



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

Report to Congress:

**Criminal Referrals by the
United States Trustee Program
Fiscal Year 2020**

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

August 2021

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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 2,489 bankruptcy and bankruptcy-related criminal referrals during Fiscal Year (FY) 2020. This represents a 9.2 percent increase from the 2,280 criminal referrals made during FY 2019. The five most common allegations contained in the FY 2020 criminal referrals involved tax fraud, false oaths or statements, a bankruptcy fraud scheme, concealment of assets, and identity theft or use of false/multiple Social Security numbers. Of the 2,489 criminal referrals, as of March 1, 2021, formal criminal charges had been filed in connection with 11 of the referrals, 1,719 of the referrals remained under review or investigation, and 759 of the referrals were declined for prosecution.

In FY 2020, despite the challenges associated with the COVID-19 pandemic, the USTP continued to strengthen its partnerships with law enforcement through participation on bankruptcy fraud working groups and other specialized task forces; through the development and presentation of joint training programs; and by assisting in the investigation and prosecution of bankruptcy and bankruptcy-related crimes, including serving as Special Assistant United States Attorneys (SAUSAs), consulting on bankruptcy law, and testifying as expert, process, or fact witnesses. The Program also continued to receive valuable information through its 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 offices 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, affirming 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 2020, the USTP made 2,489 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 45 separate categories. The five most common allegations contained in the FY 2020 criminal referrals involved tax fraud (63.2%), false oaths or statements (19.8%), a bankruptcy fraud scheme (16.6%), concealment (15.7%), and identity theft or use of false/multiple Social Security numbers (14.6%).

Type of Allegation	Referrals	
	Number	Percent ²
Tax Fraud [26 U.S.C. § 7201, <i>et seq.</i>]	1,572	63.2%
False Oath/Statement [18 U.S.C. § 152(2) and (3)]	492	19.8%
Bankruptcy Fraud Scheme [18 U.S.C. § 157]	412	16.6%
Concealment [18 U.S.C. § 152(1) and (7)]	390	15.7%
Identity Theft and Use of False/Multiple SSNs	364	14.6%
Mail/Wire Fraud [18 U.S.C. §§ 1341 and 1343]	215	8.6%
Perjury/False Statement	203	8.2%
Concealment/Destruction/Withholding of Documents [18 U.S.C. § 152(8) and (9)]	132	5.3%
Bank Fraud [18 U.S.C. § 1344]	104	4.2%
Forged Document	77	3.1%
Federal Program Fraud	64	2.6%
Mortgage/Real Estate Fraud	62	2.5%
Destruction, Alteration, or Falsification of Documents in Federal Investigations and Bankruptcy [18 U.S.C. § 1519]	60	2.4%
Conspiracy [18 U.S.C. § 371]	53	2.1%
Paycheck Protection Program Fraud [COVID-19 Related—CARES Act of 2020]	48	1.9%
Post-Petition Receipt of Property [18 U.S.C. § 152(5)]	30	1.2%

Type of Allegation	Count	Percent²
Embezzlement [18 U.S.C. § 153]	26	1.0%
Serial Filer	26	1.0%
Money Laundering [18 U.S.C. §§ 1956 and 1957]	23	0.9%
State Law Violation	18	0.7%
Investor Fraud	15	0.6%
Obstruction of Justice	15	0.6%
Corporate Bust-Out/Bleed-Out	13	0.5%
Corporate Fraud	13	0.5%
Credit Card Fraud/Bust-Out	11	0.4%
Disregard of Bankruptcy Law/Rule by Bankruptcy Petition Preparer [18 U.S.C. § 156]	11	0.4%
False Claim [18 U.S.C. § 152(4)]	8	0.3%
Professional Fraud	8	0.3%
Criminal Contempt [18 U.S.C. § 402]	7	0.3%
Misuse of Seals of Courts; Signatures of Judges or Court Officers; Seals of Departments or Agencies [18 U.S.C. §§ 505 and 506]	7	0.3%
Internet Fraud	4	0.2%
Immigration Offense	3	0.1%
Insurance Fraud	3	0.1%
Threat of Violence	3	0.1%
Bribery [18 U.S.C. § 152(6)]	2	0.1%
Extortion	2	0.1%
Health Care Fraud [18 U.S.C. § 1347]	2	0.1%
Trafficking in Counterfeit Goods or Services [18 U.S.C. § 2320]	1	<0.1%
Military or Naval Discharge Certificates [18 U.S.C. § 498]	1	<0.1%
Adverse Interest and Conduct of Officers [18 U.S.C. § 154]	1	<0.1%
Drug Offense	1	<0.1%
Email Compromise Scheme [COVID-19 Related]	1	<0.1%
Fictitious Obligations [18 U.S.C. § 514]	1	<0.1%
Theft or Receipt of Stolen Mail Matter Generally [18 U.S.C. § 1708]	1	<0.1%
Firearms [18 U.S.C. Chapter 44] and Unlawful Acts [18 U.S.C. § 922]	1	<0.1%
¹ Allegation information can change over time. Table 1 reflects information contained within CETS as of March 1, 2021. ² Percent based on 2,489 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 2,489 criminal referrals the Program made during FY 2020 as of March 1, 2021.^{2/} Of those referrals, 1,719 are under review by the USAOs (46.8%) or with an investigative agency (22.2%), 11 referrals (0.4%) resulted in formal charges, and 759 referrals (30.5%) were declined for prosecution.

Outcome/Disposition	Referrals	
	Number	Percent ²
Under Review in United States Attorney's Office	1,166	46.8%
With Investigative Agency	553	22.2%
Formal Charges Filed (Case Active)	10	0.4%
Formal Charges Filed (Case Closed)	1	< 0.1%
– At least One Conviction or Guilty Plea	1	
– At least One Pre-trial Diversion	0	
– At least One Dismissal	0	
– At least One Acquittal	0	
Prosecution Declined by United States Attorney	759	30.5%

¹ Outcome and disposition information will change over time. The information contained within Table 2 reflects information contained within CETS as of March 1, 2021.

² Rounded percent based on 2,489 referrals.

The 11 cases referenced in Table 2 in which formal charges were filed between October 1, 2019, and March 1, 2021, are prosecutions that originated from an FY 2020 referral as derived from CETS.^{3/} 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

^{2/} The Program is not the source of official disposition information. CETS is designed primarily to track referrals made by the USTP 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/} Table 2 reflects only disposition information related to referrals the USTP made in FY 2020. It does not reflect the entirety of prosecutions with bankruptcy charges brought by the Department of Justice in FY 2020. 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.

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 2020 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 2020 represents a 9.2 percent increase from the number of referrals made in FY 2019.

FY 2019	FY 2020	Percent Change
2,280	2,489	9.2%

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 resource and pandemic-related challenges in FY 2020, 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 oversees and coordinates the Program’s enforcement efforts and has strengthened its 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 2020.

Bankruptcy Fraud Working Groups and Other Specialized Task Forces. The Program participates in nearly 60 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 the Federal Housing Finance Agency.

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 Middle District of Florida's Bankruptcy Fraud Working Group. The USTP's Orlando office uncovered a foreclosure rescue scheme targeting distressed homeowners and referred the perpetrators to law enforcement in coordination with the working group.

According to testimony and evidence presented at a jury trial, the defendant, who was a realtor, conspired with others to solicit homeowners whose mortgages were in default and offered to rescue their homes from foreclosure. To stop foreclosure proceedings, she filed or caused the filing of fraudulent bankruptcy petitions in the homeowners' names just prior to their scheduled foreclosure sale dates to trigger the Bankruptcy Code's automatic stay. The fraudulent bankruptcy petitions enabled the defendant to collect fees and allowed her co-conspirators to obtain ill-gotten commissions for short sales that caused losses to creditors. The defendant was found guilty of one count of conspiracy to commit bankruptcy fraud and six counts of bankruptcy fraud and was sentenced to 36 months' probation and ordered to perform 40 hours of community service and pay \$41,134 in restitution.

Both the USTP's Orlando and Tampa offices provided post-referral assistance to law enforcement and an attorney from the Tampa office testified at trial. The United States Attorney's press release announcing the conviction recognized the substantial investigative assistance provided by the USTP. Separately, four co-conspirators pleaded guilty to bankruptcy fraud and were sentenced.

Special Assistant United States Attorneys. Nearly two dozen 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 District of Idaho, an Assistant United States Trustee served as a SAUSA in a matter that resulted in the defendant being sentenced to five years in federal prison after pleading guilty to concealing assets in his chapter 7 bankruptcy case. The defendant disclosed in his bankruptcy documents and maintained at his first meeting of creditors that he had significant debts and almost no assets. However, an investigation by the USTP's Boise office revealed that, in fact, he had more than \$250,000 in cash and securities that were held in an investment account in the name of another individual and he had fraudulently transferred real estate to a family member in an attempt to hide it from creditors. After learning of the concealments, the Boise office obtained the denial of the defendant's bankruptcy discharge and referred the matter to the United States Attorney.

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 field office level also are frequently relied on to provide post-referral assistance. The following examples illustrate the types of support the Program regularly provides to its partners.

In September 2020, the United States Attorney for the Southern District of New York announced the arrest of the founder and manager of a prominent hedge fund after being charged in a criminal complaint with extortion and bribery in connection with a bankruptcy, securities fraud, wire fraud, and obstruction of justice. The hedge fund manager had served as co-chair of an unsecured creditors' committee in the chapter 11 bankruptcy case of a major retailer and was alleged to have attempted to interfere with competitive bidding for securities earmarked for certain classes of creditors in the bankruptcy case that the hedge fund sought to acquire. The charges, in significant part, were based on a referral from the USTP that detailed the suspected misconduct uncovered by an investigation undertaken by the Program at the request of the Bankruptcy Court for the Southern District of Texas. The USTP assembled a national team led by a former federal prosecutor, who is now a United States Trustee, to conduct an intensive two-week investigation to satisfy the deadline imposed by the court. Pursuant to the court's order, the USTP filed a statement in August 2020 documenting its findings and preliminary

analysis of allegations against the hedge fund manager. Post-referral, the Program consulted with the USAO on bankruptcy law and related issues and provided documents and other materials from its civil investigation. In February 2021, the defendant pleaded guilty to one count of bankruptcy fraud. In the press releases announcing the charges and the plea, the United States Attorney thanked the USTP for its cooperation and assistance.

Another example of assistance involved a matter in the Western District of Louisiana that came to conclusion in FY 2020 based on an earlier referral by the USTP's Shreveport office of a consumer bankruptcy lawyer for embezzlement of client funds, converting client payments for work never performed, and filing false documents. The defendant pleaded guilty to bankruptcy fraud and was sentenced to 18 months in prison and ordered to pay \$99,527 in restitution to the clients harmed by his actions. The restitution was based, in part, on information developed by the Shreveport office in connection with its own prosecution of a motion in the bankruptcy court for the disgorgement of fees. The office spent significant time and resources identifying the lawyers' victim clients to determine the fees they had paid—a task that proved particularly difficult since the lawyer had destroyed nearly all of his client files. The client information the office obtained was later shared with law enforcement, which assisted them in contacting victims.

In addition to the support provided on matters that are referred by the Program, in FY 2020, staff also responded to more than 250 requests for assistance from USAOs, the FBI, and other law enforcement agencies on matters not originating from a Program referral. In one such matter, the USTP's Newark office supported the USAO for the District of New Jersey in its successful prosecution of a defendant who pleaded guilty to one count of tax evasion and one count of concealment of assets. The defendant was an owner and operator of several construction businesses that generated significant taxable personal income that he took steps to conceal, including using check-cashing facilities to reduce funds to cash. During the investigation, law enforcement learned that the defendant had filed a chapter 7 bankruptcy case and sought the USTP's assistance. Staff consulted with the USAO and law enforcement on bankruptcy law and provided documents and financial records relating to the defendant's bankruptcy case. As part of his plea, the defendant admitted to concealing in his bankruptcy case

his companies and the income that he received from them in the two years leading up to the bankruptcy filing, as well as to income tax evasion. The defendant was sentenced to 18 months in prison and ordered to pay restitution of \$558,349 to the IRS and \$716,569 to victims of his bankruptcy fraud.

Training. During FY 2020, the Program sponsored more than 40 bankruptcy and bankruptcy-related fraud training programs that reached about 1,800 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.

Included among the programs this year was the February 2020 launch of a new series of joint training programs in partnership with the Economic Crimes Unit of FBI Headquarters. The training is designed to provide law enforcement with an overview of the bankruptcy process and an understanding of the information available from bankruptcy documents, as well as to learn about tools the USTP uses to identify instances of fraud. The initial training was presented to federal and local law enforcement from Puerto Rico and included an examination of two cases from identification to referral to successful prosecution. The remaining sessions in the series were paused due to the pandemic and are scheduled to resume in FY 2021 in a remote learning environment.

Bankruptcy Fraud Internet “Hotline.” In FY 2020, the USTP documented 449 Hotline submissions from the public via its National Bankruptcy Fraud Hotline email box (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 2020, 110 referrals resulted from a Hotline submission made in either FY 2020 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 remained robust in FY 2020, reaching an unprecedented number of referrals despite the many challenges presented

by the pandemic. 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.