

**UNITED STATES ATTORNEY'S OFFICE  
DISTRICT OF NEBRASKA  
2013 ANNUAL REPORT**



**DEBORAH R. GILG  
UNITED STATES ATTORNEY**

Web Version



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## MESSAGE FROM THE UNITED STATES ATTORNEY

Despite severe budget restraints and staffing challenges such as furloughs and reduced personnel, 2013 was a productive year within the United States Attorney's Office for the District of Nebraska. The District of Nebraska is fortunate to have one of the most productive federal District Court benches, ranking 8<sup>th</sup> nationally. The United States Attorney's office is responsible for a significant portion of the judicial caseload.

For the year 2013, the United States Attorney's office filed 603 general criminal cases. General criminal cases include child pornography, financial crimes, criminal immigration, identity theft, robbery, Indian Country major crimes, etc. The drug unit cases include drugs, guns, money laundering, structuring and interstate transportation in aid of racketeering. There was a 21% increase in illegal reentry filings in the immigration area. Between the two units, there were a total of fifteen trials and forty-four 8<sup>th</sup> Circuit court appeals. The median time for felony criminal cases from filing to disposition was 7.6 months.



In cooperation with federal and local law enforcement and prosecutors, Project Safe Neighborhoods continues to be a high priority of this office. In 2013, 848 guns were recovered as part of Project Safe Neighborhoods. The Grand Jury returned numerous indictments which included firearms associated with the delivery or conspiracy to deliver controlled substance. As you will note elsewhere in this report, Project Safe Neighborhoods and the Omaha Police Department sponsored three Gun Amnesty events. 87 firearms and 21 five gallon buckets of ammunition were surrendered for destruction.

Depriving criminal organizations of the fruits of their crimes continued as a priority. Law enforcement agencies in 2013 administratively forfeited cash, 57 vehicles and 615 firearms with a total value of over \$3.7 million. In addition, the U.S. Attorney's Office forfeited cash, three vehicles, one firearm and other property with a total value of over \$1.1 million. Of that \$1.1 million, property valued at about \$695,000 was forfeited in criminal cases and about \$483,000 in civil cases.

Cooperative relationships remained the key to success. The CODE and WING task forces in west central and southwest Nebraska received a regional High Intensity Drug Trafficking Area (HIDTA) award for Outstanding Cooperative Effort. AUSA Kim Bunjer, who works with those task forces among other duties, received a HIDTA regional award for Outstanding Prosecutor.

Project Safe Childhood also remains a high priority for this office. In 2013, we collaborated with the Nebraska Attorney General's Office in designating three Special Assistant United States Attorneys dedicated to child pornography cases. This collaboration has strengthened our ability to maximize the punishment and deterrence of these crimes. We continue to request mandatory minimum sentencing on child pornography cases, wherever appropriate.



## MESSAGE FROM THE UNITED STATES ATTORNEY

On the Civil Division side, work on 313 civil cases was completed by the United States Attorney's Office. Included in this number are cases in which the validity of federal laws, or the acts of federal agencies and employees were challenged. These agencies include the Internal Revenue Service, Social Security Administration, Department of Agriculture, Department of Education, Department of Labor, Veterans Affairs, Environmental Protection Agency, U.S. Army Corps of Engineers, Small Business Administration, Department of Housing and Urban Development, and a variety of agencies within the Department of Justice. The civil cases included foreclosures, bankruptcy, medical malpractice, personal injuries, employment discrimination, federal employee liability, immigration, program litigation, environmental litigation, and Social Security appeals. Also included, were affirmative cases brought to enforce statutory and regulatory requirements, and to collect debts owed to the United States. The Financial Litigation Unit of the Civil Division collected in excess of \$4.6 million. The collections include \$2.4 million in criminal collections, \$900,000 in bankruptcy collections, \$250,000 in foreclosure recoveries, \$231,000 in post-judgment collections, and more than \$746,000 in civil fraud and environmental enforcement.

In recognition of the sovereignty and importance of Indian Country, we have compiled a separate 2013 Indian Country Annual Report. This report can be found online at: [www.justice.gov/usao/ne](http://www.justice.gov/usao/ne).

We recognize that it is our duty to protect national security and enforce the law for the benefit of all Americans. In order to do our jobs, we conduct outreach efforts with many local groups and individuals, including the Arab American and Muslim American communities as well as the Hispanic communities. This outreach is intended to improve our ability to perform our duties in a manner that is consistent with core American values such as respect for civil liberties, embracing diversity and commitment to religious freedom. These are values that are found in the Constitution and laws of the United States. We have initiated regular and continuing contact with the Mexican Consulate in Omaha. Also, in partnership with the FBI, we have engaged leaders of Arab American and Muslim American organizations to make sure that these groups are being afforded the full rights and responsibilities of U.S. citizens consistent with our American values.

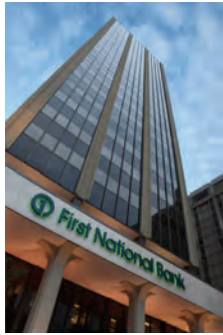
The summaries of case reports contained in this report are snapshots of a small portion of the cases handled by this office.

The accomplishments in this report are the product of enormous hard work of the entire staff of the United States Attorney's Office for the District of Nebraska and to all federal, state and local agencies that are vital to our joint success.



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FAX: (402) 437-5390

ON THE INTERNET:



<http://www.usdoj.gov/usao/ne/>



**“[A PROSECUTOR] MAY PROSECUTE WITH EARNESTNESS AND VIGOR - INDEED S/HE SHOULD DO SO. BUT WHILE S/HE MAY STRIKE HARD BLOWS, S/HE IS NOT AT LIBERTY TO STRIKE FOUL ONES. IT IS AS MUCH HIS/HER 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.”**

(gender references modified)

This is a famous quote regarding the duty of prosecutors. It comes from Justice Sutherland in *Berger v. United States*, 295 U.S. 78, 88 (1935).

**“THE FUNCTION OF THE PROSECUTOR UNDER THE FEDERAL CONSTITUTION IS NOT TO TACK AS MANY SKINS OF VICTIMS AS POSSIBLE AGAINST THE WALL. HIS/HER FUNCTION IS TO VINDICATE THE RIGHTS OF THE PEOPLE AS EXPRESSED IN THE LAWS AND GIVE THOSE ACCUSED OF CRIME A FAIR TRIAL.”**

(gender references modified)

JUSTICE WILLIAM O. DOUGLAS

### **OUR MISSION STATEMENT**

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

### **OUR CORE VALUES**

Equal Justice Under the Law  
Honesty and Integrity  
Commitment to Excellence  
Respect for the Worth and Dignity of Each Human Being





## WELCOME TO THE DISTRICT OF NEBRASKA



Nebraska, the 16th largest state geographically, became the 37th state to join the Union on March 1, 1867. Its 77,000 square miles encompass 93 counties, and a population of over 1.8 million people. As one of the 26 states with only one federal judicial district, Nebraska boasts a diversity and variety of topography, geography and economy. Nebraska has more underground water reserves than any other state in the continental U.S. The name Nebraska is from an Oto Indian word that means "flat water" (referring to the Platte River, which means "flat river" in French).

The Omaha metropolitan area with a population area of over 870,000, accounts for a large majority of the District's population. Lincoln, the state's capital, is home to over 262,000 residents. Much of the state, however, is rural, with over 90% of Nebraska's cities and towns having fewer than 3,000 people.



The state has a mixed economic base with substantial agricultural and agri-business sectors, as well as significant manufacturing, technical and service sectors. More than 96% of Nebraska's land is farm and ranch land, and the state is a national leader in production of beef, pork, corn, and soy beans. Other economic sectors include freight transport by rail and truck, manufacturing, telecommunications, information technology, and insurance. Several Fortune 500 companies, including Berkshire Hathaway, ConAgra, Union Pacific, Mutual of Omaha, and Peter Kiewit & Sons are headquartered in Nebraska, and many others such as TD Ameritrade, Valmont, Woodmen of the World and Cabela's have substantial operations in the District. Lincoln's Kawasaki Motors Manufacturing is the only Kawasaki plant in the world to produce the Jet-Ski, ATV and Mule lines of product. The facility employees more than 1,200 people.

The United States Strategic Command is headquartered at Offutt Air Force Base, located just south of Omaha in Bellevue. Various other federal enclaves, including the Niobrara Scenic River, the Missouri National Recreational River, several national monuments, historic sites, National Wildlife Refuges, and U.S. Army Corp of Engineers recreational sites are located throughout Nebraska. The U.S. Department of Agriculture operates several facilities in the District, including research national forests, and a national grassland. Omaha's Henry Doorly Zoo & Aquarium is home to the world's largest indoor desert, the largest indoor rainforest in the United States and the largest zoo aquarium in the country.



In addition to the Veterans Affairs Hospital in Omaha, the Department of Veterans Affairs operates outpatient clinics in Lincoln and Grand Island, and the Indian Health Service operates a hospital in Winnebago.

The Omaha, Winnebago, and Santee Sioux tribes have reservations located in northeast Nebraska, and federal criminal jurisdiction has been retroceded to the United States for each. As a result, the United States Attorney's Office works closely with those tribes to address crime occurring on the reservations. It should be noted that the Ponca Tribe, although it does not have a reservation in Nebraska, is federally recognized.

Numerous federal law enforcement agencies maintain offices in Nebraska and work extensively with the United States Attorney's Office. These agencies include the Federal Bureau of Investigation, Drug Enforcement Administration, Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Marshals Service, Secret Service, Internal Revenue Service, Postal Service, Department of Agriculture, Department of Defense, Department of Homeland Security, National Park Service, Social Security Administration, Department of Veterans Affairs, and others. The United States Attorney's Office also works with federal agencies located outside of Nebraska, such as the Department of Education, Environmental Protection Agency, Social Security Administration, and the Department of Health and Human Services.

In addition to its work with federal agencies, the U. S. Attorney's Office works very closely with state and local law enforcement agencies, addressing the needs of the District. For many years, the citizens of Nebraska have benefitted from the very cooperative relationships between federal, state, and local law enforcement agencies throughout the District. A number of multi-agency joint law enforcement task forces have been created to facilitate effective investigation and prosecution of criminal offenses, especially those involving drugs and violent crime, as well as civil enforcement in the areas of health care fraud and environmental enforcement. Some of the accomplishments of those groups are described in this report.



UNITED STATES ATTORNEY'S OFFICE  
DISTRICT OF NEBRASKA



The United States Attorney serves as the chief federal law enforcement officer in the District of Nebraska, and is responsible for coordinating multiple agency investigations within the District. The United States Attorney and her Assistants represent the federal government in virtually all litigation involving the United States in the District of Nebraska, including all criminal prosecutions for violations of federal law, civil lawsuits in which the United States is a party, and actions to collect judgments and restitution on behalf of victims and taxpayers.

Deborah R. Gilg was sworn in as the 32nd United States Attorney for the District of Nebraska on October 1, 2009. She is the first female United States Attorney for the District of Nebraska and a native of Omaha. Ms. Gilg serves on Attorney General Holder's Subcommittees on National Security, Civil Rights Enforcement, and Indian Country issues. She chairs both the Attorney General's Task Force on Domestic Violence Against Native-American Women and the Attorney General's Subcommittee on Child Exploitation and Obscenity Working Group. Ms. Gilg is the U.S. Attorney representative on the fiscal planning committee of the High Intensity Drug Trafficking Area (HIDTA) initiative. Previously, Ms. Gilg served as the Keith County Attorney from 1987-2002. After relocating to the Omaha area, she worked in the Saunders County Attorney's Office as the chief felony prosecutor until 2009. Ms. Gilg has also served as a Special Prosecutor, Special Deputy County Attorney and/or County Attorney in 21 Nebraska counties as well as maintained a private civil practice. Ms. Gilg taught criminal law and procedure, employment law and wills and trusts at Metropolitan Community College as adjunct faculty from 2004-2009. During several of her years as a county prosecutor, she was on the Board of Directors of the Nebraska County Attorney Association and served as President. She is the recipient of several public service awards including the Nebraska Women's Bar Association Outstanding Contributor to Women in the Law; Nebraska Bar Foundation Award for Outstanding Public Service; the Nebraska State Patrol Award for Exceptional Public Service and the Nebraska County Officials Association Award for Outstanding Public Service. Ms. Gilg received her Juris Doctorate degree in 1977 from the University of Nebraska College of Law, and her Bachelor of Arts degree (major in Latin-American Studies) from the University of Nebraska-Lincoln in 1974.

As United States Attorney for the District of Nebraska, Ms. Gilg oversees a staff of 24 Assistant U.S. Attorneys (AUSAs) and more than 33 support staff working in offices located in Omaha and Lincoln. Three attorneys from the County Attorney's offices, in Douglas and Hall Counties have offices in the U.S. Attorney's Office, one Tribal Special Assistant Attorney and 25 attorneys from the Northern District of Iowa, Nebraska Attorney General's Office, Internal Revenue Service, Social Security Administration, Small Business Administration and Judge Advocate General's Office also serve as Special Assistant U.S. Attorneys (SAUSAs) to assist with criminal and civil litigation in the District.

In the fall of 2012, a Tribal Special Assistant U.S. Attorney was hired pursuant to a pilot project grant awarded to the Winnebago Tribe. The Tribal SAUSA prosecutes

domestic violence cases in tribal courts, including the Omaha Tribe and Santee Sioux, as well as in federal court.

The Criminal Division of the office, which includes the General Crimes Unit and the Drug Prosecution Unit, prosecutes violations of federal criminal law. The attorneys in the General Crimes Unit are supervised by Jan Sharp, Criminal Chief, while John Higgins, Organized Crime Drug Enforcement Task Force (OCDETF) Chief, supervises the Drug Unit and Asset Forfeitures. Assistant United States Attorney Michael Norris is the Appellate Coordinator/Senior Litigation Counsel. The Civil Division is headed by Robert Homan, and Joseph Jeanette coordinates the Law Enforcement and Community Coordination (LECC) Unit, which maintains partnerships between law enforcement agencies, provides services to crime victims and witnesses, and coordinates training conferences. The Administrative Unit, which supports the operations of all components of the office, is supervised by Denise Smith, Administrative Officer. Robert C. Stuart, serves as First Assistant United States Attorney.

## **STRATEGIC GOALS**

### **I. Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law**

Strengthen Partnerships to Prevent, Deter and Respond to Terrorist Incidents

### **II. Combat Crime, Protect the Rights of the American People and Enforce Federal Law**

Combat the Threat, Incidents and Prevalence of Violent Crime

Prevent, Suppress and Intervene in Crimes Against Native Americans and Improve Services to Crime Victims

Combat the Threat, Trafficking, and Use of Illicit Drugs and the Diversion of Licit Drugs

Combat Corruption, Economic Crimes, Fraud and International Organized Crime

Promote and Protect American's Civil Rights

Protect the Federal Monies and Defend the Interests of the United States

### **III. Ensure and Support the Fair, Impartial, Efficient and Transparent Administration of Justice at the Federal, State, Local Tribal and International Levels**

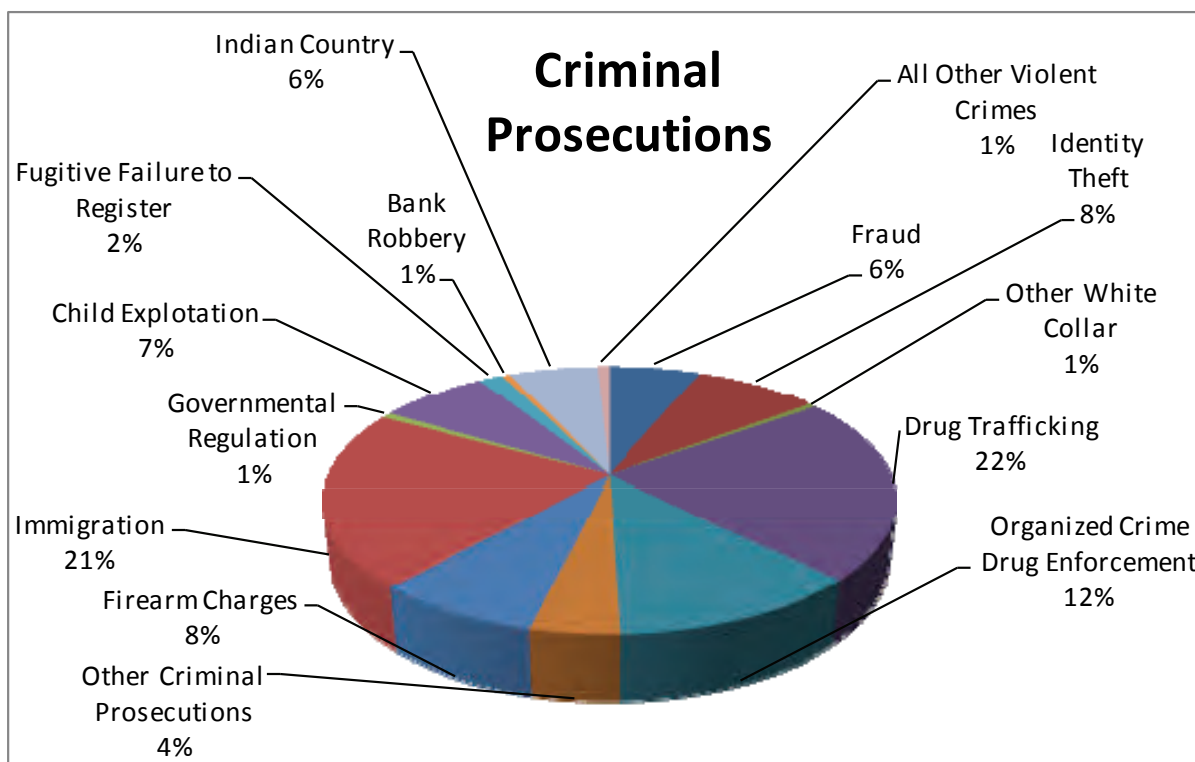
Promote and Strengthen Relationships and Strategies for the Administration of Justice with the State Local, Tribal Law Enforcement

# CRIMINAL DIVISION



In 2013, the Criminal Division continued to focus its efforts on areas identified as national priorities by the Department of Justice; anti-terrorism, assuring the safety of our communities, and drug enforcement. Working closely with federal, state, tribal, and local law enforcement agencies, the 19 Assistant United States Attorneys and 4 Special Assistant United States Attorneys in the office’s general criminal and drug units prosecuted violations of federal criminal statutes in federal district courts in Omaha, Lincoln, and North Platte.

The number of defendants who faced federal charges in 2013 totaled 739 the majority of these cases related to illegal drugs; however, firearms cases, immigration cases, and offenses involving identity theft and fraud comprised a significant portion of the criminal cases filed.



## ANTI-TERRORISM

The fight against terrorism, both international and domestic, continues to be the first priority of the Department of Justice. The United States Attorney's Office Criminal Division, in the District of Nebraska, has committed significant resources to this effort. Working closely with the FBI and other federal, state, and local law enforcement agencies, office personnel continue their active membership in the Joint Terrorism Task Force (JTTF) and the Nebraska Information Analysis Center (NIAC) to detect indications or warnings of terrorist



activities, identify and protect potential targets of terrorist activities within the District, disrupt activities that support terrorism, and prevent, through aggressive prosecution, any crimes that may in some way contribute to terrorism. Other particularly notable efforts include: sponsorship of the United States Attorney's Anti-Terrorism Advisory Council (ATAC), co-hosting the annual Lt. Governor's Nebraska Infrastructure Protection Conference, chairing the multi-agency Suspicious Activity Report Review Team, and providing training to industry and Law Enforcement agencies across Nebraska.

The United States Attorney's Anti-Terrorism Advisory Council (ATAC), composed of nearly 70 government, industry and community partners, continues to foster information sharing and networking between various sectors through training presentations and open-source intelligence updates.



This year's Nebraska Infrastructure Protection Conference (NIPC) continued, for the eighth consecutive year under the joint sponsorship of the United States Attorney's Office and the Lieutenant Governor's Office, to provide a forum for representatives from every sector of the infrastructure to recognize and enhance the inter-dependencies between sectors. This year's conference highlighted the FBI's response to the 2008 Mumbai terror attacks, Critical Infrastructure Preparedness and Protection Threat, Cyber-Security, and Business and Community Plan Development.

This year, our office continued to chair the Suspicious Activity Report (SAR) Review Team. The difference between criminals and terrorists is that criminals' activities are motivated by acquisition of money, whereas, terrorists must have money to further their destructive ideologies. The SAR Review Team is comprised of members from over a dozen different federal, state, and local law enforcement agencies. Monthly, each member reviews the previous month's SAR(s) through their respective organizational filters and shares information that arises from their investigative efforts. This has been successful in bringing investigative and prosecutorial resources to bear on individuals and entities engaging violations of the Bank Secrecy Act and de-confliction with ongoing investigations.

We continue to develop relationships through Counter Proliferation Task Force (CPTF). This effort combines the resources of the United States Attorney's Office, U.S. Dept. of Commerce, U.S. Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigation (FBI), and Defense Criminal Investigative Service (DCIS) to prevent sensitive weapons of mass destruction and other dual-use technology from falling into the hands of those who wish to harm America. An important aspect of the CPTF is assisting and participating in established outreach programs of our other federal law enforcement partners to assist industry to identify and mitigate attempts to inappropriately obtain such technology.

The United States Attorney's Office also serves as a member of the U.S. Strategic Command Threat Working Group, whose mission is to identify and mitigate threats to the command and its supporting Department of Defense elements, including innumerable private contractors. Attenuation of these threats requires a concerted effort which includes information-sharing and networking among law enforcement personnel at every level. Elimination of a threat for this important partner only serves to protect the entire community.





Project Safe Neighborhoods (PSN) is a nationwide commitment to reduce gun and gang crime in America by networking existing local programs that target gun and gun crime and providing these programs with additional tools necessary to be successful. Since its inception in 2001, over \$2 billion has been committed to this initiative. This funding is being used to hire new federal and state prosecutors, support investigators, provide training, distribute gun lock safety kits, deter juvenile gun crime, and develop and promote community outreach efforts as well as to support other gun and gang violence reduction strategies. (BJA– Overview)

## DOJ PROJECT SAFE NEIGHBORHOOD PARTNERS

**U.S. Department of Justice** The mission of the U.S. Department of Justice is to enforce the law and defend the nation's interests according to the law, ensure public safety against both foreign and domestic threats, provide leadership in preventing and controlling crime, seek just punishment for those found guilty of breaking the law, enforce drug and immigration laws, and ensure fair and impartial administration of justice for all Americans.



**Bureau of Alcohol, Tobacco, Firearms and Explosives** The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a law enforcement agency within the U.S. Department of Justice, enforces the federal laws and regulations relating to alcohol, tobacco products, firearms, explosives, and arson. ATF's Office of Training and Professional Development provides enforcement training courses and specially designed classes tailored to meet the needs of jurisdictions that request training.



**Criminal Division** The Criminal Division of the U.S. Department of Justice develops, enforces, and supervises the application of all federal criminal laws except those specifically assigned to other divisions. The Division and the 93 U.S. Attorneys are responsible for overseeing criminal matters under the more than 900 statutes and certain civil litigation. In addition to direct litigation responsibilities, the Division formulates and implements criminal enforcement policy and provides advice and assistance.

**Executive Office for U.S. Attorneys** The Executive Office for United States Attorneys (EOUSA) is the liaison between the U.S. Department of Justice (DOJ) and the 93 U.S. Attorneys in the 50 states, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and U.S. Virgin Islands. EOUSA provides U.S. Attorneys with general executive assistance and direction, policy development, administrative management direction and oversight, operational support, and coordination with other DOJ components and federal agencies.

**Office of Justice Programs** Founded in 1984, the Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, improve the criminal and juvenile justice systems, increase knowledge about crime and related issues, and assist crime victims. OJP's numerous bureaus and offices include the Bureau of Justice Assistance (BJA), the Bureau of Justice Statistics, the National Institute of Justice (NIJ), and the Office of Juvenile Justice and Delinquency Prevention (OJJDP). It is with the developmental and financial assistance of these organizations that OJP is able to successfully form partnerships among federal, state, and local government officials to address numerous criminal justice issues, including drug abuse and trafficking, neighborhood rehabilitation, gang violence, prison crowding, juvenile crime, and white-collar crime.

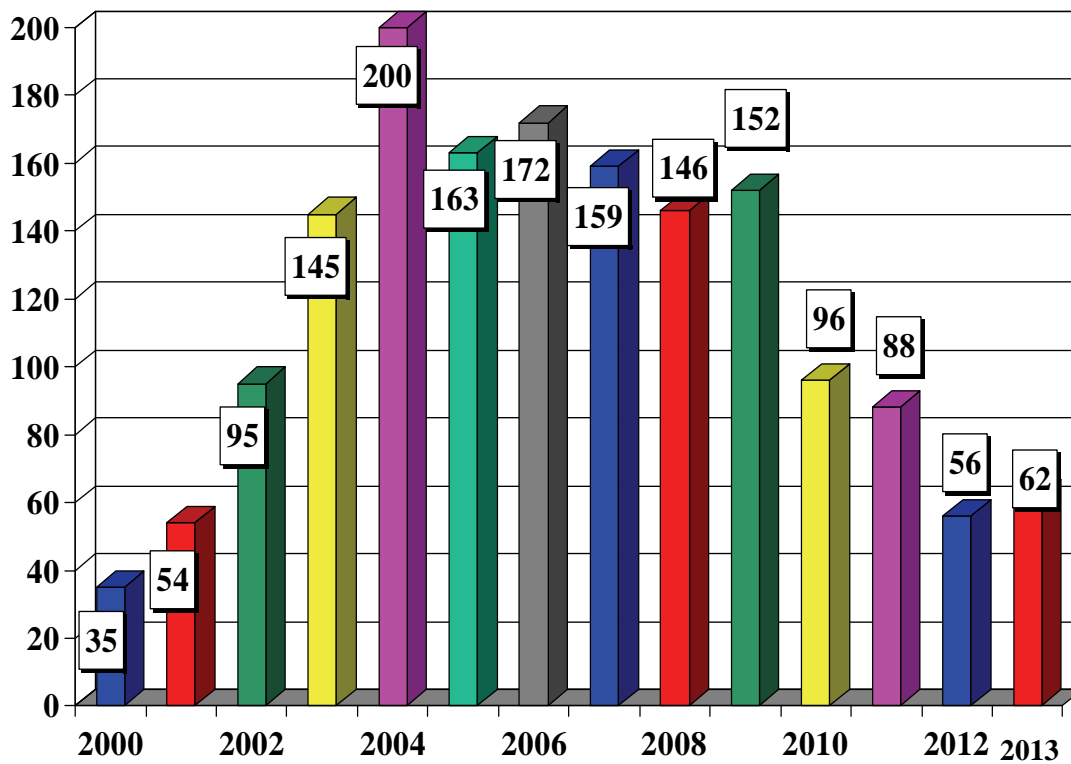


In addition to the normal prosecution of Federal gun violation cases, Project Safe Neighborhoods Nebraska has asked the citizens of Omaha to participate in our Omaha Police and PSN sponsored Gun Amnesty Day community events throughout the year. OPD and PSN hosted three Amnesty events during 2013 at various locations in Omaha. As a result, 87 firearms and 21 five gallon buckets of ammunition were surrendered for destruction. Some of the weapons surrendered in 2013 are pictured below.

Project Type	Date	Location	Firearms Seized	Ammunition Seized
Gun Amnesty	2/9/13	5775 Sorensen	25	4 five gallon buckets
Gun Amnesty	5/25/13	3131 Lake Street	12	3 five gallon buckets
Fireworks & Gun Amnesty	7/20/13	5505 North 103 <sup>rd</sup> & 6900 Harrison	50	14 five gallon buckets
<b>2013 Summary</b>			<b>Total 87</b>	<b>21 five gallon buckets</b>



## Federal Gun Indictments



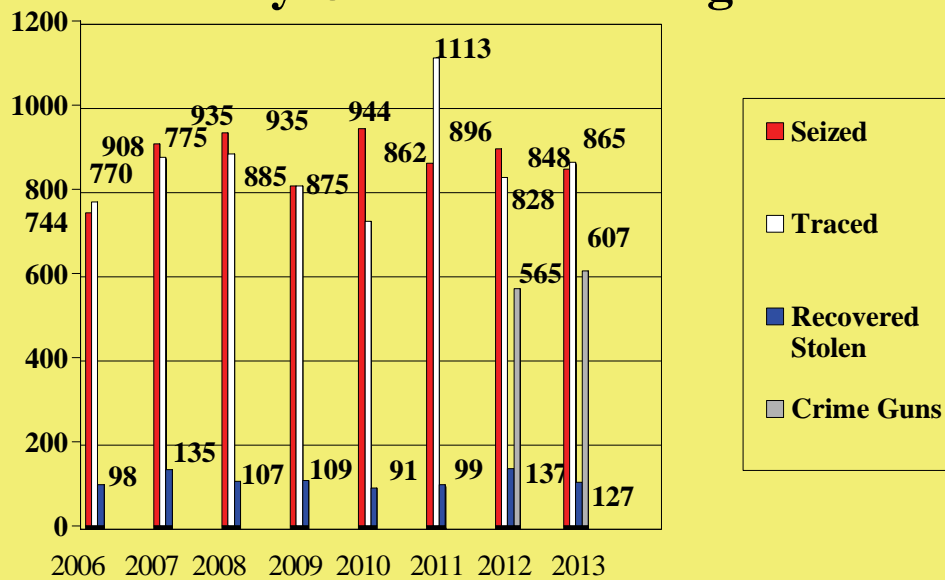
### PSN Federal Gun Indictments 2013

Date	Omaha PSN Cases	State PSN Cases	Alien With Gun Cases	PSN Cases 2004	PSN Cases 2005	PSN Cases 2006	PSN Cases 2007	PSN Cases 2008	PSN Cases 2009	PSN Cases 2010	PSN Cases 2011	PSN Cases 2012	PSN Cases 2013
JAN	0	1	0	20	16	16	8	8	13	8	5	2	1
FEB	4	3	1	12	18	23	23	13	13	11	6	4	7
MAR	3	2	1	16	13	8	19	5	20	6	5	8	5
APR	5	4	0	15	22	23	12	16	24	12	7	7	9
MAY	5	1	0	10	11	6	20	13	23	3	4	3	6
JUN	1	2	0	11	13	20	8	10	16	8	4	3	3
JUL	1	2	1	23	12	18	14	11	15	3	27	4	3
AUG	0	1	0	19	10	13	13	19	3	8	7	4	1
SEP	16	0	0	19	9	11	4	17	4	13	6	6	16
OCT	11	0	0	16	7	10	12	9	13	9	2	4	11
NOV	0	0	0	17	15	10	18	8	7	11	5	4	0
DEC	0	0	0	22	17	14	8	17	1	2	10	7	0
<b>Totals</b>	<b>46</b>	<b>16</b>	<b>3</b>	<b>200</b>	<b>163</b>	<b>172</b>	<b>159</b>	<b>146</b>	<b>152</b>	<b>96</b>	<b>88</b>	<b>56</b>	<b>62</b>

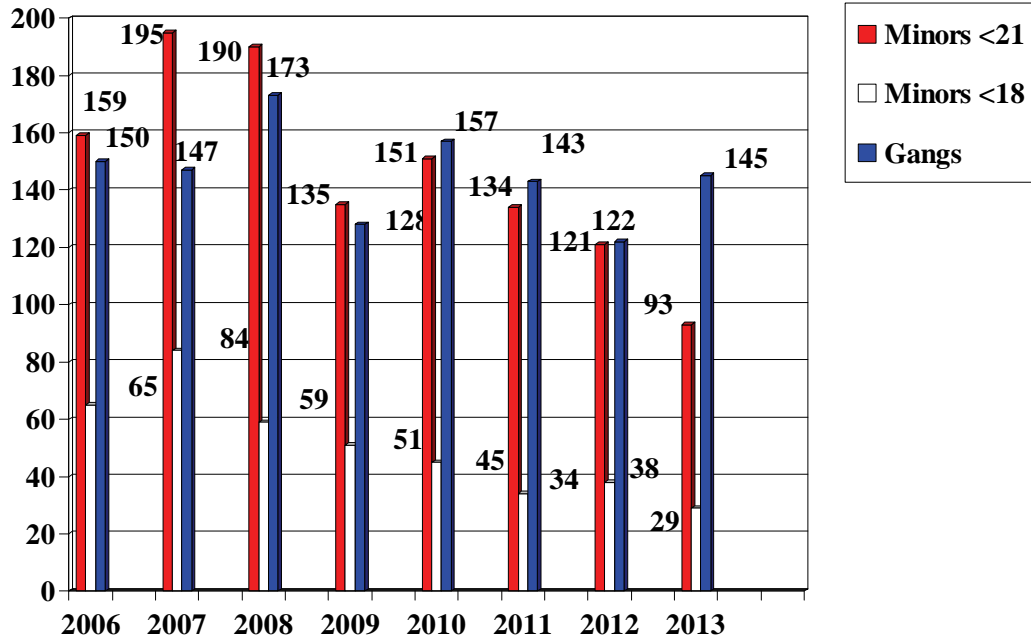
## Project Safe Neighborhoods Firearms Tracing and Tracking Project 2013

Subject	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Totals
Gun Cases Reviewed	27	23	29	32	36	27	22	25	28	30	22	40	341
Cases Presented to USAO	3	5	5	7	3	5	6	4	4	4	4	2	52
Cases Presented to USAO w/other Units	1	0	3	1	1	1	0	0	0	1	0	1	9
Cases Presented to DCAO	13	12	10	11	20	11	11	8	17	16	11	14	154
Cases Presented to OCPO	8	5	10	12	10	5	4	12	5	8	7	16	102
Juvenile Cases	2	1	1	1	2	5	1	1	2	1	0	7	24
Guns Sent to ATF for Trace	71	81	34	105	64	91	85	45	44	79	56	110	865

### Firearms Seized by OPD for Tracking



### Seized Firearms Tied to Minors and Gang Members/Associates



## PROJECT SAFE NEIGHBORHOOD CASES

### Firearm Cases

#### **Bryan Howard, Uriel Moncada-Zavala and Jessica Kraft**

These defendants were involved in a methamphetamine distribution conspiracy in the Omaha area. The indictments arose from a series of controlled buys conducted by the ATF. The case resulted not only in the conviction of the three defendants, but the forfeiture of 3 firearms, a motorcycle, a trailer, an SUV and over \$9,000, as well as the seizure of over 1 ½ pounds of methamphetamine. Two of the defendants have been sentenced to 51 and 78 months. Sentencing of the third is pending.

#### **Aaron Clark**

This defendant was prosecuted for selling drugs and a shotgun, in a matter investigated by the ATF. Additional charges resulted from Clark's subsequent attempts to manufacture exculpatory evidence. Clark ultimately was sentenced to 202 months.



## PROJECT SAFE CHILDHOOD CASES (CONT)

**Jason Bielicki** was sentenced to 84 months in prison followed by 5 years of supervised release after entering a guilty plea to receipt and distribution of child pornography. Beginning in July of 2011 and continuing into September of 2011, an investigator with the North Platte Police Department used automated software to determine that a computer utilizing a specific IP address was sharing child pornography over the Internet. A search warrant was obtained for the search of Bielicki's residence in North Platte. Computers and related items were seized and a forensic examination revealed over 110 gigabytes of child pornography and child erotica on his computer.

**Robert Fleming** was sentenced to 10 years in prison for his conviction for receipt and distribution of child pornography. After his release from prison, Fleming will be required to serve the rest of his life under supervision. The Chadron Police Department executed a search warrant at Fleming's residence in Chadron, Nebraska. A forensic review of a seized computer and peripherals belonging to Fleming identified 78 videos and 4,000 pornographic images, depicting child pornography.

**Aaron McGrath** was convicted and sentenced for the crime of Engaging in a Child Exploitation Enterprise. McGrath was sentenced to twenty years of imprisonment. After his release from prison he will begin a 10 year term of supervised release. McGrath created and operated three separate websites dedicated to advertising and distributing child pornography between January 2009 and November 2012. McGrath administered the websites from his workplace, a server farm in Bellevue, Nebraska, and from his home in Omaha, Nebraska. The websites, named PedoBoard, PedoBook and TB3 were only accessible on the TOR network. The TOR network facilitates anonymous and, for the most part, untraceable communications by users. One of the sites had 5,600 members, 3,000 message threads and 24,000 postings as of December 2012. Sub-forums included sections of child pornography involving: Babies; Prepubescent Boys; Prepubescent Girls; Teenage Boys and Teenage Girls. The text area of the site included a forum devoted to pedophilia. One site alone contained well over 10,000 child pornography images with the youngest victims being infants and toddlers. The investigation has resulted in 25 additional defendants discovered using one or more of McGrath's boards on the TOR network.

**Darrin Mucker** was convicted and sentenced for manufacturing child pornography. Mucker was sentenced to 18 years in prison. After his release from prison Mucker will begin a 20 year term of supervised release. Mucker posed as a teenager on Meetme.com, a social networking service used by teens. Mucker communicated with fifteen girls ranging from twelve to fifteen years of age. The minor girls lived throughout the United States and Canada. Mucker asked each of the girls to send videos of the girls engaging in sexually explicit conduct. Many complied. On at least one occasion Mucker threatened to post the nude images he received from a fourteen year old girl on the internet unless she sent him more.



## PROJECT SAFE CHILDHOOD

Project Safe Childhood is a nationwide initiative to combat the growing epidemic of child sexual exploitation and abuse launched in May 2006 by the United States Department of Justice. Led by United States Attorneys' Offices and the Criminal Division's Child Exploitation and Obscenity Section (CEOS), Project Safe Childhood marshals federal, state and local resources to better locate, apprehend and prosecute individuals who exploit children via the Internet, as well as to identify and rescue victims.

In calendar year 2013, 53 individuals were indicted in the District of Nebraska for crimes involving the exploitation of children via the Internet. Those indictments included charges for the receipt and distribution of child pornography, the enticement and manufacture of child pornography and interstate travel to engage in a sexual act with a juvenile.

**Dennis Lewis** was sentenced to 10 years in prison after having pled guilty to transportation of a minor with intent to engage in criminal sexual activity. For approximately one year, Lewis communicated with a 14-year-old from the Bellevue area that he had met on Facebook. Much of the communication was sexual in nature. The case culminated when Lewis drove to the Bellevue area, picked up the minor and transported her to Tulsa for the purpose of engaging in sexual intercourse. He was arrested by the Tulsa Police Department prior to any sexual assault occurring.

### Child Pornography

**Michael L. Abraham** was sentenced to 6 years in prison following his conviction for receipt and distribution of child pornography. An Internet Protocol address assigned to Abraham had been observed by law enforcement as having child pornography files available for sharing over a peer-to-peer network. A search warrant was obtained for Abraham's computer. A forensic review of the computer media revealed over 100 videos and in excess of 50,000 images of child pornography.

**Jeffrey A. Anderson** was convicted and sentenced for distributing a single morphed image of child pornography. Anderson was imprisoned for ten years. After his release from prison he will begin a 15 year term of supervised release. Anderson, using a false name, sent a series of sexually inappropriate messages to an eleven year old girl. When the girl's mother discovered the messages she allowed the Nebraska State Patrol to take over her daughter's account. The State Patrol located an image of an adult male and adult female engaged in sexual intercourse. The image was manipulated by morphing the head and face of the eleven year old girl over the head of the adult female. Thus, it appeared that the eleven year old was engaged in sexual intercourse.

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

The Sex Offender Registration and Notification Act (SORNA) requires individuals who have been convicted of a crime requiring them to register as a sex offender to continue to register as a sex offender once they travel from one state to another for the purpose of residing, working or attending school. The cases are primarily investigated by the United States Marshal's Service, the Nebraska State Patrol and local county sheriffs' offices. During calendar year 2013, the United States Attorney's Office for the District of Nebraska indicted 25 individuals for failing to register as sex offenders.

**Chester D. Hert** was sentenced to 21 months in prison following his conviction for failure to register as a sex offender. Hert had been convicted of 1st Degree Sexual Assault of a Child, an offense requiring him to register as a sex offender. The United States Marshal's Service became aware that Hert was living in Douglas County, Nebraska and had not registered as a sex offender with the Nebraska State Patrol.

**Roger W. Price** was sentenced to 18 months in prison following his conviction for failure to register as a sex offender. Price had previously been convicted of unlawful sexual contact with a minor, 1-11 years of age, as well as unlawful sexual intercourse with a minor age 12-15, offenses requiring him to register as a sex offender. The United States Marshal's Service became aware that Price was living in Rulo, Nebraska. It was determined that Price had been in Nebraska for at least two months and had not registered as a sex offender with the Nebraska State Patrol.

**Stephen Tanner** was sentenced to twelve months and one day in prison after pleading guilty to failing to register as a sex offender. Tanner was previously convicted in state court in Iowa of Sexual Abuse in the Third Degree. Upon his release from prison, Tanner moved to Nebraska and failed to properly register as a sex offender.



## VIOLENT CRIME

**Brooke Anderson** was sentenced to 12 months and 1 day in prison, following her conviction for providing false information to federal law enforcement officers. Members of the Omaha Metropolitan Fugitive Task Force contacted Anderson while attempting to apprehend her boyfriend, a wanted fugitive. Anderson repeatedly lied to officers about his whereabouts. It was ultimately determined he was hiding in the very residence where Anderson was being interviewed.

**Deshaun Blackett** was sentenced to two years of probation and 100 hours of community service after having pleaded guilty to assault. Blackett assaulted a flight attendant during a flight from New York to Omaha. During the flight Blackett was intoxicated, became agitated, and forcefully grabbed the arm of a flight attendant.

**Christopher Bousman and Travis McQueen** were convicted of possession of stolen explosives. McQueen and Bousman were convicted of possessing 100 pounds of blasting agent, 3,000 feet of detonating cord and various boosters that had been stolen from a mining company near Weeping Water. McQueen was sentenced to 63 months in prison while Bousman was sentenced to 18 months in prison.

**Cameron Mitchell** was sentenced to 370 months in prison following convictions for armed robbery of seven banks located in Omaha, Lincoln and Iowa. Mitchell jumped the counters into the tellers' cages and directed tellers to put money from their cash drawers into bags he carried. In total he took over \$74,100.00 from the seven banks. He was arrested at a Lincoln motel on August 24, 2013, in possession of money, a handgun and clothing worn during his last robbery.

**Jose A. Robles** was sentenced to prison for 63 months following his conviction for bank robbery. Robles entered an Omaha bank, threatened a teller and demanded money. He was arrested by Omaha Police officers that same day.

**Tammy L. Schuck, Tabatha Ashburn, Christopher J. Tierney, Kimberly Bivens and William Knox** were all convicted of multiple charges related to their operation of various "spas" operating in Omaha that were, in fact, fronts for prostitution. Tammy Schuck was sentenced to 33 months in prison and was ordered to pay a monetary judgment in the amount \$232,213.88. Christopher Tierney was sentenced to probation for three years and fined \$15,000.00. Kimberly Bivens was sentenced to 37 months in prison. William Knox was sentenced to prison for 12 months and 1 day, was fined \$50,000.00 and ordered to pay a monetary judgment in the amount of \$225,000.00. Tabatha Ashburn was sentenced to five years of probation with 12 months of location monitoring.

**Michael Smith** was sentenced to 18 months in prison following his conviction for pointing a laser light at the cockpit of a commercial airliner and the Omaha Police Department's helicopter. The Omaha Police Department responded to a report about a laser light striking a commercial Southwest Airline flight while on approach to Omaha's Eppley Airfield. The police helicopter was dispatched to investigate the source of the laser. The police helicopter was immediately met with numerous laser strikes, many on the windshield, when approaching the area reported to have been the area from which the Southwest flight had been struck. The pilot of the police helicopter called for ground support which resulted in Smith being apprehended with a laser pointer in his hand in the backyard of his parents' residence. Smith was the first person indicted in the District of Nebraska under a new federal law making it a federal crime to target aircraft with lasers.

## IMMIGRATION

The United States Attorney's Office prosecutes violations of the immigration laws that occur in the State of Nebraska. The violations can involve simple unauthorized presence in the country following deportation, possession of false documents, identity theft, human smuggling, possession of firearms and false claims to United States citizenship. Approximately 159 people were convicted in 2013 of illegal reentry into the United States. Scores of other undocumented aliens were convicted of non-immigration offenses such as identity theft, drug trafficking and firearms crimes.

**Carlos Niz-Rodriguez** was convicted of possession with intent to use or transfer five or more fraudulent identification documents and fraud and misuse of visas, permits and other documents. He was sentenced to 15 months in prison. Two different confidential informants purchased counterfeit social security and permanent resident cards from Niz-Rodriguez. A search of his residence revealed that he produced the counterfeit documents at his home.



## FISH AND WILDLIFE

**Jason & Britney Edney** were convicted of violating federal wildlife laws in connection with their operation involving a hunting and guiding business. The Edneys ran a hunting guiding business near North Platte. In 2009 and 2010 the Edneys killed turkey and deer in Nebraska without obtaining the required state hunting permits, and transported portions of the wildlife back to North Carolina. In 2010 Jason directed an employee to take a paying client to hunt deer in an area of the state for which Jason knew the client had no permit. Britney Edney pleaded guilty to a misdemeanor violation of the Lacey Act, and also pled guilty to misdemeanor hunting violations on file against her in state court. She was sentenced to three years of probation and ordered to pay restitution to the Game Law Investigation Cash Fund of the Nebraska Game and Parks Commission in the amount of \$10,000.00. Jason Edney pleaded guilty to a felony Lacey Act violation and was sentenced to five years of probation and ordered to pay restitution in the amount of \$35,000.

## CRIMINAL CASES (CONT.)

Other criminal cases prosecuted in 2013 include:

### INDIAN COUNTRY

**Nate Bigfire** was sentenced to 41 months in prison following his conviction for domestic assault by a habitual offender. Bigfire assaulted his wife after having seven prior domestic violence convictions.

**Waylon Blackbird** was sentenced to 27 months in prison following his conviction for assault with a dangerous weapon. Blackbird was at a party on the Omaha Indian Reservation with his girlfriend when he demanded they leave. The girlfriend was reluctant to leave so he pulled her out of the house. Once outside, Blackbird knocked her to the ground, punched and kicked her while she was on the ground. He then pulled out a box cutter and stabbed her in the leg.

**Landon Blackdeer** was sentenced to prison for 12 months and 1 day following his conviction for assault on a federal officer. Blackdeer was arrested on an unrelated matter and was brought to the Winnebago Police Station. He managed to get loose of his handcuffs and attempted to run away when the officer opened the door to the police cruiser. A struggle ensued as the officer attempted to keep Blackdeer from fleeing. During the struggle, Blackdeer punched and elbowed the officer several times about the face and body.

**Easton Harlan** was sentenced to 54 months in prison following his conviction for domestic assault by a habitual offender. Harlan struck his companion several times during an argument. Harlan had previously been convicted of multiple domestic assaults.

**Nelson McCauley** was sentenced to 71 months in prison following his conviction for domestic assault by a habitual offender. McCauley repeatedly struck his companion, a person McCauley had previously assaulted on multiple occasions.

**Carey Phillips and Thomas Baker** were each sentenced to three years in prison following their convictions for sexually assaulting an incapacitated victim. Phillips and Baker were drinking with the victim. After the victim passed out, Phillips and Baker sexually assaulted her.

**Charles Phillips** was sentenced to 18 months in prison following his conviction for assault on a child resulting in substantial bodily injuries. Phillips' girlfriend and her children came home late one evening and they all chose to sleep in the living room. When Phillips demanded that the girlfriend come into the bedroom with him and began pulling on her, the child victim yelled at Phillips to leave her mother alone. Phillips went over to where the victim was on the living room floor and stomped on her head. The victim was knocked out by the blows.

**Tristan Runnels** was sentenced to prison for 12 months and 1 day following his conviction for assault with a dangerous weapon. Runnels was at a residence on the Santee Sioux Indian Reservation demanding money from one of the tenants. The victim began arguing with Runnels. Runnels knocked over a table to get to the victim, pulled out a knife and cut the victim on her face and hand.

**Joseph Snowball** was sentenced to five years of probation following his conviction for driving under the influence of alcohol while having a minor child in the vehicle. He was also ordered to pay restitution in the amount of \$188,621.00. Snowball was in a vehicle with 4 other adults and a 5 year old child. The adults had been drinking for an extended period of time. When one driver began having difficulty driving, Snowball took over even though he did not have a driver's license. He crashed within minutes of taking over the vehicle. His blood alcohol content was .234. One of the passengers suffered grievous injuries.

**Anthony St. Cyr** was sentenced to prison for five years following his conviction for sexual abuse of a minor. St. Cyr picked up a 13 year old girl from Wayne and took her to the Winnebago Indian reservation where he assaulted her.

**Anthony Whitewater** was sentenced to 41 months in prison and ordered to pay restitution in the amount of \$1,000.00 following his conviction for assault resulting in serious bodily injury. Three days after being placed on supervised release following a 2011 federal assault conviction, Whitewater got into a fight at a residence on the Winnebago Indian Reservation. As Whitewater was running away from the scene, he assaulted a neighbor who had stepped out to see what was going on. Whitewater used a broom handle to strike the neighbor in the face.

## WHITE COLLAR CRIME

**Ross Boydston** was sentenced to 5 years of probation and ordered to pay restitution in the amount of \$18,044.61 after being convicted of bankruptcy fraud. Boydston pledged livestock as collateral for loans but then sold the cattle without remitting the proceeds to the lender. He subsequently filed a Chapter 12 bankruptcy and made material false statements and omissions in his schedules in an attempt to conceal the fact that he had transferred and sold livestock without remitting the proceeds to the lender.

**Kimberly Butinski** of Omaha was sentenced to prison for 12 months and a day and ordered to pay restitution in the amount \$39,975.00 following her conviction for social security fraud. Butinski applied for SSI benefits on her children's behalf. To give the appearance of eligibility, Butinski concealed her husband's income from the Social Security Administration. She falsely reported that he had moved out of the house. However, the evidence showed that the husband did reside in the household during the time of the scheme.

**Peter Bristol** was sentenced to five years of probation and fined \$50,000.00 following his conviction for structuring currency deposits to evade the reporting requirements of federal law. Bristol was the owner and operator of used car lots located in the Omaha metropolitan area from February of 2009 through November of 2011. He made currency deposits into his bank account that were intentionally structured in amounts under \$10,000 in order to evade reporting requirements. During the particular period of the scheme, Bristol structured approximately \$878,000 in cash deposits.

**Annette Crawley** was sentenced to 48 months in prison and ordered to pay \$55,226.00 in restitution following her conviction for health care fraud. Crawley used a false name and phony documents to obtain a license to practice psychology from the State of Nebraska. Crawley was not, in fact, educated or trained as a psychologist. She then gained employment and provided psychology "services" to 20 patients on 38 occasions for which reimbursement was paid by Nebraska Medicaid. Additionally she performed approximately 220 assessments of individuals seeking benefits from the Social Security Administration.

**Randy Evans** was sentenced to 5 years of probation, ordered to pay a \$50,000.00 fine, and agreed to a forfeiture of \$32,702.85 following his conviction for structuring currency transactions to avoid detection by federal authorities. Evans was the owner of RCE Investments, Inc., doing business as Randy Auto Sales, located in Grand Island, Nebraska. Between 2010 and 2012 Evans intentionally structured currency deposits with Five Points Bank in amounts under \$10,000.00, in order to evade the reporting requirements of federal law. During the period in question, Evans structured currency transactions totaling over \$2,000,000, including \$32,702.85 seized by the United States from a bank account controlled by Evans.

**Tara Heitkamp** was sentenced to probation for five years and ordered to pay restitution in the approximate amount of \$30,000.00 following her conviction for

making forged securities. Heitkamp worked as a bookkeeper at a real estate management company in Omaha. From 2007 through 2010 she embezzled approximately \$30,000.00 from the company by paying herself double pay on fifteen separate occasions.

**Crystal Lankford** was sentenced to 45 months in prison followed by 5 years of supervised release. Lankford was also ordered to make restitution payments totaling \$635,998.56, following her conviction for embezzlement from the H.B.E. Credit Union, Seward, Nebraska. Lankford was the sole employee, manager and treasurer of the H.B.E. Credit Union. From 2006 through 2011, Lankford began to write checks, drawn on the operating account of HBE at Union Bank and Trust, to herself and another individual without the approval or authorization of HBE Credit Union or its officers. Lankford then deposited the monies into her own checking account.

**Dung Le**, the owner of two Lincoln nail salons, was sentenced to five years of probation and ordered to pay \$33,332.00 in restitution after being convicted of attempting to evade payment of federal income tax by underreporting income of the two businesses. An Internal Revenue Service agent who initially audited the two nail salons became suspicious when she discovered Le's businesses had no internal controls and maintained minimal books. Le provided false information and altered documents to the agents investigating the matter.

**Dan Malone** was sentenced to 9 months of imprisonment and ordered to pay restitution in the amount of \$170,967.00 following his conviction for failing to pay withholding and FICA taxes he had withheld from his employees' paychecks. Malone owned and operated several businesses including real estate management and title companies. Malone collected various federal withholding and payroll taxes on behalf of his employees. Despite withhold funds from his employees' paychecks he failed to pay over the taxes to the Internal Revenue Service in the amount of approximately \$170,000.

**Artak Medjbarian** was sentenced to 18 months in prison for his involvement in a scheme to steal \$163,000.00 worth of meat products from Nebraska Beef. Medjbarian was convicted in connection with a scheme with others to steal loads of meat by pretending to be the legitimate freight haulers to whom authority to transport the loads had been given.

**Matthew Monheiser** was sentenced to 42 months in prison and ordered to pay \$1,364,954.00 in restitution following his conviction for embezzlement from a financial institution. Monheiser was vice president of a bank in Sidney, NE. Between 2003 and 2012 he embezzled \$1,364,954.00 from the bank by misappropriating money from bank customer loan accounts, and by removing \$82,000.00 from the bank vault.

**David Musk** was sentenced to 48 months in prison and ordered to pay \$126,715.00 in restitution following his conviction for wire fraud. Musk defrauded individuals seeking funding for large commercial development projects. Musk represented to people

seeking private equity funding that he had connections with investor groups who could be used to finance the projects. Musk claimed that the investor groups on whose behalf he worked required complete “FBI and Interpol” background checks on prospective investors, for which he charged \$600.00 per principal. Musk had no capability of securing any FBI or Interpol background checks and simply collected money for the background checks to support his lifestyle.

**Billy J. and Carol Nesiba** were each sentenced to incarceration for 12 months and a day and ordered to pay restitution in the amount of \$850,000.00 following their convictions for conspiracy and making false statements to a financial institution. The Nesibas owned and operated Bill’s Classic Cars in Grand Island during the period 2004-2008. They were in the business of purchasing, restoring and selling classic hot rod vehicles. To finance their operation, the defendants provided false personal financial statements to three banks in the Grand Island area and obtained several loans totaling approximately \$850,000. Ultimately all the loans went into default.

**Donald Ondrak** was sentenced to prison for 12 months and a day and fined \$6,000.00 following his conviction for preparing a false tax return on behalf of one his clients. Ondrak was a CPA who prepared tax returns and provided business organization advice to numerous clients in central Nebraska. In 2008 he created a phony expense item to reduce the taxable income for one of his clients, which had the effect of lowering the tax paid to the IRS by \$254,715.00.

**Troy Ortmeier** was sentenced to three years supervised release with six months electronic monitoring after having pleaded guilty to wire fraud. He was also ordered to pay restitution in the amount of \$73,856.45. Ortmeier was a real estate broker and manager of a business located in West Point. On several occasions from 2008 through 2011, he sent falsified reconciliation detail reports to the owners of the business. The reports indicated certain amounts had been expended in particular months for legitimate expenses such as advertising when, in fact, the expenditures had not been made. Mr. Ortmeier had actually converted the monies to his own use.

**Rakeshkumar Vasantal Patel, a/k/a Rakesh Hirani** was sentenced to serve 7 months in custody and ordered to pay a \$5,000.00 fine following his conviction for passport fraud. The Nebraska Department of Motor Vehicles, Motor Vehicle Fraud Unit, utilizing facial recognition software to analyze drivers’ license photographs, discovered an individual who appeared to have applied for Nebraska Operator’s licenses under two different names. Investigation established that Rakeshkumar Vasantal Patel had obtained identification, including a United States passport, under the name Rakesh Vasant Hirani. Further investigation uncovered evidence Patel owned and operated motels in Columbus and Lincoln, Nebraska and conducted business dealings under the Patel name while also maintaining a separate identity with a separate Social Security number, date of birth, and other identity documents, under the Hirani name.

**Robert Pelshaw** was sentenced to 10 months in prison for making false statements in a loan application to the Small Business Association. After his release from prison

Pelshaw will begin a 3 year term of supervised release and be required to pay restitution in the sum of \$137,696. Pelshaw and other investors opened the Roberts Academy of Hair Design. In doing so, Pelshaw obtained an SBA loan for \$150,000. The proceeds of the loan were to be used solely for the business. Investigation revealed that the proceeds were placed into Pelshaw's personal account. Approximately \$120,000.00 was spent within the first month on purely personal items such as a car and various health and entertainment expenses.

**Jimmy Powers** was sentenced to six months in jail and ordered to pay restitution in the amount of \$264,023.00 following his conviction for bank fraud. Powers owned and operated a hay business and had signed security agreements pledging hay and other farm products as collateral for the debts he had incurred with a local bank. Despite the security agreement, personal guarantees, memorandums of understanding, and other acknowledgments to the bank, Powers diverted approximately \$264,023.00 in proceeds from the sale of hay to other banks.

**Cortez Rhodes** was sentenced to 5 years of probation and ordered to pay restitution in the amount \$28,438.00 following his conviction for making a false statement to a government agency. Rhodes claimed unemployment benefits from April 26, 2010 through December 31, 2011. He reported weekly that he was unemployed during this time. However, he had actually obtained employment prior to receiving unemployment benefits.

**Paul Rosberg** was sentenced to 18 months in prison to be followed by a three year term of supervised release following his conviction for misbranding meat products. Rosberg was the owner and operator of Nebraska Fine Meats, a meat locker located in Randolph, Nebraska. Rosberg sold approximately 2,500 pounds of meat to the Omaha Public School System in 2011 that he represented had being federally inspected when, in fact, it had not been inspected. In addition to his prison sentence, Rosberg was also debarred for life from participation in any of the United States Department of Agriculture benefit programs.

**Joshua Roth** was sentenced to 12 months and one day in prison after having pleaded guilty to wire fraud and being a felon in possession of a firearm. He was also ordered to pay restitution in the amount of \$21,325.40. Roth came into possession of a bank account number, user name and password of a bank customer. He used that information to open a PayPal account in that customer's name. Through that account, Roth was able to transfer money from the customer's bank account to the PayPal account. He additionally used that information to purchase items from Ebay and had them shipped to his house. When officers served a search warrant at the house they located some of the items ordered and also two firearms. Roth had previously been convicted of a felony offense and, as such, was prohibited by law from possessing firearms.

**Michael Russell & Laurie Russell** were convicted of failing to pay over to the IRS the trust fund taxes, (income tax withholding and FICA), for the employees of their window installation business. Michael Russell was sentenced to 16 months imprisonment and ordered to pay \$311,486 restitution to the Internal Revenue Service. Laurie Russell



was sentenced to 6 months imprisonment and also ordered to pay restitution. During 2006 they withheld income and FICA taxes from the paychecks of their employees, but failed to pay this money over to the IRS, totaling \$311,486.00. They instead spent the money on gambling and other personal expenses.

**Royann Schmidgall** was sentenced to 18 months in prison and ordered to pay \$541,895.00 in restitution following her conviction for wire fraud. Schmidgall was the long time office manager of a physicians group in Lincoln. Between 2001 and 2011 she manipulated the vacation and sick leave records to overpay herself a total of \$541,895.00.

## **OFFENSES BY PUBLIC OFFICIALS**

**Kevin Cave** was sentenced to probation for three years and fined \$8,000.00 following his conviction for exceeding authorized access on a protected computer. Cave, an Omaha Police Officer, conducted unauthorized searches of the Nebraska Criminal Justice Information System on behalf of car dealerships attempting to repossess vehicles. Cave conducted the searches because he was being paid by the dealerships for each successful lead he generated. Cave obtained, in total, over \$16,000.00.

**Brenda Council**, a former Nebraska State Senator from Omaha, was convicted and sentenced for the felony offense of wire fraud. Council was sentenced to a 3 year term of probation and ordered to pay a \$500 fine. Council, while sitting as a Nebraska State Senator, used campaign funds to place wagers at various casinos in Kansas, Missouri and Oklahoma. Council solicited campaign contributions from individuals and businesses to facilitate her run for office in the Nebraska Unicameral. She misappropriated \$63,000 of campaign donations for gambling between January 2010 and July 2012. She filed false and misleading campaign statements with the Nebraska Accountability and Disclosure Commission during that time period.

**Christi Freemont** was sentenced to 5 years of probation and was ordered to pay restitution in the amount of \$8,529.00 following her conviction for embezzlement from an Indian tribal organization. Freemont worked for the Winnebago Tribal Court. She used a debit card belonging to the Court to make unauthorized cash withdrawals at ATMs on the reservation and to make unauthorized personal purchases at various retail establishments.

## DRUG ENFORCEMENT

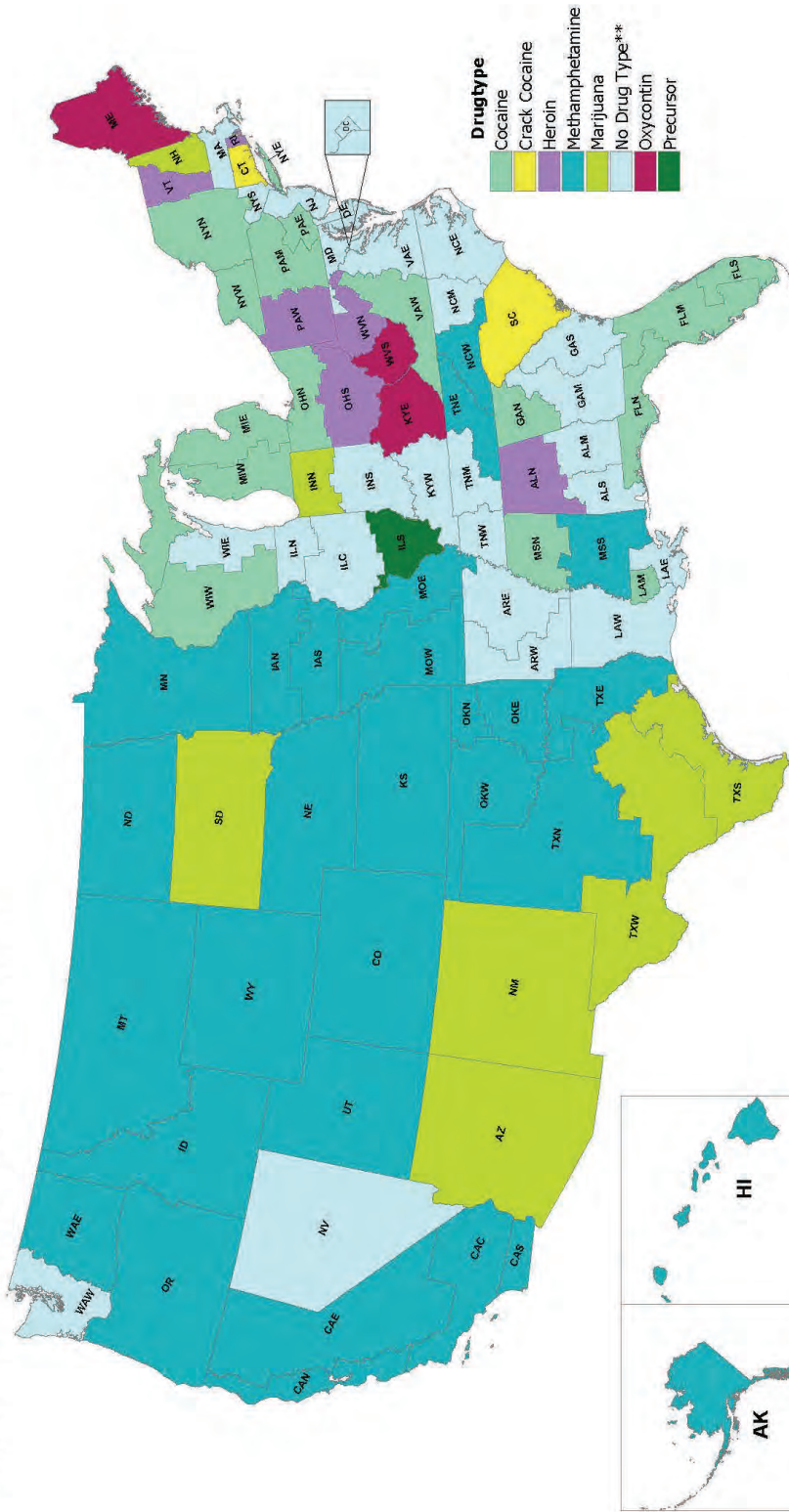
The fight against illegal drug use and distribution continued to be a major priority of the United States Attorney's Office in 2013. Nebraska, with its location in the central United States, between western and eastern drug sources and markets, and with a large number of major interstate and other highways which pass through the State, is a significant trans-shipment area for drug traffickers. Omaha, Lincoln, Grand Island, and other Nebraska cities serve as redistribution points for drug markets within Nebraska and neighboring states and markets, and to smaller rural communities within the District.

The coordinated efforts of Assistant United States Attorneys (AUSAs) and Special Assistant United States Attorneys (SAUSAs), addressed the comprehensive threat posed to the United States and the District of Nebraska, by the trafficking, diversion and abuse of illegal drugs. The Drug Unit comprises the largest unit of the office. SAUSAs from the Douglas and Hall County Attorney's Offices have multiplied the prosecutorial resources dedicated to this effort. Attorneys who prosecuted drug cases were supported by the cooperative investigative efforts of federal, state and local enforcement agencies through the District.

To address the issues related to the investigation and prosecution of drug-related offenses. The United States Attorney's Office filed approximately 212 indictments and informations charging 289 defendants in 2013.



# United States Attorneys - Criminal Caseload Statistics Highest Percentage of Drug Type in Drug Cases Filed per District - FY 2013\*\*



\*\*FY 2013 numbers are straight-line projections based on actual data through the end of March 2013.  
 \*\*The LIONS system provides a field for identifying the type of controlled substance involved in a case. However, if a code is not entered into this field, the case will be classified as No Drug Type. Districts appearing on this map classified as No Drug Type are districts whose data reflect that the highest percentage of cases within all of their drug cases filed was not coded with a specific drug type. LIONS users are encouraged to use this field to ensure that their data can provide accurate, reliable information. A memorandum was sent to all United States Attorneys on July 6, 2006 asking them to ensure that a Drug Type Code is always included in the Drug Type Field in LIONS.

## DRUG ENFORCEMENT CASES

Some of the more significant drug cases prosecuted in the last year include:

### **Misty Harbor**

Two defendants have been prosecuted to date as part of the ongoing OCDETF case Misty Harbor. The overall investigation is a cooperative venture of the FBI, DEA, Bellevue Police Department and other local law enforcement agencies. One defendant was a local hub for distributing methamphetamine. The other defendant was the courier transporting drugs here and to Minnesota and then cash back to California. One defendant is pending a plea, and the other pending sentencing. The investigation so far has recovered about 30 kilograms of methamphetamine, \$150,000 cash, three firearms and several vehicles. It remains ongoing.

### **Shelby Partridge**

This defendant was prosecuted for a methamphetamine conspiracy. The drugs were coming through the mail from California to Wahoo, Nebraska, for re-distribution in Lincoln. The investigation was coordinated between the US Postal Inspection Service and local law enforcement. Partridge was convicted following a jury trial in September. Her sentencing is pending. The intended recipient of the drugs is now under indictment and is pending trial.

### **Sunkist**

Eliodoro Cabrera, Donald Norden, Shawn Malesker and Lance Wolfe were prosecuted as part of the OCDETF case Sunkist. The case was investigated by the U.S. Postal Inspection Service and the Central Nebraska Drug and Safe Streets Task Force in Grand Island. The defendants were bringing marijuana through the mail from California, and moving money back to California through "funnel accounts." Conspirators deposited cash in local bank branches here in Nebraska, and corresponding withdrawals occurred in California. All four defendants pled guilty to marijuana distribution and money laundering conspiracies and are pending sentencing.

### **Second Chance**

Ten defendants were prosecuted as part of the OCDETF case Second Chance. The matter was investigated by the Lincoln/Lancaster County Narcotics Task Force in coordination with the FBI. The defendants were bringing methamphetamine, cocaine, and marijuana into Lincoln, and had ties to distributors in Omaha, Bellevue, Grand Island and Mexico. Nine of the defendants have been convicted and sentenced to terms ranging from 37 to 188 months in prison. The tenth defendant is pending sentencing. The case also resulted in forfeiture of \$8,207 in cash. Cooperation by at least one defendant could result in additional arrests in related investigations.

### **Ricardo Omar Hernandez and Angie Ray Shera**

These defendants were prosecuted for a methamphetamine conspiracy. The case was investigated by the Lincoln/Lancaster County Narcotics Task Force and the

Nebraska State Patrol. Hernandez was convicted following a jury trial. He received sentencing enhancements for use of a firearm (although no firearm was recovered) and for threatening cooperating witnesses. Hernandez was sentenced to 324 months and ordered to forfeit \$12,914. Shera pled guilty and was sentenced to 72 months.

### **Ronald Winfrey**

This defendant was prosecuted for his involvement in distributing marijuana. The ATF and the Omaha Police Department worked cooperatively to conduct a series of controlled buys, followed by searches of several locations. The case resulted in the conviction of Winfrey and the forfeiture of a car, an SUV and over \$100,000.

### **Cory Gray**

This defendant was prosecuted for crack distribution. The case involved a coordinated investigation between the Omaha Police Department and the FBI Safe Streets Task Force, with assistance from Iowa authorities. Gray ultimately was sentenced to 188 months.

### **Brujas**

An investigation by HSI resulted initially in the prosecution of a single defendant in Nebraska. The case started with a traffic stop in Colorado during which nine pounds of methamphetamine were recovered. The follow up investigation by HSI led to the Nebraska defendant, who was the intended recipient of the methamphetamine. The Nebraska defendant in turn also cooperated, leading to the seizure of additional methamphetamine and the prosecution of other defendants in follow up cases, described below.

The follow up investigation by HSI was conducted as part of the OCDEF case Brujas. HSI's further investigation utilized additional cooperating individuals and various forms of electronic surveillance. It resulted in the arrest and conviction of three defendants, the seizure of 71 pounds of methamphetamine and forfeiture of over \$113,000 in cash. Additional follow up by HSI revealed yet another distribution ring connected to the same organization. This related ring involved both methamphetamine and cocaine. Two conspirators were cooking the cocaine into crack and distributing it in Omaha. Arrests and searches by HSI, coordinated with the Omaha Police Department, resulted in the seizure of over 11 pounds of cocaine, over seven pounds of crack, eleven pounds of methamphetamine, 70 firearms and over \$595,000 cash. All six defendants from the related investigations have been convicted. One was sentenced to 210 months; the others are pending sentencing.

### **Christopher Chramosta and Trent Kingsley**

An investigation by the Lincoln Police Department and the United States Postal Inspection Service revealed a marijuana distribution conspiracy led by Christopher Chramosta and assisted by Trent Kingsley. Chramosta arranged for the drugs to be sent through the mail to the residences of third parties, whose rent Chramosta paid. The coordinated arrests and seizures led to the forfeiture of Chramosta's BMW, over

\$104,000 and the engagement ring Kingsley had purchased for his girlfriend using drug proceeds. Both defendants have pled and are pending sentencing.

### **Operation Q**

Seven defendants were prosecuted as part of the OCDETF case Operation Q. The investigation was conducted by the FBI and Lincoln Police Department. Investigative techniques included electronic surveillance and interceptions, controlled buys and search warrants. The case culminated in the seizure of about 4 pounds of methamphetamine and \$13,000 during an attempted exchange between two conspirators at a truck stop. Additional searches netted over \$100,000 in cash and approximately 22 pounds of methamphetamine. Two of the defendants have pled guilty, five are pending resolution and one is a fugitive.

## Prescription Drug Diversion

To counter the growing threat of the diversion of prescription medications, the DEA office in Omaha created a new DEA Diversion Task Force. That newly formed task force received both the regional and the national HIDTA awards for Outstanding Prescription Drug Investigative Effort in 2013. The award was based on the work of the Task Force, led by the DEA Tactical Diversion Unit and working in conjunction with the Nebraska State Patrol, the III Corps Drug Task Force and the United States Secret Service, in the OCDETF case Patt Down.

### **Patt Down**

The DEA Diversion Task Force's investigation has resulted in the prosecution so far of thirty defendants in the OCDETF case Patt Down. Davis Patterson and associates and employees of his business, Pat's Rental in Fremont, repeatedly traveled to other states to obtain prescriptions by fraud for oxycodone and other pain medications. The prescriptions were filled in Nebraska, and the medications were re-distributed by Patterson and others. Twelve defendants were indicted initially. Follow up investigation resulted in the indictment of 18 more. Most of the defendants have pled and been sentenced to terms ranging from one year plus one day to 108 months. The cases of several defendants remain pending, and the investigation is ongoing.

## Civil Forfeiture Highlights

The following two cases highlight a pattern commonly seen by law enforcement when they interdict money transporters: bundles of concealed currency combined with other suspicious circumstances. Two such cases are highlighted below. One case was favorably resolved by a trial to the Court. The other resulted in forfeiture of the seized money because the claimants failed to file responses ordered by the Court.

**United States v. \$38,000.00 in United States Currency.** The case began with a traffic stop of a westbound vehicle on August 25, 2011 by Douglas County Sheriff's Deputy Dave Wintle. The sole occupant was driving a vehicle owned by another person. The driver wondered if the deputy could just issue a warning for the traffic violation, since the driver was broke. The driver also later denied there was more than \$10,000 in the vehicle. Deputy Wintle ran his drug detection dog around the vehicle with consent; it indicated to the odor of controlled substances coming from the vehicle. During their ensuing search, deputies found \$38,000 cash in four bundles concealed in a bag, wrapped within sweatpants inside a suitcase. The driver testified at trial, but gave explanations for the cash inconsistent with what he had told the deputy during the traffic stop. The Court found the facts demonstrated, by a preponderance of the evidence, the defendant property was substantially connected to drug trafficking.

**United States v. \$100,000.00 in United States Currency.** The Douglas County Sheriff's Office received a tip in January 2012 that someone in a particular vehicle would transport 200 pounds of marijuana from California to Minnesota. A few weeks later, Deputy Dave Wintle stopped a westbound vehicle matching the description. The two occupants said they were traveling from Minnesota to California, but gave an implausible story regarding their travel. The driver said she didn't think there was more than \$10,000 in the vehicle, and the passenger said there was not. After receiving a positive canine indication, Deputy Wintle searched and found \$100,000 in ten bundles in a suitcase. When asked, the passenger said there was \$100,000 and that it had been given to him to produce a movie. A later search revealed dryer sheets within the vehicle. Both occupants gave Mirandized statements. The driver said she knew there was a large amount of money in the vehicle, but not how much. She said the money was not hers, but refused to sign a disclaimer. The driver said the money was his, but gave several different stories as to its origin. Both occupants later filed claims to the money, but they failed to file responses ordered by the Court. Both occupants' claims were dismissed for want of prosecution, and the cash was forfeited to the United States.

In December, 1996, the Office of National Drug Policy (ONDCP) designated counties in Iowa, Kansas, Missouri, Nebraska, and South Dakota as the Midwest High Intensity Drug Trafficking Area (HIDTA). In February, 1999, designated counties in North Dakota joined the Midwest HIDTA. The goal of the Midwest HIDTA is to enhance and facilitate the coordination of regional drug-control efforts among local, state, and federal law enforcement agencies in order to reduce drug trafficking and its harmful consequences in critical markets in the region.



Co-located with the United States Attorney's Office's LECC Unit is the Nebraska Office of the Midwest HIDTA. The Midwest HIDTA State Coordinator located in this office, facilitates working relationships between local, state, federal law enforcement agencies and the US Attorney's Office. The Midwest HIDTA's intelligence center in Kansas City, Missouri offers state of the art technology to develop and share intelligence in Nebraska, Midwest HIDTA adjoining states, and nationally.

In 2013 three Nebraska narcotics drug task force groups were recognized regionally by Midwest HIDTA and one was recognized nationally by the President's Office of National Drug Control Policy.

**2013 National ONDCP Award and Midwest HIDTA  
Award for Outstanding Prescription Drug Investigative Effort  
Omaha DEA Drug Diversion Group**

The Omaha DEA Drug Diversion Unit was recognized by ONDCP Award for Outstanding Prescription Drug Investigative Effort in 2013 for their work on "Operation Pat Down". During the time period of January 2011 through February 2012, five main prescription drug conspirators received 165 prescriptions totaling 11,284 doses of controlled substances. Of the controlled substances acquired by the group 9,247 doses were schedule II controlled substances, the bulk of which were oxycodone, 8,837 doses or approximately 236g. The suspects were found to have used at least 25 pharmacies to fill the controlled substance prescriptions. The number of physicians identified as providing controlled substance prescriptions to the group is 25, eight of which are from Florida and Georgia. A Pen Register was conducted on one of the higher ranking members of the DTO, which helped clarify parts of the organizational hierarchy. Potential suspects previously unknown to law enforcement were identified through the Pen Register and their identities were confirmed through informants and proffer interviews.

Investigators traveled to the Miami Field Division (MFD) and met with investigators working several clinics involved with this investigation. With the assistance of the MFD personnel, multiple medical records were located involving suspects of a prescription drug DTO. During the first round of indictments, which occurred in September 2012, 18 individuals were indicted and arrested. In April 2013, testimony was presented to the Grand Jury seated in the District of Nebraska for an additional 12 individuals for indictment. This group's persistence, dedication, and hard work lead them to collect information which developed probable cause for a Search Warrant which lead to the seizure of 3300 doses of



100mg tablets of morphine, 1000 doses of oxycodone, 100g of heroin, 210g of hashish, approximately 10 pounds of marijuana, \$4,402 in US Currency, and a defaced .32 caliber handgun.

The disruption of this organization has dramatically slowed the distribution of controlled pharmaceuticals in the Fremont, Nebraska area. Enforcement activities taken against this organization have also hampered several sources of supply in the Omaha metropolitan area.

**2013 Midwest HIDTA Award Winner for Outstanding Cooperative Effort Award  
Cooperative Operation for Drug Enforcement (CODE), Western Intelligence  
Narcotics Group (Wing) and Omaha FBI Group**

The Omaha FBI through their office in North Platte, along with the CODE and WING HIDTA Task Forces began a joint investigation into a DTO organization distributing methamphetamine in the Ogallala, Nebraska area in late 2012 and early 2013. This case resulted in the dismantlement of an International Drug Trafficking Organization. As a result of this investigation, 17 arrests, one search warrant, six consent searches, and numerous seizures. Controlled drug buys executed on the case recovered approximately 23 ounces of methamphetamine. Search warrants executed on the investigations seized approximately and additional 2.7 pounds of methamphetamine. The case resulted in the seizure of approximately \$8,000 in USC.

**2013 Midwest HIDTA Award Winner  
Outstanding Investigative Effort  
Omaha ATF Illegal Firearms Task Force**

In January of 2013, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Omaha Field Office and the Omaha Police Department (OPD) partnered to form a HIDTA Illegal Firearms Task Force in an effort to combat the violent street gang problem in North Omaha. The objective of this newly formed HIDTA task force was to combat this violence and use federal statutes to incarcerate those gang members who utilize firearms to protect, intimidate, and further their criminal enterprise. Operation "Wipe It Down" began and every known gang member or associate who was arrested with a firearm was interviewed by OPD and/or ATF investigators. These interviews resulted in the development of confidential informants with strong ties to the 40<sup>th</sup> Ave. Crips Street Gang, one of the most notorious and violent street gangs in North Omaha. These informants were able to make numerous undercover purchases of firearms and narcotics from active members of the 40<sup>th</sup> Ave. Crips. Integrated Ballistics Identification System (IBIS) analysis of these firearms began to link these firearms to numerous homicides, felony assaults and drive by shooting events in and around the Omaha metro. To date, IBIS has linked 182 shooting events, 14 of which relate to homicides and 47 of which directly involved members of the 40<sup>th</sup> Ave. Crip Street Gang. As a result of this investigation to date, 62 firearms, approximately 1.5 pounds of marijuana, and 310 grams of crack cocaine have been purchased or seized

from members of the 40<sup>th</sup> Ave. Crips, or associated/rival criminal street gangs. Arresting these 30 gang members represents a considerable impact into the operational ability of these gangs. Seven of the arrested persons are among OPD's 15 most wanted related to the 40<sup>th</sup> Ave Crips Street Gang. These 30 persons have a combined criminal history totaling 141 prior arrests, 36 prior felony convictions and 80 prior misdemeanor convictions. Five of the defendants were identified as straw firearms purchasers and were responsible for purchasing 25 firearms for violent street gang members.

### Midwest HIDTA Drug Analysis 2013

According to information reported by Midwest HIDTA Drug Task Forces the overall drug threat to the Midwest High Intensity Drug Trafficking Area remained fairly consistent from 2012 through 2013. Methamphetamine remains the foremost drug threat to the HIDTA region because of high levels of availability and abuse, overall negative societal impact, and increased local production.

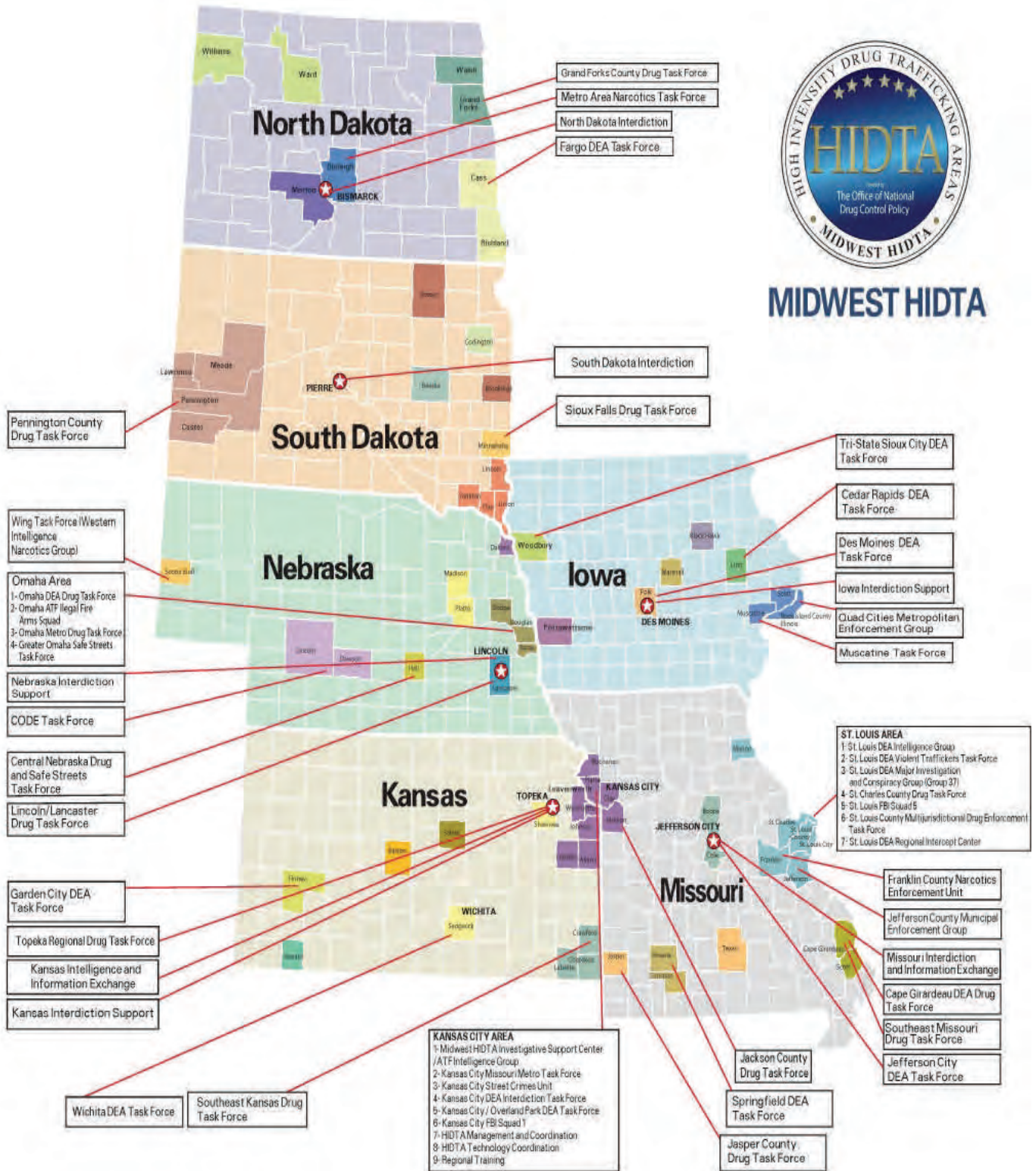
Controlled prescription drugs (CPD's) and marijuana are typically available and widely abused in most drug markets. The most commonly abused CPD's in the Midwest HIDTA region are opioids such as hydrocodone, oxycodone, fentanyl and methadone. Marijuana indoor grows have increased in frequency and importation of Colorado-produced marijuana has supplanted other traditional sources.

Probably the greatest drug threat would be the production and distribution of methamphetamine in Nebraska as well as the abuse and distribution of pharmaceuticals. The drug trafficking corridors along I-80, trains, buses, and mail continue to be a major drug threat for Nebraska.





## MIDWEST HIDTA

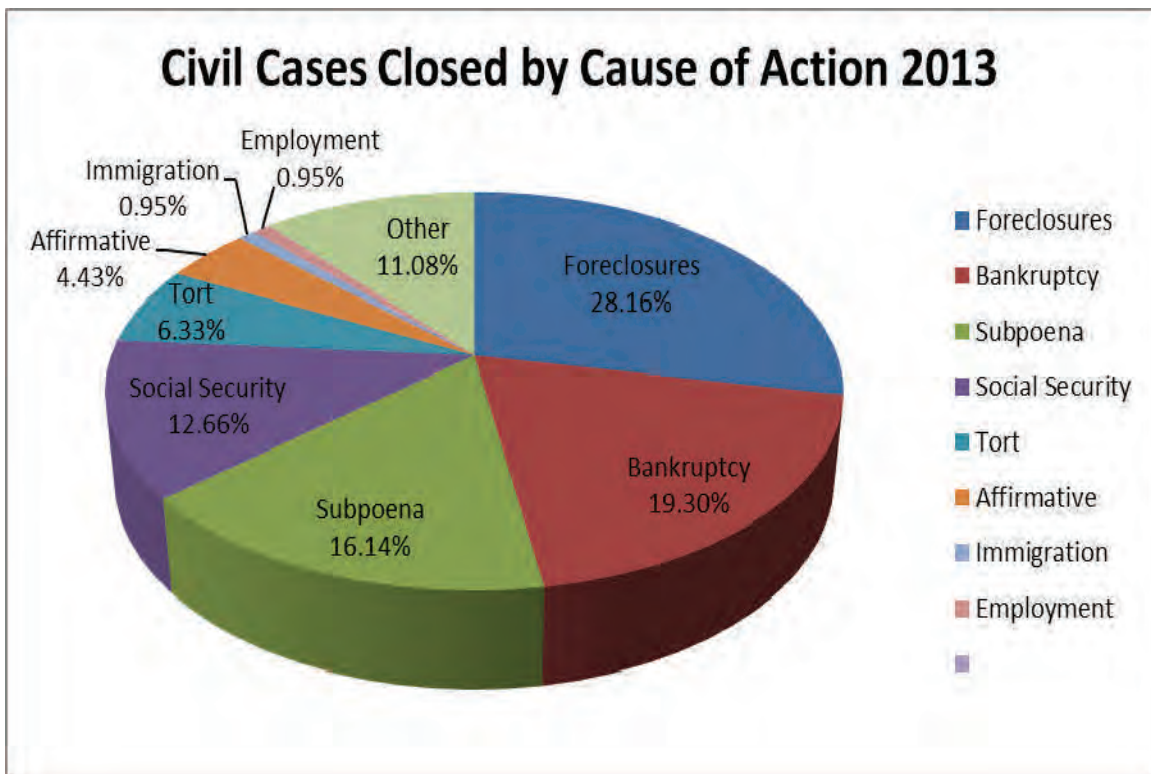


## CIVIL DIVISION



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

Work on 313 civil cases and matters were completed in 2013. Included in that number are defensive cases in which the validity of federal laws, or the acts of federal agencies and employees, was challenged. Also included were affirmative cases brought to enforce federal statutory and regulatory requirements, and to collect debts owed to the United States. The chart below depicts the types of civil cases and matters completed during 2013.



The Internal Revenue Service, Social Security Administration and the U.S. Department of Agriculture continued to be the agencies involved in the largest number of civil cases in the District during 2013. The number of bankruptcy and affirmative litigation cases decreased slightly in 2013, while the number of defensive tort and employment litigation cases showed slight increases from recent years. A variety of cases involving the agencies within the Department of Justice also made up a significant portion of the overall civil workload. The number of cases completed for various federal agencies is reflected in the chart on page 46.

## Civil Litigation

A primary function of the Civil Division is to provide quality representation to the United States and its agencies and officers in defensive litigation in federal and state court. During 2013, Civil Division AUSAs defended a number of cases brought in federal court to set aside or modify the actions of federal agencies and officers. Civil Division AUSAs also handled several cases seeking damages for alleged negligence or other wrongful conduct by federal employees, as well as cases alleging discrimination in federal employment.

In the area of affirmative litigation, the Civil Division continued its Affirmative Civil Enforcement (ACE) program, which involves various initiatives designed to collect civil monetary penalties and damages for violations of federal law, to recover costs incurred by agencies as a result of violations of federal statutes and regulations, and to obtain compliance with the requirements of federal law through civil litigation. In calendar year 2013 ACE cases resulted in monetary recoveries of more than \$746,000.00. ACE cases also led to court orders directing various defendants to comply with federal laws and regulatory requirements.

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

Another major area of emphasis in the ACE program is environmental enforcement. In 2013, the United States Attorney's Office worked with attorneys from the United States Department of Justice and the Environmental Protection Agency on civil environmental cases brought to recover civil penalties as well as response costs, and to obtain judgments requiring polluters to comply with environmental laws.

As in most years, Civil Division AUSAs also conducted a significant amount of litigation in 2013 to collect debts owed to the United States. Suits to obtain judgments for unpaid balances of delinquent loans made by agencies such as the U.S. Department of Agriculture, the U.S. Department of Education, the U.S. Department of Veteran's Affairs, and the U.S. Department of Health and Human Services comprise a significant portion of the Office's civil workload. Those cases are litigated in federal district court, in bankruptcy court, and in state courts throughout Nebraska. All told, the Financial Litigation Unit, within the Civil Division, collected more than 4.6 million dollars.

## CIVIL LITIGATION CASES

The civil cases litigated in 2013 include:

### **AFFIRMATIVE CIVIL ENFORCEMENT**

#### **Affirmative Civil Fraud**

U.S. ex rel. Watkins v. Infogroup; U.S. ex rel. Haseloh v. Saunders Medical Center; U.S. ex rel. Roberts v. Valley Bank and Trust Company; U.S. ex rel. James v. Midlands Choice, Inc. - The United States Attorney's Office investigated allegations of federal program fraud in four separate *qui tam* lawsuits. (*Qui tam* actions are ones in which a private citizen with information about fraud against the United States files a lawsuit under the False Claims Act on behalf of the government, and the individual can share in a percentage of the recovery, if any.) The United States declined to intervene in the litigation, and in all but one of the cases the False Claims Act allegations were either voluntarily dismissed, dismissed by the court, or the parties resolved claims other than those arising under the Act.

#### **Affirmative Civil Rights**

In re: Richard H. Young Hospital – The hospital worked with the U.S. Attorney's office to resolve allegations it failed to provide appropriate auxiliary aids and services needed for effective communication with an individual who is deaf, in violation of Title III of the Americans With Disabilities Act. The hospital voluntarily implemented a policy for ensuring effective communication for individuals with disabilities, to include staff training and notice to the public about the availability of auxiliary aids and services.

In re: City of Friend – The city responded to a complaint that people with disabilities could not participate in the City's services, programs, and activities at a ball field in violation of Title II of the Americans With Disabilities Act. The city undertook a variety of measures to address the concern, such as installing an accessible pathway to the premises, providing handicap accessible parking and appropriate signage, installing an accessible water fountain, and overhauling the men's and women's restrooms.

#### **Affirmative Environmental Litigation**

U.S. v. City of Hastings (District Court – Nebraska) – The Environment and Natural Resources Division of DOJ negotiated a Consent Decree with the city under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (ACERCLA@), to recover response costs at the Second Street Subsite, one of seven subsites at the Hastings Ground Water Contamination Superfund Site in Adams County. The City is the current owner of the Subsite, which consists of a contaminated aquifer and soils. The vast majority of the contamination was caused by the historical operations of a coal gas manufacturing plant (1894-1931) which is now defunct. The site was first discovered in 1983 after the City reactivated a municipal well after many years

of being out of service. Under the agreement, the City paid a total civil penalty of \$1,000,000 and continues to perform remedial action work. For more than twenty years, the City fully cooperated with the Environmental Protection Agency (EPA) by paying costs and performing work at the subsites and supporting the EPA's response actions.

## **DEFENSE IMMIGRATION LITIGATION**

Irishad v. Napolitano (District Court – Nebraska) – This case involved the United States Customs Immigration Service (USCIS) and was a *mandamus* case in which the Plaintiff (a political assylee) was denied permanent residency status due to his affiliation with a Level III Terrorist Organization. Plaintiff allegedly carried supplies from Pakistan to Afghanistan in the 1980s to assist anti-communist insurgents. The Terrorist Organization was not recognized as a threat until long after Plaintiff obtained asylum in the United States. Plaintiff appealed his denial of change of status, and USCIS reopened his application and held in abeyance pending changes in policy on treatment of Level III members. Plaintiff filed the *mandamus* case to require USCIS to adjudicate his application so that he could challenge the decision, if necessary, as a final order. Questions raised by defendant were whether the subject application had been pending 13 years or 4 years, depending on whether the period was measured from the Plaintiff's first application or the date the matter was reopened, and, consequently, whether either presented a fair and reasonable time to adjudicate the application. The District Court held that the matter had been pending the 4 year time frame, and that it was reasonable for the USCIS to refrain from deciding the issue until they received additional information on the subject Level III group at issue.

Aldo Gonzales Gomez v. Jensen et al. (District Court – Nebraska) – Plaintiff was involved in removal proceedings before the Bureau of Immigration Agency (BIA) when he brought a *habeas corpus* action against Immigration Customs Enforcement (ICE) and Department of Homeland Security to remove the ankle monitoring device required by ICE upon his release from detention. Plaintiff challenged the constitutionality of electronic monitoring and supervision through the Intensive Supervision Appearance Program on the grounds that it amounted to continued custody despite his eligibility for release. Specifically, Gomez complained that the use of the ankle device violated his substantive due process rights by depriving him of his fundamental liberty interest in remaining free from detention. The District Court granted the government's Motion to Dismiss with prejudice and stated that the court lacked subject matter jurisdiction because Plaintiff failed to exhaust his administrative remedies by completing his BIA appeal concerning the terms of the bond. Furthermore, the Court directed Plaintiff not to re-file a similar case in District Court, as any such cause of action would in effect be a challenge to a final Order of Removal, exclusive jurisdiction of which has been delegated by Congress pursuant to the Circuit Court of Appeals.

Thomas Uttecht, Sanjuana Uttecht, Benjamin Uttecht, Silas Uttecht, Asher Uttecht, Pheobe Uttecht, Leah Uttecht, v. Napolitano (District Court – Nebraska) - Plaintiff Sanjuana Uttecht, ("Plaintiff") wife and mother of five children, came into the United States Immigration and Customs Enforcement (ICE) custody after having been arrested for 3<sup>rd</sup> degree assault. ICE filed a detainer due to her unauthorized presence in the

United States. Plaintiff filed a *habeas corpus* proceeding in District Court alleging several grounds for release, including ICE's failure to hold a hearing prior to making a decision to detain her, ICE's failure to follow its own policies on release, and ICE's holding Plaintiff without a hearing - all violated procedural due process. In addition, Plaintiffs alleged that Defendants violated Plaintiffs' "constitutional right of privacy in family matters".

This case did receive considerable local press, as Mrs. Uttecht's husband is a U.S. citizen, she has five children that are U.S. citizens, and her youngest child was approximately 3 months old when she was taken into ICE custody. The District Court dismissed the case, finding that each of the theories raised by Plaintiffs were, in essence, a challenge to the underlying order of removal, and that District Court lacked jurisdiction to review final orders of removal in immigration proceedings.

## **DEFENSE OF EMPLOYMENT LITIGATION**

Avila v. Blank (District Court – Nebraska) – A temporary employee of the Census Bureau in Lincoln, Nebraska, was fired for repeated violations of the agency's overtime policy. Plaintiff alleged the agency discriminated against him because of his national origin/race and he criticized the agency's hiring criteria and testing process of Spanish speakers to a local newspaper. After initial briefing of a dispositive motion, the parties were able to reach a monetary settlement and the case was dismissed.

Gomez v. Dennis Wilson and OSHA (District Court – Nebraska) - Plaintiff was fired from a private company for misconduct, but he claimed that the firing was because he reported a work-related injury to the company's management. OSHA investigated Plaintiff's retaliation claim, but dismissed it for a lack of evidence. Plaintiff then sued the individual OSHA investigator and the agency, alleging they discriminated against Plaintiff in the investigation. The District Court dismissed the complaint for failure to state a claim against the federal Defendants.

Keri Boehm v. USPS (District Court – Nebraska) – Plaintiff commenced this action seeking to set aside an Arbitrator's finding that her employment with the U.S. Postal Service was properly terminated because she misused undeliverable bulk mail by making personal use of retail coupons from Bath and Body Works, among other retail stores. The Court granted the government's Motion for Summary Judgment and denied Plaintiff's Motion for Summary Judgment, upholding the Arbitration award. The Court found that Plaintiff had not demonstrated that the Union breached its duty of fair representation and that the Arbitration award did not violate an "explicit public policy". Plaintiff had argued that her union representative failed to make all of the arguments that could have been made on her behalf at the Arbitration. In rejecting her argument, the Court found Plaintiff's removal was for just cause.

## **DEFENSE OF TORT LITIGATION**

(The following cases were filed in District Court seeking damages under either the Federal Tort Claims Act (FTCA) or under a theory of a violation of Constitutional torts.)



Slip and Fall - Plaintiff brought an action under the FTCA alleging injuries from a fall on the front steps of a small town Post Office. She asserted the steps were icy and not properly maintained by the Post Office. Plaintiff initially was treated for low back pain and knee pain. After considerable discovery in the case, the parties reached a monetary settlement and the case was dismissed.

Medical Malpractice - Plaintiffs were husband and wife who filed a FTCA case seeking damages for the wife's injuries following knee surgery. After having undergone total knee replacement surgery, it was discovered there was a need for an additional surgery to remove surgical pins inadvertently left in the knee. The government successfully moved to dismiss the husband's claim for lack of consortium for lack of subject matter jurisdiction because he failed to file an administrative tort claim with the agency within the two-year statute of limitations. Following considerable discovery in the case, the wife's claim was resolved with a monetary settlement reached by the parties.

Medical Malpractice – Plaintiff sued U.S. Health and Human Services covered entities for medical malpractice in both state court and federal court – both complaints were essentially the same. Once both matters were removed and consolidated in federal court, following briefing, the government's motion to dismiss was granted and the Court found that Plaintiff had failed to exhaust his administrative remedies under the FTCA as required prior to bringing suit.

Rosberg v. Jacobsen (District Court – Nebraska) – The Court dismissed the case without prejudice for lack of jurisdiction. Plaintiff sued the U.S. Department of Agriculture special agent investigating a meatpacking case against him seeking personal damages. Plaintiff's allegations were in tort only, and he had never filed an administrative claim and thus, the matter was ripe for dismissal.

## **DEFENSE OF PROGRAM LITIGATION**

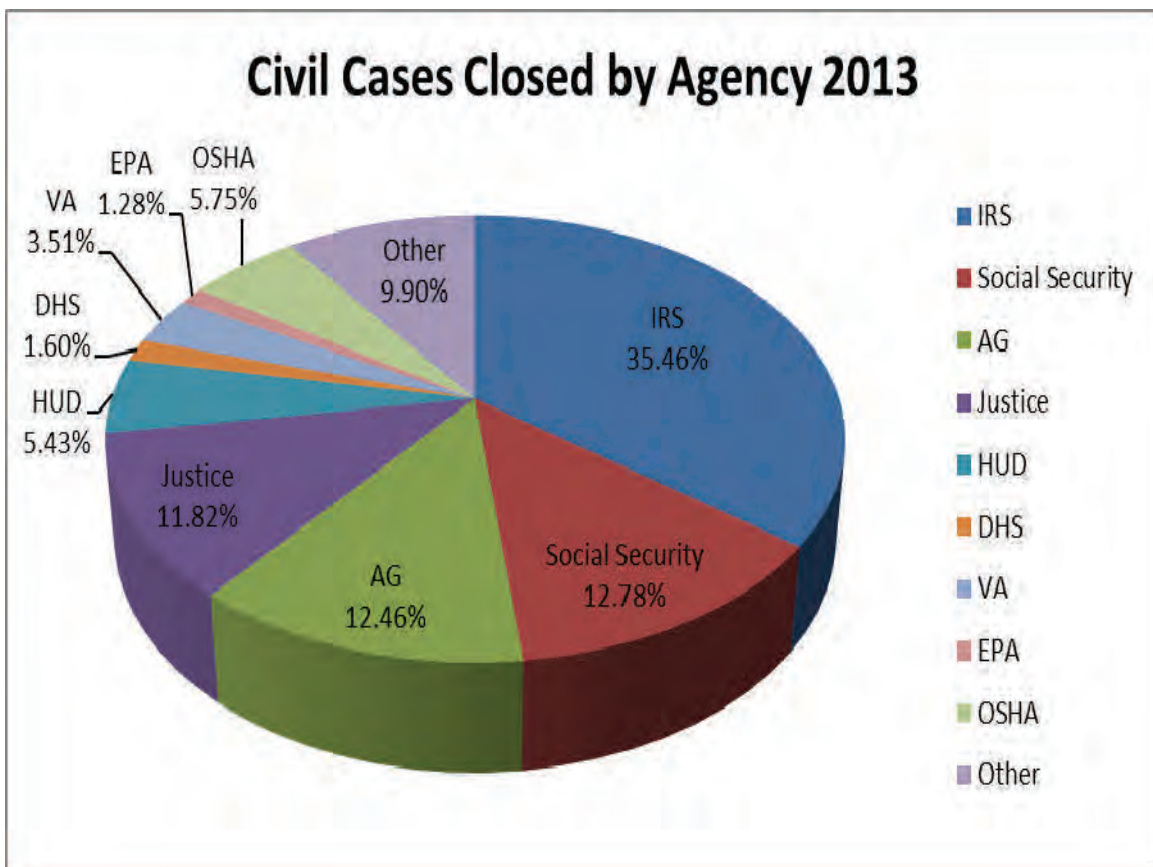
Duane Meester v. Bowers (District Court – Nebraska) - Plaintiff filed a complaint that the Bureau of Alcohol, Tobacco and Firearms (ATF) wrongfully denied his application to renew his federal firearms license. The ATF investigation found that Plaintiff was selling firearms from his house, he did not have access to the business where he was licensed to sell firearms, and that he failed to maintain proper records of his firearm sales. The Court found that Plaintiff had willfully violated the federal firearms laws and granted summary judgment for the government.

Robert Jokumson v. FEMA (District Court – Nebraska) – The Court granted Federal Emergency Management Agency's (FEMA) Motion to Dismiss finding that Plaintiff failed to demonstrate that FEMA waived its sovereign immunity to be subject to suit in this case. Under the National Flood Insurance Act, the insured must file a lawsuit within one year of written denial of a claim for recovery. Because the Court lacked subject matter jurisdiction as the claim was not filed with the Court within one year of the initial denial, Plaintiff's claim was dismissed.

Fedja Rochling v. VA (U.S. Court of Appeals for the Eighth Circuit) - This judicial review proceeding was brought by a gastroenterologist who challenged the final agency decision of a panel of health care professionals to report the doctor's name to the National Practitioner's Data Bank in connection with the settlement of a medical malpractice/wrongful death lawsuit involving the Veterans Affairs (VA). The panel determined Plaintiff was the "most responsible practitioner" relating to a settlement payment from the government's "judgment fund" paid to the heirs of a VA patient in a wrongful death action. The District Court granted summary judgment in favor the government, finding that the panel's decision was not arbitrary, capricious, or an abuse of discretion, and that the decision to report Plaintiff's name to the Data Bank must stand. In 2013, the matter was appealed to the 8th Circuit Court of Appeals where the Circuit Court affirmed the District Court's order granting summary judgment for the government.

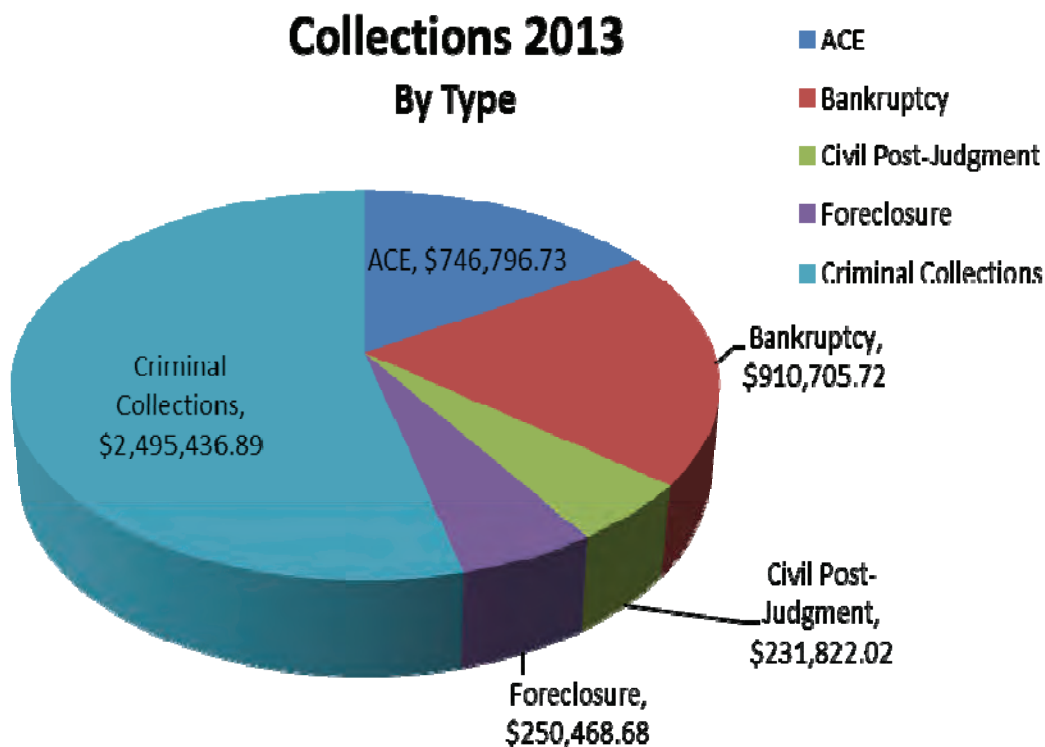
**COMMERCIAL LITIGATION**

Netal Bankruptcy: U.S. v. Contractors, Laborers, Teamsters, et al. – (Bankruptcy Court and Bankruptcy Appellate) - The Internal Revenue Service (IRS) appealed a bankruptcy court order denying the IRS' super-priority administrative expense claim



## Collection of Judgments

A major function of the United States Attorney's Office Civil Division is to collect debts owed to the United States as a result of judgments entered in civil cases, and fines and restitution orders imposed as part of the sentence in criminal prosecutions. In calendar year 2013, the Office collected in excess \$4.6 million.



A breakdown of collection activity in the United States Attorney's Office show that a variety of civil cases, including bankruptcy and foreclosure, resulted in approximately \$1.3 million in recoveries in 2013. ACE cases accounted for approximately \$746,000 million in collections. Total collections by type are reflected in the chart above.

A large percentage of the money collected by the United States Attorney's Office is forwarded to federal agencies for repayment of loans and other federal program obligations. Some of the recoveries, such as those obtained for the Environmental Protection Agency, are used to pay costs expended in implementing and enforcing federal programs. Criminal restitution collected is delivered directly to the crime victims, and criminal fines and special assessment recoveries are used to fund federal programs for the benefit of victims of crimes.

under 11 U.S.C. § 507(b), in favor of the Contractor Union's claim that their claim was superior to the IRS under 11 U.S.C. § 726(b). The Bankruptcy Appellate reversed the Bankruptcy Court decision and remanded the matter to allow the IRS to conduct discovery and present evidence of the diminution of collateral pursuant to the cash collateral agreement between the IRS and the debtor, and to allow the government's super priority claim accordingly.

Behrens v. United States (Bankruptcy Court) - Plaintiff filed an adversary complaint in his Chapter 7 bankruptcy proceeding to vacate the United States' criminal restitution debt in the amount of \$6,841,921.90. Plaintiff's alleged that his criminal prosecution was commenced in violation of a receivership stay entered by the court in a separate civil court proceeding for securities fraud. This civil action, according to Plaintiff, contained an order specifically depriving the District Court of jurisdiction over the criminal proceeding. Plaintiff's attempt to collaterally attack the criminal judgment debt was rejected by the Bankruptcy Court which refused to invalidate his final criminal restitution judgment.

**LAW ENFORCEMENT AND COMMUNITY  
COORDINATION**

The mission of the United States Attorney's Office Law Enforcement and Community Coordination (LECC) Unit is to assist law enforcement and criminal justice agencies throughout the District of Nebraska, and to facilitate community-based efforts on issues related to criminal justice and community restoration. The LECC Unit manages or facilitates a number of programs designed to support and coordinate the objectives of the criminal justice system at various levels, provides services to witnesses and victims of federal crime, conducts training, and apprises the community at large about issues related to the criminal justice system. In 2013, the LECC Unit continued its work to maintain strong collaborative partnerships among federal, state, tribal, and local law enforcement agencies in order to improve the effectiveness of law enforcement in the District.

The LECC staff works with the Nebraska Sheriff's Association, the Police Officers' Association of Nebraska, the Police Chiefs' Association of Nebraska, Nebraska Coalition for Victims of Crime and the Nebraska County Attorneys Association to develop and present training on subjects related to criminal justice and victim assistance. A three-day criminal justice conference hosted by the United States Attorney's Office and co-sponsored by the Nebraska County Attorneys Association is held in Kearney each year. Awards recognizing accomplishments in law enforcement presented at the 2013 conference are described in the following section of this report.

Trainings and conferences are held throughout the year across the state at various venues. The trainings hosted by the U.S. Attorney's Office in 2013 focused on a number of topics, many of which were held more than once and at several venues across the District.

**VALOR Training**  
**Federal Case Development**  
**Issues in Indian Country**

**Protect Our Children Regional Annual Conference**  
**Domestic Violence Training**  
**Victim Services Training and Academy**  
**Nebraska Infrastructure Protection Conference**

The 10th annual Protect Our Children Midwest Area Conference, held at the Omaha Hyatt Hotel, October 15-17, 2013, provided training on the most current issues regarding crimes against children; specifically child sexual/physical abuse, on-line enticement, and child pornography. The three-day conference featured national and local speakers who are experts in these fields, and was an excellent opportunity for various disciplines to build partnerships with local, state and federal agencies to benefit child victims, and contribute to a more effective investigation and prosecution of the offenders. The 2013 conference was jointly hosted by the United States Attorney's Office for the District of Nebraska and Project Harmony Child Advocacy Center. It was co-hosted by thirteen Midwestern U.S. Attorney's Offices. This annual conference is designed to address the needs of law enforcement, prosecutors, victim service providers, probation/parole/correctional officers, judges, social workers, child advocates, therapists, educators and health care providers. The conference addresses the priority initiatives of the Department of Justice, through *Project Safe*

*Childhood.* Specific breakouts are featured for the various disciplines engaged in assisting children victimized by sexual abuse.

The 2013 conference in Omaha saw a record number of attendees (681) and featured victims from the Sandusky/Penn State sexual abuse case as the keynote speaker. Nineteen states were represented by attendees and nearly two-thirds of those were from Nebraska. The next conference will be held in March 2015 and will be permanently located in Nebraska, and co-hosted by Project Harmony.

The Victim Witness staff is an integral part of the LECC Unit, and provides victim and witness services related to federal prosecutions in the District. The Victim Witness staff works with victims of federal crime from the time of the occurrence of the crime through the completion of the prosecution. The Victim Notification System (VNS) notifies victims of the status of investigations, as well as developments in cases accepted for prosecution.

In 2013, the VNS provided 12,310 notices to victims of federal crime in Nebraska. There were 92 new victim cases involving 375 new victims of federal crime identified and entered into the system during 2013. There are currently 129 active victim cases providing notice and services to 580 victims. Services include information and assistance with travel and lodging related to court appearances, courtroom support, and referrals to other agencies for counseling, shelter, and other assistance. The Victim Witness Staff provides oversight and coordination to the Multi-disciplinary Child Abuse Investigation Teams located on the three Tribal Reservations.

During Crime Victim's Rights Week in April 2013, the Victim Witness staff, along with the Federal Bureau of Investigation, the Nebraska Alliance of Child Advocacy Centers and the Nebraska Coalition for the Victims of Crime, provided training for victim service providers, mental health professionals, law enforcement and corrections personnel on coordinating and enhancing services to victims. The theme for the 2013 CVRW Conference was "New Challenges-New Solutions" and featured a special presentation by Fred Wilson, a survivor of the Von Maur shooting that occurred at the Westroads Mall, December of 2007. The conference also highlighted the inaugural academy of the new Nebraska Victim Assistance Academy that was to be held August, 2013. The conference was attended by 107 participants.

The United States Attorney's Office, in partnership with Creighton University and University of Nebraska, Kearney, is in the third year of development of the Nebraska Victim Assistance Academy (NEVAA). Creighton University, the OVC grant award recipient, houses the academy coordinator and provides in-kind services. The overall goal of this project is to create a comprehensive, foundation level victim assistance curriculum with a focus on victimology, victims' rights, and victim services that reflect the laws and practices of the state, specifically for Nebraska. NEVAA will be made available to victim service providers, prosecutors, educators, clergy and all allied professionals who routinely assist crime victims. The inaugural academy was held August 5-9, 2013 at Creighton University campus.

The Victim Witness Unit partnered with the District of Kansas to host the 2013 Indian Country Conference. The conference began with a Listening Session with the U.S. Attorneys from each district available to listen regarding concerns from the members of the audience about crimes against families from their perspective. Service providers, law enforcement, and

prosecutors from Nebraska and Kansas had the opportunity to learn together about best practices in the field to reduce violent crimes against families.

Nebraska entered its second year with the Indian Country grant, through the Winnebago Tribe of Nebraska, for a Special Assistant United States Attorney (SAUSA) to address domestic violence, sexual assaults, child and domestic violence physical assaults and dating violence on the Winnebago, Omaha and Santee Sioux Indian reservations. The goals of the project are to increase coordination among the Nebraska three tribes and local, state, and federal investigators and prosecutors, bridge gaps in jurisdictional coverage, establish cohesive relationships between federal prosecutors and tribal communities, and improve the quality of violence against women cases through effective case management, through the promotion of higher quality investigations and improved training.

The SAUSA works in close coordination with the Tribal Police, BIA and FBI to ensure cases are prepared appropriately for prosecution on all levels, and prosecutes cases in both federal and tribal court. The SAUSA is co-located at the Winnebago Reservation and the United States Attorney's Office.

In addition to the funding of the SAUSA position there are training dollars to address domestic violence and child abuse issues in Indian Country. The SAUSA will collaborate with the LEC and the V/W Specialist on all training needs.

Co-located with the United States Attorney's Office's LECC Unit is the Nebraska Office of the Midwest HIDTA Initiative. The Midwest HIDTA focuses on decreasing the importation, distribution, manufacture, and demand for illegal drugs within the Midwest Region, which includes Nebraska and neighboring states. Intelligence information on drug activity is compiled and disseminated through the Nebraska Law Enforcement Intelligence System (NELEIS), maintained by the State Patrol. The HIDTA Initiative, in addition to supporting law enforcement and prosecution, has developed a number of drug abuse prevention programs.



Training Calendar  
 United States Attorney's Office - District of Nebraska  
 Deborah R. Gilg United States Attorney



DATE	EVENT	LOCATION
<b>April 2014</b>		
23 <sup>rd</sup> – 24 <sup>th</sup>	Nebraska Infrastructure Protection Conference	Doubletree Hotel
28 <sup>th</sup> – 29 <sup>th</sup>	Crime Victim's Rights Week Conference	Project Harmony –Omaha, NE
<b>May 2014</b>		
1 <sup>st</sup>	Financial Investigation Training	Bellevue Fire Department Training Facility
21 <sup>st</sup> – 23 <sup>rd</sup>	LECC/ County Attorney's Conference	Holiday Inn, Kearney
<b>Summer 2014</b>		
TBD	Violence in Indian Country	SAC/Fox Indian Casino of Nebraska/Kansas

Please contact Joe Jeanette at [joe.jeanette@usdoj.gov](mailto:joe.jeanette@usdoj.gov) for more information on the above trainings.



## 2013 LECC AWARDS

### **Corey M. O'Brien, Assistant Nebraska Attorney General**

Assistant Attorney General Corey O'Brien has worked for the Nebraska Attorney General's Office for the last 9 1/2 years. During that time he has done a great job in handling several complicated, high profile cases. However, over the last year his caseload has allowed him to significantly eclipse his previous achievements.

One of the challenges of prosecuting for the Attorney General's Office is the tremendous amount of travel required throughout the state. When this is combined with a large caseload of highly complex and serious matters, it becomes a formidable task. Over the last year Mr. O'Brien has traveled all over Nebraska handling or assisting with five homicide matters and a number of other very difficult matters.

One such case was the first degree murder conviction of Stathis Kirkpatrick in Red Willow County. Mr. Kirkpatrick lured a young girl out of her home in the middle of the night, raped and severely assaulted her before killing her by starting her on fire in a rural cemetery. Corey's efforts helped obtain a life sentence for Mr. Kirkpatrick.

In Jefferson County, Corey prosecuted Susan DeJong who beat her husband with a hammer over a series of days until he died. The victim was essentially tortured by Ms. DeJong who wrongfully believed he was being unfaithful. She was convicted of first degree murder and sentenced to life imprisonment.

In Kimball County, Corey assisted Sandy Allen in obtaining a first degree murder conviction of Vencil Ash. Mr. Ash and a female accomplice took an unsuspecting acquaintance into rural Kimball County where they executed him. They concealed his body and stole his vehicle. His remains went undiscovered for seven years before the Nebraska State Patrol successfully investigated the matter. Their joint efforts resulted in a first degree murder conviction and another life sentence.

In Dawes County, Corey obtained the murder conviction of Joseph Hotz. Mr. Hotz and his roommate were consuming psychedelic mushrooms when he picked up a hunting knife and stabbed his roommate dozens of times, killing him. Mr. Hotz then went to a neighbor's house where he tried to kill a man he had never met. Fortunately, for the neighbor, he was able to barricade himself in the bathroom until Mr. Hotz gave up. This matter was originally tried by another prosecutor who had obtained a murder conviction which was overturned on appeal based upon a court error.

In a similar matter in Saunders County, Jeffery Glazebrook's first degree murder conviction had been overturned by the Nebraska Supreme Court with an order that most of the evidence used to convict him could not be used in a retrial of the murder charge. That meant it was going to be nearly impossible to again convict Mr. Glazebrook of the 1977 murder of 97 year old Sadie Mae McReynolds. Corey decided to prosecute Mr. Glazebrook for a death threat he made against a testifying

*(Continued on page 54)*

## Corey M. O'Brien (Cont.)

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witness during his original murder trial. After obtaining a conviction for witness tampering and terroristic threats, the convictions were enhanced so Mr. Glazebrook would be treated as a habitual criminal. He was subsequently sentenced to two terms of 30 to 60 years in prison. The earliest he can be eligible for parole is when he turns 82 years old.

Corey was also a member of the law enforcement and prosecution team that handled the Michelle Randall matter after she sexually trafficked her two young daughters. The team was composed of several county attorneys, State Patrol investigators and others. As a result of the team's effort, Ms. Randall received a combined sentence of 92 to 120 years across three counties.

The previously mentioned cases, by themselves, would have justified this award for Mr. O'Brien this year. However, his most challenging case was only recently resolved. In Valley County, Corey worked with the Nebraska State Patrol, The Valley County Sheriff, Attorney General investigators and Assistant Attorney General Prosecutors Matt Lierman and Glenn Clark to convict John Oldson of the second degree murder of Cathy Beard. In 1989, Mr. Oldson made sexual advances to Ms. Beard in an alley behind a bar in Ord, Nebraska. When she denied his advances he abducted her, tortured her, raped and ultimately killed her. He hid her body in a remote field where it was not discovered for several years. When it was discovered, evidence was hard to come by. It took a couple of decades before movement was made. Mr. O'Brien was the lead prosecutor on the team that brought justice for Cathy Beard.

Mr. O'Brien's accomplishments throughout his career, and especially over the last year, made him very deserving of this award.



*Corey M. O'Brien, Assistant Attorney General  
Deborah R. Gilg, U.S. Attorney, District of Nebraska  
Matt E. Lierman, Assistant Attorney General*

## Nicole Goaley, Deputy Douglas County Attorney

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Among the numerous agencies in Nebraska involved in child protection and juvenile justice, there are few names more concretely associated with coordinating resources for the sake of our children than that of Nicole Goaley. Deputy County Attorney Nicole Goaley has worked tirelessly to help the children of Nebraska for over seventeen years. Many law enforcement agencies have come to rely upon Nicole's wealth of knowledge and her ability to coordinate a unified effort to protect children and the public at large. She has been appointed to numerous commissions and taskforces dealing with child protection issues by the Governor including the Nebraska Coalition for Juvenile Justice, the Human Trafficking Taskforce, and others.

She spearheads the Douglas County Child Abuse and Neglect Investigative and Treatment Teams. These teams bring together numerous entities ranging from Omaha Police to Douglas County Sheriffs to the Department of Health and Human Services for the purpose of strengthening and improving a unified effort to investigate and prosecute child abusers and properly treat and care for their innocent victims. In addition, in her role as the head of the Juvenile Division of the Douglas County Attorney's Office, Nicole regularly acts as an advocate and conduit for the needs and concerns of the law enforcement community in Douglas County in their dealings with the Juvenile Court, Juvenile Probation, and the Department of Health and Human Services.

Far and beyond even the activities highlighted above, Nicole Goaley takes a very hands-on approach to the task of assisting and protecting our youth. She regularly takes phone calls from law enforcement and CPS at all hours of day or night, 365 days a year to assist with the emergency removal of abused and neglected children from dangerous situations and to find places for such youth and those youth otherwise at risk to seek refuge from those who would prey on their especially vulnerable state. Nicole prides herself on being extremely accessible to any who might seek her assistance for the sake of helping endangered youth.

A favorite cause for Nicole is her passion for addressing the needs of out of control and runaway youth. She works tirelessly with law enforcement to locate missing and runaway juveniles and once they are located, she staffs their cases with various agencies and professionals to ensure they are placed in a safe environment and provided services to address the underlying causes for their behaviors. Nicole has personally called the parents of these missing juveniles to ensure that they had filed the appropriate reports with law enforcement and then she personally calls law enforcement to provide leads as to the potential locations of these youth. Finally, once these youth are located, I have seen Nicole work the phones until she can find a placement willing to accept them until their situation can be stabilized.

*(Continued on page 56)*

## Nicole Goaley (Cont.)

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Nicole Goaley has become a trusted resource for members of the legislature and executive branch to consult when making important policy decisions. She is known for providing realistic, unbiased, and balanced advice and information when called upon to do so. She has testified formally and informally on numerous occasions at the request of members of the legislature or other prosecutors. Her input never fails to take into consideration what impact such policies might have on law enforcement's efforts to protect our youth. Whenever a new policy or law causes difficulties or concerns for law enforcement, Nicole is always amongst the first to offer solutions and assistance.

Over the course of her career, Nicole has prosecuted thousands of cases against abusive parents and delinquent juveniles. She has prosecuted parents accused of the most heinous crimes against their children and juveniles accused of the most heinous crimes against members of the public and sometimes, their own families. Nicole has successfully terminated the parental rights of unfit parents and ensured that their children will be adopted into the loving homes they deserved. She has taken delinquent juveniles off the streets and out of gangs and placed them in facilities that provide rehabilitation and a second chance at a fruitful and productive life.

Nicole is a recipient of the prestigious Project Harmony Kid First Award. She has been honored with the Donna Tubach-Davis Children's Advocate Award by Child Saving Institute. She has also been recognized by the Metropolitan Child Advocacy Coalition. She has presented valuable information to numerous national groups and organizations, including the National Children's Alliance Leadership Conference, regarding the various issues related to the prosecution of child abuse cases. Nicole sits on the Douglas County Juvenile Detention Alternatives Committee (JDAI) and has helped Douglas County to become the first in Nebraska to implement national JDAI strategies for dealing with abused youth who go on to commit criminal offenses. Her most recent accomplishment is developing a program to identify, in conjunction with Omaha Fire Department Arson Investigators, and provide intervention services for juvenile fire starters.



*Brenda Beadle, Chief Deputy Douglas County Attorney  
Nicole Goaley, Deputy County Attorney  
Deborah R. Gilg, U.S. Attorney, District of Nebraska*

## Sheriff D. Bryan Leggott, Hitchcock County Sheriff

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Sheriff Leggott and his staff have provided invaluable assistance to the Postal Inspection Service on two specific investigations over the past 12-18 months.

On December 11, 2011 the Hitchcock County Sheriff's Department, under the direction of Sheriff Leggott, responded to a reported burglary at the Culbertson Post Office. The responding deputy provided initial crime scene processing and secured the office until Postal Inspectors arrived from Omaha. During the ensuing investigation Sheriff Leggott provided insight into the community and information pertaining to similar criminal activity in Culbertson and the surrounding area.



Based on evidence obtained from the crime scene two suspects were identified and arrested in neighboring Red Willow County. One of those suspects was subsequently transferred to the Hitchcock County Jail where she was housed by Sheriff Leggott and his staff for an extended period of time. Sheriff Leggott accommodated the cooperating investigative agencies by providing ongoing intelligence and use of his office facilities throughout the prosecutive phase of the case. In the end, one suspect pled guilty to the post office burglary, as well as several other burglaries, and was sentenced to a 20 year prison term. The second suspect pled guilty to aiding and abetting burglary and was sentenced to 5 years prison.

On February 12, 2013 Postal Inspectors in Omaha were notified of a possible sexual assault of a postal employee while on duty at the Palisade Post Office. At the time of the report it was learned the incident had not been reported to local law enforcement. Sheriff Leggott was notified, and met with Postal Inspectors in Palisade on the evening of the 12<sup>th</sup>. Sheriff Leggott's extensive knowledge of the area and the residents of the local community provided a keen perspective into the alleged crime. Sheriff Leggott personally worked with Inspectors to canvass the area and interview potential witnesses. Through interviews and review of surveillance video it was determined the alleged victim had fabricated the sexual assault claim. She was immediately removed from the office and ultimately terminated from the Postal Service.

## **Special Group Award: Nebraska State Patrol Bravo Special Weapons and Tactics Team**

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On June 12, 2012, the Team BRAVO Special Weapons and Tactics team members were deployed to the small town of Alliance, Nebraska, where an armed suspect had taken a hostage and was barricaded in a local pharmacy. The suspect was reported to be armed with an assault rifle, a handgun, and explosives.

In addition to maintaining an inner perimeter of the area for approximately fourteen hours to prevent the suspect from escaping, Team BRAVO Special Weapons and Tactics team members performed various other missions and challenges throughout the day. Members secured the interior of the building where the suspect and hostage were barricaded in to prevent him from gaining access to a tunnel system underneath downtown city buildings. Other members responded to assist in locating a possible second individual involved in the shooting who was reported to be hiding in a city park. They developed and orchestrated a plan for a dynamic entry should the need arise to rescue the hostage, as well as developed a plan to force the suspect to surrender without being harmed.

Overcoming one obstacle after another and after repeated unsuccessful attempts to negotiate with the suspect, the event concluded when the suspect chose to engage law enforcement officers, including the Team BRAVO Special Weapons and Tactics team members, in gunfire for a fifth time. This engagement resulted in members donning chemical protective gear due to tear gas being deployed, returning gunfire, and eventually killing the suspect.

The following officers are members of the Team BRAVO Special Weapons and Tactics Team:

Sergeant Martin Denton  
Investigator Brian Eads  
Trooper Art Frerichs  
Sergeant Cory Halverson  
Trooper David Hunter  
Sergeant Lee Jacobsen  
Trooper Dave Johnson  
Trooper Shanon Koubek  
Sergeant Kevin Krzyzanowski  
Sergeant Craig Loveless  
Trooper Doug Petty  
Sergeant Robert Veal

## **AWARD OF VALOR: Trooper Dave Johnson & Trooper Tim Flick**

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On June 12, 2012, in the small town of Alliance, Nebraska, an attempted armed robbery was taking place at the Thiele Pharmacy.

Troopers Dave Johnson and Tim Flick, and members of the Nebraska State Patrol BRAVO Special Weapons and Tactics Team, immediately responded to the scene and learned the suspect was heavily armed and was holding the pharmacist hostage in the back area of the pharmacy. These two troopers were directed by local law enforcement personnel to obtain a rooftop position to ensure the gunman did not obtain a position of advantage on other responding officers. While traversing through a large office adjacent to the pharmacy where the gunman and the hostage were located, Troopers Johnson and Flick, as well as other law enforcement officers, were fired upon haphazardly by the gunman through the adjoining walls. During this exchange Trooper Flick was struck multiple times in the torso and arm by bullets and shrapnel and was severely injured. The suspect's gunfire also struck a fire extinguisher hitting Trooper Flick and a local police officer with shrapnel from the extinguisher.

Gunfire was returned and attempts to retreat were unsuccessful. Trooper Johnson retrieved the automatic rifle and ammunition from Trooper Flick and provided coverage for Flick to escape the building and obtain medical treatment. Trooper Johnson began exchanging gunfire with the suspect. He remained inside the office for another four to five additional hours, unable to move as the gunman would fire randomly at the slightest sound of any noise he heard. Although in extreme danger, Trooper Johnson still managed to provide intelligence to the officers outside the building who were attempting to resolve the situation. When Trooper Johnson was finally safely extracted from the building, he immediately reinserted himself into the situation performing Special Weapons and Tactics Team sniper responsibilities.

Trooper Johnson's bravery during this scenario enabled Trooper Flick to receive prompt medical treatment for his multiple gunshot and shrapnel wounds. His quick actions also provided the responding officers with information that was utilized to ensure no one else was injured by the gunman. The hostage, while wounded, also later escaped from the Pharmacy. At the conclusion of the investigation it was learned the gunman had killed two citizens, one of which was his own father. During the robbery attempt and hostage ordeal, a total of two local police officers and one trooper were injured by gunfire and shrapnel.

## Operations South Paw and Second Chance

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SA Michele Neely, FBI  
SA Brent Fisher, DEA  
Quinn Auten, DEA  
SA Jody Nunez, IRS  
Officer John Stuck, Bellevue Police  
Officer Brian Gerrity, Omaha Police  
Captain Chris Peterson, Lincoln Police  
Officer Bill Snoad, Lincoln Police  
AUSA Sara Fullerton, USAO  
AUSA Nancy Svoboda, USAO  
AUSA Meredith Tyrakoski, USAO

The efforts of the multi-jurisdiction investigation, Flores Drug Trafficking Organization named Operation South Paw and Second Chance involving the FBI, DEA, IRS, Omaha Metro Drug Task Force, Lincoln/Lancaster Drug Task Force and Greater Omaha Safe Streets Task Force was honored.

Separate investigations in the Omaha and Lincoln areas involved Heriberto Gomez, Jr. and his organization and Jose Flores and his organization. Once Flores and his many aliases were identified, it was discovered by law enforcement that while Gomez and Flores had separate lines of supply, they also conspired together to distribute methamphetamine.

Beginning in April 2011 and continuing through July 2012, confidential informants were used to make controlled buys of methamphetamine from members of the DTO. Based on those buys, surveillance, interviews, and pen registers, wiretaps were applied for and authorized on six phones belonging to three individuals. Their conversations were monitored from May 2012 through July 2012. Search warrants were obtained for several residences and the business interest, Gomez Auto Sales, owned by Heriberto Gomez. Other investigative techniques included obtaining tax records and using Grand Jury subpoenas to obtain bank account information.

Through all of the above investigative techniques, it was learned that the DTO operated primarily in Omaha but also had connections to Mexico, California, Missouri, Oklahoma, West Virginia and Connecticut. As the investigation ensued, it was clear that the entire Omaha metro area was involved, as well as Lincoln, Nebraska. Heriberto Gomez and Jose Flores were the leaders of this organization locally. Flores was a direct source of methamphetamine from Mexico and used Gomez as a facilitator of the DTO here. In addition to being a distributor, Gomez, who operates Gomez Auto Sales, operated the business as a front through which to launder money. Gomez Auto was used to facilitate and conceal the drug trafficking and money laundering activities.

*(Continued on page 61)*



## Operations South Paw and Second Chance (Cont.)

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Gomez was not the only distributor used by Flores. From approximately December 2011 through June 2012, Flores was in Mexico. During that time, he orchestrated meth shipments to Omaha and then coordinated its distribution. For example, Adrian Valenzuela, Gerardo Magallon-Flores and Jorge Flores-Contreras were all put in place to distribute meth in Omaha and Lincoln. Most of the drugs that came from Omaha and were delivered to Lincoln were taken to either O & O Auto or a stash house on Orchard Avenue. There were other distributors in the chain that would then distribute the meth once it made its way to Lincoln, with more stash houses set up in Omaha.

To date, 23 people have been federally indicted, over 32 pounds of methamphetamine has been bought or recovered in traffic stops or warrants, \$110,771.00 in cash and 46 cars have been seized. The value of the methamphetamine was in excess of \$1,000,000.

Perseverance, communication and cooperation were all significant factors that led to the successful disruption of this DTO. Perseverance in having to quickly spin up on another wire when one of the principles dropped their phone. Communicating information and coordinating surveillance and buys in different jurisdictions sometimes 60 miles apart. Cooperation in one agency momentarily standing down from one target or part of the investigation, if activity with another target became immediate. The true goal of all involved was the dismantling of the organization regardless of who wrote the wire application, made an arrest, a seizure or was instrumental in getting a charge filed.

The U.S. Attorney's Prosecution team worked together in a most skillful fashion with AUSA Sara Fullerton coordinating the Lincoln activities, AUSA Meredith Tyrakoski, the Omaha investigation and AUSA Nancy Svoboda handling the seized assets and forfeiture process. Due to the coordinated and concerted efforts of these investigators and prosecutors, the defendant's sentences ranged from 37-151 months, with several more defendants to be sentenced within the next 30 days.

## **Operation Sheep Dog Altamirano Drug Trafficking Organization**

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SA Matthew Kessler, Drug Enforcement Administration (DEA)  
SA Gregory Beninato, Federal Bureau of Investigations (FBI)  
DEA Task Force Officer Dennis O'Connor, Bellevue Police Department  
AUSA John Higgins, USAO  
AUSA Tom Kangior, USAO

In February 2011, DEA Omaha District Office initiated an investigation into the Fermin ALTRAMIRANO methamphetamine Drug Trafficking Organization (DTO). During the course of the investigation, investigators learned Fermin ALTAMIRANO was a methamphetamine supplier for the Rebels 13 gang in Omaha, Nebraska, and was a target of the FBI Safe Streets Task Force, OCADETF investigation Operation Sheep Dog. DEA SA Matthew Kessler, Officer Dennis O'Connor with the Bellevue Police Department and FBI Safe Streets Task Force SA Gregory Beninato joined forces and worked in conjunction to disrupt and dismantle the ALTAMIRANO DTO. The prosecution team of AUSA John Higgins and Tom Kangior, of the United States Attorney's Office deftly and diligently worked with these investigators to put together a quality investigation and prosecution.

During the course of this investigation, SA Kessler, SA Beninato, and Officer O'Connor were able to identify the operational activities and members of the organization through countless hours of surveillance, numerous undercover methamphetamine purchases, and four T-III intercepts of ALTRAMIRANO's cellular telephones.

In February 2011, Dennis O'Connor (acting in an undercover capacity) was introduced to ALTAMIRANO by way of a Douglas County inmate and Officer O'Connor met with ALTAMIRANO to set up future methamphetamine transactions. From February through September 2011, Officer Dennis O'Connor purchased 24 ounces of methamphetamine from ALTAMIRANO. In September 2011, Investigators were able to identify HERNANDEZ-RAMIREZ as being ALTAMIRANO's methamphetamine source of supply. In an attempt to facilitate a meeting between Officer O'Connor and HERNANDEZ-RAMIREZ, Officer O'Connor met with ALTAMIRANO and showed ALTAMIRANO a DEA undercover vehicle which contained a concealed compartment. During the meeting, ALTAMIRANO stated he would like, after discussing the possibility with HERNANDEZ-RAMIREZ, to have Officer O'Connor travel to the U.S./ Mexico border and pick up a load of methamphetamine, utilizing the DEA undercover vehicle, and transport methamphetamine to Omaha, Nebraska.

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## Operation Sheep Dog (Cont.)

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In December 2011, DEA Omaha obtained two federal search warrants, one for ALTAMIRANO's stash house at 6244 Campbell Avenue, Omaha, Nebraska, and one for ALTAMIRANO's methamphetamine source of supply, HERNANDEZ's house at 6814 S. 21st, Omaha, Nebraska. On December 20<sup>th</sup> and 21st, 2011, DEA Omaha and FBI Safe Streets Task Force executed numerous enforcement operations against the Fermin ALTAMIRANO DTO. During the execution of these warrants both ALTAMIRANO and HERNANDEZ-RAMIREZ were taken into custody. Additional co-conspirators were arrested in the following days. This investigation led to the disruption of methamphetamine flow into the Omaha Metro Area.

As a result of this multi-agency investigation, 12 co-conspirators were indicted and ten are currently facing prosecution in the District of Nebraska. The far majority of the co-conspirators have already been sentenced with two still in the judicial process. This investigation also resulted in the seizure of illegal drugs to include 2.3 kilograms of methamphetamine and 33 grams of cocaine. Investigators also seized \$3,578 in assets, and one vehicle.

## **Chief Mark Kula**

### **United States Department of Veteran Affairs Police Department**

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Chief Kula and was selected by the United States Department of Veterans Affairs Office of Security and Law Enforcement (OS/LE) to oversee activities in Des Moines, Iowa City, Sioux Falls, Black Hills, and Minneapolis and Omaha.



The primary role of VA Police is to serve as a protective uniformed police force in order to deter and prevent crime, maintain order, and investigate crimes (ranging from summary to felony offenses) which may have occurred within the jurisdiction of the Department or its federal assets. The VA Police is a specialized federal law enforcement agency, whose officers have full police powers derived from statutory authority to enforce all federal laws, VA rules and regulations, and to make arrests on VA controlled property whether owned or leased.

Prior to his position with the VA, Chief Kula was employed by the IRS as a Criminal Investigator for many years. He was involved with the first case in the Federal System dealing with the three strikes you're out, on a Hells Angel member now serving life in prison for money laundering and drugs. Chief Kula spent many years teaching at the Nebraska Law Enforcement Training Center, with the vast knowledge Chief Kula has in the training field has been a true blessing for the Department of Veterans Affairs Police.

Thanks to Chief Kula's efforts the VA Police now have in-car cameras, breathalyzers, radar equipment, protective cages in the police vehicles and other state of the art technology. Chief Kula serves as a guest instructor at the Law Enforcement Training Center and is an oversight member to the VA Police Academy.

Chief Kula has been influential in providing education and training for his officers, equipping them for the 21<sup>st</sup> century, and integrating his department into the law enforcement community.

## **Trooper Dain Hicks & Trooper Brian Detlefsen**

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On December 18, 2012, Trooper Dain Hicks and Brian Detlefsen responded to a call on a property in rural Antelope County where a subject was said to be located inside a tractor with an attached dozer blade. This individual reportedly had been using the tractor to destroy his own personal property, as well as property at different locations.

Upon arrival at the scene, these troopers observed the individual driving the tractor out of a farm driveway and turning onto the county road, accelerating at a high speed directly toward the front of Trooper Detlefsen's vehicle with no sign of the tractor changing direction to avoid collision. Realizing that the subject was intentionally going to ram into his vehicle, Trooper Detlefsen drew his handgun in preparation of firing; however, the tractor collided with his vehicle before he could fire. The collision of the tractor and the patrol car caused the air bags to deploy in the patrol unit causing a substantial laceration to Trooper Detlefsen's forehead.

The tractor continued pushing Trooper Detlefsen's vehicle down the county road clearly with the intention of causing serious harm. While trying to locate his handgun after the collision, Trooper Detlefsen turned the steering wheel causing the vehicle to turn and move into the ditch away from the tractor.

The tractor then continued down the road toward Trooper Hicks' patrol unit. Trooper Hicks backed his patrol unit into the closest intersection and exited the vehicle. Understanding this individual needed to be stopped immediately to prevent any additional harm to himself or anyone else; Trooper Hicks fired several rounds as the tractor got closer striking the subject in the shoulder. The driver then turned the tractor into the ditch where it came to a stop.

Commands were quickly given to other responding deputies and troopers to secure the area from the public and any traffic. At the same time, Trooper Hicks ensured that the subject in the tractor was unable to flee and called for medical assistance to treat his wounds. Only at this point did Trooper Detlefsen attend to his own injuries with assistance from other officers.

## WEBSITES OF INTEREST



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

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

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

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

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

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

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

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

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



*Photo courtesy of The Nebraska Tourism Commission*





*Photo courtesy of The Nebraska Tourism Commission*

**U.S. Attorney's Office  
District of Nebraska  
2013**