



**United States Department of Justice
Executive Office for United States Trustees**

Report to Congress:

**Criminal Referrals by the
United States Trustee Program
Fiscal Year 2019**

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

May 2020

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EXECUTIVE SUMMARY

The Director of the Executive Office for United States Trustees (EOUST) 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 (USTP or Program) made 2,280 bankruptcy and bankruptcy-related criminal referrals during Fiscal Year (FY) 2019. This represents a 1.0 percent increase from the 2,257 criminal referrals made during FY 2018. The five most common allegations contained in the FY 2019 criminal referrals involved tax fraud, false oaths or statements, a bankruptcy fraud scheme, identity theft or use of false/multiple Social Security numbers, and the concealment of assets. Of the 2,280 criminal referrals, as of March 20, 2020, formal criminal charges had been filed in connection with 6 of the referrals, 1,526 of the referrals remained under review or investigation, 746 of the referrals were declined for prosecution, and 2 referrals were administratively closed.

In FY 2019, the Program continued its work to strengthen its partnerships with law enforcement through its participation on bankruptcy fraud working groups and other specialized task forces in districts across the country, as well as assisting in the prosecution of bankruptcy and bankruptcy-related crimes by serving as Special Assistant United States Attorneys (SAUSAs) in cases, assisting with investigations, and providing support as expert and fact witnesses. The USTP also employed a variety of strategies to identify fraud, including the

Program’s Internet email “Hotline,” which offers a convenient means for individuals to report suspected bankruptcy crimes.

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 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. It consists of 21 regions with 90 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 USTP 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,” and to assist the United States Attorney in “carrying out prosecutions based on such action.” 28 U.S.C. § 586(a)(3)(F). In addition, 18 U.S.C. § 158 requires designation of a prosecutor and a Federal Bureau of Investigation (FBI) agent in each district to address bankruptcy-related crimes, which affirms the importance of the partnership between the USTP and law enforcement in protecting the integrity of the bankruptcy system.

^{1/} The Program has jurisdiction in all federal judicial districts except those in Alabama and North Carolina.

I. NUMBER AND TYPES OF CRIMINAL REFERRALS

The Program tracks criminal referrals using its internal, automated Criminal Enforcement Tracking System (CETS). Program personnel enter information into CETS as each case progresses and review the status of all referrals 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 2019, the USTP made 2,280 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 43 separate categories. The five most common allegations contained in the FY 2019 criminal referrals involved tax fraud (60.0%), false oaths or statements (23.7%), a bankruptcy fraud scheme (19.8%), identity theft or use of false/multiple Social Security numbers (19.2%), and concealment (18.6%).

Table 1: Criminal Referrals by Type of Allegation		
Type of Allegation	Referrals	
	Count	Percent
Tax Fraud [26 U.S.C. § 7201, <i>et seq.</i>]	1,368	60.0%
False Oath/Statement [18 U.S.C. § 152(2) and (3)]	540	23.7%
Bankruptcy Fraud Scheme [18 U.S.C. § 157]	452	19.8%
Identity Theft or Use of False/Multiple Social Security Numbers	438	19.2%
Concealment [18 U.S.C. § 152(1) and (7)]	423	18.6%
Mail/Wire Fraud [18 U.S.C. §§ 1341 and 1343]	188	8.2%
Perjury/False Statement	176	7.7%
Concealment/Destruction/Withholding of Documents [18 U.S.C. § 152(8) and (9)]	141	6.2%
Forged Document	105	4.6%
Serial Filer	99	4.3%
Mortgage/Real Estate Fraud	81	3.6%
Disregard of Bankruptcy Law/Rule by Bankruptcy Petition Preparer [18 U.S.C. § 156]	63	2.8%
Bank Fraud [18 U.S.C. § 1344]	60	2.6%
Conspiracy [18 U.S.C. § 371]	57	2.5%
Destruction, Alteration, or Falsification of Documents in Federal Investigations and Bankruptcy [18 U.S.C. § 1519]	52	2.3%

Type of Allegation	Count	Percent
Professional Fraud	39	1.7%
Embezzlement [18 U.S.C. § 153]	18	0.8%
Post-Petition Receipt of Property [18 U.S.C. § 152(5)]	16	0.7%
Federal Program Fraud	15	0.7%
Money Laundering [18 U.S.C. §§ 1956 and 1957]	13	0.6%
State Law Violation	13	0.6%
Corporate Fraud	10	0.4%
Obstruction of Justice	10	0.4%
Corporate Bust-Out/Bleed-Out	9	0.4%
Investor Fraud	8	0.4%
Threat of Violence	8	0.4%
Misuse of Seals of Courts; Seals of Departments or Agencies [18 U.S.C. §§ 505–506]	7	0.3%
False Claim [18 U.S.C. § 152(4)]	5	0.2%
Insurance Fraud	5	0.2%
Bribery [18 U.S.C. § 152(6)]	4	0.2%
Criminal Contempt [18 U.S.C. § 402]	3	0.1%
Drug Offense	3	0.1%
Credit Card Fraud/Bust-Out	2	0.1%
Extortion	2	0.1%
Health Care Fraud [18 U.S.C. § 1347]	2	0.1%
Immigration Offense	2	0.1%
Internet Fraud	2	0.1%
Adverse Interest/Officer Conduct [18 U.S.C. § 154]	1	<0.1%
Counterfeiting of Certification Marks (19 U.S.C. § 1337)	1	<0.1%
Failure to Remit Passenger Facility Charges (49 U.S.C. §§ 40117 and 46316)	1	<0.1%
Prohibited Exportation, Re-exportation, Sale, or Supply of Goods, Technology, or Services to Iran (31 C.F.R. § 560.204)	1	<0.1%
Structuring	1	<0.1%
Firearms-Unlawful Acts (18 U.S.C. § 922)	1	<0.1%
<p>1) Allegation information can change over time. Table 1 reflects information contained within CETS as of March 20, 2020.</p> <p>2) Percent based on 2,280 referrals. One referral often contains more than one allegation, so the sum of the percentages for referrals will exceed 100 percent.</p>		

II. OUTCOMES OF CRIMINAL REFERRALS

Table 2 shows the collective outcome/disposition of the 2,280 criminal referrals the Program made during FY 2019 as of March 20, 2020.^{2/} Of the 2,280 referrals, 1,526 of the referrals are under review by the USAOs (36.4%) or with an investigative agency (30.6%), 6 referrals (0.2%) resulted in formal charges, 746 referrals (32.7%) were declined for prosecution, and 2 referrals (0.1%) were administratively closed.^{3/}

Table 2: Outcome/Disposition of FY 2019 Referrals		
Outcome/Disposition	Referrals	
	Number	Percent
Under Review in United States Attorney’s Office	829	36.4%
With Investigative Agency	697	30.6%
Formal Charges Filed (Case Active)	3	0.1%
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	746	32.7%
Administratively Closed	2	0.1%

1) Outcome and disposition information will change over time. The information contained within Table 2 reflects information contained within CETS as of March 20, 2020.

2) Rounded percent based on 2,280 referrals.

^{2/} The Program is not the source of official disposition information. CETS is designed primarily to track referrals made by the Program to United States 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 USAOs) that historically have not provided updates to the USTP 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 is administratively closed in CETS. Referrals that are administratively closed may be reopened at a later date.

The six cases referenced in Table 2 in which formal charges were filed between October 1, 2018, and March 20, 2020, are prosecutions that originated from an FY 2019 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 2019 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 2019 represents a 1.0 percent increase from the number of referrals made in FY 2018.

FY 2018	FY 2019	Percent Change
2,257	2,280	1.0%

The USTP has experienced near continuous growth in the number of bankruptcy and bankruptcy-related criminal referrals over the past 10 years, with the exception of a slight decline in FY 2013. The Program’s sustained efforts to detect and refer suspected criminal activity, including an increase in referrals despite continued resource challenges in FY 2019, demonstrate the Program’s commitment to this important statutory duty.

IV. USTP EFFORTS TO PREVENT BANKRUPTCY FRAUD AND ABUSE

The USTP is committed to identifying and referring for investigation and prosecution bankruptcy fraud and bankruptcy-related crimes. The EOUST’s Office of Criminal Enforcement

^{4/} Table 2 reflects only disposition information related to referrals the Program made in FY 2019. It does not reflect the entirety of prosecutions with bankruptcy charges brought by the Department of Justice in FY 2019. 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.

oversees and coordinates these enforcement efforts, and has strengthened the Program's ability to detect, refer, and assist in the prosecution of criminal violations. Through issuing guidance and resource materials, participating in working groups and task forces, collaborating with its law enforcement partners, and providing extensive training, the USTP has established the necessary systems to detect fraud schemes and to combat fraud and abuse that threaten the integrity of the bankruptcy system.

Following are some highlights of the Program's criminal enforcement efforts in FY 2019.

Bankruptcy Fraud Working Groups and Other Specialized Task Forces. The Program participates in approximately 70 local bankruptcy 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; and offices of the Inspector General for the Social Security Administration, the Department of Housing and Urban Development, the United States Secret Service, and Immigration and Customs Enforcement.

Working groups and task forces provide an effective forum for consultation between the USTP and its law enforcement partners and allow the Program to draw on the collective expertise of the group to investigate and effectively address fraud and abuse in the bankruptcy system. One example of the success that can be achieved based on these collaborations comes from the Central District of Illinois Bankruptcy Fraud Working Group, which is coordinated by the United States Trustee for Region 10. After filing bankruptcy, a debtor improperly transferred property of the bankruptcy estate and concealed it from the private trustee and the court. The USTP obtained a denial of the debtor's bankruptcy discharge and referred the matter to the United States Attorney. In cooperation with the working group, the referral was investigated by the FBI. Ultimately, the defendant pled guilty to the concealment of assets and was sentenced to serve weekends in jail for six months of a three-year term of supervised release and ordered to pay a fine and restitution of nearly \$11,000. The United States Attorney's press release on sentencing recognized the investigative support and assistance of the working group.

Special Assistant United States Attorneys. More than 25 Program attorneys in field offices across the country are designated as SAUSAs to assist USAOs in the investigation and prosecution of bankruptcy and bankruptcy-related crimes. For example, in the Eastern District of Michigan, a Program Trial Attorney served as a SAUSA in a matter that resulted in the conviction of multiple defendants for their roles in a scheme to defraud the Farm Service Agency. The scheme involved the sale and transfer of secured collateral and the concealment of assets in connection with the lead defendant's bankruptcy case. After a trial, the lead defendant was convicted on multiple counts, including false oath and declaration, concealment of assets in contemplation of bankruptcy, conspiracy to commit bankruptcy fraud, wire fraud, mail fraud, and conversion of a property pledge. He was sentenced to 70 months incarceration followed by two years of supervised release. In addition, the defendant's parents were convicted of conspiracy to commit bankruptcy fraud and wire fraud. The father and mother were sentenced to 12 and 6 months of incarceration, respectively, followed by two years of supervised release.

Other Staff Support. Nationally, the EOUST's Office of Criminal Enforcement regularly coordinates with USAOs and other members of law enforcement on cases referred by the Program. Staff at the office level also are frequently relied on to provide post-referral assistance. One example of this local assistance involved a matter in the Northern District of New York that came to conclusion in FY 2019 after a multi-year investigation. In this matter, the USTP's office provided documents and financial records relating to the defendant's bankruptcy case and consulted with the USAO and law enforcement on bankruptcy law issues. The defendant, a certified public accountant (CPA), admitted that during his personal chapter 11 bankruptcy case he used the bank accounts of his CPA practice to conceal between \$3.5 and \$9.5 million in assets, laundered money by depositing funds unrelated to his CPA practice into the accounts, and then used the funds for his own benefit, including writing checks to himself totaling tens of thousands of dollars. He also admitted to defrauding an elderly client in a \$4.6 million mail fraud scheme. The defendant pleaded guilty to concealment in bankruptcy, mail fraud, and money laundering, and was sentenced to 87 months of incarceration followed by 36 months of supervised release.

In FY 2019, the USTP also responded to nearly 300 requests for assistance from USAOs, the FBI, and other law enforcement agencies on matters not originating from a Program referral.

In one such matter, two Trial Attorneys, one from the Program’s Minneapolis office and another from the Kansas City office, supported the USAO for the Western District of Missouri in its prosecution of a defendant who was convicted after trial of mail fraud, wire fraud, and money laundering. The defendant solicited investments for his business, falsely claiming that his expertise in stock trading would generate significant returns to investors. Instead, he used nearly all of the investors’ funds on personal expenditures, including the purchase of a luxury car. The defendant was indicted and the USAO sought assistance on matters relating to his 2012 chapter 7 bankruptcy in the District of Minnesota, in which the United States Trustee’s office had obtained a revocation of his discharge. The Trial Attorneys worked in tandem to provide law enforcement with information and documents and the Minneapolis Trial Attorney testified at the criminal trial. The defendant was sentenced to 15 years in federal prison without parole and was ordered to pay nearly \$500,000 in restitution to his victims.

Training. During FY 2019, the Program sponsored more than 65 bankruptcy and bankruptcy-related fraud training programs that reached a combination of approximately 3,300 federal, state, and local law enforcement personnel; private bankruptcy trustees; USTP staff; and members of the bar and other professional associations throughout the country. Each program is customized to maximize impact and a variety of educational formats are utilized, including in-person presentations, online meeting technology, and video teleconferences. Notable for FY 2019 were presentations made by Program personnel at two national FBI conferences sponsored by the Economic Crimes Unit of FBI headquarters that reached approximately 600 FBI managers, agents, and analysts.

Bankruptcy Fraud Internet “Hotline.” In FY 2019, the USTP documented 385 email submissions via its National Bankruptcy Fraud Hotline (USTP.Bankruptcy.Fraud@usdoj.gov). The Hotline offers a convenient means for individuals to report suspected bankruptcy fraud and provide supporting documentation and specific factual information that may be useful in pursuing allegations. In FY 2019, more than 130 referrals resulted from a Hotline submission made in either FY 2019 or a prior fiscal year. While not all submissions rise to the level of a criminal referral, they may lead to a civil enforcement action.

SUMMARY

The United States Trustee Program's criminal enforcement program continued to flourish in FY 2019 through the actions described in this report. By detecting and referring fraud schemes, collaborating with its law enforcement partners, and providing specialized training, the USTP continues to prioritize its enforcement efforts to combat fraud and abuse and to protect the integrity of the bankruptcy system.