

YEAR IN REVIEW

Year 2012



United States Attorney's Office
Western District of Michigan

Patrick Miles, Jr.
United States Attorney

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Introductory Message



PATRICK MILES, JR.
UNITED STATES ATTORNEY
WESTERN DISTRICT OF MICHIGAN

Welcome to the 2012 Year In Review of the United States Attorney's Office for the Western District of Michigan. This is my first year as U.S. Attorney. It is an honor and privilege to serve as your U.S. Attorney and to work with this outstanding team. When I joined the office in July, it didn't take long to recognize the talent, dedication, integrity, and effort of each person in this office. We are fortunate to work with tremendous federal, state, and local law enforcement partners and are blessed with a wise and fair judiciary. This environment is the envy of many districts.

The scale, scope, and diversity of the Western District of Michigan mean our office addresses the widest variety of cases possible. The District has 49 of Michigan's 83 counties, including the entire Upper Peninsula and the state capital of Lansing. It covers over 700 miles from the southern border to the northwest border – over 35,000 square miles. About 3.4 million people live in the District. There are eleven federally-recognized Native American Tribes and numerous federal enclaves in the District, including several National Park Service recreational areas and three national forests. The District has aging and renewing urban cities, growing suburbs, large rural areas, heavy industrial manufacturing, high tech research, agricultural operations, shipping lanes in three of the Great Lakes, mines, and a border with Canada. Some of the nation's best higher education institutions are in the District.

The people in this office are more than up to the task. This 2012 Year In Review highlights some impressive office hires, accomplishments and outcomes. The year, however, was obviously one of significant change. We are preparing for the future – both immediate and long term – and taking action accordingly. Five new Assistant U.S. Attorneys (AUSA) with excellent credentials and attributes joined the office.

Each new AUSA was hired and assigned to address a strategic need in the office's case work. We also implemented a new strategic planning process with specific goals, strategies, and responsibilities for the entire office, each Division, each Criminal Division Section, each Unit or Task Force, and individual AUSAs. This will help focus and coordinate our efforts better.

Reorganizing the Criminal Division and establishing various new Criminal and Civil Division Task Forces reflect an expanded proactive approach to handling complex cases. The purposes are to improve case development through earlier AUSA involvement, focus on federal cases that make a large impact, have AUSAs educate and communicate with the public, and, by doing so, potentially reduce crime and civil complaints.

Shortly after arriving, I met with each office employee, each federal judge sitting in the Western District, each local federal agency head, each federally-recognized Native American Tribe in the District, several local prosecutors and law enforcement officers. I asked each, "What is the office doing well and what can we do better?" The responses were overwhelmingly positive. That is a tribute to the outstanding work of those in the office and past leadership. Many of the suggested improvements are now in place. We will continue the continuous improvement process. We strive to be even better every day. Please feel free to share your observations or suggestions with me. They are most welcome. The office telephone number is 616-456-2404 and my e-mail address is patrick.miles@usdoj.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrick Miles, Jr.".

Patrick Miles, Jr.

THE ARRIVAL OF U.S. ATTORNEY PATRICK MILES

Patrick Miles was nominated to be the U.S. Attorney for the Western District of Michigan by President Barack Obama on March 29, 2012, confirmed by the U.S. Senate on June 29, 2012, and assumed office on July 9, 2012. He took the oath of office in a small public hearing in Chief U.S. District Court Judge Paul Maloney's courtroom. Present were his parents, several former colleagues and representatives of the office. U.S. Attorney Miles replaced Don Davis, who was the court-appointed U.S. Attorney for the preceding four years.

U.S. Attorney Miles is a Grand Rapids, Michigan native and attended Grand Rapids Public Schools. He holds a Bachelors of Science degree in business administration with a dual economics major from Aquinas College. A 1991 Harvard Law School graduate, he was editor-in-chief of the Harvard Law Record. Following law school, he joined Varnum LLP, a 150-attorney law firm based in Grand Rapids, Michigan. In 1997, at the age of 29, he became the first African-American partner in Varnum's 110-year history. In 2006, he joined Dickinson Wright PLLC, a law firm with over 260 attorneys and offices in Ann Arbor, Bloomfield Hills, Detroit, Grand Rapids, Lansing, Nashville, Phoenix, Washington, DC and Toronto.

U.S. Attorney Miles served as President of the Grand Rapids Bar Association from 2004 to 2005 and as a trustee from 1999 to 2002. He has also served on over two dozen charitable and professional boards and committees.

Listed as one of Michigan's "Super Lawyers" since 2006, he is a highly regarded attorney and community steward. He holds the highest rating, AV, from Martindale Hubbell peer review which rates attorney reputation, ethics, legal ability, and knowledge. Mr. Miles received the 1996 State Bar of Michigan Outstanding Young Lawyer Award, the 2005 Outstanding Young Michigander Award from the Michigan Jaycees, and a number of awards and honors from several other organizations such as the Grand Rapids Chamber of Commerce, West Michigan United Way, Greater Grand Rapids NAACP, Grand Rapids Jaycees, and Grand Rapids Business Journal.

U.S. Attorney Miles is a frequent author and speaker to professional audiences on legal issues, professionalism, diversity and inclusion as well as to youth audiences on leadership and service.

THE INVESTITURE

On September 7, 2012, United States Attorney General Eric Holder visited the district to attend U.S. Attorney Miles' Investiture Ceremony. The event was held in the auditorium of U.S. Attorney Miles' high school alma mater, Ottawa Hills High School. Nearly 500 guests attended, including the entire West Michigan District Federal Judiciary, members of

federal, state, local and tribal law enforcement, Indian Country representatives, several members of the local legal community, federal court family, the public and even the high school student body. Chief Judge Paul Maloney presided. The Attorney General and U.S. Senator Debbie Stabenow offered remarks. U.S. Attorney Miles addressed his plans for the office in his speech titled "Love and Justice". The plans include focusing on complex cases, emphasizing a proactive approach to case development, and educating the public to fight or prevent crime. He also touched on the importance of effective prisoner re-entry programs as well as diversity and inclusion in the workplace.

The occasion also marked an opportunity for employees of the U.S. Attorney's Office as well as representatives of local federal, state and tribal law enforcement to meet with the Attorney General and apprise him of the status of the district.

NEW ORGANIZATION AND MANAGEMENT TEAM

In order to better align U.S. Attorney's Office resources with Department of Justice priorities and help attorneys and paralegals specialize in specific areas, U.S. Attorney Miles restructured the Criminal Division into four sections: a Financial Crimes Section; a Violent Crimes Section; an Organized Drug Crime and Asset Forfeiture/Financial Litigation Unit (FLU) Section; and a National Security Section. In addition, U.S. Attorney Miles further designated task forces within each Section to support proactive coordination with law enforcement partners to target and build cases against the most serious offenders in the community. The re-organization included the creation of a Civil Rights Task Force comprised of attorneys from both the Civil and Criminal Divisions to foster improved communications between the Divisions on matters of case intake and outreach initiatives.

The **Financial Crimes Section** prosecutes a variety of economic crimes, including Ponzi schemes, investment fraud, bank fraud, tax fraud, bankruptcy fraud, government program fraud, and official corruption. This Section has a new Health Care Fraud Task Force, Environmental Crimes Task Force, Mortgage Fraud Task Force and Official Corruption Task Force.

The **Violent Crimes Section** focuses on all manner of violent federal felonies. The Section includes the following three categories: the Project Safe Childhood initiative, which addresses child pornography and exploitation; the Project Safe Neighborhood Task Force that works with federal, state and local law enforcement and communities to target gang activity and firearm toting felons; and, finally, violent crime in Indian Country, which frequently involves domestic violence and sexual assault.

The **Organized Drug Crime and Asset Forfeiture/FLU Section** has two primary objectives: The first is to disrupt large scale drug-trafficking operations including, but not exclusively, those that qualify for prosecution by the Organized Crime and Drug Enforcement Task Force (OCDETF). The OCDETF targets regionally-sourced drug trafficking organizations. The Section also includes a new Drug Diversion and Prescription Fraud Task Force to address the growing problem of prescription drug abuse. The Section's second objective is to make sure crime does not pay. The Asset Forfeiture/FLU attorneys and staff forfeit property, through both civil and criminal actions, as well as collect fines and restitution.

The **National Security Section** is responsible for supporting counterterrorism and counterespionage investigations and prosecutions in the District. In addition, the Section prosecutes civil rights violations, human trafficking, alien offenses, identity theft and cybercrime. A new Anti-Terrorism Task Force, Identity Theft/Cybercrime Task Force, and Criminal Civil Rights Violations Task Force are part of this Section.

THE MILES MANAGEMENT TEAM

U.S. Attorney Miles revised the office's management team with an eye toward modernizing office practices while also maintaining continuity for what he found to be a generally well-run operation.

U.S. Attorney Miles asked **Andrew Birge** to continue in his role as First Assistant U.S. Attorney (AUSA), a position Birge has held since mid-2007. The First AUSA helps the U.S. Attorney manage the day-to-day affairs of the office. His prior roles over the course of more than 12 years in the office include stints handling firearm cases, drug cases, general criminal matters and overseeing the office's appellate practice. Miles likewise retained AUSA **Ryan Cobb** as Chief of the Civil Division, a position held by Cobb since 2010. Prior to that, Cobb had been a Civil Division AUSA for four years. AUSA **Jennifer McManus** continues as Chief of the Appellate Division, a position she has held since 2008. She has been with the office for nine years, including five years in the Civil Division. Andrew is a graduate of the Columbia University Law School and both Ryan and Jen are Harvard Law School graduates.

U.S. Attorney Miles named AUSA **Nils Kessler** as the new Chief of the Criminal Division and supervisor of the Financial Crimes Section. In the course of his 12-year career as an AUSA, Nils was the lead AUSA in the District's branch office in Marquette before transferring to the main office in Grand Rapids following a stint as an AUSA in the Eastern District of Louisiana (New Orleans). Nils has experience in virtually every substantive area of criminal practice handled by the office, including complex financial crime, violent crime in Indian Country and drug crime. He is regarded as a leader among the AUSAs and staff in the integration of technology and litigation practice, making him uniquely

qualified to lead the Criminal Division going forward as new software and related technologies increasingly infiltrate our handling of discovery and case presentment. Nils is a U.S. Military veteran, having served five years as an active duty officer in the U.S. Air Force. He received his undergraduate and law degrees from the University of Virginia.

U.S. Attorney Miles installed out-going Criminal Division Chief **Brian Delaney** as Deputy Chief supervising the Organized Drug Crime and Asset Forfeiture/FLU Section. Delaney joined the Office in 1989 and served briefly as an Interim U.S. Attorney in 2007. He had been the Criminal Division Chief since 2006 after first becoming a Deputy Chief in late 2004. His experience as a line AUSA included substantial efforts in Asset Forfeiture and the prosecution of organized drug crime. Brian is a DePaul Law School graduate and a former FBI Special Agent.

Miles named AUSA **Daniel Mekar** as the other Deputy Chief of the Criminal Division. Dan supervises the Violent Crimes Section and the Marquette Branch Office. Dan has been an AUSA for 17 years. In that time he has been the Project Safe Childhood (PSC) coordinator as well the Grand Jury Coordinator. As Grand Jury Coordinator, Dan oversaw the introduction of technology in the grand jury room and transitioned the office to a more efficient electronic system for reserving time before the grand jury. Dan is a graduate of the The Ohio State University College of Law.

Miles selected AUSA **Donald Daniels** as supervisor of the National Security Section. A University of Michigan Law School graduate, Don became an AUSA in 1980. He has served as Executive Counsel (Indictment Reviewer) for the past 10 years and remains in that position. He has also previously been a Criminal Division supervisor and Deputy Criminal Chief. The National Security Section incorporates many of the areas Don was supervising already, such as the office Alien Offense initiative and civil rights violations.

Miles appointed **Philip Green** as the office's Senior Litigation Counsel. In that capacity Phil mentors and trains new AUSAs. In his 15 years with the office, AUSA Green has been an Interim U.S. Attorney, the First AUSA, a Deputy Criminal Chief and a line AUSA. He graduated first in his class at the St. Louis University Law School in 1990.

As detailed in the new arrivals discussion below, U.S. Attorney Miles hired **Sheryl Brugh** as the office's new Administrative Officer (AO). The AO, typically a non-lawyer, supervises the administrative functions of the office, including budgeting, human resources and office supplies. Sheryl replaced Jim Hunter, who retired in 2011. Her arrival unburdened First AUSA Birge of his Acting Administrative Officer duties. She is a military veteran, Hope College graduate and former biologist, with prior experience most recently as an Administrative Officer with the National Institutes of Health in Bethesda, Maryland.

ARRIVALS AND DEPARTURES

After several years subject to hiring freezes, retirements and departures, the office began to fill multiple vacancies in the attorney and support ranks – some of which the office had carried for several years. Most of the vacancies were in the Criminal Division, where the resource limits largely led to the charging of 26% fewer cases and 18% fewer defendants in 2012 than in 2011. The Executive Office labeled the district “under resourced” due to its high vacancy rate, allowing for some hiring that continued with the arrival of U.S. Attorney Miles.

ARRIVALS:

Sean Lewis joined the Grand Rapids office as an AUSA in our Criminal Division on September 10, as a transfer from the USAO for the District of Columbia. A *summa cum laude* graduate of Grove City College in Grove City, Pennsylvania, Sean graduated *cum laude* from the University of Michigan Law School in 2003, where he was also a member of the Law Review and order of the coif. Sean initially clerked for the Hon. James Ryan, U.S. Court of Appeals for the Sixth Circuit, before joining the law firm of Covington & Burling in Washington, D.C. as a litigation associate. In 2008, he accepted a position as criminal trial attorney in the District of Columbia, where he tried murder, violent crime and narcotic cases. He moved from the Superior Court side of the USAO to the District Court side just before joining our office. He has been assigned to the Violent Crime Section, where he handles Southern Division Indian Country cases as his first priority.

Clay West joined the Grand Rapids office as an AUSA in our Criminal Division on November 11. Clay joined us directly from the U.S. Army, where he served as a Judge Advocate in Germany, Iraq, and Afghanistan, and later worked as military counsel on the Guantanamo Military Commissions. Clay earned his A.B. degree, *magna cum laude*, from Harvard University; his Master of Philosophy degree from Cambridge University; and his Juris Doctor degree from Yale Law School. After graduating law school in 2001, Clay clerked for the Honorable R. Guy Cole, Jr., U.S. Court of Appeals for the Sixth Circuit, and then he clerked for the Honorable Carlos R. Moreno, California Supreme Court. Prior to his military service, Clay served as a Criminal Division AUSA in the Northern District of Illinois (Chicago). Clay has been assigned to the National Security Section, where he will primarily assume responsibility for anti-terrorism matters. AUSA Hagen Frank, who formerly handled such matters, will assume greater responsibility for the growing problem of sophisticated identity-theft operations and computer crimes.

Tessa Hessmiller joined the Grand Rapids office as an AUSA in the Criminal Division on December 31. She too came to us from the U.S. Army JAG Corps, where she served both as a legal advisor to command-level officers

and as a courts-martial prosecutor for the past four years. She received the Army Achievement Medal for her role as a liaison between the U.S. military and the Korean courts. Tessa received her undergraduate degree from the Princeton University Woodrow Wilson School of Public and International Affairs, with a certificate in African Studies. She obtained her law degree, with honors, from Georgetown University in 2008. Tessa demonstrated an entrepreneurial interest by founding and incorporating Kutoa LLC, an online company that promotes “socially green” hotels, eco-lodges, and adventure companies that support important causes in their respective communities. Tessa is assigned to the Violent Crime Section where she will lead the office’s PSC Initiative in the prosecution of child pornography and exploitation.

Sally Berens joined the Grand Rapids office as an AUSA in the Appellate and Criminal Divisions on the same day as Tessa. An Allegan County native, she returns to her home district following ten years at the Palo Alto, California office of the Gibson, Dunn & Crutcher LLP law firm. At Gibson Dunn, she litigated complex civil matters, including securities fraud, corporate governance, intellectual property, and consumer class actions and conducted internal investigations. She received her undergraduate degree from Harvard and Radcliffe Colleges, *magna cum laude*, majoring in Linguistics, and earned a Masters of Arts in Comparative Literature from Harvard University. Sally obtained her law degree, with honors, from the University of Chicago in 2001. After graduation, she clerked for the Honorable Andrew J. Kleinfeld of the U.S. Court of Appeals for the Ninth Circuit. Sally is conversant in German and Spanish. In the Appellate Division, she will oversee all collateral attack litigation as well as assist with matters pending in the Sixth Circuit. Her ancillary duties will include assisting in the prosecution of white collar crime at the trial court level.

The third December 31 arrival was **Jeanne Long**, who joined the Grand Rapids office as an AUSA in the Civil Division. As a litigation associate for three years at Warner, Norcross & Judd LLP in Grand Rapids, she developed expertise in financial and appellate litigation, and co-authored RECENT CASES ADDRESS SHAREHOLDER OPPRESSION, Mich. Bus. L.J., Vol. 31, Issue 3 (Fall 2011). Jeanne received her undergraduate degree with High Honors from Michigan State University, majoring in international relations. In 2007, she earned her law degree, *magna cum laude*, from the University of Michigan, where she was also a member of the Law Review. Following law school, she clerked for Judge Kenneth Ripple of the U.S. Court of Appeals for the Seventh Circuit, and then for Judge Robert Jonker of the District Court for the Western District of Michigan. In the Civil Division, she handles defensive litigation, including employment matters, commercial contract disputes, and complex defensive torts, such as Federal Tort Claims Act matters and *Bivens* actions.

Sheryl Brugh joined the office on December 17 as our new Administrative Officer. She replaced Jim Hunter, who retired the prior December, and relieved First Assistant Andrew Birge of the Acting Administrative Officer duties he had undertaken for a year. A native of Bangor, Michigan Sheryl came to us from the National Institutes of Health in Bethesda, Maryland, where she was a Chief Administrative Officer for the National Institute on Deafness and Other Communication Disorders and, prior to that, an Administrative Officer for the National Institute on Aging (NIA) in Baltimore, Maryland. Her prior career was as a scientist at NIA. Sheryl also served on active duty with the United States Army as a Laboratory Manager and Biologist at the Walter Reed Army Institute of Research in Washington, DC. She holds a Bachelor's Degree in Biology from Hope College, and a Master's Degree in Business Administration from the University of Phoenix. Her accolades include an NIA Director's Award, Army Meritorious Service Medal and Army Commendation Medal.

Brenda Glass joined the office on November 26 as a Legal Assistant in our Criminal Division. For the prior 16 years, Brenda held various paralegal and legal support positions at the Miller Johnson P.L.C., Miller Canfield, Paddock & Stone, P.L.C. and Roberts, Betz and Bloss law firms. She earned her Bachelor's Degree from Grand Valley State University, with a G.P.A. over 3.7. Brenda has been assigned to the Financial Crimes Section, where she lends her experience in document-intensive litigation primarily to our health care fraud and Ponzi scheme prosecutions.

Although not permanent additions, the office was pleased to secure the assistance of **Jenny Anderson** and **Wendi Zimmerman** through third-party contracts. Jenny and Wendi began working as contract Legal Assistants in the Criminal Division in Grand Rapids in October. Jenny, who holds a law degree from Cooley Law School, has primarily helped support our complex white collar cases. Wendi has been primarily helping with violent crime matters and the Project Safe Neighborhood initiative.

DEPARTURES:

AUSA Julie Woods retired from the practice of law at the end of September, after 29-years with the office. She began her legal career at Legal Aid in Grand Rapids before joining the City Attorney's Office. After several years there, she joined our office. She started in the Civil Division before transferring to the Criminal Division where she handled a variety of matters, including tax and environmental offenses as well as, most recently, child exploitation prosecutions. Julie won numerous awards during her tenure with the office, including a Director's Award in 1996.

AUSA Brian Lennon left our office in February to join the law firm of Warner, Norcross & Judd LLP in Grand Rapids, as reported in last year's Review. At Warner, Brian handles the firm's white collar crime practice, and we have begun to

see him on the opposite side of the aisle in a few matters. Brian won numerous awards over the course of his 13-year career with the office, including a Director's Award and National Association of Former U.S. Attorney's Distinguished Service Award in his final year here.

Paralegal Norma Kruithoff retired at the end of March, 2012, after 38 years of federal service. Norma was our lead paralegal serving the highly technical and fast-paced Asset Forfeiture program. For her efforts on one of the last matters she handled before retiring, Norma received a national service award from the ATF. Cindy Vine, a paralegal in the Criminal Division, undertook these Asset Forfeiture responsibilities upon Norma's departure.

Paralegal Cheryl Stoll retired at the end of April, after a 22-year career with the office. Cheryl was one of our three paralegals in the Financial Litigation Unit, then in the Civil Division. The Unit is now a part of the Criminal Division and we are still working on finding her replacement, after securing approval to hire for the position in December.

AWARDS

NAACP, Greater Grand Rapids Branch: *Floyd Skinner Justice Award*

U.S. Attorney Patrick Miles, Jr. received this award in the fall at the annual Fight for Freedom Banquet. The award is named for Floyd Skinner, one of the first African-American lawyers in Grand Rapids who partnered with a fellow attorney to eliminate what was then called "Jim Crow" segregated seating in local movie theaters, a policy which forced African-Americans to sit only in balconies. Skinner is also credited with overcoming barriers preventing African-Americans from holding white-collar jobs at City Hall.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES: *Honor Award.*

AUSAs Joel Fauson and Brian Lennon, Paralegals Norma Kruithoff and Stephanie Miller. The *Honor Award*, presented in Washington, D.C., recognizes government officials or individuals from the private sector who have significantly contributed to ATF's overall national mission. AUSAs Lennon and Fauson and paralegals Kruithoff and Miller received this award for their work in the prosecution of the Organized Crime and Drug Enforcement Task Force (OCDETF) Operations Rainy Day and Holiday Express, including in particular the asset forfeiture recovery and the successful weeks-long trial of the California-based lead defendants.

OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF
AGRICULTURE, COUNCIL OF THE INSPECTORS GENERAL ON
INTEGRITY AND EFFICIENCY: *Award for Excellence*.

AUSAs Nils Kessler and Rene Shekmer. Nils and Rene received the Department of Agriculture IG's *Award for Excellence* in recognition of their work on cases that reflected coordinated efforts by federal, state and local law enforcement to combat USDA nutrition program fraud throughout Michigan -- the Bridge Card Enforcement Team. Nils prosecuted the owners and operators of the Marathon C-store in Southeast Grand Rapids for their scheme to redeem Bridge Cards (food stamps) for cash and other unapproved items such as cigarettes, phone cards and gasoline and all at a 100% mark up. Rene prosecuted the owners and operators of J & K General Store in Lansing for their similar scheme to redeem Bridge Cards for cash and other unapproved items, including firearms and even narcotics.

WESTERN DISTRICT OF MICHIGAN BANKRUPTCY BAR:
Nims-Howard Civility Award

AUSA Francesca Ferguson. At the 2012 seminar of the Bankruptcy Section of the Federal Bar Association of the Western District of Michigan, Fran received the association's *Nims-Howard Civility Award*. The award is given in recognition of conduct, skill and advocacy that exemplifies the tradition of civility and excellence of the bench and bar of this District.

REPRESENTATIVE CIVIL MATTERS

AFFIRMATIVE CIVIL ENFORCEMENT

United States v. Bansil. The United States obtained a False Claims Act settlement representing treble damages of \$2,250,000 against a physical therapist who falsely billed for nerve conduction studies and needle electromyography tests that he did not perform. The defendant also pled guilty in the parallel criminal case.

AUSA: Adam Townshend.

Agency: U.S. Department of Health and Human Services.

United States v. Wilson. The United States obtained treble damages of \$58,339.32 for Social Security fraud committed by the mother and representative payee of a child that the Social Security Administration had deemed eligible for disability benefits. The mother falsely reported her income and resources, resulting in benefit payments to which she was not entitled because her income and assets exceeded allowable household thresholds.

AUSA: Carolyn Almassian.

Agency: Social Security Administration.

United States v. Kellogg. The USAO negotiated and obtained Court approval of a Consent Decree resolving claims against Kellogg Company, Kellogg USA, Inc., and

Keebler Co. (collectively, "Kellogg") for violating the Clean Air Act by: (1) installing and operating flavor coating equipment on two cereal manufacturing lines at its Battle Creek facility without first obtaining required permits, resulting in significant emissions of volatile organic compounds ("VOCs"); (2) violating its permit for emissions of nitrogen oxide ("NOx") from two boilers at the Battle Creek facility; and (3) committing VOC violations relating to equipment and manufacturing process changes on various production lines at its Keebler facility in Grand Rapids. Kellogg paid \$500,000, agreed to reduce its VOC permit levels at both facilities, and agreed to perform a mitigation project to replace a cooling and dehumidifying system that uses the refrigerant R-22 with a chilled water system that does not use R-22, at an estimated cost in excess of \$435,000.

AUSA: Ryan Cobb.

Agency: U.S. Environmental Protection Agency.

Simpson et al. ex rel. United States et al. v. Mid- Michigan Physicians et al. The USAO investigated numerous fraud claims brought in a False Claims Act *qui tam* action against a large physician practice group and numerous medical providers. As a result of this investigation, the United States intervened in the action and filed a complaint against the physician practice group and two of its providers. The USAO negotiated a settlement of approximately \$209,755, which represented treble damages as well as a statutory penalty.

AUSA: Ryan Cobb.

Agency: U.S. Department of Health and Human Services.

United States v. Wattles Park Family Practice. In this False Claims Act case, a family practice group employed a registered nurse, but held her out and billed for her services as if she was a nurse practitioner. As a result, the practice improperly billed for upper-level office visits, new patient visits, and other services that the nurse was not qualified to perform. The nurse also prescribed controlled substances in violation of state law and the Controlled Substances Act. The practice group entered into a Settlement Agreement to pay \$200,000.

AUSA: Adam Townshend.

Agency: U.S. Department of Health & Human Services.

United States v. White. This case, which arose under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, involved a Lansing-based realtor and developer who fraudulently obtained an increased line of credit for his development company with Mason State Bank, an FDIC-insured institution, in order to finance construction at a housing development. As collateral, Mr. White falsely pledged certain third-party assets that he had no authority to commit. The development company eventually defaulted, leaving the participating lenders with significant financial losses. Mr. White paid a civil penalty of \$54,088 and executed a stipulation and order prohibiting him from participating in the affairs of any FDIC-insured institutions.

AUSA: Adam Townshend.
Agency: Federal Deposit Insurance Corporation.

DEFENSE AGAINST CLAIMS OF CIVIL RIGHTS VIOLATIONS

Kivari v. Laird. The Court dismissed a complaint against federal officials alleging that they mishandled an assault on plaintiff while he was on military duty overseas and that they misdiagnosed plaintiff with a disorder to cover up the assault. The court granted the Defendants' motion to dismiss because Plaintiff had failed to properly plead any constitutional claims against the Defendants and he failed to state any plausible claim for relief.

AUSA: Carolyn Almassian.

El Ssayed v. U.S. Dep't of Education et al. After filing a motion to dismiss, the USAO obtained dismissal of claims against all federal defendants in this civil rights case in which plaintiff sought recovery from various federal, state, and Western Michigan University officials relating to plaintiff's dismissal from a graduate school program and the resulting impact on his immigration status.

AUSA: Ryan Cobb.

Moher v. U.S. Dep't of Homeland Security. An owner of land on Sugar Island sought a ruling that federal border patrol officers violated his Fourth Amendment rights to be free from unreasonable searches by entering his land without a search warrant to patrol for illegal immigration activity under the authority of 8 U.S.C. § 1357(a). He also brought claims of trespass, assault and battery against the United States under the Federal Tort Claims Act, alleging that the officers drove their all-terrain vehicles toward him after he tried to take their picture and that he placed his hands on the front of one of the vehicles as it came into contact with him. The court granted the Defendants' motion to dismiss all but the assault and battery claims, but the USAO succeeded in obtaining a stipulated dismissal of these remaining claims without any payment by the United States.

AUSA: Carolyn Almassian.

IMMIGRATION

Patel v. United States Citizenship and Immigration Services. USCIS prevailed on a motion to dismiss a petition for review of its decision denying immigration worker status. We successfully argued that the individual petitioner lacked standing to challenge the denial of an I-140 petition that his employer had submitted. The case is now on appeal.

AUSA: Agnes Kempker-Cloyd.

SUBPOENA DEFENSE FOR FEDERAL EMPLOYEES AND AGENCIES

The USAO defended federal agency employees and ensured compliance with federal regulations regarding the release of information from agency files in numerous cases

in which federal employees were subpoenaed to testify or produce documents.

FEDERAL TORT CLAIMS ACT (FTCA) DEFENSE

Michigan Dep't of Natural Resources v. United States. The USAO obtained dismissal of a complaint alleging that the United States Forest Service (USFS) engaged in negligence in its handling of a prescribed burn and subsequent wildfire that developed in Baraga County, Michigan, and which allegedly damaged state timber. The United States argued that the discretionary function exception to the FTCA applied to the USFS' activities; the United States has not waived sovereign immunity for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency, whether or not the discretion is abused. The Court agreed that the discretionary function exception barred the MDNR's claims because the applicable USFS Manuals and the prescribed burn plan provided the USFS with discretion to, among other things, decide whether to initiate a prescribed burn, determine staff and equipment locations during the burn, and how to contain any wildfire that may develop.

AUSA: Carolyn Almassian.

Zappley v. United States. The United States successfully obtained a dismissal of the plaintiff's tort claims, which were premised on an alleged assault in 1973, while the plaintiff was serving as a seaman in the United States Navy. The plaintiff contended that the Navy falsely mischaracterized the assault, that other statements appearing in plaintiff's medical records constituted slander and defamation, and that a Navy psychiatrist misdiagnosed him with a disorder, which ultimately caused his discharge. The court concluded that it lacked jurisdiction over the plaintiff's tort claims because the plaintiff failed to present an administrative claim within two years of the injury and therefore failed to exhaust his administrative remedies.

AUSA: Carolyn Almassian.

PROGRAM LITIGATION

Maple Drive Farms, LP, et al. v. Vilsack. This matter was before the Court on challenges by Plaintiffs to two administrative decisions of the Secretary of Agriculture. The first was the Secretary's decision that Plaintiffs converted a "wetland" on their farm, in violation of the Swampbuster provisions of the Food Security Act. The second was the Secretary's decision to declare Plaintiffs ineligible for certain federal program benefits because of their conversion of a "wetland." After rounds of procedural and then dispositive briefing, the district court affirmed the administrative decisions, finding that the Secretary's determinations were not arbitrary or capricious and the record reflected rational decisions supported by ample evidence. Further, to the extent the court had jurisdiction over Plaintiffs' breach of contract claims under the Little

Tucker Act, the claims were dismissed with prejudice; and to the extent Plaintiffs' breach of contract claims fell outside the Little Tucker Act, the claims were dismissed for lack of jurisdiction.

AUSA: Mike Shiparski.

Agency: U.S. Department of Agriculture (FSA and NRCS).

Jenkins v. McHugh. Plaintiff brought suit under the Administrative Procedures Act ("APA"), alleging that the Army Board for Correction of Military Records ("ABCMR") acted arbitrarily and capriciously when it failed to grant his requests to remove a Letter of Reprimand ("LOR") from his Official Military Personnel File. The district court granted the USAO's motion to dismiss and/or for summary judgment because plaintiff failed to satisfy his burden of presenting clear and convincing evidence that the Letter of Reprimand was untrue or unjust. Considering plaintiff's admission that he engaged in an inappropriate relationship and the dearth of evidence submitted to the deference of the ABCMR, the district court could not conclude that the Board's decision was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

AUSA: Mike Shiparski.

Agency: U.S. Army.

Mary Alice Homkes; Amy Miller; Mary L. Hernandez. The USAO successfully resolved three separate actions in which plaintiffs contested loan modification processes and availability after private lenders pursued foreclosure proceedings. Plaintiffs purchased their homes with a loan secured and serviced by a mortgage from a private lender, but the Rural Housing Service ("RHS"), a department within the Rural Development Division of the United States Department of Agriculture, guaranteed the loans. After foreclosure proceedings began and Sheriffs' sales were scheduled, the plaintiffs filed separate actions for injunctive relief. The sales were initially adjourned and then eventually stayed, pending attempts to resolve the litigation through the loan modification process. Through counsel, the parties formulated individual, income specific, loan servicing plans and modifications. The parties coordinated to ensure that the financial information was effectively and accurately factored into the modification process. Facilitated by the USAO, the office of Rural Development provided guidance, financial analysis and then final consideration and approval of foreclosure avoidance assistance for all three Plaintiffs. The cases were closed with voluntary dismissals.

AUSA: Mike Shiparski.

Agency: USDA, Rural Development.

NATIVE AMERICAN LANDS LITIGATION

Nelson et al. v. Renner et al. The United States obtained dismissal from a lawsuit premised on a boundary dispute regarding the location of property lines between plaintiffs' property and adjacent property that the United States had held in trust for several Native American tribes since 1995, long before plaintiffs acquired the property. The United States successfully argued that the Court lacked jurisdiction

over any claim against the United States and that the plaintiffs failed to state a claim against the United States because the action was essentially a challenge to the United States' title, in circumvention of the Quiet Title Act and contrary to the United States' sovereign immunity.

AUSA: Agnes Kempker-Cloyd.

EMPLOYMENT LITIGATION

Vanderlee v. Potter. The Sixth Circuit upheld the District Court's grant of summary judgment in this case alleging disability discrimination. The plaintiff suffered an on-the-job injury while working as a mail carrier, which resulted in a rehabilitation job assignment in the clerk craft. She alleged that the U.S. Postal Service subsequently denied her request to return to the mail carrier craft after she was cleared to return to work without restrictions. Plaintiff was informed that, according to the applicable Union contracts, it could not transfer her from the clerk craft to the mail carrier craft. The Court agreed with the district court that the plaintiff failed to present evidence that at the time of the adverse action, she had an impairment that substantially limited her in some major activity.

AUSA: Carolyn Almassian.

Guevera v. U.S. Postal Service. Litigating an Eastern District of Michigan case, we obtained summary judgment and dismissal of claims brought by a Postal Service automobile mechanic who alleged racial and national origin discrimination in his employment. We successfully demonstrated that his allegations and evidence did not demonstrate sufficient severity or pervasiveness to establish a hostile work environment. We also showed that even if some employment-related actions could qualify as adverse actions, the U.S. Postal Service did not retaliate against plaintiff and instead had legitimate, non-discriminatory reasons for all actions it took.

AUSA: Carolyn Almassian.

Alexander v. The Michigan Adjutant General. This was plaintiff's second federal court lawsuit to contest the termination of his employment as a National Guard technician (NGT). He was seeking back pay under the Back Pay Act, but argued that he was requesting "corrections to errors in his federal employee records as a National Guard technician" pursuant the Privacy Act. The USAO prevailed on a motion for summary judgment when the district court found that plaintiff's Privacy Act claim was barred by the statute of limitations and his claim under the Back Pay Act failed because exclusive jurisdiction over reinstatement and back pay lies with the Michigan Adjutant General. The district court also denied plaintiff's second motion to amend his complaint because the proposed amendment under the Administrative Procedures Act was precluded by provisions of the Civil Service Reform Act.

AUSA: Mike Shiparski.

Agencies: Michigan Air National Guard; U.S. Air Force.

PROCEEDINGS RELATING TO GOVERNMENT LIEN CLAIMS

The USAO continued to respond to a high volume of foreclosure litigation and other cases in which federal liens were at issue. Due to the large number of foreclosures in the district, the USAO devotes significant AUSA time to handling these cases.

SOCIAL SECURITY

The U.S. Attorney's Office oversaw the preparation of answers and coordinated the filing of briefs primarily handled by Special Assistant United States Attorneys from the New York office of the Social Security Administration. In 2012, the USAO opened 136 new cases in which plaintiffs challenged unfavorable Social Security disability benefits determinations. Approximately 115 cases – typically additional cases filed in prior years – were closed after resolution or after decisions by the District Court.

BANKRUPTCY

The USAO represented the interests of the United States in 188 new bankruptcy cases; the USAO resolved its issues or claims in 208 cases during 2012. Significant resolutions included obtaining dismissal of an adversary proceeding seeking discharge of over \$300,000 in student loans in *Colgan v. Doe* and obtaining summary judgment in an adversary proceeding alleging that USDA should be required to return monies offset from pre-petition tax overpayments to plaintiff in *Lucas v. USDA Rural Development*.

AUSAs: *W. Francesca Ferguson; Agnes Kempker-Cloyd; Michael Shiparski.*

Agencies: *IRS, Small Business Administration, etc.*

REPRESENTATIVE CRIMINAL MATTERS

FINANCIAL CRIMES SECTION

HEALTH CARE FRAUD:

United States v. Chyawan Bansil. This billing fraud case arose from a prescription drug diversion investigation in Lansing, Michigan. After undercover police officers received suspicious services from Dr. Bansil at a physician's office in Lansing, federal investigators examined both the medical practices as well as the financial records of Dr. Bansil and confirmed that Dr. Bansil was billing for services that he did not perform and was illegally laundering the proceeds of his fraud scheme in order to avoid taxes. A federal grand jury subsequently returned an Indictment charging that between February 2007 and January 2012, Dr. Bansil defrauded Medicare, Medicaid, and Blue Cross Blue Shield of Michigan of more than One Million Dollars by causing those programs to be billed for expensive nerve conduction studies and needle electromyography tests that Dr. Bansil did not perform. Pursuant to a guilty plea and

plea agreement, Dr. Bansil forfeited over \$500,000 in assets and paid an additional \$2.25 million dollars in treble damages to resolve related civil claims under the False Claims Act. Dr. Bansil also paid almost \$250,000 in back taxes that were uncovered by the IRS during the investigation. At the sentencing hearing in held in Grand Rapids, presiding Judge Robert Holmes Bell noted that Dr. Bansil violated the trust of patients and "worsened the health care crisis" in this country. The judge sentenced the doctor to serve 13 months incarceration to be followed by a year of supervised release. In addition, the doctor will be excluded from participating with Medicare and Medicaid for a minimum of five years.

AUSAs: *Ray Beckering; Adam Townshend.*

Agencies: *Lansing Police Dept.; IRS-Criminal Investigation; Blue Cross Blue Shield of MI; Health & Human Services-OIG; Michigan Attorney General's Office.*

INVESTMENT FRAUD:

United States v. Joseph Fabian. Fabian was the principal of the Kalamazoo-based financial services company, Fabian & Associates, LLC, which previously operated under the name Fabian Financial Group. Fabian was charged with, and pled guilty to defrauding clients of his financial services company out of a total of \$4.8 million between 2005 and 2010. Fabian induced his clients and prospective clients to withdraw money from their retirement accounts, investment accounts, bank accounts, and other sources to place into phony investment products that Fabian fabricated. When Fabian recommended a legitimate investment, he failed to invest the money on his clients' behalf. In either event, he diverted clients' money for his own use. The Court sentenced Fabian to 92 months in prison, imposed a \$3.7 million forfeiture money judgment, and ordered Fabian to pay \$3.8 million in restitution. The United States is currently pursuing over 900 of Fabian's assets in order to collect on his forfeiture money judgment.

AUSAs: *Joel Fauson; Matt Borgula.*

Agency: *FBI – Kalamazoo.*

MORTGAGE FRAUD:

United States v. Kevin Grady, et al. During 2005 and 2006, Grady managed the Grand Rapids office of Sure Financial, a mortgage brokerage business owned and licensed by another individual. The government proved at trial that Grady, and loan officers working at his direction, obtained inflated appraisals and fixed prices with sellers. Grady enticed financially unqualified buyers to purchase the homes by promising them kickbacks of \$5,000 to \$10,000 per property after the closings. Grady defrauded the mortgage lenders by submitting loan applications that misrepresented the buyers' places of employment, employment income, assets, and other pertinent information. Grady and his loan officers created or obtained false pay-stubs, residential leases, tax documents, verifications of employment, and other documentation that were submitted to the lenders to make it appear that the information on the loan applications was truthful. In less than one year, Grady defrauded mortgage lenders of over two million dollars and personally pocketed over \$500,000

of the fraudulently obtained loan proceeds, some of which was then used to pay kickbacks to the buyers. Grady also defrauded Key Bank in conjunction with a million dollar loan that he used to pay-off the building where he operated the fraudulent mortgage loan business. Presiding Judge Robert Jonker ultimately sentenced Grady, 48, to a term of 14 years in prison and ordered him to pay \$3,000,000 in restitution to the lending institutions. Grady consented to forfeiture in the amount of \$1,181,332. Judge Jonker stated that Grady's significant sentence was attributable not only to his blatant and pervasive pattern of fraud, but also to his abusive behavior directed at individuals that he needed to carry out the fraud and who were vulnerable to his intimidation.

AUSAs: Ron Stella; Brian Delaney.

Agency: FBI- Grand Rapids.

United States v. Mario Giannandrea, et al. Giannandrea and six other defendants engaged in a scheme to commit mortgage fraud. The scheme, operating under the name of a Lansing, Michigan business known as CDC Investments, involved inflating the value of a piece of real estate and then staging the sale of that property so that an unsuspecting bank would supply mortgage funds to members of the scheme. After obtaining the money, the members of the scheme would split the money among themselves. The mortgage would not be paid, leaving the bank with property not worth enough to make the bank whole. The scheme resulted in approximately 35 mortgage loans and resulted in losses of approximately \$2.5 million. The case was a product of the Western District of Michigan Mortgage Fraud Task Force, composed of agents from the Federal Bureau of Investigation, United States Secret Service, the U.S. Postal Inspection Service, HUD Office of Inspector General, and others. The defendants face up to 20 years in prison at sentencings in March, 2013.

AUSA: Tim VerHey.

Agencies: FBI; U.S. Secret Service; US Postal Inspection Service; Housing & Urban Development IG.

CORRUPTION & EMBEZZLEMENT:

United States v. Renita Lynn Dompier. Dompier served as the Secretary-Treasurer of the International Association of Machinists and Aerospace Workers, Woodworkers Local Lodge W-283, which represents workers employed by CertainTeed Ceilings in L'Anse, Michigan. While serving as Secretary-Treasurer from December 2004 through October 2009, Dompier embezzled over \$10,000 from the union for her own personal use. Following her indictment for embezzlement from a labor organization by an employee, she pled guilty and was sentenced to one year of probation with six months of home detention and ordered to pay \$11,793.89 in restitution.

AUSAs: Paul Lochner; Maarten Vermaat.

Agency: Office of Labor-Management Standards.

United States v. Lori Knechtel. In early 2012, U.S. District Court Judge Robert Jonker sentenced Knechtel to 27 months in prison for embezzling more than \$122,000 from

her prior employer, Anderson Economic Group, LLC. After sentencing, the FBI learned that Knechtel provided her defense attorney with a forged letter on the company letterhead of her then-current employer. Knechtel's defense attorney filed the letter with the court in connection with her sentencing proceeding not knowing that the letter had been written and signed by Knechtel without her employer's knowledge. The letter listed several of her accomplishments, claimed that Knechtel was "irreplaceable," and concluded that "losing Lori as employee [sic] would be a huge loss for our company." In May 2012, a federal grand jury indicted Knechtel for obstruction of justice. Knechtel admitted that she wrote and submitted the forged letter in connection with her sentencing believing that the letter might assist in obtaining a lower sentence. U.S. District Judge Janet Neff described Knechtel's crime at her sentencing as an attack on the integrity of the court system that rarely occurs. The judge rendered a 21 month sentence for the obstruction conviction to run consecutively with the 27 month sentence Knechtel had begun to serve on the original embezzlement conviction.

AUSA: Chris O'Connor.

Agency: FBI.

PROGRAM FRAUD:

United States v. Kevin and Sara Johnson. Kevin and Sara Johnson owned and operated Lansing Total Lawn Care, a commercial landscaping company. At the end of each mowing season between 2006 and 2010, the defendants laid-off their laborers and coerced them into applying for unemployment insurance benefits. The defendants would then force the workers to toil for the company throughout the winter, driving snowplow trucks and performing other labor. The defendants did not pay the workers for this work, and informed them that unemployment "was their paycheck." Numerous workers testified that if they refused, Sara Johnson would call the Michigan Unemployment Insurance Agency ("UIA") and report them as "refusing to work," leading to the termination of their unemployment benefits. Workers further testified that Kevin and Sara Johnson demanded and received cash kickbacks from the workers' unemployment checks. Kevin actually applied for unemployment benefits for himself while running the company, appearing at the agency in a laborer's T-shirt and pretending to be a laid-off mower. He lied on at least 54 certifications to the UIA that he was "not self-employed," and had been "laid off." He used his unemployment checks to make payments on a Chrysler 300 Limited luxury sedan and fuel his fleet of landscaping trucks. While supposedly "laid off," he purchased a time-share at a Las Vegas resort, and routinely used the company payroll account to make mortgage payments and take out cash for himself and his mother. After six days of trial, mother and son were both convicted of all mail fraud counts brought against them and Kevin was also convicted of lying to federal agents in the course of the investigation. Both await sentencing and face 20 years' imprisonment on the mail fraud counts.

AUSAs: Nils Kessler; Carolyn Almassian.

TAX FRAUD:

United States v. Evan Ward Knoll. Knoll, the founder, owner and former president of Torco Racing Fuels, fraudulently exploited a refund program applicable to the federal "excise tax" of 18.3 cents per gallon on all automotive gasoline sold in the United States. That excise tax primarily funds highway construction. But where the gasoline is used for an "off road" purpose, such as drag-racing, the "off road" user who paid the tax can apply for a federal tax refund. Knoll filed false IRS forms over many years in which he falsely claimed to have purchased massive quantities of racing fuel, all of which resulted in refund payments of over \$80 million. In addition, Knoll also used his refund scheme to commit bank fraud: he obtained a series of bank loans primarily based on his fraudulently obtained refund checks. When the IRS stopped the scheme, Knoll was unable to make the payments on his bank loans. The banks suffered losses of over \$10 million. Knoll subsequently was charged with and pled guilty to eight charges of making false claims against the United States and to one count of bank fraud. He was sentenced to 17 years in prison and ordered to pay restitution to the Internal Revenue Service (IRS) of \$82,933,652.95.

AUSA: Mike MacDonald.

Agency: IRS-Criminal Investigation.

United States v. Li Jiao Shao. Shao, a restaurant operator, submitted false personal tax returns to the Internal Revenue Service for the calendar years 2005, 2006, and 2007. During that time, she worked at King Buffet, a restaurant owned by her husband and father-in-law. For 2005, Shao reported partnership income of \$10,790 when the actual partnership income was approximately \$79,171. For 2006, she reported partnership income of \$15,777 when the actual partnership income was approximately \$45,365. For 2007, she reported a total income of \$43,723 when the actual total income was approximately \$293,930. Pursuant to a guilty plea to three counts of filing false returns, she agreed to pay over \$97,000 in taxes due and owing to the IRS.

AUSA: Rene Shekmer.

Agency: IRS-Criminal Investigations.

NATIONAL SECURITY SECTION

United States v. Jacinto Morales-Martinez, et al. Eleven aliens perpetrated a scheme to produce high-quality fraudulent documents such as Permanent Resident cards ("Green Cards") and Social Security cards for persons they believed were undocumented aliens in the Southwest Michigan area. Most of the defendants were family members; all lacked legal status themselves. Despite their extensive efforts to avoid detection, a ten-month investigation by the Grand Rapids office of U.S. Immigration and Customs Enforcement, Homeland Security Investigations (HSI) culminated in the execution of five search warrants in Holland and Grand Rapids in mid-June

2012, the arrests of 14 undocumented aliens associated with the investigation, and the seizure of two document-production facilities. Morales-Martinez, the lead defendant, who is also a previously-deported felon, ultimately received 60 months in federal prison for his role in the document-trafficking ring. He was also charged with and pled guilty to a separate count of returning to the United States after being deported following conviction for an aggravated felony. The ten other defendants received sentences ranging from six to 46 months in prison.

AUSA: Hagen Frank.

Agency: HSI.

United States v. Nathan Lumbard. In 2009, Lumbard was charged in state courts in Michigan and Indiana with a variety of crimes, including aggravated battery, obstruction of justice, breaking and entering and larceny. After posting bond and being released on those charges, he assumed another person's identity by paying the person for his driver's license, he then fraudulently obtained a passport in Ingham County, Michigan, using the other person's identification, and fled to Burma (Myanmar) to avoid prosecution. To cover his tracks before leaving the United States, he faked his suicide by leaving a suitcase with his belongings and a suicide note on a bridge overlooking the Mississippi River. He also left a message with authorities implying that they would find his body in the river. Suspecting that Lumbard was alive and living overseas under his assumed identity, agents from the U.S. Department of State's Diplomatic Security Service (DSS) in Detroit began investigating the case. They worked closely with local authorities and DSS agents in Bangkok, Thailand and Rangoon (Yangon), Burma and arrested Lumbard in Rangoon. Agents returned him to the United States in May 2011 to face federal passport fraud and aggravated identity theft charges. He pled guilty to those charges and was sentenced to four years in federal prison. Presiding Judge Robert Holmes Bell described Lumbard's behavior as "egregious, audacious and unacceptable" and said Lumbard demonstrated "a blatant lack of respect for the criminal justice system." Later affirmed on appeal, the case has settled in the U.S. Sixth Circuit the principle that identity "theft" crimes include the acquisition of identification documents without lawful authority, which supports the availability of the charge for those who mis-use, for example, credit card information a customer voluntarily provides for purchases.

AUSA: Clay Stiffler.

Agency: Diplomatic Security Service.

ALIEN RE-ENTRY INITIATIVE:

During 2012, approximately 27% of all criminal case filings brought in the district involved the charging of undocumented aliens for returning to the United States without authorization after having been removed previously and typically also after having been convicted of one or more criminal offenses. This figure represents a retrenchment from recent years, largely due to diminishing prosecutorial resources and other rising priorities.

Nevertheless, the district continues to be a leader among mid-sized districts not situated on the Southwest border.

AUSAs: John Salan; Donald Daniels.

Agency: ICE-Enforcement & Removal Operations.

VIOLENT CRIMES SECTION

United States v. Jetson Lawrence Bryant. On June 25, 2011, Bryant entered the Chemical Bank located in Van Buren County, presented a demand note that threatened that he would start shooting and showed the tellers that he had a gun. After obtaining money from three bank tellers, he fled on foot. Law enforcement responded to the scene, canvassed the area and found Bryant as he emerged from a wooded area near the bank with the money, the demand note, and a starter pistol. Bryant pled guilty to armed bank robbery and using a starter pistol to commit the bank robbery. As part of his guilty plea and sentence, Bryant also acknowledged responsibility for the robbery of Fifth Third Bank, in Holland, Michigan, on April 9, 2011. He was sentenced to 24 years in prison. Bryant had previously been convicted of committing six bank robberies in 1994. In 2000, he was convicted of robbing three more banks. At the time of the Van Buren robbery, he was still on supervised release.

AUSA: Dan Mekaru.

Agency: FBI.

INDIAN COUNTRY:

United States v. Steven Deuman. On September 19, 2012, a Grand Rapids jury convicted Steven William Deuman, Jr., of aggravated sexual assault and the murder of his 15 week-old baby daughter, "E.D." on the Grand Traverse Band of Ottawa and Chippewa Indians reservation. The verdicts followed an eight-day trial that included the testimony of some 35 witnesses. Doctors and EMS personnel had reported to the Grand Traverse Band (GTB) Police Department the suspicious circumstances of her death after E.D. had been brought in for emergency treatment but could not be revived. An investigation conducted by the FBI and the GTB Police Department uncovered evidence that the defendant asphyxiated E.D. in the course of sexually assaulting her. During the trial, the jury also heard evidence of the defendant's prior sexual assaults of young girls, including a similar assault of a six-year-old girl in 1999. Deuman was subsequently sentenced to mandatory life in prison without parole.

AUSAs: Phil Green; Matt Borgula.

Agencies: FBI- Traverse City; Grand Traverse Band Tribal Police.

United States v. Jay Emerson Hunter. Hunter, a member of the Bay Mills Indian Community, sexually assaulted the 8 year-old victim he was babysitting at a residence in Brimley, Michigan on the Bay Mills Indian Community reservation. The incident came to light when the victim told another babysitter what had happened to her. During the investigation, Hunter admitted to sexually assaulting the victim on three separate occasions. He later pleaded guilty to aggravated sexual abuse of a child under 12 and was sentenced to 30 years in prison. Upon release from prison,

he will serve five years of supervised release and be required to register as a sexual offender.

AUSAs: Paul D. Lochner; Maarten Vermaat.

Agencies: FBI; Bay Mills Tribal Police.

PROJECT SAFE NEIGHBORHOOD:

United States v. Kim Statler, Sr. and Kim Statler, Jr. When Kim Statler, Sr. went to Florida, he left his unsecured guns and ammunition in the actual and constructive possession of his convicted felon sons, Kim Jr. and Leonard. Leonard took one of the guns (an assault rifle) and used it to fatally shoot Kalamazoo Department of Public Safety Officer Eric Zapata, and then took his own life. Kim Sr. later pleaded guilty to unlawfully disposing of firearms to convicted felons; Kim Jr. pleaded guilty to possession of a firearm as a convicted felon. The latter received 48 months in prison and the former was sentenced to probation.

AUSAs: John Bruha; Sean Maltbie.

Agencies: ATF; Kalamazoo DPS.

United States v. Tobias John-Maxwell Deatrick. Deatrick was sentenced to serve 17 and a half years (210 months) for unlawfully possessing as a felon a 9mm semiautomatic rifle and a .40 caliber semiautomatic pistol. Because he previously had been convicted of no fewer than five felony offenses under Michigan law that included three felony drug trafficking offenses, Deatrick qualified as an Armed Career Criminal for purposes of federal sentencing law.

AUSA: Heath Lynch.

Agencies: ATF; Mason County Sheriff Department; Ludington Police Department.

PROJECT SAFE CHILDHOOD:

United States v. Patrick Wiseman. Wiseman came to the attention of law enforcement in 2011, when he was discovered sharing child pornography through the Internet. In July 2011, the FBI executed a search warrant on Wiseman's home and seized his computer. While that investigation was pending, Wiseman purchased another computer and began sharing even more child pornography through the Internet. The FBI along with Homeland Security Investigations—Immigration and Customs Enforcement (HSI-ICE) executed another search warrant on Wiseman's home in March 2012. Wiseman was subsequently charged with, and pled guilty to, trading in child pornography. He received a sentence of 20 years in prison to be followed by a lifetime term of supervised release. He had previously been convicted in 2003 in Florida for possession of child pornography and had served 30 months in prison for the crime.

AUSA: Dan Mekaru.

Agencies: FBI; HSI-ICE.

United States v. Trevor Locke. Locke, 34, of Bellevue, Michigan was sentenced to 121 months in federal prison for attempted receipt of images of child pornography. In addition to the prison term, Chief U.S. District Judge Paul L. Maloney imposed a lifetime term of supervised release that will commence once Locke is released from imprisonment. Locke will also be required to register as a sexual offender.

The charge stemmed from an investigation into a website that offered for sale videos featuring child pornography. During that investigation, agents learned that Locke had attempted to purchase numerous child pornography videos that had been offered for sale on this website. Agents then interviewed Locke, who confessed and granted agents permission to search his computer and other electronic media. Agents discovered that Locke had a substantial collection of graphic child pornography images and videos.

AUSA: Sean Lewis.

Agency: FBI- Grand Rapids.

ORGANIZED DRUG CRIME, ASSET FORFEITURE & FLU SECTION

ORGANIZED DRUG CRIME:

Operation Blizzard Creek. This OCDEF case originated with a joint Homeland Security Investigations (HSI) and Battle Creek Police Special Investigations Unit (SIU) investigation into the drug trafficking activities of Justin Haynes and his associates. Haynes and others were distributing multi-kilogram quantities of cocaine and heroin in the Battle Creek area. Investigation revealed the cocaine and heroin was coming from Chicago, South Bend, and Detroit. In the early stages of the investigation, it became apparent that Haynes and a number of his associates were in possession of firearms that were stolen from a Federal Firearms Licensee (FFL) in the Seattle, Washington area. At the same time HSI was investigating Haynes, ATF was in the middle of an investigation into the theft of the firearms – nearly 100 were stolen from the FFL – and the distribution of those firearms in Battle Creek. The investigations were merged into Operation Blizzard Creek. HSI, ATF, and Battle Creek SIU worked together to recover many of the firearms and shut down the West Michigan group of the drug and firearms distribution ring. Between the end of 2011 through 2012, nine defendants were sentenced in this matter. Two of the perpetrators of the FFL burglary were sentenced to 240 and 120 months, respectively. The two lead narcotics trafficking defendants were sentenced to 240 and 144 months, respectively.

AUSAs: Heath Lynch, Sean Maltbie.

Agencies: HSI, ATF, Battle Creek SIU.

Operation Mother Bird. After catching a Muskegon drug dealer in February 2012 with a kilo of cocaine, officers and agents with the West Michigan Enforcement Team, Homeland Security Investigations and DEA determined that, in 2010-2012, he had received 30-50 kilos of cocaine from sources located in California. The California conspirators, who have links to the Sinaloa drug cartel, also sent 25-50 pounds of methamphetamine to Minnesota and North Dakota in 2010-2012. Officers traced approximately \$355,000 in drug proceeds through various bank accounts used by the conspiracy. The investigation dismantled the organization and led to the conviction of eight of the conspirators: five of the Michigan cocaine distributors and three of the California sources. The investigation also

secured the conviction of four methamphetamine dealers who were charged by the District of North Dakota. One conspirator is a fugitive and two are scheduled for trial in February 2013. Operation Mother Bird was part of “*Project Below the Beltway*,” DEA Special Operation Division’s nationwide initiative against the Sinaloa and Juarez drug cartels and other violent street gangs, which to date has resulted in 3,780 arrests, the seizure of 6,100 kilograms of cocaine, 10,284 pounds methamphetamine, 1,619 pounds of heroin, 349,304 pounds of marijuana, \$148 million in U.S. currency, and \$38 million in other assets.

AUSA: Clay Stiffler.

Agencies: DEA; HSI; WEMET.

United States v. Martin, et. al. The Michigan Medical Marijuana Act continued to confound law enforcement despite the fact that growing and selling the drug remains illegal both federally and in this state. Seeking to exploit this confusion, Martin and his friends opened up five grow houses and began to manufacture high grade marijuana for sale to illegal dispensaries and other users. They purposely grew only 80 plants at each location because they believed that as a matter of policy federal agents would not interfere until there were more than 100 plants being manufactured. They forgot about federal conspiracy law, however, and were nabbed growing hundreds of plants in conjunction with one another. They conspirators feigned compliance with Michigan law, but it was merely a ruse to provide cover for their illegal conduct and the federal court quickly swept aside their state law based claims. Five people were convicted and homes, cash and equipment forfeited.

AUSA: Mark Courtade.

Agencies: DEA, KANET.

ASSET FORFEITURE AND COLLECTIONS:

In fiscal 2012, the office collected \$8,237,150 from civil and criminal actions and forfeitures. The office obtained judgments, fines, penalties, and restitution in various federal criminal and civil actions totaling \$4,855,468 paid by defendants in fiscal 2012. Of this amount, \$1,782,454 came from criminal actions and \$3,073,014 came from civil actions. In addition, the office collected \$3,381,682 in criminal, civil, and administrative forfeitures.

AUSAs: W. Francesca Ferguson; Joel Fauson; Matt Borgula.

Agencies: DEA; FBI; IRS; ICE-HIS; U.S. Secret Service; U.S. Marshals Service.

REPRESENTATIVE APPEALS

United States v. Young, decided 12/20/2012 and published 2/7/2013. As an issue of first impression in the U.S. Sixth Circuit, the court held that officers can run a warrant check unrelated to the suspected crime once an officer has reasonable suspicion to conduct a *Terry* stop of the suspect. Also as an apparent issue of first impression, the court rejected Young’s argument that loitering was not a crime that could warrant a *Terry* stop.

SAUSA Mark Totten.

United States v. Williams, decided and published 8/7/2012. Here, the U.S. Sixth Circuit re-affirmed its pre-*Booker* precedent that a sentencing court may only consider the defendant's substantial assistance and the context of the assistance in determining the extent to which the sentencing court reduces a sentence below a statutory mandatory minimum term under 18 U.S.C. § 3553(e). The sentencing court's reasoning for its substantial reduction below the mandatory minimum included the disparity in punishment ranges for crack and powder cocaine. The case was remanded for a re-sentencing in which only the cooperation and its context would be considered on the government's motion.

AUSA: John Bruha.

United States v. Valentine, decided 9/12/2012. The U.S. Sixth Circuit settled an intra-district split on the law regarding what a district court may consider in determining whether a defendant is eligible for 18 U.S.C. § 3582(c)(2) relief. Several members of the Valentine family were convicted over a decade ago of engaging in a crack cocaine conspiracy. Although trial testimony showed each defendant was accountable for 50 to 75 kilograms, at sentencing the judge merely attributed "at least 1.5 kilograms" of crack to each, a finding that at that time triggered the highest base offense level for purposes of determining the sentencing guideline range. Years later, the Valentines sought modified sentences following amendments to the guideline ranges for crack cocaine. Their motions were assigned to two different district judges. One judge ruled that any new drug quantity finding would be "functionally inconsistent" with the original judge's finding of "at least 1.5 kilograms" and granted relief. The other ruled that the court may consider the entire record at the time of the original sentencings, and the record showed that each movant was responsible for at least 4.5 kilograms (the new threshold for the highest base offense level), meaning that the guideline amendments did not lower their sentencing ranges and thus they were not entitled to relief. On consolidated appeals, the Sixth Circuit sided with the latter approach.

AUSAs: Brian Delaney; Jennifer McManus.

ADMINISTRATIVE DIVISION

The Administrative Division enjoyed a break-out year of performance. With First Assistant U.S. Attorney Andrew Birge as Acting Administrative Officer for most of the year, IT Manager Roger Hensley and Support Services Supervisor Warren "Skip" Olson undertook new personnel supervision responsibilities at the start of the year.

Budget Officer Mee Thao-Khang and Budget Analyst Marge Moody earned high praise from the Executive Office's Evaluation and Review Team that audited our office functions. Largely through their efforts the office scored over 92% on its financial record-keeping, well above the mid-80s national average. In addition to executing the budget, they processed over 400 travel requests.

Skip and Support Services Specialist Kelly Johnson executed 192 purchase card transactions and administered 88 contracts, including the contracts that brought us the much-needed additional staff assistance in the Criminal Division. Skip also oversaw the redesign of our two largest conference rooms in Grand Rapids, affording us more options for meetings and storage, as well as of our Lansing space.

Human Resources Officer Ellie Drumm processed on short notice the multiple personnel hiring actions that allowed the office to fill many of the lingering attorney and support staff vacancies. In all, she processed seven new hires and the on-boarding of 11 interns. She also organized a well received and widely attended retirement benefits seminar in July.

The IT Unit, including Roger and Assistant IT Manager Tom Keating and ALS Coordinator Cindy Niblick, oversaw multiple roll-outs to keep the office on pace with technological developments in our respective fields, including the transition to an eVoIP telephone system, installation of five new network servers, deployment of over 110 new computers and disposal of the old, installation of six multifunction printers, the rollout of a new external website, design and update of the media center and design of the new space for our Lansing branch office. Cindy processed approximately 1,878,000 pages of electronic material in her role coordinating and supporting the litigation mission.

Human Resources Assistant Tia Ramey performed as Acting Secretary to the U.S. Attorney before taking time for maternity leave, after which Receptionist Jenelle Kroupa assumed those duties while also taking charge of the Office's new electronic time-keeping system.

The year concluded with the arrival of Sheryl Brugh, who brings her administrative and leadership experience to this high-performing division.

OUTREACH AND TRAINING

As in prior years, outreach to the public and law enforcement communities continued to be a priority.

SPECIAL INITIATIVES

The office continued to participate in state-wide initiatives, specifically the Human Trafficking, Health Care Fraud and Hate Crimes Task Forces. The U.S. Attorney co-chairs the Michigan Alliance Against Hate Crimes quarterly meetings in Lansing, supported by AUSA Don Daniels.

In August, U.S. Attorney Miles helped launch the first Advocates and Leaders for Police and Community Trust (ALPACT) meetings for the Grand Rapids area. The U.S.

Attorney co-chairs, leads and participates in topical discussions with area law enforcement and community leaders.

Over the course of the late summer and fall, U.S. Attorney Miles visited most of the 11 Tribes in the District in order to listen to and address their concerns and refine the district's operational plan for Indian Country.

U.S. Attorney Miles' proactive approach to case development also applies to community outreach. For example, he and AUSA Agnes Kempker-Cloyd, the principal for the Civil Rights Task Force, have met with numerous civic leaders throughout the District to listen to concerns and spread the word regarding what the office and the Department can do in response to civil rights concerns.

Following the Oak Hill, Wisconsin temple shooting, U.S. Attorney Miles met with leaders of the Grand Rapids Sikh community to open a dialogue with law enforcement, hear local concerns and build trust. In the spring, then-U.S. Attorney Davis likewise met with Arab and Muslim leaders in the Lansing area.

U.S. Attorney Miles also met with and spoke to local organizations and their representatives on a weekly basis throughout the year, including: the Catholic Serra Club, Floyd Skinner Bar Assoc., Grand Rapids Urban League, Kellogg Community College, Western Michigan University, Ottawa Hills High School, Grand Rapids Black Chamber of Commerce, Hispanic Center of Michigan and NAACP Lansing and Battle Creek to name a few.

In addition, AUSA Fran Ferguson co-chaired the 24th annual FBA Bankruptcy Section Seminar and received the Nims-Howard Civility Award from the Federal Bar Association of the Western District of Michigan Bankruptcy Section. Additional USAO staff members assisted in preparations for the seminar and at the event.

LEC/VICTIM WITNESS PROGRAM

The office again trained approximately 5,000 law enforcement officers in the areas of terrorism trends and tactics, criminal justice in Indian Country, cell phone analysis, interview and interrogation techniques, affidavit writing and utilization of social media as in investigative tool, among other topics. [See training list in appendix.] The trainings were organized by the LEC/Victim Witness Staff, specifically Kaye Hooker, Anne Towns, Kathy Schuette, Janet Strahan and Gary Gibbons. AUSAs Phil Green, Jeff Davis, Maarten Vermaat, Nils Kessler and Mark Courtade assisted as instructors.

In the Northern Division AUSA Paul Lochner, Legal Assistant Teresa Kauppila, and Victim Witness Specialist Janet Strahan participated in multi-disciplinary teams of tribal law enforcement and civil service agencies to address child abuse.

LEGAL COMMUNITY TRAINING

Members of our staff were again selected by the Department's National Advocacy Center (NAC) to instruct on various topics. AUSA Matthew Borgula was invited to teach trial advocacy; AUSA Michael MacDonald lectured on Evidence for Criminal Litigators; AUSA Jeff Davis provided Tribal Liaison training and (along with LEC Hooker) instructed at the LEC Conference; and Automated Litigation Support Specialist Cindy Niblick instructed on software for handling electronic data and evidence.

For the annual Hillman Trial Advocacy Program in Grand Rapids, then-Interim U.S. Attorney Donald Davis and AUSAs Phil Green and Timothy VerHey lent their expertise and guidance.

SPECIAL EMPHASIS COMMITTEE

The SEP Committee focuses on cultural awareness and sensitivity within the office as well as public awareness of both the Department's civic mission and career opportunities in order to broaden the appeal of federal employment. Chaired by Legal Assistant Lena Newton, the Special Emphasis Committee again hosted a very successful calendar of events in 2012.

The full list of programs appears in the appendix, but the calendar was highlighted by the **Congressional Gold Medal Award Ceremony** in August. The medal honors the first African American Marines – who served during WWII. Four recipients were from the Grand Rapids area were unable to travel to Washington D.C. to receive their awards. The office stepped in through the Special Emphasis Committee and hosted a local ceremony for the men. Senator Carl Levin spoke at the event, along with a representative of Senator Debbie Stabenow's office.

The office's annual signature Special Emphasis event, the **Veterans Day Ceremony**, this year honored Japanese-American veterans. Virgil Westdale, a Japanese-American WWII veteran, gave the keynote address. IT Supervisor Roger Hensley spearheaded the effort.

For Disability Awareness month, the SEP invited a special guest speaker, Trina Edmunson, Veteran Support Coordinator for Disability Advocates of Kent County. And, in late November, the office hosted a panel seminar to advise community leaders and representatives on the federal employment process, including tips on where to find job postings and how to apply.

Assisting Lena in the planning and execution of all of the programs were: Carrie Almassian, Ellie Drumm, Val Gave, Roger Hensley, Sean Maltbie, Mike MacDonald, Tia Ramey, Janet Strahan, Mee Thao-Khang and June VanWingen.

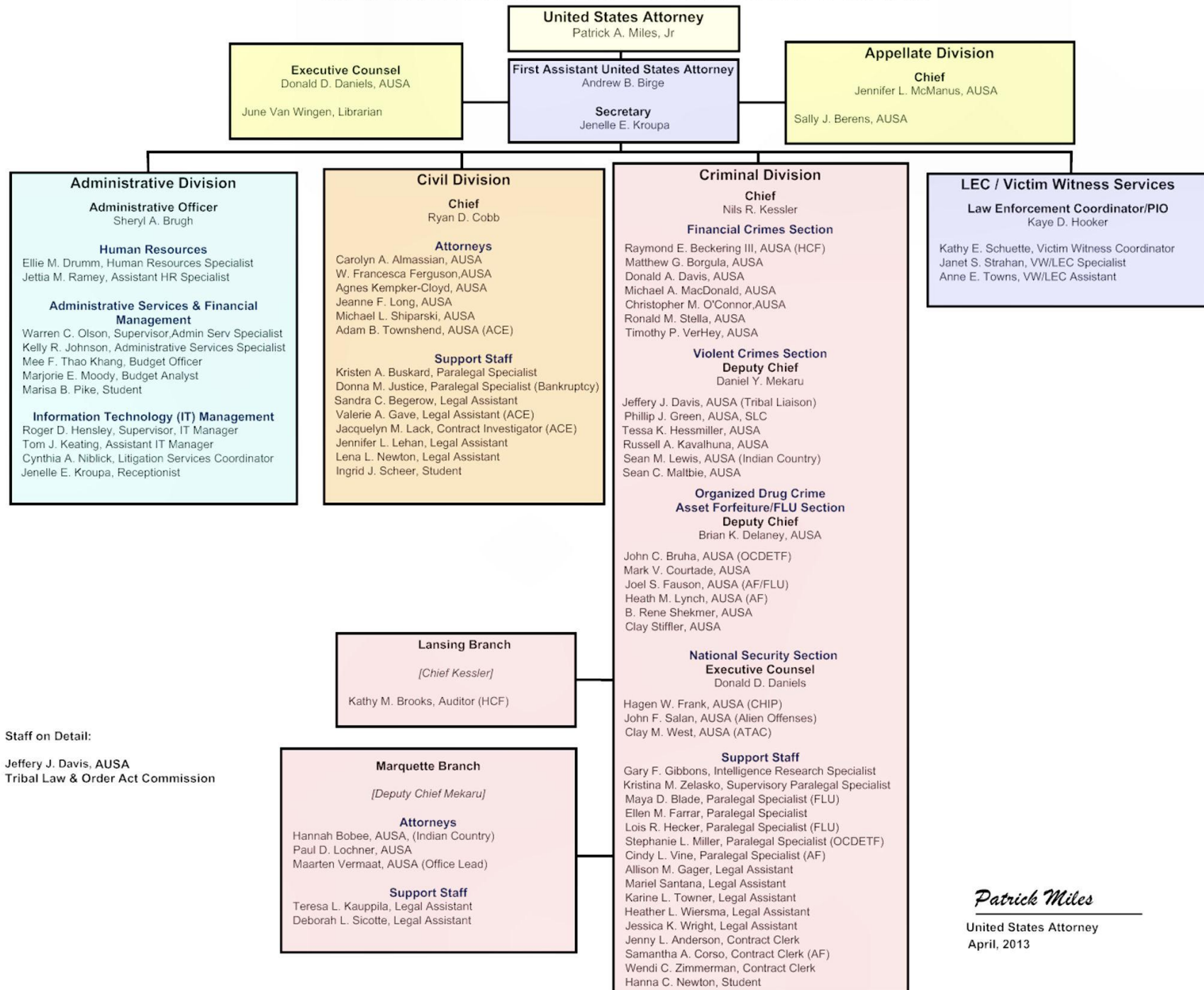
COMBINED FEDERAL CAMPAIGN

This year, despite the difficult economic times for everyone, office employees voluntarily contributed more to charitable causes through the Combined Federal Campaign than in any prior year. AUSA Sean Lewis and Legal Assistant Mariel Santana co-chaired the office's efforts on behalf of the CFC. Their efforts included a kick-off address from Wendy Wigger of Gilda's Club, and a charity "fair" attended by the United Way, Paws with a Cause, Salvation Army, the Women's Resource Center, the YMCA and Goodwill Industries.

EVALUATION & REVIEW VISIT

In October, a team of attorneys and administrative personnel assembled by the Executive Office of U.S. Attorneys descended upon the District to evaluate the USAO's performance. The Office was last evaluated four years earlier, in mid- 2008. After meeting with the judges, area law enforcement agencies and our own personnel and then reviewing our metrics, the Team complimented U.S. Attorney Miles on the over-all quality and level of performance of the management, line attorneys and support staff in the Office. The Team concluded that the litigating and administrative divisions function at a very high level despite the office's under-resourced status. The Team also offered recommendations, including that U.S. Attorney Miles follow-through on the very changes in the structure of the Criminal Division that he was implementing in order to improve the Office's already strong performance.

UNITED STATES ATTORNEY'S OFFICE - WESTERN DISTRICT OF MICHIGAN



Patrick Miles

United States Attorney
April, 2013

CRIMINAL DIVISION

Nils Kessler, Chief

ORGANIZED DRUG CRIME SECTION

Brian Delaney, Supervisor & Deputy Chief

Major Narcotics Unit & Organized Crime and Drug Enforcement Task Force:

John Bruha, Principal

Mark Courtade

Brian Delaney

Heath Lynch

Clay Stiffler

Rene Shekmer

Diversion/Prescription Fraud

Task Force:

Clay Stiffler, Principal

Brian Delaney

Ray Beckering*

Asset Forfeiture & Financial

Litigation Unit:

Joel Fauson, Coordinator & Principal

Heath Lynch

VIOLENT CRIMES SECTION

Dan Mekaru, Supervisor & Deputy Chief

Project Safe Childhood Unit:

Tessa Hessmiller, Principal

Sean Lewis (Southern Indian Country)

Dan Mekaru

Hannah Bobee (Northern Indian Country) *eff. 3/13*

Firearms, Bank Robbery, Violent Crimes Unit and Project Safe Neighborhood

Task Force:

Phil Green, Principal & SLC

Sean Lewis

Russ Kavalhuna

Sean Maltbie

Dan Mekaru

Indian Country Unit:

Jeff Davis, Principal & Tribal Liaison

Sean Lewis

Hannah Bobee

[Paul Lochner, Major Felony VC, Northern Division]

[Tim VerHey, Major Felony VC, Southern Division]

Marquette Branch:

Maarten Vermaat, Principal

Paul Lochner

Hannah Bobee

FINANCIAL CRIMES SECTION

Nils Kessler, Supervisor & Division Chief

Bankruptcy Fraud Unit:

Mike MacDonald, Principal

Investment / Bank Fraud Unit:

Matt Borgula, Principal

Mike MacDonald

Chris O'Connor

Tim VerHey

Sally Berens*

Program Fraud Unit:

Tim VerHey, Principal & TAIR

Tax Fraud Unit:

Don Davis, Principal

Mike MacDonald

Rene Shekmer*

Environmental Task Force:

Chris O'Connor, Principal

Maarten Vermaat

Health Care Fraud Task Force:

Ray Beckering, Principal

Chris O'Connor

Ron Stella

Sally Berens*

Mortgage Fraud Task Force:

Ron Stella, Principal

Chris O'Connor

Official Corruption Task Force:

Chris O'Connor, Principal

Matt Borgula

SAR Task Force:

Matt Borgula, Principal

Joel Fauson*

Gary Gibbons, Intelligence Specialist

NATIONAL SECURITY SECTION

Don Daniels, Supervisor & Executive Counsel

Alien Offenses Unit:

John Salan, Principal

Don Daniels

Anti-Terrorism Task Force:

Clay West, Principal

Gary Gibbons, Intelligence Specialist

Identity Theft/Cybercrime Task Force:

Hagen Frank, Principal

Clay West

Criminal Civil Rights Violations

Task Force:

Don Daniels, Principal

Russ Kavalhuna*

John Salan

CIVIL DIVISION

Ryan Cobb, Chief

Defensive Torts & Immigration Unit

Ryan Cobb, Principal

Carrie Almassian

Mike Shiparski

Jeanne Long

Bankruptcy Unit

Fran Ferguson, Principal

Aggie Kempker-Cloyd

Mike Shiparski

Employment Unit

Carrie Almassian, Principal

Ryan Cobb

Mike Shiparski

Jeanne Long

Commercial Litigation/ Program Litigation Unit

Fran Ferguson, Principal

Aggie Kempker-Cloyd

Mike Shiparski

Jeanne Long

Affirmative Civil Enforcement Task Force

Adam Townshend, Principal

Carrie Almassian

Ryan Cobb

Jeanne Long

Civil Rights Task Force

Aggie Kempker-Cloyd, Principal

Ryan Cobb

Fran Ferguson

APPELLATE DIVISION

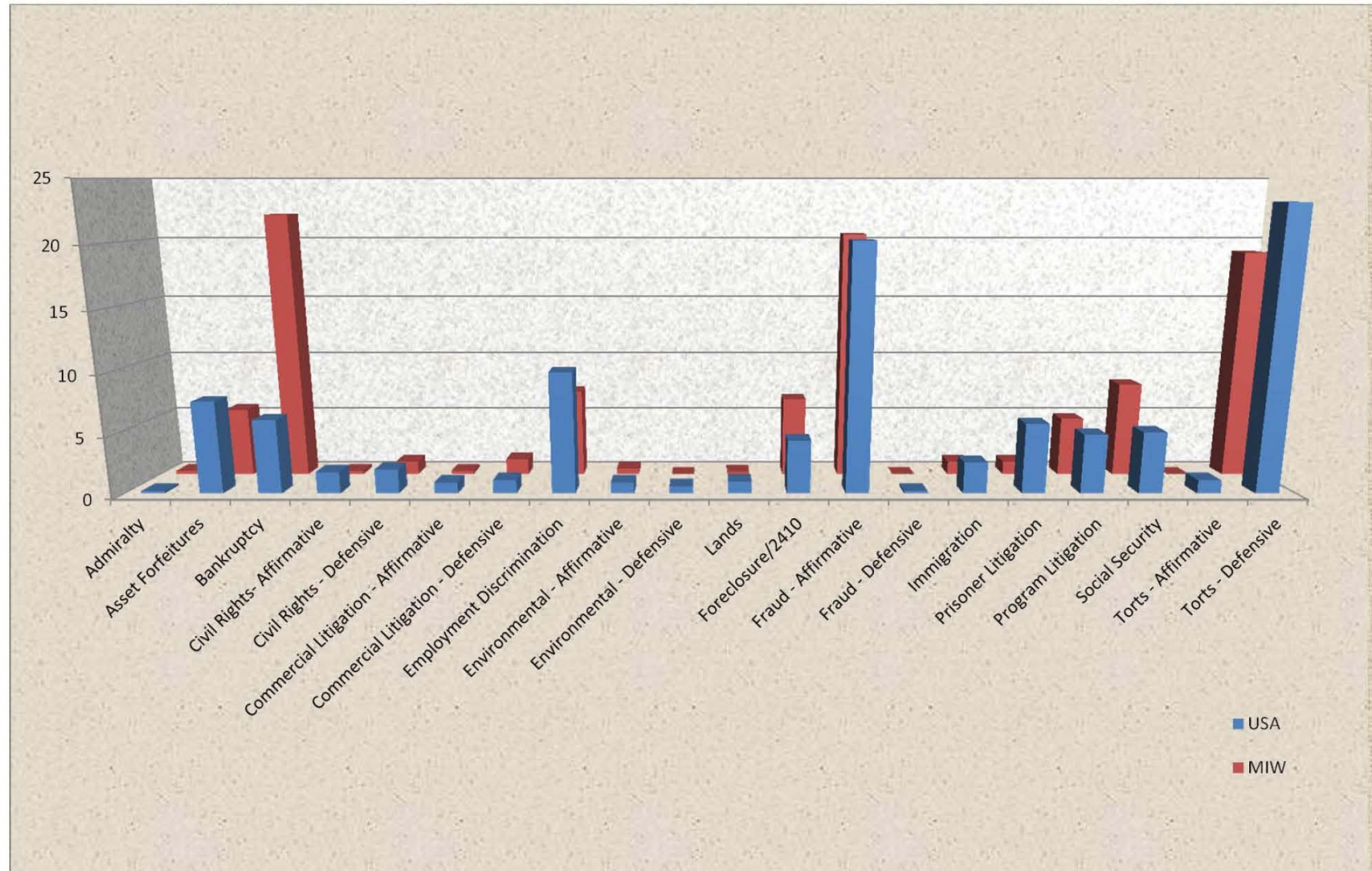
Jennifer McManus, Chief

Jennifer McManus

Sally Berens

CIVIL WORKYEAR STATISTICS

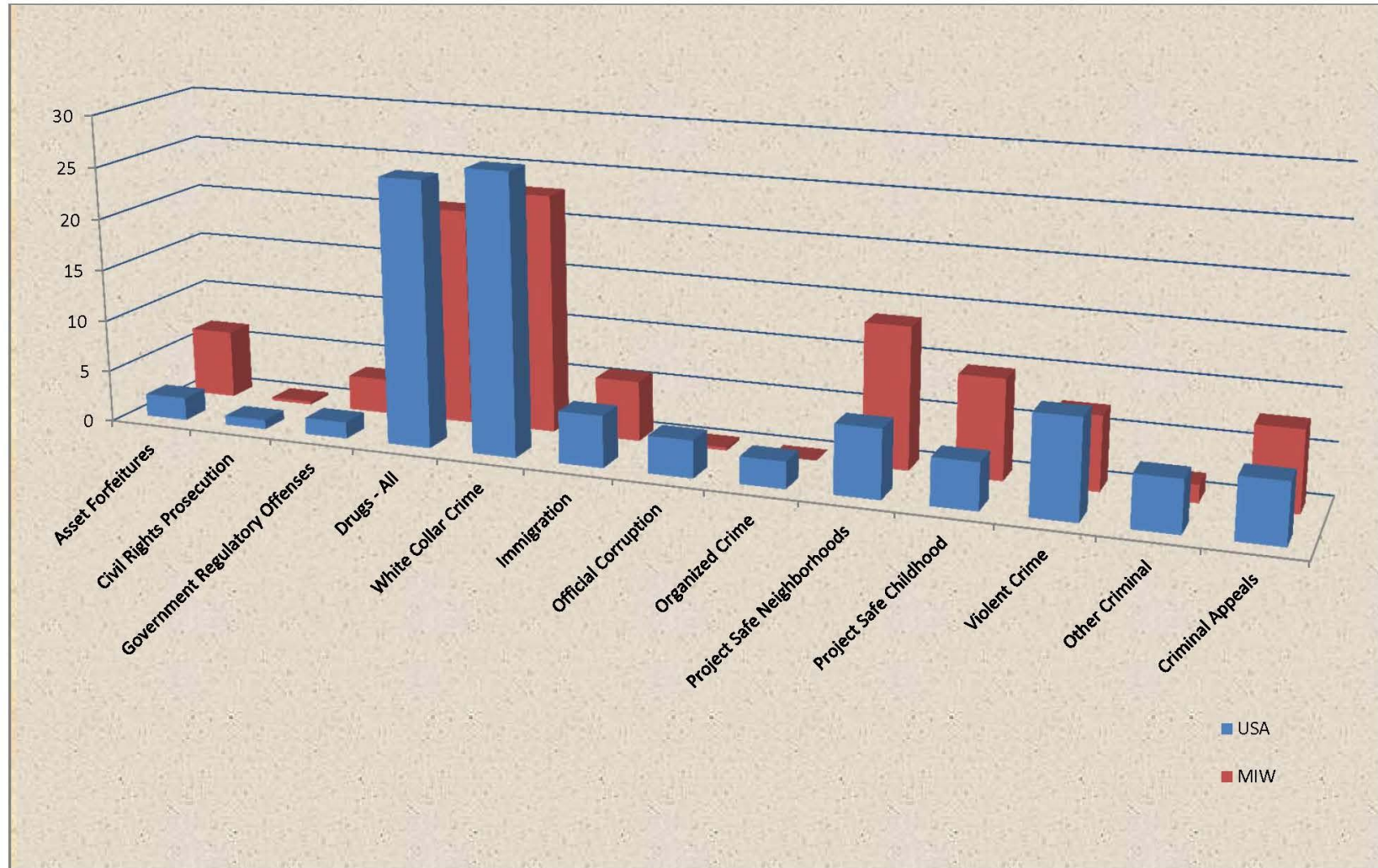
[Time spent on various types of matters as a percentage of the total.]



*USA Bankruptcy includes districts with Regional Counsel representing the United States directly.

CRIMINAL WORKYEAR STATISTICS

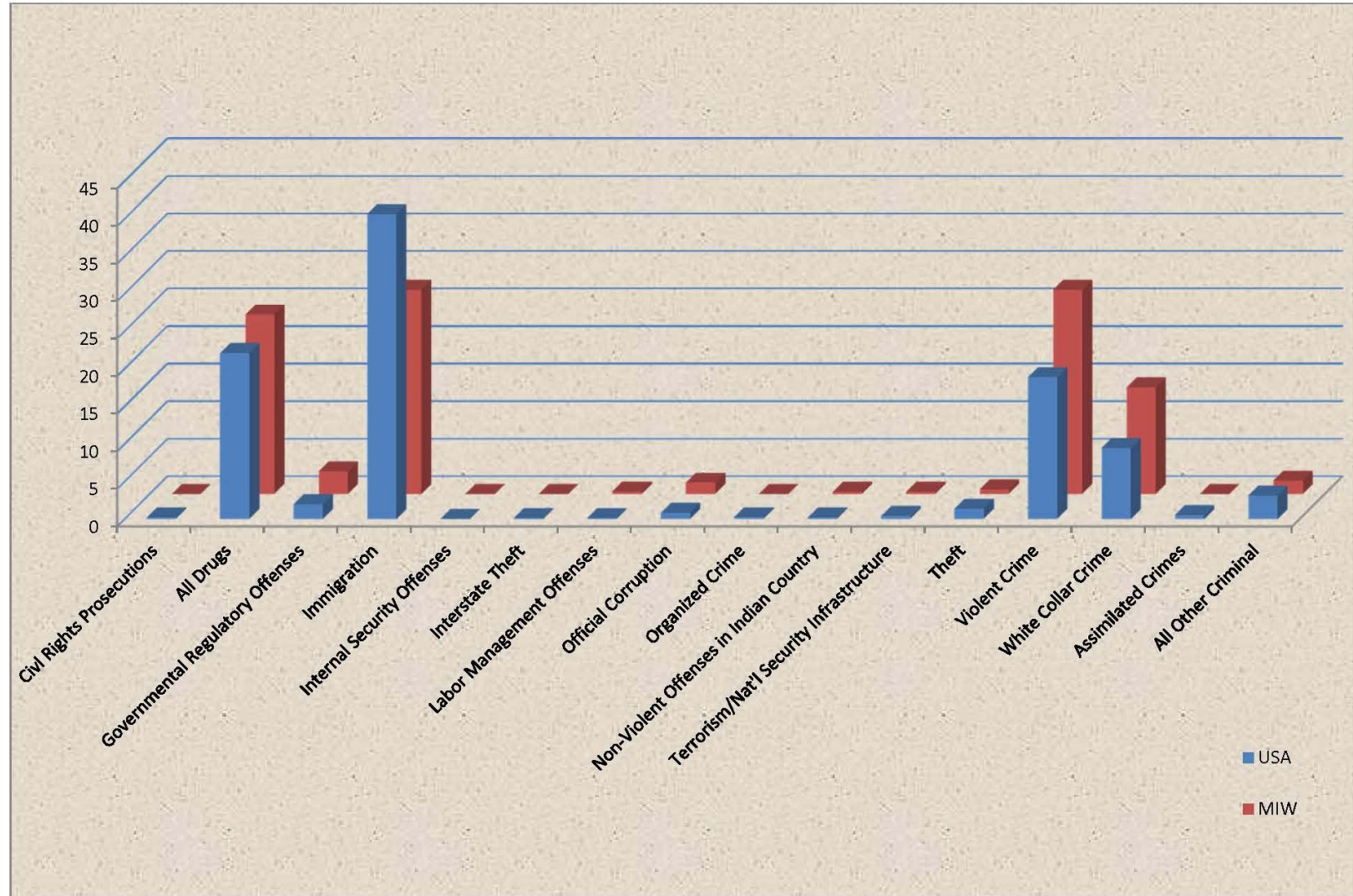
[Time spent on various types of matters as a percentage of the total.]



*USA data includes Southwest Border Districts.

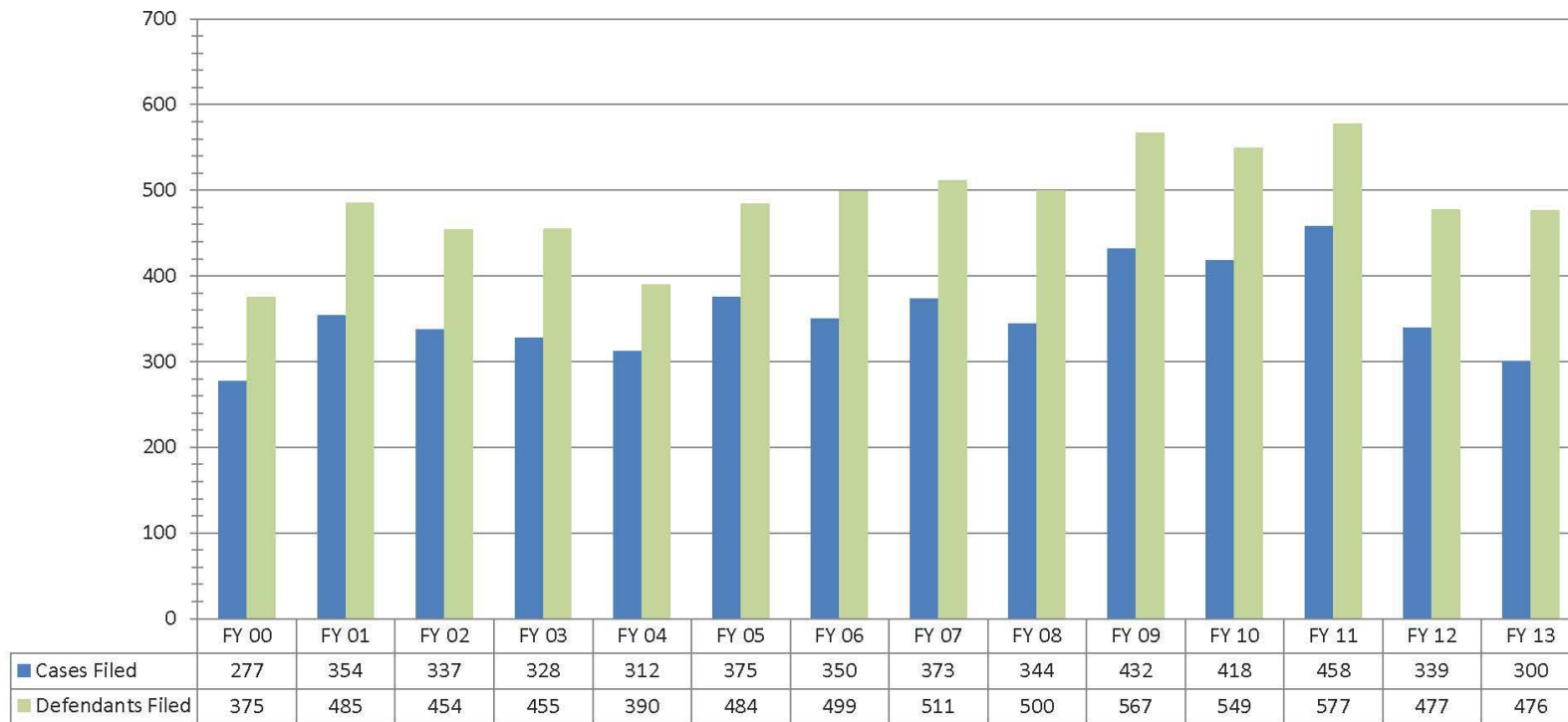
CRIMINAL CASELOAD STATISTICS

[The types of cases we are bringing as a percentage of the total.]



*USA data includes Southwest Border Districts.

United States Attorneys Criminal Caseload Statistics
Western District of Michigan
Cases and Defendants Filed



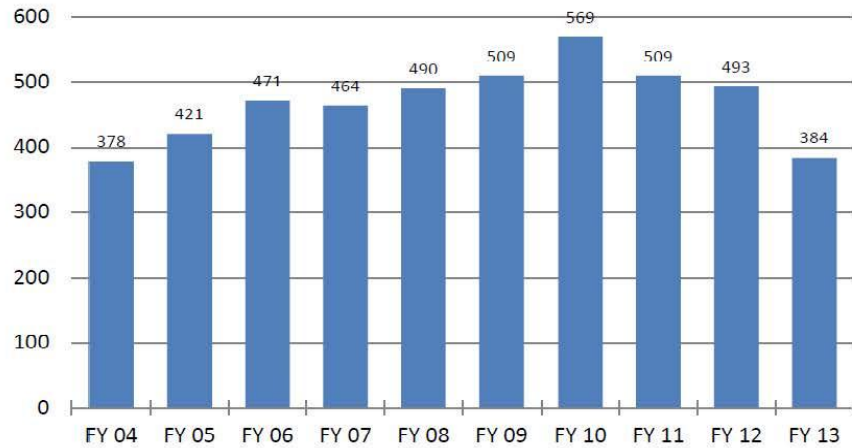
Caseload data extracted from the United States Attorneys' Case Management System.

FY 2013 numbers are straight-line projections based on actual data through the end of December 2012. FY 2006 and 2007 data may reflect a slight decrease in pending counts due to LIONS centralization.

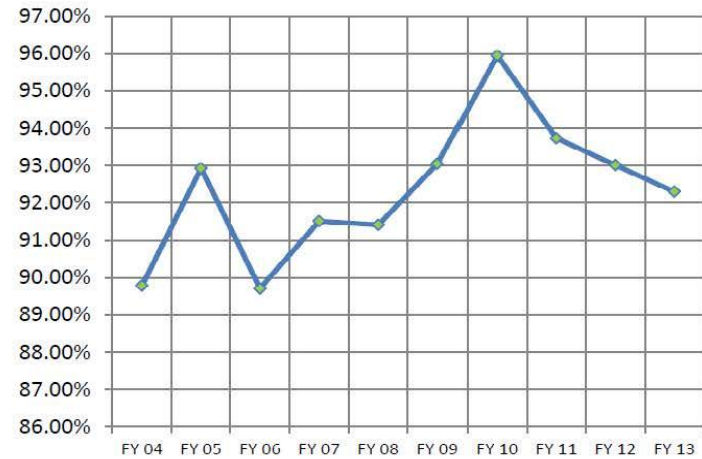
United States Attorney's Office Criminal Caseload Statistics

Western District of Michigan

Defendants Guilty

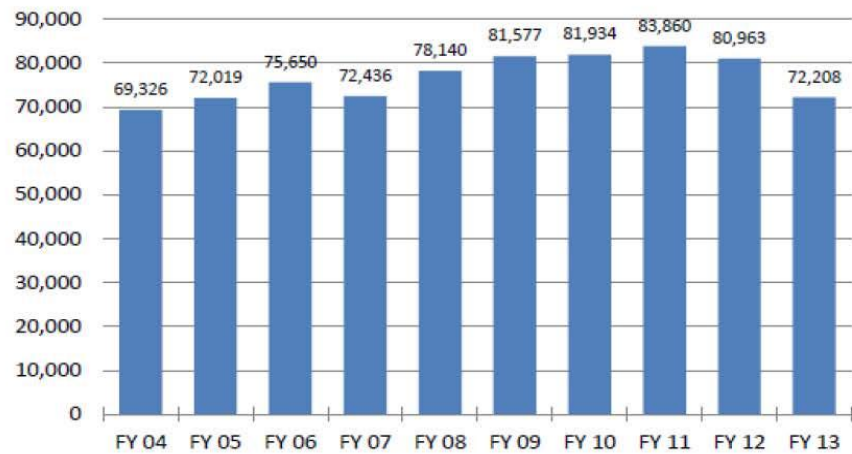


Conviction Rate

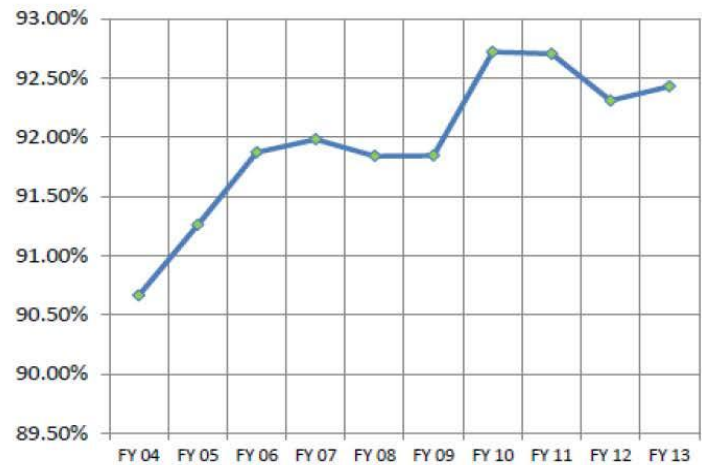


All Districts

Defendants Guilty



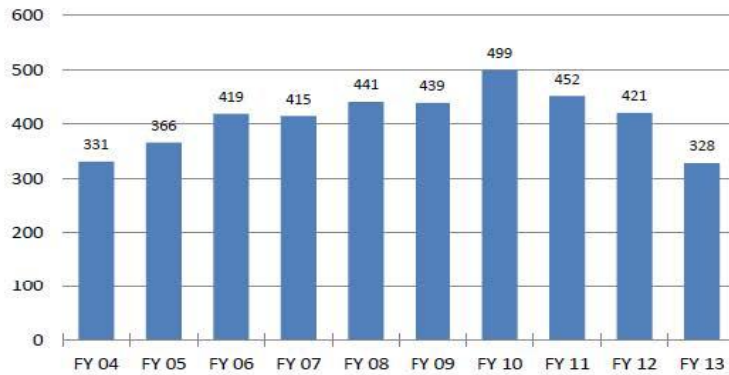
Conviction Rate



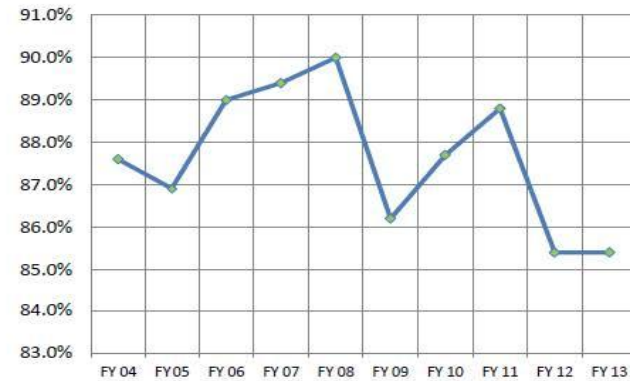
United States Attorney's Office Criminal Caseload Statistics

Western District of Michigan

Number of Guilty Defendants
Sentenced to Prison

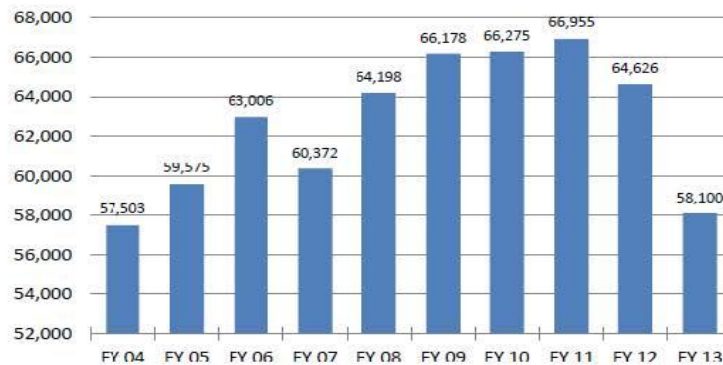


Percentage of Guilty Defendants
Sentenced to Prison

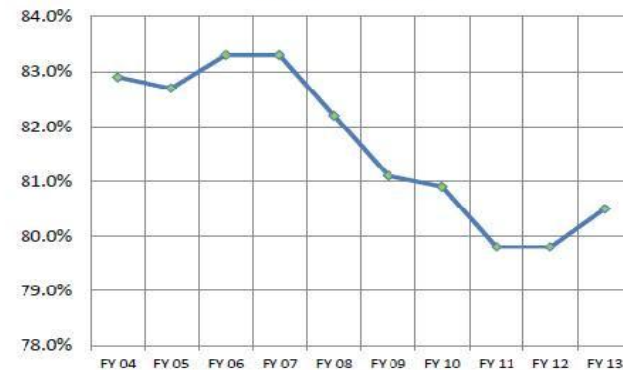


All Districts

Number of Guilty Defendants
Sentenced to Prison

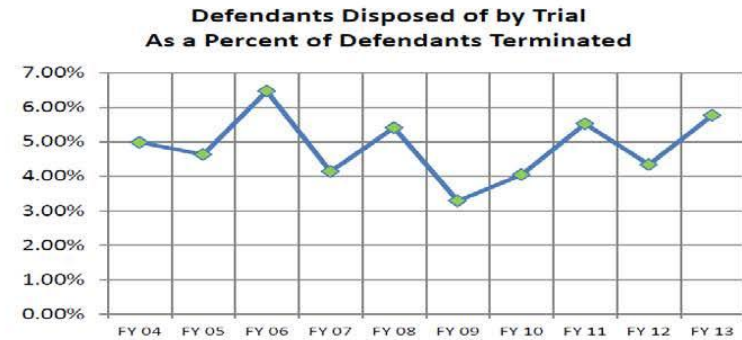
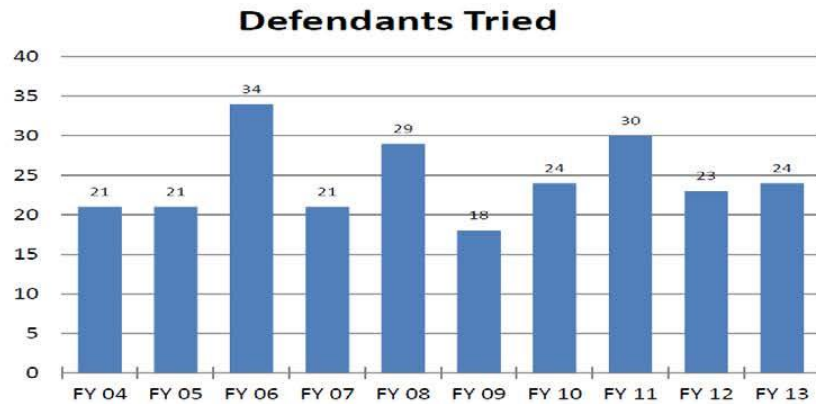


Percentage of Guilty Defendants
Sentenced to Prison



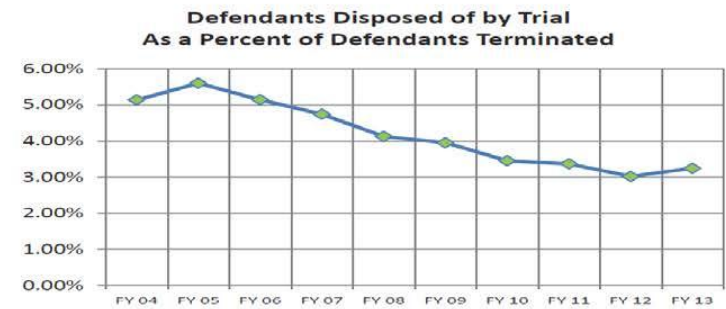
United States Attorney's Office Criminal Caseload Statistics

Western District of Michigan



FY 04	4.99%
FY 05	4.64%
FY 06	6.48%
FY 07	4.14%
FY 08	5.41%
FY 09	3.29%
FY 10	4.05%
FY 11	5.52%
FY 12	4.34%
FY 13	5.77%

All Districts



FY 04	5.14%
FY 05	5.61%
FY 06	5.15%
FY 07	4.75%
FY 08	4.13%
FY 09	3.96%
FY 10	3.46%
FY 11	3.37%
FY 12	3.03%
FY 13	3.25%

2012 Training Schedule

February 29-March 1, 2012	Valor Train the Trainer, Walker
March 29-30, 2012	Criminal Justice in Indian Country, Grand Rapids
March 27, 2012	Basic Interview and Interrogation, Taylor
March 28, 2012	Advanced Interview and Interrogation, Taylor
April 19, 2012	Addressing Extremist Groups and the Sovereign Citizen Movement, Jackson
April 23, 2012	Advanced Meth Training, Mason
April 26, 2012	Advanced Meth Training, Big Rapids
May 8-9, 2012	Gang Unit Supervision Training, Battle Creek
June 15, 2012	Transient Criminal Activities, Petoskey
June 19, 2012	Cell Phone Analysis, Leelanau County
June 20-22, 2012	Meth Investigation Workshop, Berrien Springs
June 21, 2012	SLATT Training, Kalamazoo
July 31, 2012	Terrorism Trends and Tactics, Taylor
August 15, 2012	Basic Interview and Interrogation, Grand Rapids
August 16, 2012	Advanced Interview and Interrogation, Grand Rapids
September 6, 2012	Investigation and Prosecution of the Illegal Distribution of Prescription And Synthetic Drugs, Marquette
September 18, 2012	Fourth Amendment Overview/Drafting Search Warrants, Grand Rapids
October 29, 2012	Using Social Media to Enhance Law Enforcement, Flint
October 31, 2012	Using Social Media to Enhance Law Enforcement, Grand Rapids
November 8, 2012	Basic Interview and Interrogation, Mason
November 9, 2012	Advanced Interview and Interrogation, Mason
December 4-6, 2012	Criminal Justice in Indian Country, Mt. Pleasant
December 13, 2012	Major Case Training, Taylor



Special Emphasis Program Committee



Grand Rapids Area Center for Ecumenism (GRACE)

January 12, 2012

Partners for a Racism-Free Community

Lunch and Learn Series: Attracting and Retaining Persons of Color

Congressional Gold Medal Ceremony and Presentation

August 22, 2012

Four Grand Rapids Montford Point Marines honored.

Event hosted by the United States Attorney's Office.

Disability Employment Awareness Month Program

October 25, 2012

Presentation by Veterans Support Coordinator

Disability Advocates of Kent County

Veterans Day Program

November 10, 2012

Honoring the Japanese-American WWII Veterans
and the Marine Corps "Birthday"

Train the Trainers Seminar

Federal hiring process explained to local community organizations.

November 20, 2012

Mock Interview Program

Sponsored by Grand Rapids Community College

November 28, 2012

LOVE AND JUSTICE
U.S. Attorney Investiture Speech
Patrick A. Miles, Jr.
Friday, September 7, 2012

Thank you. Mr. Attorney General, thank you for your remarks and for joining us here today. We are privileged to have you here. Chief Judge Maloney, thank you for presiding here today and your gracious comments. To all of our judges, thank you.

I thank the elected government officials and Tribal Leaders who are with us today. There are too many to recognize. But your presence is much appreciated. Special thanks to Ottawa Hills High School and Principal Rodney Lewis for their hospitality. I also very much appreciate each of you being here today. It means a lot to me to see so many from my family, friends, and colleagues.

Special thanks to all the staff who worked so hard on this event. Great job.

It gives me a humbled heart to have the honor to serve as your United States Attorney. I am grateful to President Obama for this appointment and his trust in bestowing this vital position on me. I am grateful to the United States Senate for confirming my nomination, and to our two great Michigan Senators, Carl Levin and Debbie Stabenow, in particular, for their support and for their service to this great State. Senator Stabenow is here today and she will give some remarks when I finish in a couple hours. {Just kidding}

I thank Attorney General Eric Holder for his outstanding leadership and am very excited to be a part of his team and the Department of Justice.

Each day I give thanks to God. I am thankful he gave me wonderful parents and a loving, supportive family. I learned the importance of faith, selfless love, integrity, education, and service from my mom and dad. From many of you here today I learned important life lessons. I am blessed.

When we look around, we can see that West Michigan is very blessed. We have a wise and experienced bench, a collegial and ethical bar, a strong community spirit, and wonderful natural resources. The Western District of Michigan has 49 of Michigan's 83 counties, including the entire Upper Peninsula and the state capital of Lansing. It covers over 700 miles from the southern border to the northwest border – over 35,000 square miles. There are eleven Federally recognized Native American Tribes. 3.4 million people live in the District.

The Western District's diversity – among our people and our resources -- reflects the strength of our great nation's tapestry:

We have aging and renewing urban cities, growing suburbs and large rural areas; we have heavy industrial manufacturing and high tech research, vast farms on fertile soil; shipping lanes in three of the Great Lakes, and mines in the hard Michigan rocks.

Here, we are hardworking and committed to leaving a better Michigan to our children. We were given much, and much is expected. That is not just a saying. It is a calling. People live it here. We understand that everyone must work to preserve, protect, and defend these treasures we hold dear.

Those who violate the social compact – whether wearing a mask and brandishing a weapon or wearing a suit and holding a pen – will be brought to justice. This job allows me to help do that. It also forces me to see everything through the lens of justice.

A couple weeks ago our U.S. Attorney Office in West Michigan worked with the United States Marine Corps and hosted a ceremony honoring four Grand Rapids men – two posthumously – who were among the first African Americans to serve in the U.S. Marine Corps during World War II. These four Montford Point Marines received the Congressional Gold Medal, the highest American civilian award. But they were not able to attend the formal award ceremony in Washington, D.C. So we held one here in Grand Rapids to honor them and hear their story.

While in a segregated boot camp and in the service, they endured hardships for their country. They made sacrifices – in blood, sweat, and tears – not only fighting, but just for the opportunity to fight for others. Some of those they were fighting for were denying them equal treatment and rights. But they did it anyway – for love of country and others. The same was true of the Tuskegee Airmen who fought courageously in the skies above Italy and Germany in World War II.

Also during World War II, Japanese-Americans enlisted in the U.S. Armed Forces and fought in Europe and elsewhere even though many of their families in America were subject to internment in detention centers. One Japanese-American unit, the 442nd Regimental Combat Team was the most highly decorated regiment in the history of the U.S. Armed Forces, and had 22 Medal of Honor Recipients.

As I stood before the two surviving Montford Point Marines in my office, I reflected on these incredible stories of sacrifice and selflessness, and I thought about justice. Not just about the injustices these men faced. But also about the essence of justice, and it's opposite.

I realized that every crime is based in selfishness. Conversely, if everyone was truly selfless, no laws would be broken and we would not need criminal law. (It's okay lawyers, don't worry, we would still need civil attorneys and judges.)

A shorter and more powerful word for selflessness is love. In my Christian faith, love is the over-arching message and the overriding commandment. It is, in my opinion, the meaning of life – to demonstrate one's ability to be a loving person. It's not easy. Sometimes just talking about love is ridiculed. It's hard to sacrifice for a stranger. It's difficult to care about people who are from a different race, ethnicity, religion or culture.

But I believe that is why each of us is created different. So we can learn to love others, despite differences.

Loving others doesn't mean one has a bleeding heart that is weak or soft. It means you're strong enough to care for someone else and are willing to bleed for them. It's obvious that love leads to peace. Justice also leads to peace. Therefore, love equals justice.

Think about "*E Pluribus Unum*," "Out of Many, One," an American motto from our nation's birth. This nation was built to be diverse and to be united: To care about each other. To have a shared destiny. To love peace. To seek justice. To live free. These things make us strong. They made us the greatest nation in the history of the world.

It's a truism that without justice, there is no peace. Dr. Martin Luther King, Jr., who among other achievements, authored the appropriately named book "Strength to Love," one of my dad's favorites. It does take strength to love. Dr. King once said, "Peace is not the absence of war, but the presence of justice."

An inscription over an entrance to the Department of Justice Building in Washington, D.C. says, "Justice in the life and conduct of the State is possible only as it first resides in the hearts and souls of the citizens." Justice is in the same place where love is. The ancient Egyptians knew this too. They believed sun god Ra's daughter, Ma'at -- etymologically the source of the word Magistrate -- helped Osiris judge the dead by weighing their hearts on the scale of justice.

Justice must be in the heart and soul of every American, especially those in law and law enforcement.

I've been U.S. Attorney for two months, and I love it. I love that Justice is both the name and the mission of the Department I now work in and which the Attorney General so ably leads. It is said that good prosecutors get convictions but great ones get justice. Pursuing justice requires strength, vigor, and commitment.

I consider myself a "pragmatic idealist." My idealistic nature seeks love and justice. My pragmatic nature works to get there. As to the pragmatic goals for this office, we are creating a new strategic plan that emphasizes clear objectives and accountability. We are forming task forces to be pro-active in preventing and prosecuting crimes in a variety of areas. Yes, we can help prevent crime:

Through education, outreach into the community, and deterrence. Those are part of our mission.

In this regard, our attorneys will work with the investigative agencies, local law enforcement, and communities. Collaboration is a West Michigan value. We work together to get things done.

We are going to continue focusing on vigorously prosecuting and preventing violent and organized crimes, financial frauds, child exploitation, anti-terrorism, and drug trafficking. But we also are going to put more resources into Health Care Fraud cases, Public Corruption cases, and enforcing Federal Civil Rights laws.

This office has some excellent and hard-working attorneys and staff. I'm already impressed with their abilities and dedication. Aside from hiring the best and most talented people to work in the Western District of Michigan office, I want my legacy as U.S. Attorney to be that we achieved our goals, and increased diversity and inclusion in the office.

I also want to be an advocate for effective prisoner re-entry programs. If one of the objectives of incarceration is rehabilitation, then we owe it to American taxpayers and citizens to prevent 40 percent of federal prisoners and two-thirds of state prisoners from committing additional crimes and returning to prison within two years of their release. This means access to services to address addiction and mental health issues, strong community resources, and employment opportunities. This effort takes collaboration. This office will be a promoter of that work.

We have a number of Grand Rapids Public High School students here today. I am a product of the Grand Rapids Public Schools, a proud graduate of this high school, Ottawa Hills. I walked these halls and sat in these classrooms. I shot baskets in the gym – missed more than I made. I swam in the pool. I played varsity baseball and wore the orange and black on the field.

Students, I know that what your friends and classmates think is important to you now. But every adult in this room will tell you, there is a lot of life beyond high school. The formula for success isn't a secret, but it's not always easy. It often requires sacrifices. But, probably less sacrifice than those I mentioned earlier who served in World War II.

You need to think about the future and consequences, make good choices, learn as much as you can, work hard, believe in yourself, keep your life on track, and you can live your dreams.

I am. You can too.

Thank you very much.