



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

Report to Congress:

**Criminal Referrals by the
United States Trustee Program
Fiscal Year 2018**

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

May 2019

Table of Contents

EXECUTIVE SUMMARY	1
INTRODUCTION.....	2
I. NUMBER AND TYPES OF CRIMINAL REFERRALS	3
II. OUTCOMES OF CRIMINAL REFERRALS	5
III. COMPARISON WITH CRIMINAL REFERRALS MADE IN PREVIOUS YEAR	6
IV. USTP EFFORTS TO PREVENT BANKRUPTCY FRAUD AND ABUSE.....	6
SUMMARY	9

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 2,257 bankruptcy and bankruptcy-related criminal referrals during Fiscal Year (FY) 2018. This represents a 4.0 percent increase from the 2,171 criminal referrals made during FY 2017. The five most common allegations contained in the FY 2018 criminal referrals involved tax fraud, false oath or statement, bankruptcy fraud scheme, concealment of assets, and identity theft or use of false/multiple Social Security numbers. Of the 2,257 criminal referrals, as of March 22, 2019, formal criminal charges had been filed in connection with 9 of the referrals, 1,367 of the referrals remained under review or investigation, 879 of the referrals were declined for prosecution, and 2 were administratively closed.

In FY 2018, 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 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 enables 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, 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 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 2018, the USTP made 2,257 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 2018 criminal referrals involved tax fraud (54.6%), false oath or statement (24.7%), bankruptcy fraud scheme (18.9%), concealment of assets (18.9%), and identity theft or use of false/multiple Social Security numbers (16.0%).

Table 1: Criminal Referrals by Type of Allegation		
Type of Allegation¹	Referrals	
	Number	Percent²
Tax Fraud [26 U.S.C. § 7201, <i>et seq.</i>]	1,233	54.6%
False Oath/Statement [18 U.S.C. § 152(2) and (3)]	557	24.7%
Bankruptcy Fraud Scheme [18 U.S.C. § 157]	426	18.9%
Concealment of Assets [18 U.S.C. § 152(1) and (7)]	426	18.9%
ID Theft or Use of False/Multiple Social Security Numbers	360	16.0%
Perjury/False Statement	203	9.0%
Mail/Wire Fraud [18 U.S.C. §§ 1341 and 1343]	101	4.5%
Concealment/Destruction/Withholding of Documents [18 U.S.C. § 152(8) and (9)]	76	3.4%
Destruction, Alteration, or Falsification of Documents in Federal Investigations and Bankruptcy [18 U.S.C. § 1519]	65	2.9%
Bank Fraud [18 U.S.C. § 1344]	58	2.6%
Serial Filer	52	2.3%
Forged Document(s)	42	1.9%
Mortgage/Real Estate Fraud	42	1.9%
Embezzlement [18 U.S.C. § 153]	29	1.3%
Conspiracy [18 U.S.C. § 371]	26	1.2%

Table 1: Criminal Referrals by Type of Allegation, <i>Continued</i>		
Type of Allegation¹	Referrals	
	Number	Percent²
State Law Violation(s)	18	0.8%
Money Laundering [18 U.S.C. §§ 1956 and 1957]	15	0.7%
Federal Program Fraud	14	0.6%
Professional Fraud	13	0.6%
Credit Card Fraud/Bust-Out	11	0.5%
Disregard of Bankruptcy Law/Rule by Bankruptcy Petition Preparer [18 U.S.C. § 156]	10	0.4%
Misuse of Seals of Courts or Seals of Departments or Agencies [18 U.S.C. §§ 505 and 506]	10	0.4%
Investor Fraud	8	0.4%
Post-Petition Receipt of Property [18 U.S.C. § 152(5)]	8	0.4%
Corporate Bust-Out/Bleed-Out	6	0.3%
Drug Offense(s)	5	0.2%
False Claims [18 U.S.C. § 152(4)]	5	0.2%
Bribery [18 U.S.C. § 152(6)]	4	0.2%
Criminal Contempt [18 U.S.C. § 402]	4	0.2%
Obstruction of Justice	4	0.2%
Corporate Fraud	3	0.1%
Adverse Interest/Officer Conduct [18 U.S.C. § 154]	2	0.1%
Extortion	2	0.1%
Immigration Offense	2	0.1%
Internet Fraud	2	0.1%
Threat of Violence	2	0.1%
Embezzlement from Employee Pension Plans [18 U.S.C. § 664]	1	<0.1%
False Claim to Government Agency [18 U.S.C. § 287]	1	<0.1%
Insurance Fraud	1	<0.1%
Prohibition of Illegal Gambling Businesses [18 U.S.C. § 1955]	1	<0.1%
Property Mortgaged or Pledged to Farm Credit Agencies [18 U.S.C. § 658]	1	<0.1%
Racketeer Influenced and Corrupt Organizations (RICO)	1	<0.1%
Structuring	1	<0.1%
Terrorism	1	<0.1%
Transportation of Stolen Vehicles [18 U.S.C. § 2312]	1	<0.1%
<p>1) Allegation information can change over time. Table 1 reflects information contained within CETS as of March 22, 2019.</p> <p>2) Percent based on 2,257 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 2,257 criminal referrals the Program made during FY 2018 as of March 22, 2019.^{2/} Of the 2,257 referrals, 1,367 of the referrals are under review by the USAOs (36.6%) or with an investigative agency (23.9%), 9 referrals (0.4%) resulted in formal charges, 879 referrals (38.9%) were declined for prosecution, and 2 referrals (0.1%) were administratively closed.^{3/}

Table 2: Outcome/Disposition of FY 2018		
Outcome/Disposition¹	Referrals	
	Number	Percent²
Under Review in United States Attorney's Office	827	36.6%
With Investigative Agency	540	23.9%
Formal Charges Filed (Case Active)	4	0.2%
Formal Charges Filed (Case Closed)	5	0.2%
– At least One Conviction or Guilty Plea	5	
– At least One Pre-trial Diversion	0	
– At least One Dismissal	0	
– At least One Acquittal	0	
Prosecution Declined by United States Attorney	879	38.9%
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 22, 2019.		
2) Rounded percent based on 2,257 referrals. Percentages total to only 99.9% due to rounding.		

^{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 nine cases referenced in Table 2 in which formal charges were filed between October 1, 2017, and March 22, 2019, are prosecutions that originated from an FY 2018 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 2018 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 2018 represents a 4.0 percent increase from the number of referrals made in FY 2017.

Table 3: Comparison Between Criminal Referrals in FY 2017 and FY 2018		
FY 2017	FY 2018	Percent Change
2,171	2,257	4.0%

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 2018, 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 2018. It does not reflect the entirety of prosecutions with bankruptcy charges brought by the Department of Justice in FY 2018. 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 ongoing criminal enforcement efforts in FY 2018.

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, Offices of the Inspector General for the Social Security Administration and the Department of Housing and Urban Development, United States Secret Service, and Immigration and Customs Enforcement, among others.

Working groups and task forces offer the Program an important opportunity to draw on the collective expertise of its law enforcement partners to address fraud and abuse. By way of example, based on a referral by the United States Trustee's office and through the cooperative efforts of the Southern Illinois Bankruptcy Fraud Working Group, a non-lawyer petition preparer pleaded guilty to bankruptcy fraud, causing false statements to be made under penalty of perjury, and falsifying records relating to bankruptcy petitions she prepared and filed on behalf of consumers. The defendant was sentenced to 18 months imprisonment and ordered to pay restitution of more than \$13,000 to bankruptcy clients she defrauded. The United States Attorney's press releases in this matter specifically recognized the investigative support and assistance of the working group, which is coordinated by the United States Trustee.

Special Assistant United States Attorneys. Approximately 25 USTP attorneys in field offices across the country are designated as Special Assistant United States Attorneys (SAUSA)

to assist USAOs in the investigation and prosecution of bankruptcy and bankruptcy-related crimes. For example, a Program Trial Attorney serving as a SAUSA assisted in the prosecution of an individual who pleaded guilty to bank fraud, bankruptcy fraud, and wire fraud. The USTP had referred the matter to the USAO. The defendant was sentenced to 21 months in prison followed by four 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. In addition, staff at the local level provide substantial support on cases within their districts. One example of such assistance this year involved a matter out of the Eastern District of New York where an Assistant United States Trustee served as a consultant to the USAO on bankruptcy law and process. The matter involved a now former assemblywoman who was charged with multiple fraud schemes, including bankruptcy fraud (concealment and false declaration) that had been referred by the Program. Ultimately, the defendant pleaded guilty to wire fraud, making false statements to FEMA, and witness tampering. She was sentenced to six months in prison and 400 hours of community service.

In addition to providing support on matters referred by the Program, in FY 2018, the USTP also responded to requests for assistance from USAOs, the FBI, and other law enforcement agencies in nearly 200 matters not originating from a Program referral. Such assistance can include consulting on the bankruptcy process and providing documents or testimony. In one matter resolved in FY 2018, a defendant was charged with retaliating against a federal officer by filing a false mechanics lien and a false involuntary bankruptcy case against the officer. The USTP provided assistance during the investigation and an Assistant United States Trustee testified at trial as an expert witness on involuntary bankruptcy cases. The jury found the defendant guilty of retaliation by false claim and bankruptcy fraud, and he was sentenced to 71 months in prison.

Training. During FY 2018, EOUST's Office of Criminal Enforcement and Program staff presented more than 75 bankruptcy and bankruptcy-related fraud training programs that reached approximately 3,400 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 customizes each presentation to maximize impact and utilizes a variety of educational formats to deliver training, including in-person presentations, online meeting technology, and video teleconferences. Notable this year is a series of joint training programs presented by the Program with the FBI that reached more than 600 United States Attorney, FBI, and other federal agency personnel in more than 40 locations across the country.

Bankruptcy Fraud Internet “Hotline.” In FY 2018, the USTP documented 368 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 2018, more than 100 referrals resulted from a Hotline submission made in either FY 2018 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 2018 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 will continue to prioritize its enforcement efforts to combat fraud and abuse and to protect the integrity of the bankruptcy system.