

YEAR IN REVIEW

Year 2017



United States Attorney's Office
Western District of Michigan

Andrew Byerly Birge
United States Attorney

TABLE OF CONTENTS

1.	INTRODUCTION BY UNITED STATES ATTORNEY	1
2.	NEW INITIATIVES AND CHALLENGES	2
3.	ARRIVALS, DEPARTURES AND PROMOTIONS.....	2
4.	AWARDS	4
5.	REPRESENTATIVE CIVIL MATTERS	4
6.	REPRESENTATIVE CRIMINAL MATTERS	6
7.	REPRESENTATIVE APPEALS	9
8.	ADMINISTRATIVE DIVISION.....	10
9.	OUTREACH, TRAINING AND PROFESSIONAL DEVELOPMENT	11
 <u>APPENDIX</u>		
•	ORGANIZATION CHART.....	14
•	LITIGATION STATISTICS	15
•	LAW ENFORCEMENT TRAINING SCHEDULE	22

Introductory Message



ANDREW BYERLY BIRGE
UNITED STATES ATTORNEY
WESTERN DISTRICT OF MICHIGAN

I am pleased to write this introductory message for the 2017 Year in Review as your United States Attorney for the Western District of Michigan. After Pat Miles stepped down in January of 2017, it became my honor to lead the office first as Acting U.S. Attorney by virtue of the Vacancy Reform Act, then as interim U.S. Attorney by virtue of an appointment from Attorney General Jeff Sessions and now thanks to an appointment by Chief U.S. District Court Judge Robert Jonker.

As our new leaders took the helm of the Department of Justice, new directives and the challenges of meeting them came our way -- and the Office responded very well. The Criminal Division quickly switched gears to meet the Administration's emphasis on prosecuting violent crime, without letting up on other important priorities for the district. Criminal Division prosecutors increased the number of firearm cases and defendants prosecuted by over 65%, increased drug cases prosecuted by 30% and increased the overall number of cases prosecuted by over 12%-- despite vacancies in our attorney ranks. Our ability to refocus on violent crime and drug dealing that can fuel violence no doubt led the Attorney General in December to award Western Michigan an additional full time prosecutor position. Statistics aside, prosecutors secured terrific outcomes in individual and even high profile cases and secured positive precedent from the court of appeals, as detailed in this report. The Civil Division likewise delivered outstanding results, including a \$2M settlement in the government's favor in one case. Our Administrative Division successfully transitioned to an entirely new financial management system. Among many outreach efforts, we engaged on a government-to-government basis with each of the 11 Indian tribes in the district, continued our public information campaign to stem the tide of the opioid epidemic and continued to meet with community leaders to facilitate mutual understanding and build trust in law enforcement. Behind the scenes, a spirit of teamwork supported so much of what we accomplished in 2017, from attorneys routinely participating in moot panels of their colleagues in preparation for appellate arguments to a platoon of support staff volunteering to help cover our front desk until we could secure a receptionist. The office, federal agencies and the public reaped the benefit of this "can do" attitude.

When the day comes for passing the reins to a successor, the new U.S. Attorney will be inheriting a first-rate office well primed to meet whatever comes our way.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Birge".

ANDREW BYERLY BIRGE

NEW INITIATIVES AND CHALLENGES

This was a year of transition for the U.S. Attorney's Office. The election of President Donald Trump ushered in a wave of changes, including for the leadership of the office and litigation priorities.

U.S. Attorney Patrick Miles Jr. resigned on January 20, 2017, after serving for four and a half years. First Assistant U.S. Attorney Andrew Birge promptly assumed the role of Acting U.S. Attorney by virtue of the Vacancy Reform Act until November, after which Attorney General Jefferson B. Sessions appointed him interim U.S. Attorney. In March of 2018, Chief U.S. District Court Judge Robert Jonker appointed him to serve as U.S. Attorney until the President nominates and the Senate confirms a successor.

Consistent with the Department's new priorities, the Criminal Division refocused on the prosecution of violent crime, specifically firearm and drug offenses committed in particular neighborhoods or perpetrated by individuals or groups that fuel violent crime rates. After U.S. Attorney Birge met with federal and state law enforcement partners and revised intake, the Criminal Division responded by increasing the number of firearm prosecutions by over 65% and increasing the number of drug cases by about 30%. Not surprisingly given the opioid epidemic facing the district, far more of our drug prosecutions involved heroin than ever before. In the meantime, other Criminal Division programs continued apace. The prosecution of alien offenses is also now a priority for the Department. These offenses traditionally comprise over 25% of all cases brought by this office. We continued that pace this year. Overall, the office brought about 12% more criminal cases than in the prior year—a noteworthy accomplishment, given departures and short-term staffing shortages we experienced over the course of the year.

The Attorney General was sufficiently impressed with the office's programs and efforts to address violent crime that, in December, he selected the Western District of Michigan as one of 27 districts (out of 94) to receive an additional position to prosecute violent crime. We expect to fill that position in the first half of 2018. In addition, management secured an exemption from the Administration's general freeze on hiring to fill an existing vacancy in the Criminal Division—a backfill we also expect to complete in the first half of 2018.

The Civil Division continued to work through a high volume of social security appeals to the district court along with a historically high rate of defensive case intake, including in particular tort cases. The bankruptcy docket remained in a relatively low ebb in its cycles of highs and lows, but was quite active nevertheless. Meanwhile, our Affirmative Civil Enforcement efforts resulted in some notable recoveries, including \$2M in a case against Metro Health, Inc. After navigating the new Administration's criteria for hiring, we were able to fill an attorney vacancy from 2016 and fully respond to pressing defensive litigation.

Our Administrative Division successfully navigated the migration to an entirely new financial management system, even as we saw some experienced staffers retire or pursue new opportunities.

We continued our engagement in community outreach, with a particular emphasis on addressing the opioid epidemic in addition to our historical commitment to such initiatives as our training program for federal as well as non-federal law enforcement officers and government-to-government meetings with the eleven Tribes in the district.

ARRIVALS, DEPARTURES and PROMOTIONS

Arrivals:

AUSA Laura Babinsky joined our Civil Division in August after spending six years as an associate with Mayer Brown LLP in Chicago, where her practice focused on litigating product liability, toxic tort, antitrust, employment, and commercial disputes. Laura graduated *cum laude* from Northwestern University School of Law, where she was a member of the National Trial Team and was on the Journal of Criminal Law and Criminology. During law school, she externed with the U.S. Attorney's Office for the Northern District of Illinois and for U.S. District Judge Wayne Anderson. Before enrolling in law school, she worked for two years as a consultant with Accenture. She earned a B.A. in Psychology and a B.S. in Business Management and Legal Studies from Indiana University, where she graduated Phi Beta Kappa.

Marlene Mottes joined our Marquette Office in February as a Victim Services Specialist for the Northern Division. Naturally, her focus is on working with the Tribes. Marlene came to us from the Beecher-Dunbar-Pembine School District in Wisconsin, where she was the School Counselor and Dean of Students. She previously served as the Victim Right's Coordinator for the Iron County Prosecutor's Office and as the On-Call Advocate for the Michigan Sheriff's Association, Iron County Victim's Assistance Unit. Marlene has a Bachelor of Science degree and a Masters of Arts in Education degree from Northern Michigan University.

Brent Clark joined our office in June, replacing Gary Gibbons as our Intelligence Specialist. Brent came to us from the Department of Homeland Security-Immigration and Customs Enforcement, where he served as an Immigration Officer Intelligence Officer in Enforcement and Removal Operations. In that role, he worked with most of our local federal agencies, attended the Joint Terrorism Task Force and Michigan Intelligence Operations Center meetings, and coordinated operations with the Grand Rapids and Wyoming Police Departments. Before coming to Grand Rapids in 2015, he performed similar work for ICE in the New York field office, Washington D.C. and the U.S. Embassy in Sri Lanka. Earlier in his career, Brent was a CBP Officer agent in Sault Ste Marie.

Robert Tibbitts joined the Financial Litigation Unit in the Criminal Division in February through the Pathways Recent Graduate Program. Rob came to us from Stenger & Stenger, P.C., in Grand

Rapids, where he handled litigation support duties as a paralegal. Prior to that, he worked for a local criminal defense attorney. Rob earned a Bachelor of Science degree from Grand Valley State University.

Melissa Fanko joined our Administrative Division in May. As with Rob, we secured her assistance through the Pathways recent Graduate Program. Melissa initially helped at the front desk, but we soon needed her help on a number of Budget Analyst responsibilities for which she has shown great aptitude. Melissa graduated from Michigan State University and had recently moved to the Grand Rapids area. She worked for MC Sports as an Allocation Analyst before joining our office.

Barbara Vizzi joined our office in April as a contract Legal Assistant, proving herself valuable in myriad capacities. She has assisted all three divisions, providing litigation support in the Criminal and Civil Divisions while also periodically covering the front desk and assisting Human Resources in the Administrative Division. Barbara has a B.S. degree from Troy University, a J.D. from Cooley Law School, and previously provided litigation support for a local criminal defense attorney.

Leann Smith joined our office in June as a contract Receptionist. Leann previously worked as a Vault Processor for Brinks, an Attendant at Firekeeper's Casino and Security Officer/Receptionist for Securitas. She is working her way through school, recently completing coursework in Legal Administrative Assistance at Kellogg Community College.

Barbara Birdsong joined our Criminal Division over the summer as our contract criminal health care fraud investigator. Barb spent many years as a Special Agent with the IRS. She also served as the Presidentially-appointed U.S. Marshal for Western Michigan during the Clinton administration. She opted to retire from the IRS after over 30 years of federal law enforcement service in June, presenting us with the opportunity to bring her on board with our office on a contract basis. Among many other accomplishments, Barb is a certified anti-money laundering specialist and has a B.S. in Criminal Justice/Accounting from Grand Valley State University.

Justine Bohan joined our office as our new contract witness assistant at the end of the summer, taking over for **Jennifer Wilcox** who departed earlier in the year. Justine worked most recently as an Office Manager for BG Defense Co., where she proofread all manner of materials and tracked inventory, and as a paralegal at Chase & Bylenga, where she handled clients in Social Security benefits cases. Justine earned a B.S. in Legal Studies from Grand Valley State University and has an Associate Degree in Business Management from Kellogg Community College.

SAUSA Jonathan Roth, an Assistant Prosecuting Attorney with the Ingham County Prosecutor's Office, was selected in the fall to support our office's Project Safe Neighborhoods efforts as a Special Assistant U.S. Attorney (SAUSA). Jonathan will begin working federal cases at the start of 2018. He began his career ten years ago with the Ingham County Prosecutor's Office, and

now supervises other felony prosecutors there in addition to handling major felony prosecutions of his own. Jonathan obtained his J.D. from Michigan State University School of Law and a B.S. in Pure Mathematics from the University of Michigan.

Departures:

U.S. Attorney Patrick Miles joined the law firm of Barnes & Thornburg LLP after four and a half years as U.S. Attorney. He was likewise in private practice for 20 years before his Presidential appointment as U.S. Attorney. A graduate of Aquinas College and Harvard Law School, he recently announced his candidacy for Michigan Attorney General in the 2018 election.

AUSA Heath Lynch left us at the end of March to join the law firm of Springstead, Bartish & Borgula, where he now works from the defense side of the courtroom in state and federal criminal matters. Heath had been with our office since the fall of 2007, first as our Asset Forfeiture attorney and later as a prosecutor handling firearm and narcotics cases.

AUSA Jeff Davis, after 22 years with the Office as our Tribal Liaison, departed in December for private practice, also joining Barnes & Thornburg. Jeff not only facilitated our on-going government-to-government relations with the Tribes in our district, he also handled essentially a full load of cases for prosecution coming out of Tribal lands.

Marge Moody retired over the summer, after more than ten years with the office as a receptionist and then Budget Analyst. Having patiently assisted the public up front and helped fellow employees behind the scenes navigate government budget-related procedures for so many years, she now gets to enjoy the additional quality time with her grandchildren she longed for.

Jettia Ramey left us to join the staff of the U.S. District Court Clerk's office, after over ten years here. She too started as a receptionist before transitioning to the roles of U.S. Attorney Executive Secretary and then Human Resources Assistant. Fortunately, given where she now works, we have not entirely lost the benefits of her strong customer service.

Gary Gibbons, our Intelligence Specialist since the position was created more than 15 years ago, retired early in 2017. Gary spent his entire career in law enforcement, which included service as the Meridian Township Chief of Police immediately before joining our office. His many personal and professional contacts throughout the Michigan law enforcement community helped establish and maintain excellent inter-agency relations and lines of communication.

Jim Adamcheck, our contract Health Care Fraud Investigator for the past two years, retired in the Spring. Before joining our office, he had served for many years as a local police officer and then as an investigator with private insurance companies.

Promotions:

AUSA Don Daniels accepted the role of interim First Assistant U.S. Attorney after the Attorney General appointed Andrew Birge interim U.S. Attorney. Don has been with the office for over 37 years. He has held the Executive Counsel position for about half of his tenure, but he also served in the past as a Deputy Chief in the Criminal Division and Senior Litigation Counsel. A University of Michigan Law School graduate, Don joined the office after completing a judicial clerkship with then U.S. District Court Judge Wendell Miles.

Britni Michael accepted an internal detail opportunity with our Administrative Division as an Assistant Human Resources Specialist. Britni has been with our office for several years as a Legal Assistant on a contract basis for the Civil and Criminal Divisions and then as a career hire in the Civil Division. She impressed everyone everywhere she has been. Her prior experience includes serving as a Political Section Intern with the U.S. Embassy in Berlin, Germany, as a manager for a grocery store and, while in college, as an intern with Amnesty International. Britni obtained an undergraduate degree from Indiana University and a Masters of Public Administration degree from DePaul University, in Chicago, Illinois.

AWARDS and HONORS

"PROSECUTOR OF THE YEAR AWARD – EXCELLENCE CATEGORY"

AUSA Ron Stella was awarded the "prosecutor of the year" designation from the COALITION AGAINST INSURANCE FRAUD for his work investigating and prosecuting the staged-car-accident insurance scam in *United States v. Martinez-Lopez, et al.*

CERTIFICATES OF APPRECIATION AND SERVICE COMMENDATIONS

The Drug Enforcement Administration (DEA) honored **AUSA Mark Courtade** with a plaque in appreciation for his work the prior year prosecuting the *United States v. Cenon Garcia* cocaine and heroin trafficking case.

EVALUATION AND REVIEW STAFF LEADERSHIP

The Executive Office of U.S. Attorneys invited **Criminal Chief Nils Kessler** to serve as an Evaluation and Review Team Leader, heading up peer-evaluations of other districts and training attorneys from around the country to serve as evaluators.

REPRESENTATIVE CIVIL MATTERS

Affirmative Civil Enforcement:

United States v. Metro Health, Inc., et al. This investigation stemmed from a January 2015 self-disclosure by Metro Health, Inc.

and its subsidiary, Metropolitan Hospital (collectively, "Metro Health"), to the U.S. Department of Health and Human Services, Office of Inspector General ("HHS-OIG"). Metro Health informed HHS-OIG that during due diligence for a failed transaction with a Tennessee-based hospital management company, Metro Health learned of several arrangements with ancillary health care providers that potentially violated the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b, and the physician self-referral law (the "Stark Law"), 42 U.S.C. § 1395nn. The USAO investigated the issues and negotiated settlement agreements with Metro Health totaling \$2,335,596.91. AUSA: Adam Townshend.

United States v. Shane Woolever, D.O. In April 2015, the USAO received information from Blue Cross Blue Shield of Michigan regarding an orthopedic surgeon who submitted an unusually large number of claims for plasmapheresis that were coupled with certain injection and ultrasound codes. Through data analysis, we found that he submitted more Medicare claims for plasmapheresis than any other physician in the State of Michigan—including all nephrologists and oncologists, combined—between 2013 and 2015. Our investigation revealed that the doctor did not perform plasmapheresis; rather, he performed platelet-rich plasma injections ("PRP") that should have been billed using a non-payable CPT code. He and his practice, Greater Peninsula Orthopedics, are paying \$228,371.22 over time to resolve their liability for this conduct under the False Claims Act. AUSA: Adam Townshend.

United States v. Mark Brewster, M.D., et al. This parallel civil and criminal case involved a gastroenterologist who prescribed Ritalin and other controlled substances to seven individuals—including his ex-wife, girlfriend, and hair stylist—who filled the prescriptions and returned the drugs to him for his personal use. He also received controlled substance prescriptions, upon request, from two of his colleagues who prescribed Ritalin for him without ever conducting a medical examination. In August 2017, Dr. Brewster pleaded guilty to a felony violation of the Controlled Substances Act. The USAO also obtained civil penalties totaling \$46,200 from various individuals who facilitated his conduct. AUSA: Adam Townshend.

Affirmative Civil Rights:

The USAO worked on a number of matters and investigations in coordination with the DOJ's Civil Rights Division. These efforts included a lawsuit against Frank Tjoelker, an apartment manager who allegedly discriminated against female tenants and prospective tenants, including severe, pervasive, and unwelcome sexual harassment and retaliation. The settlement established numerous measures to prevent him from ever being able to repeat such conduct, prohibited any contact with those he had harmed, and required him to pay \$140,000 into a settlement fund for distribution to those he had harmed. The USAO also monitored, investigated, and responded to the USAO's Civil Rights hotline complaints. AUSAs: Laura Babinsky, Ryan Cobb.

Defense of Federal Employees Against Claims of Civil Rights Violations:

King v. United States, et al. The plaintiff brought claims against two federal law enforcement officers and the United States arising out of the officers' effort to stop him in connection with their search for a fugitive felon. He contended that the stop violated his constitutional rights, that the officers used unreasonable force during the incident, and that he was maliciously prosecuted for allegedly assaulting them. The district court granted the USAO's motion to dismiss, ruling that the officers acted reasonably in believing that he was the suspect they sought and in stopping, patting down, and attempting to arrest and subdue him as he actively resisted. The case is now on appeal to the Sixth Circuit. AUSAs: Ryan Cobb, Nicole Mazzocco.

Jones v. McClellan, et al. The Sixth Circuit upheld the dismissal of all of the claims brought against a special agent in the Department of Homeland Security's Office of Inspector General. The plaintiff contended that the special agent had violated her civil rights in connection with an investigation he was conducting into whether she was involved in mortgage fraud and smuggling. Her claims included allegations of malicious prosecution, false arrest/imprisonment, racial discrimination, and due process violations. AUSA: Carolyn Almassian.

Faber v. Smith. The plaintiff sued his federal probation officer, contending that while the plaintiff was on supervised release, the officer falsely accused him of using controlled substances, interfered with his efforts to leave a halfway house, and improperly interfered with his relationship with his boyfriend and their freedom of religion. The district court granted the USAO's motion to dismiss, finding that the plaintiff's claims were barred by quasi-judicial immunity, that the plaintiff failed to state viable constitutional claims against the officer, and that a number of the claims were improper efforts to challenge the validity of the plaintiff's criminal sentence for a supervised release violation. AUSA: Ryan Cobb.

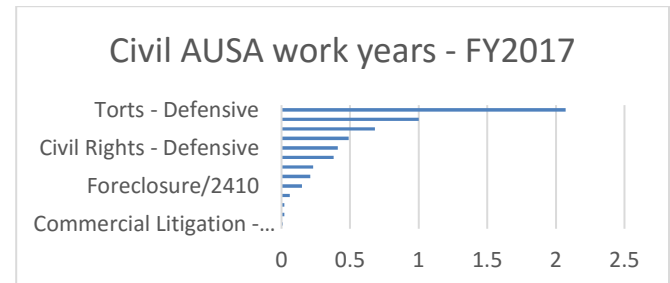
Subpoena Defense for Federal Employees and Agencies:

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 or agencies were subpoenaed to testify or produce documents in litigation to which they were not parties. AUSAs: Carolyn Almassian, Laura Babinsky, Ryan Cobb, Michael Shiparski.

Federal Tort Claims Act (FTCA) Defense:

The USAO defended numerous tort claims against the United States, including a significant number of medical malpractice actions, employment-related torts, automobile accidents, premises liability cases, etc. The time AUSAs spend defending tort cases has nearly tripled since 2011, including a significant

increase in 2015 due to the nature and increasing complexity of the tort cases filed that year. In 2017, the USAO devoted more AUSA resources to tort defense than to any other category of civil case – more than double the amount of time spent on the next closest category of case, affirmative fraud. The percentage of time AUSAs in the Western District of Michigan spend on tort defense was above the national average for USAOs in 2017. AUSAs: Carolyn Almassian, Laura Babinsky, Ryan Cobb, Jeanne Long, Nicole Mazzocco, Adam Townshend.



Program Litigation:

SUMMONS ENFORCEMENT ACTIONS. The USAO successfully brought numerous actions to enforce IRS administrative summonses for tax-related information. A number of these were contested and required significant efforts, including multiple hearings, contempt proceedings, and court orders, to ensure compliance. AUSAs: Laura Babinsky, Jeanne Long, Nicole Mazzocco, Michael Shiparski.

REQUESTS FOR FOREIGN ASSISTANCE. The USAO assisted parties to foreign litigation in obtaining discovery responses from witnesses in the Western District of Michigan. AUSAs: Jeanne Long, Nicole Mazzocco, Michael Shiparski.

FREEDOM OF INFORMATION ACT (FOIA) LITIGATION. The USAO obtained the dismissal of several FOIA actions seeking to force the production of information from federal agencies and seeking attorney fees for alleged failures to timely respond to FOIA requests. AUSAs: Ryan Cobb, Jeanne Long.

Employment Litigation:

Schell v. Carter. The Court granted the USAO's motion for summary judgment and dismissed sex discrimination and retaliation claims brought by a high-ranking employee of the Defense Logistics Agency. The Court ruled that the plaintiff had abandoned a number of her claims, but that summary judgment was appropriate on those claims even if she had not abandoned them. She could not show she was treated differently than any similarly-situated male employee, there was no materially adverse change in the terms or conditions of her employment as part of any alleged retaliation, and she did not have any evidence that the decision-makers were aware of her protected activity at the time. With respect to the remaining claims, the plaintiff was unable to establish a disparate impact case because she failed to present evidence that she was qualified for the position she sought, and even if she could make that showing, she failed to rebut the

legitimate reasons that she was not hired. The plaintiff could not prove retaliation because she could not show that the decision-maker was aware of her protected activity and the temporal proximity between the activity and the alleged retaliation was not enough in this case. AUSA: Jeanne Long.

Immigration Litigation:

The USAO handled approximately 16 new immigration cases, most of which were habeas corpus cases in which criminal aliens who were in the process of being removed from the country sought release from custody pending removal. The USAO also handled other immigration cases, including two actions seeking to compel adjudication of petitions to naturalize alien relatives. Immigration case numbers for both 2016 and 2017 were significantly higher than for any year since 2007, and Civil Division AUSAs time spent on immigration cases increased in 2017 and was above the average percentage of attorney work years in other USAOs. AUSAs: Carolyn Almassian, Laura Babinsky, Ryan Cobb, Jeanne Long, Nicole Mazzocco, Michael Shiparski.

Proceedings Relating to Government Lien Claims:

The USAO continued to respond to a significant volume of foreclosure litigation and other cases in which federal liens were at issue. The USAO devotes significant AUSA and staff time to protect the interests of the United States in these cases. AUSA: Michael Shiparski.

Social Security:

The U.S. Attorney's Office oversaw the preparation of answers and briefs primarily handled by Special Assistant United States Attorneys from the Regional Chief Counsel's Office of the Social Security Administration in Boston. In 2017, the USAO opened over 140 new cases in which plaintiffs challenged unfavorable Social Security disability benefits determinations, a decrease from 2016. The USAO also continued to work on a high volume of cases filed in prior years. AUSAs: Michael Shiparski, Ryan Cobb.

Bankruptcy:

The USAO represented the interests of the United States in approximately 82 new bankruptcy matters it opened in 2017; the USAO also resolved its issues or claims in approximately 80 cases. The number of new bankruptcy matters decreased slightly in 2017, continuing a six-year trend of decreases. AUSAs: Jeanne Long, Nicole Mazzocco, Michael Shiparski.

REPRESENTATIVE CRIMINAL MATTERS

Financial Crimes Section:

HEALTH CARE FRAUD:

United States v. Mark Brewster. Brewster, a licensed medical doctor, wrote fraudulent prescriptions for controlled substances for nearly a decade and billed insurance for them. At sentencing,

Judge Paul Maloney described the crime as "a product of the doctor's arrogance" and noted that Brewster caused a number of otherwise law-abiding people to become involved in felonious conduct. The judge offered that the ten-month sentence should deter other health care professionals who might consider illegally abusing their prescribing authorities to obtain drugs for themselves or others. AUSAs: Ray Beckering and Adam Townshend. Agencies: DEA.

United States v. Martinez-Lopez, et al. A total of eight defendants were convicted – two after a seven-day trial – of running a staged automobile accident insurance fraud scheme. The fraud ring recruited participants to stage accidents and falsely claim they were receiving therapy treatment. To facilitate the fraudulent claims, the ring operated three therapy clinics in West Michigan: Revive Therapy Center and HH Rehab Center in Wyoming, and Renue Therapy Center in Lansing. The three leaders of the conspiracy received sentences of seven, ten and over eleven years each. Presiding Judge Maloney commented that the operation was a "brazen scheme of the first order." AUSAs: Ron Stella and Tim VerHey. Agencies: Department of Homeland Security; FBI.

INVESTMENT SCAMS:

United States v. Sarah Bolhuis. Bolhuis engaged in wire fraud and money laundering in the course of running a Ponzi-style investment scam. She made many fraudulent misrepresentations and false promises to investors concerning financial services she claimed to provide under the name American Financial (AMFI) and Tri_Logix. For example, she did not use victim money as promised and instead used it to pay a partner, make return of principal and other payments to other investors and issue finder's fees to those who successfully recruited new investors. In the end, she netted for herself a six-year prison term and an order to pay over \$5M in restitution to 53 victims. AUSA: Christopher O'Connor. Agency: IRS Criminal Investigation; FBI.

BANK FRAUD:

United States v. Tirell Perry Thomas, et al. Nineteen defendants from Michigan, Illinois and Georgia ran a "cracking cards" scheme, victimizing bank branches in West Michigan. Under the scheme, conspirators opened bank accounts to deposit fraudulent checks and, once the bank temporarily credited the account, the conspirators would use a debit card associated with the account to obtain money and funds belonging to the bank. The conspirators caused losses of more than \$200K before getting caught. By early 2018, eighteen of nineteen defendants had pled guilty and one entered a pretrial diversion program. AUSAs: Christopher O'Connor, Kate Zell. Agencies: FBI; U.S. Postal Inspection Service; Nottawaseppi Huron Band of Potawatomi Tribal Police.

THEFT AND EMBEZZLEMENT:

United States v. Kevin John Grimm. Grimm conspired with an insider, Jerry Akers, at Herman Miller, Inc., to execute a scheme to defraud the company by submitting false and fraudulent invoices for payment of natural gas services his company, KJ Gas Transportation LLC never provided. After pleading guilty, Grimm

was sentenced to 27 months in prison and ordered to pay over \$450K in restitution. Prior to his sentencing, he returned over \$1.3M to Herman Miller. Akers was convicted in 2016 and sentenced separately to 41 months in prison and ordered to pay over \$500K in restitution. AUSA: Christopher O'Connor. Agency: FBI

United States v. Brooke Vernier. Vernier was the President and sole owner of three companies that supplied gasoline to gas stations and owned several stations in the Upper Peninsula. When her businesses encountered financial difficulty, she began a "circular check-kiting scheme," whereby she wrote thousands of checks from one corporate account to another in several different banking institutions attempting to transfer approximately \$145M. The vast majority of these inter-account transfers were executed simply to keep the scheme going so that the banks would be unknowingly effectively floating unsecured loans to her operations. At the time, the total legitimate business activity of the companies was about \$15M. After pleading guilty, Judge Robert Jonker sentenced her to 18 months in prison and ordered her to pay over \$1.7M in restitution. AUSA: Maarten Vermaat. Agencies: FBI.

PROGRAM FRAUD:

United States v. Mehul Patel. Patel, a Battle Creek area hotel owner, pled guilty to lying to federal investigators in connection with an investigation into his compliance with minimum wage rules. Patel ultimately admitted that he underpaid his employees and that after claiming to investigators he had paid them back pay he had in fact directed the employees to return the money to him. He was sentenced to two months in prison and ordered to pay over \$150K in restitution to his employees. AUSA: Timothy VerHey. Agencies: U.S. Department of Labor, Office of Inspector General; HSI, Battle Creek Police Department

TAX FRAUD:

United States v. Derrick Gibson, et al. A total of 33 defendants were charged and convicted in connection with a conspiracy to defraud the United States through the filing of false income tax returns to receive fraudulent federal income tax refunds. Over several years until agents busted the ring, the conspirators claimed more than \$22M in refunds using names and personal identification information obtained in part from patients and employees at the Battle Creek Veterans Affairs Medical Center and from inmates at the Michigan Department of Corrections. Gibson, the lead defendant, was sentenced to ten years in prison and ordered to pay \$16M in restitution. AUSAs: Rene Shekmer and Ray Beckering. Agencies: IRS Criminal Investigation.

United States v. Brian Farah, et al. Brian Farah and his father, Michael Farah, skimmed cash from the taverns they own and operate and did not report the income on their business or personal tax returns. Over a period of years, they skimmed and failed to report about \$400K. Judge Paul Maloney, the judge who presided over their sentencings after each pled guilty, described their conduct as including "systematic and deliberate" destruction of business records and "blatant" "lying directly to the

face of an IRS agent." Brian was sentenced to 13 months and Michael to 18 months in prison. AUSA: Clay Stiffler. Agency: IRS Criminal Investigation.

United States v. Tapera Chiwocha, Sr., et al. Tapera Chiwocha and his wife, Callista, conspired with others to defraud the United States by filing false tax returns on behalf of others through their company, Human Services Associates LLC. Over a ten month period in 2011, the Chiwochas sought \$4.5M in federal tax refunds by causing 3,228 false tax returns to be filed that contained false income and abusive use of the earned income credit. They tricked people into providing personal identification information they could use to file the returns by promising "free stimulus money," preying on the poorest and most vulnerable citizens in the district. The conspirators included a multitude of family members, including daughters and grandchildren, all of whom ultimately pled guilty. Callista was sentenced to 10 years in prison and ordered to pay over \$3.6M in restitution to the government. Others received sentences that ranged from three years to six years in prison. Tapera pled guilty but died before he received his sentence. AUSAs: Mike MacDonald and Joel Fauson. Agencies: IRS Criminal Investigations; FBI.

National Security Section:

IDENTITY THEFT:

United States v. Antonio Perez-Martinez. Perez-Martinez, a Cuban citizen and lawful permanent resident of this country, recruited other recently-arrived Cuban citizens into a fraud scheme that initially involved obtaining compromised credit account data from illicit websites, encoding the data onto cards and using the "cloned" cards to bulk-buy gift cards and stored-value cards. By the summer of 2015, he switched from acquiring account data online to using "skimming" devices that his accomplices installed inside gas pumps, which netted him fresh data and the potential for greater profits. He made the mistake of extending his operation into West Michigan. He was charged here, along with six accomplices, after one of his crews was caught. His six accomplices pled guilty and received sentences that ranged from 21 to 37 months in prison. Perez-Martinez took his case to trial and ultimately received a 12-year prison sentence. AUSA: Hagen Frank. Agencies: FBI; U.S. Postal Inspection Service, Grand Rapids Metro Fraud and Identity-Theft Team, the Grand Ledge Police Department, McAllen, Texas, Police Department.

THREATS TO INFRASTRUCTURE AND INTERSTATE COMMERCE:

United States v. Sean Fitzgerald. Fitzgerald arrived at the Cherry Capital Airport in Traverse City, Michigan, to co-pilot a private charter to Bedford, Massachusetts. He boarded the plane and began pre-flight preparations, including systems checks, turning on the power and receiving clearance for the flight route from air traffic control, before his arrest. His blood alcohol content was then measured at .343%. A jury convicted him after a trial of operating a common carrier under the influence of alcohol, a felony offense. President Chief Judge Robert Jonker later sentenced him to a year and a day in prison. AUSAs: Clay West and Justin Presant. Agencies: FBI; Traverse City Police Department.

ALIEN OFFENSES:

During fiscal 2017, of all criminal case filings brought in the district, 27% 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. AUSAs: Donald Daniels and Jennifer Murnahan. Agency: ICE-Enforcement & Removal Operations.

United States v. Alexander Kneginich. Kneginich fraudulently obtained U.S. citizenship by falsely denying, during the immigration and naturalization process, that he had ever been charged with or jailed for a crime. During his guilty plea for the offense, he admitted under oath that he had repeatedly claimed never to have been charged with a crime or held in custody, when in fact he had been charged with the 1994 murders of two Muslim civilians – a husband and wife – while serving in a Serbian militia unit during the 1990s Bosnian conflict. The charges remain pending in Bosnia-Herzegovina. For his fraud here, he was sentenced to 12 months in prison and faces revocation of his citizenship and extradition to face the murder charges. AUSA: Hagan Frank. Trial Attorney: Jamie Perry, Human Rights and Special Prosecutions Section. Agencies: HSI; DOJ Office of International Affairs; the Government of Bosnia and Herzegovina.

Organized Drug Crime Section:

United States v. Yusef Phillips, et al. Twenty-seven defendants were charged following a multi-agency federal and state law enforcement investigation into a conspiracy to distribute heroin and cocaine in the areas of Grand Rapids and Benton Harbor, Michigan. During the arrests of defendants and execution of associated searches and search warrants, investigators seized over 30 kilograms of heroin and cocaine, multiple pounds of marijuana, kilogram presses, a bulletproof vest, firearms and \$1M in cash. The charges remain pending and the defendants are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law. AUSA: Steve Baker. Agencies: DEA; IRS; FBI; USSS; ATF; Grand Rapids Police Department; Kent County Sheriff's Department; Wyoming Police Department; Michigan State Police; Kent Area Narcotics Team; Metropolitan Enforcement Team; Kalamazoo Valley Enforcement Team; Albion Police Department; Calhoun County Sheriff's Department; Southwest Enforcement Team.

United States v. Quintin Howell, et al. Howell and eight other charged defendants conspired to distribute heroin in the Kalamazoo area over a period of several years. Howell was the leader of the conspiracy, which was disrupted through an 11-month coordinated investigation that involved two wiretaps. In three related cases, his cohorts received sentences that ranged from 24 months to 180 months in prison, depending on their role and prior record. Howell received a sentence of 180 months after he, like the others, pled guilty. AUSA: Steve Baker. Agencies: DEA; FBI; Kalamazoo Valley Enforcement Team; Southwest

Enforcement Team; Berrien County Sheriff's Department.

United States v. Jeremy Whitebird Whitebird trafficked in substantial quantities of crystal methamphetamine along with cocaine, heroin and marijuana in the Bessemer and Ironwood areas of the Upper Peninsula. Through a coordinated federal and state law enforcement investigation, his dealings came to an end with his arrest and the execution of search warrants that led to the discovery of the various narcotics he was prepared to sell as well as firearms and \$15K in cash. He pled guilty to drug and firearm charges and received a sentence of 212 months in prison. AUSA: Maarten Vermaat. Agencies: DEA, ATF, Gogebic Iron-Area Narcotics Team.

United States v. Jaime Pina, et al. Jaime Pina, along with his brother, Angel, conspired with Magdaleno Rodriguez to supply cocaine from the Southwest Border to the areas of Oceana County and Muskegon County for further distribution. Rodriguez and Angel Pina pled guilty, receiving sentences of 98 and 109 months respectively. Jaime Pina was convicted after a trial and sentenced to 87 months in prison. AUSAs: Joel Fauson, Tim VerHey. Agencies: HSI; State, Sheriffs, Chiefs, Enforcement Narcotics Team (SSCENT), West Michigan Enforcement Team.

United States v. Michael Paiva. After an international law enforcement operation took down the dark web marketplace Silk Road 2.0, Paiva was identified as a purchaser of a significant quantity of various amphetamines and psychedelic compounds for distribution in the Western District of Michigan. Over a period of years, he had converted cash to bitcoin in order to make purchases on the dark web. His activities also included distributing more common controlled substances, including heroin, cocaine, and methamphetamine. After a guilty plea, Chief Judge Robert Jonker sentenced him to 30 months in prison. AUSA: Justin Present. Agencies: HSI; West Michigan Enforcement Team.

Collections and Asset Forfeiture:

In fiscal 2017, the office collected over \$73M in civil and criminal actions. This amount includes over \$67M recovered in a civil matter involving Enbridge for which the office served as local counsel and \$2M in the Metro Health matter. Nearly \$1.7M in funds recovered through forfeiture actions were deposited into the Asset Forfeiture Fund. Over \$96K in forfeited assets went to victim compensation and \$40K in forfeited assets went to equitable sharing.

Violent Crimes Section:

BANK ROBBERY:

United States v. Edward Lucas. Lucas robbed the Independent Bank of Sand Lake of over \$5K using a note to the teller. But he was observed minutes later driving his get-a-way car by a Kent County Sheriff's Deputy on patrol. Lucas refused to pull over and fled at a high speed, ultimately crashing head-on into an oncoming car. Lucas's own car flipped and rolled several times before coming to a rest in flames. Lucas survived the collision

thanks to responding officers who rescued him from the burning vehicle. Lucas had been convicted of bank robbery on two prior occasions. On this occasion, he received a sentence of 151 months in prison. AUSA: Davin Reust. Agencies: FBI; Kent County Sheriff's Office, Michigan State Police.

PROJECT SAFE CHILDHOOD:

United States v. Lawrence Nassar. Once the physician for USA Gymnastics and at Michigan State University and several local gymnastics clubs in West Michigan, Nassar was sentenced to 60 years in prison for possessing child pornography and obstruction of justice following his guilty plea to the charges. Presiding Judge Janet Neff also ordered that he serve the 60 years consecutively to the sentences he would subsequently receive in state court on multiple counts of criminal sexual conduct. For, in addition to amassing an enormous collection of child pornography, Nassar sexually abused young female athletes under the guise of medical treatment for many years. His victims included members of U.S. Olympic Team as well as local aspiring young gymnasts among others. AUSA: Sean Lewis. Agencies: FBI; Michigan State University Police Department.

United States v. Justin Walling. A jury convicted Walling of enticing a minor and receipt of child pornography after a trial in Kalamazoo. Using a pseudonym of "Justin Blade," Walling befriended a thirteen year-old girl on Facebook. She told him he was underage, but he sent her nude photos of himself and asked her for sexually explicit photos in return. At trial, the child explained that she was lonely and wanted a friend; she thought doing what he requested would make Walling her friend. She sent him the images he asked for and he later picked her up and took her to his home in Lowell, where they had sex. Walling has a long history of criminal sexual misconduct. And following this latest conviction, Judge Paul Maloney sentenced him to 60 years in prison. AUSA: Alexis Sanford. Agencies: FBI; Ionia County Sheriff's Office.

HUMAN TRAFFICKING:

United States v. Nicko Rush II. Rush trafficked two minors on the streets of Lansing using force, threats of force and coercion. He admitted giving two girls, aged 15 and 16, drugs and cigarettes and telling them how to walk to attract johns in passing cars, acknowledged posting ads online for commercial sex for one of the girls, and being violent and threatening towards both her and an adult victim. He faced between 15 and 25 years in prison at his sentencing, and received 25 years. AUSA: Tessa Hessmiller. Agencies: FBI; Lansing Police Department.

PROJECT SAFE NEIGHBORHOODS:

United States v. Lamont Dixon. Dixon, of Kalamazoo, unlawfully possessed a firearm as a convicted felon. Because of his extensive criminal record that included three prior drug trafficking convictions, he qualified as an Armed Career Criminal and received the mandatory minimum 15 year prison term. AUSA: Kate Zell. Agencies: ATF; Kalamazoo Department of Public Safety.

United States v. Terrell Churchwell. Churchwell, from Muskegon, received a ten year sentence, the statutory maximum, for his possession of firearms as a convicted felon. His prior record included a long history of drug offenses and repeatedly failing to register as a sex offender, in addition to assaults and domestic violence. He tampered with witnesses in an effort to evade responsibility for his latest crime, but ultimately received the long sentence after pleading guilty. AUSA: Sean Lewis. Agencies: ATF; Muskegon City Police Department; Michigan State Police.

United States v. Donte Bacon. On multiple occasions in 2014, Bacon sold a firearm to a person who is not permitted to possess one under federal law. One of the firearms was sold with a high capacity magazine. Two firearms were sold after Bacon removed the serial numbers. During the final transaction, Bacon and a cohort used a hand-grinder to remove the serial number at the time of sale. In his final sentencing before retiring from the bench, U.S. District Judge Robert Holmes Bell observed the seriousness of trafficking firearms and ordered Bacon to serve five years in prison. AUSAs: Justin Presant, Alexis Sanford. Agencies: ATF.

INDIAN COUNTRY:

United States v. Patrick Wandahsega. After a four-day trial, a federal jury in Marquette convicted Wandahsega of abusive sexual contact with a child under 12 years-old. The charge arose from incident in which Wandahsega abused a six year-old at his home on the Hannahville reservation. The child reported the incident to relatives and later a physician, which prompted the criminal investigation. Wandahsega faces up to life in prison on the conviction. AUSAs: Hannah Bobee, Paul Lochner. Agencies: FBI; Hannahville Tribal Police.

United States v. David Baldwin, Jr. Baldwin, an enrolled member of the Gila River Indian Community, assaulted an enrolled member of the Lac Vieux Desert Tribe at residence on the LVD reservation lands. The victim suffered serious bodily injury as a result and, had she not been treated promptly by medical personnel, would likely have died as a result of her injuries. Judge Paul Maloney sentenced him following his guilty plea to 41 months in prison. AUSA: Paul Lochner. Agencies: FBI; LVD Tribal Police.

REPRESENTATIVE APPEALS

United States v. Verwiebe, 874 F.3d 258 (6th Cir. 2017). Verwiebe assaulted a Tribal police officer. At sentencing, Judge Paul Maloney classified him as a career offender under the federal sentencing guidelines due to prior convictions for assault with a dangerous weapon with intent to do bodily harm, 18 U.S.C. § 113(a)(3), and for assault resulting in serious bodily injury, 18 U.S.C. § 113(a)(6). The Sixth Circuit (Sutton, Rogers, Clay) agreed both offenses were crimes of violence because they have as an element the "use, attempted use, or threatened use of physical force against the person of another," i.e., under the use of force clause, USSC § 4B1.2(a)(1).

For the assault with a dangerous weapon conviction, the panel drew upon previous cases in which the court held that "[i]f a crime

already includes some use or threat of physical force. . .the use of a dangerous weapon transforms that force into the type of violent force necessary to constitute a crime of violence."

As to the assault-causing-serious-bodily-injury conviction, the court concluded: "crimes requiring proof of serious physical injury necessarily require proof of violent physical force." After all, "the use of physical force is not the drop of liquid in the victim's drink; it is employing poison to cause serious bodily harm." The court expressly agreed with the Fifth, Eighth, and Tenth Circuits that reckless crimes can have "as an element the use, attempted use, or threatened use of physical force." In doing so, the court disagreed with the First Circuit and overruled its numerous prior cases holding that reckless crimes cannot qualify under the ACCA and § 4B1.2(a) use of force clauses.

Though another panel of the Sixth Circuit suggested a couple of weeks later that it was inclined to come out the other way, it followed *Verwiebe* as binding precedent, see *United States v. Harper*, 875 F.3d 329 (6th Cir. 2017), and we successfully fended off *en banc* review. AUSA: Hannah Bobee, Jen McManus.

***United States v. Quarles*, 850 F.3d 836 (6th Cir. March 10, 2017).**

Quarles illegally possessed a firearm as a convicted felon. Based on his prior convictions, Chief Judge Robert Jonker concluded he should be sentenced as an Armed Career Criminal. On appeal, a panel of the Sixth Circuit (Siler, Moore, Griffin) held that Michigan's Home Invasion Third Degree, Mich. Comp. Laws § 750.110a(4), is equivalent to generic burglary, and therefore it qualifies as a violent felony for purposes of the Armed Career Criminal Act. The court rejected the defendant's argument that the statute's definition of "dwelling" is overbroad in that it encompasses locations other than a "building or structure" as required for generic burglary under the definition in *Taylor v. United States*, 495 U.S. 575, 598 (1990). The court noted that the defense had shown only hypothetical arguments (e.g., that "dwelling," defined to include "shelter," could include "outcropping of rock, cave, bus stop, or a suspended tarp"), rather than a "realistic probability" that a state would apply its statute to conduct that falls outside the generic definition. The court also reiterated that it had earlier held in another case (*United States v. Priddy*, 808 F.3d 676, 685 (6th Cir. 2015)), that under *Taylor*, a defendant need not have intent to commit a crime at the time he enters the building/structure for generic burglary; it is enough if he acquires criminal intent while remaining in the building/structure. There is a circuit split on this issue.

We also successfully fended off *en banc* review in this case, but we expect the Supreme Court will grant certiorari to resolve the circuit split. AUSA: Sean Lewis.

***United States v. LaVictor*, 848 F.3d 428 (6th Cir. 2017).**

LaVictor was convicted of various sexual abuse and assault crimes after assaulting his girlfriend on the Sault Ste. Marie Tribe of Chippewa Indians Reservation. This was a difficult trial because the victim recanted, which created some difficult evidentiary hurdles. On

appeal, the defendant raised nine issues; the court of appeals (Clay, Daughtrey, Cook) rejected them all. Among the more significant holdings: 1) The district court properly admitted expert testimony on domestic violence and victim recantation. 2) The district court properly admitted evidence of defendant's prior assaults on women under Rule 404(b) and Rule 413. As for Rule 404(b), the evidence showed intent and absence of mistake, and it was not overly prejudicial. As for Rule 413, the facts of the prior assaults were similar to the one in question here, and the prior victims' testimony did not need to be explicitly corroborated. This was a useful holding that the court has cited several times already in similar cases. 3) At trial the victim testified that no sexual assault took place. The government impeached her with her grand jury testimony, in which she had given a detailed account of the sexual assault. This was permissible under Fed. R. Evid. 801(d)(1), and the government was allowed to call the witness for the sole reason of impeaching her. AUSA: Jeff Davis.

***United States v. Simmerman*, 850 F.3d 829 (March 9, 2017).**

Judge Bell imposed a 78-month sentence for Simmerman's convictions arising from her embezzlement of \$1.5 million from the credit union she managed. On appeal, Simmerman unsuccessfully challenged a number of guideline enhancements. The court (Donald, Merritt, Clay) held: (1) the sophisticated means enhancement, USSG 2B1.1(b)(10)(C), was properly applied because Simmerman engaged in sophisticated acts undertaken to conceal her crime, even if the initial conduct (stealing money from the vault) was not sophisticated; (2) the enhancement for "substantially jeopardize[ing] the safety and soundness of a financial institution," USSG § 2B1.1(b)(16)(B)(i), was properly applied even though the credit union did not become financially insolvent, where it was critically undercapitalized; and (3) the abuse-of-trust enhancement, USSG § 3B1.3, was properly applied where Simmerman was a manager given a certain level of trust, and not a mere bank teller. In addressing the enhancements, the court helpfully recognized that not merely findings of fact, but also "a district court's application of provisions of the Sentencing Guidelines to the facts," should be treated deferentially and should not be disturbed unless clearly erroneous. AUSA: Clay Stiffler

ADMINISTRATIVE DIVISION

The theme for much of the year for the Administrative Division was change. Our budget analyst retired about mid-way through the year, and soon thereafter, our Human Resources Assistant resigned to move on to a new opportunity. We were able to hire one person to help fill the gap of our departing budget analyst, and one of our legal assistants stepped up to the plate and accepted a detail assignment to help with Human Resources coverage. We also were blessed with two energetic and capable contractors who helped us greatly at the reception desk in our main branch. Much of the first two quarters of the year were absorbed by preparation for a top to bottom review for the whole Division. The financial audit took place in May, and the remaining portions took place in July. In addition, two major administrative systems were transitioned to new systems.

Our Human Resources (HR) section worked to transition our office to a new position management system in addition to keeping up with the normal day to day HR work. Over several weeks, our HR staff built each employee position within the District into the new system. In-between, they did all the work to retire several individuals, and found time to focus on filling vacant positions. Early in the fall, the HR Detailee rolled up her sleeves and put together informational events to help employees make benefits decisions during Open Season. We had a record year for participants in the leave bank, spurred in part by three “cautionary tales” relayed to the office by our HR Officer that illustrated the wisdom of being prepared for the unexpected.

Our Budget and Travel team worked tirelessly to prepare our “books” for transition to the new financial management system. They reviewed every open file and worked with our procurement section to close everything they possibly could prior to the transition. They reformatted data, line by line, so it would transfer properly. They attended numerous classes in person and in virtual format to become familiar with the look and feel of the new system. Our newest team member assisted with making changes to our internal forms and processes to keep us in step with the new system. In addition, over 750 local travels and 170 overnight trips were processed throughout the year. On top of everything, they scored above the average for a medium district in their financial audit.

Our Facilities and Support Services (FASS) team, worked diligently to support the transition to a new financial system as well. They took numerous hours of instruction so they could be prepared to operate in the new system. They notified vendors, closed old contracts, and collected the data needed to allow us to continue to do business with our vendors in the new system. They also continued fulfilling the needs of the office, by supporting over 90 new contracts with over 40 modifications, all valued at more than \$800,000, and purchase card transactions numbering 140, and totaling approximately \$80,000. The team also found the time to support new construction in our headquarters office to transform some of our space into locker rooms for the fitness minded.

The Information Technology (IT) team continued the work that they started last year in making technological upgrades to office equipment. New video teleconference equipment was installed; tablets, cell phones and server equipment were also upgraded. They also supported much needed upgrades to equipment in the Grand Jury space. A new telephone system was placed into operation for our Lansing branch. In Automated Litigation Support, our coordinator directly supported six trials and indirectly supported numerous others. She also provided training on the many tools available to our legal support staff and Assistant US Attorneys, as well as mentor those eager to learn the ropes to support trials inside the courtroom. The team also did well in their preparation for review.

Overall, 2017 was a rigorous year. The Administrative Division made many investments, both in systems and in personnel, which

should pay considerable dividends in the upcoming years.

OUTREACH, TRAINING & PROFESSIONAL DEVELOPMENT

Community Initiatives:

OPIOIDS:

We had no higher priority for our community outreach efforts than preventing the spread of the opioid epidemic. Over the course of 2017, the office hosted multiple meetings and presentations for health care and education professionals, lay audiences, and our Tribes, to spread awareness of the epidemic, the available prescription drug monitoring program, danger signs and the importance of vigilance. AUSAs Steve Baker, Ray Beckering and Clay Stiffler, with the assistance of LEC Kaye Hooker and Victim Specialist Marlene Mottes, led the presentations and discussions.

TRIBAL RELATIONS:

In May and September, U.S. Attorney Birge, Tribal Liaison Jeff Davis and our LEC and victim services staff travelled to each of the federally recognized Tribes in the District for annual government-to-government meetings. The U.S. Attorney and relevant managers also met with Tribal officials on an as needed basis to respond to their inquiries about Department policies and priorities.

In addition, in an effort to secure first-rate care for victims of sexual assault in Indian Country, U.S. Attorney Birge, along with Carla Blinkhorn of the Michigan Domestic and Sexual Violence Prevention and Treatment Board, met with the management of hospitals throughout the Upper Peninsula in May to discuss support for Sexual Assault Nurse Examiner (SANE) programs. Victim Specialist Marlene Mottes and Tribal Liaison Jeff Davis assisted.

In August, U.S. Attorney Birge delivered remarks at the Great Lakes Native Americans Conference in Minneapolis, a program our victim services staff helped plan and organize with their counterparts in the participating districts.

Jeff and AUSA Hannah Bobee continued their participation in the Tribal, State, Federal Judicial Forum that meets to consider the latest issues in public safety and child welfare in Indian Country in Michigan.

CIVIL RIGHTS:

U.S. Attorney Birge assumed the role of co-chair of the Michigan Alliance Against Hate Crimes (MIAAHC) and spoke at the annual MIAAHC Hate Crimes Conference. He also supported multiple Advocates & Leaders for Police and Community Trust (ALPACT) groups in West Michigan. These include groups in Benton Harbor, Grand Rapids, Southwest Michigan, Lansing, Kalamazoo and new groups serving the Traverse City area and State-wide concerns. The ALPACTs work to establish and maintain communication and trust between law enforcement and the residents they serve

through round-table meetings and discussions attended by area law enforcement and community leaders. The U.S. Attorney also meets privately with community and law enforcement groups to help foster that trust.

In the spring, summer and fall, U.S. Attorney Birge and senior FBI field and resident supervisors met with Grand Rapids area Muslim and Middle Eastern community leaders as part of the district's Building Respect in Diverse Groups to Enhance Sensitivity (BRIDGES) program, and discussed issues ranging from immigration policies to law and procedure applicable to domestic travel and at international borders.

HEALTH CARE FRAUD AWARENESS:

AUSAs Adam Townshend and Ray Beckering hosted quarterly health care fraud task force meetings with law enforcement agents, internal investigators and stakeholders again this year. In addition, in May, AUSA Adam Townshend spoke about health care fraud trends and investigations at a Business and Legal Issues in Dialysis and Nephrology Symposium in Chicago, IL. In November, he spoke at the National Health Care Anti-Fraud Association annual conference in Orlando, FL about health care fraud in the age of electronic medical records and digital evidence.

OFFENDER RE-ENTRY:

U.S. Attorney Birge partnered with the Michigan Department of Corrections to host *Facing Choices* forums in Kalamazoo and Grand Rapids, this year as part of the office's Project Safe Neighborhoods strategy. Parolee attendees received words of encouragement but also stern and unmistakable warnings from state and federal law enforcement officials and prosecutors about re-offending. *Facing Choices* attendees also heard from formerly incarcerated individuals about their stories of success post-incarceration. Community service providers and potential employers were available for consultation. AUSA Kate Zell and SAUSA Tracey Brame organized the forums.

AUSA Zell also appeared at the district court's Accelerated Community Entry (ACE) supervised release hearings and attended Offender Success Advisory Counsel (formerly the Re-Entry Clearinghouse) meetings in Grand Rapids as a representative of this office. ACE is a form of intensive court supervision. The Re-Entry Clearinghouse is a network of faith-based and community-based service providers, as well as state corrections personnel, who meet periodically to discuss the coordination of re-entry efforts in Grand Rapids from a multi-disciplinary perspective.

OUTREACH TO MIDDLE AND HIGH SCHOOL STUDENTS:

The office continued the *Justice Scholars* program, wrapping up a year with Gardner Academy in Lansing as well as the Gerald R. Ford Academy in Grand Rapids. Over the course of the year, students not only learned about careers in law enforcement but they also gained an understanding of the protections afforded by the U.S. Constitution and what it takes to develop and maintain a fair and effective criminal justice system. AUSA Kate Zell and SAUSA Tracey Brame organized and led the program again this

year. The U.S. Attorney and Assistant U.S. Attorney Tim VerHey met with students from Grand Rapids Christian High School to talk about what it takes to become a prosecutor and what prosecutors do—as illustrated by the seminal prosecution in 2001 of Marvin Gabrion for murder in the National Forest.

LAW STUDENT INTERN PROGRAM:

As in years past, the office supported four law school student interns over the course of the summer and one such student during the fall academic term. Our program is designed to expose interns to the full breadth of litigation missions through assignments on actual cases and a series of brown bag lunch educational presenters. AUSAs Sally Berens and Carrie Almassian mentored the summer interns and SLC Tim VerHey mentored our fall intern.

Law Enforcement Training Program:

Law Enforcement Coordinator Kaye Hooker, her counterpart in the Eastern District USAO and the victim/witness staff here organized, hosted and supported training for thousands of law enforcement officers this year that included: active shooter training, anti-terrorism, complex investigations, tactical entries and securing special commissions for Indian Country law enforcement, among other topics. [See training list in appendix.] As in prior years, the programs continued to be held in locations throughout the state, at no cost to attendees and minimal (local travel) costs to the office. Anne Towns, Kathy Schuette and Janet Strahan assisted Kaye in organizing the programs, along with the EDML LEC Bob Poikey. Numerous AUSAs lectured for the programs.

The office continued to support agency-sponsored trainings as well. For example, AUSAs Mike MacDonald and Chris O'Connor again taught legal issues that arise in arson investigations at the Michigan State University Arson School. And Criminal Chief Nils Kessler and Civil Chief Ryan Cobb, at the request of the USMS, offered a tutorial on the Fourth Amendment and *Bivens* actions to USMS deputies in the district.

Victim/Witness Unit:

Our victim services specialists Kathy Schuette, Janet Strahan and Marlene Mottes expertly assisted victims of crime in navigating the federal system, often proving the difference in victim perceptions of our criminal justice system. The Victim/Witness Unit issued 92,393 victim notification letters in 2017, a number that has become routine for this district but a very high number for a district our size. The number of notifications reflects the number and size of our cases with victims, including both white-collar crimes and crimes of violence. Anne Towns, who supports both the LEC and V/W services, oversaw the notification system.

Extending their efforts beyond individual cases, Kathy and Janet continued to participate in the Grand Rapids Human Trafficking Task Force, the Michigan Alliance Against Hate Crimes and the Domestic Violence Task Forces at the State and Tribal level. And Janet, Kathy, Marlene and AUSAs Jeff Davis, Paul Lochner and

Hannah Bobee attended multi-disciplinary team meetings of Tribal law enforcement and civil service agencies. These teams focus on addressing child abuse in Indian Country.

Legal Community Training and Support:

As in prior years, attorneys and staff were selected by the Department's National Advocacy Center (NAC) to instruct on various topics, including the federal rules of evidence, trial advocacy and National Security. Several attorneys and members of the staff also supported the annual Hillman Trial Advocacy Program in Grand Rapids. In addition, AUSAs Hagen Frank and Steve Baker served as presenters and facilitators at this year's West Michigan Federal Bar Association Bench Bar Conference. Hagen addressed cyber-security and Steve lead a seminar on cooperator safety challenges and potential solutions. Several other attorneys and the U.S. Attorney were also on hand to exchange ideas and discuss topical issues with the bench and defense bar.

Criminal Chief Nils Kessler and Civil Chief Ryan Cobb are select members of the Executive Office of U.S. Attorneys' Evaluation and Review Staff. U.S. Attorney Andrew Birge suspended his participation this year in light of his senior leadership responsibilities. EARS teams evaluate the compliance of other offices with Department management standards and offer management advice and consultation. Nils and Ryan each evaluate one to two other offices a year. This year, Nils began service as a team leader and oversaw the entire evaluation of another district.

Diversity and Special Emphasis Program Committees:

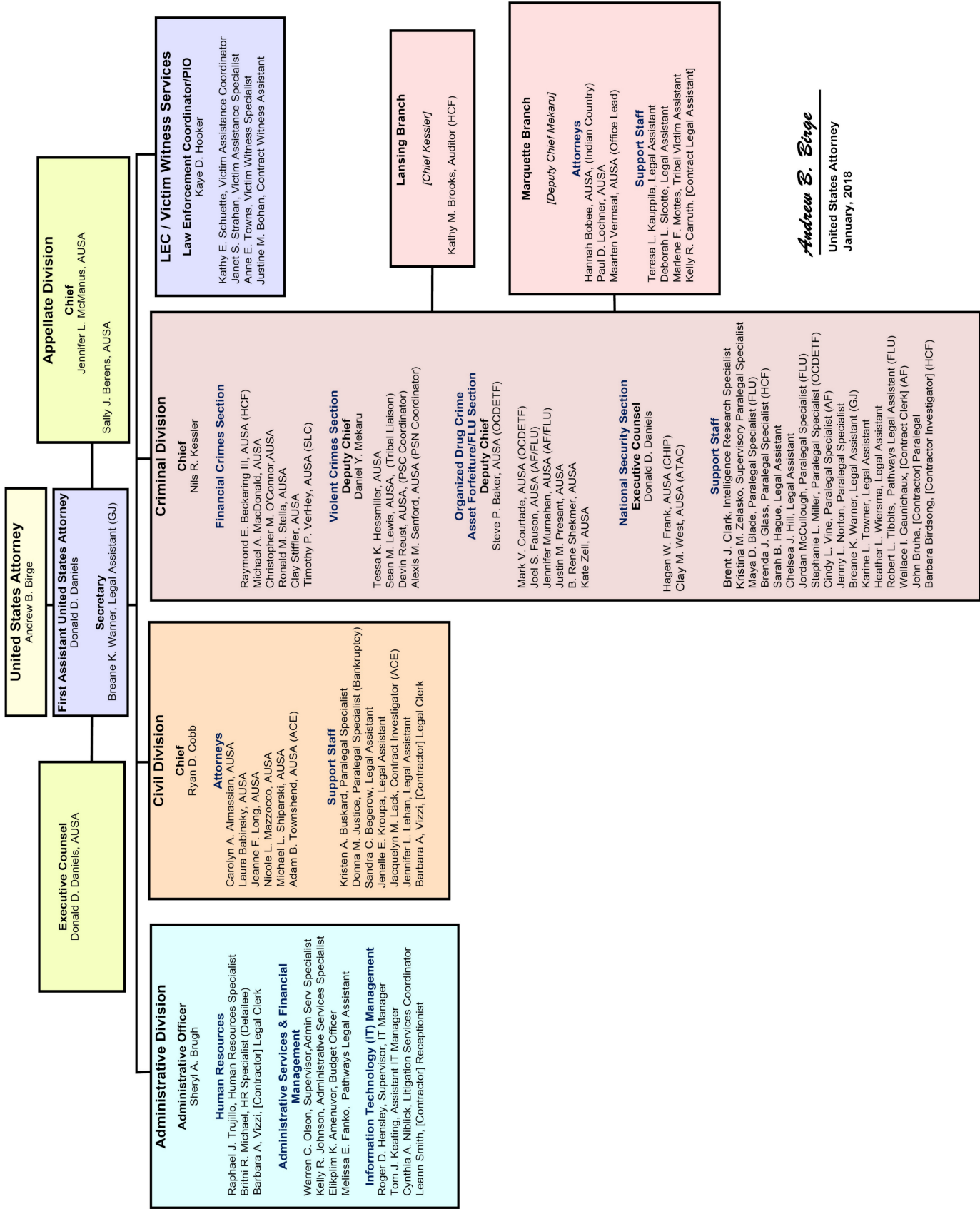
The office continued with its tradition of featuring Special Emphasis Programs throughout the year. The Diversity and Special Emphasis Programs committees organized and hosted programs for African-American History Month, Women's History Month, Hispanic Heritage month, Native American History month, LGBTQ Awareness and Veteran's Day. To mark Martin Luther King Day and African-American History Month, committee members prepared a program on The Little Rock Nine and a presentation by middle-school students from the William Abney Academy. For Hispanic Heritage Month, the office enjoyed a Salsa competition along with a presentation by Sara Proano and Cassandra Kiger from the Hispanic Center of West Michigan. Our Veteran's Day Program included a presentation from Cpl Jeff DeYoung, who successfully pushed for regulations allowing military K-9s to be adopted by their military handlers after discharge from service.

Technology Committee

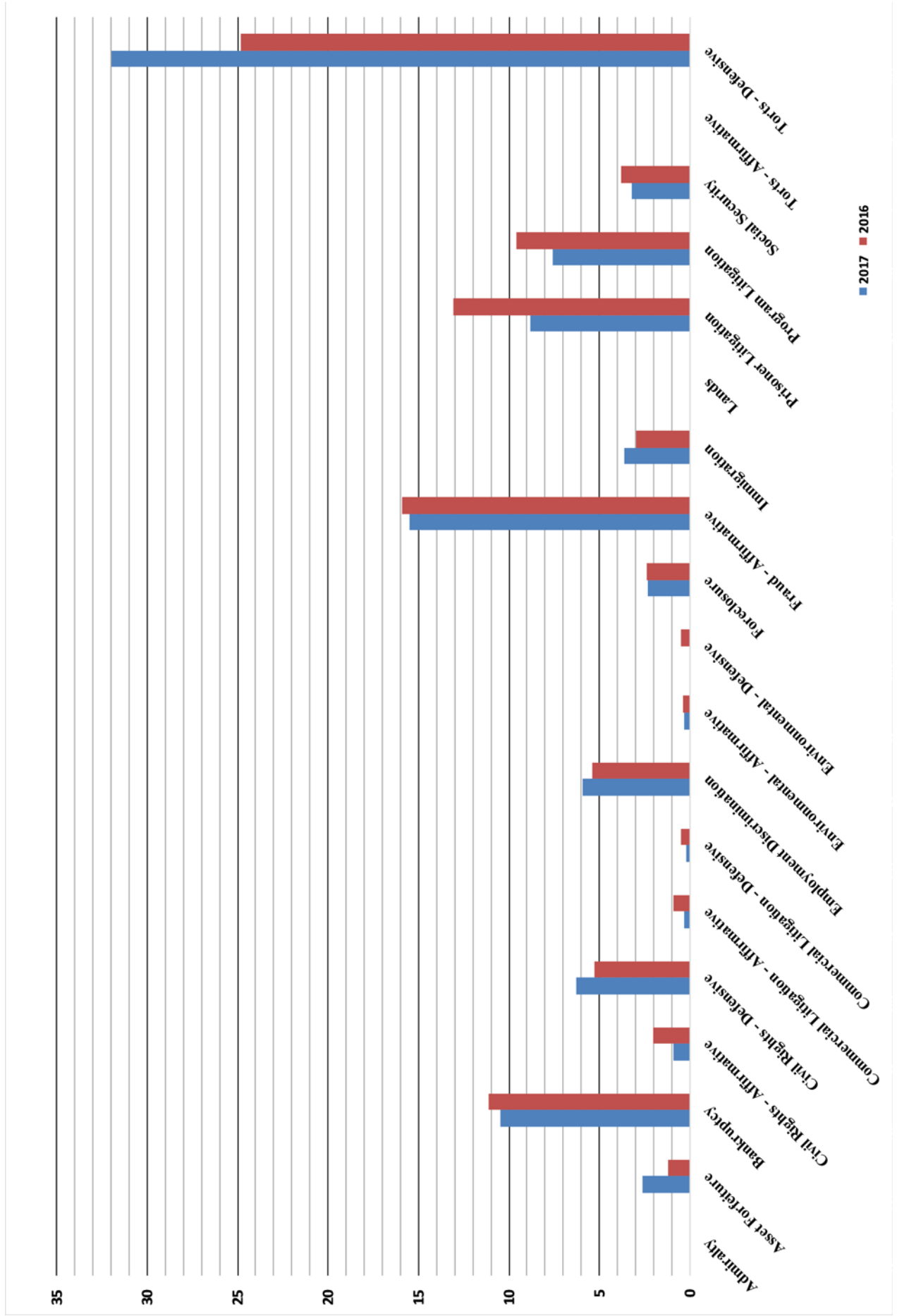
U.S. Attorney Birge inaugurated a committee of attorneys and staff from the administrative and litigating divisions to review information technology challenges, develop best practices for the office and recommend purchases to best meet our needs. Many of the committee's ideas have been readily adopted, including plans to buy software that the Executive Office is now

oised to make available nationwide thanks, in part, to the efforts of this committee. AUSA Nicole Mazzocco chairs the committee.

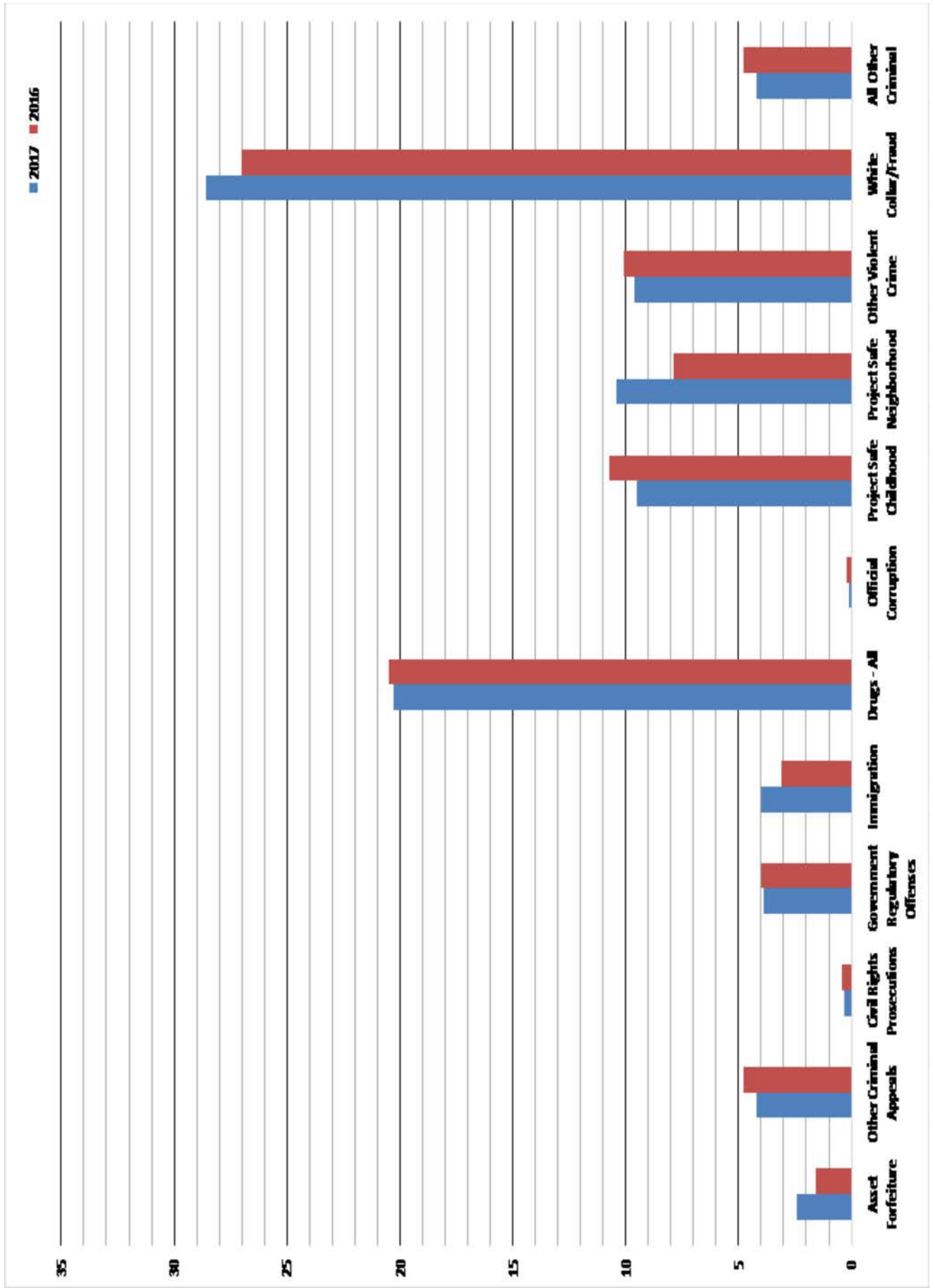
UNITED STATES ATTORNEY'S OFFICE - WESTERN DISTRICT OF MICHIGAN



WDMI CIVIL WORKYEAR STATISTICS
 [Time spent on various types of matters as a percentage of the total.]

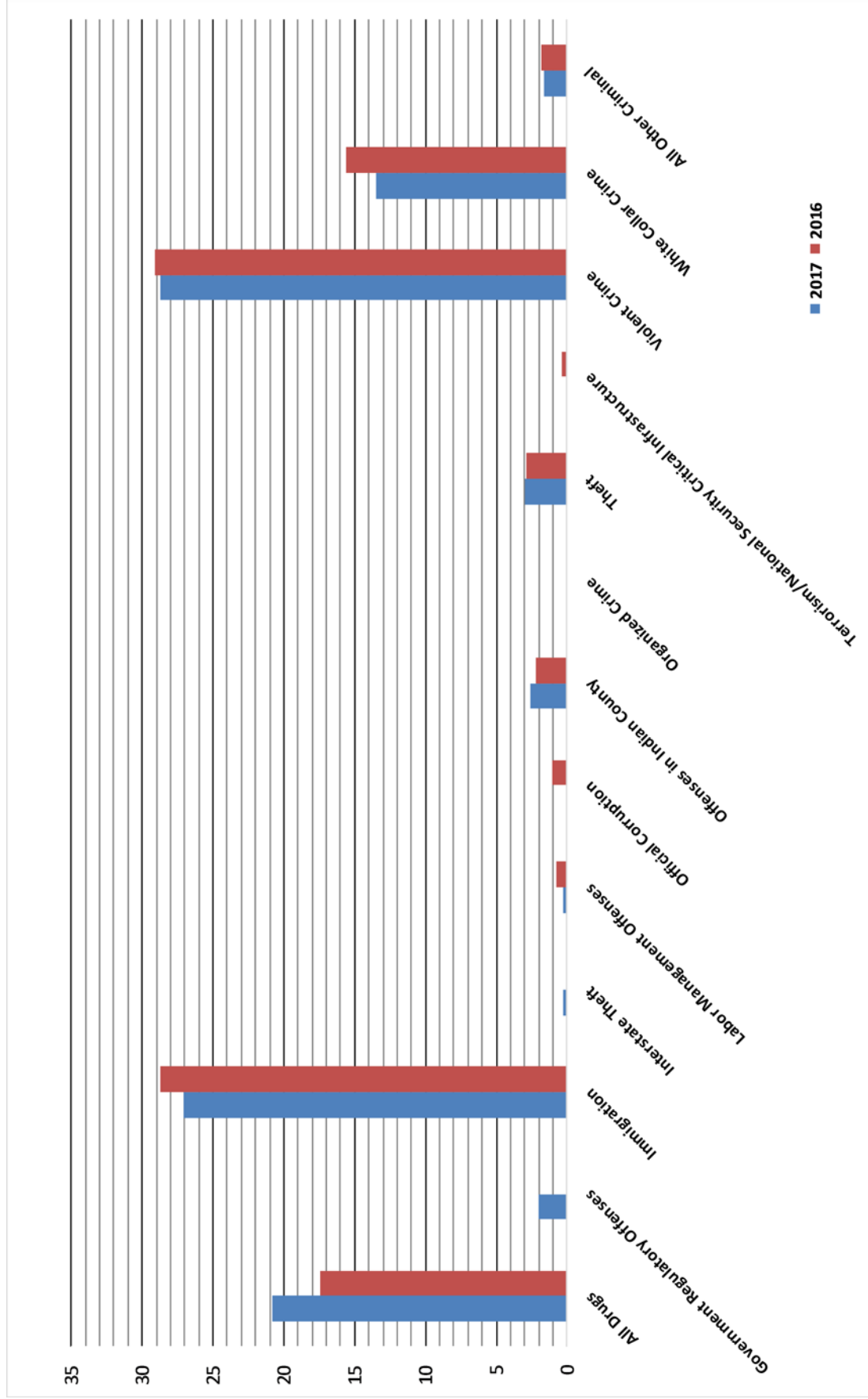


WDMI CRIMINAL WORKYEAR STATISTICS [Time spent on various types of matters as a percentage of the total.]



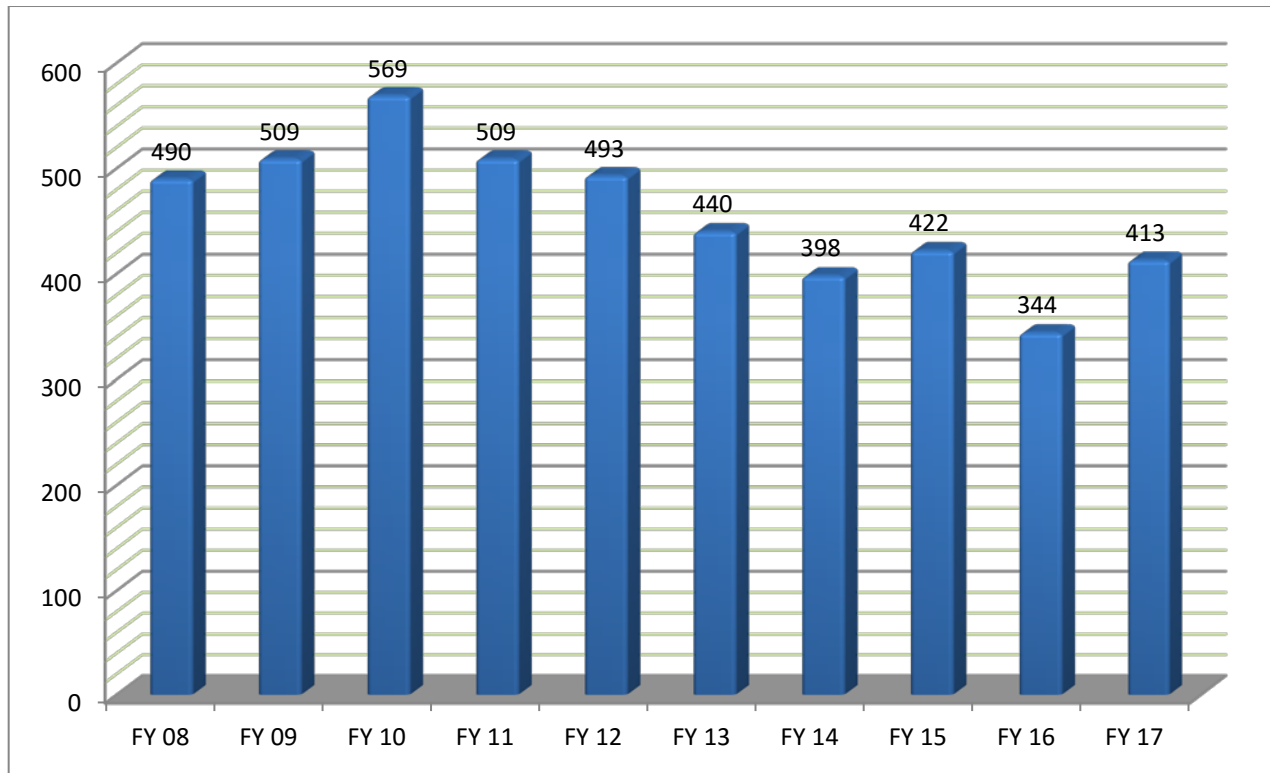
WDMI CRIMINAL CASELOAD STATISTICS

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

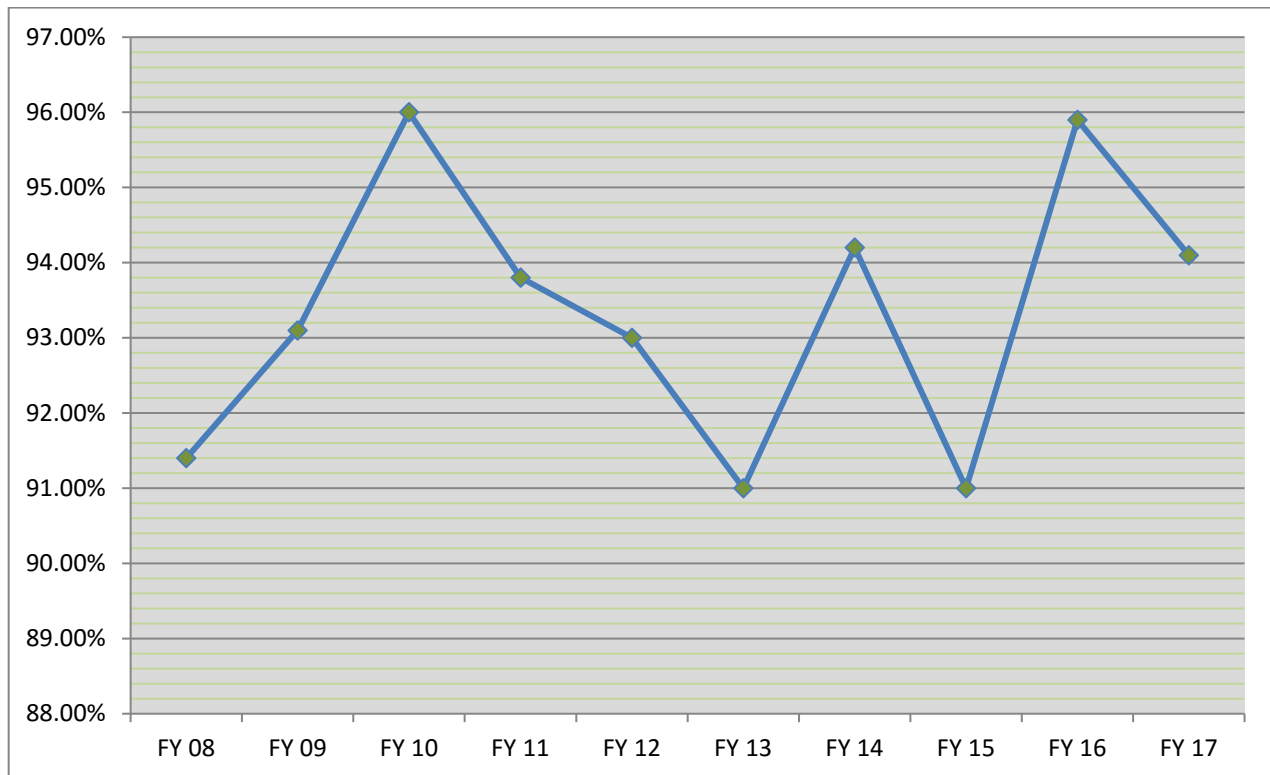


WDMI UNITED STATES ATTORNEYS CRIMINAL CASELOAD STATISTICS

Defendants Guilty

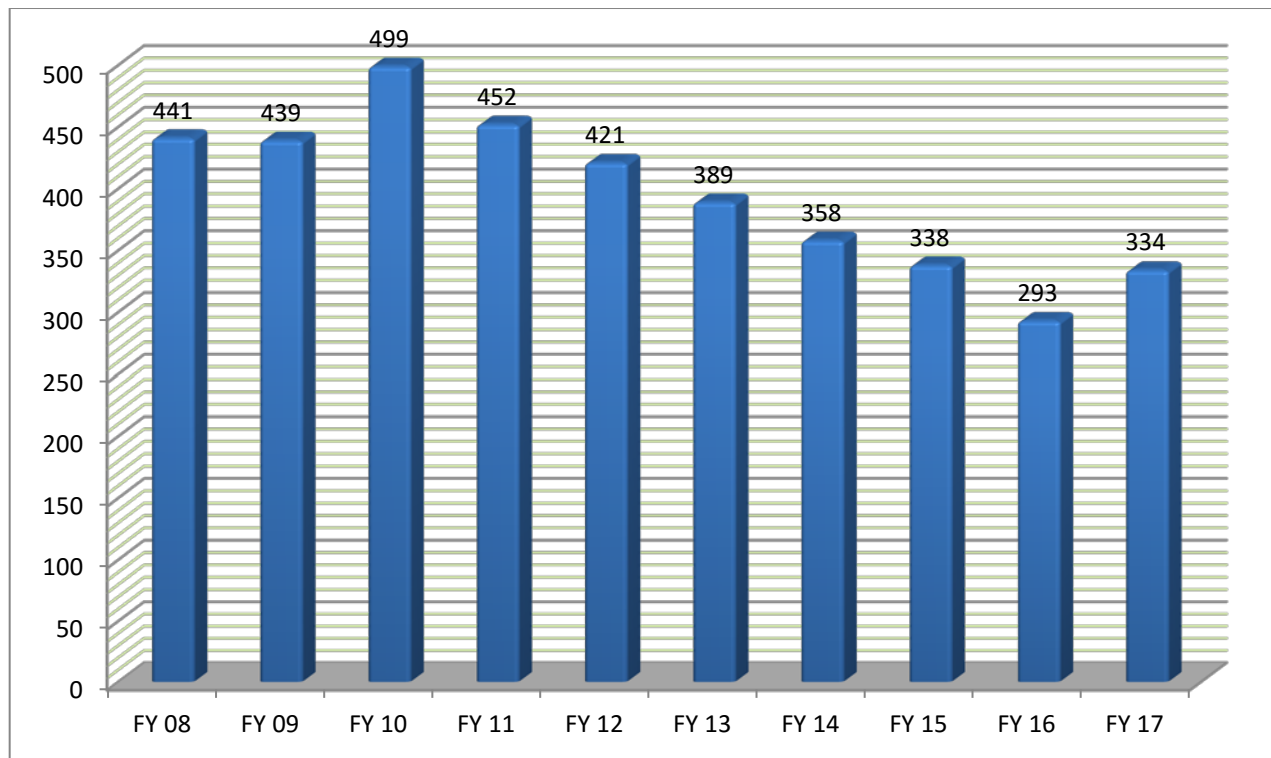


Conviction Rate

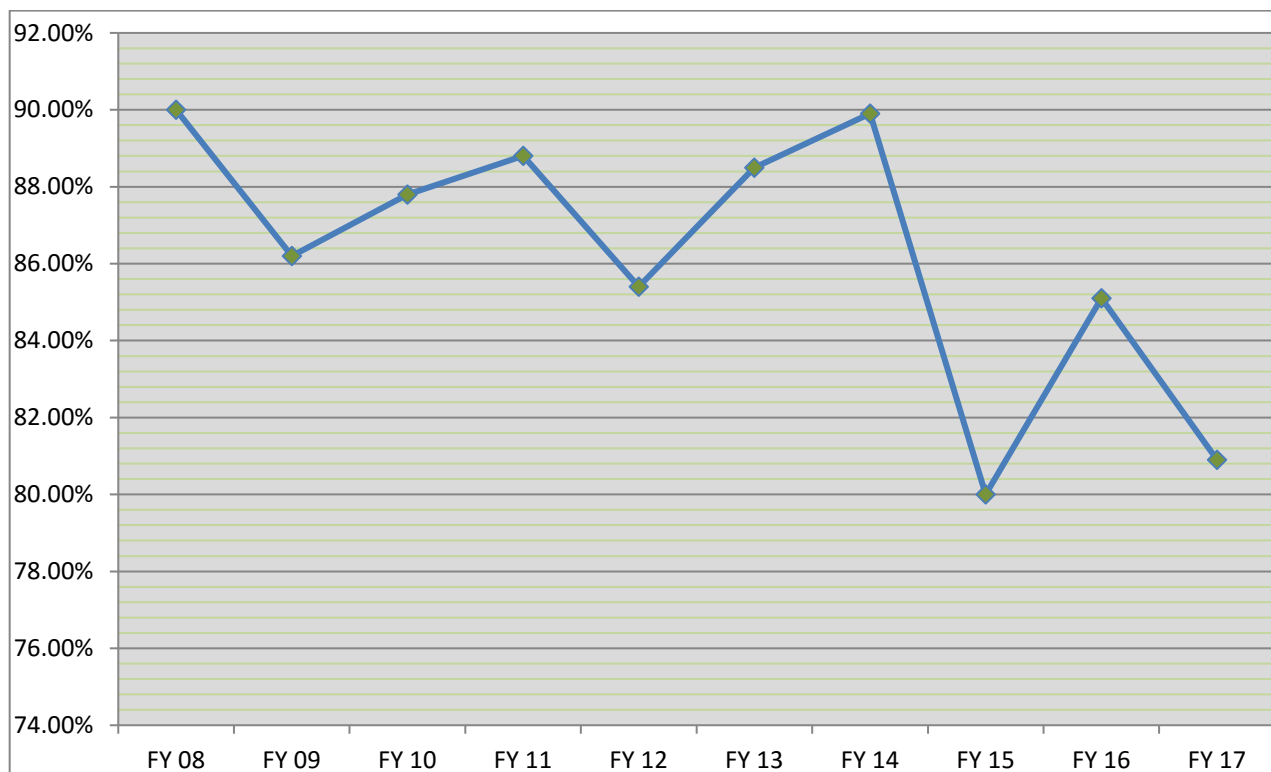


WDMI UNITED STATES ATTORNEYS CRIMINAL CASELOAD STATISTICS

Number of Guilty Defendants Sentenced to Prison

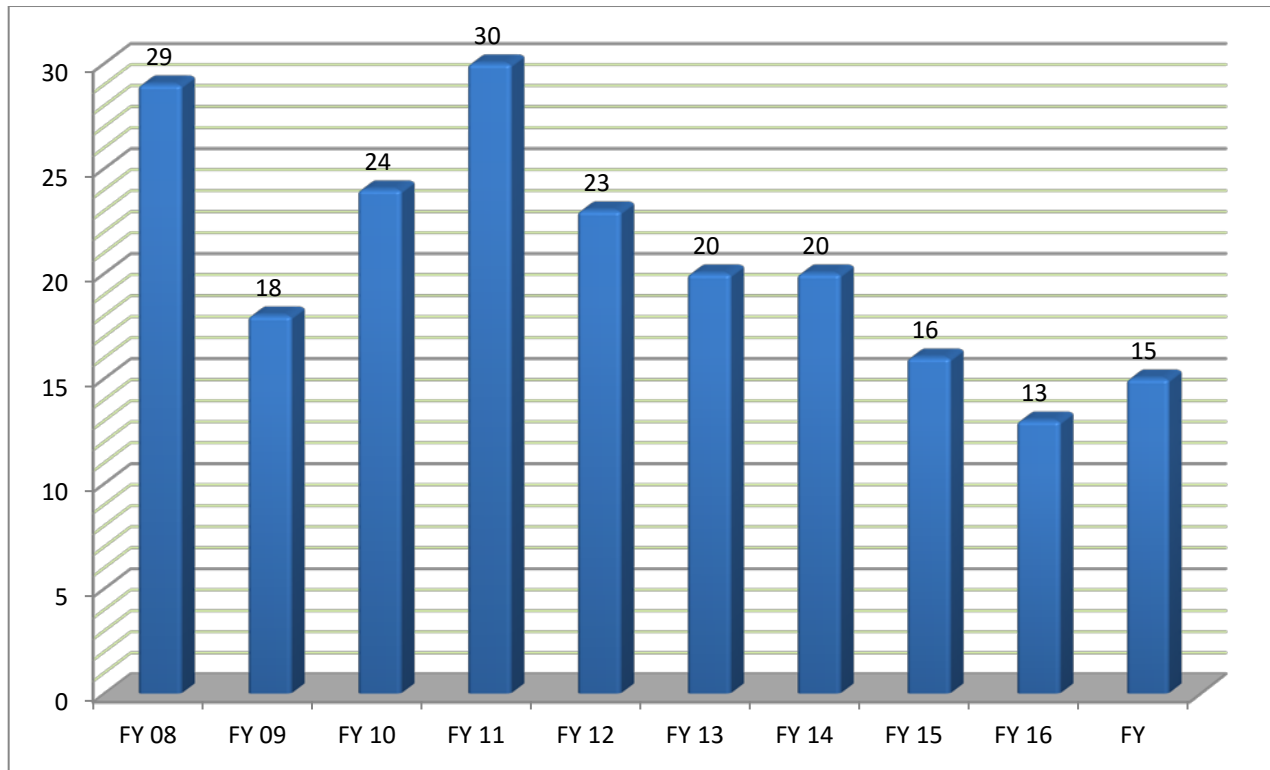


Percentage of Guilty Defendants Sentenced to Prison



WDMI UNITED STATES ATTORNEYS CRIMINAL CASELOAD STATISTICS

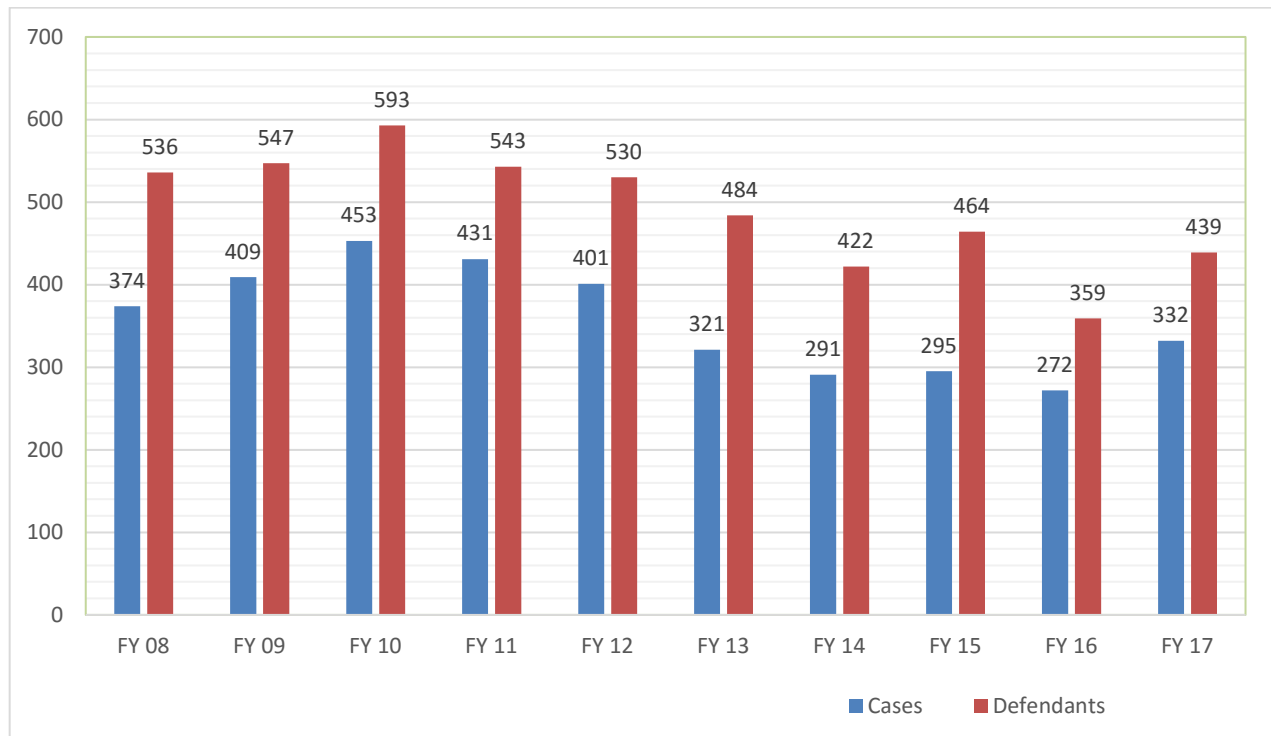
Defendants Tried



Defendants Disposed of by Trial as a Percent of Defendants Terminated



Cases Terminated versus Defendants Terminated



FIREARMS (18 U.S.C. 922 and 924)* WESTERN DISTRICT OF MICHIGAN								
Category	FY 2013	FY 2014	FY 2015	FY 2016	Average of FY13- FY16	FY 2017**		Percent change of the average to current year
Matters Received	75	38	42	64	55	93	↑	69.9%
Defendants Filed	72	33	46	52	51	85	↑	67.5%
Cases Filed	62	29	39	49	45	74	↑	65.4%
Defendants Guilty	68	69	37	39	53	77	↑	44.6%
No Prison	1	2	1	1	1	0	↓	-100.0%
1-12 months	1	1	0	2	1	2	↑	100.0%
13-24 months	3	2	0	0	1	8	↑	540.0%
25-36 months	4	4	2	5	4	8	↑	113.3%
37-60 months	17	9	13	7	12	17	↑	47.8%
61+ months	42	51	21	24	35	42	↗	21.7%
*This chart includes any and all criminal cases where 18 U.S.C. 922 or 924 was brought as any charge against a defendant. However, both statutes were run together to eliminate any double counting of cases/defendants when more than one subsection of Section 922 or 924 was charged against the same defendant, or both Sections 922 and 924 were charged against the same defendant. 61+ includes life and death sentences.								
**FY 2017 numbers are actual data through the end of September 2017.								

2017 LAW ENFORCEMENT TRAINING

Jan. 9-13	ALERT (active shooter)	Detroit
Mar. 6-10	Tactical Entry to Meth Labs	Detroit
April 18-20	Tribal Special Commissions	South Bend
May 2	Non-Indian Misdemeanor Training	Peshawbestown
May 4	Non-Indian Misdemeanor Training	Fulton
May 9-11	PSN Training	South Bend
May 16-18	Mexican Drug Cartels	Detroit
August 3	Complex Case Investigations	Suttons Bay
August 7-11	Leading & Managing a Drug Task Force	Mason
August 9-11	Great Lakes Native Americans Conference	Minneapolis
August 21-23	ALERT	Big Rapids
September 7-8	Cell Phone Investigations	Dearborn
September 18-22	ALERT	Berrien Springs, Mason, Taylor Grand Rapids
October 24-25	Anti-Terror Training by USSS	Grand Rapids
November 13 & December 13	Digital Media Search Authority and Process	Grand Rapids
November 15-16	Drug Identification	Dearborn
December 5-7	Tribal Special Commissions	Covert