

YEAR IN REVIEW

Year 2016



United States Attorney's Office
Western District of Michigan

Patrick Miles, Jr.
United States Attorney

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Introductory Message



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

Thank you for reading our 2016 Year In Review. It is incredible how many good things this office accomplishes. It is also a pleasure to compile the annual highlights and report them publicly. This is my fifth and final message as United States Attorney for the Western District of Michigan (WDMI). It truly has been a high honor and privilege to serve as a Presidentially-Appointed Senate-Confirmed United States Attorney over the past four and a half years in the Obama Administration. At the end of every day I said to myself, "We did some good today." We know we are making a positive difference. This is one of the few jobs that is entirely satisfying on a daily basis. That is only possible because of the talented and hard-working individuals in this office. Their contributions, dedication, and excellence are consistently outstanding. I often tell people, publicly and privately, that we have the highest quality professionals working in this office. I've been proud to describe our efforts to others and even prouder to hear positive comments about them so frequently.

From the start of my tenure as U.S. Attorney in 2012 I focused on protecting the vulnerable and taxpayers. That is why we put more emphasis on preventing and prosecuting cases of children being exploited through pornography or sex trafficking, seniors being targeted by financial scammers, and those who commit fraud against the government and our health care system. I also prioritized addressing violent crime with locally-tailored strategies. So we changed our approach to reducing violent crime in our seven urban cities of Battle Creek, Benton Harbor, Holland, Grand Rapids, Kalamazoo, Lansing, and Muskegon Heights by forming violent crime reduction task forces in 2013 to work with federal, state and local law enforcement to continuously identify and prioritize for federal prosecution the people, groups, and gangs causing the most neighborhood shootings and disruptions. Further, I believe affirmative efforts to reduce criminal recidivism through effective programs and employment opportunities are critical crime prevention measures. I also worked to increase trust between community and law enforcement to prevent and address shared problems. It's difficult to develop trust in a crisis situation. It takes communication for a relationship, and it takes a relationship to develop trust.

The successes we achieved with our law enforcement and agency partners speak for themselves, including our 95%-plus conviction rate, the 106 child sexual predators serving over 1,725 years in federal prison, the many fraudsters serving time in prison with large restitution orders for the money they stole from individuals, institutions, or the government, the large-scale drug traffickers serving lengthy prison sentences, the first-ever WDMI child sex trafficking conviction, the scammers sitting in prison no longer tormenting innocent victims of identity theft, the recovery and saving of money for the U.S., an active and focused violent crime reduction task force getting results in each of our seven major urban cities, the new effective crime prevention efforts of Facing Choices, Re-Entry Job Fair, and Justice Scholars as well as improving the relationship between law enforcement and our communities through Advocates & Leaders for Police and Community Trust in several cities.

I am very blessed and grateful for the opportunity to serve in this capacity. It's been an honor and a privilege to lead such an outstanding team of crime-fighters and people who work hard every day to protect the interests of America and its citizens. I deeply appreciate the support I received from inside and outside the office. My heart is full of admiration for those who continue to pursue justice and protect America.

With my very best regards,

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

Patrick A. Miles, Jr.

NEW INITIATIVES AND CHALLENGES

This year the district saw the office follow-through and expand on its many public outreach initiatives while continuing to pursue litigation priorities and weathering a significant wave of post-conviction challenges.

Outreach included the following three “first-ers” for the office which are described in more detail inside this report: Consistent with his theme that “employment is crime prevention,” U.S. Attorney Miles hosted an Employer Summit in May followed by a September *Job Fair* for returning citizens. In May, the first class of *Justice Scholars* 7th grade students in Grand Rapids completed their mock trials and, by September, the program had been introduced to 7th grade students in the Lansing public school system. U.S. Attorney Miles hosted an October *Justice Forum* in Grand Rapids to underscore the importance of developing and maintaining a strong foundation of trust between the police department and the communities it serves.

Faced with an on-going opioid epidemic, the office not only prioritized opioid prosecutions but also aggressively pursued a public awareness campaign to increase understanding of the causes of the epidemic, its impact and the need for preventative measures. The campaign included an open conference where the news media met with experts in the field and heard first-hand the travails and heartbreak of a victim-parent. And on numerous occasions, U.S. Attorney Miles and senior AUSAs presented on the subject to health care professionals, school officials and even local legislators.

In the meantime, the office otherwise continued to pursue its criminal litigation priorities as it has in recent years: with a focus on complex cases and those with a substantial federal interest. For example, in the area of violent crimes prosecutions, while the office continues to prioritize domestic violence in Indian Country, firearms and internet child exploitation, the office now also pursues a substantial initiative to combat child sex and human trafficking — crimes not on the radar five years ago. Drug prosecutors now focus on sophisticated investigative tools, such as wire taps, to a far greater extent than in years past in order to dismantle those organizations no one else can. And compared to five years ago, the office spends a higher percentage of its time on financial fraud matters, which in turn represent a higher percentage of all cases filed. Largely due to the financial fraud caseload, the office issued over 90,000 victim notification letters in 2016.

Criminal attorneys felt the weight of history this year with a surge in post-conviction challenges to sentences based upon the Supreme Court’s recent decision in *Johnson v. United States* striking-down a recidivist sentencing provision in the Armed Career Criminal Act that the Career Offender provision of the sentencing guidelines closely tracks. The office saw an increase of 330% in collateral attack litigation over last year. Thanks to an “all hands” approach and the dedication of the Appellate Division and

leadership of the Appellate Chief, the office was able to ride out the waves of pleadings. We now await the Supreme Court’s decision in *United States v. Beckles* for a full understanding of the impact of *Johnson* on guideline sentencing.

On the civil side, the office continued to work through a rising tide of social security cases that began last year along with a historically high rate of defensive case intake, including in particular tort cases, and a relatively smaller (compared to many years) but still very active and important bankruptcy docket. Compared to four years ago, the office secured substantially more judgments in favor of the United States.

In terms of personnel, the office welcomed the arrival of a new attorney for the Criminal Division and several much-needed support staff and contract assistants. Reflective of both the long careers so many have with the office and the changing times, we also said our goodbyes to a number of valued colleagues who could measure their time in the office by the decade while we also bid farewell to more recent arrivals who chose to embark on new endeavors.

ARRIVALS, DEPARTURES and PROMOTIONS

Arrivals:

AUSA Davin Reust joined our Violent Crimes Section of the Criminal Division in early summer. He is responsible for investigating and prosecuting federal firearms violations and bank robberies. He is also assigned to the Battle Creek Violent Crime Reduction Task Force which works with the Battle Creek Police Department. He helps the Appellate Section by researching which crimes continue to constitute predicates for the Armed Career Criminal Act and the Career Offender Sentencing Guidelines. Davin’s prior experience includes an Associate in a private practice in Chicago, a Pili Fellow in the Felony Trials Division of the Cook County Public Defender in Chicago, an Intern in the Narcotics Division of the U.S. Attorney’s Office in Kansas City, and a Legal Assistant in Wichita. Davin was a member of the Peace Corps and volunteered with the organization Traffic Free, a group dedicated to opening drop-in centers. He graduated *summa cum laude* from Wichita State University and *cum laude* from the University of Michigan Law School, where he was a Contributing Editor to the University of Michigan Journal of Law Reform.

Former AUSA **John Bruha** returned to us out of retirement on a contract basis to assist the Appellate Division. John retired from the U.S. Attorney’s Office in 2015 after a notable 30 years spent mostly overseeing narcotics prosecutions. He now assists us on appeals and petitions for collateral relief, specifically including those matters implicating the Armed Career Criminal Act and the Career Offender sentencing guideline. His knowledge, experience, outstanding research, and writing skills have proved invaluable. John obtained both his undergraduate and law degrees from the University of Notre Dame, where he was also on Law Review.

Sarah Hague joined our Criminal Division during the summer as a Legal Assistant in the Violent Crimes Section. Sarah has supported attorneys in various private practices for the past 15 years, the last 11 with the Keener Law Offices, PLC, here in Grand Rapids, and before that in Washington D.C. Sarah obtained her B.A. in Legal Studies from Grand Valley State University.

Wallace Gaunichaux joined the Grand Rapids office to assist the Asset Forfeiture attorneys and Paralegal in the late summer. He is responsible for tracking and moving assets through the forfeiture process, drafts documents, and acts as a liaison between agency forfeiture contacts and agents. Wallace previously worked at the U.S. Attorney's Office as a Student Intern in the Civil Division during the summer of 2015. Wallace graduated from Davenport University with a BS in Paralegal Studies. He served as President of the Legal Assistants at Davenport and was a founding member of the National Society of Leadership and Success.

SAUSA Michele Wilson, a Trial Attorney with the U.S. Trustee's Office in Grand Rapids, accepted a one-year, renewable volunteer part-time Special Assistant U.S. Attorney (SAUSA) position with our office late in the year. Michele is a University of Michigan Law School, University of North Carolina, and *magna cum laude* Aquinas College graduate. She has been with the Trustee's office for over ten years and previously worked for the Cook County State's Attorney's Office in Chicago and the local Rhoades McKee law firm. In our office, she is working periodically on bankruptcy fraud referrals. Michele is a member of the American Bankruptcy Institute and Federal Bar Association for the Western District of Michigan.

Britni Michael accepted a Legal Assistant position in our Civil Division after a year as a contractor providing support services for both the Criminal and Civil Divisions. Britni's prior experience includes work as a Student Support Representative at Westwood College, in Illinois, Political Section Intern with the U.S. Embassy in Berlin, Germany, a manager for a grocery store and, while in college, as an intern with Amnesty International. Britni obtained an undergraduate degree from Indiana University in Bloomington, Indiana, majoring in International Studies and German, and a Masters of Public Administration degree from DePaul University, in Chicago, Illinois. She is a Mortar Board Senior Honor Society member and can read, speak, and write German.

Sydney Gray accepted a position as a Legal Assistant in our Criminal Division late in the year, with a start date in early in 2017. Sydney comes to us from Advocate Law Office and previously interned at the 62B District Court House where she handled litigation support and administrative duties. Sydney earned her BS in Paralegal Studies from Davenport University, where she also was a member of the Lacrosse Team.

Jennifer Wilcox also accepted a position late in the year with an early 2017 start date as a Contract Witness Assistant. Jennifer has over 20 years of office management and executive level support experience. She previously worked as an intern with our Victim/Witness unit, a Caregiver, an Executive Assistant, and a

Consultant. Jennifer earned her Bachelor of Arts Degree in Communication Studies from the University of Nebraska and is currently enrolled at Davenport University in a Post-Baccalaureate Paralegal Program.

Departures:

AUSA Fran Ferguson retired from federal service in late December after 27 years with the office. Fran began her career here handling both civil and criminal cases before transitioning to full-time civil work. Her responsibilities over the years included overseeing the Financial Litigation Unit (FLU) for a period and handling a substantial bankruptcy docket along with other commercial and defensive litigation. Perhaps most cherished among her accomplishments was her receipt in 2012 of the *Nims-Howard Civility Award* from the Bankruptcy Section of the Federal Bar Association of the Western District of Michigan. The award is given in recognition of conduct, skill and advocacy that exemplifies the tradition of civility and excellence of the bench and bar of this District.

Lena Newton retired after 30 years with the office. Lena started in our Administrative Division before becoming a Legal Assistant in the Civil Division, where she served for many years assisting the Chief of the Division and overseeing the docket of Social Security cases. Lena served as the Chair of the Office's Special Emphasis Committee for many years and was chiefly responsible for her and her committee winning a Director's Award in 2000 for running a model program of diversity and inclusion efforts. Lena quietly, and in her own irresistible way, became a beloved friend to just about everyone in the office. She is remaining in the area, so we happily expect to see her back from time to time as we continue with those Special Emphasis events that were so close to her heart.

Lois Hecker, Supervisory Paralegal in our FLU quietly retired after over 30 years with the USAO and over 39 years of federal service, leaving behind a legacy of focused and determined dedication to collecting judgments and restitution payment owed by defendants. Crime did not pay under Lois Hecker's watch.

June VanWingen, our librarian, retired in late December after over 26 years with the office and a total of 40 years in federal service. In addition to keeping our library current and tracking our library research tools, June supported the Suspicious Activity Report (SAR) committee, served on the award winning Special Emphasis Committee and assisted our Criminal Law Enforcement Coordinator as needed. A veteran of the Navy, we hope to see June continue to attend our annual Veterans Day events.

Mariel Santana, a Legal Assistant in our Criminal Division, accepted a similar position in the warmer climes of the U.S. Attorney's Office for the Middle District of Florida. Mariel originally joined our office in 2010 as a welcome transfer from the District of Puerto Rico U.S. Attorney's Office in the midst of an otherwise applicable hiring freeze. Mariel was a strong contributor to our Special Emphasis Program while she was here. Known for spreading holiday cheer and decorations every year, we miss her ebullience already.

Sam Corso, our contract Asset Forfeiture support specialist, accepted a position as a Paralegal Specialist with the FBI and departed for Detroit in March. Sam was with us for three years as an essential component of our asset forfeiture and recovery efforts. She started with the office as a student clerk in 2010, covering our front desk and supporting our litigating divisions while she earned her degree from Davenport University.

Constance Turnbull, after serving as our Contract Receptionist, departed in the late summer upon her acceptance into Georgetown Law School. Constance grew up in London, England, and moved to Grand Rapids with the intention of pursuing a J.D. degree. She graduated in 2015 from Grand Valley State University with honors in Legal Studies and Business, and worked her way through college as a waitress, lifeguard, and pool manager. Constance is a certified paralegal in both the United States and the UK, and prior to joining our office she worked in a London law firm as a paralegal.

Matthew Langeland departed late in the fall after accepting a Legal Assistant position in private practice. Matt initially joined the office to provide contract support services for the Financial Litigation Unit before covering our front desk on a contract basis. Matt obtained his B.S. in Paralegal Studies from Davenport University, where he was a member of Lambda Epsilon Chi, a National Honor Society for Paralegal/Legal Assistant Studies.

Malorie (Newman) Cole briefly returned to attend to our front desk area and provide administrative support after 18 months of active duty military service abroad. Unfortunately for us, she soon secured a position as a Budget Analyst and Project Manager with another agency on the east side of the state. We wish her well.

Promotions:

Maya Blade earned a promotion to a supervisory paralegal position in the Financial Litigation Unit, succeeding Lois Hecker. Maya has spent the bulk of her professional career with this office, starting as a legal secretary in 1988 before advancing to a paralegal position in the FLU, where she has been since 2000. Maya has a degree from Davenport College of Business and numerous certificates from the Office of Legal Education. Maya now has the responsibility of mentoring our much newer FLU staff while continuing our strong commitment to collections.

Jenny Norton earned a promotion from Legal Assistant to Paralegal, supporting financial crimes prosecutors in the Criminal Division. Jenny first started providing legal support assistance for our office on a contract basis during a hiring freeze in 2012. In 2014, we were able to hire her as a Legal Assistant and we are now pleased to have her take on the new responsibilities. Jenny has a law degree from Cooley Law School and an undergraduate degree from Grand Valley State University.

Breane Warner secured a promotion as the Grand Jury Coordinator in our Criminal Division. Breane came to the U.S.

Attorney's Office in early 2014 as a Legal Assistant. She previously provided paralegal services for the law firm of Stenger and Stenger, P.C., where she was responsible for a substantial collections caseload. Breane obtained her Bachelor's degree *cum laude* from Aquinas College, where she majored in Sociology. She obtained a Post-Baccalaureate Certificate in Paralegal Studies from Davenport University.

Jordan McCullough was promoted to a paralegal position in our FLU just in time for the start of 2017. Before joining us last year as a Legal Assistant, Jordan worked as a Legal Assistant in the U.S. Attorney's Office for the Northern District of Illinois for three years. His prior experience includes working as a Legal Assistant with Namaste Laboratories in Chicago and as an intern with the S. Claire County Prosecutor's Office in Port Huron, MI. He obtained a B.S. in Legal Studies from Grand Valley State University and is a member of the class of 2012 at Roosevelt University's ABA Paralegal Studies Certificate Program, where he earned honors for Legal Technology, Ethics & Professionalism, and Legal Research.

AWARDS and HONORS

UNSUNG HERO AWARD

AUSA Tessa Hessmiller was honored by the Michigan State Bar as an "Unsung Hero" for her efforts to prevent crimes against children beyond her role as a prosecutor charging and convicting wrongdoers. The Bar specifically cited her service: as a board member of the Kent County Children's Assessment Center, which provides a safe haven for children who are the victims of sexual violence; as chairperson of the Kent County Human Trafficking Task Force, which provides help to victims of human trafficking; and as a board member of the Grand Rapids Junior League, which works to improve children's physical health by improving their access to safe, cooperative play in situations or neighborhoods where it is needed most.

APPELLATE CHIEFS WORKING GROUP MEMBERSHIP

Appellate Chief Jennifer McManus earned the honor of selection by the Executive Office for U.S. Attorneys (EOUSA) and the Attorney General's Advisory Committee (AGAC) to serve a four-year term on the Appellate Chiefs Working group as an "at large" representative. The working group provides insight, evaluation, analysis, and recommendations to the AGAC and EOUSA on appellate issues impacting the U.S. Attorney's offices and the Department.

CERTIFICATES OF APPRECIATION AND SERVICE COMMENDATIONS

AUSA Heath Lynch received a commendation from FBI Director James Comey for his work in OCDEFT Operation Los Personas Locals, a joint FBI/DEA investigation.

Criminal Chief Nils Kessler and **AUSA Mike MacDonald** received commendations from the Great Lakes Field Office of the U.S.

Postal Service, Office of Inspector General, for their outstanding dedication and exceptional service in protecting the public interest.

AUSA Clay West received a *Meritorious Service Medal* from the U.S. Army for his service from 2013 to 2015 supervising other prosecutors nationwide as the Senior Felony Prosecutor for the 200th Military Police Command, Fort Meade, MD.

REPRESENTATIVE CIVIL MATTERS

Affirmative Civil Enforcement:

United States v. Paul DeWeese, M.D. et al. In this *qui tam* case, the USAO initially investigated claims that the defendant was improperly billing nerve block injections and electrical stimulation treatments, including falsely billing services under the physician's name when they did not qualify for such billing. In the course of the investigation, the USAO discovered that the defendant was directing others to falsely record and sign records as if he had supervised the services at issue. The investigation also spawned an investigation into the defendant's improper prescription of controlled substances in violation of the Controlled Substances Act. The parties reached a global resolution in which the defendant paid in excess of \$273,000 to resolve allegations of false Medicare billings; he surrendered his DEA registration; and he pled guilty to making false statements to a health care benefit program and will pay nearly \$175,000 in additional criminal restitution. The defendant also permanently surrendered his medical license in a State administrative proceeding that was based on the USAO's investigation. AUSAs: Adam Townshend, Ray Beckering.

United States v. Southwest Regional Rehabilitation Center. This *qui tam* action involved alleged violations of the False Claims Act by Southwest Regional Rehabilitation Center ("SRRC"), a now-defunct inpatient rehabilitation facility in Battle Creek, Michigan. While SRRC closed shortly after the relator filed the *qui tam* case, the USAO investigation revealed a number of instances in which SRRC improperly admitted and claimed reimbursement for treatment of patients who did not qualify for inpatient rehabilitation services. The USAO obtained a \$150,000.00 consent judgment from SRRC and has perfected a judgment lien against the facility's real property and hard assets. AUSA: Adam Townshend.

United States, et al., ex rel. West v. Ureta. The USAO reached a civil settlement with a physician who allegedly received kickbacks in exchange for patient referrals, including in the form of medical director fees for services that were never performed. Under the terms of the settlement agreement, the physician paid \$200,000.00, agreed to the entry of a \$17,056.45 consent judgment, and agreed to a three-year voluntary exclusion from federal health care programs. AUSA: Adam Townshend. Agencies: FBI; U.S. Department of Health and Human Services, Office of Inspector General.

Affirmative Civil Rights:

United States v. Parkside East, Inc., et al. Working together with the U.S. Department of Justice and the U.S. Attorney's Office for the Eastern District of Michigan, we obtained a consent decree with the owners and operators of a number of Michigan apartment complexes that allegedly had discriminated against families with children. As part of the consent decree, the defendants agreed to create a fund to compensate victims of the discrimination, to eliminate the restrictions at issue, and to pay a civil penalty to the government, among other things. AUSA: W. Francesca Ferguson.

Defense of Federal Employees Against Claims of Civil Rights Violations:

Love v. Mosely et al. The USAO obtained dismissal of claims that a federal task force officer violated the Constitution in his efforts to take the plaintiff into custody following a parole violation. The plaintiff contended that the officer's use of a Taser and other force violated the Fourth or Eight Amendments, but the USAO demonstrated that the plaintiff had failed to properly plead any viable claim against the task force officer despite numerous opportunities to do so. AUSA: Carolyn Almassian.

Jones v. McLellan et al. The USAO prevailed in a case brought against a special agent in the Department of Homeland Security's Office of Inspector General, as well as numerous additional defendants. The plaintiff contended that the special agent had violated her civil rights in connection with an investigation he was conducting into whether the plaintiff, an agency employee, was involved in mortgage fraud and smuggling. Her claims included allegations of malicious prosecution, false arrest/imprisonment, racial discrimination, and due process violations. The district court dismissed all of the plaintiff's claims, concluding that there was probable cause to support the special agent's conduct and that other claims failed to state any constitutional violation. The case is now on appeal to the Sixth Circuit. AUSA: Carolyn Almassian.

Lumbard v. Gomez et al. The plaintiff, a former federal prisoner, brought constitutional tort claims alleging deliberate indifference to medical needs against a physician at a federal prison. The USAO filed a motion to dismiss and was able to obtain dismissal on statute of limitations grounds. 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: Michael Shiparski, Ryan Cobb, Carolyn Almassian.

Federal Tort Claims Act (FTCA) Defense:

The USAO defended numerous tort claims against the United States, including a significant number of complex medical malpractice actions, employment-related torts, automobile accidents, premises liability cases, etc.

Program Litigation:

Hood v. Office of Personnel Management. The USAO obtained dismissal of claims that the Office of Personnel Management mishandled life insurance waiver forms, resulting in a denial of life insurance benefits. The plaintiff claimed that his now-deceased mother, a former U.S. Postal Service employee, lacked the mental capacity to waive life insurance because she was ill and on medication and that her writing on some forms was confusing. The Court concluded that plaintiff had not stated any viable claim and that the federal government is immune from such suits. AUSA: Jeanne Long.

Donaldson v. HHS et al. The Sixth Circuit affirmed the district court's decision dismissing claims attempting to assert that amendments to the Michigan administrative hearing rules for recipients of public assistance resulted in violations of due process and equal protection requirements of federal law. The Court ruled that the plaintiff did not have standing to challenge the new regulations because he had not alleged any facts indicating that he suffered a cognizable injury relating to the rule amendments. AUSA: Nicole Mazzocco.

Jackson v. USDA. The plaintiff attempted to allege gender discrimination in a USDA lending program. The USAO filed a motion to dismiss, arguing that the plaintiff had failed to state a claim and that while the basis for her claim was unclear, to the extent she was attempting to challenge denial of a claim she voluntarily submitted to an agency alternative dispute resolution program, she should be barred from proceeding and had waived any district court claim. The Court dismissed the claim. AUSA: Carolyn Almassian.

Summons enforcement. The USAO successfully brought numerous actions to enforce IRS administrative summonses for information. A number of these were contested and required significant efforts, including multiple hearings and court orders, to ensure compliance. AUSAs: Jeanne Long, Nicole Mazzocco, Michael Shiparski.

Employment Litigation:

Carrillo v. Brennan et al. The USAO obtained dismissal of an employment suit alleging wrongful termination, nonpayment of wages, discrimination, retaliation, defamation, and other claims. The Court concluded that the employment-related claims were pre-empted by the Civil Service Reform Act and that the plaintiff failed to exhaust his administrative remedies by filing a late administrative claim. His tort claims were barred because they

were properly characterized as the type of claims for which the federal government has not waived its sovereign immunity. AUSA: Nicole Mazzocco.

Warner v. USPS. The Sixth Circuit upheld the district court's dismissal of a claim by a former U.S. Postal Service worker who claimed that the agency tortured him, hypnotized him, and improperly asked him questions about his personal life, in violation of the United Nations Convention Against Torture and the Torture Victim Protection Act. After the USAO secured a fully-favorable report and recommendation from the district court agreeing that the plaintiff had no viable claim or private right of action against the defendants under these statutes, the plaintiff failed to timely object to it, and the Sixth Circuit ruled that the plaintiff's failure to timely object to the report and recommendation meant that he waived his opportunity to appeal the dismissal. AUSA: Nicole Mazzocco.

Jones v. Johnson. The USAO obtained dismissal of claims brought by a federal employee who contended that her agency improperly passed her over for promotions due to her race and gender. The Court concluded that the plaintiff had failed to properly and timely present a number of her claims and that the agency had legitimate reason for its decisions given the plaintiff's disciplinary history, which was qualitatively different from that of the employees the agency promoted. AUSA: Carolyn Almassian.

Hayes v. McDonald. Plaintiff filed a disability discrimination lawsuit relating to conduct of a coworker that allegedly created a hostile work environment at the U.S. Department of Veterans Affairs. The court dismissed the suit after the USAO filed a motion to dismiss arguing that the plaintiff had failed to properly plead a disability or hostile work environment claim. AUSA: Carolyn Almassian.

Immigration Litigation:

Petitions for Writs of Habeas Corpus. The USAO handled approximately 18 new petitions seeking release from custody by aliens who were in the process of being removed from the country. For example, in *Atugah v. Dedvukaj* the USAO obtained dismissal of a petition for habeas corpus brought by a criminal alien who had been detained pending removal and contended that he had been detained longer than the applicable statutory period. We demonstrated that he had not been in custody longer than the presumptively reasonable time period at the time he filed the petition and that he was unable to establish that there was no significant likelihood of removal in the reasonably foreseeable future. The Court also denied the petitioner's request to stay deportation. AUSAs: Carolyn Almassian, Ryan Cobb, Jeanne Long, Nicole Mazzocco, Michael Shiparski.

Other immigration cases. The USAO also worked with the U.S. Department of Justice to handle immigration cases pertaining to adjudications or revocations of status. For example, in *Patel v. USCIS*, we prevailed on summary judgment on claims that USCIS had improperly denied the plaintiff's petition to amend his immigration status so that a potential employer could utilize a

labor certification obtained by a former employer. The Court upheld the agency's denial of the plaintiff's I-140 petition. AUSAs: Carolyn Almassian, 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. AUSAs: W. Francesca Ferguson, Michael Shiparski.

Social Security:

The U.S. Attorney's Office oversaw the preparation of answers and briefs primarily handled by Special Assistant United States Attorneys from the Regional Chief Counsel's office of the Social Security Administration in Boston. In 2016, the USAO opened over 225 new cases in which plaintiffs challenged unfavorable Social Security disability benefits determinations. The USAO also continued to work on a high volume of cases filed in prior years. AUSAs: Michael Shiparski, Ryan Cobb.

Bankruptcy:

The USAO represented the interests of the United States in approximately 100 new bankruptcy matters it opened in 2016; the USAO also resolved its issues or claims in approximately 90 cases. AUSAs: W. Francesca Ferguson, Nicole Mazzocco, Michael Shiparski.

REPRESENTATIVE CRIMINAL MATTERS

Financial Crimes Section:

HEALTH CARE FRAUD:

United States v. Paul DeWeese. In the criminal case parallel to the civil matter discussed already, Dr. DeWeese pled guilty to falsifying documents in connection with claims submitted to Blue Cross Blue Shield of Michigan (BCBSM) as part of a global resolution that included the terms addressed in the civil summary. Dr. DeWeese, a two-term state representative from 1998 through 2002, was the President and Chief Executive Officer of NBO Medical, a chain of medical clinics that was devoted to treating peripheral neuropathy with a combination of nerve block injections and electrical stimulation treatments. Dr. DeWeese admitted that instead of performing the necessary supervision required by BCBSM to pay for sensitive medical procedures, he instructed his administrative assistant and others to electronically sign medical records with his signature. Dr. DeWeese was sentenced to three years' probation and ordered to pay a \$5,000.00 fine and \$172,991.56 in criminal restitution. AUSAs: Ray Beckering and Adam Townshend. Agencies: FBI; U.S. Postal Inspection Service; U.S. Department of Health and Human Services, Office of Inspector General; MSP; and Michigan Department of Health and Human Services.

United States v. Kyle Gandy. Gandy, a physician assistant, was sentenced to 14 months in prison and two years of supervised release for accepting \$1,000.00 in illegal kickbacks for referring patients to medical clinics, physical therapy clinics, and a home health care agency. Gandy is the tenth person, and the fourth physician assistant, convicted of felony charges in connection with a joint federal-state investigation into a kickback scheme initiated by Babubhai Rathod. As part of the felony conviction, Gandy was ordered to pay \$18,030.17 in restitution, representing the amount of the referred services paid by Medicare and Medicaid. Gandy will be excluded from participating with the Medicare and Medicaid programs for at least five years. AUSAs: Ray Beckering and Adam Townshend. Agencies: Michigan Attorney General's Office; FBI; and U.S. Department of Health and Human Services, and Office of Inspector General.

United States v. Dennis Thimm. Dennis Thimm, the former Michigan sales representative for a Florida-based DMEPOS supplier, received one year of probation, and paid \$11,915.91 in restitution, after pleading guilty to forging physician orders for prosthetic and orthotic supplies that were billed to Medicare. AUSAs: Adam Townshend, Ray Beckering. Agencies: FBI; U.S. Department of Health and Human Services, Office of Inspector General.

INVESTMENT SCAMS:

United States v. Barbara Kelsey. Kelsey conspired to commit mail fraud, wire fraud, and substantive money laundering crimes. As an employee of the financial services firm Fabian & Associates, LLC, Kelsey along with Joseph Stephen Fabian, the principal of Fabian & Associates, defrauded more than 30 clients of the firm causing losses of over \$3.8M between 2007 and 2010. Kelsey and Fabian used a variety of ruses to induce clients and prospective clients to withdraw money from their existing retirement accounts, investment accounts, bank accounts, and other sources to place into investment products that the firm recommended. Fabian fabricated many of the investment products that were recommended. And, when the recommendation was for a legitimate investment, Kelsey and Fabian failed to deposit the money on their clients' behalf. Kelsey assisted Fabian by creating shell corporations and opening bank accounts to divert client monies intended for investment. Investigators traced nearly \$1M to Kelsey's personal bank accounts, which Kelsey spent on herself, including the purchase of a home. Kelsey was sentenced to 78 months in prison. Fabian is currently serving a 92-month prison sentence issued in 2012. AUSA: Joel Fauson. Agency: FBI.

United States v. Steven J. Hayes Hayes was convicted of two felonies in connection with an investment fraud scheme he perpetrated between 2001 and 2015. He operated a tax return and investment consulting business under the name "Hayes Financial Consulting, Business and Personal Financial Consulting" and falsely represented to clients that he would invest their money in retirement accounts and other investments, including at Fidelity Investments. In total, nearly 20 individuals in West Michigan invested their money with Hayes. Hayes also pled guilty to filing a false 2011 federal tax return that allegedly underreported his

income that year by at least \$158,000.00. Hayes was sentenced to 48 months in federal prison to be followed by three years of court supervision. In addition to the \$822,961.23 restitution order for the victims of his fraud, Hayes was ordered to pay the U.S. Treasury \$90,806.00 in restitution pertaining to his false tax return conviction. AUSA: Christopher O'Connor. Agencies: IRS; FBI; Ottawa County Sheriff's Department.

BANK AND MORTGAGE FRAUD:

United States v. Samuel Ames. Ames conspired to commit mortgage fraud in connection with his dealings with CDC Investments and Hometowne Financial. He pled guilty to conspiring to commit bank fraud in connection with real estate in and around Lansing, Michigan, from about 2006 to 2007. The conspiracy, which resulted in losses to mortgage lenders exceeding \$550,000.00, enabled perpetrators to use bank funds to enrich themselves as a result of sham real estate transactions. Ames was sentenced to eight months in prison, fined \$7,500.00, and ordered to pay restitution in the amount of \$285,000.00. Ames's prosecution is the result of a continuing investigation by the Mortgage Fraud Task Force. To date, 18 individuals have been convicted of mortgage fraud as part of this effort, resulting in prison sentences for all the defendants and restitution orders exceeding \$14M. AUSA: Timothy Verhey. Agencies: Mortgage Fraud Task Force, comprised of the FBI, U.S. Secret Service, the U.S. Postal Inspection Service, HUD Office of Inspector General, and Lansing Police Department.

THEFT AND EMBEZZLEMENT:

United States v. Robert Haveman. Haveman, a private equity manager, admitted engaging in a scheme to defraud the Elsa D. Prince Living Trust of more than \$16 million between 1999 and 2015 and engaging in money laundering using some of the fraudulent proceeds. Haveman diverted the funds to his own accounts for his personal use and for undisclosed investment activities. Haveman disguised his theft with false entries in books and records as well as material misrepresentations to and concealment of important facts from Ms. Prince-Broekhuizen and others. Haveman was sentenced to 42 months in federal prison and ordered to repay more than \$11 million to the Prince Trust after already having repaid more than \$5 million to the Trust before the sentencing hearing. AUSA: Christopher O'Connor. Agency: IRS.

United States v. Jeffrey D. Velfling, et al. Former Union Steward Jeff Velfling and former deputy Union Steward John Crosby of Local #307 of the National Postal Mail Handlers Union were each sentenced to two years of probation, a \$1,000 fine, full restitution, and a Special Assessment penalty of \$100 for their roles in stealing approximately \$14,500. The stolen money was from overtime payments which should have been given to their co-workers at the Traverse City Mail Facility. An internal review by the Union uncovered the theft of the funds. AUSA: Michael MacDonald; Agencies: U.S. Department of Labor's Office of Labor-Management Standards; U.S. Department of Labor, Office of Inspector General; U.S. Postal Service Office of Inspector General.

PROGRAM FRAUD:

United States v. David and Kathryn McPeters. David McPeters, an inmate, and Kathryn McPeters, his daughter-in-law, were convicted for defrauding the Social Security Administration between 2006 and 2015, taking approximately \$250,000. David has been an inmate of the Michigan Department of Corrections since 1983, when he received two life sentences for murder. As an inmate, David is prohibited by law from receiving Social Security benefits. Kathryn agreed to help him circumvent this rule by applying online for benefits using his name and other information, but hiding the fact that he was incarcerated. SSA began sending funds to a bank account set up for that purpose by Kathryn and the proceeds were split between the two, with Kathryn receiving the majority of the benefits. Kathryn was sentenced to prison for 36 months. David was sentenced to a term of 33 months, to be served consecutive to the two life sentences he is already serving. AUSA: Timothy Verhey. Agency: Social Security Administration, OIG.

United States v. Carol Rae Vitton. Retired employee of the Ironwood Area School District, Vitton came to the attention of U.S. Postal Inspectors when employees at the Ironwood Post Office noticed that she was receiving an inordinate number of rebate checks through the mail and that these checks were addressed to variants of Vitton's name and address. Upon investigation, Postal Inspectors determined that Vitton picked up rebate coupons at liquor stores throughout the Ironwood area, and then manufactured counterfeit sales receipts that falsely and fraudulently indicated that she had made beer, wine, and liquor purchases. She would then mail those counterfeit sales receipts along with the rebate applications to beer, wine, and liquor companies, and associated rebate processing companies throughout the country. During 2010 and 2011, Vitton manufactured and mailed more than 700 counterfeit sales receipts for purchases that had not actually taken place. Vitton received through the mail over \$8,000 in the form of rebate payments that she was not entitled to. At least 26 companies were victimized and defrauded in this manner. Vitton was sentenced to one year probation, with four months of home detention; electronic monitoring while on home detention; restitution in the amount of \$8,339.50; a \$10,000 fine and a special assessment fee of \$100. AUSA: Maarten Vermaat; Agency: U.S. Postal Inspection Service.

TAX FRAUD:

United States v. Marc Cuellar-Mendoza, et al. Cuellar filed false tax returns for 2008 through 2012 with the Internal Revenue Service. During those years, Cuellar skimmed cash from his restaurants located in Michigan and then failed to report that income in his tax returns for those years; as a result, Cuellar avoided paying taxes on \$607,914. After pleading guilty, Cuellar was sentenced to 12 months in prison for filing false tax returns and ordered to pay approximately \$370,000 in restitution to the IRS. As a citizen of Mexico who is present in the United States as a lawful permanent resident, Cuellar also faces removal proceedings back to Mexico once he is released from prison. AUSA: Frank Hagen. Agencies: IRS; Homeland Security Investigations-ICE.

United States v. Andres Orrego-Hernandez, et al. Orrego-Hernandez was sentenced to 18 months in prison and ordered to pay \$371,648 in restitution to the IRS after pleading guilty to his role in a scheme to prepare and file false and fraudulent federal income tax returns. The returns inflated income and/or the number of dependents to qualify for the earned income credit and/or inflated or claimed entirely false deductions or credits to qualify for larger refunds. Orrego-Hernandez directed the portion of the client refunds attributable to his criminal activity to bank accounts he controlled. His actions defrauded the United States of \$371,648. AUSA: Rene Shekmer. Agency: IRS.

National Security Section:

IDENTITY THEFT:

United States v. Tracy Lee Rudisel. Rudisel was sentenced to 39 months' imprisonment for identity theft and possession of stolen mail. Rudisel moved to Michigan to live with a woman he met over the internet and to evade warrants for his arrest in Colorado. After arriving in Michigan, Rudisel stole the social security account number of another individual and obtained employment and an apartment in that individual's name. Over the next several months, Rudisel repeatedly stole the mail of Holland area residents to include bank statements, bank checks, driver's licenses, investment accounts, and other mail containing personal identifying information. At the time of his arrest, Rudisel possessed the Michigan driver's licenses of several different individuals, as well as information about how to make fraudulent driver's licenses and other fraudulent identification documents. AUSA: Ronald Stella. Agencies: USPIS; Holland Police Department.

ALIEN RE-ENTRY INITIATIVE:

During fiscal 2016, of all criminal case filings brought in the district, 28.7% involved the charging of undocumented aliens for returning to the United States without authorization after having been removed previously and typically also after having been convicted of one or more criminal offenses. AUSAs: Donald Daniels, Jennifer Murnahan. Agency: ICE-Enforcement & Removal Operations.

Organized Drug Crime Section:

United States v. Merced Alvarado, et al. Multiple defendants were sent to prison following the dismantling of a conspiracy to transport cocaine and marijuana obtained first from Texas, near the Mexican border, and taken to Lansing, Michigan, for further distribution. Merced Alvarado, the recognized leader of the conspiracy, was sentenced to 130 months' imprisonment. Carlos Ramirez-Zuniga, the final in-custody defendant, received a term of 70 months' imprisonment. Jonathan Galvan, a courier delivering the drugs to Michigan and other states, received 48 months' imprisonment. Elva Mederano, the Michigan resident who distributed the drugs on Alvarado's behalf, received a sentence of 36 months' imprisonment. In total, investigators recovered over \$150,000 in drug proceeds and over two kilograms of cocaine. AUSA: Steve Baker. Agencies: HSI; Lansing PD.

United States v. Kenton Maurice Taylor, et al. After his release from a Michigan prison in 2012 for a cocaine trafficking conviction, Taylor resumed his leadership of the Lansing branch of the Black P. Stone Nation gang and turned the gang's focus to dealing heroin. He and fellow gang members obtained heroin from Chicago, the gang's home base, and distributed it in the Lansing area. Taylor and three other gang members – Karl Lockridge, Maurice Ray, Jr., and Eric Cooper – were charged federally with conspiracy to distribute heroin. Taylor went to trial only to be convicted by the jury. He was sentenced to 151 months in prison. The others pled guilty. Lockridge and Ray face up to 40 years in prison; Cooper faces up to 20. AUSAs: Joel Fauson and Mark Courtade. Agencies: ATF; FBI; Lansing Police Dept.; DEA; Michigan State Police; Ingham County Sheriff's Dept.; Michigan State University Police Dept.; Michigan Department of Corrections.

United States v. Lamarol Travron Abram, et al. A joint investigation led to the convictions of Abram, Megan Tinney, Jimmy McFied, Carlton Murray, Jr., and Rachel Hanson on related heroin charges. Abram was sentenced to 170 months in federal prison for conspiracy to distribute and possess with intent to distribute heroin and cocaine. Tinney was sentenced to 46 months in federal prison for conspiring with Abram. McFied received a term of 48 months in prison for distributing heroin. Murray was sentenced to 30 months for possession of heroin and cocaine with intent to distribute. And Hanson was sentenced to 151 months in federal prison for possession of cocaine with intent to distribute. Investigators conservatively estimate, based on information uncovered in the investigation, that Abram sold a minimum of several ounces of heroin per month for more than three years. It is believed that he could have sold a great deal more. AUSA: Maarten Vermaat. Agencies: DEA; Upper Peninsula Substance Enforcement Team (UPSET); Forsyth Township Police Department.

United States v. James Wilson, et al. Houghton and Escanaba area heroin and crack cocaine conspirators were sentenced after an investigation by the Upper Peninsula Substance Enforcement Team (UPSET) and the Drug Enforcement Administration (DEA) investigated drug distributions in the areas from the beginning of 2015 through November 2015. The investigation revealed that couriers and dealers from the Detroit and Flint areas brought heroin and crack cocaine to the Upper Peninsula, where they stayed with local residents while the drugs were distributed. Damon Belcher, Corrie Ruth, Stephanie Hatch, Scott Cooley, Jaclyn Snouwaert, and Donny Leffler were each sentenced to prison for terms ranging from 33 to 120 months for their roles in the conspiracy, depending on their culpability and criminal history. AUSAs: Paul Lochner and Hannah Bobbee. Agencies: DEA; UPSET.

Violent Crimes Section:

BANK ROBBERY:

United States v. Dominick Johnson. Johnson planned three completed bank robberies in and around Kalamazoo, reserving for himself the safer role of get-away-driver. Johnson also monitored two of the robberies via cell phone call to his half-brother, Nathan Benson, who was executing the robberies. The

conspiracy also involved three planned bank robberies that were unsuccessful; two were disrupted by law enforcement and one was thwarted by a traffic accident. One significant piece of evidence that led to the conviction of Johnson was the recovery of DNA evidence from a partially eaten hamburger recovered from the bank robbers' path of flight from one of the robberies. Benson, who pled guilty, was sentenced to 14 years' imprisonment. Johnson, who took his case to trial, was sentenced to 72 years and 8 months' imprisonment for his conviction on seven separate crimes including conspiracy, bank robbery, and firearm charges. AUSAs: Justin Presant and Hagen Frank. Agencies: FBI; Kalamazoo County Sheriff's Office; MSP; Kalamazoo Department of Public Safety; Baroda-Lake Township Police Department; Galesburg Police Department; and Van Buren County Prosecutor's Office.

United States v. Michael Winbush. Winbush entered a Flagstar Bank in Grand Rapids and handed a teller a note indicating that he had a gun and demanding money. He obtained \$5,505 and fled on foot. He was later identified through tips called in to Silent Observer, pled guilty and was sentenced to 180 months in federal prison and ordered to pay restitution. AUSA: Alexis Sanford. Agencies: FBI; GRPD; and Wyoming Police Department.

CHILD EXPLOITATION:

United States v. David Heinsen. Heinsen, age 70, kept film negatives of himself molesting and strangling an 8-year old girl with Down Syndrome in his home over 20 years ago. During an investigation that followed discovery of the images, he admitted molesting at least two other children in Ohio years ago. U.S. District Court Judge Paul Maloney sentenced Heinsen to 20 years in prison, 15 years of which to be served consecutively to a 40-60 year sentence Heinsen would receive in a related Barry County Criminal Sexual Conduct case. The judge explained "[a] more dastardly, ugly, violative of social norms case, I have not seen." Judge Maloney also ordered Heinsen to pay \$12,000.00 in restitution for counseling and therapy. AUSA: Tessa Hessmiller. Agency: HSI.

United States v. Timothy Vallier. Vallier, a Rockford Public High School Rowing coach, pled guilty to attempting to produce and possessing child pornography. He admitted to producing hidden camera videos of girls changing clothes at school facilities. He faces a minimum of 15 years and up to 50 years in prison when sentenced in 2017. AUSA: Tessa Hessmiller. Agencies: Kent County Sheriff's Dept.; HSI.

United States v. Duane William Millar. Millar, a teacher with the Howell Public School District, pled guilty to receiving child pornography over many years and saving his collection of material, which included sadistic images, on a 200 gigabyte hard drive. He faces a mandatory minimum of five years and up to 20 years in prison when sentenced in 2017. AUSA: Alexis Sanford. Agencies: HSI; Michigan State Police Internet Crimes against Children Task Force (ICAC); Ingham County Prosecutor's Office.

HUMAN TRAFFICKING:

United States v. Tyrone Smith. Smith recruited vulnerable, abused,

and drug addicted women, as well as a 17-year-old minor, to work under what he branded his "New Stars" prostitution label. He operated a house of prostitution in Lansing and also took the women and the minor to Grand Rapids, Ann Arbor, Detroit, and Chicago for commercial sex. Smith maintained control over the victims with a steady stream of crack cocaine and heroin, and by using force, threats, and violence against them when they disobeyed him. Smith pled guilty to two counts of using force, threats, fraud, and coercion to sex traffic two victims; and one count related to transporting two other victims from Michigan to Chicago for prostitution. Smith received a sentence of 25 years in federal prison for sex trafficking. Smith previously spent 12 years in prison for second degree murder. AUSA: Tessa Hessmiller. Agencies: FBI; Ingham County Sheriff's Office; East Lansing Police Department; and MSP.

United States v. Dakota Walters, et al. William Edwards, Dakota Walters, James Smith, and Michael Noble II were indicted on multiple counts of sex trafficking two minors, both age 14. Walters and Edwards pled guilty to sex trafficking of a minor, Noble pled guilty to conspiracy to commit sex trafficking of a minor, and Smith is going to trial and is presumed innocent until and unless proved guilty in a court law. All four men face up to life in prison on the sex trafficking. In addition, Smith faces up to 10 years in prison on one count of being a felon in possession of a firearm. Sentencing hearings will begin in early 2017. The minors will be able to seek monetary restitution for counseling, treatment, and other damages. AUSA: Tessa Hessmiller. Agencies: HSI; Battle Creek PD.

United States v. Anthony Troy Wilson-Lackey, et al. Three co-defendants in a child sex trafficking case pled guilty to and were sent to prison for conspiring to sex traffic two minors in Grand Rapids and Holland, Michigan. Anthony Wilson-Lackey recruited the minors, who were 15 and 16 years old, and provided them to paying customers for commercial sex in motels around Grand Rapids and an apartment complex in Holland. Stephanie Martin rented hotel rooms and helped post online advertisements promoting the minors for commercial sex. Shyron Smith conspired with Wilson-Lackey to split the profits, and he drove the minors to the motels and to Holland. Martin was sentenced to 48 months in prison; Wilson-Lackey received a term of 63 months; Smith was sentenced to 30 months. AUSA: Tessa Hessmiller. Agency: FBI.

FIREARMS:

United States v. Carl Luther Thompson. Thomson, a notorious member of the Madison Avenue street gang, was sentenced to eight years and two months' federal incarceration after his conviction following a trial last year for being a felon in possession of a firearm and possessing heroin, cocaine base, and marijuana with intent to distribute. Thompson once threatened a woman who had urged him to move his gang away from her home on Brown Street by brandishing a 9mm semiautomatic pistol and stating, "We own Brown Street." Now serving his time in the Bureau of Prisons, Thompson can boast of considerably less. AUSAs: Sally Berens and Russel Kavalhuna. Agencies: Bureau of Alcohol, Tobacco, Firearms, and Explosives; GRPD; and MSP.

United States v. Larry Dwayne Diggs. Diggs was sentenced to 96 months in federal prison following his guilty plea to possessing crack cocaine with the intent to distribute, using and carrying a firearm during and in relation to a drug trafficking crime, and witness tampering. Diggs admitted that while at a gas station in Muskegon he was on his way to sell crack cocaine to a customer and that he possessed the loaded handgun for his protection. AUSA: Sean Lewis. Agencies: Muskegon Township Police Department; FBI; MSP; and Muskegon City Police Department.

United States v. Kevonte McNeely. McNeely pled guilty to knowingly possessing a firearm as a felon. The firearm was an assault rifle, similar to an AK-47, which was stolen from Outpost Guns in Sturgis, Michigan in November 2015. In total, 21 firearms were stolen that day from the store. A joint investigation revealed that within a few days of the theft, the stolen firearms were transported from Sturgis to Kalamazoo and sold to multiple buyers. Five of the 21 stolen firearms have been recovered by law enforcement. The investigation is ongoing with respect to other subjects involved in trafficking or possessing the stolen firearms. McNeely is the first to be sentenced of six defendants who have been charged federally in connection to the theft. McNeely was sentenced to five years in federal prison for unlawful possession of a firearm as a felon, with a \$1,200 fine, and a three-year term of supervised release upon his release from prison. AUSA: Kate Zell. Agencies: ATF; Kalamazoo Department of Public Safety; and Sturgis Police Department.

INDIAN COUNTRY:

United States v. Errol Martin Sagataw. Sagataw assaulted his girlfriend at his home on the Hannahville Indian reservation after the victim rebuffed his sexual advances. Sagataw pled guilty to assault resulting in serious bodily injury. He was sentenced to serve 12 months' and one day of imprisonment and two years of supervised release upon his release from incarceration. AUSA: Hannah Bobbee. Agencies: Hannahville Indian Community Tribal Police; FBI.

United States v. Justin Wykoff. Wykoff was sentenced to 42 months in federal prison for domestic violence by a habitual offender. He had assaulted a woman in the parking lot of the Sault Ste. Marie Tribal Health Center. Records of the 91st District Court, Chippewa County, Michigan, revealed that Wykoff had twice before been convicted of domestic violence offenses against the same woman in 2015. Before the federal charges were brought, Wykoff pleaded no contest to a misdemeanor charge in tribal court for the same incident in the parking lot. But a conviction in tribal court does not foreclose federal prosecution and, after consultation with tribal authorities, the U.S. Attorney's Office pursued the federal charges as well. AUSA: Paul Lochner. Agencies: FBI; Sault Ste. Marie Tribal Police.

REPRESENTATIVE APPEALS

Holland Latin Kings (HLK) appeals. In a published decision, a panel of the Sixth Circuit unanimously affirmed the convictions and sentences on RICO and drug conspiracy charges of the two gang

members (Antonio Rios and David Casillas) who took their case to trial. Among the holdings, the panel affirmed the admission of gang-expert testimony, rejected claims of error in the district court's variation from pattern jury instructions on reasonable doubt and helpfully explained that "a RICO defendant who is acquitted of a specific racketeering act under a special sentencing allegation may nonetheless be sentenced based upon that very same act if the defendant is convicted of the overall RICO conspiracy." In a separate, 59-page unpublished decision, the court upheld the sentences of eight additional defendants who had pled guilty but appealed their sentences. AUSAs: Jennifer McManus, Sally Berens (argued), Justin Presant, Russ Kavalhuna.

United States v. Beckham and United States v. Kruger. In 2011, the Sentencing Commission issued guidelines Amendment 759, which "preclude[s] district courts from reapplying any departure or variance in a sentence reduction" proceeding." In this pair of cases, each defendant was granted a below-guidelines sentence at the original sentencing proceeding, one based on a departure and one based on a variance. They later filed sentence reduction motions under 18 U.S.C. § 3582(c)(2), based on the two-level retroactive drug guideline amendment. In each case, the district court denied the motion, because the original sentence was below the low end of the amended range. The court of appeals affirmed, because it was proper to exclude the original departure or variance when determining eligibility for a reduced sentence; and Amendment 759 presented no ex post facto problem. Because a § 3582 sentence reduction proceeding cannot retroactively increase a punishment, the court readily found the Ex Post Facto clause was not implicated. AUSAs: Steve Baker and Rene Shekmer.

United States v. Pryor. Pryor, who believed himself to be a "sovereign citizen," refused to acknowledge the district court's jurisdiction and refused to accept appointment of counsel. However, when Magistrate Judge Green tried to conduct the *Faretta* inquiry to ensure that Pryor was knowingly and voluntarily waiving his right to counsel, Pryor refused to answer his questions. Judge Green assigned counsel. Pryor was later convicted at trial.

The court of appeals found Pryor's right to self-representation was not violated by the assignment of counsel or when U.S. District Judge Jonker declined to revisit that decision, even when Pryor repeatedly indicated that he rejected counsel's appointment: "The Constitution provides defendants the choice to either use the assistance of counsel or go it alone. While we must be vigilant against removing that right to the choice, Pryor himself refused to make the choice or engage the court. Where a court has tried and failed to perform a colloquy due directly to the defendant's failure to cooperate and that defendant has not made an indication that he will cooperate in the future, the court may deem the right waived." AUSA: Rene Shekmer.

United States v. Price. The Sixth Circuit held that Judge Jonker correctly denied a motion to suppress guns and drugs seized from the defendant's van. Though Price had consented to the search, he argued that the consent was invalid because he had given it while he was illegally seized. In finding that the defendant was

validly under arrest, supported by probable cause in part based on law enforcement's observations of what they perceived to be the defendant engaged in a drug deal, the court stated: "[T]he police deal in probabilities, not certainties. Here, viewing the record in the light most favorable to affirmance, the police could reasonably infer that Price's behavior was not merely a series of remarkable coincidences—and that instead he was likely dealing drugs. Probable cause requires no more than that." AUSAs: Mark Courtade and Sally Berens (argued).

ADMINISTRATIVE DIVISION

The year 2016 was busy for the Administrative Division. With the six-month office remodel, numerous system and equipment updates, and personnel changes, the team remained resilient and worked successfully to maintain support operations. All members of the Administrative Division also attended various individual training courses in order to expand their knowledge and provide enhanced customer service in order to achieve the mission.

Our Human Resources (HR) team, consisting of Human Resources Officer (HRO) Raphael Trujillo and Human Resources Assistant Jettia "Tia" Ramey, focused on record management, staffing, and training. Tia attended Electronic Official Personnel Folder (eOPF) training and the team took on the daunting task of organizing electronic personnel folders. The team also worked to create a record for each staff member in a recently adopted retirement calculator. It is hoped this will be a useful tool for individuals to use for many years to come. They also focused on filling vacant positions and projecting anticipated vacancies in order to execute smooth transitions. Raphael attended numerous training courses off-site, allowing Tia to develop her skill in HR support to higher levels. The team also supported all Special Emphasis Programs, diversity sessions, and job fairs. Overall, it was an immensely successful year for growth and development for our HR team.

Our Budget team, consisting of Budget Officer (BO) Elikplim "Biko" Amenuvor and Budget Analyst Marge Moody, focused on closely monitoring financial resources in order to ensure the USAMIW maintained fiscal compliance and good stewardship of our funding. With Biko more fully assuming the role as the BO, he and Marge were able to focus on planning and projecting, future expenses. While Biko and Marge were ensuring employees and vendors were paid promptly, Marge processed over 800 travel requests for the fiscal year. Despite the volume of the work, the Budget team provided excellent customer service.

Our Facilities and Support Services (FASS) team, consisting of Supervisory Administrative Services Specialist Warren "Skip" Olson and Administrative Services Specialist Kelly Johnson, worked diligently to support the remodel operations and equipment upgrades while maintaining office support services. Due in part to the FASS team's flexibility, the remodel in the Grand Rapids office concluded mid-June, two to three months earlier than projected. Remodel plans have been approved for the Marquette office and will proceed upon funds approval. Skip and Kelly also managed 120 contracts and 198 purchase card transactions for FY 2016. They

maintained 100% inventory accountability for incoming and outgoing equipment while providing logistical support during the computer and phone upgrades. The year offered many new challenges with so many things happening in a short period of time, but our Support Services team worked hard and overcame all obstacles.

The Information Technology (IT) team, which includes Supervisory IT Specialist Roger Hensley, IT Specialist Tom Keating, Automated Litigation Support (ALS) Coordinator Cindy Niblick, and Information Receptionist Malorie Cole, also had a very active year. It was a happy time when Malorie rejoined the team this past fall after an 18-month active duty deployment. Numerous IT equipment upgrades took place in all of our offices. The IT team had the difficult task of maintaining operations during the six-month remodel, which meant providing alternate workspace for displaced employees and pre-planning the tearing down and resetting of computers, phones, printers, etc. in order to achieve the least amount of impact on the users. Major projects for the year also included, preparing for a major reduction in the number of printers maintained in the office, phone system upgrades, installation of new computer equipment, facilitating the office with the implementation of the new software for that equipment, and training development workshops for systems managers. In ALS, Cindy supported several trials and processed over 700,000 pages of data for discovery. She also provided training on the many tools available to our legal support staff and Assistant US Attorneys. The IT team persevered through lost motherboards, network space management challenges and day-to-day operations, and are going full steam ahead into next year with continued equipment and system upgrades scheduled.

Overall, 2016 has been an arduous but stimulating year. The Administrative Division has made great strides in bringing new technology, services, and a pleasant and functional work environment to all the offices and will continue to build upon the knowledge, skills, and competencies they developed this year.

OUTREACH, TRAINING & PROFESSIONAL DEVELOPMENT

Community Initiatives:

CIVIL RIGHTS:

U.S. Attorney Miles continued his service as co-chair of the Michigan Alliance Against Hate Crimes (MIAAHC), and gave the opening remarks at the annual MIAAHC Hate Crimes Conference in Lansing in October.

In addition, the USAO participated in the state-wide Human Trafficking, Health Care Fraud and Hate Crimes Task Forces. AUSA Tessa Hessmiller provided training to the Kent County Child Assessment Center, the YMCA Sexual Assault Nurse Examiners, 911 dispatchers and Junior League. And she regularly speaks quarterly before the Kent County Human Trafficking Task Force. She offers a specialized human trafficking curriculum for law enforcement, medical personnel and social service agencies.

In April and October, U.S. Attorney Miles, First Assistant Andrew Birge and senior FBI field supervisors met with Grand Rapids area Muslim and Middle Eastern community leaders to discuss a recent racially inspired local incident and the community concerns for nationwide civil discourse, civil rights and civic engagement. U.S. Attorney Miles meets semi-annually with the group.

In February, U.S. Attorney Miles addressed the Greater Grand Rapids Branch NAACP membership. He spoke about criminal justice reforms and civil rights enforcement.

Police-Community Relations:

During National Community Policing Week in October, U.S. Attorney Miles convened a *"Justice Forum"* of Grand Rapids area stakeholders to discuss police and community relations in Grand Rapids. As he explained at the time: "The forum provided an opportunity for local community leaders, law enforcement, youth advocates, and state and local officials to establish and maintain trusting relationships, critically examine police-community issues in our city and seek solutions together." A variety of representatives from local and federal law enforcement, the City of Grand Rapids, community and student groups, service organizations, and religious congregations met together at LINC Up in Grand Rapids with the shared aim of strengthening relationships between law enforcement officers and the community members they serve.

In 2016, U.S. Attorney Miles supported the formation of four new *Advocates & Leaders for Police and Community Trust (ALPACT)* groups in Battle Creek, Holland, Kalamazoo, and Lansing. They join the existing Grand Rapids ALPACT, which U.S. Attorney Miles co-chairs, and the Southwest Michigan ALPACT. The ALPACTs work to establish lines of 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.

U.S. Attorney Miles was the featured speaker at the Grand Rapids Police Department's January "Coffee with the Clergy" session. At City Hall, he addressed and answered questions from a diverse public audience about police and community relations as well as the work of the U.S. Department of Justice.

U.S. Attorney Miles traveled to Battle Creek in January to meet with the police chiefs and County Sheriff and County Prosecutor in Calhoun County about their officer-involved shooting protocols and to discuss best practices before, during, and after such an event to prevent public disturbances. He previously had similar meetings in Berrien, Holland, Ingham, Kalamazoo, Kent, and Muskegon Counties.

CITIZEN RE-ENTRY:

The U.S. Attorney's Office along with Western Michigan University Cooley Law School organized an Employer Summit for a number of local businesses and organizations to learn about the importance of hiring returning citizens and opportunities to do so.

The office held its first-ever Job Fair for people with a felony record at LINC Up Grand Rapids in September. Over 200 returning citizens were able to meet and talk about employment with about 20 local employers. U.S. Attorney Miles gave opening remarks.

During the Department of Justice Re-Entry Week in April, U.S. Attorney Miles joined U.S. Attorney Barbara McQuade from the Eastern District of Michigan to visit the federal prison in Milan, Michigan and speak to a group of inmates about returning to their communities, getting employed, and being productive citizens. Also during Re-Entry Week, U.S. Attorney Miles held a media conference in the Grand Rapids office to highlight the importance of businesses not automatically excluding returning citizens from employment opportunities.

U.S. Attorney Miles met with leaders of the Hispanic Chamber of Commerce and the Grand Rapids Area Chamber of Commerce to discuss ways to increase connections between employers and returning citizens. He also addressed the West Michigan Minority Contractors Association members on the importance of hiring returning citizens.

U.S. Attorney Miles hosted *Facing Choices* forums in Battle Creek, Benton Harbor, Grand Rapids and Kalamazoo. Parolee attendees receive words of encouragement but also warnings from state and federal law enforcement officials and prosecutors. U.S. Attorney Miles explains to the attendees that if they re-offend, they will be held accountable; but, he also explains that law enforcement wants them to succeed, have stable jobs and residences and avoid further contact with the criminal justice system. *Facing Choices* attendees appreciate also hearing from formerly incarcerated individuals who offer strategies for success post-incarceration. Community service providers and potential employers are always in attendance and available for consultation with interested participants. AUSA Kate Zell and SAUSA Tracey Brame organize the forums.

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

OUTREACH TO LOCAL SCHOOLS:

This year marked not only the conclusion of the first session of the *Justice Scholars* program, but an expansion of it to a new school district. The program fosters positive connections between youth and law enforcement as well as the broader legal community while teaching students about the U.S. Constitution and the criminal justice system. Seventh grade students from the Gerald R. Ford Academy in Grand Rapids completed the program with a series of mock trials held in the federal courthouse and presided over by local federal and state judges. The students gained an understanding of the protections afforded by the U.S. Constitution

and what it takes to develop and maintain a fair and effective criminal justice system.

In the fall, Smart on Crime prosecutor Kate Zell and SAUSA Tracey Brame took the *Justice Scholars* program to Lansing. As in Grand Rapids, students at Gardner Academy are now getting exposed during the academic year to various careers in the criminal justice system, in hopes of encouraging some students to pursue the necessary education to obtain jobs in the field. Each month, the students learn about the American criminal justice system and stages of the criminal process from those who work in the field each day, including police officers, Special Agents, forensic scientists, prosecutors, defense attorneys and judges. The students receive certificates for their participation in the program. Volunteers from the USAO, the Federal Defender's Office, law enforcement agencies and the federal and state bench were and are integral to the success of the program.

In what has become a January tradition, high school students from Grand Rapids Christian High School visited the office to learn about federal law enforcement and the federal judicial system. Similarly, Appellate Chief Jen McManus and AUSA Mike MacDonald continued to participate in a mentoring program for high school students sponsored by the Grand Rapids Bar Association.

Later in January, U.S. Attorney Miles gave the keynote speech on leadership and service at the Aquinas College Leadership Summit for its students who are leading various campus organizations.

In February, U.S. Attorney Miles spoke to law students at the University of Michigan about his academic and professional journey as well about the legal profession and the work of the U.S. Attorney's Office.

In March, U.S. Attorney Miles gave the keynote speech for West Michigan high school students competing in the Junior Achievement Titan Business Challenge where each high school team in the Challenge "acts as the senior management of their company and is responsible for developing business strategies and making 'do or die' decisions by quarter. The competition is uniquely designed to unleash creativity, test leadership skills and demonstrate the competitive nature of the free enterprise system."

U.S. Attorney Miles was the speaker at the 8th Grade Graduation Ceremony for students at Martin Luther King, Jr. Leadership Academy, a Grand Rapids Public School, in June.

U.S. Attorney Miles gave the opening remarks to youth participants at the Juvenile Justice three-on-three basketball tournament in Grand Rapids in August.

In the fall, U.S. Attorney Miles was the featured speaker at the Black Men United Program for students at Western Michigan University in Kalamazoo. Also in the fall, he spoke to two classrooms for emotionally-impaired students at Pinewood Middle School, a Kentwood Public School.

Consistent with prior years, U.S. Attorney Miles mentored students of color at Aquinas College, Grand Valley State University, and Thomas M. Cooley Law School about their education, career ambitions and options.

OPIOID RESPONSE:

In response to the opioid epidemic, U.S. Attorney Miles and his senior staff developed a strategic plan to address the epidemic on three fronts: prevention, enforcement and treatment. The primary objectives of the prevention goal involve outreach to medical and pharmacy boards and health professionals to encourage the use of the Michigan Automated Prescription system (MAPs) and educating the public, including in particular parents of school-age children, health care professionals and school administrators, so that they better understand the opioid epidemic. Over the course of 2016, U.S. Attorney Miles and AUSAs Steve Baker, Ray Beckering and Clay Stiffler hosted over 20 separate meetings and presentations with professionals, local officials, the media and lay audiences to help stem the tide of this epidemic. On the enforcement front, the office continues to prioritize the prosecution of heroin traffickers and those who divert prescription drugs from the regulatory scheme. Any treatment needs of witnesses, victims and defendants are addressed at all stages of a prosecution.

HEALTH CARE FRAUD AWARENESS:

AUSAs Adam Townshend and Ray Beckering hosted quarterly health care fraud task force meetings with law enforcement agents, internal investigators and stakeholders again this year. In addition, AUSA Townshend addressed current trends in health care fraud, the latest schemes, and laws to be aware of to various audiences, including at: Institute for Continuing Legal Education, Michigan Health Law Institute; the Michigan Association for Home Care Annual Conference; and the Grand Valley State University Executive MBA Program. AUSA Townshend also published an article — "More Money, More Problems: Considerations for the Resolution of Parallel Health Care Fraud Cases" — in the November 2016 edition of the United States Attorneys' Bulletin, an issue devoted to emerging legal issues and trends in health care fraud prosecutions.

TRIBAL RELATIONS:

U.S. Attorney Miles, Tribal Liaison Jeff Davis and other representatives from the office travelled to each of the federally-recognized Tribes in the District for annual government-to-government meetings in the Spring and the Fall. Jeff and AUSA Hannah Bobee also participated again this year in the Tribal, State, Federal Judicial Forum to address pressing public safety and child welfare issues in Indian Country in Michigan. And LEC Kaye Hooker, the V/W Unit and AUSAs handling cases Indian Country, participate in initiatives in aid of public safety in Indian Country, as described below.

The office organized and conducted two special trainings for law enforcement and victim advocates called *Improving the Approach*

to *Child Sexual Assault in Indian Country* in the Grand Rapids office and Hannahville Indian Community. U.S. Attorney Miles gave opening remarks at the Grand Rapids session. He also gave opening remarks at the annual Great Lakes Native American Conference for Michigan, Wisconsin, and Minnesota held in Mount Pleasant, Michigan.

U.S. ATTORNEY COMMUNITY ADDRESSES AND FEATURED PRESENTATIONS:

U.S. Attorney Miles spoke at a regular lunch meeting of the Grand Rapids Lions Club in January about the work of the U.S. Attorney's Office and its priorities. He was the luncheon speaker for senior citizens living at Byron Center Ministries about fraud schemes targeting seniors. He spoke at a meeting of the Association of Corporate Counsel in Grand Rapids about the "DOJ Yates Memo" and holding individuals liable for corporate wrongdoing. In May, he joined three fellow United States Attorneys as panelists at the Sixth Circuit Judicial Conference in Louisville, Kentucky, speaking about the DOJ Smart on Crime approach.

Law Enforcement Training Program:

Law Enforcement Coordinator Kaye Hooker, her counterpart in the Eastern District USAO and the victim/witness staff here organized, hosted and supported training for thousands of law enforcement officers this year that included: social media as an investigative tool, child sexual assault, human trafficking, complex cases, hate crimes, anti-terrorism and cybersecurity among other topics. [See training list in appendix.] As in prior years, the programs continued to be held in locations throughout the state, at no cost to attendees and minimal (local travel) costs to the office. Anne Towns, Kathy Schuette, Janet Strahan and Gary Gibbons assisted Kaye in organizing the programs, along with EDM IEC Bob Pokey. Numerous AUSAs lectured for the programs.

The office supported agency-sponsored trainings as well. AUSAs Mike MacDonald and Chris O'Connor offered their annual program on legal issues that arise in arson investigations at the Michigan State University Arson School. AUSA Clay West addressed the FBI counter-intelligence working group on legal and investigative tools. And U.S. Attorney Miles gave the keynote speech at the Infragard Regional Conference on cybersecurity in May held on the campus of Davenport University. He also gave opening remarks at the FBI Training for Businesses on Security Issues in September in the Grand Rapids office.

Victim/Witness Unit:

Victim/Witness Unit personnel advised and offered emotional support to hundreds of lay witnesses and crime victims this year. Their responsibilities spanned the needs of victims in cases as different as domestic violence and investment fraud. Their work typically begins with the arrival of charges but frequently starts even before then. And their efforts invariably extend well beyond the sentencing, appeal and close of the case, to include communications about restitution or on-going counseling services. In 2016, the team issued a district record 92,634 victim

notification letters -- outsized numbers for a mid-sized district, which underscores the office's commitment over the last few years to complex cases. Anne Towns, who supports both the LEC and V/W services, oversaw the notification system. V/W Coordinators Kathy Schuette and Janet Strahan led the way in victim support efforts, with Teresa Kauppila covering most needs in the Northern Division.

Kathy and Janet continued to participate in the Human Trafficking Task Force, the Michigan Alliance Against Hate Crimes and Domestic Violence Task Forces at the State and Tribal level. And Janet, Kathy, Teresa and AUSAs Jeff Davis, Paul Lochner and Hannah Bobee attended multi-disciplinary team meetings of Tribal law enforcement and civil service agencies. These teams focus on addressing child abuse in Indian Country.

Legal Community Training and Support:

Members of our staff were again selected by the Department's National Advocacy Center (NAC) to instruct on various topics, including the federal rules of evidence and trial advocacy. Similarly, attorneys lent their expertise to the annual Hillman Trial Advocacy Program in Grand Rapids. AUSAs Maarten Vermaat, Chris O'Connor, Tim VerHey, Jeff Davis, Tessa Hessmiller, Paul Lochner, Ray Beckering and Mike MacDonald lent their expertise either at the NAC or through the Hillman Program this year.

First Assistant Andrew Birge and Criminal Chief Nils Kessler are select members of the Executive Office of U.S. Attorneys' Evaluation and Review Staff. EARS teams evaluate the compliance of other offices with Department management standards and offer management advice and consultation through the program. Andrew and Nils each evaluate one to two other offices a year.

Special Emphasis Program Committee:

The office continued with its tradition of featuring Special Emphasis Programs throughout the year. With Legal Assistant Lena Newton's retirement, AUSA Clay West took over Committee Chair duties. The Committee was staffed by AO Sheryl Brugh, AUSAs Adam Townshend, Kate Zell and Tessa Hessmiller, HRO Raphael Trujillo, IT Roger Hensley, Assistant HRO Tia Ramey, Legal Assistant Jordan McCullough and Librarian June VanWingen.

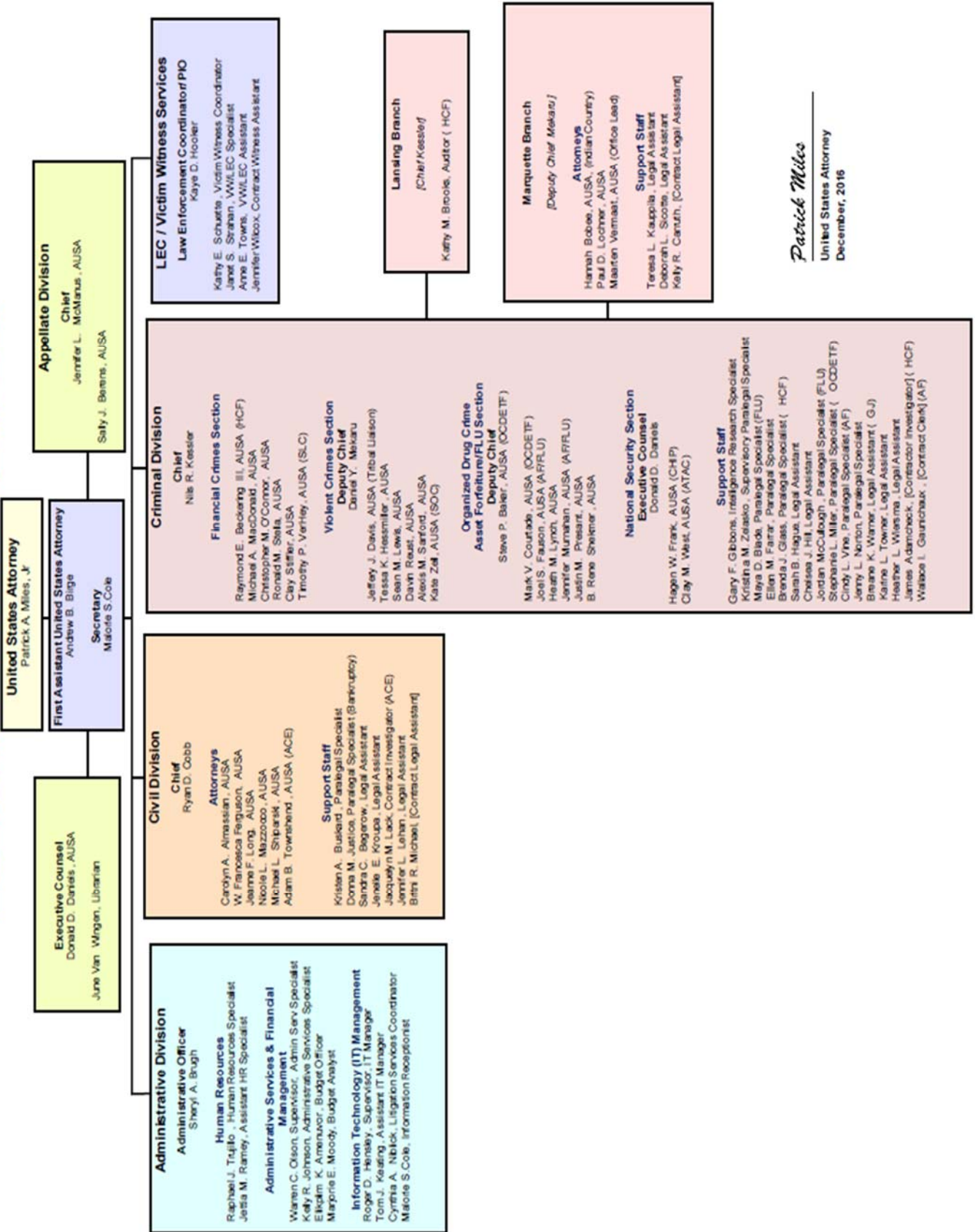
For African-American History Month, Lena put together her final and perhaps finest program: an "unsung heroes" presentation to honor the many who supported the well-known heroes of the racial justice movement. In March, for Women's History Month, the office hosted a chili cook-off and wii bowling tournament to highlight the significant but unappreciated contributions women have made to the popularity of chili and the organization of professional and amateur bowling. To mark Women's Equality Day, the office viewed the recording of its Susan B. Anthony mock trial. For Hispanic Heritage month, HRO Trujillo discussed the significance of salsa in the lives of Hispanic Americans, which was followed by a salsa contest. During Native American History month, IT Supervisor Roger Hensley discussed his own heritage in

connection with a viewing of an abridged version of the “Trail of Tears” film that highlighted the Supreme Court litigation surrounding the forced relocation of Native Americans in the 19th century during President Andrew Jackson’s tenure. And on Veteran’s Day, Malorie Cole discussed her recent active duty military deployment and the challenges she faced and overcame serving as a female in a combat unit.

Diversity Committee:

The Diversity Committee supported Special Emphasis Program events, memorialized the office’s hiring practices and procedures, updated affinity group listings to spread awareness of employment opportunities and ventured into successfully deploying a new job posting system to broaden attorney and staff applicant pools and attended a public service career fair at Grand Valley State University.

UNITED STATES ATTORNEY'S OFFICE - WESTERN DISTRICT OF MICHIGAN



Patrick Miles
United States Attorney
December, 2016

CRIMINAL DIVISION

Nils Kessler, Chief

ORGANIZED DRUG CRIME SECTION

Steve Baker, Supervisor &
Deputy Chief

MAJOR NARCOTICS UNIT & ORGANIZED CRIME AND DRUG ENFORCEMENT TASK FORCE:

Steve Baker, Principal
Mark Courtade
Justin Presant
Heath Lynch
Rene Shekmer
Stephanie Miller, Paralegal

DIVERSION/PRESCRIPTION FRAUD TASK FORCE:

Clay Stiffler, Principal
Ray Beckering*
Stephanie Miller, Paralegal

ASSET FORFEITURE & FINANCIAL LITIGATION UNIT:

Joel Fauson, Coordinator &
Principal
Heath Lynch
Jennifer Murnahan
Cindy Vine, AF Paralegal
Lois Hecker, FLU Specialist &
Supervisor
Maya Blade, FLU Specialist

VIOLENT CRIMES SECTION

Dan Mekaru, Supervisor &
Deputy Chief

PROJECT SAFE CHILDHOOD UNIT:

Tessa Hessmiller, Principal
Jeff Davis (Southern Indian
Country)
Sean Lewis
Alexis Sanford
Davin Reust
Hannah Bobee (Northern
Indian Country)

FIREARMS, BANK ROBBERY, VIOLENT CRIMES UNIT AND PROJECT SAFE NEIGHBORHOOD TASK FORCE:

Sean Lewis, Principal
Alexis Sanford
Davin Reust
Kate Zell, SMOC

INDIAN COUNTRY UNIT:

Jeff Davis, Principal & Tribal
Liaison
Hannah Bobee
[Paul Lochner, Major Felony
VC, Northern
Division]
[Tim VerHey*, SLC, Major
Felony VC, Southern
Division]

MARQUETTE BRANCH:

Maarten Vermaat, Principal
Paul Lochner
Hannah Bobee

FINANCIAL CRIMES SECTION

Nils Kessler, Supervisor
Kris Zelasko, Paralegal
(Supervisory Paralegal
Specialist)

INVESTMENT / BANK FRAUD UNIT:

Mike MacDonald, Principal
Chris O'Connor
Tim VerHey, SLC & TAIR
Clay Stiffler
Sally Berens*

PROGRAM FRAUD UNIT:

Tim VerHey, Principal
Clay Stiffler

TAX FRAUD UNIT:

Mike MacDonald, Principal
Rene Shekmer*

ENVIRONMENTAL TASK FORCE:

Chris O'Connor, Principal
Maarten Vermaat

HEALTH CARE FRAUD TASK FORCE:

Ray Beckering, Principal
Ron Stella
Sally Berens*
Kathy Brooks, Auditor

MORTGAGE FRAUD TASK FORCE:

Ron Stella, Principal
Chris O'Connor
Clay Stiffler

OFFICIAL CORRUPTION TASK FORCE:

Nils Kessler, Principal
Chris O'Connor

SAR TASK FORCE:

Chris O'Connor, Principal
Joel Fauson*
Gary Gibbons, Intelligence
Specialist
June VanWingen, SAR
Specialist

NATIONAL SECURITY SECTION

Don Daniels, Supervisor &
Exec. Counsel

ALIEN OFFENSES UNIT:

Don Daniels, Principal
Clay West
Jennifer Murnahan

ANTI-TERRORISM TASK FORCE:

Clay West, Principal
Hagen Frank
Gary Gibbons, Intelligence
Specialist

IDENTITY THEFT/CYBERCRIME TASK

FORCE:
Hagen Frank, Principal
Clay West

CRIMINAL CIVIL RIGHTS VIOLATIONS TASK FORCE:

Don Daniels, Principal
Clay West

CIVIL DIVISION
Ryan Cobb, Chief

APPELLATE DIVISION
Jennifer McManus, Chief

DEFENSIVE TORTS & IMMIGRATION UNIT:

Ryan Cobb, Principal
Carolyn Almassian
Jeanne Long
Nicole Mazzocco

Jennifer McManus, Principal
Sally Berens

BANKRUPTCY UNIT:

W. Francesca Ferguson, Principal
Michael Shiparski
Nicole Mazzocco
Donna Justice, Paralegal

EMPLOYMENT UNIT:

Carolyn Almassian, Principal
Ryan Cobb
Jeanne Long
Nicole Mazzocco
Michael Shiparski

**COMMERCIAL LITIGATION/PROGRAM LITIGATION
UNIT:**

Michael Shiparski, Principal
W. Francesca Ferguson
Jeanne Long

AFFIRMATIVE CIVIL ENFORCEMENT TASK FORCE:

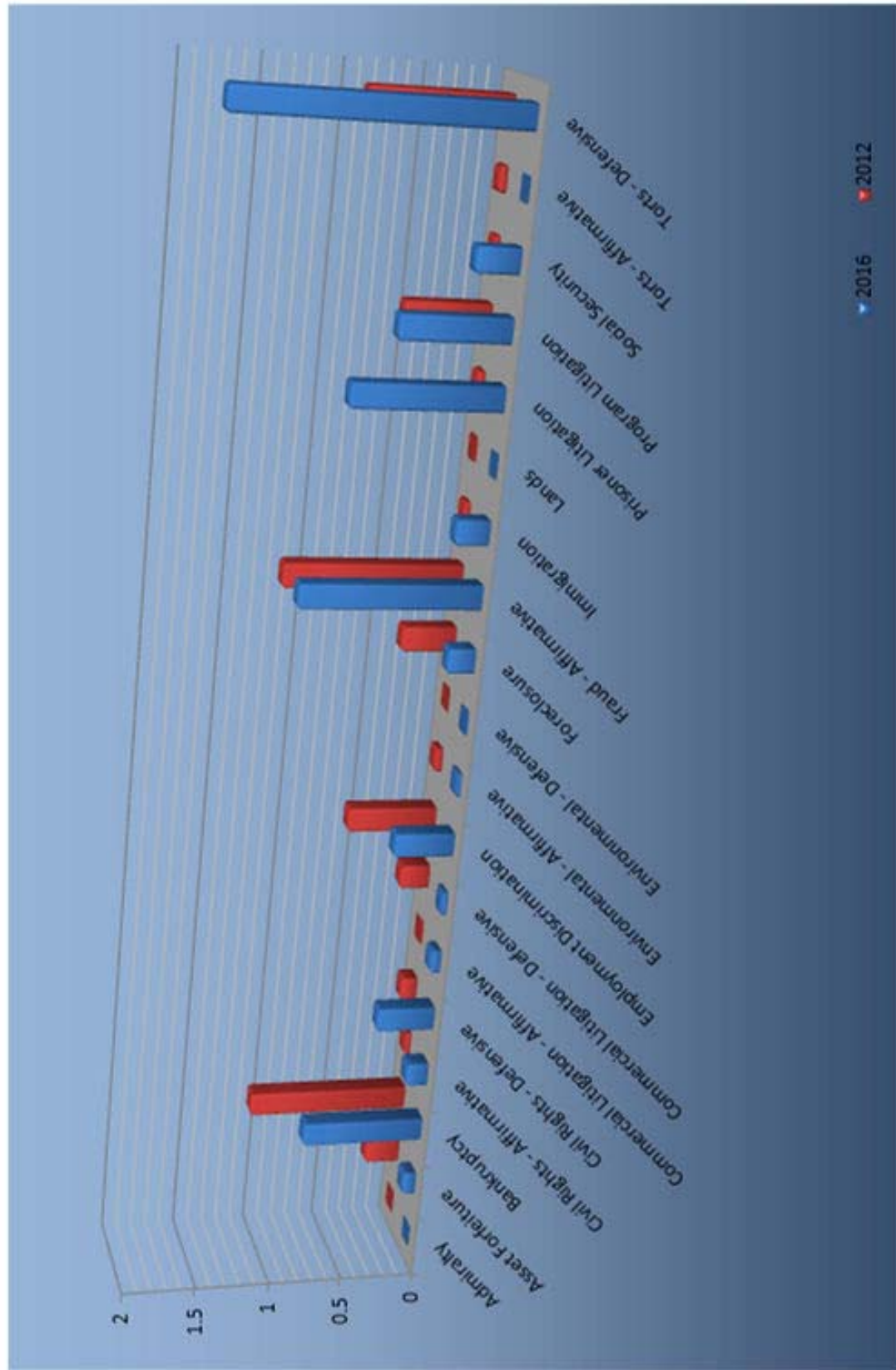
Adam Townshend, Principal
Carolyn Almassian
Ryan Cobb
Nicole Mazzocco
Kristen Buskard, Paralegal

CIVIL RIGHTS TASK FORCE:

W. Francesca Ferguson, Principal
Ryan Cobb

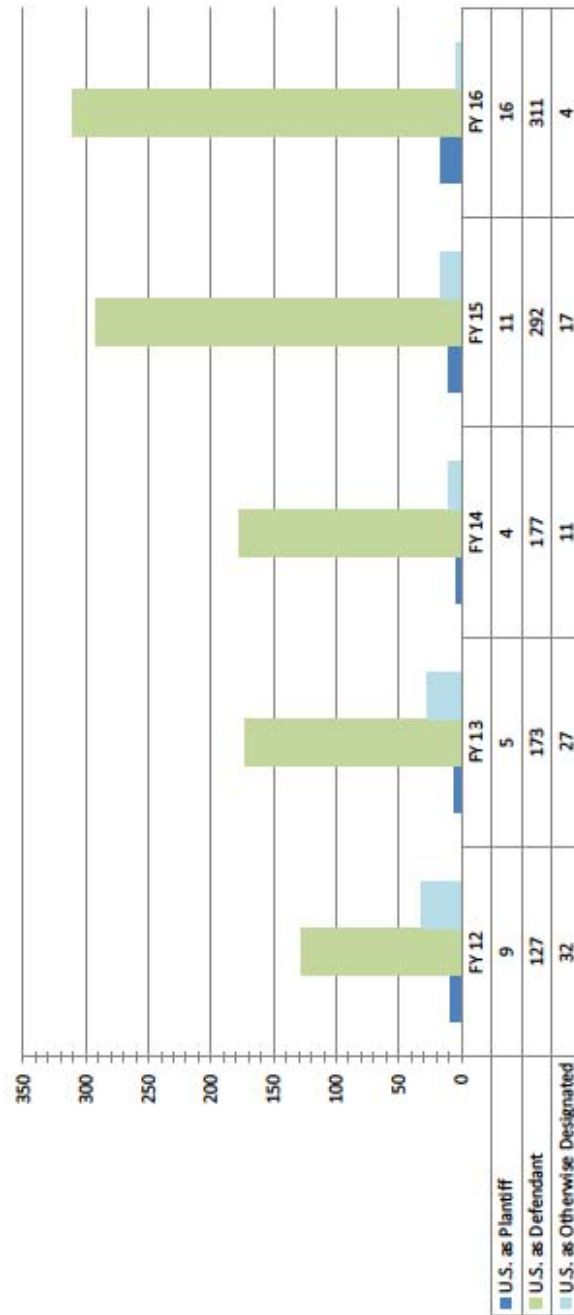
WDMI CIVIL WORKYEAR STATISTICS

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



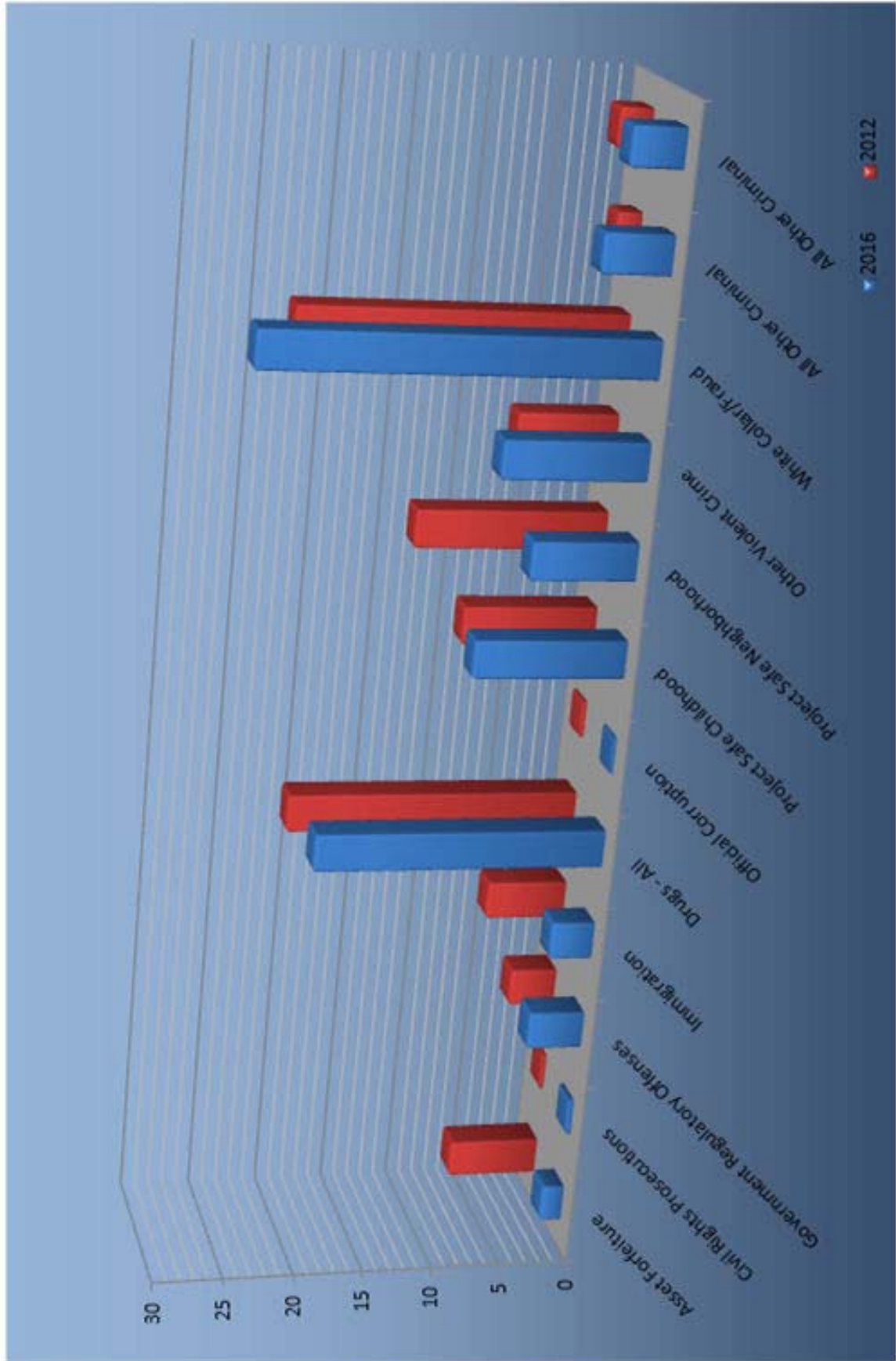
WDMI UNITED STATES ATTORNEYS CIVIL CASELOAD STATISTICS

Judgements in Favor of the U.S. by Designation

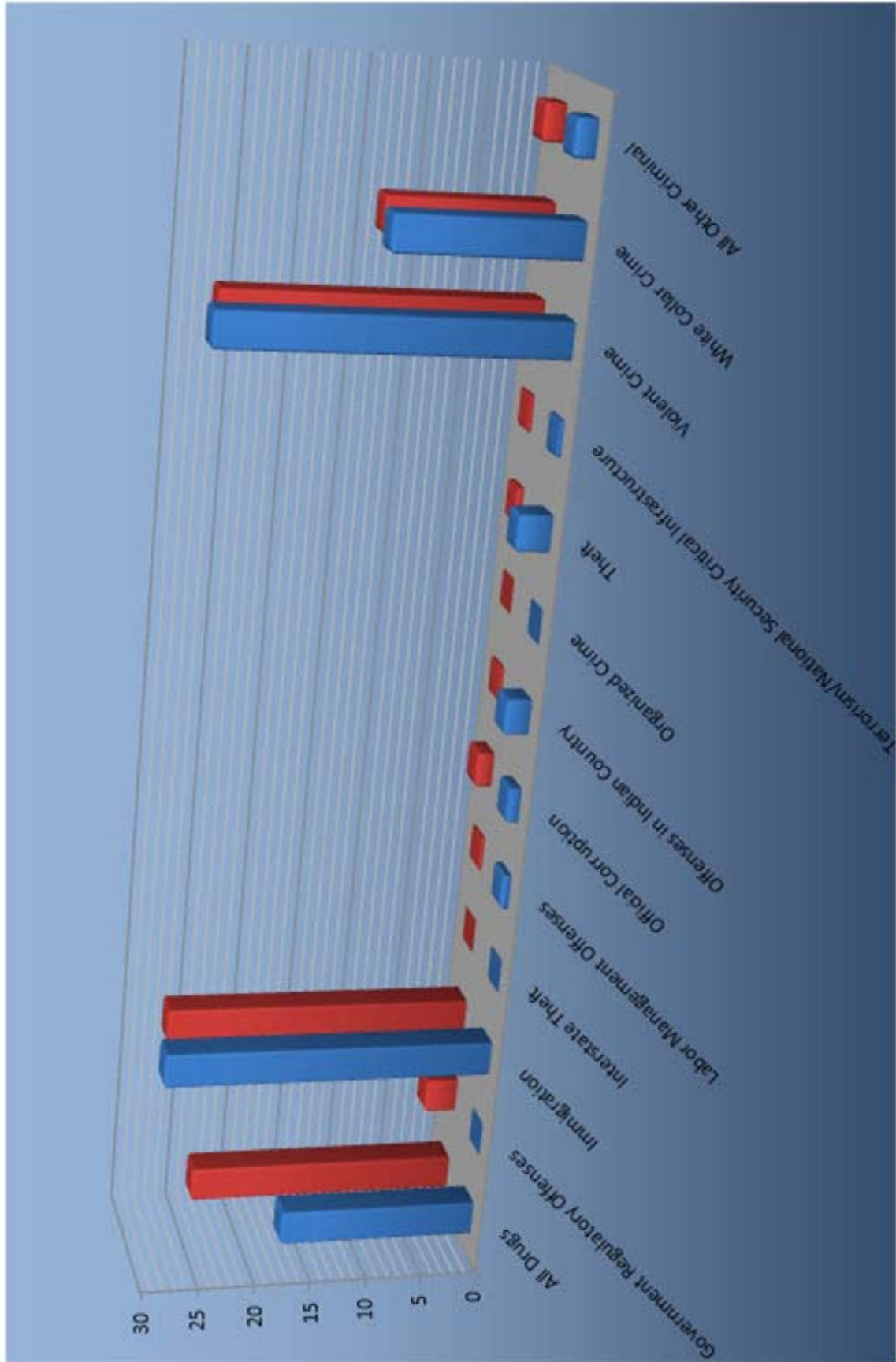


WDM CRIMINAL WORK YEAR STATISTICS

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

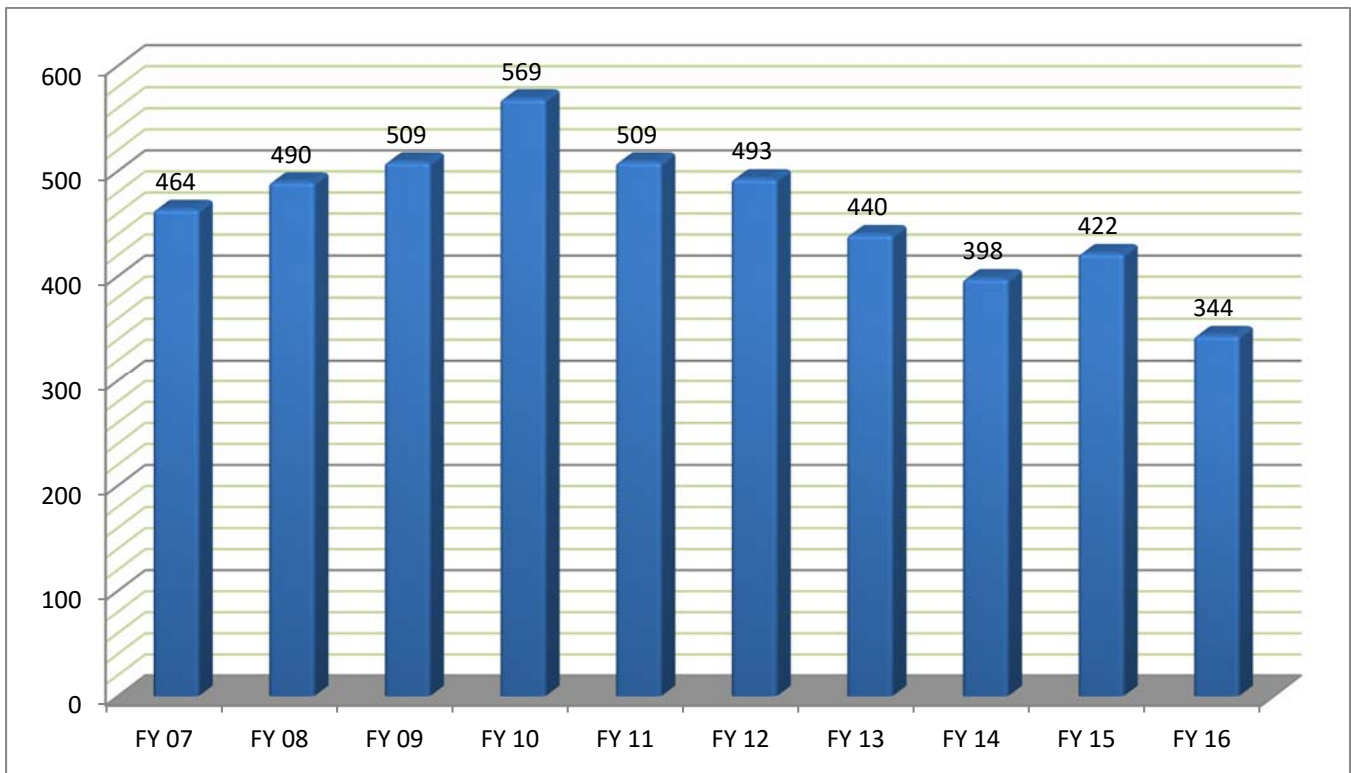


WDMI CRIMINAL CASELOAD STATISTICS
 [The types of case we are bringing as a percentage of the total.]

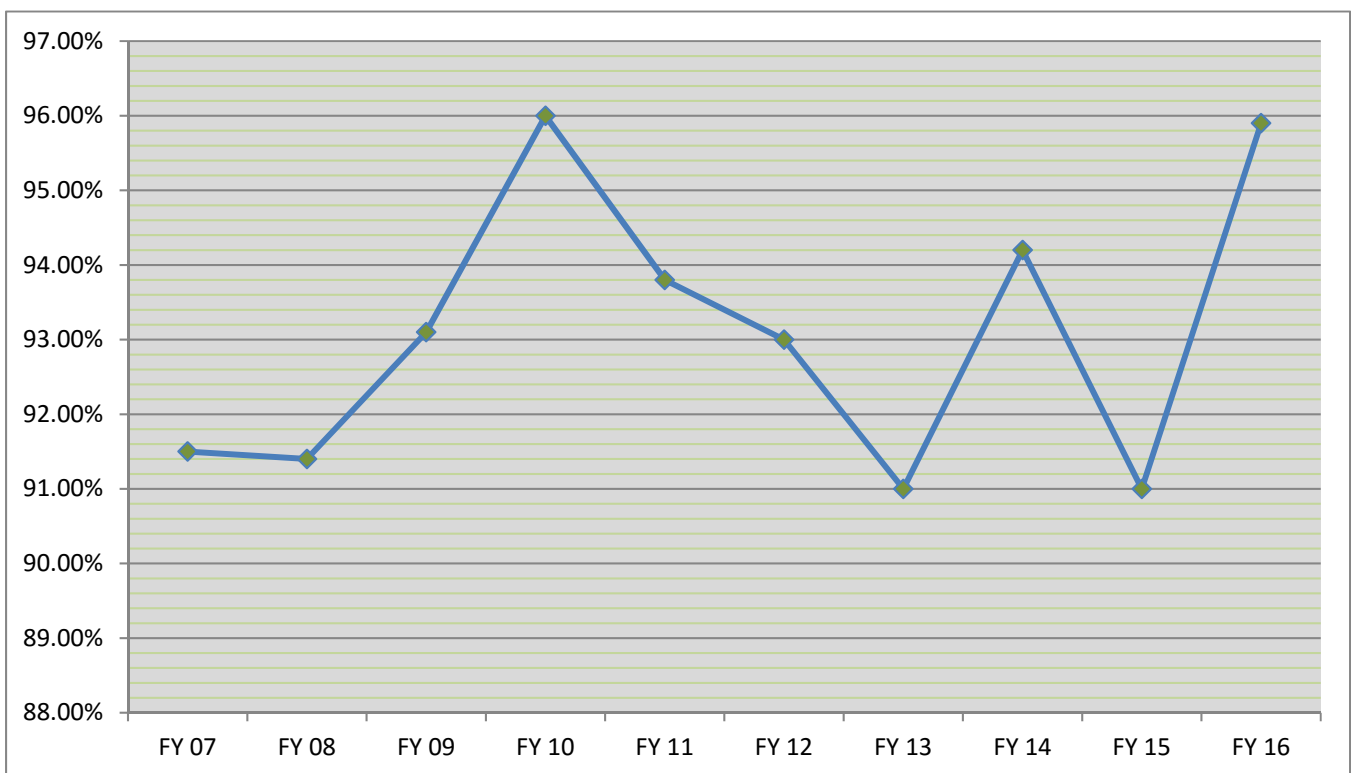


WDMI UNITED STATES ATTORNEYS CRIMINAL CASELOAD STATISTICS

Defendants Guilty

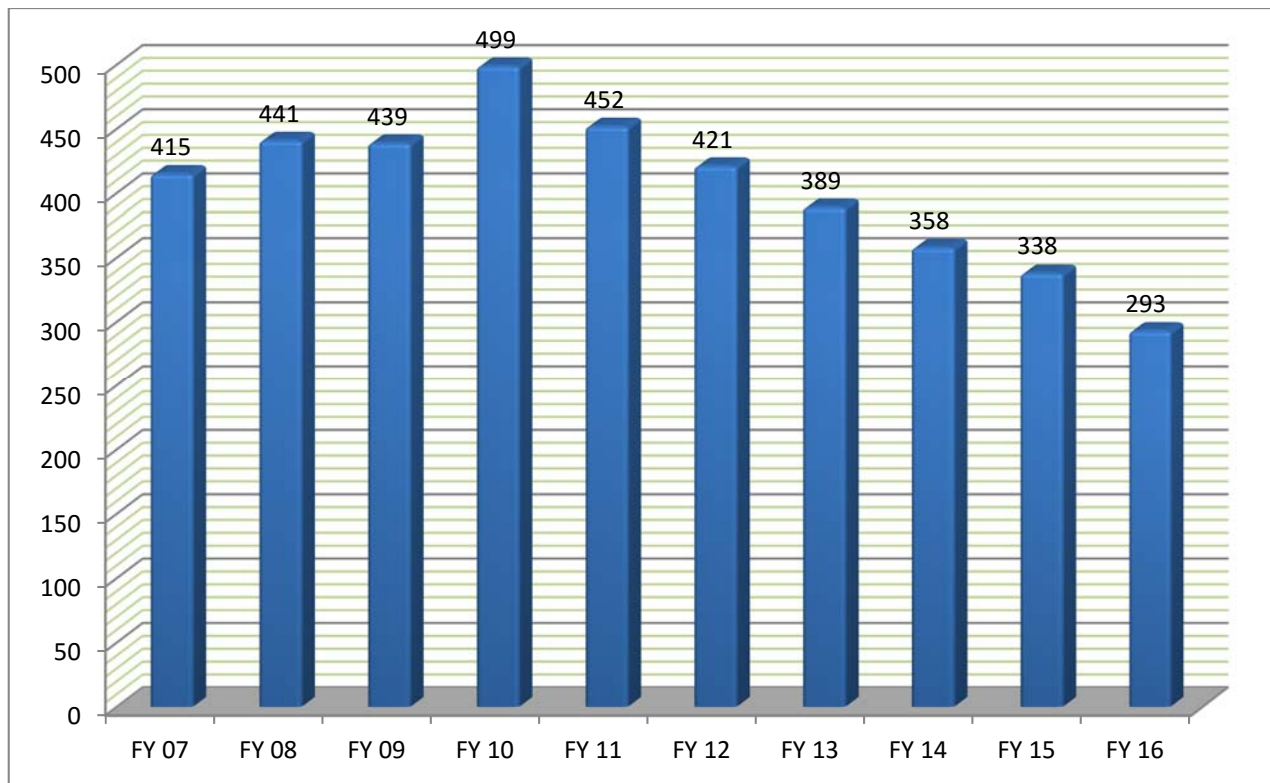


Conviction Rate

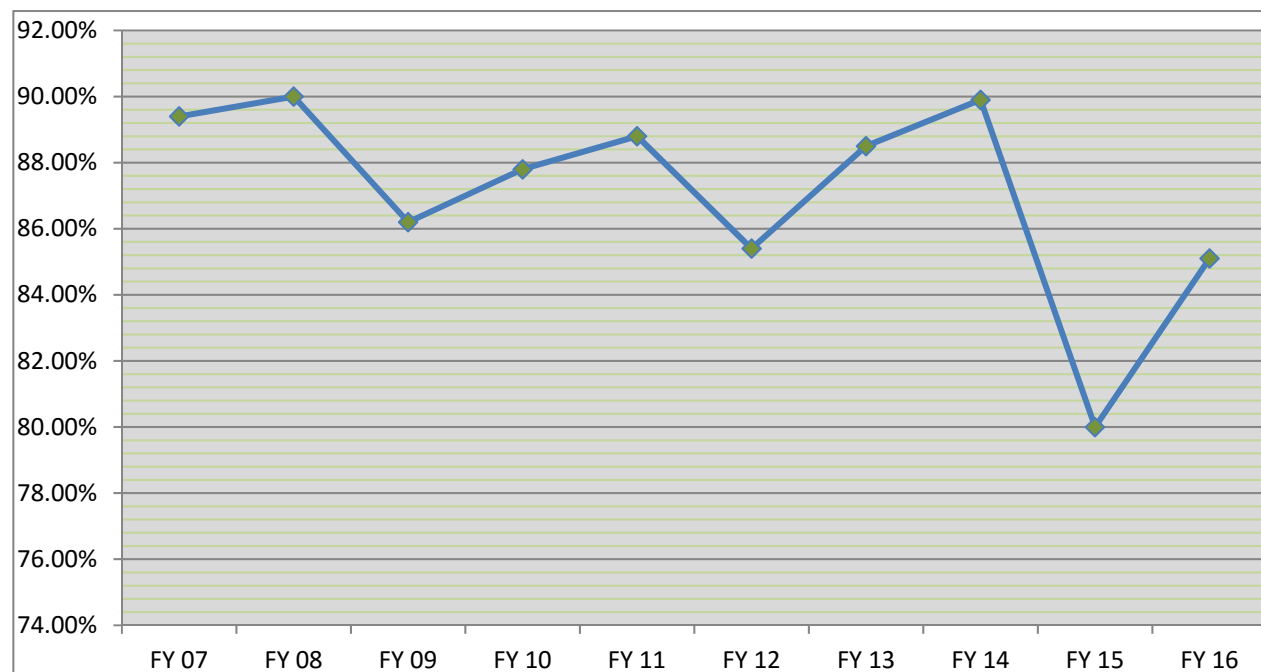


WDMI UNITED STATES ATTORNEYS CRIMINAL CASELOAD STATISTICS

Number of Guilty Defendants Sentenced to Prison

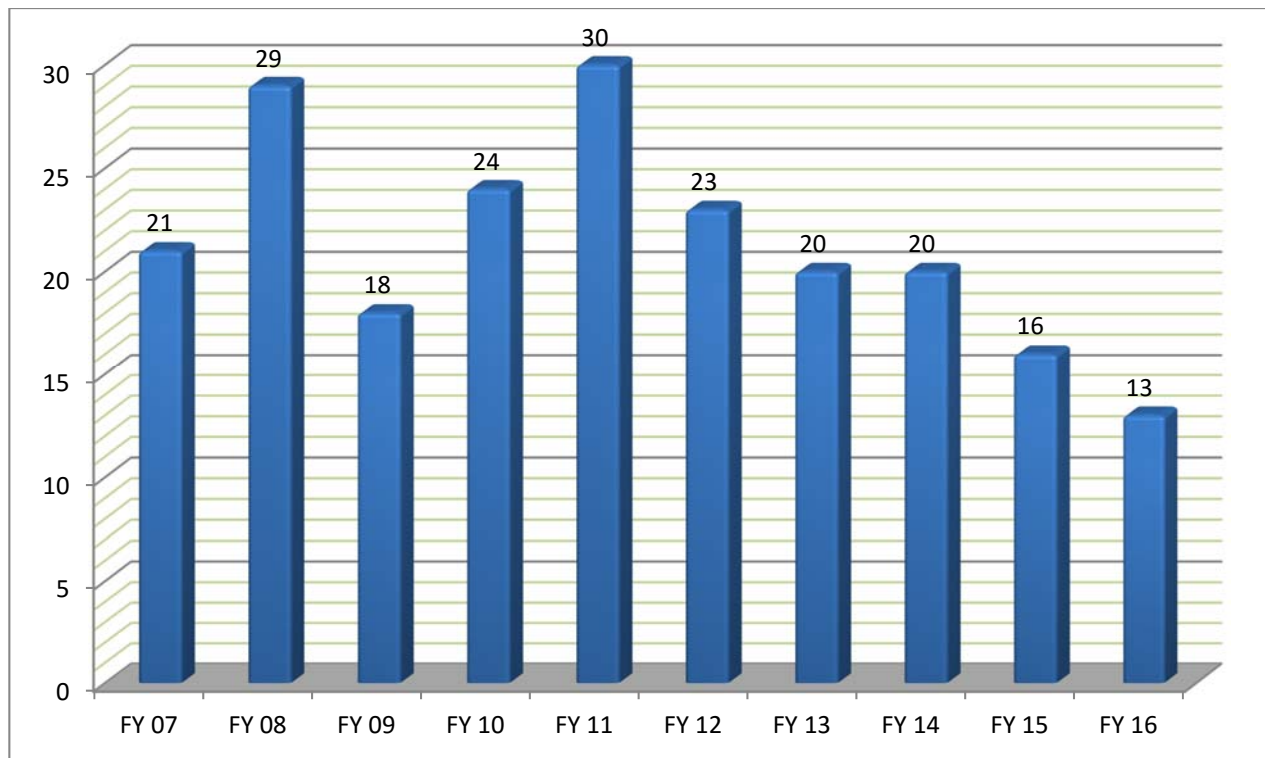


Percentage of Guilty Defendants Sentenced to Prison

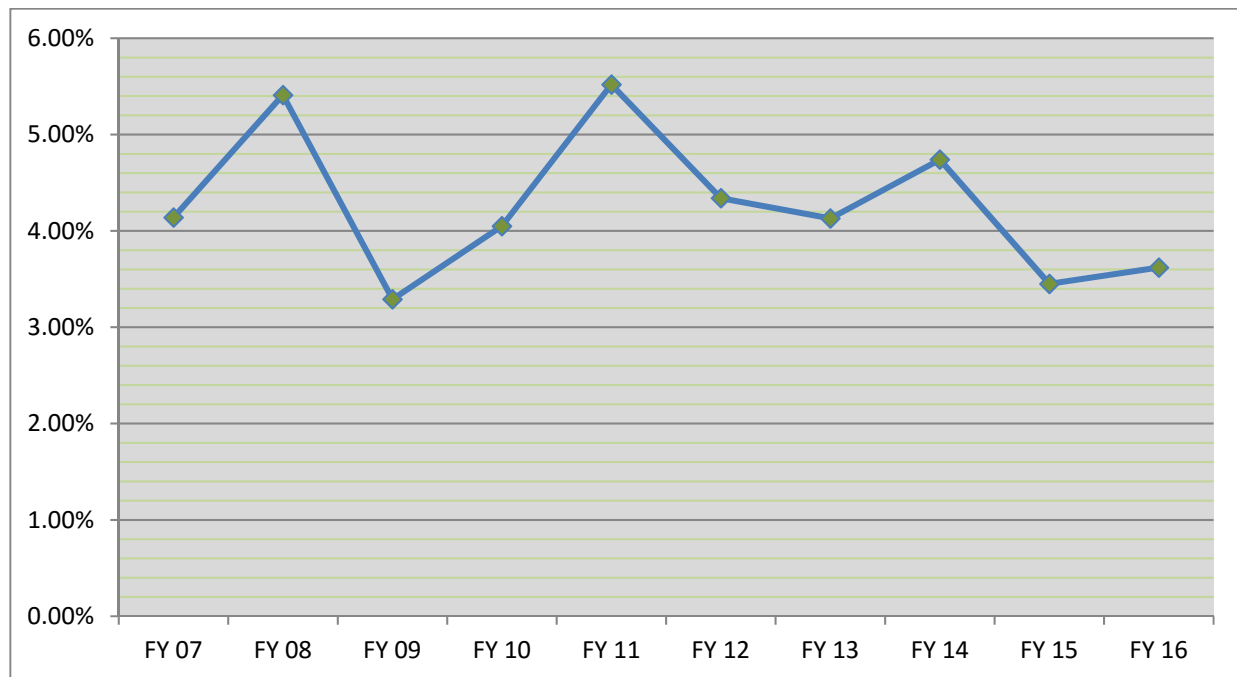


WDMI UNITED STATES ATTORNEYS CRIMINAL CASELOAD STATISTICS

Defendants Tried



Defendants Disposed of by Trial as a Percent of Defendants Terminated



Western District of Michigan

Smart on Crime Action Plan 2014 - 2016

I. Introduction

United States Attorney General Eric Holder announced the Department of Justice (DOJ) “Smart on Crime” Initiative in August 2013. Smart on Crime focuses on Prevention, Enforcement, and Prisoner Re-entry into communities. The United States Attorney’s Office for the Western District of Michigan (USAO-WDMI) adopted and implemented the following five key Smart on Crime principles as part of its annual strategic planning process:

- Prioritize prosecutions to focus on the most serious cases that implicate clear, substantial federal interests;
- Address unfair sentencing disparities and overburdened prisons;
- Pursue alternatives to incarceration for low-level, non-violent crimes;
- Improve re-entry to curb repeat offenses and re-victimizations; and
- Increase resources and efforts to prevent violence and protect the most vulnerable populations.

II. Organizational Background

This three year Smart on Crime Action Plan is consistent with the Attorney General’s goals and fits into the USAO’s annual Strategic Plan and structure.

In late 2012, U.S. Attorney Patrick Miles organized the Office’s Criminal Division into the following four Sections: Financial Crimes, Organized Drug Crimes, National Security, and Violent Crimes. Each Section has Task Forces and Units and each Assistant U.S. Attorney (AUSA) is assigned primarily to one Task Force or Unit (and some AUSAs are cross-designated to another Task Force or Unit on an as-needed basis). Task Forces develop and prosecute cases proactively in conjunction with law enforcement and Units prosecute reactive cases. Each Task Force or Unit is led by an AUSA (called a “Principal”) who is the point of contact or primary “go-to” person in a Unit or Task Force. The Principal also submits the group’s annual Strategic Plan for management’s approval, sets the group’s agenda, helps improve the Unit/Task Force members’ skills and knowledge, shares information within the Unit or Task Force about best practices and case strategies, maintains positive agency relations, and ensures the Unit/Task Force adheres to and accomplishes its Strategic Plan.

Beginning in calendar year 2013, each Task Force and Unit as well as the Criminal Division formulates and implements an annual Strategic Plan with specific goals, strategies, and timeframes. The relevant Task Forces/Units with responsibility to address the three Smart on Crime initiatives of Prevention, Enforcement, and Re-entry are Major Narcotics Unit & Organized Crime and Drug Enforcement Task Force, Diversion Task Force, Violent Crimes Unit & Project Safe Neighborhood Task Force, Project Safe Childhood Task Force, Indian Country Unit, Criminal Civil Rights Violations Task Force, and Civil Rights Task Force (Civil Division).

In 2013, U.S. Attorney Miles appointed an AUSA to serve as the Office's Prisoner Re-entry Coordinator who also develops and implements an annual Strategic Plan. By 2014, the USAO had fully implemented the Attorney General's Smart on Crime initiative. This document describes the elements of the USAO's Smart on Crime Action Plan in the USAO's Strategic Plan.

III. Prevention

A. School Programs and Mentoring.

U.S. Attorney Miles believes in the power of education, knowledge, and mentoring. He wants young people to understand the American criminal justice system – how it works overall and how the various pieces fit together. Consequently, he supports USAO programs that educate students, encourages active attorney-student participation, and always accepts invitations to speak to students (elementary, middle school, high school, undergraduate, and law school) about the USAO's work, law careers, keys to success, effective leadership, and/or service.

1. Proposed Student Criminal Justice Program.

In 2014, at U.S. Attorney Miles' direction, the USAO-WDMI designed a program that introduces 7th grade students in urban schools to American criminal law and procedure – from an investigation and arrest through trial and an appeal. The program includes professional presenters such as law enforcement officers, prosecutors, criminal defense attorneys, judges, and parole or probation officers. Such speakers will address the educational and other requirements for their career and provide students with exposure to various law careers.

The program involves a one hour session with a group of 10 to 30 7th grade students each month during the school year. The USAO is willing to coordinate the presenters and substance of the program at a location designated by the applicable urban school district monthly on dates selected by such school district. An AUSA is the primary contact and organizer. Each school district also chooses the participating students – who could be from a government class, or those with interest at a single school or from various schools. If the school district desires students from multiple schools, the school district must arrange appropriate transportation for the students to and from the classroom.

Program Schedule and Presenters

Session One: September – Introduction to American Criminal Justice (AUSA)

Session Two: October – Arrest and Detention (Law Enforcement Officer or Agent)

Session Three: November – The Government's Case at Trial (Prosecutor)

Session Four: December – Defendant on Trial (Criminal Defense Attorney)

Session Five: January – The Judge and Jury (Judge)

Session Six: February – Prison (Deputy U.S. Marshal or Sheriff)

Session Seven: March – Parole (Parole/Probation Officer)

Session Eight: April – Mock Trial Teams (AUSAs)

Session Nine: May – Mock Trial Part II, Participation Certificates, and Closing (AUSAs and U.S. Attorney)

Each participating student receives a certificate from the USAO upon successful completion of the program.

2. Respect for the Rule of Law and U.S. Constitution.

U.S. Attorney Miles and AUSAs frequently speak to students in the WDMI as part of programs or assemblies about American law. Such sessions improve students' understanding of and respect for the rule of law and the U.S. Constitution, provide mentorship to students, offer practical career counseling to focus students on their potential beyond high school, and improve the “pipeline” of diverse students flowing into legal careers in the region. Some of these students have had firsthand interaction with law enforcement and the criminal justice system (e.g., family members who are or have been in prison). USAO participation in these programs also helps give the students a balanced perspective of the system and facilitates a productive dialogue with the community.

3. Mock Trial Programs.

The USAO supports AUSA involvement with high school student mock trial programs. AUSAs coach or observe student performance in mock trials and offer critiques and suggestions based on their experiences.

B. Violence Prevention Outreach.

1. Neighborhood Group Violence Intervention.

The WDMI has eight major cities with relatively high incidents of violent crime and homicides: Benton Harbor, Battle Creek, Grand Rapids, Holland, Kalamazoo, Lansing, Muskegon, and Muskegon Heights. Beginning in early 2014, U.S. Attorney Miles initiated discussions within the USAO and certain communities about introducing an interactive evidence-based approach for group violence prevention and interdiction in each of these cities. Called “Project Ceasefire” in many other districts, this approach involves periodic community group “call ins” in which members of groups who cause and suffer from most of the community’s homicides are told by community members, leaders, activists, and parents that the killing must stop. Law enforcement and prosecutors warn such group members of the serious consequences if it does not.

2. Child Exploitation and Human Trafficking.

The USAO prioritizes human trafficking and civil rights prosecutions through several coordinated efforts with federal, state, and local law enforcement and community organizations. For example, the USAO participates in the Michigan Human Trafficking Task Force (MHTTF) led by the Michigan State University School of Criminal Justice. The MHTTF is statewide and emphasizes prevention, promotes awareness, provides victim assistance, and makes referrals to law enforcement. The USAO also supports the West Michigan Based Child Exploitation Task Force (WEBCHEx) composed of FBI agents, local police officers and detectives. WEBCHEx works collaboratively on child exploitation investigations, including sex trafficking and child pornography

cases. Criminal Division AUSAs assist WEBCHEx in obtaining subpoenas or search warrants and screen matters for potential federal prosecution.

The USAO also maintains regular contact with local juvenile justice centers and shelters for young sex trafficking survivors. These contacts and connections assist in prevention as well as possible prosecutions.

C. Hate Crime Awareness.

U.S. Attorney Miles is a co-chair of the Michigan Alliance Against Hate Crimes (MIAAHC). MIAAHC's mission "is to reduce the occurrence and ameliorate the consequences of hate crimes and bias incidents committed in the State of Michigan. In doing so, MIAAHC will provide or assist with education, training, coordination, data collection, and support to federal, state, local, and community-based entities whose functions include preventing, investigating, prosecuting, or otherwise responding to hate crimes and bias incidents." USAO Executive Counsel Don Daniels also serves on MIAAHC's Steering Committee and is Principal of the USAO's Criminal Civil Rights Violations Task Force.

Through the participation of U.S. Attorney Miles and AUSA Daniels as well as support staff, the USAO helps organize the MIAAHC's state-wide Annual Conference. U.S. Attorney Miles gives remarks, either opening or luncheon, at such conferences.

D. Advocates & Leaders for Police And Community Trust.

U.S. Attorney Miles co-chairs the Grand Rapids Advocates & Leaders for Police And Community Trust (ALPACT) meetings and an AUSA attends the Southwest Michigan (Benton Harbor) ALPACT meetings. The ALPACT coalition was launched in 1998 by the Michigan Roundtable for Diversity and Inclusion to create a platform for dialogue, honest discussion, and relationship building among law enforcement officers, government officials, and community leaders. With the support of the Michigan Department of Civil Rights, several Michigan cities have ALPACT groups. The Grand Rapids ALPACT began meeting in 2012 and Southwest Michigan ALPACT began meeting in 2014.

IV. Enforcement

A. Violent Crime Reduction Task Forces.

Shortly after assuming office in July 2012, U.S. Attorney Miles instructed USAO Violent Crimes Section AUSAs to cease taking simple felon in possession 922(g) cases referred from local police departments without demonstrating a clear federal interest. Along these lines of shifting USAO prosecutions from quantity to quality, in 2013, U.S. Attorney Miles created Violent Crime Reduction Task Forces with participation from the County Prosecutor's Office, County Sheriff's Department, Police Department, Michigan State Police, and FBI or ATF in the respective cities of Benton Harbor, Battle Creek, Grand Rapids, Kalamazoo, Lansing, and Muskegon/Muskegon Heights. He designated an AUSA from the USAO's Violent Crime Task Force to lead or serve on each City's Violent Crime Reduction Task Force. Each Violent Crime Reduction Task Force develops a locally-tailored plan to address such community's violent crime, meets regularly, and coordinates investigations, arrests and prosecutions.

B. Charging Decisions.

The USAO's Major Narcotics Unit & Organized Crime and Drug Enforcement Task Force (OCDETF) narrowed its focus to large-scale, interstate and international narcotics distribution organizations. Deemphasizing the volume of prosecutions enables the USAO to concentrate resources on cases involving a substantial federal interest. In addition, the USAO is actively implementing the Attorney General's policy of tailoring charges to reflect the individual responsibility of each participant in a drug offense.

C. Retroactive Sentence Reduction.

The USAO's Criminal Division Chief participates in a WDMI Working Group convened by the Chief District Court Judge to develop and adopt procedures for the Court's consideration of motions by defendants for sentence modifications arising from Amendment 782 of the United States Sentencing Guidelines. In addition, the USAO dedicates an experienced Criminal Division AUSA to the Working Group. This AUSA not only participates in Working Group activities, but serves and will continue to serve as the centralized reviewer of modification motion responses for the USAO and tracks and advises USAO attorneys on updates in the law and procedure governing Amendment 782 motions.

D. Clemency Initiative.

Shortly after the April 2014 announcement of the Department of Justice's Executive Clemency Initiative, U.S. Attorney Miles directed the USAO to review, to the extent possible, all drug convictions prior to the year 2004 for potential defendants who might be suitable under the DOJ's criteria for executive clemency. The Criminal Division Chief had all available records reviewed, identified potential candidates, personally evaluated over 50 files and forwarded eligible candidates to the U.S. Attorney.

V. Re-Entry

A. Accelerated Community Entry.

In 2005 the Federal District Court in WDMI, with the assistance of the U.S. Probation Department, USAO, and Federal Defenders' Office, implemented one of the first federal re-entry programs in the United States: a Court-ordered supervised release program called "Accelerated Community Entry" (ACE) to improve re-entry for those ex-offenders with the highest risk of recidivism. The ACE program is managed by the U.S. Probation Department. Ex-offenders participate in ACE for two years. Participants can receive "rewards" by meeting certain goals established by Probation Officers and a third party contract service provider which engages participants in "Moral Reconciliation Therapy" sessions. Likewise, participants can receive a sanction each month from the Court, such as community service, reporting requirements, assignments, curfew, travel restrictions, or being placed in custody (e.g., in a half-way house for weekends).

Participants make monthly court appearances in their first year of supervised release to address their progress and receive an award or sanction. The District's Chief Judge and a Magistrate Judge preside at such appearances. An AUSA (i.e., the USAO's Re-entry Coordinator) and a Federal Defender prepare for and attend both the monthly ACE meetings to discuss each current participant as well as the monthly court appearances by participants. The ACE program also focuses on family support, employment, and community mentors.

B. Facing Choices.

In 2014, U.S. Attorney Miles implemented a new ex-offender outreach effort in the WDMI to reduce recidivism and, in particular, reduce gun violence. The “Facing Choices” sessions are organized by the USAO with the assistance of the Michigan Department of Corrections and occur throughout the year in the Cities of Kalamazoo, Grand Rapids, and Muskegon with recent state parolees. Speakers include representatives from the USAO (typically, U.S. Attorney Miles), County Prosecutor’s Office (typically, the County Prosecutor), local Police Department (typically, the Chief), ATF, and Michigan Department of Corrections as well as successful ex-offenders. The messages are of support, encouragement, warnings, and incentives for the parolees to make positive, law abiding decisions and to take advantage of the resources available to them during their parole or face serious consequences.

C. Pretrial Diversion.

Several years ago the USAO entered into a Memorandum of Understanding (MOU) with the U.S. Probation and Pretrial Services Office for the operation of a WDMI pretrial diversion program. The pretrial diversion program is under the auspices of the USAO and provides an alternative to criminal prosecution for selected persons. It places them in a program of supervision administered by the U.S. Probation and Pretrial Services Office. Pursuant to the MOU, the U.S. Attorney may divert any individual against whom a prosecutable case exists and who is not (a) accused of an offense which, under existing DOJ guidelines, should be diverted to the State for prosecution, (b) a person with two or more prior felony convictions, (c) a public official or former public official accused of an offense arising out of an alleged violation of public trust, or (d) accused of an offense related to national security or foreign affairs.

D. West Michigan Re-Entry Coordinating Councils.

Service providers and government agencies established the Greater Grand Rapids area established The Re-Entry Clearinghouse (f/k/a Grand Rapids Community Re-Entry Coordinating Council) in 2008 as a network of faith-based and community-based service providers, as well as state corrections, federal probation, and parole personnel, who meet periodically to discuss the coordination of re-entry efforts in Grand Rapids from a multi-disciplinary perspective. U.S. Attorney Miles and the USAO Re-entry Coordinator spoke at one of the group’s 2014 meetings. The USAO’s Re-entry Coordinator is now invited to attend the group’s meetings.

E. Indian Country Re-Entry.

The WDMI has 11 Federally-recognized Native American Tribes, the most of any district east of the Mississippi River. In 2015, with the USAO’s full support, one of the Tribes in the WDMI applied to participate in one of the three regional Intergovernmental Re-entry Workshops hosted by DOJ, Office of Justice Programs, Bureau of Justice Assistance (BJA), in partnership with the Executive Office for U.S. Attorney’s National Indian Country Training Initiative. The workshops are called: *From Federal, State, and Tribal Correctional Facilities to Communities in Indian Country*. The workshop will provide participant teams with a set of guidelines, principles, and tools to assist in the development of re-entry strategies for tribal members returning to their communities after a period of secure confinement in federal, state, or tribal facilities. The Tribe’s workshop re-

entry planning team includes a representative from the Tribe's Council, Court/Judiciary, Behavioral Health/Health Services/Indian Health Services, Victims' Services, Probation Office, Prosecution Office, Detention/Corrections, Law Enforcement, and Budget/Finance Department.

F. Effective Re-Entry Summit.

The USAO, in conjunction with the USAO-EDMI, asked Michigan law enforcement professionals, service providers, corrections and probation officers, as well as judges from every part of the state to gather and network at a prisoner re-entry summit at Cooley Law School in Lansing on May 6, 2014. Summit participants shared ideas and best practices in state and federal courts Michigan and also connected with service providers. Future collaborations and meetings are expected as a result

2016 LAW ENFORCEMENT TRAINING

May 2	CRASE	Detroit
May 3	CRASE	Detroit
May 4	CRASE	Flint
May 5	CRASE	West Olive
May 19	Complex Case	Ypsilanti
May 25	Social Media	Taylor
June 1-2	Child Sex Assault	Hannahville
June 6-8	Human Trafficking	Detroit
June 15	DEA Training	Marquette
June 21	Complex Case	Roscommon
June 23	Complex Case	Marquette
July 13	Common Ground	Detroit
August 10-12	GLNAC	Mt. Pleasant
August 16-17	Child Sex Assault	Grand Rapids
August 23-25	CJIC	Marshall
September 14	FBI Cybersecurity	Grand Rapids
September 20-22	VALOR	Dearborn
September 26	ASER	West Olive
September 27	ASER	Ingham County
September 28	ASER	Flint
September 29	ASER	Taylor
October 24	Hate Crimes	East Lansing
December 13	SLATT	Dearborn