

YEAR IN REVIEW

Year 2019



United States Attorney's Office
Western District of Michigan

Andrew Byerly Birge
United States Attorney

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Introductory Message



ANDREW BYERLY BIRGE
UNITED STATES ATTORNEY
WESTERN DISTRICT OF MICHIGAN

I appreciate your interest in the work of this office over the past year. I think you will find the accomplishments recounted in this report demonstrate the high level of professionalism and commitment we all hope to see in an office dedicated to the pursuit of justice.

In 2019, the attorneys and staff persevered through a national budgetary shutdown with minimal impact on our mission, thanks to their diligence and focus. For example, Criminal Division prosecutors brought a comparable number of cases to the prior year while again securing convictions over 94% of the time — and they did so through more jury trials than in any of the preceding seven years. And Civil Division attorneys secured great success pursuing more affirmative fraud and civil rights violations than in many years while also ably defending the public fisc.

It was again an honor to serve as their -- and your—United States Attorney.

Sincerely,

A handwritten signature in blue ink, appearing to read 'A. Byerly Birge', written in a cursive style.

ANDREW BYERLY BIRGE

EXECUTIVE SUMMARY

The office continued its pursuit of Department initiatives throughout 2019. The year began inauspiciously with a nationwide budgetary shutdown, but the office successfully persevered through the challenges. Personnel allocated in the prior year eventually arrived and quickly became strong contributors.

The Criminal Division brought 330 indictments against 420 defendants over the course of the fiscal year—numbers which are comparable to the prior year. The spread among Department priorities was likewise comparable to 2018, with violent crime, immigration and drug offenses comprising the vast majority of charges brought. Thanks to the additional resources secured last year, firearm prosecutions increased by about a third. White collar cases represented a smaller percentage than in the prior year, as the office continued to work through the cases already brought.

The Civil Division saw a resurgence in affirmative enforcement efforts, including in both health care fraud and civil rights. Employment litigation, Federal Tort Claims Act and Constitutional torts dominated the defensive efforts. The Bankruptcy docket remains high-volume, though it represents a smaller percentage of our attorney time.

The Appellate Division managed a rising tide of appeals and post-conviction challenges, with notable successes in the Sixth Circuit on sentencing, search and seizure and evidence issues.

Our Administrative Division ably supported the litigative mission as represented by the success of those cases and by securing the essential resources and on-boarding personnel despite the challenges posed by a budgetary shutdown.

Community outreach efforts continued to focus on the opioid epidemic, offender re-entry, law enforcement training and our government-to-government meetings with the eleven Tribes in the district.

ARRIVALS, DEPARTURES and PROMOTIONS

Arrivals:

AUSA Ted Greeley joined our Marquette office in November after a six-month stint in Grand Rapids getting to know everyone and appearing in front of our judges as much as possible. In the Marquette office, he will be doing all manner of criminal cases, consistent with the varied criminal docket in our Northern Division. Before joining our office, Ted represented clients in criminal as well as civil matters as an attorney with Casselman & Henderson P.C. in Marquette. His prior experience also includes service as an Associate with the Dykema Gossett firm in Lansing and as a law clerk for the Honorable David McKeague on the Sixth Circuit Court of Appeals. Ted graduated first in his class and *summa cum laude* from Marquette University Law School, where he was also Editor

in Chief of the Law Review. He earned his BA from Lawrence University in Appleton, WI, graduating *magna cum laude*. He was also on the hockey team and President of his fraternity, Delta Tau Delta.

AUSA Patrick Castle joined the Criminal Division as an AUSA in the Violent Crimes Section in Grand Rapids in September. Patrick comes to us after working for seven years as a civil litigation Associate in Chicago with both the Shook, Hardy & Bacon and Jones Day law firms. Patrick graduated with honors from both the University of Chicago School of Law, where he earned his J.D., and Kalamazoo College, where he majored in philosophy. Like Dan McGraw and Tonya Long who joined us last year, Patrick taught under the Teach for America program after completing his undergraduate studies.

AUSA Stephanie Carowan joined the Violent Crimes Section of the Criminal Division in November. Stephanie is actually re-joining the Department of Justice after a two-year hiatus with the firm of Ice Miller in Indianapolis, where she represented and advised clients primarily on federal white-collar criminal matters. Before that sojourn, Stephanie served as an AUSA in the District of Alaska for four years, prosecuting firearm and narcotics cases as well as white collar matters. She started her career with the Department as an Attorney General Honors Program hire in the Tax Division at Main Justice. Stephanie graduated with High Honors and Order of the Coif from the University of North Carolina School of Law where, among other things, she served as President of the Broun National Trial Team. She earned her B.A. in Political Science from Butler University, with a minor in Vocal Performance (Music).

Kristin Kol started in September as a Legal Assistant in the Criminal Division in Grand Rapids. Kristin previously served as a Legal Assistant for the last eight years with Mika Meyes, PLC., and as an Administrative Assistant for many years prior to that for Marc A. Kidder, Esq., in Grand Rapids. Kristin holds a Bachelor of Music Education from Indiana University and was an Assistant Band Director for Zeeland High School for a year after college. In her spare time, she is a Board Member and Volunteer for the Pediatric Oncology Resource Team at Helen DeVos Children's Hospital.

Daniel McDonough became a career employee as a Legal Assistant, transitioning from his contract witness assistant position in the fall. He remains in the Victim/Witness Services Unit, providing support for all attorneys on grand jury and trial witness needs as well as the Victim Services staff and Law Enforcement Coordinator for their needs. Before joining the office, Daniel worked as a Legal Assistant and Paralegal at Stenger & Stenger and then at Brandon Gardner & Associates. Daniel is a United States Marine and holds a B.A. in Legal Studies/Criminal Justice from Grand Valley State University.

Rich Ptak became our Civil Health Care Fraud Contract Investigator early in the year. He is taking over for Jacquelyn Lack, who retired at the end of last year. For the prior six years, Rich was the Supervisory Special Agent in Charge for the IRS-Criminal Investigations office in Grand Rapids. He was with IRS-CI

for a total of 16 years. Before that, he was an Auditor with the Department of Defense, Office of Inspector General, and then a Special Agent with the Defense Criminal Investigative Service. Before embarking on his public service career, he earned his undergraduate degree at a Michigan State University.

Steve Corcoran became our Criminal Health Care Fraud Contract Investigator in November. He is taking over for Barb Birdsong, who retired from full time work this summer. Like both Barb and Rich, Steve comes to us from the IRS. He served for a total of 24 years as an IRS Special Agent not only in Grand Rapids, but also in Brooklyn, New York, and El Paso, Texas. During his tenure, he served as a member of the IRS-CI Money Laundering Expert Witness Cadre and achieved ACAMS (Association of Certified Anti-Money Laundering Specialists) certification. Before joining the IRS, he worked as a Financial Analyst with the FBI in New York City. Steve earned a Bachelor's of Business Administration from Western Michigan University.

Jennifer Parmenter accepted our contract receptionist position in November, replacing **Kyleleigh Patterson** after Kyleleigh took a career position elsewhere after just a few short months with us. Before becoming our receptionist, Jennifer took phone calls and provided counseling and service information to expectant mothers at Bethany Christian Services. She has also worked as an Attendance Clerk for Kentwood Public Schools, on the Building Staff for the St. Cecelia Music Center and as a tutor for Grand Rapids Community College. For six years she established and maintained libraries for the Tambo Mission School in Bolivia, South America, and the Hamdallaye Mission School in Guinea, West Africa. She holds an Associate Degree from Grand Rapids Community College.

Katie Campbell accepted our offer late in the year to become our Fact Witness Support Contractor in Grand Rapids, taking over for Dan McDonough. Katie is a graduate of Michigan State University, where she was on the Dean's List among other accomplishments. She studied pre-law with a Minor in Philosophy. For the past two years or so, she worked as a legal assistant with Schroder Law PC.

Departures:

AUSA Mark Courtade retired at the end of May after more than 30 years with the office and a total of over 42 years in public service, including as a police officer. After earning his law degree from the Detroit College of Law, he embarked on his legal career with the Kalamazoo County Prosecutor's Office, where he honed his signature unabashed style in the courtroom. As a prosecutor in this office, Mark prosecuted all manner of cases but focused on drug trafficking and violent crime. He served as Chief of the Criminal Division midway through his tenure here, but never lost his sense of humor or zest for pursuing cases himself, garnering countless accolades from federal, state and local law enforcement agencies along the way.

AUSA Sally Berens was selected by the Court to become the next U.S. Magistrate Judge for the Southern Division of the Western

District of Michigan, succeeding Magistrate Judge Ellen Carmody upon her retirement from the bench in early November. Sally originally joined the office at the end of 2012. She handled appellate and post-conviction matters, as well as a significant load of trial work that ranged from PSN cases to white collar fraud matters. Before joining our office, she practiced in Northern California for a national firm for about ten years and clerked in the Ninth Circuit. Sally earned her law degree from The University of Chicago and her undergraduate degree from Harvard and Radcliffe colleges. Three of the four magistrate judges in the district are now former Assistant United States Attorneys.

After joining our office first as a contract Receptionist and then as a legal assistant in the Criminal Division in 2018, **Leann Smith** left to join the private sector mid-year.

Barb Birdsong retired from our office after several years as our criminal health care fraud contract staff investigator. Her career spanned many years as a Special Agent with the IRS and included serving as the U.S. Marshal for Western Michigan during the Clinton administration.

Promotions:

Breane Warner accepted a promotion to serve as our newest Victim Services Coordinator. She will continue to oversee Grand Jury Coordination duties before eventually passing those on as she takes on more complex victim support work. In addition to Grand Jury coordination responsibilities, Breane previously served for five years as a Legal Assistant in the Criminal Division and provided administrative support to the U.S. Attorney.

Anne Towns accepted a temporary promotion to serve as the office's Law Enforcement Coordinator and Public Information Officer. Anne has capably supported the office's Victim-Witness, LEC and public outreach efforts for many years.

Melissa Fanko accepted a promotion to serve as our Budget Analyst. For the previous two years, Mel covered administrative support responsibilities for Budget and Human Resources projects as well as for our front desk, as needed. Her prior experience as an Allocation Specialist in the private sector has paid dividends for the office.

Jeanne Long accepted the opportunity in the fall to help manage the Civil Division for a full quarter of the year as Deputy Division Chief, while Ryan Cobb, the Chief of the Division, took extended leave to assist with a mission in Africa. AUSA Long proved that the Division has a deep well of management talent.

AWARDS and HONORS

CERTIFICATES OF APPRECIATION AND SERVICE COMMENDATIONS

AUSA ADAM TOWNSHEND from DHHS-OIG for his work on the civil False Claims Act claims against Van Andel Research Institute;

AUSA CLAY STIFFLER from BlueCross/Blue Shield for his prosecution of the *Parks Pharmacy* matter; AUSA ALEXIS SANFORD from the FBI for her work on child exploitation; AUSA CHRIS O'CONNOR from IRS for his prosecution of the *Jeffrey Palmer* matter.

REPRESENTATIVE CIVIL MATTERS

Affirmative Civil Enforcement:

United States v. Van Andel Research Institute. The USAO reached a \$5.5 million settlement to resolve allegations that the Van Andel Research Institute (VARI) violated the False Claims Act by submitting grant applications and progress reports to the National Institutes of Health in which VARI failed to disclose foreign grants that funded two researchers who worked with the VARI. AUSA: Adam Townshend.

United States v. The Hinman Company. The United States negotiated a \$2 million resolution of claims against a local commercial real estate company for alleged violations of Federal Aviation Administration regulations. The government contended that the defendant operated aircraft without required certificates or meeting other requirements necessary to conduct commercial flight operations and that it conducted flights under timeshare agreements while charging fees not permitted under federal regulations. AUSAs: Carolyn Almassian, Andrew Hull.

United States v. GS Engineering, Inc. GS Engineering, Inc. (GSE) and two of its corporate principals agreed to pay a total of \$1 million to resolve False Claims Act allegations that GSE used four related entities to generate fraudulent and inflated charges under GSE's defense contracts. Its CEO, its former bookkeeper, and four related entities further agreed to 3-year voluntary exclusions from federal grants, contracts, and awards as part of the settlement. GSE also entered into a 3-year integrity agreement with the U.S. Army that requires the company to retain an independent claims monitor and establish a corporate ethics and compliance program. AUSA: Adam Townshend.

United States v. Traverse Anesthesia Associates. The USAO resolved allegations that the defendant billed for anesthesia services under a medically directed rate when, in fact, its anesthesiologists did not meet the regulatory criteria for billing the services as medically directed. The defendant agreed to pay \$539,188 to the United States to settle these claims, while a number of individual anesthesiologists also named as defendants in the complaint also paid penalties, for a total settlement of \$607,966. AUSA: Andrew Hull.

United States v. Munson Healthcare Manistee Hospital. The USAO negotiated a settlement of over \$175,000, which included civil penalties for individual physicians, stemming from allegations that defendants improperly claimed to have performed medically-directed anesthesia services that did not meet underlying conditions for payment. AUSA: Adam Townshend.

Affirmative Civil Rights:

The USAO worked in cooperation with the Department of Justice's Civil Rights Division to investigate numerous claims of disability discrimination in violation of the Americans with Disabilities Act. The USAO was also involved in investigating and litigating Fair Housing Act claims involving allegations of sexual harassment and discrimination in education and housing. New Affirmative Civil Rights matters increased by nearly 70% in 2019.

Red Moose Lodge. The USAO investigated a complaint that a lodge had refused an individual admittance because of his service dog. Following investigation, the lodge agreed to implement an ADA-compliant policy relating to service animals and to update its policy on its website. AUSA: Carolyn Almassian.

Sparrow Medical Group. The USAO resolved a complaint that a health care practice had failed to provide ADA-compliant sign language interpretation services for hearing-disabled individuals who visited the facility for medical appointments. The practice agreed, among other things, to conduct staff training regarding ADA requirements, its interpretation policy, and its interpretation services and equipment; to post a nondiscrimination and accessibility notice; to implement and enforce use of a communication assessment as part of new patient visits; to confirm contracts with qualified sign language interpreting service; and to provide a compliance progress report. AUSA: Laura Babinsky.

Ontonagon County Public Transit. The USAO investigated a municipal transit system, resulting in the system's development of a new procedure to allow customers who are unable to use the telephone to make their transit reservations in an accessible manner. AUSA: Laura Babinsky.

Outreach and Education. The USAO engaged in outreach and training events regarding the Religious Land Use and Institutionalized Persons Act and sexual harassment in housing. AUSA: Laura Babinsky.

Bankruptcy:

The USAO represented the interests of the United States in approximately 105 new bankruptcy matters it opened in 2019; the USAO also resolved its issues or claims in numerous cases. The number of new bankruptcy matters in the USAO increased for the third straight year. AUSAs: Jeanne Long, Nicole Mazzocco, Michael Shiparski.

Defense of Claims of Civil Rights Violations:

Richardson v. Masteller. The plaintiff accused a Deputy United States Marshal of violating his constitutional rights and using excessive force when the officer fired on the plaintiff while attempting to arrest him. The plaintiff had disregarded officer instructions and attempted to flee the scene, and the officer contended that while doing so, plaintiff had raised an object that

appeared to be a gun towards the officer, causing him to fear for his life. The object later was found to be a cellular phone. A jury found in favor of the Deputy United States Marshall following a three-day jury trial. AUSAs: Carolyn Almassian, Nicole Mazzocco.

Knapp v. United States et al. The USAO obtained dismissal of a lawsuit that attempted to challenge the federal and state governments' efforts to combat the opioid crisis. The plaintiff, along with numerous people who sought to join in the suit, argued that CDC guidelines, as well as DOJ and HHS enforcement efforts, are improperly deterring healthcare providers from legitimately prescribing opioids to pain patients who need them. The USAO demonstrated that the plaintiff lacked standing to pursue her claims because she had not alleged that she personally suffered any concrete injuries or violations of protected interests. AUSA: Laura Babinsky.

Blocker v. United States. The USAO obtained dismissal of a complaint that challenged a number of statutes and executive orders. Plaintiff contended that the government violated his constitutional rights, impaired his credit, and prevented him from obtaining employment. AUSA: Carolyn Almassian.

Employment Litigation:

Mattson v. United States Postal Service. A former U.S. Postal Service employee sought a higher pay rate and back pay that he alleged the Postal Service failed to pay him for over a year of service as an electronic technician. The USAO demonstrated that although the Postal Service had added plaintiff to its register for the position and considered him eligible for higher pay "pending qualification," his official designation never changed from that of a custodial laborer because he did not complete two trainings that were necessary for promotion and the higher pay rate. He also failed to exhaust his administrative remedies to protest his pay rate through the prescribed grievance procedure under the Postal Reorganization Act. AUSA: Jeanne Long.

Lehman v. United States Department of Defense. The plaintiff was required to pay discovery sanctions to the government but instead of paying them, stayed her employment discrimination claims while pursuing bankruptcy. Four years after the bankruptcy concluded, the plaintiff moved to reopen her discrimination case, blaming a string of her former attorneys for not reopening it sooner. The district court determined that the case should not be reopened and instead should be dismissed in view of the plaintiff's course of conduct, which had signaled abandonment of her claims. AUSA: Jeanne Long.

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, Ryan Cobb, Jeanne Long.

Federal Tort Claims Act (FTCA) Defense:

The USAO defended numerous tort claims against the United States, including a significant number of medical malpractice, automobile accident, and premises liability cases, as well as other miscellaneous tort claims. The USAO's new tort cases increased by over 50% in 2019, though the percentage of time AUSAs in the Western District of Michigan spent on tort defense decreased for the first time in five years. Despite this reduction, it was the second most time-consuming category of work for Civil Division AUSAs. AUSAs: Carolyn Almassian, Laura Babinsky, Ryan Cobb, Jeanne Long, Nicole Mazzocco.

Representative resolutions included dismissals of two medical malpractice cases in which the USAO demonstrated that the healthcare providers at issue were not deemed employees of the USA. The USAO also obtained dismissal of tort and other claims brought against a federal probation officer relating to his supervision of the plaintiff, a convicted sex offender who was under probation supervision.

Program Litigation:

Summons Enforcement Actions. The USAO brought several actions to enforce IRS administrative summonses for tax-related information. AUSAs: Laura Babinsky, Andrew Hull, Jeanne Long, Nicole Mazzocco.

Freedom of Information Act (FOIA) Litigation. The USAO defended a number of FOIA cases seeking to compel the production of documents from federal agencies. AUSAs: Carolyn Almassian, Laura Babinsky, Ryan Cobb, Jeanne Long, Nicole Mazzocco.

Immigration Litigation:

The USAO handled eight new immigration cases, most of which were actions seeking to compel agency adjudication of immigration petitions to naturalize aliens or otherwise adjust legal status, or seeking review of agency denials of such petitions. The USAO also handled habeas corpus cases in which criminal aliens who were in the process of being removed from the country sought release from custody pending removal. 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, many of which are litigated in state court. AUSA: Michael Shiparski.

Social Security:

The USAO 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 2019, the USAO opened over 100 new cases in which plaintiffs challenged unfavorable Social Security disability benefits determinations, a significant and welcome decrease from 2018. AUSA: Michael Shiparski.

REPRESENTATIVE CRIMINAL MATTERS

Financial Crimes:

ENVIRONMENTAL:

United States v. John H. Cross III and John Cross Fisheries Inc. Cross was sentenced to 12 months in prison, with a 5 year probation for Cross Fisheries and was ordered to pay \$1,032,132.00 in restitution to the National Fish Hatcheries for trafficking in illegally transported and sold lake trout. In addition, Cross Fisheries was ordered to create and implement a compliance plan to prevent such violations from reoccurring. Cross plead guilty to violating the Lacey Act by knowingly selling and attempting to sell in interstate commerce lake trout, when they should have known the fish was possessed and sold in violation of underlying State law, specifically Mich. Comp. Laws, Sections 324.47333 and 324.47319 which prohibit any person from marketing, possessing, or offering for sale any fish illegally taken from the relevant waters. AUSA: Nils Kessler. Agencies: USFWS, UPNFC, DNR, and DOJ

HEALTH CARE FRAUD:

United States v. John Shedd and Terry Tooley. The defendants who previously owned Parks Drug Store in Albion, admitted they filled prescriptions written by former Albion doctor Horace J. Davis and dispensed 50,000 dosage units of methadone, even though they knew those prescriptions had been written for no legitimate medical purpose. They also admitted they billed Medicare, Medicaid, and Blue Cross Blue Shield of Michigan more than \$465,000 for prescriptions that were never written, and forged documents in connection with their false healthcare billings. Both Defendants were each sentenced to 15 months in prison on federal drug trafficking and healthcare fraud charges, and ordered to pay more than \$465,000 in restitution and to never obtain a pharmacy license or practice again as pharmacists. AUSA: Clay Stiffler. Agencies: Albion Department of Public Safety, Calhoun County Sheriff, DEA, and IRS Criminal Investigation

United States v. Babubhai Rathod. Rathod was previously sentenced to 4 years in prison and excluded from participating in Medicare and Medicaid in 2013 for paying practitioners illegal kickbacks in exchange for patient referrals to his health care companies. He faked a drug and alcohol problem while in prison where he was then eligible for the Residential Drug Abuse Program (RDAP) and once completing RDAP he was given early

release. Only days after his release he started violating his probation terms and began operating four health care providers across Michigan. In order to conceal his ownership, Rathod used aliases, straw owners, and shell holding companies that were registered to other people. This scheme netted nearly a million dollars in Medicare and Medicaid reimbursements, which his providers were not entitled to. Rathod also used the name, address, date of birth, Social Security Number, and driver's license of a physician colleague to obtain working capital loans for one of his health care providers 'Advanced Medical Services'. This provider defaulted on one of its loans, where a state-court judgement was then entered against the physician and his bank account was frozen. After pleading guilty to both charges, Rathod was sentenced to 10 years in prison for health care fraud and an additional 2 years for aggravated identity theft. In addition to his prison time, Rathod was ordered to pay \$939,795.89 in restitution to Medicare and Medicaid. AUSA: Adam B. Townshend and Raymond E. Beckering III. Agencies: HHS, OIG, FBI, and Blue Cross Blue Shield of MI

MAIL AND WIRE FRAUD:

United States v. Raul Mejia Pereida. Pereida was charged with wire fraud and identity theft for his connection with a fraudulent concert scheme. Using aliases Pereida and his co-defendant Allen Clayborn, pretended to represent singer Mariah Carey. They proceeded to convince two LGBT charities to pay a total of \$130,000 to supposedly hire Carey to perform for an at-risk youth benefit. One of charities targeted, located in Grand Rapids, alone paid \$100,000 for Mariah Carey to perform at Calder Plaza on June 16, 2016. The other charity targeted by the men was a similar organization in Flagstaff, Arizona. The scheme involved detailed contracts consistent with entertainment industry standards, trips to New York City and Las Vegas with complimentary tickets to hear Carey sing with the implication that they were actually a gift from Carey, and bogus email accounts in the name of Carey's road manager. All these things were done to create an illusion that the victims were negotiating with actual employees of the singer's production company. The defendants used the money for their own purposes, and because there was no concert to raise money, the charities were left virtually insolvent. Pereida was sentenced to 27 months in prison and both defendants have to repay the \$130,000 netted in the con. Furthermore, once Pereida's sentence is complete, he will be deported due to the fact that he is an undocumented citizen of Mexico. AUSA: Timothy VerHey. Agencies: FBI

United States v. Darci Shillington. Judge Neff imposed a sentence of 36 months in prison, to be followed by 2 years of supervised release and for Shillington to pay \$399,386 in restitution for defrauding Hilco Technologies. Shillington was the CEO of Hilco Technologies, a Grand Rapids Plastics manufacturing company. Between June and September, 2017, she defrauded the company of \$1,397,000 by submitting phony invoices for payment and pocketing the money. She used the stolen money to purchase and furnish a lavish home in Ada, Michigan, where she also forged a letter, supposedly from Hilco's Board of Directors, explaining how she legitimately possessed large cash reserves to make a down

payment on the residence to begin with. The fraud left Hilco short of cash to pay its real suppliers, who eventually contacted other Hilco representatives to complain. AUSA: Timothy VerHey. Agencies: FBI

OFFICIAL CORRUPTION

United States v. Larry Inman. Inman, the state representative for the 104th District was indicted for extortion and solicitation of a bribe for soliciting campaign contributions in exchange for an official act, namely his vote on repealing Michigan's prevailing wage law. He was also charged with lying to an FBI agent in the course of the investigation. His communications with union representatives were captured in text messages. In December, a federal jury later acquitted him on the charge of lying to a federal officer but could not come to an agreement on the remaining two counts. Post-trial motions are pending and a new trial date has not been set. Mr. Inman remains presumed innocent until proven guilty in court. AUSAs: Chris O'Connor and Ron Stella. Agency: FBI

PROGRAM FRAUD:

United States v. Raymond Gedeon, Edward Gedeon, and Youssef El-Chaer, and Elias Abudaya. A USDA investigation was conducted in reference to fraud occurring at convenience stores in Lansing, Michigan where customers were allowed to buy prohibited items (such as cigarettes) or received cash in exchange for Supplemental Nutrition Assistance Program benefits (food stamps). Elias Abudaya was convicted of food stamp fraud in violation of 7 U.S.C. § 2024(b) and was sentenced to six months' incarceration and restitution of more than \$241,000. Raymond Gedeon and Edward Gedeon were each sentenced to 24 months' custody and two years of supervised release. Raymond Gedeon was ordered to pay restitution of more than \$485,000. Edward Gedeon was ordered to pay restitution of more than \$241,000, and El-Chaer was ordered to pay restitution of more than \$39,000. AUSA: Sally J. Berens and Nils Kessler; Agencies: OIG, USDA, and FBI

TAX FRAUD:

United States v. Tammy Sue Burdette Burdette was sentenced to 36 months in prison and ordered to pay \$569,852 in restitution for filing false tax returns. Burdette was employed as the office manager at VHC, PC and stole more than \$3 million, from 2009 through 2012. She wrote checks payable to herself from VHC's bank account that she spent to gamble with and failed to account for the money on her income tax returns. IRS Criminal Investigation Special Agent Manny Muriel stated that "Burdette stole more than \$3 million and willfully failed to report that income to the Internal Revenue Service. Her conduct deprived the American taxpayer of \$569,852 in tax revenue," and that "the public can rest assured they will continue to protect the U.S. Tax system, ensuring everyone accurately reports their income and pays their fair share of taxes. AUSA: Clay Stiffler; Agency: IRS

United States v. Jeffrey J. Palmer. Palmer, a licensed and practicing attorney in Michigan, pled guilty to embezzling \$339,520 of client trust funds between 2012 and 2016, where he did not disclose to his clients that he was withdrawing their funds for his own personal use and benefit. He was sentenced to 3 years in federal prison for

making a false statement on a federal income tax return and executing a scheme to defraud two of his clients. In addition, to his prison time, Palmer was ordered to pay restitution to his victims and \$55,511 to the United States for tax due and owing. After serving his time in prison, he will serve an additional 3 years under supervision by the U.S. Probation office. The government noted at sentencing that one of Palmer's victims was vulnerable because he was living in a nursing home and lacked the ability to care for himself or manage his finances. Having no surviving spouse or children, the U.S. Attorney's Office, Adult Protective Services, and a Michigan Probate Court ensured that the victim was provided with a guardian and conservator after the fraud was discovered. In addition to the scheme to defraud his clients, Palmer admitted that he failed to report the funds he embezzled on his federal income tax returns as income and in so doing, fled false returns that underreported his income. Upon pleading guilty, Palmer received an automatic interim suspension from the practice of law and now faces disbarment. AUSA: Christopher M. O'Connor Agencies: IRS

National Security:

CYBER THREATS:

United States v. Theresa Louise Harris. During 2014 through 2018 Harris was harassing a former boyfriend, his family and his friends. She did this with thousands of unwanted contacts through spoofed phone calls, text messages, multiple fake Facebook accounts, unsigned cards, letters and notes. She hacked into multiple cell phone accounts and created fake social media accounts in the names of the victims and others. She also collected personal information on the victims, including their social security numbers, dates of birth, and banking information. As a part of her sentencing Harris was ordered to undergo a mental health assessment and treatment in addition to serving 24 months in the Federal Bureau of Prisons for cyberstalking, with a \$10,000 fine and a 2 year period of supervised release. AUSA: Maarten Vermaat and Daniel Y. Mekaru Agencies: FBI

United States v. Rick Lynn Simmons. On the evening of October 26, 2018 Simmons made an interstate telephone call to the Camden, New Jersey office of U.S. Senator Cory Booker, leaving a voice message threatening to injure Senator Booker. Simmons further admitted to leaving a vulgarity-filled message during that call where he threatened to put a 9 millimeter gun into the face of Senator Booker and put "guns a blazin." Simmons will serve 15 months of confinement, 2 years of supervised release, and pay a \$2,000 fine. Judge Neff commented that this threat does not necessarily reflect an isolated incident based on Simmons' internet searches of contact information of other public officials following this incident. AUSA: Clay M. West. Agencies: U.S. Capitol Police, Kentwood Police Department, FBI, and Grand Rapids Violent Crime Task Force

IDENTITY THEFT:

United States v. Oghenewwakpo Igboba. On January 29, 2019 Igboba was sentenced to 162 months in federal prison, followed

by 3 years supervised release, \$514,823 in restitution, a money judgment of \$48,205, and \$1,800 in court assessments for several different offenses. One count of conspiracy to defraud the United States, one count of wire fraud, eight counts of making a false claim to the United States, and eight counts of aggravated identity theft. Igboba used other individuals' personally identifying information to access tax information using an Internal Revenue Service website. He then took that sensitive tax and personal information and used it to file false federal income tax returns directing the IRS to pay fraudulent refunds to bank accounts he controlled. By filing Form 1040s before the real taxpayers, Igboba managed to direct hundreds of thousands of dollars to himself. IRS systems stopped many of the stolen returns from being issued, but Igboba personally received at least \$57,000 as a result of his crime. He used personally identifying information to access tax information for more than 100 individuals through IRS systems. The evidence introduced at trial demonstrated that the defendant conspired with numerous individuals, both in the United States and abroad, to compile personal information and direct the tax returns to numerous bank accounts. AUSAs: Sally J. Berens and Christopher M. O'Connor Agencies: Treasury Inspector General for Tax Administration and IRS

United States v. Michelle Martinez-Marte. Martinez-Marte, a citizen of the Dominican Republic illegally living in the United States, assisted other illegal aliens from the Dominican Republic. During April 2016 through July 2017, Martinez-Marte conspired with Eddie Michael Balderramas, to commit identity theft and social security account number fraud, by acquiring counterfeit Puerto Rican birth certificates, driver's licenses, and social security account number cards in the names of actual individuals. After Martinez-Marte acquired those documents, she would refer the illegal aliens to Eddie Balderramas, who would travel to New York City to transport the illegal aliens to Michigan, where they would be harbored at a home in Kalamazoo. Balderramas produced false leases, paystubs, and other documents to make it appear as if the illegal aliens were truly Michigan residents. He would then transport the illegal aliens to Michigan Secretary of State Offices and would use the counterfeit Puerto Rican and Michigan residency documents to acquire authentic Michigan driver's licenses for these illegal aliens using the name, social security account number, and other personal identifiers of actual individuals. The illegal aliens paid Balderramas for their assistance so that they could live in the country without detection by immigration authorities, as many were previously removed from the United States in their real names after sustaining criminal convictions. Judge Jonker stated that Martinez-Marte was at the center of a very significant conspiracy that assisted others with prior criminal records in residing illegally in the United States. Martinez-Marte is the latest of five individuals sentenced for their roles in the conspiracy and she was sentenced to 4 years in Federal Prison, Eddie Balderramas received 4 years imprisonment, Michael Balderramas received 3 years' probation, Freddy Medina

received 1 year imprisonment, followed by deportation, and Victor Calderon-Rodriguez received 12 months and 1 day imprisonment followed by deportation. Malkin Villar-Medarano, Julio Troncoso-Martinez, and Jaun Pena-Zapata were also convicted and currently awaiting sentencing. AUSA: Ronald M. Stella Agencies: DHS, DEA, MI SOS, and MSP

INTERNATIONAL TERRORISM:

United States v. Muse Abdikadir Muse, Mohamud Abdikadir Muse, and Mohamed Salat Haji. Three residents of Lansing, Michigan, were charged initially by complaint and then by indictment for conspiring to provide material support to a designated foreign terrorist organization, namely the Islamic State of Iraq and al-Sham (ISIS). Members of the FBI Joint Terrorism Task Force (JTTF) arrested Muse Abdikadir Muse (Muse Muse) at the Gerald R. Ford International Airport in Grand Rapids, Michigan, after he checked in for a flight to the first of a series of destinations on his way to Mogadishu, Somalia. Law enforcement also arrested alleged coconspirators Mohamud Abdikader Muse (Mohamud Muse), and Mohamud Salat Haji (Haji). Among other support, the complaint alleged Haji and Mohamud Muse aided in the purchase of the ticket and drove Muse Muse to the Grand Rapids airport, each knowing the true purpose of the travel was for Muse Muse to join and fight for ISIS. The complaint asserted that all three defendants pledged allegiance to ISIS through videos they recorded themselves. Muse Muse and Haji allegedly discussed with each other their desire to join ISIS, kill non-believers and even to potentially use a car for a martyrdom operation to run down non-believers here in the United States if they could not travel overseas to fight for ISIS. By the conclusion of 2019, the three still awaited trial and are innocent until and unless proven guilty beyond a reasonable doubt. AUSAs: Clay West and Christopher O'Connor. Agencies: FBI, MSP, MSU PD, DHS, TSA, Lansing and Grand Rapids Airport Police, Federal Air Marshals, Eaton county Sheriff's Office, and Kent County Sheriff's office.

Organized Drug Crime:

United States v. Elias Deshawnte Mills and Ralph Knox II. This case involved two seizures of drugs. One seizure followed a traffic stop of a car carrying defendant Mills travelling from Detroit, where he obtained the fentanyl and other drugs, to Battle Creek. Battle Creek Police actually recovered the fentanyl from a woman's body cavity after a trained canine notified law enforcement of the possibility of drugs by alerting on the driver's seat where the woman was sitting. After a complete investigation, the woman was referred to state rather than federal authorities for consideration of charges. The other seizure followed a search of Knox's home in Battle Creek where the defendants stored drugs. The fentanyl found in Knox's home was particularly troubling because police recovered it from an open kitchen drawer in a house where four minor children resided. The two defendants were each sentenced in federal court to 60 months in prison, with 4 years of supervised release for their roles in a conspiracy to

distribute and possess with intent to distribute 40 grams or more of fentanyl and a detectable amount of heroin, both defendant Mills and defendant Knox had prior Calhoun County drug convictions. AUSA: Vito S. Solitro and Kate Zell Agencies: FBI, HIS, and Battle Creek PD

United States v. Jimmie "Peanut" Butler. Butler was sentenced on May 9, 2019 to 262 months incarceration followed by 10 years of supervised release for conspiring to distribute more than 100 grams of heroin and conspiring to distribute cocaine and cocaine base. The conspiracy, which trafficked heroin from Chicago into the Holland area and the Upper Peninsula is linked to numerous overdoses and at least one death. Other members of the conspiracy were charged in an August 15, 2017 superseding indictment. The conspiracy spanned from as early as 2011 until July 2017, when the group was initially indicted. Five of his co-defendants had previously pled guilty to federal charges stemming from the distribution of heroin in the Holland, Michigan area. Each of the defendants has now been sentenced: Charles Oakley (156 months), Corey Gross (46 months), Jimmy Moore (33 months), Michael McKinley (24 months), and Monique Molina (24 months). AUSA: Sally J. Berens and Timothy VerHey Agencies: ATF, WEMET, Holland Department of Public Safety, and Ottawa County Sheriffs Office.

United States v. Alex Alberto Castro. Castro received 42 years in prison for conspiring to distribute heroin and cocaine. Evidence presented at trial proved Castro to be the lead California-based drug distributor, responsible for sending heroin and cocaine to Grand Rapids, Michigan, Indianapolis, Indiana, and Kansas, through the use of trap-cars, semi-trucks with custom-made concealed compartments, and car trailers. Castro employed multiple drivers and maintained his drug distribution deliveries even while in prison for a federal supervised release violation in 2016. The conviction was the result of a multi-agency Federal and State investigation into the conspiracy. The investigation began in 2016 and continued through 2017 and involved the wiretap of seven separate telephones used by multiple coconspirators. In total, 24 defendants were convicted as a result of the charges brought in the investigation. During the arrests of the defendants and execution of associated searches, federal and state investigators seized over 30 kilograms of heroin, cocaine and fentanyl, multiple pounds of marijuana, two kilogram presses, over \$1,300,000 in drug proceeds, a bullet-proof vest, three handguns and an assault rifle with an extended magazine. AUSA: Stephen Baker Agencies: FBI, DEA, IRS, GRPD, ATF, KCSD, Wyoming PD, MSP, KANET, MET, USSS, KVET, SWET, Calhoun County Sheriff's Department, and Albion PD

United States v. Mark Adrian Baker. On July 31, 2019, Baker pleaded guilty to endeavoring to influence, obstruct, or impede the due administration of justice by publicizing the names of witnesses in an underlying methamphetamine trafficking conspiracy prosecution in a corrupt effort to impede their

testimony. Specifically, at the direction of the methamphetamine trafficking conspiracy's leader, Matthew James Boeve, who was in custody at the Newaygo County Jail awaiting trial on federal drug charges, Baker posted to Facebook lists of witness names, and photographs of police reports with the names of witnesses underlined and with the following captions:

The threatening posts caused at least one cooperating witness to contact law enforcement, fearing retaliation for his or her cooperation in the methamphetamine conspiracy prosecution. Baker was sentenced to serve 63 months in the Federal Bureau of Prisons for aiding and abetting obstruction of Justice, with a 3 year period of supervised release. Judge Maloney made it clear during the sentencing that this was a serious offense that threatened the very essence of the federal criminal justice system. AUSA: Daniel T. McGraw. Agencies: Holland PD, WEMET, MSP, and ATF

Collections and Asset Forfeiture:

In fiscal year 2019, the office collected over \$12.8M on civil and criminal judgements. In addition, over \$2,098,448 million in assets were forfeited through forfeiture actions and \$1,755,645 deposited into the Asset Forfeiture Fund. Approximately \$150,150 in forfeited assets went to the victim compensation and over \$277,650 in forfeited assets went to equitable sharing.

Violent Crimes:

HUMAN TRAFFICKING:

United States v. Richardo Leodoro Urbina. On May 14, 2019, Urbina was found guilty after a six-day jury trial. Over the course of trial, the jury heard from 10 girls about Urbina's sexual exploitation of them while they were minors. The jury learned that in May of 2015, Urbina—then 54—recruited and pimped high-school aged girls. He located his victims by befriending high schoolers, who identified the most vulnerable girls they knew. Urbina targeted runaways who needed money and a place to stay. He gave them alcohol and cocaine to make it more likely they would agree to "dance" or give "massages" to men Urbina arranged for them to meet. The girls only learned the men expected them to have sex after they were alone with the johns. Urbina kept half the money the johns paid. The jury also heard from one woman who Urbina sex trafficked after learning she needed a place to stay. He originally offered to help her by letting her live with him. The first night she stayed with Urbina, he forced her to have sex with a john for money. She lived with Urbina for about six months. He kept all of the money johns paid her and gave her narcotics instead. When she tried to leave, Urbina said she owed him \$1,000 and had to pay it in order to be released. She had no money to pay and eventually escaped with the help of a john. Urbina has an extensive criminal history, including three felony assault convictions, three larceny convictions, two felony drug convictions, a witness intimidation conviction, and a perjury conviction. Urbina was sentenced to serve 40 years in Federal Prison for sex trafficking minors; attempting to sex traffic three

more minors; conspiring to sex traffic minors; sex trafficking an adult by force, fraud, or coercion; distributing cocaine and cocaine base; and conspiring to distribute cocaine and cocaine base. There was also a lifetime period of supervised release imposed on Urbina, along with \$40,000 in fines. AUSAs: Alexis M. Sanford and Davin M. Reust; Agencies: WEBCHEX, FBI, MSP, PSC, Kent County Sheriff's Office, and Ottawa County Sheriff's office.

INDIAN COUNTRY:

United States v. Joaquin Ramon Alfonseca. Alfonseca was sentenced to 37 months in Federal Prison, with a 3 year term of supervised release that will commence once he is released from imprisonment for assault by strangulation of a Native American woman. Alfonseca admitted that during an argument he had used both of his hands to grab the victim by the neck and apply pressure to her neck. This pressure impeded the victim's normal breathing, and the assault left marks and swelling on the victim's face and neck. The Victim reported that on a prior occasion, Alfonseca had strangled her to the point of unconsciousness. The United States had jurisdiction over the case because it occurred on the reservation of the Grand Traverse Band of Ottawa and Chippewa Indians. AUSA: Sean M. Lewis Agencies: FBI and The Grand Traverse Band Tribal Police Department

PROJECT SAFE NEIGHBORHOODS & PROJECT GUARDIAN:

United States v. Aaron William Fein. Fein admitted in open federal court that he deliberately lied to the FBI Joint Terrorism Task Force in April, 2019. Task Force Agents first became aware of Fein in August, 2018, when he attempted to cross into Canada without proper documentation. When he returned, U.S. Customs and Border Protection agents found documents and materials in his car relating to bomb making and jihadism. Fein admitted having bomb-making materials at his home, and told agents he was interested in mass shootings. During the following months, Task Force Agents kept close tabs on Fein, including encouraging him to seek counseling. On several occasions this year, Fein obtained and attempted to obtain firearms and ammunition, but agents interceded. Agents eventually filed a petition for mental health treatment, and the Kent County Probate Court ordered Fein not to possess any firearms. In April, 2019, agents learned Fein had rented an AR-15 style semiautomatic assault rifle and trained with it at a firearms range in eastern Michigan. When they apprehended him soon after, he falsely stated he had not touched any guns. Video recordings from the range clearly showed him shooting the rifle. After additional investigation, agents learned Fein had bought metalworking tools. They arrested him at his residence, and found unassembled parts for multiple AR-15 rifles, as well as radio transmitters and electrical components for an improvised explosive device. AUSA: Nils Kessler and Hagen Frank Agencies: FBI and DHS

United States v. Bobby Butch Pollard. Pollard was sentenced to 103 months in prison, with an imposed term of 3 years of court supervision to follow his release, for manipulating his girlfriend

into purchasing four firearms and hundreds of rounds of ammunition for him in late 2017. Pollard could not lawfully acquire or possess firearms or ammunition because he was a convicted felon. His lengthy prior record includes convictions for drug offenses, assault and battery, assault with a dangerous weapon, domestic assault, failures to pay child support, and various criminal traffic offenses. Special agent for ATF, James Deir, stated "ATF, in conjunction with our state and local partners, will continue to protect the public by identifying and arresting violent offenders in the community who illegally possess firearms, as well as anyone who knowingly provides firearms to them." AUSA: Johnathan Roth and Clay Stiffler; Agencies: ATF, and Muskegon PD

United States v. Aaron Donquwe Perkins. Perkins was sentenced to 15 years in prison for possessing a firearm as a convicted felon. He admitted to possessing a Smith and Wesson 9mm pistol, despite having previous convictions for assault with a dangerous weapon and two convictions for delivery/manufacture of controlled substances, all contrary to Michigan law. Perkins' extensive criminal history subjected him to the enhanced penalties of the Armed Career Criminal Act, 18 U.S.C. § 924(e), under which a person who violates the federal felon in possession statute after having been convicted previously of three or more violent felonies or serious drug offenses must serve a mandatory minimum sentence of fifteen years. ATF Special Agent, James Dier, stated "As a multi-time convicted felon, Aaron Donquwe Perkins was provided multiple opportunities to turn his life around. Instead, he choose to return to a life of crime. In doing so, he put innocent lives in danger. With the help of our law enforcement partners, ATF remains vigilante in the effort to protect our communities from violent criminals." AUSA: Austin J. Hakes; Agencies: ATF, and Lansing PD

PROJECT SAFE CHILDHOOD:

United States v. Philip Gordon Paauwe. Paauwe was sentenced to serve 420 months in the Federal Bureau of Prisons, with an imposed period of 10 years supervised release, and \$31,000 in restitution for the victim for coercing and enticing a minor to produce child pornography. Paauwe came to the attention of law enforcement during an undercover operation where he initiated plans to have sex with a 13-year-old girl. Paauwe was originally charged in state court for child pornography found on his phone. Further investigation into those images disclosed that he had been exploiting an out-of-state 15-year-old girl to make child pornography. Local authorities then referred the matter for federal prosecution. In its sentencing memorandum, the U.S. Attorney's Office opposed the defense request for leniency and noted Paauwe's extreme sexual manipulation of the victim, his fantasies of raping and killing children, and his sexual misconduct related to his teaching position. In sentencing Paauwe, Judge Maloney stated that in his 25 years as a judge, he has not often, or perhaps ever, seen this degree of depravity. Judge Maloney said that Paauwe's "grotesque behavior" and the "degree of

manipulation is just unbelievable" and found that Paaue was a very dangerous individual who used his "teaching position to perpetrate this monstrosity." Judge Maloney denied the defense request for leniency and expressed his goal to protect children from the risk posed by Paaue. AUSA: Davin Reust and Daniel Mekaru Agencies: Kent County Prosecutor's Office, MSP, PSC and WEBCHEx – a partnership of FBI

United States v. Amaris Mae Wyman. Wyman was sentenced to 25 years in the Bureau of Prisons, with seven years' supervised release and imposed financial assessments for producing child pornography. Wyman pled guilty in May 2019 to the charge of producing a pornographic video of a child. An investigation found that she had taken several videos of her own child showering and using the bathroom. Wyman forwarded those videos to Matthew Toole; Wyman also sent sexually explicit messages to Toole and discussed plans to provide her child with alcohol and prescription medications to facilitate Toole's rape of the minor. Toole was sentenced earlier this year to 50 to 70 years in state prison for an unrelated criminal sexual assault of an infant girl in Calhoun County. At sentencing, Judge Neff noted that the victim had a right to grow up safe and protected by the most important person in any child's life, their mother, but was instead exploited by Wyman. AUSA: Alexis M. Sanford Agencies: MSP, Kalamazoo County Sheriff's Office, and FBI

United States v. Rachel Marie Burrell. Burrell was sentenced to 180 months imprisonment, followed by 5 years of supervised release and was ordered to pay fines and other monetary penalties for sexual exploitation of a child. Burrell took sexually explicit pictures of an infant in her care and forwarded the images to a man with whom she was in a relationship. She also made the infant available to that man knowing he would sexually assault the infant. According to a victim impact statement filed by the victim's foster parents, the victim suffers from night terrors and a sensory processing disorder as a result of the abuse. Chief Judge Jonker noted at sentencing "the ultimate injury to the child ... was severe." AUSA: Alexis M. Sanford Agencies: FBI, MSP, and the Kalamazoo County Sheriffs Department

REPRESENTATIVE APPEALS

United States v. Potts, 947 F.3d 357 (Batchelder, Donald, Readler) (Jan. 8, 2020) Potts pleaded guilty to access device fraud and two counts of aggravated identity theft. His guidelines were 30 to 37 months for the access device fraud, plus a mandatory two years for identity theft. The district court imposed both an upward departure under U.S.S.G. § 4A1.3 and an upward variance under 18 U.S.C. § 3553(a). The judge also ran Potts's two aggravated identity theft sentences consecutively to each other, for a total of four years on those counts. And, she ran the entire sentence consecutive to an undischarged state sentence Potts was serving for an unrelated domestic violence offense. The panel affirmed. Agreeing with other circuits, the court held that the

district court's failure to expressly reference the sentencing guidelines when imposing consecutive aggravated identity theft sentences did not amount to plain error, as the record showed that the court assessed the relevant factors. The court affirmed all other aspects of the sentence, including finding no plain error in the decision to run the federal sentence consecutive to the state sentence. AUSA: Ron Stella

United States v. Faber, 950 F.3d 356 (Suhrehrich, Cook, Readler) (Feb. 19, 2020) As a condition of supervised release, the district court ordered Faber to avoid contacting Faber's spouse (according to their neo-pagan religion, Wicca), who interfered with a probation officer's earlier supervision of Faber. Faber moved under 18 U.S.C. § 3583(e)(2) to eliminate the no-contact order, arguing that it unduly burdened his religious practices. The district court denied the motion. The court vacated and remanded with instructions to dismiss Faber's motion, because district courts lack jurisdiction to even consider substantive legal challenges under § 3583(e)(2) (disagreeing with the Seventh Circuit). AUSA: Tonya Long

United States v. Ronald Coleman, Jr., 923 F.3d 450 (May 3, 2019) (Boggs, Kethledge, Nalbandian) The court of appeals held that (1) probable cause supported GPS tracking warrants placed on the defendant's vehicles; (2) officers did not violate the Fourth Amendment when they placed the devices on the vehicles, which were parked in the driveway and a common parking area of the defendant's condominium; and (3) probable cause supported the warrant to search the condominium for evidence of drug trafficking. This was the first time the Sixth Circuit addressed a Fourth Amendment issue related to a person's driveway since the Supreme Court decided *Collins v. Virginia*, 138 S. Ct 1663 (2018). In *Collins*, the Court held that officers violated the Fourth Amendment when they lifted the tarp off a motorcycle parked in a partially enclosed driveway (without a warrant) because that driveway was part of the curtilage of the house. The Sixth Circuit held that the driveway at issue here was an ordinary driveway (a shared one, even), not the type of partially enclosed driveway at issue in *Collins*. Thus, earlier Sixth Circuit cases holding that a driveway ordinarily is not part of a home's curtilage "survive *Collins* and are factually more on point." AUSAs: Davin Reust and Former AUSA Sally Berens

United States v. Wandahsega, 924 F.3d 868 (Clay, Gilman, Kethledge) (May 21, 2019) A U.P. jury convicted Wandahsega of abusive sexual contact, and the court of appeals affirmed. The court affirmed the district court's decision to allow the victim, the defendant's six-year-old son, to testify at trial by closed-circuit television. The court also held that the district court properly exercised its discretion in admitting various forms of evidence. AUSAs: Hannah Bobee, former AUSA Maarten Vermaat and Austin Hakes

United States v. Bailey, 931 F.3d 558 (Clay, Larsen, Readler) (July 26, 2019). Bailey's boyfriend, Clayton, went to trial on sexual exploitation charges. One of Clayton's victims testified against him. Bailey was at the trial and later threatened the victim's

sister. Bailey pleaded guilty to retaliating against a witness. At sentencing, the district court applied a cross reference for obstruction of justice under U.S.S.G. § 2J1.2(c)(1). The Sixth Circuit affirmed, holding that the enhancement applies to attempted obstruction as well as actual obstruction. The court also rejected Bailey's substantive reasonableness challenge to her 78-month sentence, which was at the bottom of the guideline range. AUSA: Davin Reust

United States v. Thomas, 933 F.3d 605 (McKeague, Kethledge, Murphy) (Aug. 6, 2019) After pleading guilty to bank fraud, the defendant lied about his involvement in the fraud to the presentence report writer. This resulted in application of an obstruction enhancement and denial of acceptance, raising his guideline range from 46-57 months to 70-87 months. Finding the range still too low, the district court varied upward and imposed a sentence of 102 months. The court of appeals affirmed. After a detailed exegesis on the unsettled nature of the standard of review for obstruction and acceptance issues, which (frustratingly) it declined to resolve, the court found the district court's rulings on both issues proper, as Thomas lied about his role in the conspiracy by falsely maintaining that he did not know of his co-defendant's actions and falsely describing his recruiting efforts. "And his falsehoods were intentional lies, not mistakes from faded memories." The lies were material because they could have influenced the court's determination of the sentence, even if they did not affect the guideline calculation. The lies also justified denial of acceptance credit -- "To be 'responsible' is to 'answer for one's conduct.' And one does not answer for one's conduct by lying about it." The sentence was also substantively reasonable, as Judge Maloney supported the variance with rational reasons rooted in the § 3553(a) factors. AUSAs: Vito Solitro, Kate Zell, Chris O'Connor.

United States v. McElrath, 786 F. App'x 575 (6th Cir. 2019) (per curiam) (Boggs, Batchelder, Stranch) In this government appeal, the Sixth Circuit reversed a decision of the district court suppressing evidence seized from the defendant and statements he made after he walked quickly away from a house that law enforcement was about to search pursuant to a warrant. The court of appeals held that the totality of circumstances established reasonable suspicion to stop and detain the defendant, and that the scope of the detention was reasonable, given the circumstances: officers knew McElrath was likely on the property, was possibly armed and dangerous, and had just conducted a drug deal outside the house an hour earlier; police had received many recent complaints about drug activity and shots fired on the premises (including shots fired only two days before); informants had seen guns inside the home; and when officers approached the house, they immediately encountered a car backed into the driveway that, on their arrival, dangerously fled the scene, hitting their vehicle. AUSAs: Alexis Sanford and Jen McManus

United States v. Smith-Kilpatrick, 942 F.3d 734 (Guy, Bush, Murphy) (Nov. 7, 2019) The Sixth Circuit affirmed the defendant's conviction and sentence for a drug conspiracy. The district court properly

admitted phone, hotel, and car rental records under the hearsay exception for business records. Even though the records implicated defendant by name, the records were not testimonial and thus did not implicate the Confrontation Clause. The records were self-authenticating under Rule 902(11). The court of appeals also held that the evidence at trial was sufficient to convict, and the district court did not clearly err at sentencing in calculating the relevant drug amount. AUSAs: Tonya Long, Paul Lochner and former AUSA Maarten Vermaat

OUTREACH, TRAINING & PROFESSIONAL DEVELOPMENT

Community Initiatives:

OPIOIDS:

U.S. Attorney Birge hosted an Opioid Summit for health care, education and law enforcement professionals in March in Marquette, with support from Victim Specialist Marlene Mottes and Deputy Criminal Chief Joel Fauson and Debbie Sicotte. The summit was followed by a public "town hall" forum. Presentations included substantive information on what law enforcement has learned about the origins and evolution of the epidemic and what law enforcement can and does do about the consequences.

TRIBAL RELATIONS:

U.S. Attorney Birge, Tribal Liaison Sean Lewis 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.

AUSA Hannah Bobee continues to represent the office on the Tribal, State, Federal Judicial Forum, which meets to consider public safety and child welfare issues in Indian Country in Michigan.

CIVIL RIGHTS:

As in prior years, U.S. Attorney Birge convened meetings in the spring, summer and fall 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. Representatives from the FBI, Homeland Security and other agencies typically attend, depending on the topics up for discussion.

In addition, AUSA Laura Babinsky hosted a presentation and roundtable discussion with area stakeholders on the Department's resources and efforts to address sexual harassment in housing, as well as interest in establishing additional lines of communication and referrals.

As his schedule permitted, U.S. Attorney Birge supported Advocates & Leaders for Police and Community Trust (ALPACT) groups throughout West Michigan. 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.

PSN OUTREACH ON OFFENDER RE-ENTRY:

The PSN violent crime reduction strategy includes building collaborative relationships with interested lay community leaders and supporting crime prevention efforts. AUSA Alexis Sanford led the PSN Grant Committee comprised of PSN law enforcement partners from all six communities with violent crime task forces. The Committee opted to dedicate grant funds to lay community partnership and prevention efforts in those six communities rather than to law enforcement needs.

In the spring, AUSA Alexis Sanford organized the forums and spoke, along with U.S. Attorney Birge, at a Project Safe Neighborhoods *Facing Choices* forum in Benton Harbor along with the Michigan Department of Corrections. State parolees heard unmistakable warnings from state and federal law enforcement officials and prosecutors about re-offending. But they also heard law enforcement would like nothing more than for them to succeed, noting the opportunities and support available to them as parolees. Formerly incarcerated individuals told stories of success post-incarceration as relatable encouragement. Community service providers and potential employers were available for consultation.

In addition, AUSA Sanford and U.S. Attorney Birge spoke at “call ins” of ex-offenders in Kalamazoo as part of that community’s Group Violence Initiative to reduce group-involved gun violence.

LAW STUDENT INTERN PROGRAM:

The office supported four law school student interns over the course of the summer. The interns were exposed to our civil as well as criminal litigation missions through assignments on actual cases and a series of brown bag lunch seminars. AUSAs Sally Berens and Carrie Almassian mentored the summer interns.

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. The seminars covered a host of subjects, including securing special commissions for Indian Country law enforcement, handling domestic terrorism investigations, the latest on effective and lawful interview and interrogation techniques and using social media to enhance law enforcement investigations, among other topics. [See training list in appendix.] As in prior years, the programs were 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 EDM I LEC Bob Poikey.

The office continued to support trainings sponsored by some of our local law enforcement partners as well. For example, AUSA Chris O’Connor again taught legal issues that arise in arson

investigations at the Michigan State University Arson School. And, following some introductory remarks from U.S. Attorney Birge, AUSA Chris O’Connor addressed an audience of investigators and financial services employees on the Bank Secrecy Act and the important role of Suspicious Activity Reports (SARs). AUSA Jonathan Roth trained local law enforcement on handling direct and cross examination at the Lansing Police Academy.

Victim/Witness Unit:

Kathy Schuette, Marlene Mottes, and Breane Warner our victim services specialists, along with assistance from Anne Towns and Dan McDonough, issued 93,800 victim notification letters in 2019, which was fewer than the year before but still high 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 was promoted to the Law Enforcement Coordinator position in September 2019 after covering many of the duties for the year. She nevertheless continued to lend a hand to the Victim and Witness Services staff throughout the year.

Extending their efforts beyond individual cases, Kathy, Breane, and Anne continued to participate in the Grand Rapids Human Trafficking Task Force and the Domestic Violence Task Forces at the State and Tribal level. Marlene represents the office on Human Trafficking outreach in the Upper Peninsula. Kathy, Anne, Breane and Marlene, as well as Sean Lewis, 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.

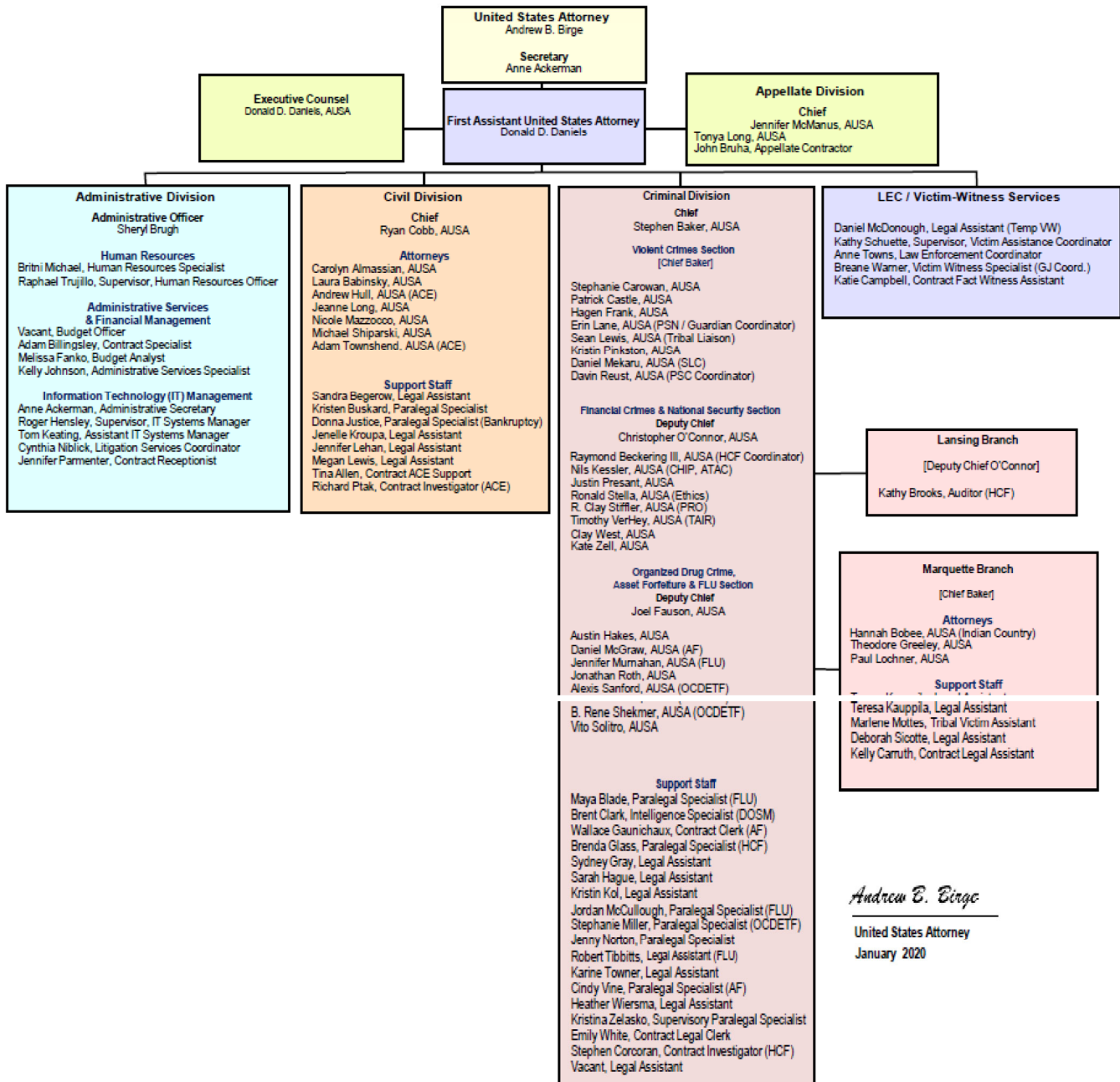
Legal Community Training and Support:

As in prior years, the Department’s National Advocacy Center (NAC) selected several of our attorneys and staff to instruct on various topics, including trial advocacy and electronic evidence presentation. Several attorneys and members of the staff also supported the annual Hillman Trial Advocacy Program in Grand Rapids. And AUSA Sean Lewis assisted the Court with hosting its first Power Act seminar to help domestic violence victims receive legal assistance.

Diversity and Special Emphasis Program Committees:

The office continued its tradition of Special Emphasis Programs throughout the year to foster understanding and a welcoming environment for employees of all backgrounds—and build teamwork along the way. The Special Emphasis Programs committee, led by AUSA Jeanne Long, organized and hosted programs, often with video presentations over the lunch hour, for African-American History Month, Women’s History Month, Disability Awareness Month and Hispanic Heritage month and Veteran’s Day.

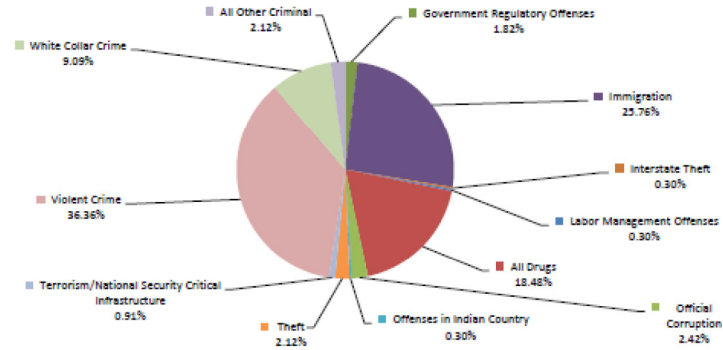
UNITED STATES ATTORNEY'S OFFICE - WESTERN DISTRICT OF MICHIGAN



Andrew B. Birge

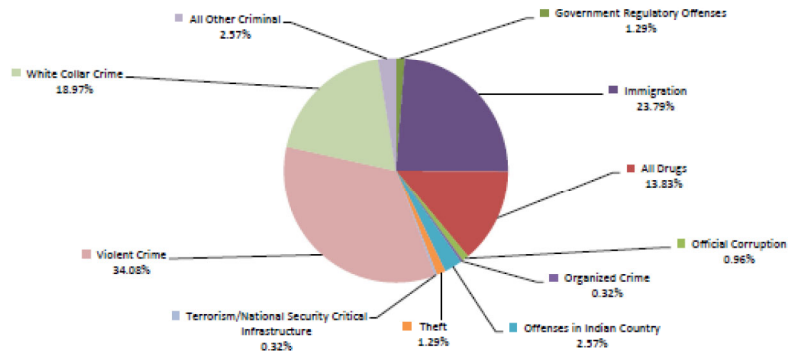
United States Attorney
January 2020

United States Attorneys -- Criminal Caseload Statistics
Western District of Michigan
Cases Filed by Program Category
Fiscal Year 2019



Total:
330

Fiscal Year 2018



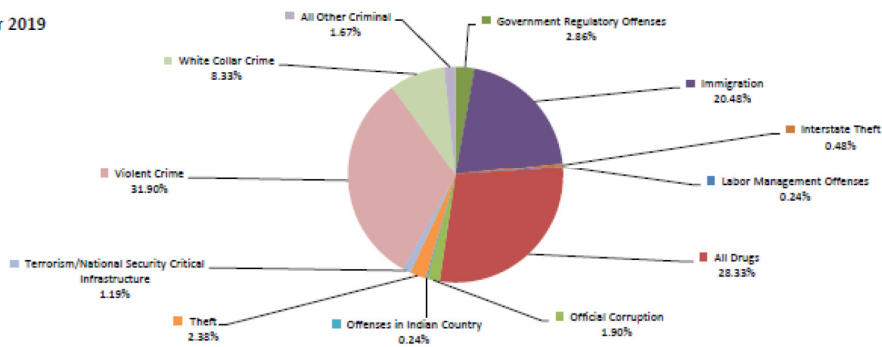
Total:
311

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

FY 2019 numbers are actual data through the end of September 2019. FY 2008 and 2007 data may reflect a slight decrease in pending counts due to UONB centralization.

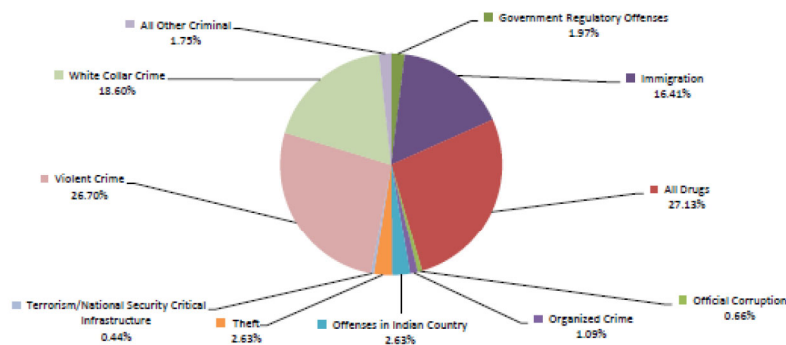
United States Attorneys -- Criminal Caseload Statistics
Western District of Michigan
Defendants Filed by Program Category

Fiscal Year 2019



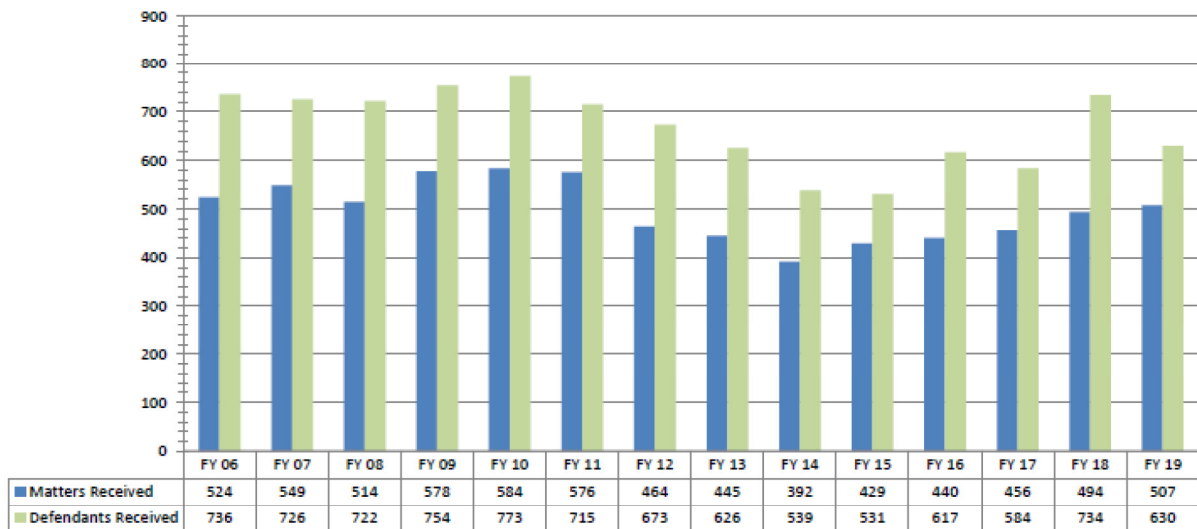
Total:
420

Fiscal Year 2018

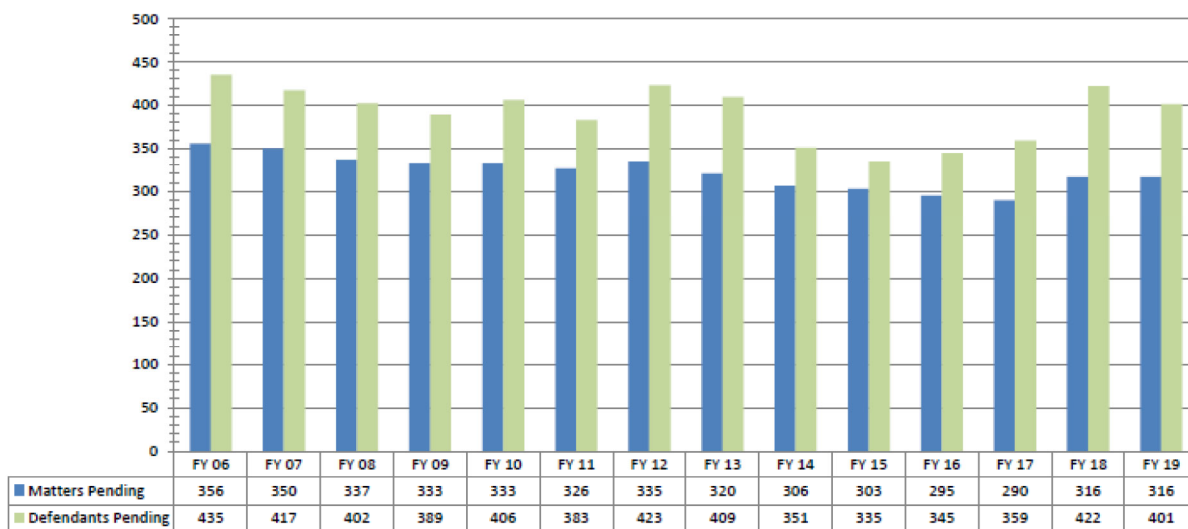


Total:
457

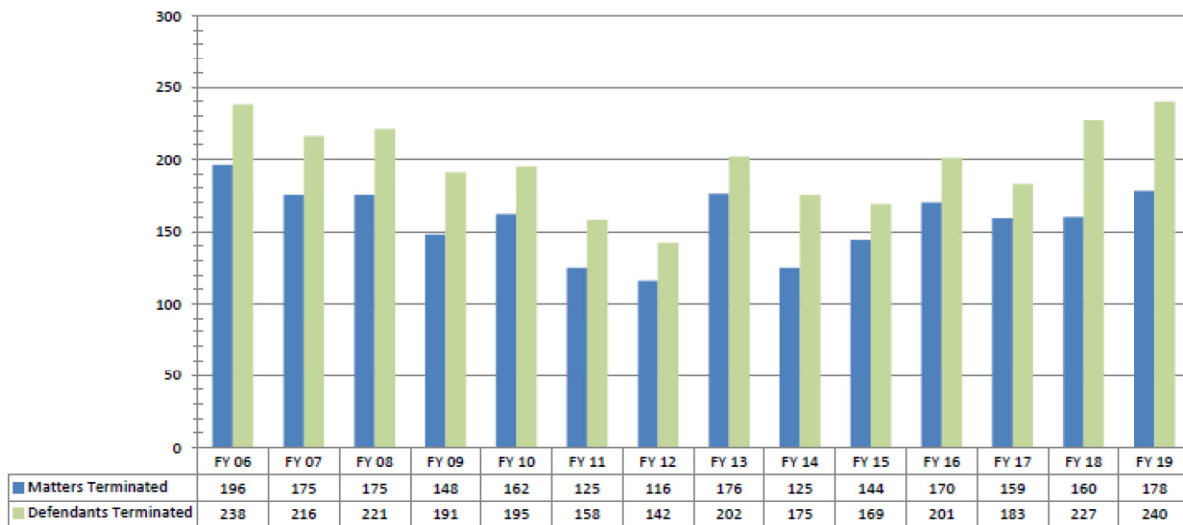
United States Attorneys Criminal Caseload Statistics
Western District of Michigan
Matters and Defendants Received



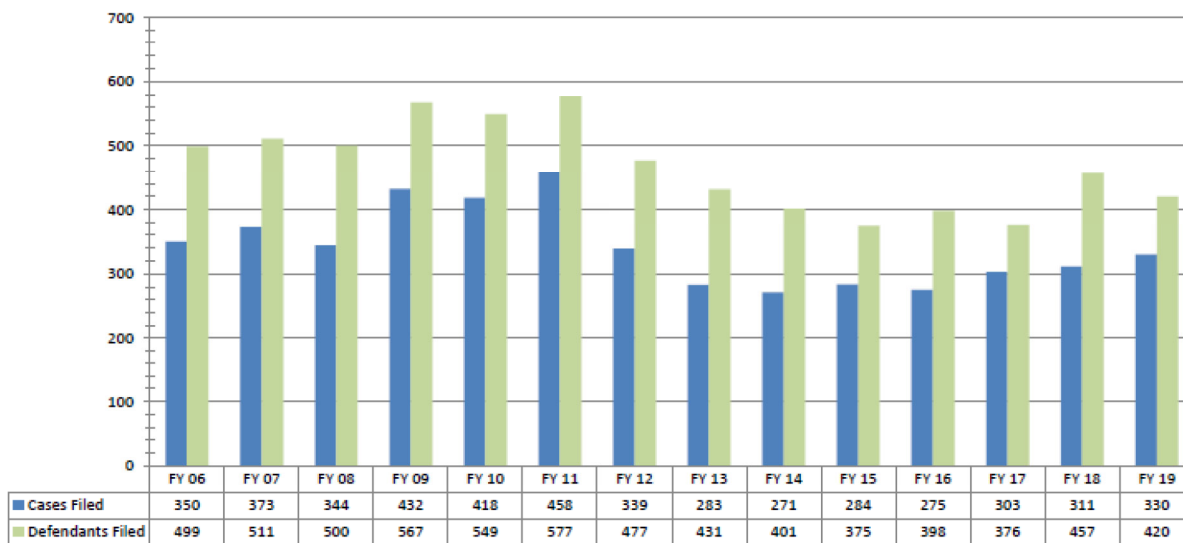
United States Attorneys Criminal Caseload Statistics
Western District of Michigan
Matters and Defendants Pending



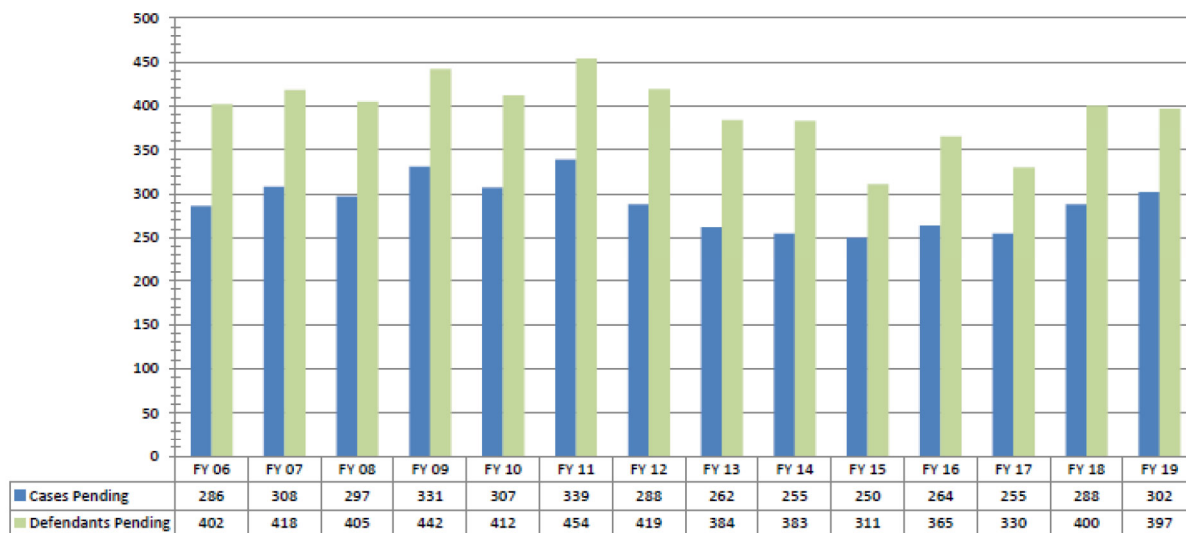
United States Attorneys Criminal Caseload Statistics
Western District of Michigan
Matters and Defendants Terminated



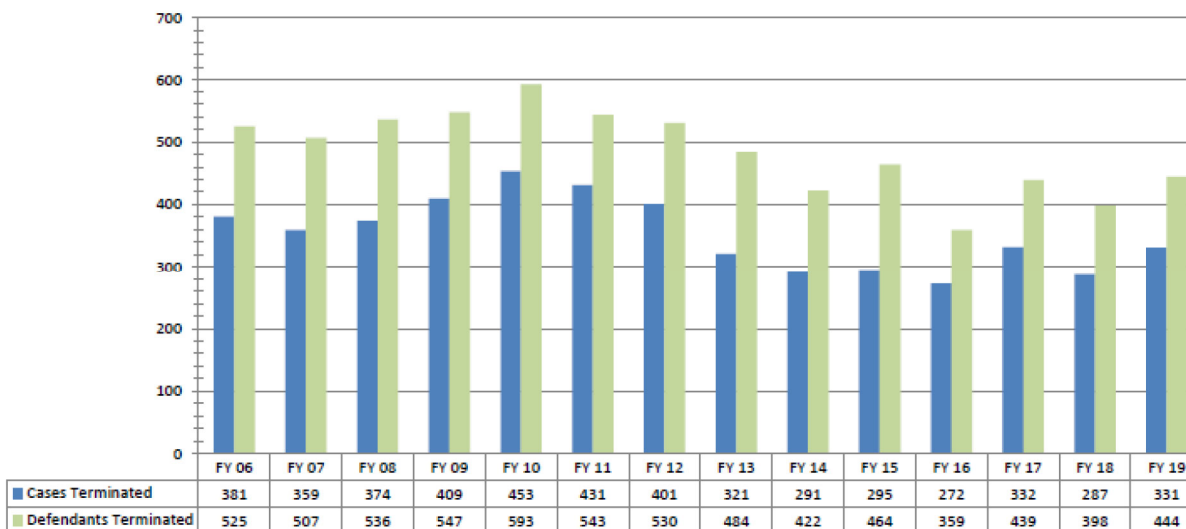
United States Attorneys Criminal Caseload Statistics
Western District of Michigan
Cases and Defendants Filed



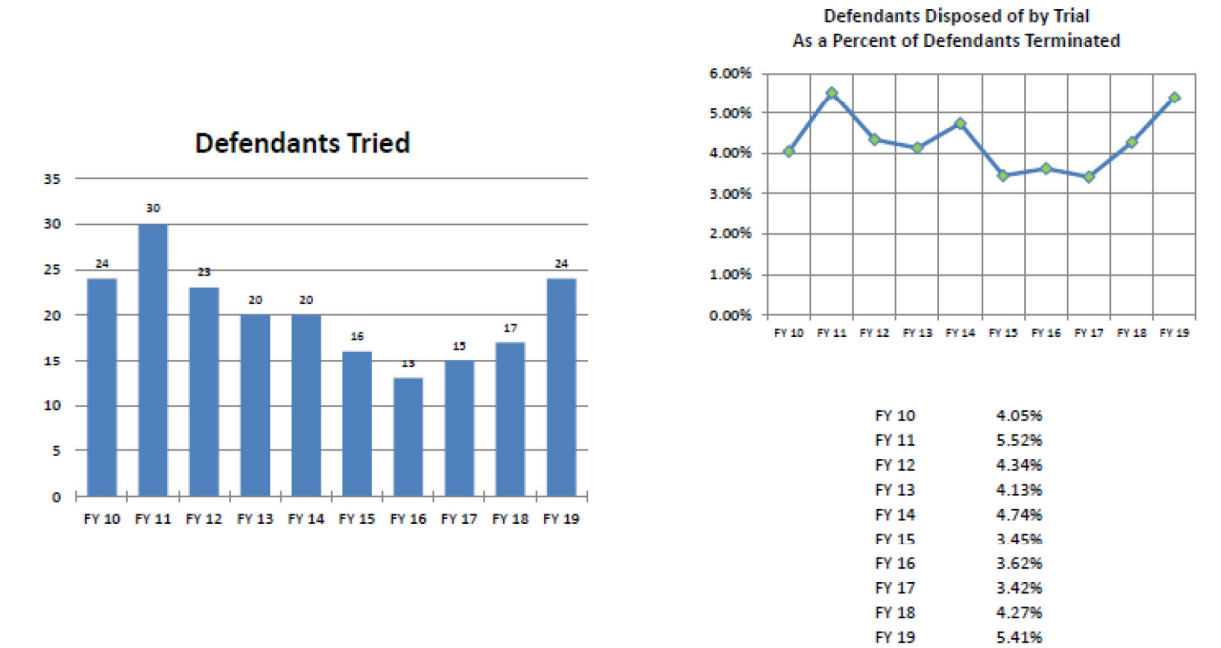
United States Attorneys Criminal Caseload Statistics
Western District of Michigan
Cases and Defendants Pending



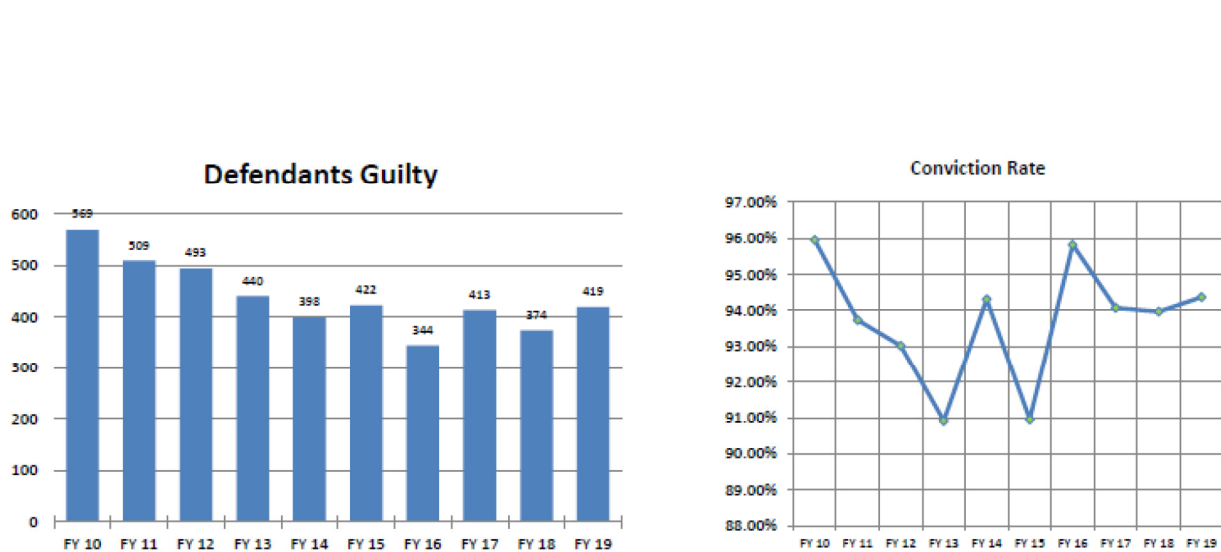
United States Attorneys Criminal Caseload Statistics
Western District of Michigan
Cases and Defendants Terminated



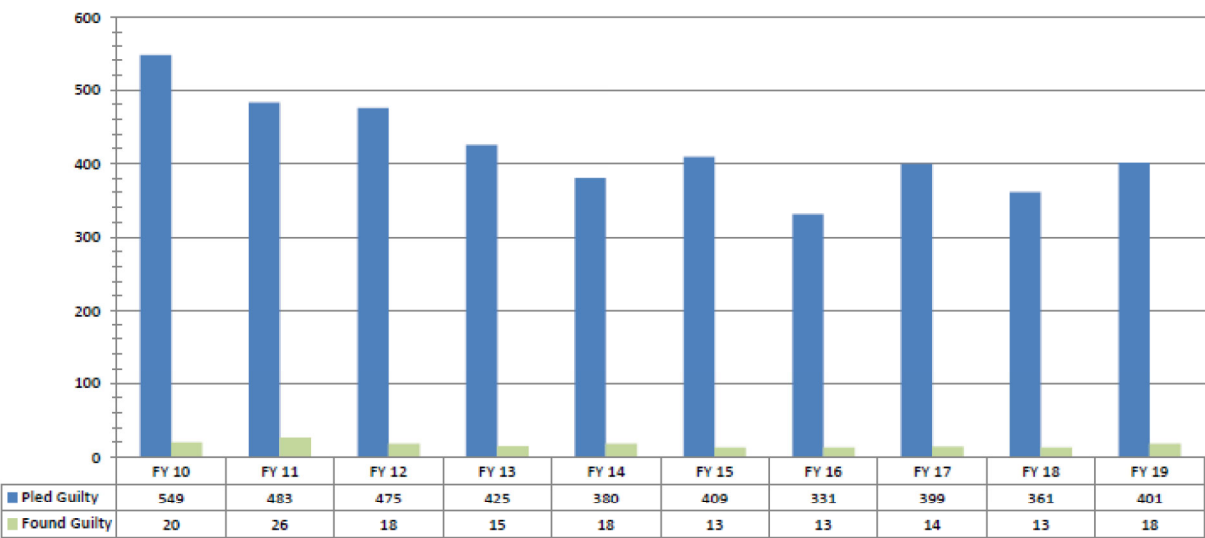
United States Attorneys Criminal Caseload Statistics
 Western District of Michigan
 Defendants Disposed of by Trial



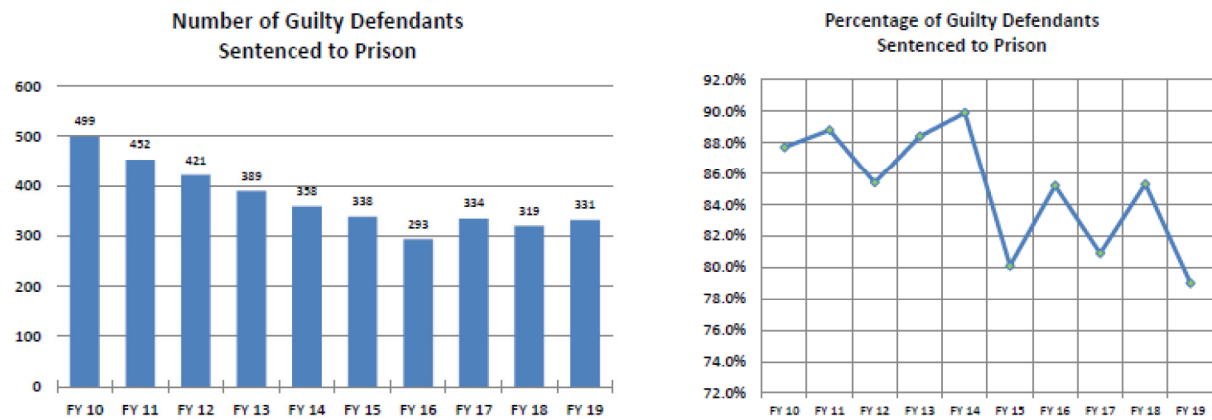
United States Attorneys Criminal Caseload Statistics
 Western District of Michigan
 Number of Guilty Defendants



United States Attorneys Criminal Caseload Statistics
 Western District of Michigan
 Number of Guilty Defendants - Found Guilty or Pled Guilty



United States Attorneys Criminal Caseload Statistics
 Western District of Michigan
 Number of Guilty Defendants Sentenced to Prison



Firearms (18 U.S.C. 922 and 924)* Western District of Michigan

| Category | FY 2015 | FY 2016 | FY 2017 | FY 2018 | Average of FY15-FY18 | FY 2019** | Percent change of the average to the current year | |
|-------------------|---------|---------|---------|---------|----------------------|-----------|---|--------|
| Matters Received | 42 | 64 | 93 | 106 | 76 | 104 | ↑ | 36.4% |
| Defendants Filed | 46 | 52 | 85 | 94 | 69 | 94 | ↑ | 35.7% |
| Cases Filed | 39 | 49 | 74 | 75 | 59 | 81 | ↑ | 36.7% |
| Defendants Guilty | 37 | 39 | 77 | 95 | 62 | 83 | ↑ | 33.9% |
| No Prison | 1 | 1 | 0 | 2 | 1 | 6 | ↑ | 500.0% |
| 1-12 months | 0 | 2 | 2 | 3 | 2 | 4 | ↑ | 128.6% |
| 13-24 months | 0 | 0 | 8 | 6 | 4 | 3 | ↔ | -14.3% |
| 25-36 months | 2 | 5 | 8 | 7 | 6 | 4 | ↓ | -27.3% |
| 37-60 months | 13 | 7 | 17 | 18 | 14 | 21 | ↑ | 52.7% |
| 61+ months | 21 | 24 | 42 | 59 | 37 | 45 | ↗ | 23.3% |

*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 2019 numbers are actual data through the end of September 2019.

2019 LAW ENFORCEMENT TRAINING

| | | |
|-----------|--|--------------------|
| February | Cell Phone Use un Drug Trafficking Investigations | Mason |
| March | Managing Narcotics Informants | Saginaw |
| March | Narcotics Enforcement & Trafficking Investigation In Hotel/Motel & Parcel | Mason |
| April | Drug Interdiction and Complete Traffic Stops | Ypsilanti |
| April | U.P. Opioid Summit | Marquette |
| April | Interview and Interrogation in Narcotic Cases | Taylor |
| April-May | Criminal Justice in Indian Country | Mount Pleasant |
| May | Money Laundering | Grand Rapids |
| May | Middle East Intelligence | Grand Rapids |
| June | Tactical Entry to Meth Labs | Taylor |
| June | Tactical Narcotics Debriefing | Taylor |
| June | The Bulletproof Mind | Taylor |
| June | The Bulletproof Mind | Holland |
| July | Undercover Risk Management | Flint |
| August | Valor-Officer Survive and Thrive | Dearborn |
| August | Western District National Security Summit | Allendale |
| August | Mexican Drug Cartel Investigations | Ann Arbor |
| September | Trauma Management | Jackson |
| September | Characteristics of Armed Offenders | Dearborn |
| October | Criminal Justice in Indian Country | Sault Sainte Marie |
| October | COPS Listening Session | Lansing |
| October | Border Operations Leadership Conference | Detroit |
| December | Human Trafficking | Dearborn |