United States Department of Justice
Executive Office for United States Trustees

Report to Congress:

Criminal Referrals by the United States Trustee Program Fiscal Year 2014

(As required by Section 1175 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Public Law 109-162)

May 2015

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EXECUTIVE SUMMARY

The Director of the Executive Office for United States Trustees is required to submit an annual report to Congress under the provisions of Section 1175 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162). Section 1175 states:

> The Director of the Executive Office for United States Trustees shall prepare an annual report to the Congress detailing – (1) the number and types of criminal referrals made by the United States Trustee Program; (2) the outcomes of each criminal referral; (3) for any year in which the number of criminal referrals is less than for the prior year, an explanation of the decrease; and (4) the United States Trustee Program's efforts to prevent bankruptcy fraud and abuse, particularly with respect to the establishment of uniform internal controls to detect common, higher risk frauds, such as a debtor's failure to disclose all assets.

The United States Trustee Program (Program) made 2,080 bankruptcy and bankruptcy-related criminal referrals during Fiscal Year (FY) 2014. This represents a 0.3 percent increase from the 2,074 criminal referrals made during FY 2013. The five most common allegations contained in the FY 2014 criminal referrals involved tax fraud, false oath or statement, concealment of assets, bankruptcy fraud scheme, and identity theft or use of false/multiple Social Security numbers.

Of the 2,080 criminal referrals, as of January 22, 2015, formal criminal charges had been filed in connection with 12 of the referrals, 1,217 of the referrals remained under review or investigation, 850 of the referrals were declined for prosecution, and one referral was administratively closed.

In FY 2014, the Program was an active member of the President's Financial Fraud Enforcement Task Force (FFETF), two national working groups, and bankruptcy fraud and other specialized working groups and task forces in districts across the country. Program staff contributed to the prosecution of bankruptcy and bankruptcy-related crimes by serving as Special Assistant U.S. Attorneys in cases, assisting with investigations, and providing support as expert and fact witnesses. The Program employs a variety of strategies to identify fraud including the Program's Internet email "Hotline" which enables individuals to report suspected bankruptcy crimes. A link to the FFETF's Web site also is provided on the Program's Web site to facilitate the reporting of financial crimes not involving bankruptcy.

INTRODUCTION

Section 1175 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162) requires the Director of the Executive Office for United States Trustees (EOUST) to submit a "report to Congress detailing – (1) the number and types of criminal referrals made by the United States Trustee Program; (2) the outcomes of each criminal referral; (3) for any year in which the number of criminal referrals is less than for the prior year, an explanation of the decrease; and (4) the United States Trustee Program's efforts to prevent bankruptcy fraud and abuse, particularly with respect to the establishment of uniform internal controls to detect common, higher risk frauds, such as a debtor's failure to disclose all assets."

The Program is the component of the Department of Justice whose mission is to promote the integrity and efficiency of the bankruptcy system for the benefit of all stakeholders – debtors, creditors, and the public. The Program consists of 21 regions with 93 field office locations nationwide and an Executive Office in Washington, DC. Each field office is responsible for carrying out numerous administrative, regulatory, and litigation responsibilities under title 11 (the Bankruptcy Code) and title 28 of the United States Code.[1/]

The Program has a statutory duty to refer matters to the United States Attorneys' offices (USAOs) for investigation and prosecution that "relate to the occurrence of any action which may constitute a crime." 28 U.S.C. § 586(a)(3)(F). The statute also requires that each United States Trustee shall assist the United States Attorney in "carrying out prosecutions based on such

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[1/] The Program has jurisdiction in all federal judicial districts except those in Alabama and North Carolina.

action." With the enactment of 18 U.S.C. § 158, which requires designation of a prosecutor and a Federal Bureau of Investigation (FBI) agent in each district to address bankruptcy-related crimes, Congress reaffirmed the importance of the USAOs and the FBI working in cooperation with the Program to protect the integrity of the bankruptcy system.

I. NUMBER AND TYPES OF CRIMINAL REFERRALS

The Program tracks criminal referrals using its automated Criminal Enforcement Tracking System (CETS). Program personnel enter information into CETS that relates to each criminal referral and are required to update information for each referral at least once every six months. The system is designed to provide an accurate measure of criminal enforcement actions, assist in trend identification, and facilitate management improvements.

In FY 2014, the Program made 2,080 bankruptcy and bankruptcy-related criminal referrals. Each referral may be sent to multiple agencies, but it is counted only once in CETS. Similarly, each referral may contain multiple allegations. The breadth of allegations involved in criminal referrals is evident in Table 1, with referral allegations in more than 45 separate categories. The five most common allegations contained in the FY 2014 criminal referrals involved tax fraud (38.3%), false oath or statement (33.0%), concealment of assets (27.3%), bankruptcy fraud scheme (23.6%), and identity theft or use of false/multiple Social Security numbers (17.3%).

Table 1: Criminal Referrals by Type of Allegation		
Type of Allegation	**Referrals**	
	Number	**Percent***
Tax Fraud [26 U.S.C. § 7201, et seq.]	797	38.3%
False Oath/Statement [18 U.S.C. § 152(2) and (3)]	687	33.0%
Concealment [18 U.S.C. § 152(1) and (7)]	568	27.3%
Bankruptcy Fraud Scheme [18 U.S.C. § 157]	491	23.6%
ID Theft or Use of False/Multiple SSNs	360	17.3%
Perjury/False Statement	150	7.2%
Mail/Wire Fraud [18 U.S.C. §§ 1341 and 1343]	126	6.1%
Concealment/Destruction/Withholding of Documents [18 U.S.C. § 152(8) and (9)]	98	4.7%
Mortgage/Real Estate Fraud	74	3.6%
Forged Document	68	3.3%
Bank Fraud [18 U.S.C. § 1344]	63	3.0%
Sarbanes/Oxley [18 U.S.C. § 1519]	62	3.0%
Embezzlement [18 U.S.C. § 153]	43	2.1%
Federal Program Fraud	41	2.0%
Conspiracy [18 U.S.C. § 371]	33	1.6%
Misuse of Seals of Courts; Seals of Departments or Agencies [18 U.S.C. §§ 505 and 506]	28	1.3%
Money Laundering [18 U.S.C. §§ 1956 and 1957]	22	1.1%
Post-Petition Receipt of Property [18 U.S.C. § 152(5)]	22	1.1%
Disregard of Bankruptcy Law/Rule by BPP [18 U.S.C. § 156]	21	1.0%
State Law Violations	20	1.0%
Investor Fraud	18	<1%
Serial Filer	16	<1%
False Claim [18 U.S.C. § 152(4)]	14	<1%
Obstruction of Justice	14	<1%
Corporate Bust-Out/Bleed-Out	12	<1%
Internet Fraud	12	<1%
Credit Card Fraud/Bust-Out	11	<1%
Criminal Contempt [18 U.S.C. § 402]	10	<1%
Corporate Fraud	9	<1%
Professional Fraud	9	<1%
Health Care Fraud [18 U.S.C. § 1347]	7	<1%
Insurance Fraud	7	<1%
Extortion	4	<1%
Threats of Violence	4	<1%
Drug Offenses	3	<1%
Immigration Offense	3	<1%
Bribery [18 U.S.C. § 152(6)]	2	<1%
Structuring	2	<1%
Adverse Interest/Officer Conduct [18 U.S.C. § 154]	1	<1%
Embezzlement from Employee Pension Plans	1	<1%
False Personation	1	<1%
False Reports to Union	1	<1%
Federal and State Election Law	1	<1%
Larceny	1	<1%
Racketeer Influenced and Corrupt Organizations (RICO)	1	<1%
Subornation of Perjury	1	<1%
Terrorism	1	<1%
* Percent based on 2,080 referrals. One referral often contains more than one allegation, so the sum of the percentages for referrals will exceed 100 percent.		

II. OUTCOMES OF CRIMINAL REFERRALS

Table 2 shows the collective outcome/disposition of the 2,080 criminal referrals the Program made during FY 2014 as of January 22, 2015.[2/] Of the 2,080 referrals, 1,217 referrals (58.5%) remained under investigation or review, 12 referrals (0.6%) resulted in formal charges, 850 referrals (40.9%) were declined for prosecution, and one referral (<0.1%) was administratively closed.[3/]

Table 2: Outcome/Disposition of FY 2014 Referrals (as of 1/22/2015)

Outcome/Disposition[1]	Referrals	
	Number	Percent[2]
Under Review in United States Attorney's Office	726	34.9%
With Investigative Agency	491	23.6%
Formal Charges Filed (Case Active)	9	0.4%
Formal Charges Filed (Case Closed)	3	0.1%
– At least One Conviction or Guilty Plea	3	
– At least One Pre-trial Diversion	0	
– At least One Dismissal	0	
– At least One Acquittal	0	
Prosecution Declined by United States Attorney	850	40.9%
Administratively Closed	1	<0.1%

1) Outcome and disposition information will change over time. The information contained within Table 2 reflects information contained within CETS as of January 22, 2015.
2) Rounded percent based on 2,080 referrals.

2/ The Program is not the source of official disposition information. CETS is designed primarily to track referrals made by the Program to U.S. Attorneys. While Program staff work with local USAOs to update disposition information semi-annually, delays in reporting, as well as differences in tracking systems, may result in reporting variances between the agencies.

3/ Administratively closed referrals may still be under review/investigation by agencies (other than a USAO) that have not historically provided updates on referrals. After a referral has been open for a period of time and if the Program is not able to verify the outcome/disposition, the referral will be administratively closed in CETS. Referrals that are administratively closed may be reopened at a later date.

The 12 cases referenced in Table 2 in which formal charges were filed between October 1, 2013, and January 22, 2015, are prosecutions that originated from a FY 2014 referral as derived from CETS.[4/] It is important to note that white-collar criminal referrals like those made by the Program often require significant time and resources to investigate. As a result, it generally takes more than two years before there is a reportable action in CETS. Therefore, it is reasonable that a high percentage of cases referred in FY 2014 are still under investigation or review.

III. COMPARISON WITH CRIMINAL REFERRALS MADE IN PREVIOUS YEAR

As shown in Table 3, the number of criminal referrals made during FY 2014 represents a 0.3 percent increase from the number of referrals made in FY 2013.

Table 3: Comparison Between Criminal Referrals in FY 2013 and FY 2014		
FY 2013	**FY 2014**	**Percent Change**
2,074	2,080	0.3%

Prior to FY 2014, the Program experienced seven consecutive years of growth in the number of bankruptcy and bankruptcy-related criminal referrals it made, followed by a slight decline in FY 2013. The increase in referrals in FY 2014 demonstrates the Program's continuing commitment to this important statutory duty.

[4/] Table 2 reflects only disposition information related to referrals the Program made in FY 2014. It does not reflect the entirety of prosecutions with bankruptcy charges brought by the Department of Justice in FY 2014. A reporting of all prosecutions would include those that originated from Program referrals in prior fiscal years, as well as prosecutions related to referrals not made by the Program.

IV. PROGRAM EFFORTS TO PREVENT BANKRUPTCY FRAUD AND ABUSE

The Program is committed to identifying and referring for prosecution bankruptcy fraud and other crimes, and has systems in place to detect fraud schemes. The Program's Office of Criminal Enforcement (OCE) oversees and coordinates the Program's criminal enforcement efforts, and has significantly strengthened the Program's ability to detect, refer, and assist in the prosecution of criminal violations. Through issuing guidance and resource materials, providing extensive training, participating in national working groups, and working with its law enforcement partners, the Program has established the necessary systems to effectively combat fraud and abuse that threaten the integrity of the bankruptcy system.

Highlights of the Program's criminal enforcement efforts in FY 2014 include the following.

Bankruptcy Fraud and Other Specialized Working Groups and Task Forces. The Program is an active member of the President's Financial Fraud Enforcement Task Force and the Bank Fraud and Identity Theft Working Groups sponsored by the Department of Justice's Criminal Division. In addition, the Program participates in more than 80 local bankruptcy fraud working groups, mortgage fraud working groups, and other specialized task forces throughout the country. Members of these working groups and task forces include representatives from the USAOs, FBI, United States Postal Inspection Service, Internal Revenue Service-Criminal Investigation, Offices of the Inspector General for the Social Security Administration and the Department of Housing and Urban Development, United States Secret Service, Office of the Special Inspector General for the Troubled Asset Relief Program, and Immigration and Customs Enforcement, among others.

Special Assistant United States Attorneys and Other Staff Support. Approximately 25 Program attorneys in field offices across the country are designated as Special Assistant U.S Attorneys to assist USAOs in the investigation and prosecution of bankruptcy and bankruptcy-related crimes. Other Program staff also are called upon to assist with investigations and to provide expert or fact testimony at trial. For example, in FY 2014, an Assistant U.S.

Trustee served as a trial witness in a case which involved violations of the Economic Espionage Act, bankruptcy fraud, tax evasion, and other criminal conduct. Finally, the OCE has three Program trial attorneys who serve as part-time regional criminal coordinators. These individuals provide support, assistance, and training to Program personnel regarding the identification and referral of suspected bankruptcy fraud, and liaison with USAOs in their designated regions on matters requiring coordination.

Training. During FY 2014, the OCE and Program staff presented more than 90 bankruptcy and bankruptcy-related fraud training programs that reached approximately 2,800 federal, state, and local law enforcement personnel, Program employees, private bankruptcy trustees, and members of the bar and other professional associations throughout the country. The Program utilizes a variety of educational formats to deliver training, including in-person presentations, LiveMeetings, and video teleconferences, and customizes each presentation to maximize impact. Among the training provided this year was a presentation by OCE's Assistant Director to the Federal Bureau of Investigation's mortgage fraud conference and a series of LiveMeetings for Program staff covering parallel proceedings, criminal discovery, and the intersection between asset forfeiture and bankruptcy that featured speakers from the federal law enforcement community.

Bankruptcy Fraud Internet "Hotline." In FY 2014, the Program documented 686 email submissions via the National Bankruptcy Fraud Hotline (USTP.Bankruptcy.Fraud@usdoj.gov).

SUMMARY

The United States Trustee Program continued to combat fraud and abuse in the bankruptcy system in FY 2014. Through detecting and referring fraud schemes, collaborating with its law enforcement partners, and providing specialized training, the Program will continue its enforcement efforts to protect the integrity of the bankruptcy system.