the Department of Justice’s United Against Hate (UAH) Campaign, we organized and presented at over a dozen separate events; we hosted quarterly law enforcement meetings and presented at various statewide meetings for local law enforcement; and our colleagues donated hundreds of volunteer hours to causes in their local communities.

I hope this Annual Report provides you with a sense of the tremendous work the U.S. Attorney’s Office is doing alongside our federal, state, tribal, and local partners to protect communities throughout South Dakota. We remain committed to sustaining these efforts in the year ahead.

A handwritten signature in blue ink that reads "Alison J. Ramsdell".

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## INTRODUCTION



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

South Dakota has had 43 U.S. Attorneys, beginning in 1861 with William Gleason, who served as the first U.S. Attorney for the Dakota Territory. In 1889, when the Dakota Territory was divided into individual states, U.S. Attorneys began serving solely for the District of South Dakota. United States Attorneys are nominated by the President and must be confirmed by the U.S. Senate. Following confirmation, U.S. Attorneys serve at the will of the President for a term of four years, which may be renewed.

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

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

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

Addressing the role of federal prosecutors at the Second Annual Conference of U.S. Attorneys held at the Department of Justice on April 1, 1940, Attorney General Robert Jackson famously remarked that "the citizen's safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility."

## CRIMINAL DIVISION

The primary responsibility of Assistant United States Attorneys (AUSA) assigned to the Criminal Division for the U.S. Attorney's Office is the prosecution of federal crimes in the District. Many of the offenses prosecuted by the Criminal Division arise on the Indian reservations located within the District of South Dakota, which constitute Indian Country under federal law. By Act of Congress, the most serious offenses involving Native Americans which take place in Indian Country must be prosecuted in federal court under the Major Crimes Act, the Assimilative Crimes Act, or other federal statutes. Our office works closely with tribal prosecutors to coordinate the prosecution of offenses arising in Indian Country.

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



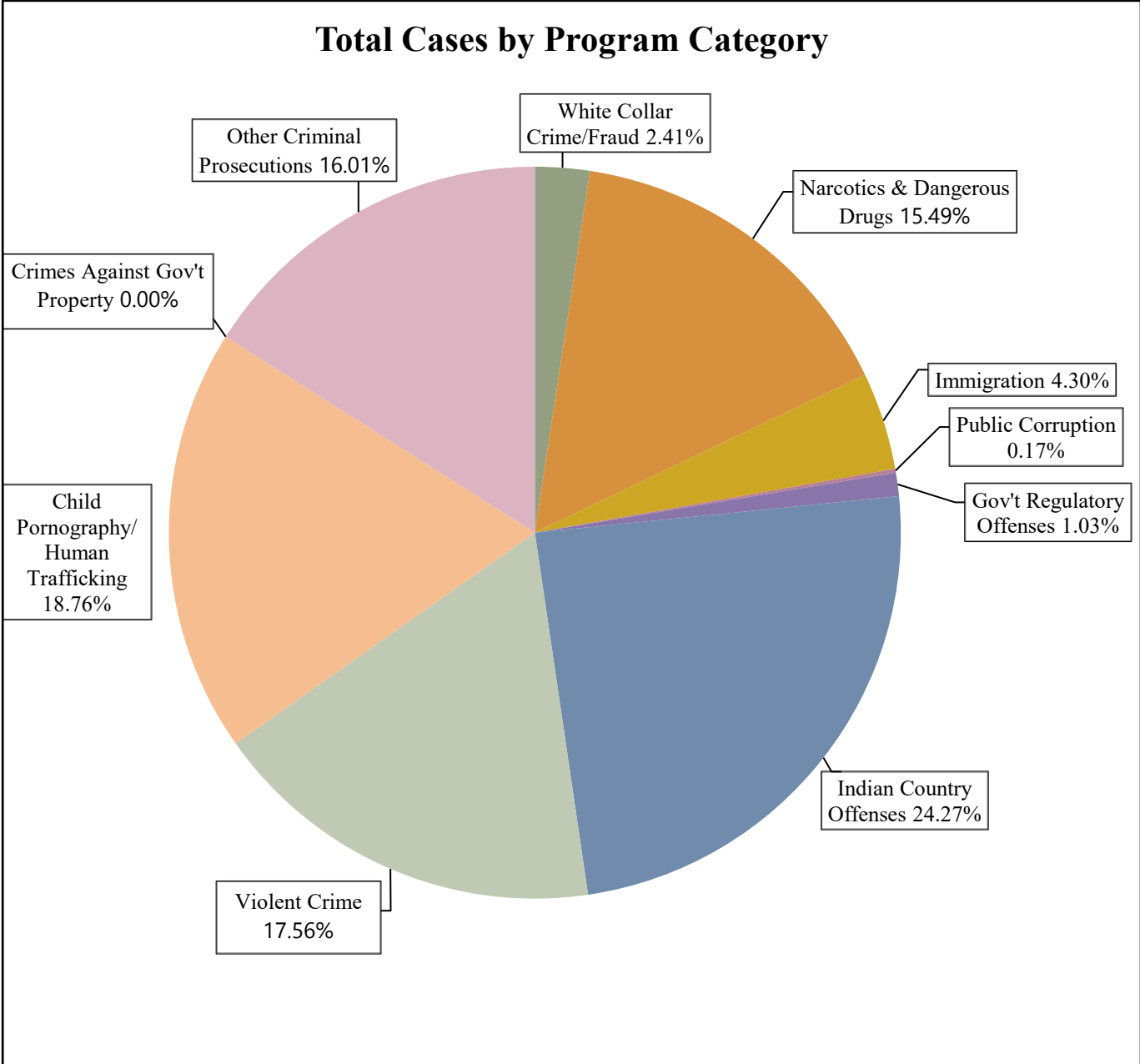
Courtroom in Federal Courthouse in Sioux Falls, South Dakota

The Criminal Division is comprised of 26 Assistant U.S. Attorneys. This includes Criminal Chief John Haak, as well as three office supervisors—Connie Larson in Sioux Falls, Tim Maher in Pierre, and Ben Patterson in Rapid City. AUSA Sarah Collins currently serves as the District's Senior Litigation Counsel in the Criminal Division; AUSA Troy Morley serves as the District's Tribal Liaison to the nine Tribal governments located in South Dakota; AUSA Kathryn Rich serves as the District's Organized Crime Drug Enforcement Task Force Coordinator; AUSA Ben Patterson serves as the District's Project Safe Neighborhoods Coordinator focusing on federal gun crimes; AUSA Jeff Clapper serves as the District's Project Safe Childhood Coordinator focusing on Internet crimes against children; AUSA Jeremy Jehangiri serves as the District's anti-terrorism coordinator; and AUSA Ann Hoffman serves as the healthcare fraud coordinator. The Criminal Division also manages the District's forfeiture program.



# STATISTICAL HIGHLIGHTS

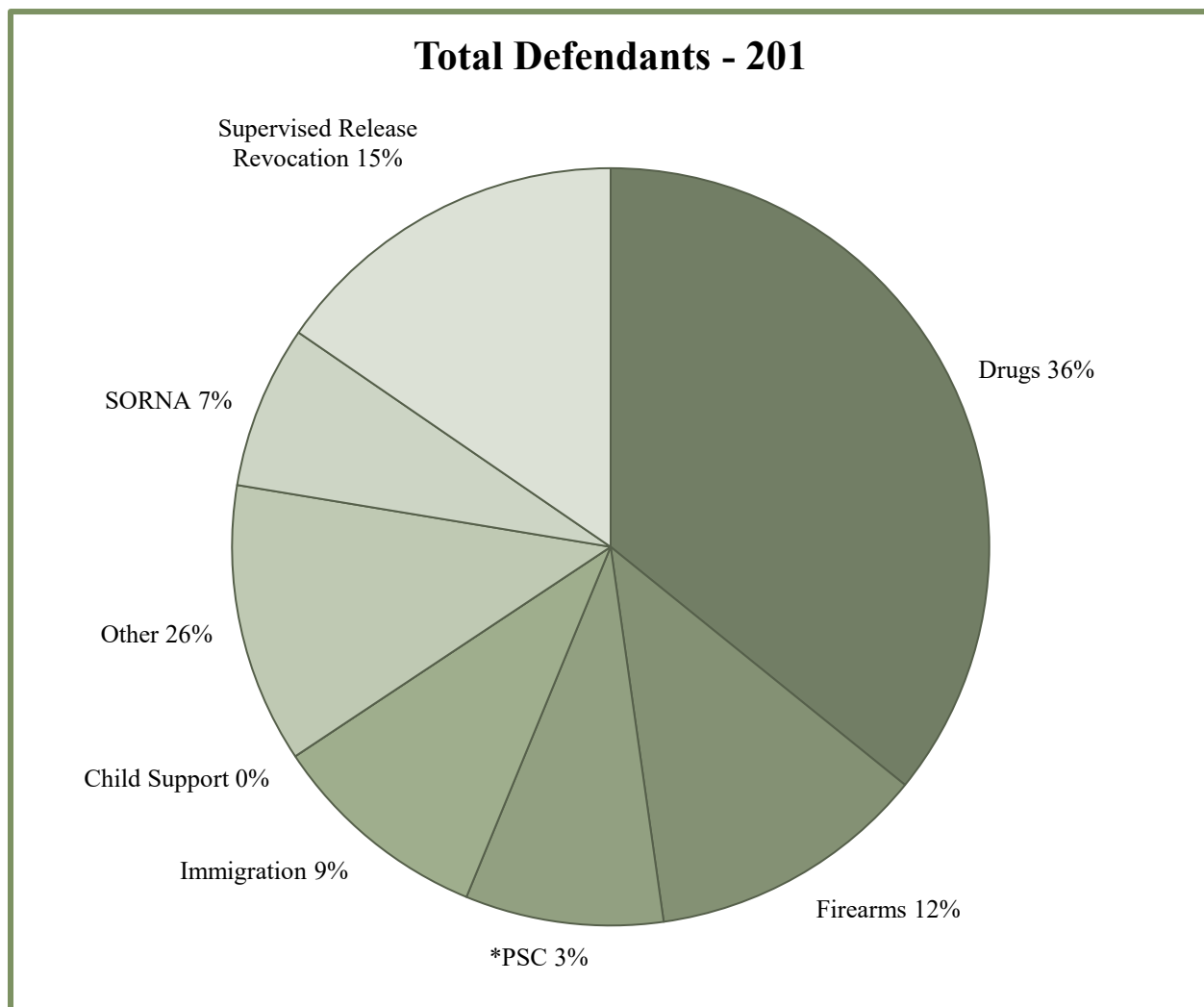
## Criminal Caseload Statistics Total Cases Filed



<sup>1</sup> Includes Revocations of Supervised Release and Probation

## STATISTICAL HIGHLIGHTS

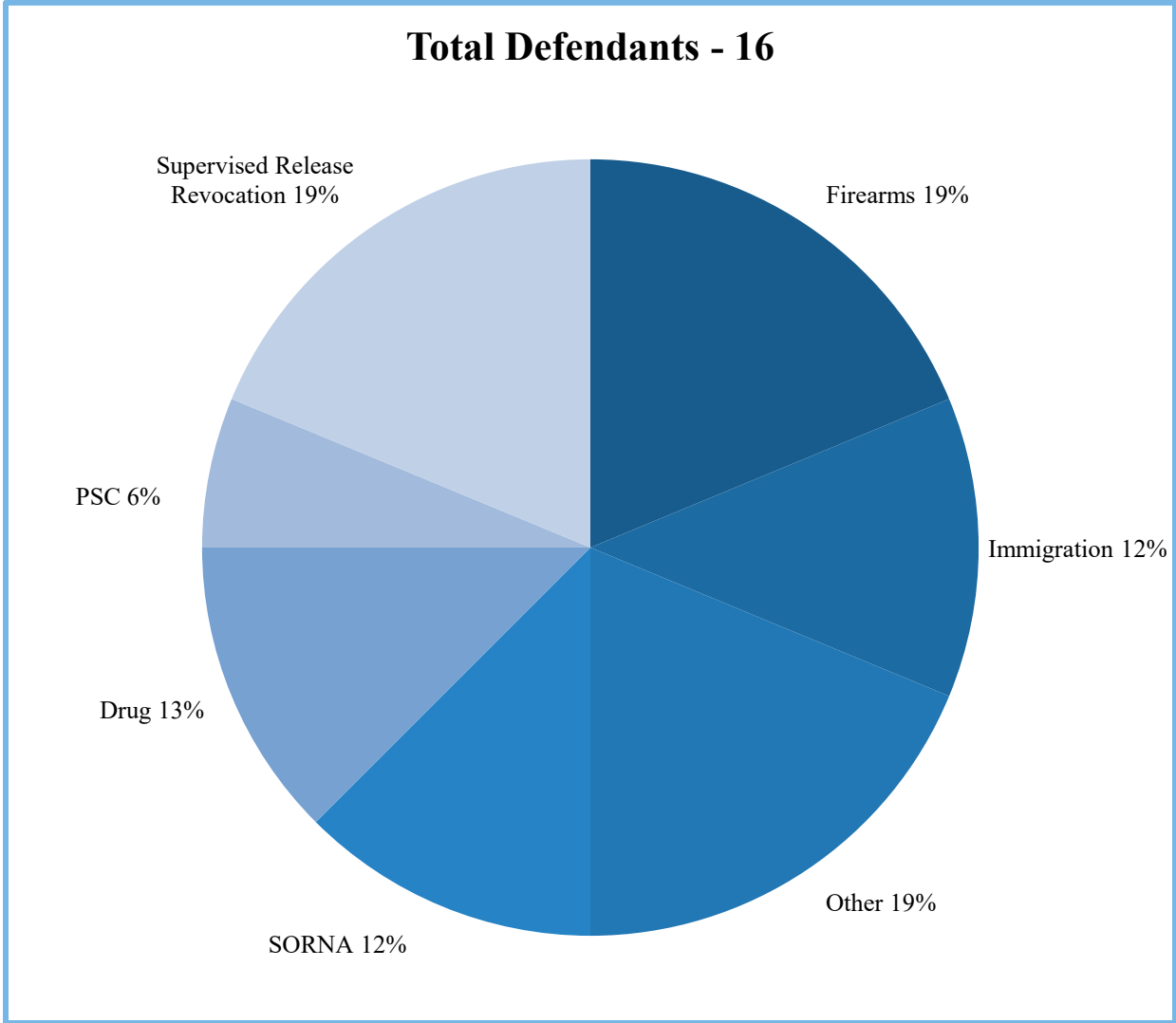
### Federal Defendants by Offense (excluding Indian Country) Southern Division



\*PSC (Project Safe Childhood) includes all cases concerning child pornography, sex trafficking, human trafficking and obscenity.

**STATISTICAL HIGHLIGHTS**

**Federal Defendants by Offense  
(excluding Indian Country)  
Northern Division**

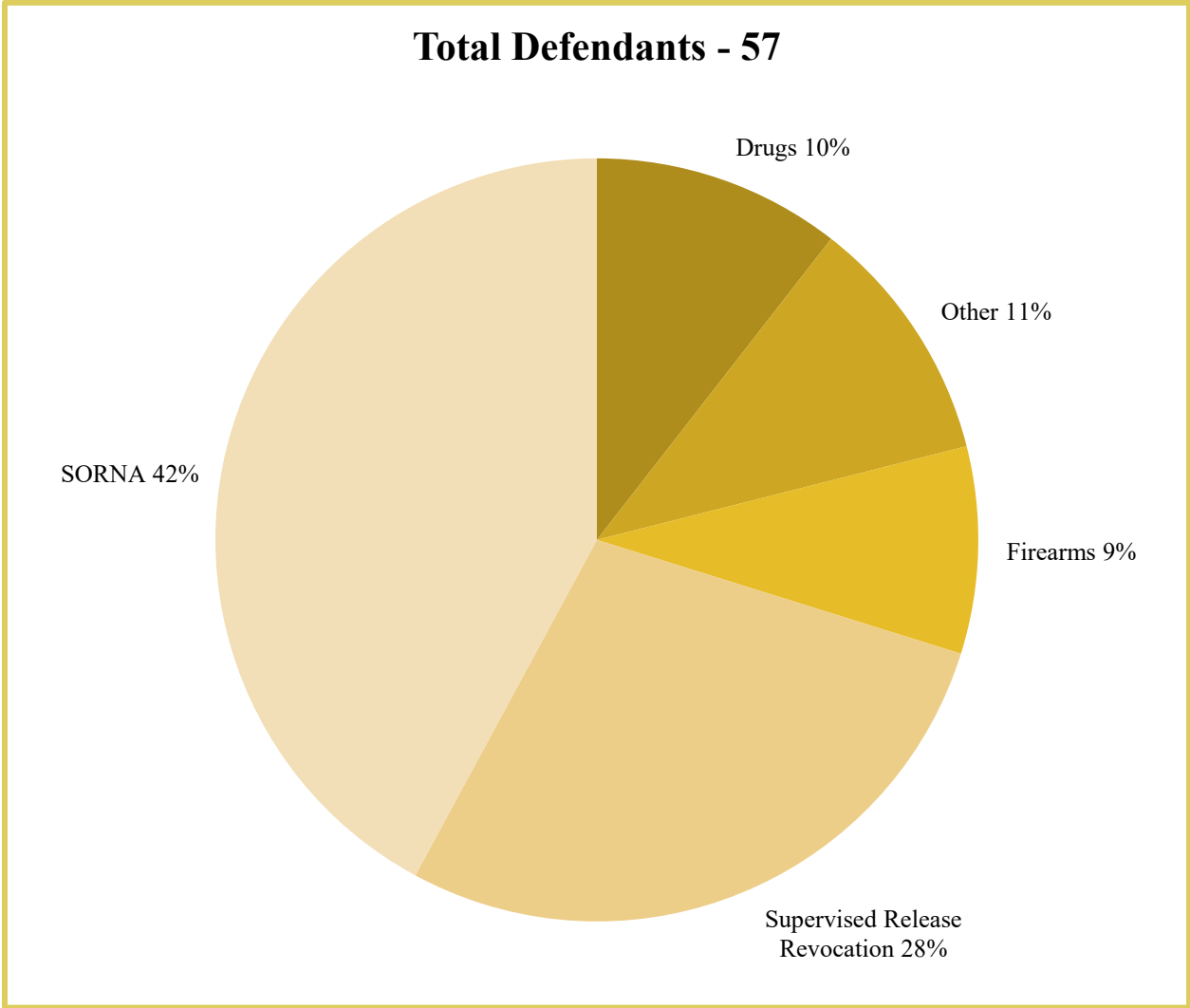


\* SORNA (Sex Offender Registration Notification Act)



**STATISTICAL HIGHLIGHTS**

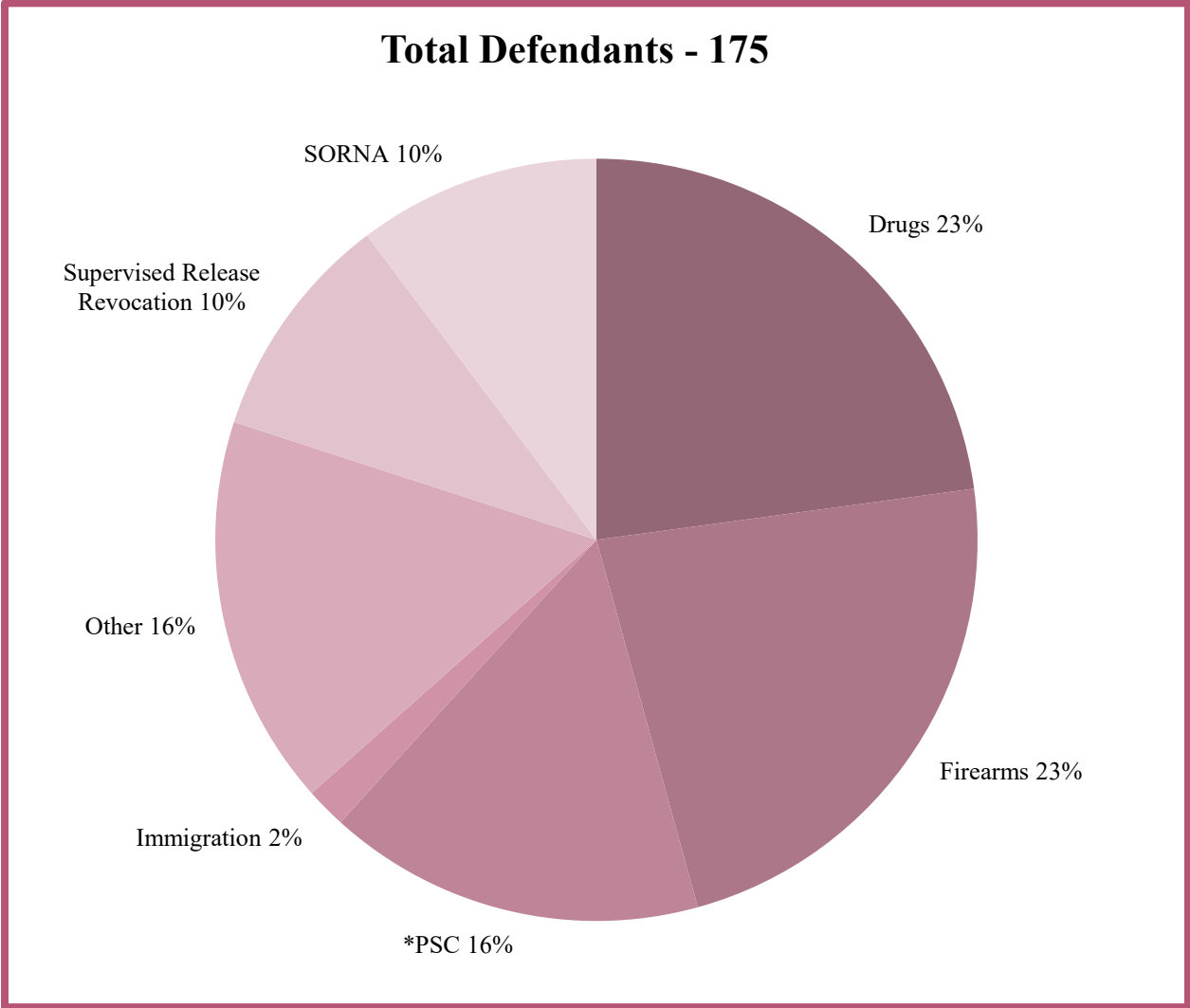
**Federal Defendants by Offense  
(excluding Indian Country)  
Central Division**



\* SORNA (Sex Offender Registration Notification Act)

# STATISTICAL HIGHLIGHTS

## Federal Defendants by Offense (excluding Indian Country) Western Division



\* SORNA (Sex Offender Registration Notification Act)

# SIGNIFICANT CRIMINAL PROSECUTIONS

## Non-Indian Country

### FIREARM AND DRUG PROSECUTIONS

#### **United States v. Jeremy Anspach**

##### *Conspiracy to Distribute Methamphetamine*

Jeremy Anspach was responsible for organizing the delivery of large shipments of methamphetamine from the west coast to Alexandria, Minnesota. From there, he further distributed it to a co-conspirator in Browns Valley, Minnesota, who then distributed it in Sisseton and the Northeastern part of South Dakota. FBI agents investigated the case and identified nine other co-conspirators who were subsequently convicted for their roles in the conspiracy. Anspach was responsible for trafficking over 150 pounds of methamphetamine, including a 70-pound load that was seized by law enforcement in Wyoming. Anspach pleaded guilty to Conspiracy to Distribute a Controlled Substance, and in September 2022, he was sentenced to 30 years in federal prison followed by supervised release for the duration of his life after release. AUSA Mark Hodges.

#### **United States v. Ray Camacho (OCDETF)**

##### *Conspiracy to Distribute Methamphetamine and Conspiracy to Commit Money Laundering*

Ray Camacho operated a large-scale methamphetamine trafficking organization from inside the South Dakota State Penitentiary from 2018 into 2019. Camacho recruited other inmates to help him work with others outside the prison to obtain shipments of methamphetamine from Mexico and then redistribute it across South Dakota. Over forty people were involved in the organization and in total the group trafficked over one hundred pounds of methamphetamine. DEA agents worked with South Dakota DCI agents and investigators at the prison to conduct multiple large seizures of drugs and money from the group, including a seizure of over fifty pounds of methamphetamine and \$55,000 in May 2019. In addition to trafficking methamphetamine, Camacho's co-conspirators also wired hundreds of thousands of dollars to individuals in Mexico. Camacho was convicted at trial of Conspiracy to Distribute a Controlled Substance and Conspiracy to Commit Money Laundering. In January 2023, he was sentenced to 31 years in federal prison. The sentence was ordered to run consecutively to the sentence he is currently serving on multiple convictions from Nebraska for the use of a firearm during the commission of a felony and making terroristic threats. AUSA Mark Hodges and SAUSA Paige Petersen.

#### **United States v. Christopher Daniels (OCDETF)**

##### *Conspiracy to Distribute Methamphetamine and Conspiracy to Commit Money Laundering*

Christopher Daniels led a drug trafficking organization that was responsible for bringing over one hundred pounds of methamphetamine to South Dakota and then distributing it throughout the Southeastern corner of the state from the Spring of 2021 until his arrest in early December 2021. DEA agents utilized a Title III wire intercept to identify Daniels and multiple other co-conspirators who were responsible for trafficking pounds of methamphetamine at a time. Daniels pleaded guilty to Conspiracy to Distribute a Controlled Substance and Conspiracy to Commit Money Laundering.

In October 2022, he was sentenced to 30 years in federal prison. This was Daniels' third federal drug distribution conviction. AUSA Mark Hodges.

**United States v. Hailee Flores**

*Possession of Firearm by Prohibited Person*

Hailee Flores was living in Mitchell, South Dakota, and was prohibited from possessing firearms because she was a convicted felon and also an unlawful and regular user of and addicted to methamphetamine. On July 7, 2021, a search warrant was executed at her residence and vehicle. In the car, Flores had hidden a loaded Smith & Wesson .38 special revolver and methamphetamine. Flores pleaded guilty to Possession of a Firearm by a Prohibited Person, and in May 2022, she was sentenced to ten years in federal prison. AUSA Connie Larson.

**United States v. Larre Hayes, Shelby Tripp-Lien, and Megan Lawrence**

*Conspiracy to Distribute Methamphetamine*

From August 2020 through January 2021, Larre Hayes, Shelby Tripp-Lien, and Megan Lawrence collectively distributed approximately 2.2 kilograms of methamphetamine in Rapid City, South Dakota. On January 4, 2021, law enforcement stopped a vehicle occupied by Hayes and Tripp-Lien, locating almost two pounds of methamphetamine, several firearms, ammunition, and drug paraphernalia. All three defendants pleaded guilty to Conspiracy to Distribute a Controlled Substance. Lawrence was sentenced in February 2022 to just over seven years in federal prison; Hayes was sentenced in March 2022 to 12 ½ years in federal prison; and Tripp-Lien was sentenced in August 2022 to ten years in federal prison. AUSA Kathryn Rich.

**United States v. James Houseman**

*Possession with Intent to Distribute Methamphetamine*

On October 18, 2021, James Houseman was pulled over by a South Dakota Highway Patrol Trooper. His vehicle was searched, and the trooper located 8.6 grams of methamphetamine that had been separated out into smaller baggies and prepared for distribution; \$6,636 in U.S. currency; a digital scale; and ammunition for a .22 caliber firearm. Later that same day, law enforcement officers executed a search warrant on Houseman's home and located a loaded semiautomatic pistol with an obliterated serial number. In total, Houseman's involvement in the distribution of methamphetamine included approximately 15-16 pounds. Houseman pleaded guilty to Possession with Intent to Distribute a Controlled Substance, and in February 2023, he was sentenced to 12 ½ years in federal prison. SAUSA Beth Ebert.

**United States v. Dantrez Isaac and Raymond Banks**

*Theft of Firearms from Federal Firearms Licensee*

On June 1, 2020, Dantrez Isaac, Raymond Banks, and others burglarized Palace City Pawn in the middle of the night in Mitchell, South Dakota. They smashed display cases, and removed 15 firearms from the business inventory. Following guilty pleas, Isaac was sentenced to 18 months in federal prison in January 2022, and Banks was sentenced to 24 months in federal prison in September 2022. AUSA Connie Larson.

**United States v. Morningstar Kitto**

*Conspiracy to Distribute Methamphetamine*

Morningstar Kitto was the subject of a methamphetamine distribution ring between January 2022 and May 2022. During that time, Kitto participated in three controlled buys to an undercover DEA agent. In total, Kitto and her co-conspirator(s) sold approximately 2,288.5 grams or approximately 5 pounds of methamphetamine to the undercover agent in a five-month timespan. Kitto pleaded guilty to Conspiracy to Distribute a Controlled Substance, and in January 2023, she was sentenced to 10 ½ years in federal prison. SAUSA Beth Ebert.

**United States v. John Klein, Taylor Huemoeller a/k/a Taylor Klein, Shannon Spears, and Randy Little Shield**

*Conspiracy to Distribute Methamphetamine*

Beginning in 2017, John Klein utilized sources of supply of methamphetamine from Minnesota and Colorado to bring large amounts of methamphetamine into the Pierre area. He then utilized various individuals, including Taylor Huemoeller, Shannon Spears, and Randy Little Shield, to distribute that methamphetamine in and around central South Dakota. On July 14, 2021, as part of the investigation, law enforcement encountered Klein, Huemoeller, Spears, and Little Shield at Huemoeller's residence in Pierre, South Dakota. Klein and Huemoeller had just returned from a trip to Denver, Colorado, where they obtained methamphetamine and brought it to South Dakota to distribute. Little Shield and Spears came to the residence to pick up methamphetamine to further distribute. Two pounds of pure methamphetamine was recovered by law enforcement from inside the home. In all, the conspiracy involved over 1.5 kilograms of methamphetamine. Following guilty pleas, sentencing took place in June and August 2022. Klein was sentenced to 20 years in federal prison; Spears was sentenced to just over ten years in federal prison; and Huemoeller and Little Shield each received ten years in federal prison. AUSA Meghan Dilges.

**United States v. Montgomery LeBeau**

*Possession of a Firearm by a Prohibited Person*

In October 2021, law enforcement was called to a residence after receiving a report of a domestic dispute involving Montgomery LeBeau. While enroute, law enforcement was made aware that LeBeau had a firearm. When officers arrived, LeBeau was located but fled on foot. After being apprehended, law enforcement located a firearm within a few feet of LeBeau. LeBeau was convicted at trial in March 2022. In July 2022, he was sentenced to five years in federal prison. AUSA Benjamin Patterson.

**United States v. Sylvester Mitchell III**

*Conspiracy to Distribute Fentanyl*

On July 27, 2021 law enforcement was notified that Sylvester Mitchell III was selling crack cocaine and fentanyl throughout the Sioux Falls community. Law enforcement began an investigation which led to the arrest of Mitchell as well as multiple other co-conspirators. Mitchell was eventually attributed with conspiring to distribute approximately 493.4 grams of crack cocaine and 547 grams of fentanyl. Mitchell pleaded guilty to one count of Conspiracy to Distribute a Controlled Substance and was sentenced in August 2022 to over 13 years in federal prison. AUSA Mark Hodges and SAUSA Paige Petersen.

**United States v. Jeffery Moore**

*Two Counts of Distribution of Fentanyl Resulting in Death, Conspiracy to Distribute Heroin*

Jeffery Moore was a longtime fentanyl and heroin dealer in Sioux Falls, South Dakota. In November of 2018, he sold fentanyl to a victim who then fatally overdosed. Sioux Falls Police Detectives identified Moore as the person who distributed the fatal fentanyl after discovering messages on the victim's phone showing that the victim went to Moore's home the night before her death to obtain narcotics. Investigators continued to monitor Moore throughout the Spring and Summer of 2019. Unfortunately, he continued selling heroin/fentanyl, and in June of 2019 he sold fentanyl to two people, one of whom fatally overdosed. Moore pleaded not guilty to the charges against him and proceeded to trial. At trial, the Government presented testimony from 23 witnesses. The jury convicted Moore of both counts of Distribution of Fentanyl Resulting in Death and also of Conspiracy to Distribute a Controlled Substance. Moore was sentenced to 35 years in federal prison. AUSA Mark Hodges.

**United States v. Damara Needham and Jerry Jerome Wise**

*Conspiracy to Distribute Cocaine/Fentanyl*

On July 27, 2020 troopers conducted a stop and search of a rental vehicle traveling on I-29. The search revealed approximately 654 grams of methamphetamine and approximately 80 grams worth of pills containing fentanyl. The occupants, Damara Needham and Jerry Jerome Wise, were arrested and charged with two counts of conspiracy to distribute a controlled substance. Needham pleaded guilty to one count of the conspiracy and was sentenced in March 2022 to just over ten years in federal prison. Wise proceeded to trial where he was found guilty on both counts of Conspiracy to Distribute a Controlled Substance. Wise was sentenced in October 2022 and, due in part to his prior federal distribution conviction, received over 19 years in federal prison on each count to run concurrently. SAUSA Paige Petersen.

**United States v. Mark James Olson**

*Felon in Possession of a Firearm & Possession with Intent to Distribute Methamphetamine*

Mark James Olson of Sioux Falls, South Dakota, was convicted by a jury for possessing a firearm after sustaining felony convictions and while being a user of a controlled substance, and for possessing with intent to distribute a controlled substance (pure methamphetamine). On June 28, 2021, a stolen Dodge Ram was located at the Advance Auto Parts store on Minnesota Avenue, Sioux Falls, South Dakota. The driver, Olson, and his passenger were seen getting out of the truck and entering the store. In addition to the stolen vehicle, Olson was wanted on an active arrest warrant. Law enforcement personnel entered the store, encountered Olson, and placed him under arrest. During a search, a firearm was located in Olson's front pant pocket. The firearm was loaded and one of the serial numbers was altered and partially scratched. In addition to the firearm, Olson possessed a cloth bag containing nine baggies containing pure methamphetamine. The approximate total weight of the methamphetamine was one ounce. In February 2023, Olson was sentenced to ten years and ten months in federal prison. AUSA Jeremy Jehangiri and SAUSA Beth Ebert.

**United States v. James Rutledge, Amber Heath, and Andrea Kindt**

*Conspiracy to Distribute Methamphetamine and Possession of Firearm by Prohibited Person*

Beginning in March 2020, James Rutledge, who is from Colorado, conspired with others to distribute methamphetamine in and around central South Dakota. Rutledge brought large amounts of methamphetamine from Denver, Colorado, to Winner, South Dakota, to be distributed by Amber Heath and Andrea Kindt. As part of the conspiracy, Rutledge was involved in a traffic stop on August 28, 2020, in Tripp County, South Dakota, wherein 200 grams of pure methamphetamine and a firearm were found in Rutledge's possession. Rutledge is a felon and an unlawful user of a controlled substance making him a prohibited person. Following guilty pleas, Rutledge was sentenced to 14 years in federal prison in March 2022. Heath and Kindt were sentenced in February 2022. Heath received a 37-month sentence and Kindt received a 34-month sentence. AUSA Meghan Dilges.

**United States v. Aynjel Schumacher**

*Conspiracy to Distribute Methamphetamine*

From September 2019 through May 2020, Aynjel Schumacher led a conspiracy that distributed approximately 35 kilograms of methamphetamine in Rapid City, South Dakota. Schumacher recruited others to transport methamphetamine for her to South Dakota. On several occasions, she possessed firearms and threatened co-conspirators. Schumacher pleaded guilty, and in May 2022, she was sentenced to 20 years in federal prison. AUSA Kathryn Rich.

**United States v. Canbie Thompson (OCDETF)**

*Conspiracy to Distribute Methamphetamine and Conspiracy to Commit Money Laundering*

Canbie Thompson ran a drug trafficking organization in Sioux Falls and the southeastern part of South Dakota starting in early 2020 and lasting through the Spring of 2021. Homeland Security Agents determined that Thompson sourced multiple multi-pound loads of methamphetamine from California and then distributed it to co-conspirators in Sioux Falls. Agents used a Title III wiretap to identify other members of the conspiracy and eventually arrested Thompson in possession of approximately 11 pounds of methamphetamine. In total, Thompson is believed to have been involved in the distribution of over 75 pounds of methamphetamine. To date, twelve other members of the conspiracy have been convicted for their involvement and one is under indictment. Thompson pleaded guilty to Conspiracy to Distribute a Controlled Substance and Conspiracy to Commit Money Laundering. In July 2022, he was sentenced to just over 33 years in federal prison. AUSA Mark Hodges.

**United States v. James Verbrugge et al.**

*Conspiracy to Distribute Methamphetamine*

On April 7, 2022, DEA agents oversaw the controlled purchase of approximately 327.2 grams of pure methamphetamine in the parking lot of a local grocery store. The source, James Verbrugge, along with his co-conspirators, Benjamin Gjertson, Tiffany Sidel, and Almir Juarez-Carias, conducted the sale to the confidential information while DEA agents observed the sale take place through video and audio surveillance. All four co-defendants were charged with Conspiracy to Distribute a Controlled Substance. Verbrugge entered a guilty plea, and in February 2023, he was sentenced to 15 years in federal prison. SAUSA Paige Petersen.



### **United States v. John Winn**

#### *Possession of a Firearm by a Prohibited Person*

In June 2021, law enforcement was called to an apartment complex in Rapid City, South Dakota, after receiving reports of suspicious vehicles and individuals. Upon arrival, law enforcement located several people and identified John Winn as an individual who fled the scene after law enforcement arrived. On scene, officers located numerous drug items and four firearms, including a stolen firearm and a firearm with an obliterated serial number. Winn had obtained these firearms while trafficking methamphetamine. Winn pleaded guilty to the offense, and in January 2023, he was sentenced to nine years in federal prison. AUSA Benjamin Patterson

### **United States v. Timothy Zuk**

#### *Conspiracy to Distribute Methamphetamine/Heroin*

Beginning in January 2015, Timothy Zuk and several other individuals were involved in the distribution of pounds of methamphetamine and heroin in and around the Rosebud Sioux Indian Reservation. Zuk was the source of supply for multiple individuals who resided within the Rosebud Reservation. These individuals would make trips to Denver, Colorado, to collect methamphetamine from Zuk to distribute within the Reservation. Zuk also made several trips from Colorado to South Dakota to bring methamphetamine to these same individuals to distribute. Law enforcement conducted three different traffic stops over the course of the investigation where several pounds of methamphetamine and several ounces of heroin were seized. In total, over 90,000 kilograms of converted drug weight of narcotics was involved in this conspiracy. Zuk was sentenced in July 2022 to 22 years in federal prison. AUSA Meghan Dilges.

## **PROJECT SAFE CHILDHOOD PROSECUTIONS**

### **United States v. Gary Asmus**

#### *Receipt and Possession of Child Pornography*

In 2020, law enforcement received a cybertip related to images of child pornography uploaded to the Internet. Gary Asmus was identified as the individual that had uploaded the images. Asmus, who had previously been convicted of possessing child pornography, again received and possessed images of child pornography after being off federal supervised release from for only a few months. Asmus pleaded guilty to Receipt and Possession of Child Pornography. In August 2022, he was sentenced to 12 years in federal prison. AUSA Sarah Collins.

### **United States v. James Cadwell**

#### *Sexual Exploitation of a Child*

In October 2020, the minor victim was at an apartment in James Cadwell's care in Pierre, South Dakota. Cadwell knowingly persuaded, induced, enticed, and coerced the child to engage in sexually explicit conduct for the purpose of recording the conduct with a cellular phone. Later, the child pornography depictions were shared by Cadwell with others over the Internet. FBI task force officers from outside South Dakota observed Cadwell sharing child pornography online, and Cadwell was making statements that he would molest and abuse children under his care. The matter was quickly referred to the FBI in Pierre and the Pierre Police Department, who executed

search warrants at Cadwell's apartment. Officers found the victim there, and also recovered evidence that the sexual acts had occurred in Hughes County, South Dakota. Cadwell falsely claimed he had thrown his cellular devices into the Missouri River, but investigators later determined he had hidden his phones in the rain gutter above the rear entrance at his apartment building residence. Cadwell's phones were seized, and upon examination, were found to contain the pornographic contraband he had been bragging about online. Cadwell pleaded guilty to Sexual Exploitation of a Child. In June 2022, he was sentenced to 28 years in federal prison. AUSA Tim Maher.

**United States v. Matthew Carter**

*Possession of Child Pornography*

In January 2021, Matthew Carter called his father from jail and directed him to retrieve some property that Carter had hid above the ceiling tile in his bathroom. An officer listening to the jail call went to Carter's residence and found a computer hard drive above the ceiling tile. Forensic examination of the hard drive revealed 60 video files containing child pornography. After his conviction by jury, Carter was sentenced to 15 years in federal prison. AUSA Jeff Clapper.

**United States v. David Farrell**

*Attempted Enticement of a Minor*

David Farrell used his cell phone to text a 15-year-old female he knew to ask her to meet him at a hotel in Sioux Falls, South Dakota, for the purpose of engaging in sexual activity. Unknown to him, an undercover law enforcement officer assumed the identity of the 15-year-old female online. Farrell pleaded guilty to Attempted Enticement of a Minor, and was sentenced in June 2022 to ten years in federal prison. AUSA Jeff Clapper.

**United States v. Marcin Garbacz**

*Engaging in Illicit Sexual Conduct in a Foreign Place*

Between June 21, 2011, and July 7, 2011, Marcin Garbacz traveled with a minor male from South Dakota to Poland. While the minor male was in Garbacz's sole custody, care, and control, Garbacz surreptitiously recorded videos of the minor in the shower. The videos constituted child pornography. Garbacz then transferred the videos from his cell phone to his computer. Garbacz pleaded guilty to Engaging in Illicit Sexual Conduct in a Foreign Place and was sentenced in March 2022 to five years in federal prison. AUSA Benjamin Patterson.

**United States v. Melanie Hollingsworth, Ronald Johnson, and Robert Stefani**

*Sex Trafficking of a Minor, Production of Child Pornography*

In 2020, Ronald Johnson and Melanie Hollingsworth used a juvenile female to engage in commercial sexual acts. Hollingsworth used texts, telephone calls, and apps on her phone to communicate with Johnson and another man, Robert Stefani, to set up commercial sexual acts. Johnson used Western Union to pay Hollingsworth for sex acts with the juvenile. Stefani paid the juvenile in cash and gave the money to Hollingsworth. Both Johnson and Stefani used their cell phones to take pictures of their sex acts with the juvenile. All parties pleaded guilty. In January 2022, Hollingsworth was sentenced to 17 ½ years in federal prison; in March 2022, Johnson was

sentenced to 20 years in federal prison; and in July 2022, Stefani was sentenced to ten years in federal prison. AUSA Jeff Clapper.

**United States v. Frank Kistler**

*Enticement of Minors Using the Internet*

Frank Kistler was a Fall River County Sheriff's Deputy. Between January 2019 and July 2019, while Kistler was on duty and off, he selected two victims from his patrol area in Edgemont, South Dakota, and enticed them into sending him images of child pornography they produced at his demand. He also sent them multiple videos of himself nude and masturbating. Prior to joining the Fall River County Sheriff's Office, Kistler was fired from the Custer County Sheriff's office for grooming a 13-year-old student in the school in which he was the school resource officer. Kistler pleaded guilty to Enticement of a Minor Using the Internet. In February 2022, Kistler was sentenced to 25 years in federal prison. AUSA Sarah Collins.

**United States v. Javier Moreno**

*Receipt of Child Pornography*

Javier Moreno was an employee of the Salvation Army. A cybertip led law enforcement to search his home where they located dozens of devices. Forensic examination of the devices located well over 100,000 images of child pornography. Moreno pleaded guilty to Receipt of Child Pornography, and in August 2022, he was sentenced to 17 ½ years in federal prison. AUSA Sarah Collins.

**United States v. Ricardo Olandez**

*Aggravated Sexual Abuse by Force*

Over the course of six weeks in April and May of 2021, Ricardo Olandez repeatedly sexually abused a 16-year-old minor who resided with him on the Ellsworth Air Force Base, near Rapid City, South Dakota. Olandez forced the minor into his bedroom, pushed her on the bed, and sexually assaulted her. The victim disclosed the abuse to a trusted adult, who reported Olandez to law enforcement. After his conduct was reported to law enforcement, Olandez fled to the states of Montana and Georgia before being apprehended. Olandez pleaded guilty to Aggravated Sexual Abuse by Force, and in May 2022, he was sentenced to 13 years and four months in federal prison. AUSA Heather Knox.

**United States v. Vincent Perez**

*Receipt and Distribution of Child Pornography*

Vincent Perez knowingly received and distributed child pornography using a MeWe social media account between August 7 and August 17, 2019. Perez also uploaded pornographic images of children to the same social media account. Law enforcement investigated the case after receiving a cybertip generated by MeWe. A detective with the Watertown Police Department tracked the history of internet use to Perez. The MeWe account contained numerous files of child pornography that Perez shared with other MeWe users along with the chat conversations during which he shared the images. Perez was previously convicted of possessing child pornography in 2015 and was sentenced to 33 months in custody. Following a jury conviction, he was sentenced to 15 years and 8 months in federal prison. AUSA Jeff Clapper.

### **United States v. Brian Spitzer**

#### *Attempted Receipt of Child Pornography*

Between August 24, 2020, and September 11, 2020, Brian Spitzer engaged in conversations with undercover agents on Craigslist and via text messaging. Spitzer believed the undercover agents were 14 and 15-year-old girls. During the conversations, Spitzer asked for pictures of one of the minor females engaging in sexually explicit conduct. Spitzer pleaded guilty to Attempted Receipt of Child Pornography, and in April 2023, he was sentenced to five years in federal prison. AUSA Heather Knox.

### **United States v. Clayton Spotted Calf**

#### *Receipt of Child Pornography*

In January 2021, law enforcement received a CyberTip from the National Center for Missing and Exploited Children, which indicated Clayton Spotted Calf was storing child pornography in his Google account. Spotted Calf was subsequently contacted by law enforcement agents with the South Dakota Internet Crimes Against Children (ICAC) Task Force. Spotted Calf admitted to intentionally searching for child pornography and storing it in his Google account and on his cellular phones, which were seized. A forensic examination of Spotted Calf's Google account and his devices revealed thousands of images and videos of child pornography. Spotted Calf pleaded guilty to Receipt of Child Pornography. In March 2022, he was sentenced to over ten years in federal prison and ordered to pay \$54,000 in restitution. AUSA Kirk Albertson.

### **United States v. Bernard Wagner**

#### *Attempted Enticement of a Minor Using the Internet*

In August 2020, law enforcement was made aware that Bernard Wagner, of Spearfish, South Dakota, had been sexually pursuing a young minor, including sending the minor a nude image of himself. The minor reported the sexual advances to parents who then reported it to police. Law enforcement, in an undercover capacity, did an account take over and pretended to be a minor friend of the initial victim. Wagner attempted to entice the child to meet him to engage in illegal sexual acts and to send him images of child pornography. He also sent the undercover agent nude images of himself. Wagner pleaded guilty to Attempted Enticement of a Minor Using the Internet. In March 2022, he was sentenced to ten years in federal prison. AUSA Sarah Collins.

### **United States v. Jesse James Young**

#### *Attempted Enticement of a Minor Using the Internet*

In 2021, Jesse James Young was arrested as part of the Sturgis Motorcycle Rally child exploitation operation. Young attempted to entice a 13-year-old girl, who was actually an undercover law enforcement agent, to engage in unlawful sexual acts and to produce images of child pornography. Young pleaded guilty to Attempted Enticement of a Minor Using the Internet. In December 2022, he was sentenced to 11 years and three months in federal prison. AUSA Sarah Collins.

## **VIOLENT CRIME PROSECUTIONS** **(non-reservation)**

### **United States v. Richard Barela**

*Assaulting, Resisting, and Impeding a Federal Officer*

On January 3, 2020, Barela escaped from a minimum-security South Dakota Department of Corrections (DOC) facility in Yankton, South Dakota, and stole a DOC vehicle. A warrant was subsequently issued for his arrest. On January 14, 2020, law enforcement located Barela at a residence in Pierre, South Dakota. Law enforcement personnel from the U.S. Marshals Service, Hughes County Sheriff's Office, and Pierre Police Department proceeded to the residence to execute the arrest warrant. Barela was located in a basement bedroom, but he refused to surrender and barricaded himself in the bedroom. Barela told the officers he had a knife, which he brandished, and said he would kill any law enforcement that attempted to take him into custody. After approximately four hours, law enforcement deployed tear gas into the bedroom in an effort to end the standoff. Barela subsequently exited the bedroom and was immediately taken into custody. Barela pleaded guilty to Assaulting, Resisting, and Impeding a Federal Officer. In May 2022, Barela was sentenced to seven years in federal prison. AUSA Kirk Albertson.

### **United States v. Jesse Sierra and Dustin Sierra**

*Kidnapping, Aggravated Sexual Abuse by Force, Interstate Domestic Violence, Assault Resulting in Serious Bodily Injury, Assault by Strangulation of a Dating Partner*

On July 13, 2019, Jesse Sierra, aided and abetted by his brother Dustin Sierra, forcibly abducted Jesse's former girlfriend from Rapid City, South Dakota. The Sierra brothers drove the victim from Rapid City to various locations near Oglala, South Dakota, on the Pine Ridge Reservation, where the victim was held against her will. Jesse Sierra repeatedly beat, strangled, and raped the victim. On July 17, 2019, Dustin Sierra drove Jesse and the victim across the state border to Nebraska, where they hid her from law enforcement, who were engaged in a comprehensive and multi-state effort to locate her. On June 21, 2019, the victim was recovered at the Chadron Community Hospital with grievous injuries. In October 2022, Jesse and Dustin Sierra proceeded to trial and were convicted on all counts. In February 2023, Jesse Sierra was sentenced to life in federal prison and Dustin Sierra was sentenced to just over 10 years in federal prison. AUSA Heather Knox.

## WHITE COLLAR/FRAUD PROSECUTIONS

### **United States v. Steven Joseph Bares**

#### *Wire Fraud*

Between 2013 and 2020, Steven Joseph Bares willfully and unlawfully devised a scheme to defraud and obtain money and property from two Catholic parishes by false and fraudulent pretenses, representations, and promises. Saint Wenceslaus Parish in Tabor, South Dakota, and Saint John the Baptist Parish in Lesterville, South Dakota, are two small parishes located in rural South Dakota towns. The churches shared a single priest. The only administrative staff at the churches was Bares, who primarily worked as the bookkeeper. In that capacity, Bares wrote checks to pay bills and entered checks in the general ledgers. In May 2021, the Sioux Falls Catholic Diocese, on behalf of the above-named parishes, hired an accounting firm to conduct a forensic audit. The audit uncovered multiple checks made out to companies belonging to Bares that did not correspond to any service or equipment purchased from those companies. Furthermore, these checks were neither entered in the general ledger nor entered as a legitimate expense. Bares embezzled money from the two Parishes, totaling approximately \$324,000. In September 2022, Bares pleaded guilty and was later sentenced to 21 months in federal prison. He also was ordered to pay nearly \$288,000 in restitution. AUSA Jeremy Jehangiri.

### **United States v. Jessica Bauerle, Heather Stahlhoefer, and Misty Crowe**

#### *Possession of Stolen Mail*

On December 19, 2016, the U.S. Post Office in Baltic, South Dakota, was burglarized, and mail and other packages within the post office were stolen. Jessica Bauerle, Heather Stahlhoefer, and Misty Crowe were arrested after a lengthy investigation and were found to have possessed and used items stolen during the burglary. All three received probation sentences in October 2022 after pleading guilty to possession of stolen mail. AUSA Connie Larson.

### **United States v. James Garrett and Levi Garrett**

#### *False Statement in Connection with Federal Crop Insurance*

James Garrett and Levi Garrett, a father-son pair, operated a family ranch in Sully County, South Dakota. Between 2016 and 2020, the Garretts falsely claimed they planted crops, when in fact, the Garretts either planted late or not at all. The Garretts lied to obtain crop insurance payouts from the companies, which were reinsured by the government. Additionally, James Garrett allegedly submitted false information to obtain \$1,000,000 from the CARES Act through a program administered by the State of South Dakota. James Garrett was charged with seven counts of False Statement in Connection with Federal Crop Insurance and two counts of Major Fraud Against the United States, while Levi Garrett was charged with two counts of False Statement in Connection with Federal Crop Insurance. After a six-day jury trial with 34 witnesses and over a hundred exhibits, a jury convicted James Garrett of two counts of False Statement in Connection with Federal Crop Insurance and Levi Garrett of one count of False Statement in Connection with Federal Crop Insurance. They were acquitted on all other charges. James Garrett was sentenced to 18 months in federal prison and ordered to pay \$1,045,544 in restitution. Levi Garrett was sentenced to two years in federal prison and ordered to pay \$279,396 in restitution. AUSAs Cameron Cook and Alexis Warner.

### **United States v. Loren Brown and Randy Garriss**

*Conspiracy to Defraud the United States and Attempts to Interfere with the Administration of the Internal Revenue Laws*

Beginning in April 2004, Theodore Nelson and his son, Steven Nelson, created over 25 sham trusts to hide their income and assets from the Internal Revenue Service, thus evading the assessment and payment of federal income taxes. In doing so, the Nelsons used forms created by Loren Brown. The trusts were designed, in part, to make it difficult for the IRS to determine the Nelsons' federal income tax liability. The Nelsons appointed John Sheridan and Loren Brown as trustees and successor trustees for the trusts until Sheridan's death in 2011. Randy Garriss then took over after Sheridan passed away. In this manner, the Nelsons were able to put many layers between themselves and their assets/income. Garriss' and Brown's agreement to act as successor trustees helped the Nelsons hide their income and assets from the IRS. Brown pleaded guilty to attempts to interfere with the administration of the Internal Revenue laws and was sentenced to three years of probation. In June 2022, Garriss proceeded to an 8-day jury trial and was convicted on both counts. In September 2022, Garriss was sentenced to three years in federal prison on the conspiracy count and 12 months and 1 day on the attempts to interfere count, to be served concurrently. AUSA Annie Hoffman.

### **United States v. Frank Morrison**

*Failure to Withhold, Properly Account for, and Pay Over Tax*

Between 2008 and 2020, Frank Morrison was the owner of Thirsty's Bar and Restaurant in Rapid City, South Dakota. During the same time period, Morrison failed to pay taxes totaling \$684,927.56 to the IRS after he withheld those taxes from his employees' paychecks. Morrison used a large portion of those funds for his own personal use. Morrison pleaded guilty to the charge and was sentenced in June 2022 to 13 months in federal prison. He was further ordered to pay a \$200,000 fine and \$684,927.56 in restitution. AUSA Benjamin Patterson.

### **United States v. Gabe Outtrim**

*Bank Fraud*

Gabe Outtrim, in his capacity as the branch manager and vice-president of a bank in Leola, South Dakota, made a nominee loan in the name of an unknowing bank customer and used the loan proceeds for his own benefit. Outtrim pleaded guilty to bank fraud and in June 2022, he was sentenced to 21 months in federal prison. He was further ordered to pay \$144,050.94 in restitution. AUSA Annie Hoffman.

### **United States v. Nathan Peachey & John Rick Winer and**

### **United States v. Lubova Burkute**

*Conspiracies to Commit Wire Fraud, to Launder Monetary Instruments, and to Obstruct Justice, Wire Fraud, and Domestic & International Money Laundering*

Nathan Peachey of Pennsylvania and John Rick Winer of New Mexico were convicted by a jury for their respective roles in conspiring to commit wire fraud, launder monetary instruments, and obstruct justice, and in perpetrating substantive counts of wire fraud and money laundering. After being extradited from Norway, Lubova Burkute of Latvia was separately convicted of engaging in international monetary transactions in property derived from specified unlawful activity. As to the



scheme to defraud the victims across the country between 2015 and 2019, Peachey and Winer, along with others, informed investors that the monies provided to one or more of the co-conspirators would be used for charitable or humanitarian projects, oftentimes using religion and sovereign-citizen ideologies to entice and induce victims into investing money in the scheme. They also made promises that there would be a return on investments. Peachey and Winer informed investors that the monies provided to one or more of the co-conspirators would not be expended on personal expenses. Investor money was not used for charitable or for humanitarian projects, and investors never received a return on investments relating to the monies provided to Peachey, Winer, or their co-conspirators. Instead, Peachey and Winer amassed nearly \$13 million, which they and Burkute spent on a luxury residence located in a suburb of Oslo, Norway, renovation costs on the house, a Mercedes Benz, and nearly \$4 million in silver, travel, and personal expenses.

This fraud scheme impacted victims from around the United States, including South Dakota, Minnesota, Arizona, New Mexico, Florida, Colorado, Pennsylvania, and North Carolina. Peachey, Winer, and their co-conspirators utilized, independently or jointly, fake entities to receive fraud proceeds and launder money. After becoming aware of law enforcement's investigation, Peachey and Winer conspired and took steps to obstruct the investigation and prosecution of their conduct. Peachey was sentenced to 25 years in prison; Winer was sentenced to 22 years in prison; Burkute, who played a lesser role in the conspiracy, was sentenced to approximately one year and deported to Latvia. Each was also ordered to forfeit the ill-gotten property and to pay nearly \$12 million in restitution. AUSAs Jeremy Jehangiri and Annie Hoffman.

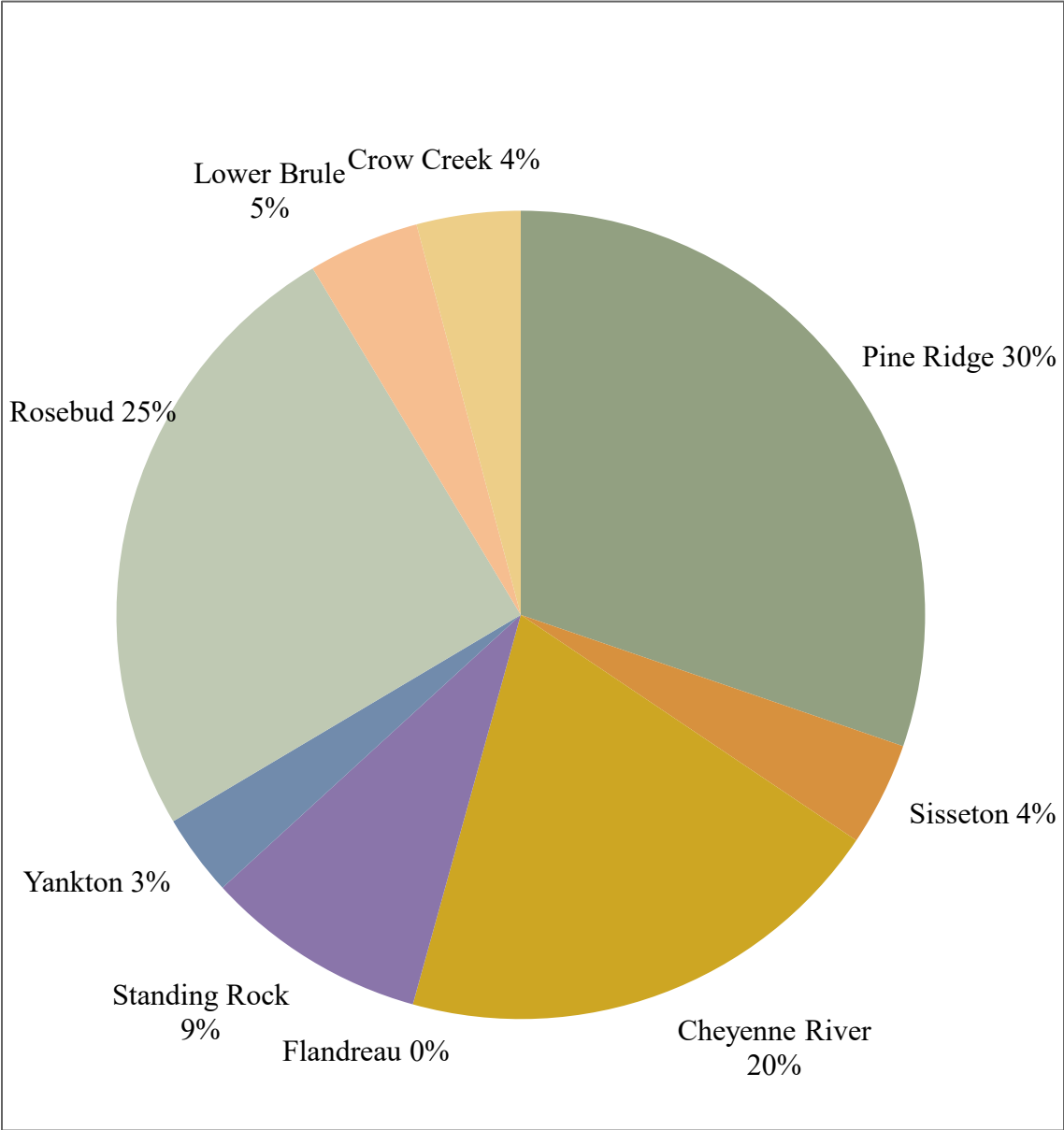
### **United States v. Marietta Ravnaas**

#### *Money Laundering (CARES Act)*

Marietta Ravnaas acted as a knowing money mule for fraudulently obtained CARES Act unemployment insurance benefits. Ravnaas pleaded guilty to money laundering and in April 2022, she was sentenced to 2 years of probation and ordered to pay restitution in the amount of \$20,300.

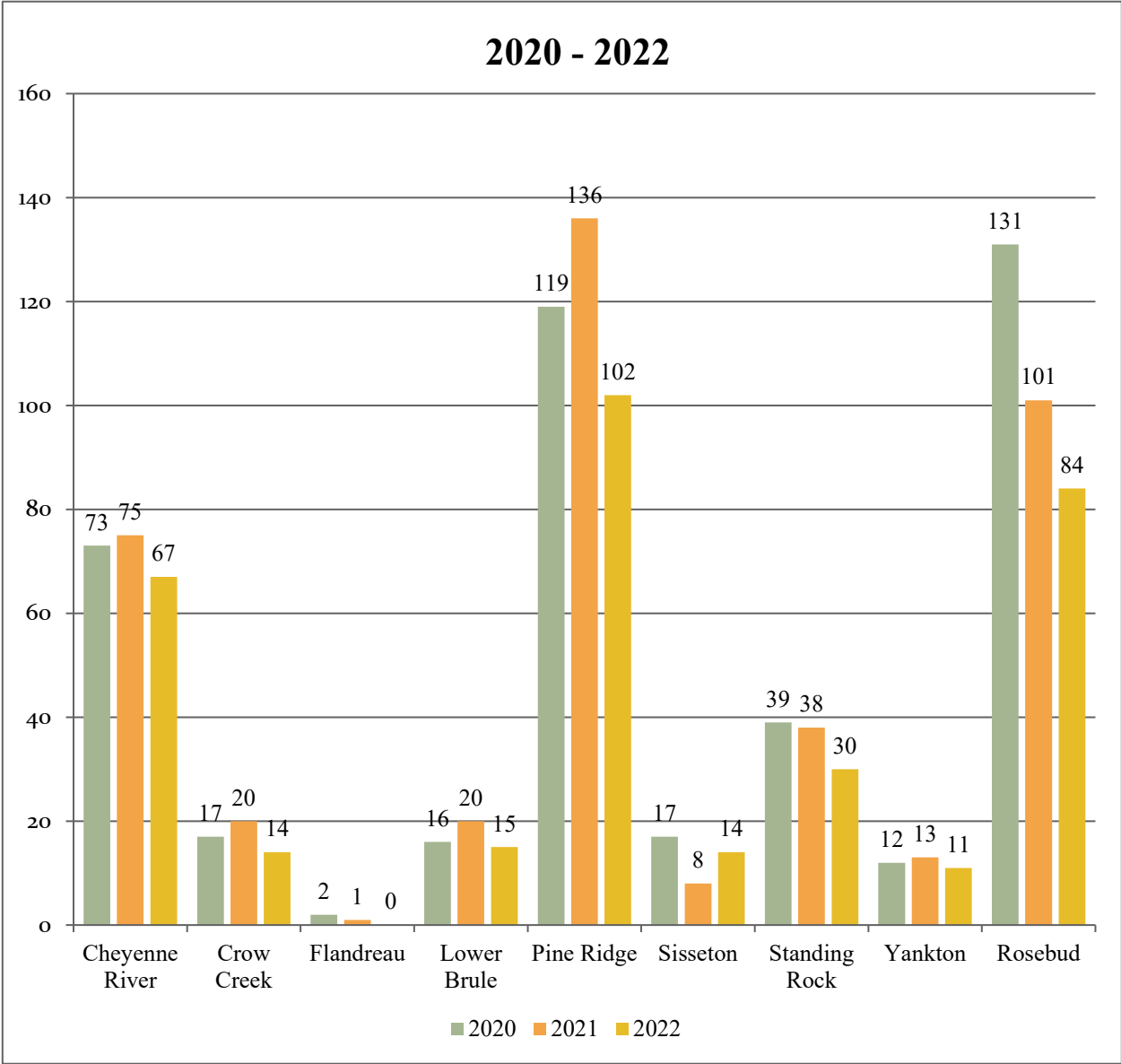
**STATISTICAL HIGHLIGHTS**

**Percentage of Indian Country Defendants  
Charged by Reservation**



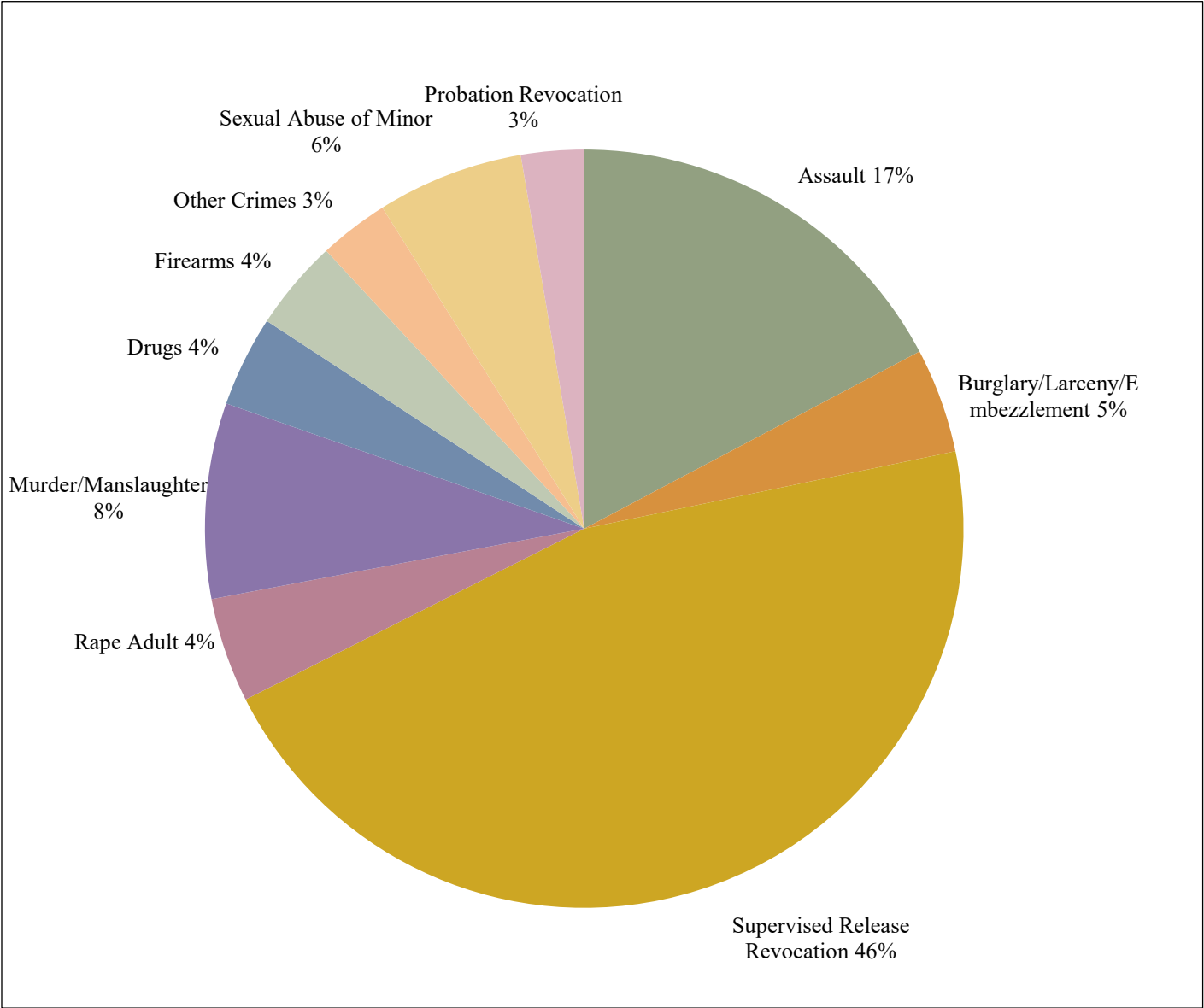
# STATISTICAL HIGHLIGHTS

## Indian Country Defendants Charged by Reservation



# STATISTICAL HIGHLIGHTS

## Indian Country Defendants<sup>2</sup> Charged by Criminal Offense



<sup>2</sup> Includes juveniles

Reservation	Assault	Burglary/ Larceny/ Embezzlement	Drugs	Firearms	Manslaughter/ Murder	Other	Supervised Release Revocation	Probation Revocation	Sexual Abuse of Minor	Rape Adult	Total
Cheyenne River	3	7	3	2	2	3	44	2	0	2	68
Crow Creek	5	1	0	0	1	0	5	1	1	0	14
Flandreau	0	0	0	0	0	0	0	0	0	0	0
Lower Brule	5	2	0	0	0	0	7	0	1	0	15
Pine Ridge	13	2	7	5	21	4	40	3	6	1	102
Rosebud	18	2	1	5	3	3	38	3	6	5	84
Sisseton	3	0	0	0	0	0	3	0	2	6	14
Standing Rock	9	0	2	0	1	1	14	0	2	1	30
Yankton	3	1	0	1	0	0	3	0	3	0	11
Totals	59	15	13	13	28	11	154	9	21	15	338

# SIGNIFICANT CRIMINAL PROSECUTIONS

## Indian Country



### CHEYENNE RIVER RESERVATION

#### Cheyenne River Sioux Tribe

#### **United States v. Bennett Belt**

*Aggravated Sexual Abuse of a Child, Sexual Abuse of a Minor, and Abusive Sexual Contact of a Child*

Bennett Belt and his wife took children of other family members into their home in Bridger, South Dakota. Two of those children were a young boy and a girl. The boy testified that Belt sexually abused him as far back as he could remember. One incident occurred when the boy was between the ages of 8 and 10 years old. Belt had “sex” with the young boy in Belt’s bedroom while Belt’s wife was out of state. Another incident occurred on the first day of school when the boy was in ninth grade. The boy was waiting for the bus to arrive to take him to school. Everyone else in the home had already left, leaving Belt and the 14-year-old boy home alone together. The boy was standing at the kitchen table, looking out the window for the bus, when Belt came up from behind the boy, pulled his pants down, and had “sex” with him. The girl moved in with the Belts when she was one and a half years old. There were three instances by Belt of sexual abuse against the girl. In one such instance, the girl was in her bedroom after school playing on an iPad that her mom gave her for her eighth birthday. Belt came into the room, sat on the bed next to the girl, and moved his hand up the girl’s thigh towards her underwear and “girl part.” The girl was scared and tried to scoot away, but Belt kept touching her. The incident stopped when Belt’s wife got home. On another occasion, the girl was watching television in Belt’s bedroom. Belt came into the room, stood next to the bed, and slid the girl’s pants and underwear down. Belt then touched her “girl part” with his hand and put his “boy part” into her “girl part” as he stood next to the bed. The third incident occurred when the girl was nine years old. Belt put his “boy part” by her “bottom,” while she was face down on the bed while the upper half of her body was on the bed, and the bottom half was off the bed and Belt with his hands on her sides was behind her.

Following a three-day jury trial, Belt was convicted of three counts of Aggravated Sexual Abuse of a Child, Sexual Abuse of a Minor, and Abusive Sexual Contact of a Child. In February 2022, Belt was sentenced to 32 years in federal prison. AUSAs Jay Miller and Abby Roesler.

### **United States v. Toni Carole Cochran**

#### *Assaulting, Resisting, or Impeding a Federal Officer, Assault Resulting in Serious Bodily Injury*

On January 21, 2021, Toni Carole Cochran fled from tribal police in her motor vehicle in rural Eagle Butte, South Dakota. During the pursuit, she struck an officer's squad car twice, reached the speed of 100 mph, and evaded spike strips. While on pretrial release for this offense, Cochran went to an Eagle Butte bar and threw another patron to the floor, unprovoked, breaking five of the victim's ribs, her collarbone, and her shoulder bone. Cochran pleaded guilty to both counts, and in June 2022, she was sentenced to 33 months in federal prison. AUSA Carl Thunem.

### **United States v. Mato Dyda**

#### *Sexual Exploitation of a Child, Abusive Sexual Contact of a Child, and Sexual Abuse of a Minor*

On June 26, 2020, Mato Dyda attended a gathering at a residence in Dupree, South Dakota. While there, Dyda took the host's three-year-old daughter into a bedroom. Dyda made two sexually explicit videos of the girl with her pants and underwear down. Another video shows Dyda's fingers touching the girl's genitalia. In a separate and unrelated incident, Dyda had sexual intercourse with a 14-year-old girl who was more than four years younger than he was. Dyda made a pornographic video of this incident as well. As it relates to the three-year old girl, Dyda pleaded guilty to Sexual Exploitation and Abusive Sexual Contact. With respect to the 14-year-old girl, Dyda pleaded guilty to Sexual Abuse of a Minor. In April 2022, Dyda was sentenced to 20 years in federal prison. AUSA Jay Miller.

### **United States v. Walter Hanson**

#### *Assault Resulting in Serious Bodily Injury to an Intimate Partner*

Walter Hanson and a woman were dating in April of 2020. On September 9, 2020, Hanson and the woman were driving to Cherry Creek, South Dakota, from Eagle Butte, South Dakota. On their way to Cherry Creek, they stopped in Dupree, South Dakota, and purchased some alcohol. Once they got to Cherry Creek, they began drinking. While they were driving around Cherry Creek, Hanson pulled over and accused the woman of losing his Electronic Benefits Transfer (E.B.T.) card. She told him that she neither had, nor lost, his E.B.T. card. Hanson got out of the car, drug her out of the vehicle, and shoved her to the ground. He then punched the woman, pulled her hair, kicked her in the stomach and chest area, and stomped on her left shoulder. The woman was screaming for Hanson to stop, but he kept blaming her for losing his E.B.T card. She continued to deny losing the E.B.T. card. Once the assault ended, Hanson found his E.B.T. card in his own jacket pocket. The assault fractured the woman's left clavicle. Hanson pleaded guilty, and in March 2022, he was sentenced to five years in federal prison. AUSA Jay Miller.

### **United States v. Brian Picotte**

#### *Involuntary Manslaughter*

On February 27, 2021, Brian Picotte struck and killed a woman with a 1996 Chevrolet pickup while she was walking along the shoulder of SD Highway 212 in Eagle Butte, South Dakota. After the wreck, Picotte did not stop. Cheyenne River Sioux Tribe Law Enforcement Services was contacted by an eyewitness to the incident, and officers responded. Picotte was located a short time later. He was administered a Preliminary Breath Test, and the result was .180. A blood sample was later obtained from Picotte, and there was evidence he had also been huffing intoxicants prior to



driving. Picotte pleaded guilty to Voluntary Manslaughter, and in June 2022, he was sentenced to five and half years in federal prison. AUSA Jay Miller.

**United States v. Timothy Red Elk**

*First Degree Burglary*

Shortly before 3:00 a.m. September 21, 2021, Timothy Red Elk went to an elder’s home in the Cherry Creek Community and knocked on her door, asking for her son. When the elder explained her son was sleeping, Red Elk began punching her, causing several facial fractures. Red Elk stopped only when the victim’s daughter pushed him out the door. Red Elk pleaded guilty to First Degree Burglary, and in August 2022, he was sentenced to a total of 33 months in federal prison. AUSA Carl Thunem.

**United States v. Murphy Smith**

*Assault with a Dangerous Weapon*

On June 6, 2021, Murphy Smith and his wife hosted a graduation party for Smith’s stepdaughter at their residence. Smith was consuming alcohol, became intoxicated, and started arguing with another man about whose car would win in a race. Smith believed the other man disrespected him. Smith leaned in the passenger window of the other man’s car while holding a gun magazine clip and told the man he was going to get his AK and shoot up everyone. Smith then walked towards the house. Smith exited the house carrying a gun. Smith shot the gun in the air, shouting, “No one disrespects me.” Smith walked over to the car the man was in and approached the driver’s side of the car. Smith pointed the gun at the man’s head through the open driver’s side window and told the man to get out of the car. Smith was distracted by his stepdaughter, giving the victim a chance to drive off. Smith pleaded guilty to Assault with a Dangerous Weapon, and in July 2022, he was sentenced to four and half years in federal prison. AUSA Jay Miller.



**CROW CREEK RESERVATION**  
**Crow Creek Sioux Tribe**

**United States v. Rain LaRoche**

*Assault Resulting in Serious Bodily Injury*

On July 19, 2022, Rain LaRoche was down near the river with his intimate partner, the victim, and a group of friends. LaRoche and the victim began to argue, causing the other members of the group to leave. LaRoche began to assault the victim by punching and kicking her before dragging her into the water and attempting to drown her. LaRoche also struck her about the head and body with a log. The victim was rescued by a group of people who chased LaRoche away. The victim suffered a collapsed lung, fractured orbital bone in her face, and a broken finger. LaRoche pleaded guilty and was sentenced to five years in federal prison. AUSA Troy Morley.



## **FLANDREAU RESERVATION** **Flandreau Santee Sioux Tribe**

### **United States v. Caley Studsdahl**

*Assaulting, Resisting, or Impeding a Federal Officer*

Caley Studsdahl pleaded guilty to assaulting a federal officer after she spit on a tribal police officer while being arrested on a tribal warrant. In June 2022, Studsdahl was sentenced to 3 years of probation. AUSA Annie Hoffman.



## **LAKE TRAVERSE RESERVATION** **Sisseton Wahpeton Oyate Sioux Tribe**

### **United States v. Brendon Javon Jacob Rodlund, Tiffany Bernard, Randall Delbert Pumpkinseed & Andrew David Renville**

*Robbery*

Brendon Javon Jacob Rodlund, age 32, Tiffany Bernard, age 30, Randall Delbert Pumpkinseed, age 33, and Andrew Renville, age 34, all of Sisseton, South Dakota, were convicted of robbery and aiding and abetting. In the late night and early morning hours of November 16 and 17, 2015, Rodlund, Bernard, Pumpkinseed, and Renville assaulted the victim to rob him of belongings, drugs, and money, even though he had neither drugs nor money. After the robbery and assault, these perpetrators left the seriously injured victim in a remote, rural location near Dry Wood Lake. Rodlund was sentenced to 15 years in federal prison (the statutory maximum), to be served consecutively to a previously imposed 13-year federal sentence of imprisonment for a separate crime. Bernard and Renville were likewise sentenced to 15 years in federal prison, and Pumpkinseed was sentenced to 13 years in federal prison. AUSA Jeremy Jehangiri.



## **LOWER BRULE RESERVATION**

### **Lower Brule Sioux Tribe**

#### **United States v. William Eagle Thunder**

*Assault with a Dangerous Weapon, Assault Resulting in Substantial Bodily Injury to an Intimate Partner, and Assaulting, Resisting, or Impeding a Federal Officer*

On multiple dates over a two-month period, William Eagle Thunder engaged in a reign of terror against his intimate partner. Eagle Thunder struck her with various metal objects about her head and face, fractured her jaw during multiple assaults, punched her about her body, and kicked her about the head and body. Eagle Thunder also fled from law enforcement on multiple occasions as they attempted to arrest him. On September 11, 2021, Law Enforcement had Eagle Thunder in handcuffs and were escorting him to a patrol vehicle. Before he could be put in the vehicle, Eagle Thunder knocked the officer to the ground and drug her across the lawn as she held on to the handcuffs. Eventually, the officer lost her grip and Eagle Thunder escaped. Eagle Thunder pleaded guilty to Assault with a Dangerous Weapon, Assault Resulting in Substantial Bodily Injury to an Intimate Partner, and Assaulting, Resisting, or Impeding a Federal Officer and was sentenced in July 2022 to seven years and three months in federal prison. AUSA Troy Morley.

#### **United States v. Esther Flute**

*Voluntary Manslaughter*

On August 2, 2021, Esther Flute was at her home with her domestic partner, the victim. Flute began to argue with the victim about his desire to leave the home. Flute repeatedly stabbed and slashed the victim with a cooking knife. Flute also grabbed a wooden table leg and struck the victim multiple times about the head. Flute pleaded guilty to Voluntary Manslaughter and was sentenced in June 2022 to five years and eleven months in federal prison. AUSA Troy Morley.

#### **United States v. Jade LaRoche**

*Assaulting, Resisting, or Impeding a Federal Officer*

On October 31, 2021, Bureau of Indian Affairs Law Enforcement was dispatched to a residence to remove Jade LaRoche from the home. While enroute, the victim learned that LaRoche had an active arrest warrant. The victim attempted to arrest LaRoche, who fled into an attached garage to avoid capture. As the victim entered the garage, LaRoche lunged into the victim, knocking him backwards and causing him injury. LaRoche was able to flee the scene. Following a two-day jury trial, LaRoche was convicted of Assaulting, Resisting, or Impeding a Federal Officer, resulting in physical contact. In September 2022, LaRoche was sentenced to three years and eight months in federal prison. AUSA Troy Morley.



## **PINE RIDGE RESERVATION**

### **Oglala Sioux Tribe**

#### **United States v. Colton Bagola**

##### *First Degree Murder and Discharge of a Firearm During Crime of Violence*

In December 2019, a group of individuals were drinking and playing games at a residence in Pine Ridge, South Dakota. A short while into the evening, Colton Bagola arrived at the residence under the influence of methamphetamine and in possession of a firearm. After arriving, Bagola shot another individual in the back of the head without provocation. Bagola and several others then fled the residence. Bagola was later located at a residence in Rapid City, South Dakota. The defendant proceeded to trial in October 2022 and was convicted of first-degree murder and discharging a firearm during a crime of violence. In July 2023, Bagola was sentenced to life in federal prison. AUSAs Megan Poppen and Gina Nelson.

#### **United States v. Lew Bettelyoun**

##### *Conspiracy to Distribute Methamphetamine and Carrying a Firearm during a Drug Trafficking Offense*

From January 2013 through October 2018, Lew Bettelyoun distributed approximately 2 kilograms of methamphetamine in Pine Ridge, South Dakota. On October 3, 2018, law enforcement searched his residence, locating firearms, ammunition, and drug paraphernalia. Bettelyoun pleaded guilty on June 3, 2022. He was sentenced in July 2022 to 15 years in federal prison. AUSA Kathryn Rich.

#### **United States v. William Bear Robe**

##### *Abusive Sexual Contact*

In 2018, a 12-year-old child reported that she had been sexually assaulted by William Bear Robe at a residence in Oglala, South Dakota. Bear Robe proceeded to trial in September 2022 and was convicted of abusive sexual contact. In January 2023, Bear Robe was sentenced to four years in federal prison. AUSA Megan Poppen

#### **United States v. Stetson Eagle Elk and Gary Little Bull, Jr.**

##### *Second Degree Murder*

Stetson Eagle Elk, Gary Little Bull, and Todd Little Bull were close friends who shared strong spiritual beliefs. In the months leading up to August 2016, Todd believed another man he was associated with was not truly a spiritual leader and was deceiving people. Todd spoke with Eagle Elk and Gary Little Bull about a plan to have himself killed and by so doing cast suspicion on the other man, believing that the other man's fraud would be uncovered during the subsequent investigation. On August 16, 2016, Eagle Elk and Gary Little Bull carried out the plan in a remote location between Sharps Corner and Kyle, South Dakota. Eagle Elk killed Todd by shooting Todd

twice with a rifle while Gary Little Bull stood nearby knowing Eagle Elk was about to shoot Todd consistent with their agreement. After the shooting, Eagle Elk hid the rifle. When law enforcement arrived, Eagle Elk and Gary Little Bull, as part of the previously agreed upon plan, told law enforcement a fabricated story about being attacked on the highway by assailants in two trucks. Eagle Elk and Gary Little Bull maintained this same fabricated story during the years' long investigation. The investigation into Todd's death continued until January 2022 when both Eagle Elk and Gary Little Bull were charged with Todd's murder. Both Eagle Elk and Gary Little Bull pleaded guilty to second degree murder. In August 2022, Stetson Eagle Elk was sentenced to 18 years in federal prison. In September 2022, Gary Little Bull was sentenced to 15 years in federal prison. AUSA Benjamin Patterson.

### **United States v. Jonnie Fineran**

#### *Second Degree Murder*

On July 24, 2020, Jonnie Fineran and a juvenile co-defendant killed a man by stabbing him with a knife over 60 times while the man was sleeping. On April 8, 2022, Fineran pleaded guilty to second degree murder. In June 2022, Fineran was sentenced to 21 years in federal prison. AUSA Benjamin Patterson.

### **United States v. James Jumping Eagle**

#### *Failure to Register as a Sex Offender*

Between February 9, 2021, and February 20, 2021, James Jumping Eagle failed to register himself under the provisions of the Sex Offense Registration and Notification Act (SORNA). Jumping Eagle is required to register as a sex offender for life, based on a 2011 conviction for Sexual Abuse. During Jumping Eagle's period of noncompliance with the provisions of SORNA, he is alleged to have sexually assaulted and murdered an elderly woman in Rapid City, South Dakota. Following the woman's murder, Jumping Eagle fled to Manderson, South Dakota, on the Pine Ridge Reservation. He was taken into custody by the United States Marshals Service based on his SORNA violation. Jumping Eagle pleaded guilty and was sentenced in March 2022 to ten years in federal prison. Jumping Eagle is presumed to be innocent until proven guilty of the allegations of sexual assault and murder. AUSA Heather Knox.

### **United States v. Isaac Roubideaux**

#### *Assault with a Dangerous Weapon, Assault Resulting in Serious Bodily Injury, Discharge of a Firearm During Crime of Violence, Felon in Possession, Failure to Register as a Sex Offender*

In November 2021, Isaac Roubideaux shot another individual in the back as the individual was leaving Roubideaux's residence in Pine Ridge, South Dakota. The shot lacerated the victim's spine, resulting in his paraplegia. Roubideaux fled the residence and was located several weeks later in Nebraska after providing a false name. Roubideaux proceeded to trial in May 2022 and was convicted of assault with a dangerous weapon, assault resulting in serious bodily injury, discharge of a firearm during a crime of violence, two counts of felon in possession of a firearm, and three counts of failure to register as a sex offender. In August 2022, Roubideaux was sentenced to 36 years and 10 months in federal prison. AUSA Megan Poppen.

**United States v. Brett Schrum, Shadow Jensen, Tracy Jones a/k/a Wilcox, Richard Bettelyoun, Beau Imitates Dog, Frank Milk, and Paul Moore**

*Conspiracy to Distribute Methamphetamine*

Between May 2018 and continuing through October 2020, Brett Schrum, of Ft. Morgan, Colorado, trafficked dozens of pounds of methamphetamine into South Dakota, primarily to the Pine Ridge Reservation. Schrum led a significant group of people and would coordinate with his co-conspirators as well as others, to distribute the methamphetamine in Martin, Kyle, and Pine Ridge, South Dakota. Milk was sentenced in October 2021 to 13 years in federal prison; Jensen and Imitates Dog were each sentenced in February 2022 to ten years in federal prison; Moore was sentenced in February 2022 to 14 years in federal prison; Schrum was sentenced in March 2022 to 25 years in federal prison; Bettelyoun was sentenced in June 2022 to 13 years in prison; and Jones was sentenced in August 2022 to ten years in federal prison. AUSA Kathryn Rich.



**ROSEBUD RESERVATION**  
**Rosebud Sioux Tribe**

**United States v. Russell Eagle Bear, III and Cleo Kills In Water**

*Assault Resulting in Serious Bodily Injury and Assault with a Dangerous Weapon*

In the evening of December 6, 2021, Russell Eagle Bear, III, and Cleo Kills In Water picked up the victims at their respective homes in Norris, South Dakota. The group had planned an overnight trip to the Rosebud Casino. Also present in the vehicle was Kills In Water's young child, who was secured in a car seat in the back seat. Prior to leaving Norris, the group drove around town while consuming alcohol in the vehicle. They also stopped at a residence in Norris, where Eagle Bear and the male victim consumed more alcohol with the resident. Kills In Water, her child, and the female victim remained in the vehicle. When the men returned to the vehicle, Eagle Bear sat in the front passenger seat and directed Kills In Water to drive north out of town to get to Highway 44. Before making it to the highway, Eagle Bear told Kills In Water to turn east toward the Sundance Grounds. As they were driving, Eagle Bear turned around in his seat and began assaulting the male victim who was positioned directly behind him. Eagle Bear initially used his fists, but then produced a hatchet from underneath the seat and continued the assault. The group made multiple trips back and forth from Norris to the Sundance Grounds all while Eagle Bear continued to assault the male victim, taking occasional breaks. On one trip to the Sundance Grounds, Eagle Bear ordered the male victim out of the vehicle and forced him to undress. Eagle Bear then had the male victim wash the blood from his body using a water hydrant. The group eventually returned to the camper that Eagle Bear used as his residence in Norris. The male and female victim were directed to enter the camper. At one point while inside the camper, Kills In Water took possession of the hatchet and struck the female victim with it.

The male and female victims were able to escape the camper and call law enforcement after Eagle Bear and Kills In Water fell asleep. The male victim was transported to the Rosebud Hospital but later transferred to Monument Health in Rapid City, South Dakota. The male victim suffered multiple lacerations to his head and arms, a left parietal skull fracture, left frontal bone fracture, left forearm fracture, and a 12th rib fracture on his left side. The laceration to his skull required staples. Eagle Bear pleaded guilty to Assault Resulting in Serious Bodily Injury while Kills In Water pleaded guilty to Assault with a Dangerous Weapon. Both were sentenced in August 2022. Eagle Bear was sentenced to eight years in federal prison; Kills In Water was sentenced 12 months and 1 day. AUSA Abby Roesler.

**United States v. Perry Fogg**

*Voluntary Manslaughter*

On July 19, 2021, Perry Fogg, the victim, and others were drinking at a residence north of Norris, South Dakota. As the night progressed, only four individuals remained outside, including Fogg and the victim. The victim became angry with another male outside and swung at him but missed. The victim then turned to Fogg and struck him numerous times in the arms and face. The victim eventually left the property but continued to exchange words with others still outside. The victim began walking on the roadway back toward the initial residence while two males walked toward the victim. Fogg got in his pickup, maneuvered around the other two males, and drove toward the victim, striking the victim with the driver's side bumper of the pickup. The victim passed away as a result of his injuries from the impact. Fogg pleaded guilty to Voluntary Manslaughter, and in December 2022, he was sentenced to seven years in federal prison. AUSA Abby Roesler.

**United States v. Conrad Good Voice, Jr.**

*Abusive Sexual Contact with a Child*

On more than one occasion between March 1, 2019, and March 1, 2021, in Todd County, South Dakota, Conrad Good Voice, Jr., engaged in a sexual contact with a child who was in his care and custody and who was between the ages of seven and nine years old. Good Voice pleaded guilty to Abusive Sexual Contact With a Child. In August 2022, Good Voice was sentenced to 20 years in federal prison. AUSA Kirk Albertson.

**United States v. Tanyan Wakita Iron, a/k/a Sonny Iron**

*Voluntary Manslaughter*

On August 9, 2020, Tanyan Wakita Iron was at the home of his girlfriend, the victim, visiting her and her son. At some point during the conversation, Iron brought out a pistol from his backpack. A family member came into the home describing Iron in the driveway attempting to get the victim to play "Russian Roulette" with him. Shortly after this disclosure, Iron ran to the door stating that the victim shot herself. Iron fled the scene. Iron ultimately admitted he was the one who shot the victim and pleaded guilty to voluntary manslaughter. In May 2022, Iron was sentenced to seven years in federal prison. AUSA Troy Morley.



### **United States v. Patrick Medearis**

#### *Prohibited Person in Possession of a Firearm*

On April 22, 2020, law enforcement officers in Todd County, South Dakota, were searching for Patrick Medearis based on an alleged domestic violence incident that occurred the previous day wherein he was suspected of possessing a firearm. Medearis was subsequently located at a residence near Mission, South Dakota. When law enforcement arrived, Medearis attempted to flee in a vehicle. He was apprehended following a pursuit, and a .22 caliber long rifle and a 12-gauge shotgun were located in the passenger seat of the vehicle. Following a three-day jury trial, he was convicted of Prohibited Person in Possession of a Firearm. In April 2022, Medearis was sentenced to eight years in federal prison. AUSA Kirk Albertson.

### **United States v. ShawnDae White Bird**

#### *Child Abuse*

White Bird gave birth to a daughter on July 4, 2021, at Winner Regional Hospital in Winner, South Dakota. A newborn well-being check was completed the following day, and the doctor noted swelling and discoloration to the infant's left labia. The on-call neonatology doctor and Sanford Hospital in Sioux Falls, South Dakota, were consulted, and the child was transferred to Sanford Hospital. The child was discharged a few days later, and White Bird was advised to maintain careful observation of the left labia and to seek medical advice if the condition worsened. Follow-up appointments were scheduled at both Sanford Children's Hospital and Rosebud Hospital. On September 7th, the child was prescribed propranolol to treat what was diagnosed as hemangioma. White Bird was consulted on where the prescription could be filled., but White Bird never filled the prescription. In late October, White Bird presented the child to Rosebud Hospital due to a cough and fever. Upon examination, the child was again transferred to Sanford Hospital for further treatment. Because the child did not receive the medication as prescribed, her hemangioma developed into an ulcerated and infected wound with necrotic tissue that required a debridement procedure. White Bird pleaded guilty to child abuse and was sentenced in December 2022 to 13 months in federal prison. AUSA Abby Roesler.

### **United States v. Isaiah Young**

#### *Second Degree Murder and Assault with a Dangerous Weapon*

In the early morning hours of January 24, 2021, Isaiah Young broke into a St. Francis, South Dakota, residence with the intent to commit larceny. He entered a bedroom and turned on a light, awakening a man and a woman who were sleeping in the bedroom. Young grabbed a hammer and assaulted the victims, repeatedly striking them in the head and face. Young then picked up a knife and stabbed both victims repeatedly. The woman suffered fatal injuries. The man was hospitalized for his injuries but survived. Young pleaded guilty to Second Degree Murder and Assault with a Dangerous Weapon. In July 2022, Young was sentenced to 40 years in federal prison. AUSA Kirk Albertson.





## **STANDING ROCK RESERVATION**

### **Standing Rock Sioux Tribe**

#### **United States v. Casey Lynn Crow Ghost**

##### *First Degree Murder and Use of a Firearm During a Crime of Violence that Causes Death*

In December 2020, Casey Lynn Crow Ghost murdered his long-time dating partner by shooting her in the back of the head with a pistol. Crow Ghost abandoned her body in his apartment. Three days later, the victim's family located a blood stain outside of the apartment's back door. Law enforcement searched the apartment and recovered the body. Crow Ghost was found hiding in a bathroom in a nearby house along with a loaded pistol. Law enforcement interviewed Crow Ghost, and he claimed the pistol fired after the victim threatened him with it and a struggle ensued. In a second interview several days later, Crow Ghost admitted to shooting the victim at point-blank range after he dragged her back inside the apartment as she was trying to leave.

The case proceeded to a jury trial in August 2022. Several witnesses testified about Crow Ghost's jealous behavior. Business records revealed Crow Ghost purchased the pistol just two months before the murder. Testimony from a forensic scientist identified the victim's blood and DNA on the pistol's muzzle and Crow Ghost's DNA on the pistol's grip. Crow Ghost testified at trial and provided a third version of events: he was trying to leave the apartment when the victim approached him with the pistol, pulled his ponytail, and when Crow Ghost turned around, the pistol fired. Crow Ghost admitted he dragged the victim's body inside the apartment and left it there. The jury convicted Crow Ghost of First Degree Murder and Use of a Firearm During a Crime of Violence that Causes Death. In November 2022, Crow Ghost was sentenced to life in federal prison. AUSA Cameron Cook.

#### **United States v. Corey Lynn Flying Bye, Jr.**

##### *Conspiracy to Distribute Methamphetamine*

Between 2020 and 2021, Corey Lynn Flying Bye, Jr., knowingly and intentionally conspired with others to distribute methamphetamine within the Standing Rock Sioux Indian Reservation. Flying Bye was personally responsible for distributing between 50 and 200 grams of methamphetamine to others. On January 7, 2021, law enforcement arrested Flying Bye in Mobridge, South Dakota, after he was found intoxicated in his car. Flying Bye possessed a small amount of methamphetamine, baggies, syringes, a digital scale, and a pellet gun. Flying Bye pleaded guilty to Conspiracy to Distribute a Controlled Substance. In August 2022, Flying Bye was sentenced to ten and a half years in federal prison. AUSA Cameron Cook.

**United States v. Jerome Moses Goodhouse, Jr.**

*Aggravated Sexual Abuse of a Child and Witness Tampering*

Between 2015 and 2017, Jerome Moses Goodhouse, Jr., sexually abused two minor family members. Goodhouse was at least 25 years old during both incidents. The first victim was 13 years old when Goodhouse approached her alone in a basement, choked her, and forcibly committed a sex act against her. Afterwards, Goodhouse threatened her by saying he would “find her” if she told anyone what he did to her. The second victim was between 9 and 11 years old when Goodhouse committed several sex acts against her in the same basement. Both victims did not disclose what happened until years later. Goodhouse was previously charged with committing a forcible sex act against a minor, but he pleaded guilty to a lesser charge involving sexual contact without consent.

The case proceeded to a jury trial in August 2022. The jury convicted Goodhouse of two counts of Aggravated Sexual Abuse of a Child and one count of Witness Tampering. In November 2022, Goodhouse was sentenced to life in federal prison. AUSAs Cameron Cook and Carl Thunem.

**United States v. Kimo Little Bird, Sr.**

*Aggravated Sexual Abuse of a Child, Felony Sex Offense Against a Minor While Required to Register as a Sex Offender, and Tampering With a Witness*

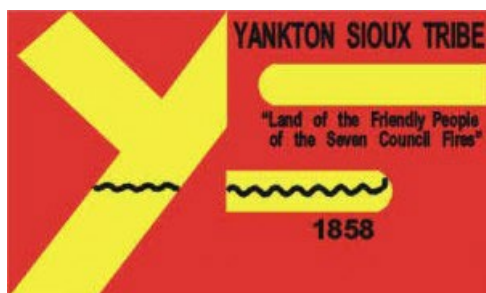
In 2006, Kimo Little Bird, Sr., was convicted of Sexual Abuse of a 14-year-old girl. As a result of that conviction, he is required to register as a sex offender. Little Bird was released from federal prison on June 3, 2016, on a separate and unrelated federal felony. Upon his release, he went to live in a home in Little Eagle, South Dakota. After Little Bird arrived in Little Eagle, an 11-year-old girl also moved into the same residence that Little Bird was residing in. One night, the 11-year-old girl was watching a movie with Little Bird in the living room. Everyone else in the home was asleep or in other rooms. Little Bird was on a pull-out couch/futon, while the girl was laying on an air mattress on the floor in front of the futon. The girl fell asleep while watching the movie. The girl was woken up as she was being pulled by her wrist toward the futon by Little Bird. Once the girl was along-side of the futon, Little Bird used the palm of his hand to rub the girl’s stomach over her clothing and then moved his hand underneath the girl’s clothing, and made direct, skin-to-skin contact with the girl’s genitalia. The girl grabbed Little Bird’s wrist to prevent him from further touching her. The 11-year-old girl did not immediately disclose what happened but did so on July 25, 2016.

Little Bird was arrested for violating the terms and conditions of his supervised release on August 11, 2016. While incarcerated, he contacted family members requesting that they have the girl write a letter saying that she lied so that the charges against him would be dropped, and he could be released. Following a three-day jury trial, Little Bird was convicted of Aggravated Sexual Abuse of a Child, Felony Sex Offense Against a Minor While Required to Register as a Sex Offender, and Tampering With a Witness. In May 2022, Little Bird was sentenced to a total of life in federal prison, plus 10 years. AUSAs Jay Miller and Troy Morley.

## **United States v. Sven Schreiber & Arnaldo Piccinelli**

### *Bribery and Embezzlement*

Sven Schreiber, age 54, of Florida and North Dakota, was convicted of bribery, and Arnaldo Piccinelli, age 44, of Florida, was convicted of embezzlement. In approximately December 2015 through 2021, Schreiber became the Director of the Information Technology Department of the Standing Rock Sioux Tribe. Schreiber's duties included, among other things, serving as the Tribe's primary contact with outside vendors and generating bids, contracts, and agreements relating to the work of the Tribe's Information Technology Department. Piccinelli provided information technology services on a sole-source, contract basis with the Tribe, by and through its Information Technology Department. Schreiber served as Piccinelli's point of contact regarding all of the contracts with the Tribe. Piccinelli accepted payments from the Tribe, at the direction of Schreiber, via checks made payable to Piccinelli individually or to Piccinelli's for-profit corporation, Hexagon Code, Incorporated. At some time after Piccinelli entered into the contract, Schreiber solicited Piccinelli for money. As a result, Schreiber received cash payments of approximately \$15,000. Schreiber was sentenced to 12 months and one day in federal prison and fined \$15,000. Piccinelli was sentenced to two years of probation. AUSA Jeremy Jehangiri.



## **YANKTON RESERVATION Yankton Sioux Tribe**

## **United States v. Ronald Bohn**

### *Voluntary Manslaughter*

Ronald Bohn pleaded guilty to voluntary manslaughter for stabbing and killing a man on the Yankton Sioux Reservation. This conviction stemmed from an incident on September 15, 2020, when Bohn fatally stabbed Isaac Primeaux, Jr., while Bohn was at Primeaux's apartment in Wagner, South Dakota. At some point during the evening, an argument broke out and Bohn grabbed a knife and stabbed Primeaux in the chest, killing Primeaux. In January 2022, Bohn was sentenced to over eight years in federal prison AUSA Annie Hoffman.

## CIVIL DIVISION

The Civil Division represents the interests of the United States in litigation involving the federal government in the District of South Dakota. The mission of the Civil Division is to promote the fiscal integrity of the federal government by conducting meaningful community outreach to educate citizens about civil rights and fraud prevention and by filing affirmative lawsuits against individuals and companies who misuse or falsely claim entitlement to federal money. The Civil Division defends the interests of the United States in cases where the government or government employees are sued for acts related to official business. The Division's defensive work includes supporting Final Agency Decisions in regulatory and employment determinations and defending the United States in personal injury or medical malpractice litigation brought pursuant to the Federal Tort Claims Act. The Civil Division is supervised by Civil Chief Diana Ryan.

## SIGNIFICANT DEFENSIVE LITIGATION

### TORT LITIGATION

#### **Charlee Archambault, for the Estate of Jacob Archambault Spotted Tail v. United States**

*Constitutional Tort/Bivens—BIA, ISDEEA, Rosebud Sioux Tribal Officers*

In January 2019, Jacob Archambault Spotted Tail was shot and killed during an encounter with two Rosebud Sioux Tribe police officers. His mother filed this lawsuit alleging the officers violated her son's constitutional rights and sought damages. As the decedent was trying to flee in his vehicle over a snowy hill crest, his vehicle was unable to make it over the hill. On his third attempt, his car hit one officer's patrol car, and the officers fired their weapons, killing Spotted Tail. The United States was dismissed as a defendant because a *Bivens* action could not be prosecuted against the United States absent a waiver of sovereign immunity; only the officials directly responsible can be sued in a *Bivens* case. As the only government officials were tribal officers and not federal officials, and because the complaint was entirely devoid of facts that suggest direct, purposeful involvement by supervisors, all claims against the United States were dismissed. AUSA Michael Hofmann.

#### **Autumn Hilger v. United States**

*Federal Tort Claims Act—National Park Service (NPS), Mt. Rushmore*

Autumn Hilger broke her wrist when she fell on a slippery temporary walkway at Mt. Rushmore National Monument when she visited in November 2020. Hilger maintained the temporary walkway was negligently installed, unsafe, lacked handrails, and without warning signs that the walkway might become slippery when wet. The court found and Hilger conceded that the NPS had discretion regarding how it installed and maintained the temporary walkway and how it warned of potential dangers at Mt. Rushmore. The court further found that the decision to construct the temporary walkway involved considerations of public safety, preservation of park resources,

visitor access, and cost. The NPS had to balance maintaining the temporary walkway with its other responsibilities, including keeping the park open to the public, serving thousands of visitors, completing the construction project, and preserving Mt. Rushmore's aesthetic and cultural significance. Whether the NPS should have balanced those responsibilities differently is not something the court would decide according to well-established precedent on the discretionary function exception to the Federal Tort Claims Act. Summary Judgment was granted in favor of the United States. AUSA Michael Hofmann.

**Okwuchukwu Emmanuel Jidoefor v. U.S. Secret Service et al.**

*Civil Rights, Federal Tort Claims Act/Bivens*

The USAO-SD defended this case for the District of Minnesota because a former AUSA who became a U.S. Magistrate Judge in Minnesota was a named defendant. Okwuchukwu Emmanuel Jidoefor filed suit after he was ordered removed from the United States, and he sought an immigration visa from the U.S. District Court. His lawsuit was dismissed on multiple grounds. Jidoefor's Civil Rights Act claims against federal agencies and federal officers in their official capacity was dismissed for lack of subject matter jurisdiction. His FTCA claims were dismissed for failure to sue the United States and because the federal employees named as defendants have absolute immunity for tort claims that challenge negligent or wrongful acts performed while acting within the scope of their government employment. The court also lacked jurisdiction because Jidoefor failed to file an administrative claim prior to filing this action. The court had no jurisdiction to review and nullify a removal order or grant the immigration visa that plaintiff requested. AUSA Stephanie Bengford.

**Handsome Parker v. Yankton Prison Camp et al.**

*Constitutional Tort/Bivens—Bureau of Prisons*

Federal inmate Handsome Parker filed a lawsuit accusing a prison guard of violating his Fourth Amendment rights after the guard obtained Parker's password and accessed Parker's personal Facebook account without a search warrant or consent. The lawsuit was brought against the guard in his personal capacity because the United States does not waive sovereign immunity for constitutional torts. Parker sought \$500,000 for the alleged violation of his constitutional rights. The U.S. District Court declined to recognize a *Bivens* claim under the Fourth Amendment's protections against illegal searches and seizures for accessing Parker's Facebook account. *Bivens v. Six Unknown Federal Narcotics Agents* involved a warrantless search of a home and person, not the search of a digital media platform. Another distinguishing fact was that Parker was an inmate at a BOP facility, not a private person in his own home. These differences, combined with the existing administrative remedy procedures at the prison, counseled hesitation before recognizing the unauthorized Facebook access as a new *Bivens* cause of action. The court dismissed the Complaint for failure to state a claim upon which relief may be granted. USA Alison Ramsdell and AUSA Alexis Warner.

**Tina Steele v. United States**

*Federal Tort Claims Act—Oglala Sioux Tribal Officer*

Tina Steele sued the United States over two tribal officers employed under a self-determination contract with the Oglala Sioux Tribe (OST). Steele alleged the officers assaulted and battered her

during her arrest after she failed to stop at a Covid-19 check point. Steele claims the officers broke her car windows, pepper sprayed her in the face, threw her to the ground, and broke her arm. The OST officers who arrested her did not have their Special Law Enforcement Commission authorization to enforce federal law. Thus, for purposes of the FTCA law enforcement proviso, they remained tribal officers and there was no liability against the United States for an intentional assault and battery. The United States motion to dismiss for lack of jurisdiction was granted. AUSA Michael Hofmann.

**Lonnie Two Eagle v. United States**

*Federal Tort Claims Act—Indian Health Service*

Lonnie Two Eagle was severely injured when he was run over by an IHS cafeteria worker who suffered a seizure while driving back to work after his lunch break. The cafeteria worker lost control of his car and ran over Two Eagle as he was mowing the grass on a riding lawn mower. The U.S. District Court applied the “coming and going rule” that precludes FTCA liability from accidents that happen when an employee is going to or coming from work and held the United States was not liable for Two Eagle’s injuries because the accident occurred as the federal employee was returning to work from having lunch at home. AUSA Michael Hofmann.

**PROGRAM LITIGATION**

**Jacob Black v. Hector Urcelay, Social Security Administration**

*Rehabilitation Act—Social Security Administration (SSA)*

Jacob Black claimed he was a qualified individual with a hearing impairment who had difficulty hearing without a hearing aid, and that he was illegally denied Social Security disability benefits. SSA provided proof that they had furnished several aids to facilitate effective communication with Black and there was no evidence that Black was unable to effectively communicate with SSA employees. Black’s claims that Defendant Urcelay changed the dates of plaintiff’s appointments and refused to secure a sign language interpreter for him were not supported by the factual record. Because Black did not show he was denied an opportunity to access the same services as non-disabled claimants, the U.S. District Court granted the defendant’s motion for summary judgment. Black appealed the dismissal, but the district court’s decision was upheld. AUSA Michael Hofmann.

**Jeri Lynn Erickson v. United States Postal Service**

*Temporary Protection Order*

Jeri Lynn Erickson, a postal employee, sought a temporary protection order (TPO) in State Court against her direct supervisor, asking the court to prevent the supervisor from speaking to her or coming within ten feet of her because they had a verbal argument concerning the timing of her lunch break and some previous postal union grievances. The U.S. Postal Service reached out to our office for assistance because the TPO interfered with the federal official’s ability to perform work-related functions in a federal facility. Expedited permission was granted to represent the supervisor. The first TPO was denied, because the court found the dispute was not threatening and did not warrant a protection order. Not to be deterred, Erickson sought a second TPO, supplementing her claim with the allegation that the supervisor had used a threatening gesture,

placing her in fear of being struck. At the hearing, the State Court judge vacated the TPO based upon the fact that the state court lacked jurisdiction over the federal government in a federal facility. No further TPO litigation has been filed in federal court. AUSA Michael Hofmann.

**Steven R. Knispel v. Deb Haaland, Secretary, Department of Interior**

*Reverse Employment Discrimination—Department of Interior/Bureau of Indian Affairs (BIA)*

Steven Knispel, a supervisory criminal investigator, claims he was subjected to discrimination and harassment while employed by the BIA because he was not a Native American. In addition, he claims the BIA violated the Rehabilitation Act by failing to reasonably accommodate his disability. There were multiple official defendants named in the complaint, and the government successfully obtained dismissal of officials who were not the head of the department or agency being sued. The U.S. District Court also granted the government’s motion for a more definitive statement requiring Knispel to provide the actual names rather than pseudonyms in the complaint for those he alleges harassed, discriminated, or retaliated against him. This case remains in active litigation. AUSA Stephanie Bengford.

**Gregory Kroupa et al. v. United States Department of Agriculture**

*Administrative Procedures Act—Farm Service Agency (FSA), Livestock Indemnity Program*

Plaintiffs filed a claim to compensate them for cattle they lost during the blizzard of April 2019 near White Lake, South Dakota. Because they failed to provide verifiable records to substantiate the number of lost cattle, FSA only approved payment for what could be substantiated. The Plaintiffs sued, seeking the full value of their claim. The U.S. District Court granted summary judgment in favor of FSA. Plaintiff’s claim for money damages was dismissed based on lack of jurisdiction because the United States has not waived sovereign immunity for money damages in the context of an Administrative Procedure Act appeal. Count Two of the plaintiffs’ complaint was based on the Fourteenth Amendment due process clause, which applies only to State action and does not apply to federal actors. Therefore, those allegations were also dismissed. Finally, the court reviewed the FSA’s decision to reimburse the plaintiffs for 35 calves and found that the Appeals Division Director’s decision was not arbitrary or capricious. His decision was supported by the language of the regulations, which distinguished between “verifiable” records (from a third party) and “reliable” records (from the producer/rancher). Accordingly, the United States’ motion for summary judgment was granted. USA Alison Ramsdell.

**Lower Brule Sioux Tribe v. United States Treasury, Bureau of Fiscal Services**

*Audit Disallowance*

The Lower Brule Sioux Tribe filed a Complaint, Petition for Preliminary and Permanent Injunction, Declaratory Relief, and Writ of Mandamus to prevent Bureau of Fiscal Services from seizing federal money arising out of audit disallowances related to Tribally Controlled School grant money. The Tribe used deferred revenue in the form of advanced federal funds to pay tribal operating expenses. The Tribe argued in the past, the Bureau of Indian Education (BIE) accepted the Tribe’s responses to the disallowed audit costs because the value of the deferred revenue was more than offset by the Tribe’s capital assets and declined to issue a bill for collection. However, the past practice ceased in 2017, after the BIE was advised their past practice was “unsound.” The BIE thereafter issued a Bill of Collection to the Tribe based on the 2017 and 2018 audits, which

leads to this lawsuit. The Tribe also claimed the seizure of federal money was in violation of the Snyder Act, the Indian Self-Determination and Education Assistance Act, and the 1868 Treaty of Fort Laramie, the trust duty owed by the BIE to the Tribe, and is unconstitutional because it violates the Equal Protection Clause and the Due Process Clause of the United States Constitution. The Tribe has asked the court to prevent the federal government from engaging in future collection actions and to restore federal funds already seized so they may be used for the general welfare of the Tribe and its members. The Tribe claims that some of the money seized was to be used for COVID-19 pandemic protection, prevention, and ambulance services. The U.S. District Court denied injunctive relief and granted the United States' Motion to Dismiss but reserved 21-days for the Tribe to refile an amended complaint related to the overcollection and administration. The government maintains there was no overcollection, but rather the Tribe owes over \$1 million, and that the CARES Act funds were returned to the Tribe. The Tribe filed an Amended Complaint and litigation remains pending. AUSA Alexis Warner.

### **Governor Kristi Noem v. National Park Service**

#### *Writ of Mandamus*

The Eighth Circuit Court of Appeals affirmed the District Court's denial of mandamus/injunctive relief challenging the NPS's decision to deny permission for the State of South Dakota to host fireworks at Mt. Rushmore National Monument on July 3, 2021. The NPS's reasons for denying the 2021 firework show included COVID-19 risks, concerns about tribal relationships, effects on other Mt. Rushmore visitors, an in-progress construction project, and ongoing monitoring of water contamination and wildfire risks. The Eighth Circuit upheld the NPS permitting system because the relief requested (declaring the NPS permitting system unconstitutional) would not give the requested relief, as nobody has a right to ignite fireworks on someone else's land without permission. Doing away with the system to obtain a special use permit would only make it harder for South Dakota to hold a fireworks show. Accordingly, redressability was absent and the State lacked standing. Civil Chief Diana Ryan.

### **Kevin Tomshack v. Veterans Administration**

#### *Employment Discrimination*

Kevin Tomshack was a program support assistant for the Sioux Falls Veterans Administration (VA). He requested a disability accommodation to work part-time. The VA denied his request. Following that, he was given a poor performance review and notice of deficiencies for not obtaining required training needed to schedule patient appointments, which was a key performance element of his job. Tomshack claimed his poor performance rating was in retaliation for requesting an accommodation to work part time. He resigned from his position and brought this lawsuit. The VA cited Tomshack's continuing failure to work full-time, attend assigned training, and conduct patient scheduling as his job required as the reasons why he was unable to perform the essential functions of his job and not entitled to a reasonable accommodation. The U.S. District Court agreed, holding that Tomshack was not a qualified employee entitled to an accommodation under the Rehabilitation Act because he could not perform the essential functions of his position as a *full-time* program support assistant with scheduling responsibilities. Because Tomshack did not have a viable disparate treatment claim, failure to accommodate claim, or retaliation claim, judgment was granted in favor of the VA. USA Alison Ramsdell.



## **DEFENSIVE FORECLOSURE LITIGATION**

The U.S. Attorney's Office opened 34 defensive foreclosure files in 2022. This is compared to 19 cases in 2021, 56 cases in 2020, and 61 cases in 2019. In most defensive foreclosures, a bank or other lending institution brings an action in state court. The USAO-SD becomes involved in a defensive foreclosure case when a government agency has a lien on the foreclosed property. The agencies most involved in these types of cases are the Internal Revenue Service (IRS), Department of Housing and Urban Development (HUD), Rural Housing Service (RHS), the Veterans Administration (VA) or Farm Service Agency (FSA). The majority of the USAO-SD's defensive foreclosure cases involve tax liens filed by the IRS and HUD partial claim mortgages.

## **FREEDOM OF INFORMATION ACT LITIGATION**

Since 1967, the Freedom of Information Act (FOIA) has provided the public the right to request access to records from any federal agency. Some records, however, may be protected from release pursuant to one of the nine FOIA exemptions. Although FOIA may entitle the requester to existing records, it does not allow for the opportunity to ask federal agencies questions, to request opinions, or require the creation of records. In 2022, the USAO-SD opened six FOIA requests, compared to the seven FOIA requests we received in 2021. If a party wishes to challenge the decision of the records that are provided when making a FOIA request to a federal agency, the party may file a complaint in Federal District Court and proceed to litigate that FOIA request. In 2022, our office received the following decision relating to pending FOIA litigation.

### **Edward Picardi v. United States Attorney's Office and DOJ FOIA Office**

Plaintiff was convicted of tax evasion. He sought documents to support his belief that the motivation for his prosecution was because he rejected a former AUSA's offer to purchase his home and property in the Black Hills, and because the prosecutor was an active Democrat while Dr. Picardi actively opposed Obamacare. The FOIA responses and ensuing litigation spanned several years, with Dr. Picardi arguing the search was not expansive enough to find documents he believed to exist. The U.S. District Court held that the USAO-SD and DOJ FOIA Office acted in good faith and met their burden of proving they conducted thorough searches for all documents. Dr. Picardi did not appeal. USA Alison Ramsdell.

## **BANKRUPTCY LITIGATION**

When a debtor files for bankruptcy and owes student loans to the Department of Education, owes taxes to the IRS, or another debt is owed to a governmental agency, the United States is often listed as a creditor. The USAO-SD opened 19 new cases in 2022, including one Adversary Complaint challenging discharge, four Chapter 12 Farm Reorganization, and fourteen Chapter 13 Business Reorganizations. Most of the new bankruptcy cases opened in 2022 by the U.S. Attorney's Office involved the IRS. The Bankruptcy Court in South Dakota reported that the number of bankruptcy cases filed in December 2022 increased by 16% compared to the same month in 2021. Overall, total South Dakota bankruptcy filings were down 8% compared to the number of cases filed in 2021. Nationwide statistics show that 378,326 total bankruptcy cases were filed in the United States in 2022, a 6% decrease from 2021. Chapter 13 cases saw a 32% increase. Similarly, Chapter 11 cases increased by 2% and Chapter 12 cases saw a 13% increase.

## SIGNIFICANT AFFIRMATIVE LITIGATION

The U.S. Attorney's Office works jointly with the State of South Dakota, the Department of Health and Human Services, the National Science Foundation, NASA, the Department of Education, and the U.S. Postal Service to recover reimbursement for money fraudulently obtained through false statements made to federal agencies, and for services not rendered or not provided by qualified medical personnel. The USAO-SD prioritizes the investigation and litigation of affirmative civil enforcement matters. Highlights of our civil affirmative enforcement efforts in 2022 include the following matters.

### AFFIRMATIVE FORECLOSURES

#### **United States v. Estate of Patricia Fager, Georgia Pourier, Daniel Merrival, Robert Larvie**

*United States Department of Housing and Urban Development (HUD)*

HUD requested foreclosure of a deceased borrower's loan under the provisions of Section 184 of the Housing and Community Development Act (HCDA) that was secured by a leasehold mortgage/interest on real property held in trust for members of the Oglala Sioux Tribe. The debtor defaulted on her mortgage. The USAO-SD is working with the Tribe, which intends to purchase the note. AUSA Alexis Warner.

#### **United States v. Estate of Gilbert Oliver**

*Veterans Administration (VA)*

In 2016, the VA requested foreclosure of a \$102,662 loan. The VA issued the loan under the provisions of Section 184 of the HCDA that was secured by a leasehold mortgage/interest on real property held in trust for members of the Rosebud Sioux Tribe. The Tribe was offered the right of first refusal to assume the mortgage but did not exercise that right. In July 2022, the USAO-SD contacted the administrator of Oliver's estate to inquire whether the administrator could secure financing to pay off the mortgage, or if the administrator would voluntarily transfer Oliver's interest in the property to the United States. After not hearing from the administrator, the USAO-SD inquired whether the Tribe would be willing to purchase the note on the property. At the time this report was submitted, discussions were ongoing. AUSA Alexis Warner.

#### **United States v. Earl Peneaux**

*Veterans Administration (VA)*

In 2016, the VA requested foreclosure of a loan in the amount of \$113,231. The VA issued the loan under the provisions of Section 184 of the HCDA that was secured by a leasehold mortgage/interest on real property held in trust for members of the Rosebud Sioux Tribe. The Tribe was offered the right of first refusal to assume the mortgage but did not exercise that right. The USAO-SD has secured default judgment. Upon agency suggestion, at the time this report was submitted, the USAO was reaching out to the Tribe to ascertain whether the Tribe had interest in purchasing the property or the judgment. AUSA Aron Hogden.

### **United States v. Spotted Tail**

*United States Department of Housing and Urban Development (HUD)*

In 2017, HUD requested foreclosure of a loan in the amount of approximately \$48,000. After numerous attempts to contact the debtor to come current on the loan, or in the alternative, to sign a lease in lieu of foreclosure, the USAO-SD filed a Complaint in federal court in June 2022. Spotted Tail failed to answer, and Default Judgment was entered in November 2022. In the interim, the USAO-SD has been working with the Tribe for possible sale of the property to the Tribe. At the time this report was submitted, discussions were ongoing. AUSA Alexis Warner.

## **DISASTER ASSISTANCE FRAUD**

### **United States v. James and Levi Garrett**

*United States Department of Agriculture, Risk Management Agency*

Defendants James and Levi Garrett, owners of a father/son farming and ranching operation in central South Dakota, were indicted in October 2021 for multiple counts of False Statement in Connection with Federal Crop Insurance and Major Fraud (related to COVID-19/CARES Act funds). The investigation revealed that from 2016 through 2020, the Garretts purchased crop insurance policies and received payouts based on providing false information related to plant dates. A parallel civil case was opened in November 2021. Following a six-day criminal jury trial in October 2022, the Garretts were convicted of three counts (collectively) of crop insurance fraud. The defendants were sentenced in January 2023 to 18 months (James) and 24 months (Levi) incarceration and ordered to pay over \$1.3 million in restitution. As of this writing, both Defendants have appealed their convictions and a complaint has been filed against the Garretts under the False Claims Act. AUSA Alexis Warner.

## **PROCUREMENT FRAUD**

### **Investigation re Weston Engineering, Inc.**

*Environmental Protection Agency*

This referral from the EPA was opened in September 2020. It is alleged that Weston violated the American Iron and Steel (AIS) requirement by using foreign-made steel on a well project done for the City of Hermosa, South Dakota, using EPA funding administered by the State of South Dakota. In December 2022, Civil Investigative Demand (CID) depositions were taken of the president, co-owner, and office manager of Weston. Prior to the depositions, the investigation revealed that the pipe used on the project was made in India. Following depositions, a settlement was reached with Weston Engineering, Inc. and was being finalized at the time this report was submitted. AUSA Alexis Warner.

## **SOCIAL SECURITY FRAUD**

South Dakota's Cooperative Disability Investigations Unit (CDIU) launched in September 2017. Since that time, the USAO-SD has worked to develop relationships with task force members. Coordination with the CDIU is ongoing.

## HEALTH CARE FRAUD

The District of South Dakota hosts quarterly Healthcare Fraud Task Force Meetings. This includes attendees from the USAO's civil and criminal divisions, HHS-OIG, and the South Dakota Medicaid Fraud Control Unit. In 2022, meetings were held on March 30, June 15, and September 28. The final meeting was held on November 8 at the Healthcare Fraud Subcommittee of the 2022 Law Enforcement Coordinating Committee Annual Conference (LECC), and included attendees from healthcare institutions, state licensing boards, and insurance providers. Speakers/topics at the 2022 event included Linda Hanley, Assistant Special Agent in Charge, HHS-OIG-OI, and Michael Grasso, Special Agent, HHS-OIG. ASAC Hanley and SA Grasso presented on DME and genetic telemedicine schemes, detailing case strategy and investigative tools. Daniel McCormick and Shannon Keller, DEA Diversion, provided a general overview of the DEA Diversion program. The event concluded with a roundtable discussion amongst attendees about pressing issues and/or emerging trends in the healthcare industry.

### **Investigation re Dunes Surgical Hospital**

CMS received a lengthy self-disclosure from the Dunes Surgical Hospital in April 2021. In response, an FCA investigation was opened, which is being jointly handled by Civil Frauds, the District of South Dakota, and the Northern District of Iowa. The principal issue is whether contractual agreements with certain providers violated the Stark and Anti-Kickback laws. Dunes is cooperating and has provided thousands of documents and presented to DOJ in July 2022. DOJ has conducted several interviews of key employees of Dunes Surgical Hospital and associated entities. Litigation is ongoing. AUSA Alexis Warner.

## CIVIL RIGHTS ENFORCEMENT

### **United States vs. Retsel Corporation, Connie Uhre, and Nicholas Uhre**

*Title II of the Civil Rights Act of 1964*

In conjunction with the Housing and Civil Enforcement (HCE) Section of the Civil Rights Division, the USAO-SD sued to enjoin the Defendants from implementing racially discriminatory policies and practices against Native American customers at a hotel and sports bar that they operate in Rapid City, South Dakota, named the "Grand Gateway Hotel" and "Cheers Sports Lounge and Casino." Plaintiff alleges that Defendants' actions violate Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a. Defendants deny that any policy to exclude Native American guests was implemented and deny that Native Americans were denied services based on race. Litigation is ongoing. USA Alison Ramsdell; HCE Trial Attorneys Beth Pepper, John He, and Katie Legomsky.

### **Investigation re South Dakota's Unified Judicial System**

*Title VI of the Civil Rights Act of 1964*

In conjunction with the Federal Coordination and Compliance (FCC) Section of the Civil Rights Division, the USAO-SD opened a Title VI review of the Unified Judicial System after receiving a complaint alleging that the Second Judicial Circuit (2JC) discriminated against Limited English Proficient (LEP) court users based on their national origin by denying meaningful access to interpreters and translators in civil cases and proceedings. After DOJ initiated this review, UJS

took immediate action to introduce a bill in the South Dakota State Legislature to expand access to court interpreters and translators for LEP individuals in all civil cases. That bill was signed into law as SDCL § 15-17-37.1, and became effective on July 1, 2021. UJS also secured an additional \$50,000 from the South Dakota Legislature to provide interpreters and translators in civil cases at no cost to LEP court users. Finally, UJS took actions, and committed to take additional actions, to implement SDCL § 15-17-37.1, including updating the language access plans for all judicial circuits, appointing a language access coordinator, developing a language access complaint process, distributing signage with notice in non-English languages that interpreter services are provided at no cost, and training all judicial staff on the court's obligations under Title VI. The USAO-SD and FCS have now concluded the monitoring of this agreement, which involved several consultations for technical assistance. USA Alison Ramsdell and FCC Trial Attorney Michael Mule.

### **United States v. YMCA**

*Americans with Disabilities Act (ADA)*

The USAO-SD responded to a complaint from a parent whose child was denied an accommodation for Type 1 diabetes, thereby missing the opportunity to participate in Summer Camp. After an investigation confirmed that the Respondent had refused admission to a child with Type 1 diabetes based on the child's disability, thereby violating Title III of ADA, the USAO-SD resolved the Complaint through a Settlement Agreement, which required the Respondent to revise its ADA policy, implement new procedures for accommodation requests, and retrain all staff on the ADA's requirements. Respondent submitted its final monitoring report in August 2022, and this matter is now concluded. USA Alison Ramsdell.

### **United States v. Youth and Family Services**

*Americans with Disabilities Act (ADA)*

The USAO-SD responded to a complaint from a parent whose child was denied an accommodation for Type 1 diabetes, thereby missing the opportunity to participate in a summer program administered by Youth and Family Services called, "Girls, Inc." After an investigation confirmed that the Respondent refused to help with diabetes management, including insulin administration, to children with Type 1 diabetes, thereby violating Title III of the ADA, the USAO-SD resolved the Complaint through a Settlement Agreement, which required the Respondent to revise its ADA policy, implement new procedures for accommodation requests, and retrain all staff on the ADA's requirements. Respondent submitted its final monitoring report in June 2022, and this matter is now concluded. USA Alison Ramsdell

### **Luciano v. Perkins Restaurant**

*Americans with Disabilities Act (ADA)*

An ADA compliance review was opened related to allegations that Perkins Restaurant in Rapid City, South Dakota, failed to comply with the ADA by failing to accommodate individuals with disabilities in the facility restrooms. In February 2022, the USAO-SD conducted a site survey of the facility. The investigation is ongoing. AUSAs Michael Hofmann and Alexis Warner.

## FINANCIAL LITIGATION PROGRAM

The goal of the U.S. Attorney's Office is to fairly achieve the maximum amount of recovery with the least amount of cost for each affirmative claim or debt. The USAO-SD to collect debts due to the United States and victims of crimes in a timely, aggressive, efficient, and cost-effective manner. In 2022, the USAO-SD collected \$5.1 million in civil judgments and criminal payments. Although all recoveries are vitally important, the recovery of restitution to make victims whole is a high priority of this office. In 2022, of the \$5,155,614 recovered from criminal judgments, \$3,494,619.75 was returned to victims of crime. The balance of the money was deposited into the Crime Victims Fund to fund programs that assist crime victims.

### **United States v. Robert Larry Lytle, et al.**

#### *Fraudulent Transfer Litigation*

After Preliminary and Permanent Injunctions were ordered against Robert L. Lytle and some of his businesses in 2015, Mr. Lytle and Associated Persons were ordered not to transfer any business assets without court approval. Mr. Lytle was then sentenced on November 19, 2018, for Conspiracy to Introduce Misbranded Medical Devices Into Interstate Commerce with the Intent to Defraud and Mislead and Criminal Contempt. He was ordered to pay \$7,414,324.93 in restitution to thousands of victims. Mr. Lytle transferred assets to family members and associates without court approval. In 2021, a Complaint was filed against Lytle, his businesses, associates, and family members for fraudulent transfer of assets. In October 2021, the USAO-SD received \$142,075 from Lytle's wife following the sale of a house. The USAO-SD subsequently received a garnishment order against Subtle Energy Land Trust for the other half of the money received from the sale of the house. In July 2022, the USAO-SD settled with Beth Lytle and her children for monies that were paid to them after the injunction. The USAO-SD then settled with and dismissed Lytle's daughters, their children, and businesses. The USAO-SD agreed to dismiss these claims after receipt of \$1,000,000. The USAO-SD has now dismissed the Complaint against all Defendants after receiving a total of \$1,327,965.67, which has been disbursed among the victims of Lytle's underlying crime. Civil Chief Diana Ryan.

### **United States v. GTR Farm & Ranch, and Gregory Roggenthen**

#### *United States Department of Agriculture, Farm Service Agency*

The United States filed a complaint against debtors who defaulted on loans issued by FSA. The loans were secured by farm equipment. Default Judgment of \$355,843.63, in favor of the United States ordered that all security be sold and applied to the debt. The USMS levied on equipment and the Report of Sale is pending court approval. Due to unaccounted for security, the United States filed a motion to compel cooperation. In response, the Court scheduled two hearings. At the conclusion of the second hearing, the Court ordered the USMS to take Roggenthen into custody for contempt. While in custody, Roggenthen disclosed the whereabouts of three items, and the USAO-SD coordinated with the USMS to conduct a chattel sale. The USAO-SD subsequently deposed the debtor's ex-wife and gathered information that led to garnishment of the debtor's wages and farm lease equipment for the 2023 crop year. Currently, \$68,981.67 has been collected through garnishment from this debtor in 2022. Civil Chief Diana Ryan.

## **BUREAU OF PRISONS INMATE TRUST ACCOUNTS**

In September 2021, the U.S. Attorney's Office's Financial Litigation Program started filing motions for turnover of funds from criminally convicted federal inmates who owed money for either restitution or fines and who had substantial deposits made into their BOP commissary accounts. The USAO-SD has filed eight such motions, and all have received favorable turnover orders. Seven of those orders were granted in 2022. The USAO-SD currently leads the nation in this process, and EOUSA has distributed our work product as guidance to other districts.

### **United States v. Michael Lee Long, Jr.**

This motion was filed almost simultaneously with the Eighth Circuit Court of Appeals decision in *U.S. v. Kidd*, 23 F.4th 781 (8th Cir. 2022). In *Kidd*, the Eighth Circuit, as a matter of first impression, analyzed the "any source" language of Section 3664(n) and held that accumulated prison wages were not within the scope of the phrase "any source." The Eighth Circuit vacated the district court's order granting the government's motion for turnover and remanded the case to uncover the source of the monies held in Kidd's inmate trust account. After providing additional authority addressing *Kidd* (including a declaration, attaching the inmate's money received report), the Court issued an eight-page Order Granting Motion for Turnover. Along with granting the motion in the amount of \$1,025.79, the Court provided an excellent analysis on the statutory framework, *Kidd*, and COVID-19 relief payments. AUSA Alexis Warner.

### **United States v. Thomas Brewer**

In September 2021 a Motion to Authorize Payment from Inmate Trust Account and a Proposed Order were filed with the Court. In March 2022, Brewer filed an objection to the motion, and AUSA Alexis Warner filed a reply brief providing additional authority addressing *Kidd* (including a declaration and attaching the inmate's money received report). The Court granted the Order for Turnover in July 2022. In total, \$1,243.32 was received from BOP and applied towards Brewer's outstanding restitution balance. AUSA Alexis Warner.

### **United States v. Yuri Chachanko**

A motion for turnover was filed, requesting "50% of the deposits in the defendant's inmate trust account." The court swiftly granted the motion in the amount of \$1,808.21. AUSA Alexis Warner.

### **United States v. Spencer William Brown, Jr.**

In *Brown*, the district court ordered supplemental briefing to address *Kidd*. The Court ultimately granted the motion for turnover in the amount of \$1,571.13 and provided discussion and analysis on *Kidd* and COVID-19 relief payments. AUSA Alexis Warner.

### **United States v. Ferris Valentine**

In *Valentine*, a Motion for Turnover was filed along with the Notice of Supplemental Authority, a Declaration and redacted Money In and Out Report. The Court granted the Order for Turnover in the amount of \$1,254.99. AUSA Alexis Warner.

## APPELLATE DIVISION



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

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

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

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

In 2022, the Appellate Division handled 46 appeals to the Eighth Circuit. It also handled various post-conviction motions before the District Court, including 57 motions for compassionate release under the First Step Act, and 29 motion to vacate convictions or sentences under 28 U.S.C. § 2255. During the past year, among the cases handled by the Appellate Division that resulted in decisions by the Eighth Circuit were the following opinions of particular significance.



## SIGNIFICANT APPELLATE MATTERS

### **Chad Dressen v. United States**

#### *Motion to Vacate Conviction and Sentence*

In *Dressen v. United States*, the petitioner filed a motion to vacate his conviction and sentence, claiming that he had received ineffective assistance of counsel after pleading guilty to conspiring to distribute methamphetamine, for which he was sentenced to 17 ½ years in federal prison. His primary claim was that he instructed his counsel to file a direct appeal, but his lawyer failed to do so. The Eighth Circuit reviewed the record, which included an evidentiary hearing in which Dressen and his former counsel each testified. The Court found that the district court did not clearly err when it found at the conclusion of its evidentiary hearing that Dressen's former attorney was more credible in his testimony that Dressen did not instruct him to file a direct appeal.

### **Carrie Larson v. United States**

#### *Federal Tort Claims Act (FTCA)*

In *Larson v. United States*, the plaintiff appealed after the district court dismissed her FTCA action related to the Rosebud Sioux Tribe's decisions regarding her cattle range units and grazing permits. The Eighth Circuit affirmed, holding that Larson's claims were barred by the FTCA's intentional tort exception and that violations of administrative regulations do not give rise to claims under the FTCA.

### **Kristi Noem v. Deb Haaland, et al.**

#### *Special Use Permit*

In *Noem v. Haaland*, the South Dakota governor challenged the National Park Service's denial of the state's request for a special use permit to conduct a Fourth of July fireworks event at Mount Rushmore. The district court denied the state's motion for a preliminary injunction to allow the event to go forward. On appeal, the Eighth Circuit held that there was no longer a live controversy because the date had passed, and thus the permit request was moot. It also held that the state had not met its burden of showing how a decision invalidating the national park's permitting process could redress its alleged injury.

### **Clifton Odie v. United States**

#### *Conspiracy to Distribute Heroin*

In *Odie v. United States*, the defendant pleaded guilty to conspiracy to distribute heroin, and he filed a motion to vacate his sentence, claiming that a prior drug conviction could not qualify as a felony drug offense for purposes of enhancing his sentence. The district court held that his motion was untimely because it was filed after the limitation period for such a motion. On appeal, the Eighth Circuit affirmed, agreeing that the motion was untimely and that equitable tolling did not apply.

**United States v. Ricky Bagola**

*Second Degree Murder*

In *United States v. Bagola*, the defendant pleaded guilty to one count of second-degree murder, and he was sentenced to 35 years in federal prison. On appeal, he argued that the district court misapplied sentencing enhancements for obstructing justice and for being a career offender. The Eighth Circuit held that statements Bagola made in jail calls were sufficiently threatening to amount to obstruction and that his criminal history involving drug offenses formed a sufficient basis for the career-offender designation.

**United States v. Kirbesha Bailey, et al.**

*Conspiracy to Distribute 500 Grams or More of Methamphetamine*

In *United States v. Bailey et al.*, the defendants were convicted of conspiracy to distribute 500 grams or more of methamphetamine. They appealed, arguing that the evidence was insufficient to show they were involved in the conspiracy. The Eighth Circuit affirmed the convictions of both defendants after reviewing the trial evidence and holding that various testimony and physical evidence linked both of them sufficiently to the conspiracy.

**United States v. Marcin Garbacz**

*Wire Fraud, Money Laundering, Transporting Stolen Money, False Tax Returns*

In *United States v. Garbacz*, the defendant was convicted of over 60 felony counts, including wire fraud, money laundering, transporting stolen money, and making false tax returns. Garbacz was a Catholic priest who was stealing cash-offering collections from several parishes for many years, totaling over \$250,000. He was sentenced to seven years and nine months in federal prison, ordered to forfeit property obtained with the stolen money, and ordered to repay the parishes. On appeal, he challenged the sufficiency of the evidence for all the convictions, the district court's order that he forfeit ownership of a variety of expensive pieces of art that he purchased with the stolen money, and the order that he pay restitution. The Eighth Circuit affirmed his convictions, holding that the evidence was sufficient and that the orders to forfeit property and repay the parishes were proper.

**United States v. Palani Bear-Gardipe**

*Voluntary Manslaughter*

In *United States v. Bear-Gardipe*, the defendant pleaded guilty to voluntary manslaughter, discharge of a firearm during a crime of violence, and bank robbery. He was sentenced to a total of 20 years in federal prison. On appeal, he argued that his sentence was substantively unreasonable and the result of the district court's erroneous application of the federal Sentencing Guidelines. The Eighth Circuit affirmed the sentence, holding that the district court acted within its discretion when it denied a motion to depart downward from Bear-Gardipe's Guidelines range, that it adequately explained the reasons for its sentence, and that the sentence was reasonable under the circumstances.

### **United States v. Tiffany Bernard**

#### *Robbery*

In *United States v. Bernard*, the defendant pleaded guilty to robbery, and the district court rejected the plea agreement and denied the government's motion to dismiss four remaining charges. The government appealed, arguing that the district court abused its discretion. The Eighth Circuit agreed with the government, holding that the collateral order doctrine allowed jurisdiction over the appeal, and that there was no showing that the plea agreement and the dismissal of charges was clearly contrary to manifest public interest, as the law requires. Following remand, the district court granted the government's motion as contemplated in the plea agreement and sentenced the defendant to 15 years in federal prison.

### **United States v. Jonathan Blacksmith**

#### *Outstanding Warrants, Guns, Ammunition, Drugs and Drug Paraphernalia*

In *United States v. Blacksmith*, the defendant moved to suppress evidence after he was stopped in his vehicle because he had outstanding warrants, after which officers found guns, ammunition, drugs, and drug paraphernalia when they conducted an inventory search after impounding his car. On appeal, he argued that the search of the vehicle violated his constitutional rights. The Eighth Circuit affirmed the denial of his suppression motion, holding there was no constitutional violation because the search was a routine inventory search done as part of the impoundment process, and because the officers followed the standard procedures.

### **United States v. Robert Dowty, Sr.**

#### *Aggravated Sexual Abuse of a Minor*

In *United States v. Dowty*, the defendant was convicted of aggravated sexual abuse of a minor and sentenced to life in federal prison. On appeal, he challenged certain evidentiary rulings made by the district court. He also claimed he was deprived of a fair trial due to the behavior of attendees at his public trial, that the evidence was insufficient to convict him, and that district court improperly considered prior act evidence when it sentenced him. The Eighth Circuit affirmed, holding that the Federal Rules of Evidence allowed the admission of prior acts of sexual molestation and that opinion testimony offered by a defense witness was properly excluded. The Court also held that there was no indication that actions of trial attendees impacted his fair trial rights, and that the evidence was sufficient to support his conviction and sentence.

### **United States v. Christopher Golden**

#### *Receiving and Possessing Child pornography*

In *United States v. Golden*, the defendant was convicted of receiving and possessing child pornography and was sentenced to eight years and one month in federal prison. On appeal, he challenged the sufficiency of the evidence. The Eighth Circuit affirmed the conviction and sentence, holding that the forensic evidence and other testimony presented at trial adequately showed that Golden not only possessed various illicit images, but also that he had accessed the files and reviewed them.

**United States v. Gregory Harrison**

*Conspiracy to Commit Bank Fraud and Aggravated Identity Theft*

In *United States v. Harrison*, the defendant pleaded guilty to conspiracy to commit bank fraud and two counts of aggravated identity theft, and he was sentenced to nine years and 11 months in federal prison. On appeal, he argued he was improperly advised at his plea hearing regarding his sentencing exposure and that his sentence was unreasonably high. The Eighth Circuit affirmed, holding that he was adequately advised of his potential sentence and that the district court was within its discretion to impose the sentence he received.

**United States v. Bryan Howard**

*Conspiring to Distribute Methamphetamine*

In *United States v. Howard*, the defendant pleaded guilty to conspiring to distribute methamphetamine, and he was sentenced to 21 years and 10 months in federal prison. On appeal, he argued that the district court erred by determining he was a career offender even though that designation did not result in a higher Sentencing Guidelines range in his case. The Eighth Circuit held that, even though there was error in the career-offender categorization, Howard's Guidelines range was not impacted, and therefore he waived appealing his sentence when he entered into his plea agreement.

**United States v. Tyson Keepseagle**

*Child Abuse*

In *United States v. Keepseagle*, the defendant was convicted of three counts of child abuse involving three different children. On appeal, Keepseagle argued that the district erred by failing to give a unanimity instruction for one count, that the district court should have granted his motion for acquittal, and that it should have granted a motion for a trial continuance. The Eighth Circuit dismissed one count because of the failure to give a unanimity instruction, but it affirmed the other two convictions, which meant that Keepseagle's sentence remained the same. The Court also held that the motions for acquittal and for a continuance were properly denied.

**United States v. Holli Lundahl**

*Theft of Government Property and Social Security Benefits Fraud*

In *United States v. Lundahl*, the defendant was convicted of theft of government property and Social Security benefits fraud, and she was sentenced to 18 months in federal prison. On appeal, she challenged the sufficiency of the evidence, whether her double jeopardy rights were violated, and the length of her sentence. The Eighth Circuit affirmed her convictions and sentence, holding that sufficient evidence supported her convictions, that her constitutional claims were frivolous, and that her sentence was reasonable under the circumstances.

**United States v. Michael Mitchell**

*Unlawful Possession of a Firearm*

In *United States v. Mitchell*, the defendant pleaded guilty to unlawful possession of a firearm. He appealed the denial of a suppression motion regarding the search that resulted in the discovery of the illegal gun, arguing that law enforcement neither had a warrant nor consent to enter and search

the home where he was staying. The Eighth Circuit affirmed the denial of the suppression motion, holding that the owner of the home gave valid consent to the officers to enter.

**United States v. Robert O'Rourke**

*Conspiracy to Distribute a Controlled Substance*

In *United States v. O'Rourke*, the defendant pleaded guilty to conspiracy to distribute a controlled substance, and he was sentenced to 27 years in federal prison. On appeal, he argued that the sentence was unreasonably high. The Eighth Circuit affirmed, holding that O'Rourke waived his right to appeal his sentence when he knowingly and voluntarily entered into the plea agreement, which included an expressed waiver of any right to appeal a sentence within the Sentencing Guidelines range.

**United States v. Japher Rajab**

*Attempted Enticement of a Minor*

In *United States v. Rajab*, the defendant was convicted of attempting to entice a minor using the Internet after he used messaging software to communicate with an undercover officer posing as a 15-year-old child. He was sentenced to ten years in federal prison. On appeal, because the object of his enticement was an adult undercover officer, Rajab argued there was insufficient evidence and that the indictment failed to state an offense. The Eighth Circuit affirmed the conviction, holding that the charged offense included an attempt to entice, and therefore the involvement of an actual minor was not required. Likewise, the Court also held that the district court did not err by refusing to instruct the jury that communication with an actual minor is required. Finally, the Court held that Rajab's use of the software application satisfied the requirement that he knowingly used a facility of interstate commerce.

**United States v. Dustin Red Legs**

*Sexual Exploitation of a Child*

In *United States v. Red Legs*, the defendant was convicted of sexual exploitation of a child and possession of child pornography and sentenced to 22 years in federal prison. On appeal, he argued the district court erred in admitting the testimony of an expert witness who compared finger and knuckle creases in sexually explicit photos with photos of Red Legs' fingers and knuckles to give an opinion as to identity. The Eighth Circuit affirmed the convictions, holding that even if there had been error in admitting the expert testimony, it would have been harmless because other witnesses identified Red Legs and the explicit photos were found in his email account and were forensically traced to his phone.

**United States v. Frank Sanchez**

*Abusive Sexual Contact of a Minor*

In *United States v. Sanchez*, the defendant was convicted of abusive sexual contact of a minor, and he was sentenced to seven years and three months in federal prison. On appeal, he argued the evidence was insufficient to convict him, and that the district court erred by allowing evidence of various prior sexual assaults committed by Sanchez. The Eighth Circuit affirmed the conviction, holding that the evidence sufficiently showed the crime occurred within Indian Country, and the testimony of Sanchez's prior victims was admissible under the Federal Rules of Evidence.

### **United States v. Stanley Schily**

#### *Conspiracy to Distribute or Possess with the Intent to Distribute*

In *United States v. Schily*, the defendant was convicted of conspiracy to distribute or possess with the intent to distribute 50 grams or more of methamphetamine, and he was sentenced to ten years in federal prison. On appeal, he argued the evidence was insufficient to support his conviction. The Eighth Circuit affirmed, holding that the evidence at trial was sufficient, including Schily's recorded interview that detailed the existence of the conspiracy, along with methamphetamine and notes regarding distribution that were discovered at his home.

### **United States v. Carlocito Slim**

#### *Attempted Commercial Sex Trafficking of a Minor and Attempted Enticement of a Minor for Sexual Activity*

In *United States v. Slim*, the defendant was convicted of attempted commercial sex trafficking of a minor and attempted enticement of a minor for sexual activity, and he was sentenced to ten years in federal prison. He was arrested after he communicated with undercover officers posing as a pimp offering a minor for commercial sex, then arrived at a location to meet the fictitious minor. On appeal, Slim argued that the district court should have suppressed evidence found when he was arrested, and that his indictment and the evidence were insufficient. The Eighth Circuit affirmed the convictions, holding that Slim's arrest was proper and that evidence found when he was arrested was admissible. The Court also held that a defendant may be charged when the victim turns out to be fictitious. Thus, the evidence was also sufficient to convict Slim.

### **United States v. Anthony Story**

#### *Possession with Intent to Distribute Methamphetamine*

In *United States v. Story*, the defendant was convicted of possession with intent to distribute methamphetamine after he was found asleep in a camper next to a bag full of methamphetamine. On appeal, he claimed the search was illegal and the drugs were not his. The Eighth Circuit affirmed Story's conviction, holding that the owner of the camper validly consented to the officers' search and the evidence at the scene and other witnesses' testimony provided sufficient support that the drugs were Story's and that he planned to distribute at least some quantity.

### **United States v. Darrell Two Hearts**

#### *Unlawful Possession of a Firearm By A Prohibited Person*

In *United States v. Two Hearts*, the defendant was convicted of unlawful possession of a firearm by a prohibited person, and he was sentenced to five years and 11 months in federal prison. On appeal, Two Hearts challenged the sufficiency of the evidence, an evidentiary ruling at trial, and the calculation of his Sentencing Guidelines range. The Eighth Circuit affirmed the conviction and sentence, holding there was ample evidence for the jury to decide that Two Hearts possessed the firearm at issue and that he was prohibited from possessing it because he was an unlawful methamphetamine user and because he had a prior felony conviction. The Court also held that the district court did not err by allowing the introduction of a social media post in which Two Hearts was holding a firearm. Finally, the Court held that the district court adequately explained its decision to impose an upward sentencing adjustment for possessing a firearm in connection with methamphetamine.

**United States v. Ferris Valentine**

*Armed Bank Robbery*

In *United States v. Valentine*, the defendant was convicted of two counts of armed bank robbery and sentenced to 21 years and 10 months in prison. On appeal, he argued the evidence was insufficient and that his sentence was unreasonable. The Eighth Circuit held there was sufficient evidence identifying Valentine as the armed robber for both counts of conviction, and it found that the sentence was reasonable.

**United States v. Samuel White Horse**

*Tampering with Evidence*

In *United States v. White Horse*, the defendant was convicted of tampering with evidence after he hid the murder weapon his father had used to kill a man who had crashed a vehicle into his family's home. On appeal, he argued that the district court erred in the wording it used to instruct the jury regarding the requirement that, to be convicted, a defendant's obstruction must be in connection to an official proceeding. The Eighth Circuit affirmed, holding the district court's instruction adequately conveyed that requirement to the jury.

**United States v. Clarence Yellow Hawk**

*First Degree Murder and Aiding and Abetting First Degree Murder*

In *United States v. Yellow Hawk*, the defendant was convicted of first-degree murder and aiding and abetting first-degree murder for shooting and killing Christopher Janis near Sharps Corner, South Dakota. On appeal, he argued the district court erred by refusing to submit a jury instruction using the specific language he had requested and by allowing the government to argue during its closing to the jury that Yellow Hawk had a motive for killing Janis, rather than the self-defense claim Yellow Hawk was making. The Eighth Circuit affirmed the convictions, holding that the instructions given by the district court adequately allowed for Yellow Hawk to present his full defense theory and that the prosecutor did not make any improper comments during closing argument.

## VICTIM RIGHTS AND ADVOCACY



The U.S. Attorney's Office Victim/Witness Assistance Program assists victims of federal crime during the prosecution process, provides information and referrals, helps protect victims' rights, and notifies them of public court proceedings. The USAO-SD is committed to ensuring that victims of crime remain an integral part of the criminal justice process. The Victim/Witness Assistance Program was developed to assure that victims of federal crimes are treated with fairness and respect as they journey through the criminal justice system. This program carries out the mandates of the *Federal Victim and Witness Protection Act of 1982*, the *Victims' Rights and Restitution Act of 1990*, the *Victims of Child Abuse Act of 1990*, the *Crime Victims' Rights Act of 2004* and other victim-related legislation. These victim/witness assistance and protection laws apply to all victims and witnesses of federal crime who have suffered physical, financial, or emotional trauma.

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

Many victims of federal crime reside on South Dakota's Indian reservations or in rural areas. Staff from the USAO-SD often travel to rural communities to meet with victims in person. This provides an opportunity to assess their need for services, gather input, and if necessary, prepare for trial. Direct contact helps to build trust and allows the victim to consult with the AUSA assigned to prosecute the case pursuant to the Crime Victims' Rights Act and provide the victim with a voice in the criminal justice process. The victim witness staff accompany and assist with these meetings.

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

Each of our offices has a toll-free number to allow victims and witnesses to easily contact our victim/witness staff. In Sioux Falls, victims and witnesses can call (800) 804-6790; in Pierre, (800) 603-8157; and in Rapid City, (800) 603-3750. When needed, referrals are provided to existing agencies for shelter, counseling, compensation, and other types of assistance services.



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