YEAR IN REVIEW

Year 2020

United States Attorney's Office
Western District of Michigan

Andrew Byerly Birge
United States Attorney
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Thank you for your interest in the work of my office. With a pandemic, civil unrest, and a charged conspiracy to kidnap the sitting Governor of Michigan, the apocryphal curse “May you live in interesting times” befits the year 2020. But as recounted in this report, despite the pandemic, the office – like the Department as a whole -- continued to meet its missions throughout the year and remains poised to continue to do so going forward. In fact, in mid-summer, Attorney General Bill Barr visited the district to deliver to a local audience at the Gerald R. Ford museum his national address on the threats posed by the People’s Republic of China to American business and academic interests.

Our total number of criminal cases and public outreach efforts overall were down from prior years as we, the court and law enforcement adjusted operations to meet public health guidance from the Centers for Disease Control. But we nevertheless took nearly as many individuals to trial as in the prior year and secured some remarkable outcomes in civil and criminal matters along the way. While domestic terrorism concerns came to the fore, we continued to address significant health care fraud, drug trafficking and violent crime matters as we have in prior years. Our civil litigation caseload increased, particularly in civil rights enforcement. Affirmative efforts addressing civil health care fraud and false claims to the government also received heightened attention.

We look forward to days when the pandemic is fully behind us. But many challenges lie ahead, such as in civil rights, gun violence, domestic and cyber security threats and relations between law enforcement and the lay communities we serve, but I am confident this office and the Department are well prepared to meet these priorities.

Sincerely,

Andrew Byerly Birge
United States Attorney
**INTRODUCTION**

The year 2020 posed the most significant operational challenges the office has ever faced, with the Covid-19 pandemic hitting the district by mid-March. Nevertheless, the office persevered with impactful cases and remarkable resolutions, as recounted here.

**ARRIVALS, DEPARTURES & PROMOTIONS**

**Arrivals:**

AUSA Lauren Biksacky, a native of Muskegon, joined the office over the summer after several years as an Associate with the Kirkland and Ellis law firm in Chicago and a federal judicial clerkship with the Hon. Edgardo Ramos in the Southern District of New York. She earned her undergraduate degree from Bowling Green State University *summa cum laude* and her law degree from Yale. She is starting her career with us in the Violent Crimes Section of the Criminal Division, under Steve Baker's supervision.

AUSA Kate Dalzell, a native of Kalamazoo, accepted at the very end of 2020 a transfer to the Appellate Division in our office from the Appellate Division in the U.S. Attorney's Office for the Southern District of Florida. Before joining the Florida office, she worked for five years as an Assistant Solicitor General in the Michigan Attorney General's Office. She began her legal career with a clerkship for Sixth Circuit Judge John Rogers, followed by several years as an Associate with Williams & Connelly in Washington, D.C. Kate earned her undergraduate degree from Valparaiso University *summa cum laude* and her law degree from the University of Virginia.

Joel Postma joined the office mid-year through a contract to serve as the Missing and Murdered Indigenous Persons (MMIP) Coordinator. Joel just finished his career with the FBI before joining us, having served as an agent working cases with the Tribes in the eastern Upper Peninsula for a number of years before transferring to positions in the Lower Peninsula. As the MMIP Coordinator, Joel's job is to work with the Tribes and state and local law enforcement to prepare protocols for and improve law enforcement and community response to reports of missing indigenous persons.

**Departures:**

AUSA Tonya Long left our office for a career in-house in the private sector and the warmer climes of San Diego. As a talented lawyer and invaluable asset to our Appellate Division, she will be missed greatly.

Roger Hensley retired at the end of 2020 after over 30 years with the office as our IT Manager. During his tenure, he not only shepherded the office into the internet and electronic communication age, but as a proud United States Marine he hosted many widely attended Veterans Day events for the office.

Jenny Norton accepted a Case Manager position supporting U.S. Magistrate Judge – and former AUSA -- Sally Berens. Her paralegal and automated litigation skills will be tough to replace.

**Promotions:**

AUSA Alexis Sanford accepted a promotion to Deputy Criminal Chief overseeing our violent crimes prosecutions, including the Project Safe Childhood and Project Safe Neighborhood programs. Alexis has served as PSC Coordinator, PSN Coordinator and OCDETF Coordinator since joining the office five years ago. As a former Kalamazoo County Assistant Prosecutor, she has more trial experience than any other attorney in the office and is well-suited to supervising the cases and attorneys most often in trial.

Dan McDonough assumed new and higher-level responsibilities as the office’s Grand Jury Coordinator. In addition, he will put his legal assistant skills to work supporting the office’s victim and witness services programs and law enforcement training programs as well as helping attorney and staff as needed for trials and trial preparation.

Tom Keating succeeded Roger Hensley as our supervisory IT Manager. Tom has been with the office for over two decades and is well known to all for his expertise and professionalism. He has assisted other districts on detail in the past, so we are fortunate he remained available to assume a leadership role here.

Mel Fanko accepted a promotion to Budget Officer. With AO Sheryl Brugh’s mentoring, Mel has rocketed up the career ladder, having started as an entry-level Pathways recent graduate hire just a few years ago. Mel is well known to the office for her diligence, customer service attitude and attention to detail.

**AWARDS and HONORS**

**DIRECTOR’S AWARD – SUPERIOR PERFORMANCE AS A CIVIL LITIGATOR**

AUSA Adam Townshend received this recognition for his work on the civil False Claims Act claims against Van Andel Research Institute, which netted over $5M through a settlement for alleged failures to disclose foreign grants that funded researchers at VARI.

**REPRESENTATIVE CIVIL MATTERS**

Overall, civil matters and cases increased by more than 67% in 2020. In addition to continuing to work on existing affirmative civil enforcement matters, the USAO opened a significant number of new affirmative investigations, including 15 new fraud matters. New civil defensive matters and cases increased by over 132%, driven in large part by increases in Social Security appeals to district court and by increased prisoner litigation. There was also an increase of over 70% in new civil immigration cases.

**Affirmative Civil Enforcement:**

Civil Division enforcement of the False Claims Act and Controlled
The USAO prevailed on summary judgment, The USAO reached a settlement of.

AUSA: Adam Townshend.

AUSA: Andrew Hull.

The dentist also agreed to surrender his DEA registration and to a

medical purpose and outside the scope of professional practice.

Controlled Substances Act by writing illegitimate prescriptions for

$200,000 with a dentist to resolve allegations that he violated the

United States v. Singstock

AUSA: Carolyn Almassian.

United States v. Beyer et al.

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 (ADA). The USAO also investigated and litigated Fair Housing Act claims involving allegations of sexual harassment and discrimination in education and housing. In 2020, the USAO also reviewed and responded to numerous complaints relating to alleged civil rights violations during the COVID-19 pandemic. The Western District of Michigan devoted nearly twice as much USAO time to civil rights matters than the average for mid-sized districts. USAOs: Laura Babinsky, Ryan Cobb.

Representative resolutions included:

- persuading an apartment manager to adopt a new nondiscrimination policy and to conduct staff training to prevent rental discrimination based on familial status;
- obtaining changes in policy and practices at two dental practices that had been violating the ADA by failing to provide interpreter services for hearing-disabled patients;

- demonstrating to a bank that its practices relating to charges for checks for visually impaired account holders violated the ADA, and securing refunds for customers who had faced improper check charges; and
- prevailing upon the State of Michigan to reline a parking lot at one of its buildings to come into compliance with the ADA.

Bankruptcy:

The USAO represented the interests of the United States in approximately 110 new bankruptcy matters it opened in 2020; 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. USAOs: Nicole Mazzocco, Michael Shiparski.

Defense of Claims of Civil Rights Violations:

Richardson v. Masteller. The USAO prevailed on the plaintiff's appeal of the jury’s verdict in this Bivens action. 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. USA: Carolyn Almassian.

Sortland v. Colombel-Singh et al. Plaintiff attempted to recover damages from Social Security Administration employees who allegedly violated his due process rights in the way they processed and denied his request that the agency waive recoupment of an overpayment of social security benefits. Although the agency ultimately decided to waive recoupment, the plaintiff nevertheless sought to impose personal liability on the individual agency employees. The USAO demonstrated that the Supreme Court has not recognized any constitutional cause of action that plaintiff could bring against the individual Social Security employees in circumstances like these, and obtained summary judgment for our clients. USAOs: Nicole Mazzocco, Ryan Cobb.

Employment Litigation:

The USAO experienced a significant increase in new cases alleging discrimination in federal employment. Dispositive motions are pending in several cases. USAOs: Carolyn Almassian, Jeanne Long, Laura Babinsky. Several 2020 successes are described below.

Jones v. Wolf. The USAO prevailed on summary judgment, defeating a U.S. Border Patrol employee’s claim that she was not promoted to a supervisory position due to her gender. The evidence demonstrated that the reason plaintiff was not promoted was not related to her gender but instead was because her prior discipline – for walking off the job and refusing to follow an order requiring overtime work – showed that she was not ready for a
supervisory position and did not have superior leadership qualities in comparison to the other candidates. Plaintiff failed to offer evidence to create a factual issue that these reasons were pretext for discrimination. Other females were promoted both during and soon after the promotion at issue, and there was no evidence of any statements relating to gender or a discriminatory atmosphere at the agency. AUSA: Carolyn Almassian.

Reed v. Lipnic and Smock v. Lipnic. The USAO filed motions to dismiss and obtained dismissal of two cases in which former Michigan Army National Guard technicians sought to challenge their termination from employment. The USAO’s briefing demonstrated that the challenged actions were military personnel decisions in which Title VII remedies do not apply. AUSA: 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 other miscellaneous tort claims. The USAO’s new tort cases decreased somewhat in 2020, but the percentage of time AUSAs in the Western District of Michigan spent on tort defense increased, as AUSAs conducted discovery in several cases alleging significant birth injuries. Tort defense remained 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 Alexander v. United States, in which the plaintiff alleged that he was seriously injured in an automobile accident in which the U.S. Postal Service was at fault. The USAO prevailed on summary judgment after demonstrating that the plaintiff did not have evidence of an objectively manifested impairment that he could establish was caused by the accident. AUSA: Jeanne Long.

Program Litigation:
Doe v. Carson. The plaintiff sought review of agency action under the Administrative Procedure Act, attempting to challenge the U.S. Department of Housing and Urban Development’s actions relating to a Section 8 housing voucher and alleging disability discrimination. She attempted to proceed under a pseudonym, but the district court ruled that she could not. It subsequently dismissed the complaint after the plaintiff failed to properly identify herself. The plaintiff then appealed to the Sixth Circuit, where the government prevailed after briefing the issues. AUSA: Jeanne Long.

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, Jeanne Long, Nicole Mazzocco.

Subpoena defense (Touhy regulation matters). 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.

Immigration Litigation:
The USAO defended twelve new immigration cases filed in 2020, 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.

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 2020, the USAO opened approximately 185 new cases in which plaintiffs challenged unfavorable Social Security disability benefits determinations, a significant increase from 2019. AUSA: Michael Shiparski.

REPRESENTATIVE CRIMINAL MATTERS

Financial Crimes:
HEALTH CARE FRAUD:
United States v. Roger Beyer, et al. Roger D. Beyer, M.D., was sentenced to 57 months of incarceration for his involvement in a conspiracy to commit healthcare fraud and 12 months of incarceration to run concurrently for the adulteration of medical devices. His practice manager received a three-year sentence and Beyer’s wife, a nurse, was sentenced to probation. The fraud scheme resulted in approximately $883,000 in false claims submitted by the doctor’s practices and paid by Medicare. These schemes included billing pelvic muscle rehabilitation therapy using improper—and more lucrative—diagnostic codes, billing for evaluation and management services that did not occur, and billing for the services of an unlicensed nurse assistant. During the fraud investigation, investigators discovered that doctor’s practice included the reuse of single-use rectal pressure sensors and the reuse of single-use anorectal manometry catheters on multiple patients in contravention of the devices’ instructions for use and inconsistent with clearances by the Food & Drug Administration (“FDA”). AUSAs Raymond E. Beckering III and Andrew Hull.
Agencies: HHS OIG, FDA Office of Criminal Investigation, and FBI.

MAIL AND WIRE FRAUD:
United States v. Robert Buckhannon. Robert Lyle Buckhannon, of Las Vegas, Nevada, was sentenced to serve 24 months in federal prison for his role in a conspiracy to defraud a California mortgage lender in connection with a Battle Creek business, On Deck Sports Bar & Grill. He was also ordered to pay $467,213.98 in restitution to his victims. Buckhannon pleaded guilty in a Grand Rapids federal courtroom to conspiracy to commit wire fraud, admitting that he sent fake lease agreements and fake rent checks to the mortgage lender purporting to show $42,000 in annual rental income to induce the lender to loan $456,000 to On Deck Sports Bar & Grill. In truth, there were no tenants or leases in the building, only the restaurant. Shortly after the fraud scheme was executed, On Deck Sports Bar and Grill was destroyed by fire. His co-defendant in the scheme received probation. Buckhannon had previously been convicted of a wire fraud conspiracy in Nevada for his role in defrauding investors in connection with a hedge fund. Agency: ATF; AUSAs: Christopher O’Connor and Erin Lane

PROGRAM FRAUD:
United States v. Jessica Rubio. Rubio, 32, of Holland, Michigan, received 72 months’ imprisonment for defrauding immigrants seeking to obtain legal status. In imposing the sentence, Judge Janet Neff commented that Rubio’s fraud was elaborate and found it “appalling when you pick on people trying to pursue the American dream and do it for your own financial gain.” Over a six-year period, Rubio solicited people who did not have legal status in the United States by assuming the identity of a Department of Homeland Security (“DHS”) attorney and promised to prepare and expedite the immigration application process for them, which included the filing of numerous immigration forms to U.S. Citizenship and Immigration Services (“USCIS”) and the Department of Justice - Executive Office for Immigration Review. Rubio demanded payment for her services, purported to be legitimate fees, but never submitted those forms on her clients’ behalf. At least 91 victims in Michigan, Texas, South Carolina, and Alabama fell victim to this scheme, plus at least two other victims with no monetary losses but whose identity or employment affiliation Rubio misappropriated. Total loss amounts were calculated at $273,755 at the time of sentencing. Agencies: DHS OIG - Detroit Field Office; HSI - San Antonio (Texas) Field Office; HSI - Grand Rapids, the Fraud Detection and National Security Directorate of USCIS - Harlingen (Texas) Field Office; Texas Department of Public Safety - Harlingen Criminal Investigations Division; U.S. Marshals Service Fugitive Task Force; and the Holland Department of Public Safety. AUSA Clay West.

TAX FRAUD:
United States v. Paul Patrick Piper. Piper, of Ludington, Michigan, was sentenced to 63 months’ imprisonment on charges of bank fraud and filing a false federal income tax return. Chief Judge Robert Jonker at sentencing commented that the amount Piper embezzled over many years was “a frightening number that caused substantial financial hardship” to the Lake Michigan Carferry and resulted from a “pattern of conduct that needs deterrence.” As part of his sentence, the court imposed a forfeiture money judgment in the amount of $1,740,037.91. Piper served for many years as the financial controller for Lake Michigan Carferry, the company operating the SS Badger ferry between Ludington, Michigan, and Manitowoc, Wisconsin. Piper embezzled in excess of $1,700,000.00, between 2007 and May 2018, by overriding normal company accounting systems and writing checks directly to himself and to two of his affiliated businesses, Piper Tax & Accounting and Piper Group. Piper either forged the signatures of company owners on these checks or used a signature stamp without the authorization of the owners. Piper hid these transactions in the accounting system by booking these checks to an insurance expense code and by otherwise making false entries to balance company accounts. Additionally, Piper filed false personal income tax returns with the Internal Revenue Service because he knowingly failed to include the income he stole from the Carferry, and other income earned from his tax business, on his federal income tax returns. Agency: FBI, IRS, Mason county Sheriff. AUSA: Ronald M. Stella.

United States v. Brian John Scalabrino. Scalabrino, formerly of East Grand Rapids, Michigan, was sentenced to 36 months in federal prison for committing wire and tax fraud. He was also ordered to pay $348,365 in restitution to Metal Standard Corporation of Holland, and to pay $112,363 in restitution to the IRS. Scalabrino, the former Director of Finance for Metal Standard, altered his payroll records to show a negative federal income tax withholding amount for most pay periods. This fraudulently raised his income so that his net income exceeded his reported gross income. He used this method to fraudulently increase his annual pay by approximately $50,000 each year. His false federal income tax returns caused a loss to taxpayers of $112,363.00. He also submitted false IRS Form W-2 Wage and Tax Statements which showed fictitious amounts of federal tax withheld from his paychecks. Agency: IRS. AUSA: Clay Stiffler.

DOMESTIC TERRORISM:
United States v. Adam Fox, et al. First by a complaint issued in October and then by Indictment, six men were charged with conspiracy to kidnap the Governor of Michigan, Gretchen Whitmer, from her vacation home in the Western District of Michigan. Each faces up to life in prison if convicted. This group allegedly used operational security measures, including communicating by encrypted messaging platforms and code words and phrases to try to avoid detection by law enforcement. The complaint alleged, among other things, that members of the group surveilled the Governor’s vacation home, tested explosive devices for anti-personnel potential and that two even inspected the underside of an M-31 highway bridge for places to seat an explosive to divert law enforcement. In early 2021, one defendant, Ty Garbin, pled guilty and agreed to cooperate. The rest await trial. Charges in a complaint or indictment are allegations and a defendant remains innocent until proven guilty at trial or admits guilt at a plea hearing. Agency: FBI. AUSAs: Nils Kessler, Christopher O’Connor and Austin Hakes.
**United States v. Aaron Fein.** Fein, an engineering student, was sentenced to 27 months’ imprisonment for lying to FBI agents about renting and training with an AR-15. Joint Terrorism Task Force Agents first became aware of Fein when, on crossing the border from a trip to Canada, 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, 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. But Fein nevertheless rented an AR-15 style semiautomatic assault rifle and trained with it at a firearms range in eastern Michigan. When the FBI apprehended him soon after, he falsely stated he had not touched any guns. Agency: FBI, DHS. AUSA: Hagen Frank

**THREATS TO FEDERAL OFFICIALS:**

**United States v. Martin Dale Osborn.** Osborn, of Bangor, was sentenced to a year and a day in prison for threatening a federal official. Osborn left a voicemail for Rep. Henry Johnson, who represents Atlanta’s 4th Congressional District, stating “One day you are going to see me. I’ll be about two o’clock in the morning. I’ll be at your bedside and all you’re going to see is me knocking the living shit out of you … terrified? You should be.” Osborn referred to Rep. Johnson, who is Black, as “boy,” and specifically linked his threat to the Congressman’s sponsorship of a gun control bill. As a result of the conviction, Osborn will be permanently barred from possessing firearms. Judge Paul Maloney emphasized the need to deter others from committing similar crimes, which divert scarce law enforcement resources. He warned, “Those who [make such threats] must understand the likelihood that they’re going to serve some time in incarceration is significant.” Agency: FBI. AUSA: Clay West

**THREATS TO INTERSTATE TRAVEL:**

**United States v. Amy Jo-Manshum John.** John pled guilty to interfering with flight crew members and attendants, an offense punishable by up to 20 years in prison. She admitted at the plea hearing that while onboard a domestic interstate carrier flight from Fort Lauderdale, Florida to Grand Rapids, Michigan, she swung her arm twice at a flight attendant to strike her. The assault interfered with and diminished the flight attendant’s ability to perform her duties. John also admitted as relevant conduct that she intimidated three other flight attendants on the same flight by being disruptive, unruly, and disobedient while the flight was in progress. Agency: FBI. Gerald R. Ford International Airport Police Dept. AUSA Clay West.

**IDENTITY THEFT:**

**United States v. Kristine Marie Jung.** Jung, of Kalamazoo, Michigan received 48 months’ imprisonment for her involvement in a “mailboxing” ring. She and her accomplices stole checks, credit cards, driver’s licenses and other identity documents from residential mailboxes, unattended purses and parked cars. They then forged and altered the checks, and used some of them to purchase merchandise at local retail stores. In some cases, they made them payable to people whose identification documents they had stolen, and impersonated those people in order to cash the checks at financial institutions. When Jung was arrested, she was found in possession of stolen checks and identification documents, as well as equipment commonly used in forging and counterfeiting checks. These included chemical solvents, sponges and Exacto blades used to remove ink from checks. Jung confessed she had been committing identity theft to support her methamphetamine habit. Jung’s sentence included three concurrent 24-month terms for bank fraud and two counts of mail theft. The sentence includes a two year consecutive sentence for aggravated identity theft, because she used another person’s identity in the commission of a felony. Three other Kalamazoo “mailboxers” from Jung’s social circle were sentenced last year for similar conduct.: Beatrice Michael Brown, Shadow Nicole Kornmiller and Jessica Ann Ledger received sentences of 27, 33 and 51 months respectively. Agency: USPIS: Kent County Sheriff. AUSA: Nils Kessler

**Organized Drug Crime:**

**United States v. Andrew Bravo, et al.** All eleven members of this conspiracy were convicted, the final two following a four-day trial in Kalamazoo. Bravo’s organization distributed kilograms of cocaine and crystal methamphetamine, and quantities of heroin, fentanyl, MDMA or ecstasy, and kilograms of marijuana, in and around Battle Creek and Kalamazoo between May 2017 and December 2019. Another defendant, Mercado-Lozano, a self-admitted associate of the Sinaloa cartel, was Bravo’s regional supplier of kilograms of cocaine and quantities of crystal methamphetamine. The lead defendants in this case ultimately received over 20 years in prison. Agencies: HIS, DEA, IRS-CI, Battle Creek P.D. AUSAs: Dan McGraw; Vito Solitro.

**United States v. Darrell Lee-Lamont Summers II, et al.** Summers and the other final three defendants in this 24-member drug trafficking organization were sentenced following their convictions for conspiring to distribute methamphetamine and related crimes after a ten-day trial last November. The sentences for all of the defendants ranged from 18 months to over 20 years. The evidence at trial demonstrated that the leaders of the conspiracy brought or sent, in total, hundreds of thousands of dollars to suppliers in California and Arizona, who subsequently shipped hundreds of pounds of methamphetamine back to Michigan through the mail. The organization largely distributed the methamphetamine in southwest Michigan, including in greater Kalamazoo. Law enforcement intercepted three packages during the investigation, which in total contained approximately 14 pounds of crystal methamphetamine, between 96% and 99% pure. At the time of the interceptions, those 14 pounds alone were worth more than $40,000 on the southwest border from which they shipped and nearly $100,000 wholesale in Michigan. Agencies: FBI, DEA,
United States v. Howard Mayfield, et al. All 27 defendants were convicted and sentenced to terms of imprisonment for their involvement in a wide-ranging cocaine-trafficking conspiracy. Mayfield himself pled guilty and was sentenced to 360 months (30 years) in prison. His organization distributed the cocaine in and around Grand Rapids. He obtained over 100 kilograms of cocaine from a Texas-based distributor, Wilbert Gentry. He also received kilogram-quantities of cocaine from Muskegon - and Detroit-based supplier Craig Schenvinsky James, as well as Quincy Delon. A multitude of dealers then sold the cocaine to their customers in and around Grand Rapids. Agencies: DEA, Metropolitan Enforcement Team (MSP); Kentwood Police Dept., Grand Rapids Police Dept. AUSAs: Kate Zell, Dan McGraw, Justin Presant, Jonathan Roth, Vito Solitro, Mark Courtade (retired).

United States v. Damiane Buehrer: Buehrer was sentenced to serve 30 years in prison for distributing a fatal dose of the deadly synthetic opioid carfentanil to Tyler Herendeen, then a resident of Hillsdale County. The investigation began after Somerset Township firefighters responded to a 911 call reporting a blazing fire that had fully engulfed a Ford Escape. After the fire was extinguished, a badly burned human body was discovered in the trunk-space of the car. The body was subsequently identified through dental records as that of 30-year-old Herendeen, a life-long resident of Hillsdale County and an honorably-discharged member of the Michigan Army National Guard who had served in the Afghanistan war. Further investigation by the Michigan State Police and the FBI determined that the cause of death was ingestion of carfentanil, an extremely toxic synthetic opioid that is increasingly found in heroin mixtures. Buehrer pled guilty a few days before trial to providing Herendeen the drug. He also admitted that he burned Herendeen’s body in an effort to destroy evidence. During the pendency of the overdose investigation, Buehrer was ordered to serve a 46-month sentence in federal prison for a dog-fighting offense. Buehrer must complete the prison term for the dog-fighting case before he begins serving his 30-year-sentence. Agencies: FBI, MSP. AUSAs: Hagen Frank, Kate Zell.

Indian Country:
United States v. Allen Michael Foster: Foster was sentenced to 84 months imprisonment for abusive sexual contact with a minor under the age of 12 years. The charge arose from an investigation initiated in 2016 that determined that between 2012 and 2014, Foster sexually abused a minor who was residing in his household on the Sault Ste. Marie reservation. Agencies: Door County Sheriff’s Department, Sault Tribe Law Enforcement Department, FBI. AUSA: Hannah N. Bobee.

Firearms: Project Safe Neighborhoods and Project Guardian:
United States v. Antwine Chamberlain-Fields: Chamberlain-Fields was charged with being a felon in possession of a firearm and ammunition in Grand Rapids. He was held pending trial, with Magistrate Judge Ray Kent explaining that the proliferation of illegal weapons in the district is a key factor in the local surge of violence, highlighting that an address associated with defendant was the location of a recent brazen drive-by-shooting, resulting in the injury of a teenage girl. Chamberlain-Fields’ neighborhood was quiet for several weeks after his arrest. He later pled guilty. Agency: ATF, Kalamazoo Dept. Public Safety. AUSA: Tim VerHeyen.
high-speed chase on Interstate 75 followed, with Clark driving his vehicle in excess of 140 miles per hour. The chase ended when Clark lost control of his vehicle, crashing it into another vehicle and severely injuring a nurse on her way home from work. Clark pled guilty to both Michigan robberies and took responsibility for the Ohio bank robbery. After considering the facts surrounding the robberies and Clark’s background, U.S. District Judge Paul Maloney declared him an ongoing threat to the community and chose the prison term of 235 months. Agency: FBI. AUSA: Tim VerHey.

PROJECT SAFE CHILDHOOD:

United States v. James Verne Russell
Russell, a former Michigan teacher and principal, was sentenced to serve 720 months – 60 years -- in prison for sexual exploitation of two minors through the production of child pornography. He was also sentenced in the Muskegon County Circuit Court to 20 to 95 years in the related sexual assault case. Russell was in education for twenty-two years. In June 2018, a teacher filed a complaint about Russell’s unusual interest in two students. Russell was suspended by the school district and later resigned. He then moved to Las Vegas and joined a local district as a fourth-grade teacher. Russell came to the attention of law enforcement when the FBI Las Vegas Child Exploitation Task Force received a CyberTip from the National Center for Missing and Exploited Children regarding a recent upload of dozens of images, some depicting child pornography. When confronted by investigators, Russell confessed to possessing the pictures. Norton Shores Police and FBI Grand Rapids located and interviewed the victim in Michigan. That victim confirmed that he was the child depicted and that Russell had sexually molested him for years. A search of Russell’s cell phone and computers disclosed numerous other images of child pornography, many of which Russell had produced himself. Further investigation disclosed another minor who was victimized in 2017, and a third individual who had been sexually abused by Russell beginning in 1996 – the year Russell started his career in education. Agency: FBI, Muskegon County Prosecutor’s Office, Henderson (Nevada) Police Department, Las Vegas Metropolitan Police Department, Norton Shores Police Dept. AUSAs Daniel Mekaru, Austin Hakes.

United States v. Anthony Donal Short
Short, of Kalamazoo, Michigan, was sentenced to serve 27 years in the Federal Bureau of Prisons for coercing and using a minor to produce child pornography. Short came to the attention of law enforcement after the victim reported to law enforcement that she had been sexually molested by Short while they were living in Alaska. The FBI confronted Short, and he admitted to taking sexually explicit images of the victim. Forensic examination of his computers and cell phones confirmed the crimes. Agency: FBI. AUSA: Dan Mekaru

REPRESENTATIVE APPEALS

United States v. Woodson (published). The Court of Appeals affirmed the District Court’s conclusion that where travel to other jurisdictions to avoid detection by law enforcement is a key component of the fraud scheme, the relocation sentencing enhancement applies, regardless of whether conspirators periodically return to stationary hub to perform part of scheme. AUSA: Tim VerHey.

United States v. May-Shaw (published). Here, the Court of Appeals agreed with the District Court that law enforcement’s 23-day surveillance of a parking lot and carport adjacent to the defendant’s apartment complex through the use of a camera on a telephone pole approximately 20 feet off the ground did not violate defendant’s Fourth Amendment rights. Likewise, the Court concluded the carport was not within the curtilage of defendant’s apartment, and thus the use of a drug sniffing dog on defendant’s vehicle while it was parked in the carport did not constitute an unlawful search under the Fourth Amendment. AUSA: Sally Berens (briefed before assuming the bench), Tonya Long (argued).

United States v. Smith (published). Here, Smith moved for a reduction in his sentence pursuant to First Step Act. The District Court granted the motion, but defendant appealed seeking greater relief. The Court of Appeals held that the district court was not required to conduct plenary resentencing on all counts or to allow defendant to present his arguments. The Court of Appeals further found it had jurisdiction to consider defendant’s argument that his reduced sentence was procedurally unreasonable and found the district court satisfied its obligation to explain its reasons for modified sentence. AUSA: Jen McManus.

United States v. Castro (published). In a case of increasing relevance as the USAO and local DEA’s office have expanded the use of wire tap authority in order to focus on regional drug traffickers that local authorities cannot reach, the Court of Appeals here affirmed that the government adequately established that wiretaps of defendants’ cell phones were necessary. Relying on its own prior precedent, the Court of Appeals re-affirmed that “the purpose of the necessity requirement is not to foreclose electronic surveillance until every other imaginable method of investigation has been unsuccessfully attempted, but simply to inform the issuing judge of the difficulties involved in the use of conventional techniques.” Further, the panel explained, the Court of Appeals will give “considerable discretion to a district court’s finding that the requirements have been met.” AUSA: Steve Baker

United States v. Boulding (published). In a matter of first impression, the Court of Appeals concluded that a defendant’s eligibility for resentencing under the First Step Act is governed by the federal criminal statute of conviction, rather than his specific conduct; and in another matter of first impression, the panel concluded that, while not entitled to plenary resentencing, a defendant is entitled to an opportunity to present objections to guideline scoring the sentencing court must consider as part of the statutory sentencing factors, subject to reasonableness review on appeal. AUSA: Rene Shekmer

OUTREACH, TRAINING & PROFESSIONAL DEVELOPMENT

The pandemic substantially impacted our outreach efforts
because so much of that communication and education involves directly engaging with audiences in group settings that could not be replicated virtually.

### Community Initiatives:

#### National Security
With emerging concerns for corporate espionage and the cyber threat posed by the People’s Republic of China, U.S. Attorney Birge hosted Attorney General William Bar in July for the Attorney General’s important policy speech at the Gerald R. Ford library in Grand Rapids. The speech was followed by presentations from U.S. Attorney Birge, U.S Attorney Matthew Schneider from the Eastern District of Michigan, and Adam Hickey, Deputy Assistant Attorney General for the National Security Division. This event expanded on U.S. Attorney Birge’s smaller, private presentation the prior year to select local executives on the concerning challenges posed by the PRC to certain businesses and sectors of the economy.

#### Tribal Relations:
U.S. Attorney Birge convened annual government to government meetings with Tribal leadership representatives, though most of the meetings were handled remotely. Tribal Liaison Sean Lewis and our LEC and victim services staff participated as well. AUSA Lewis met with Tribal law enforcement representatives on an as needed basis to respond to their inquiries about Department policies and priorities.

Much of U.S. Attorney Birge’s focus as a member of the Attorney General’s Advisory Subcommittee on Native American Issues was on issues associated with murdered and missing indigenous persons. In conjunction with the Attorney General’s initiative, U.S. Attorney Birge brought on board a former FBI Agent, Joel Postma, to work with coordinators from around the country to develop protocols for handling missing persons cases involving Native Americans. That mission is well underway and will continue through the coming year, particularly with the passage of Savanna’s Act.

Unfortunately, the office had to postpone for at least a year the annual Great Lakes Native Americans Conference, which had been planned for September.

#### Civil Rights:
U.S. Attorney Birge spoke for the “Know Your Rights” series for Advocates & Leaders for Police and Community Trust (ALPACT) groups in Grand Rapids, and likewise addressed ALPACT audiences on fair housing and federal hate crime laws following concerns that arose through racial justice protests and misperceptions about the pandemic.

In addition, the office updated its public intake procedures with a new complaint and reporting portal on its external webpage and announced its particular focus on sexual harassment in housing, given rising financial pressures on tenants during the pandemic.

#### PSN Outreach on Offender Re-entry:
U.S. Attorney Birge regularly convened virtually with the leadership of the Kalamazoo Group Violence Initiative (GVI) to address on-going street-level lay community efforts to encourage those at high risk of getting involved in gun violence to make the right choices.

In addition, U.S. Attorney Birge prepared and distributed to the Michigan Department of Corrections a recorded presentation for recent parolees congratulating them on their release, encouraging them to take advantage of resources available to them as parolees, reminding them that their communities needed them in so many constructive ways but also warning them that possessing a firearm as a felon or getting involved in other federal crime can have severe consequences.

#### Law Student Intern Program:
Although many offices and institutions suspended internship programs due to the pandemic, we were able to take on four interns and supervise them with remote assignments and our regular series of brown-bag lunch seminars. AUSAs Tonya Long and Davin Reust supervised the program.

#### Law Enforcement Training Program:
Our typically extensive annual law enforcement training program went mostly virtual in 2020 and was significantly pared down, due to the pandemic. After accepting a temporary promotion to run the law enforcement coordination training and cover media point of contact responsibilities, Anne Towns again partnered with the Eastern District to host the virtual trainings.

#### Victim/Witness Unit:
Kathy Schuette, Marlene Mottes, and Breane Warner our victim services specialists, along with assistance from Anne Towns and Dan McDonough, oversaw our victim notifications and services program, carefully navigating witnesses and victims through the various Covid protocols at the office and in the courthouses.

Marlene Mottes continued to represent the office on Human Trafficking outreach in the Upper Peninsula, even presenting virtually on human trafficking for such groups as Women of Michigan’s 108th District. And, as in prior years, 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 to focus on child abuse in Indian Country.

#### Diversity and Special Emphasis Program Committees:
The Special Emphasis Programs, which is intended to foster understanding and a welcoming environment for employees of all backgrounds, naturally went virtual, with videos and other acknowledgments honoring Veterans Day, Asian American and Pacific Islander Month, Women’s History Month, and Martin Luther King’s birthday.
United States Attorneys Criminal Caseload Statistics
Western District of Michigan
Matters and Defendants Received

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

Cases Filed/ Responded To

United States Attorneys -- Civil Workyear Statistics
Western District of Michigan
Civil Attorney Workyears as a Percentage of Total Civil Attorney Workyears

Fiscal Year 2020

Total: 7.69

USA 5 workyears logged by AUSA Regular Hrs toward Civil Program Categories

Graph 3
THE END