# US Probation & Pretrial Services District of South Dakota Annual Report Fiscal Year 2015



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# Introduction

The United States District Court, District of South Dakota has four divisions – Northern, Central, Southern, and Western. There are six district judges and four magistrate judges.



Northern Division
Courthouse located in Aberdeen

<u>District Judge</u> Charles B. Kornmann

<u>Magistrate Judge</u> William D. Gerdes (part-time)



Central Division
Courthouse located in Pierre

<u>District Judge</u> Roberto A. Lange

<u>Magistrate Judge</u> Mark A. Moreno (part-time)



# Southern Division Courthouse located in Sioux Falls

<u>District Judges</u> Karen E. Schreier Lawrence L. Piersol

Magistrate Judge Veronica L. Duffy



# Western Division Courthouse located in Rapid City

<u>District Judge</u> Jeffrey L. Viken, Chief Judge

Magistrate Judge
Daneta Wollmann (part-time)

The U.S. District Court has three operational components – Chambers (judges and their staff), the Clerk of Court Office, and the Probation and Pretrial Services Office. The Probation and Pretrial Services Office in the District of South Dakota (hereafter Office), has divisional offices in each of the four divisions. Other than the Southern Division, where there is separate leased space for the Office outside of the courthouse, there is office space for probation and pretrial services employees in the courthouses. The Office also has three smaller offices on tribal land in Kyle (Oglala Sioux Tribe), Mission (Rosebud Sioux Tribe), and Timber Lake (Cheyenne River Sioux Tribe).

Employees of the Office are employees of the Judicial Branch of the U.S. government. The line and managerial officers in the Office are appointed by the U.S. District Court. The administrative support personnel of the Office are appointed by the chief probation and pretrial services officer.

# **Office Vision**

We, the members of Probation and Pretrial Services, effectively contribute to the achievement of justice and the enhancement of community safety. The persons under our charge demonstrate lawful and sustainable self-regulation, willfully comply with court orders and compassionately take action to repair the harm they have caused.



#### Office Mission

We Are Dedicated to Achieving Justice and Enhancing Community Safety by:

- Providing accurate, thorough, and objective information and our best judgment to the Court for the issuance of individualized, fair, and equitable court orders;
- Holding persons accountable for their criminal actions, facilitating victim reparation, and requiring compliance with court mandates;
- Establishing an effective working alliance with each person to guide them toward lawful selfmanagement, promoting changes in their values and beliefs, improving their competencies and skills, and addressing the factors that are driving their criminal behaviors;
- Assessing individual risk of re-offending, developing the most cost-effective strategies and interventions, and utilizing the best evidence to make decisions;
- Engaging families and communities in our mission and establishing collaboration among justice system partners.

## **Office Values**

It is an honor and privilege to perform meaningful service for the public. We faithfully perform our duties in an effort to earn the public trust.

These Shared Values Guide Us As We Fulfill The Mission With Which We Have Been Entrusted:

#### **INTEGRITY**

Our commitment to justice drives us to be honest, fair, and compassionate to each other and those we serve. We are accountable for our decisions and the impact of our actions.

#### **RESPECT**

We honor and respect the dignity and worth of every individual, affirm human potential, act with empathy, and embrace diversity.

#### **EXCELLENCE**

We deliver the highest quality of services through continued learning, competency building, effective communication, and utilizing evidence based practices.

#### **PROGRESS**

We believe change is essential to the dynamic nature of our work. We create a learning environment where we and those we serve take courageous steps toward individual growth and systemic progress.

#### **QUALITY OF WORK LIFE**

We believe in a work life where each employee can achieve personal satisfaction and fulfillment. We support a positive work environment where contributions are appreciated and conditions are safe and fair.

# **Evidence Based Practices (EBP)**

The Office is committed to evidence-based practices and decision-making. Evidence-based practice is the conscientious, objective, and judicious use of scientific knowledge, empirical evidence, and the best available information to make decisions which will maximize the benefits of the Office's work for all stakeholders, i.e., the community, victims, and those under supervision. Employing methods which have been demonstrated to be effective by empirical research is essential to achieving the best possible probation and pretrial services outcomes.

# Evidence-based practice is a method of decision-making involving the integration of:

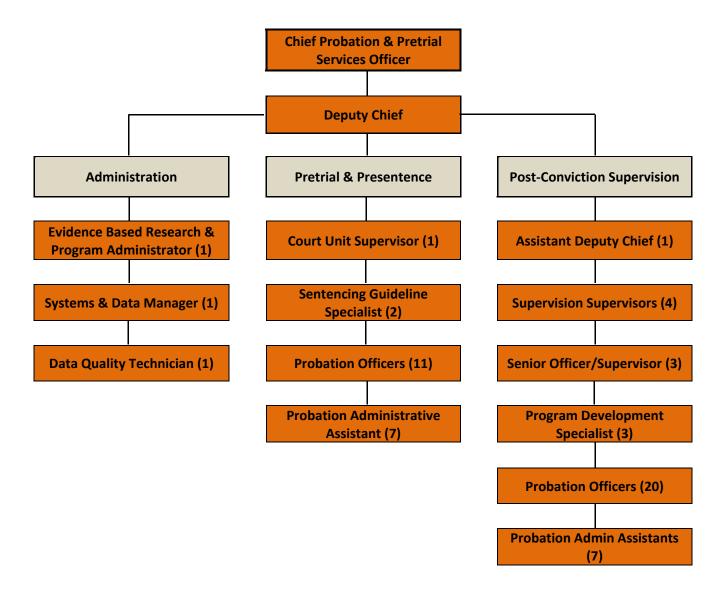
- the Office's expertise (knowledge and skills of probation staff through rigorous study of human behavior and disciplined regimen of training);
- the Office's own evidence (purposeful collection and analysis of both local aggregate outcome data associated with the application of empirically supported practices and local outcome data at the individual level to ensure the empirically supported practice is actually evidence-based for each person under supervision); and
- the best available external empirical evidence (systematic research based on empirically proven methods to reduce harm and reoffending by those convicted of a federal offense).

#### When an Organization is Evidence-based:

- Everyone Shares a Common Mission and Vision
- Resources Are Used Effectively and Efficiently
- Persons under Supervisions Are Held Accountable (compliance with court orders and laws)
- Data Drives Decisions
- Learning and Innovation Are Welcome
- System Players Communicate and Collaborate

# Organization

Below is an Organization Chart showing the various positions within the Office and the leadership structure.



At the end of FY2015 there were a total of 61 persons employed with the Office, with 9 classified as Administrators and Managers, 38 classified as Line Officers, and 14 classified as Administrative/Support Staff. Following is a breakdown of staff gender, education level, and years of service.

# Administrators & Managers (15% of Total Staff)

Gender: 7 Male and 2 Female

Education Level: 8 with one or more graduate degrees

Years of Service in the Office: Range from 6 years to 25 years of service

Average of 16 years of federal service

Line Officers
(62% of Total Staff)

Gender: 21 Male and 17 Female

Education Level: 10 with graduate degree and 27 with a bachelor's degree

Years of Service: Range from less than one year to 25 years of service

Average of 10 years of federal service

# Administrative/Support Staff (23% of Total Staff)

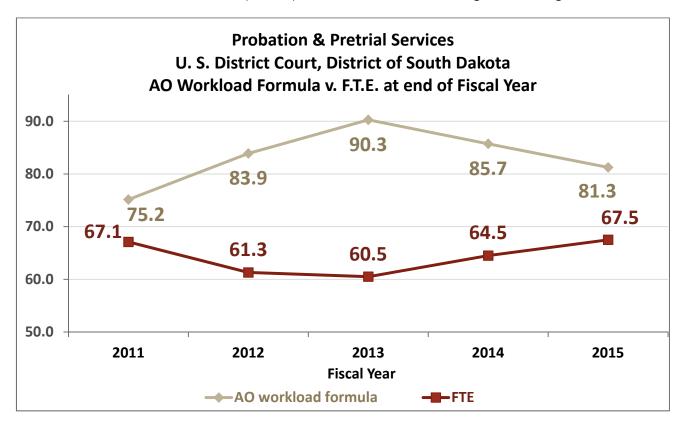
Gender: 14 Female

Years of Service: Range from less than one year to 20 years of service

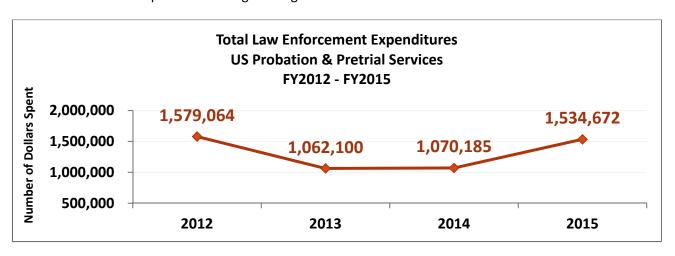
Average of 9 years of federal service

# **Budget**

The funding of the Office is determined in large measure by the workload formulas established by the Administrative Office of the United States Courts. Displayed below are the fiscal year workload calculations and the authorized positions in full-time equivalency (F.T.E.). The U.S. Budget Sequestration of 2013 had a significant impact on the funding of the Office and, unfortunately, it also coincided with an increase in the Office's workload. In Fiscal Year 2015 (FY2015), the workload and the funding are more aligned.

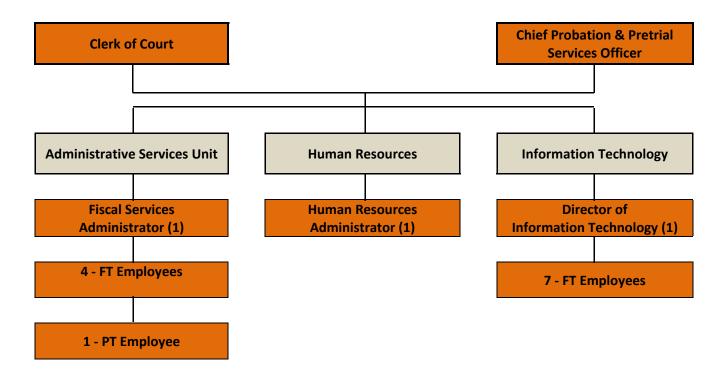


During sequestration, the Office reduced law enforcement treatment programs and services. Between fiscal years 2012 and 2014, spending in this area dropped by over 30%. During FY2015, the Office was able to expand the programs and services proven to be most effective at reducing re-offending. The graph below illustrates the expenditure change during this time frame.



#### **Shared Administrative Services**

In order to provide more cost-effective administrative services, the District Court in South Dakota has established an agreement to share services among its three operational components – Chambers, Clerk of the Court Office, and Probation and Pretrial Services Office. The shared services include the information technology unit, the administrative services unit, and the human resources administrator. The personnel in the three areas of administration serve Chambers, the Clerk of Court Office, and the Probation and Pretrial Services Office. The clerk of the court and the chief probation and pretrial services officer have joint responsibility to supervise the administrative areas.



Over the past several years, an informal agreement has evolved between the U.S. Bankruptcy Court and the U.S. District Court in South Dakota to share administrative services. Currently, there is a working agreement to share information technology services between the two courts.

# **Operations**

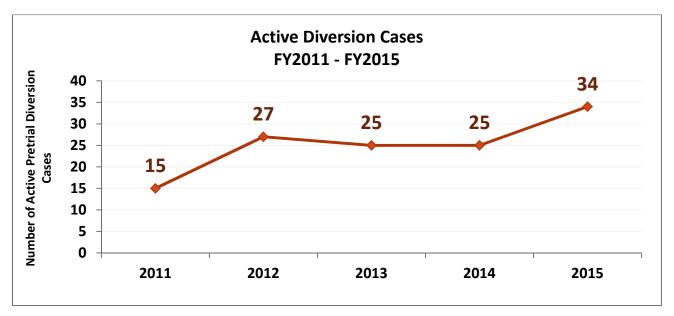
The Probation and Pretrial Services Office performs services for the court and the justice system in five major areas:

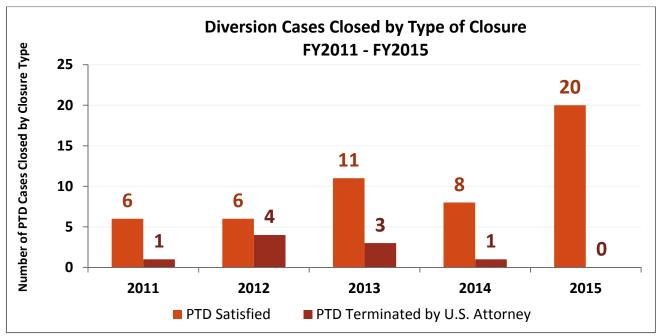
- Pretrial Diversion Supervision
- Pretrial Investigation and Bail Reports
- Pretrial Supervision
- Presentence Investigation and Reports
- Post-conviction Supervision

# **Pretrial Diversion Supervision**

Prior to prosecution and only at the request of the U.S. Attorney's office, the probation and pretrial services office submits reports to the U.S. Attorney's office on a person's suitability for supervision as a diversion from formal prosecution. When authorized by the U.S. Attorney, the probation and pretrial services office establishes a pretrial diversion agreement and subsequently supervises the person. If the person completes the supervision period without substantial violation of the supervision agreement, the U.S. Attorney's Office does not prosecute the person on the original charge.

In FY2015, twenty persons under pretrial diversion supervision successfully completed the supervision period. The U.S. Attorney did not proceed with prosecution for any person under pretrial diversion supervision in FY2015.





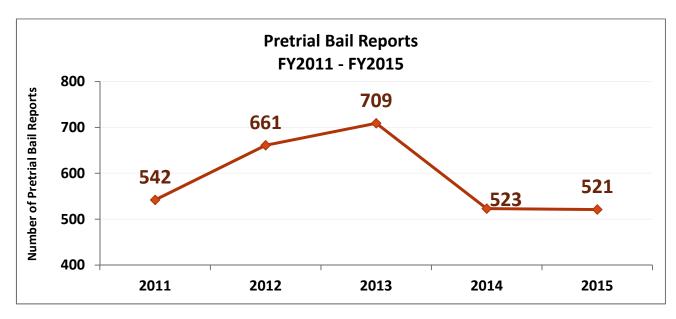
# **Pretrial Bail Investigations and Reports**

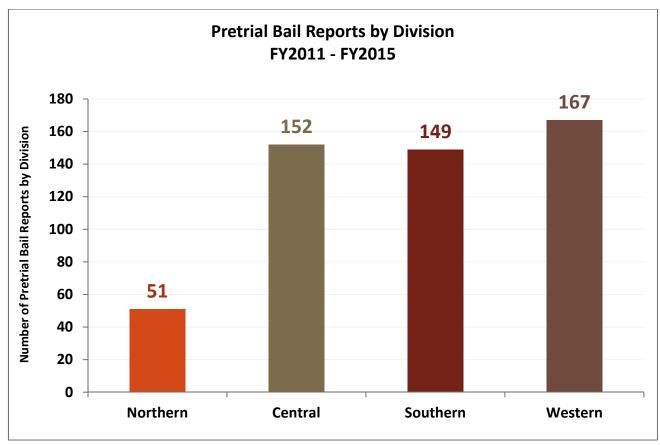
After charges have been filed, the Office investigates persons who have been charged and submits a bail report to the court on each person. The reports provide information to the court to determine if the person should remain free or be detained during the pretrial phase based on the assessed likelihood the person will appear as directed by the court and does not pose a danger to another person or the community. The report also may contain recommendations on conditions the person must follow to remain free during the pretrial phase.

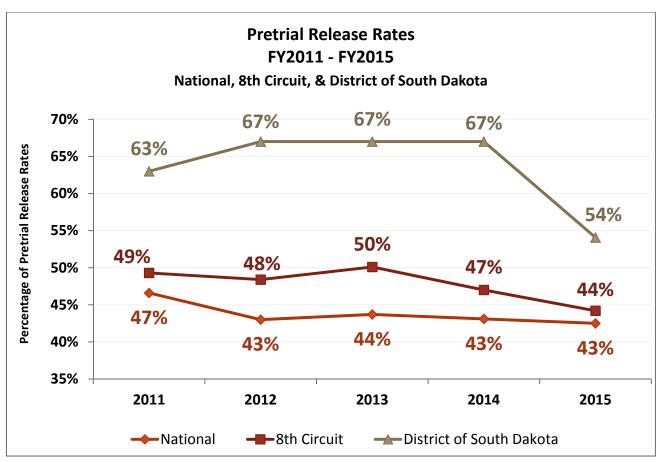
The assessment of a person's likelihood to appear and remain lawful is determined by the application of the Pretrial Risk Assessment (PTRA) tool and the Office's best judgment based on the totality of all known factors and circumstances. The PTRA is a validated risk assessment instrument created by the Administrative Office and implemented in all federal districts. The instrument has a scoring range of 1 to 5, with one being the lowest risk and five being the highest risk.

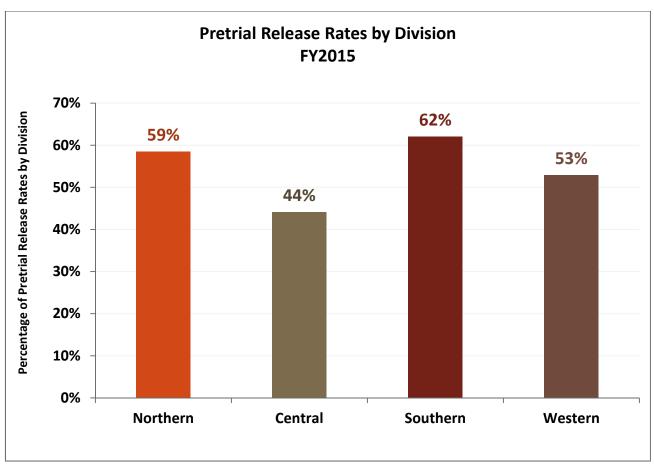
The Office employees involved in pretrial bail investigations and reports are dedicated to achieving justice and enhancing community safety by:

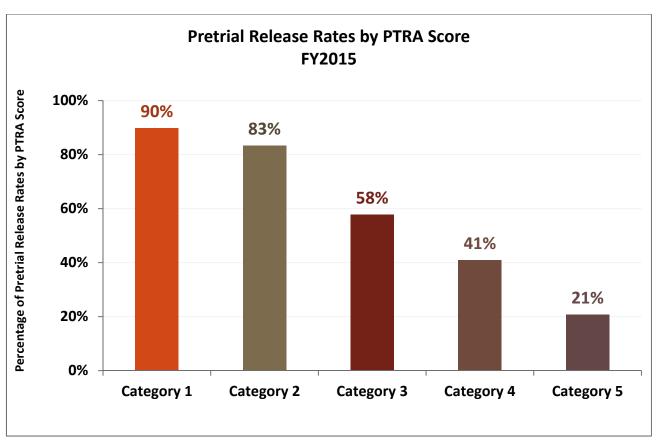
- Ensuring each defendant is given the opportunity to participate in a pretrial interview;
- Providing accurate, thorough, and objective information and their best judgment to the court throughout all phases of pretrial for the issuance of individualized, fair, and equitable court orders;
- Assessing individual risk of nonappearance and danger to communities with the guidance of risk assessment tools and professional judgment;
- Utilizing alternatives to detention with the least restrictive conditions of supervision, and developing cost-effective strategies and interventions by utilizing the best evidence to make decisions.









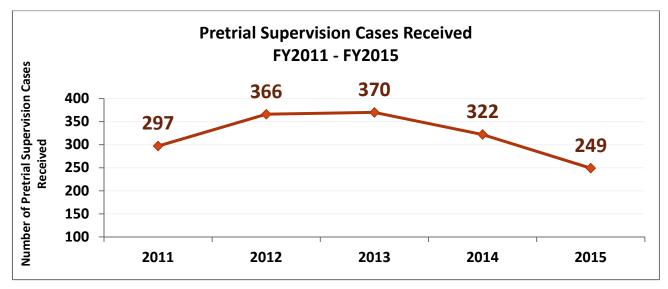


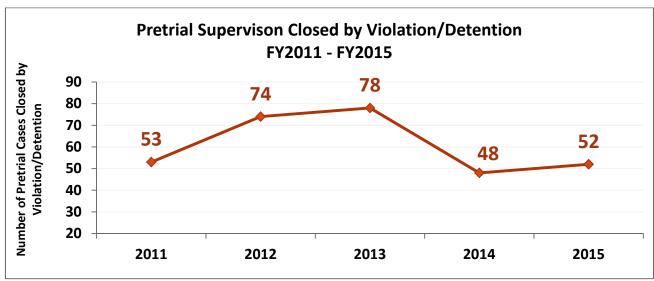
# **Pretrial Supervision**

When the court determines a person should remain free during the pretrial phase, but requires supervision during this period, the probation and pretrial services office supervises the person. The two primary goals are for the person to appear in court as ordered and for the person to remain lawful. The Office supports the person in achieving these two goals. The Office also supports the person in complying with any supervision conditions ordered by the court.

If the Office determines a defendant on pretrial supervision has not complied with the court's order, the Office will notify the U.S. Attorney and the court of the violation. The court may continue its order for pretrial supervision with or without modifications or the court may detain the person to ensure appearance and/or lawful behavior.

The Office employees involved in pretrial supervision are dedicated to achieving justice and enhancing community safety by supporting and monitoring defendants on supervision to ensure appearance at all court hearings, compliance with court mandates, and no new law violations.





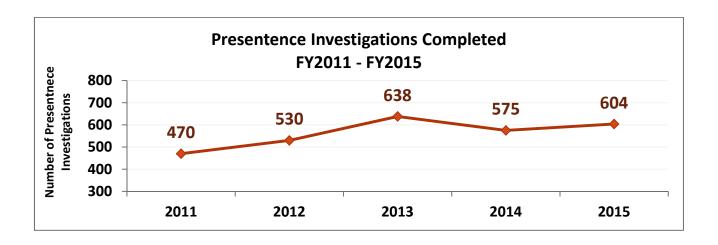
# **Presentence Investigations and Reports**

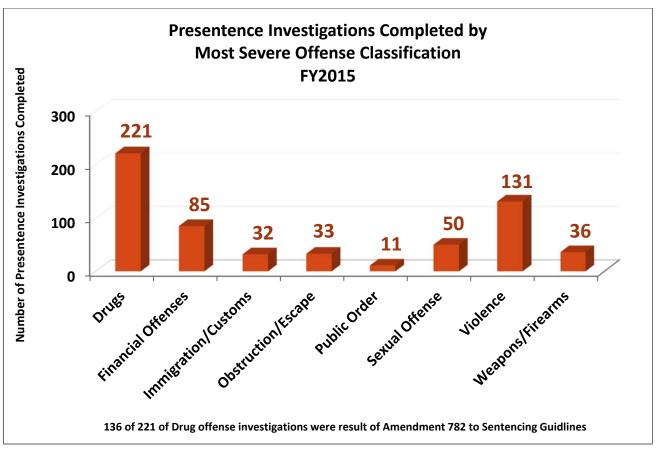
After a person has been convicted of a crime, but prior to sentencing and pursuant to a court order, the Office conducts an independent investigation of the person. The aim of the presentence investigation is to provide a timely, accurate, objective, and comprehensive report to the court. The report must contain enough information to assist the court in making a fair sentencing decision and to assist corrections and community corrections officials in managing persons under their supervision. The report also must meet all statutory requirements and contain the Office's identification of all applicable guidelines and policies of the U. S. Sentencing Commission, including a tentative advisory guideline range.

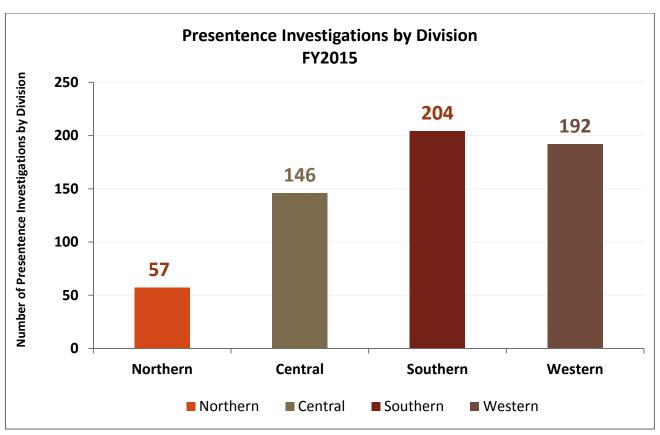
Separate from the presentence report, the Office provides the court with recommendations regarding any proposed departures from or variances to the U.S. Sentencing Commission Guidelines. The Office also makes recommendations for alternatives to incarceration, for the length of post-conviction supervision, and for any special conditions to attach to the period of supervision.

The Office employees involved in presentence investigations and reports are dedicated to achieving justice and enhancing community safety by:

- Providing accurate, thorough, and objective information and their best judgment to the court for the issuance of individualized, just, and cost-effective dispositions;
- Assessing the financial, social, psychological, and medical impact on the victim to facilitate reparative justice;
- Honoring the dignity and worth of every defendant and affirming the person's potential for lawful self-management;
- Assessing each defendant's criminogenic risk, needs, and responsivity factors through an in-depth investigation and the application of validated risk assessment tools; and
- Providing the court with a comprehensive supervision strategy with cost-effective interventions to protect the public from further crimes and harm.







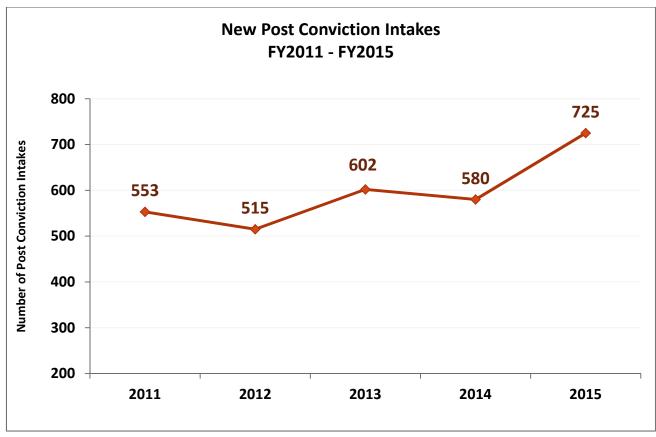
# **Post-conviction Supervision**

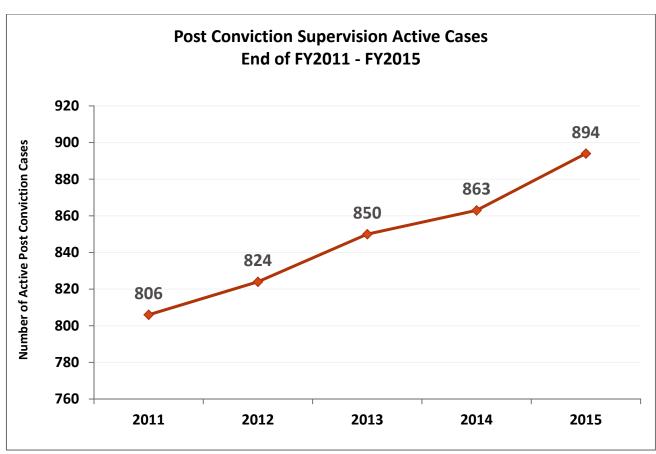
After sentencing when a person is allowed to remain in the community or is returning to the community from a period of incarceration, the Office supervises the person for the duration of time specified by the court order or by the paroling authorities. The two primary goals of supervision are for the person to demonstrate lawful self-management during the period of supervision and for the person to comply with all conditions of the court order. Ideally, the person learns to sustain lawful behavior during and beyond the period of supervision, willfully complies with the court order, and compassionately repairs the harm caused by their illegal action.

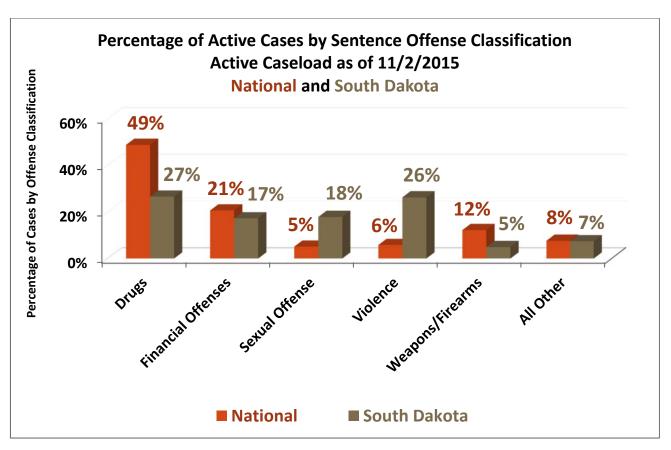
The Office must responsibly manage the risks posed by those under supervision. This requires a collaborative and evolutionary effort among the person under supervision, the Office, treatment providers, and prosocial collateral supports. It is a dynamic process of applying evidence-based interventions, strategies, and techniques to foster willful compliance with court orders and equip individuals under supervision with competencies to manage themselves lawfully during and beyond the period of supervision. Overarching the process is the affirmation of the person under supervision's potential to self-correct and lawfully self-regulate.

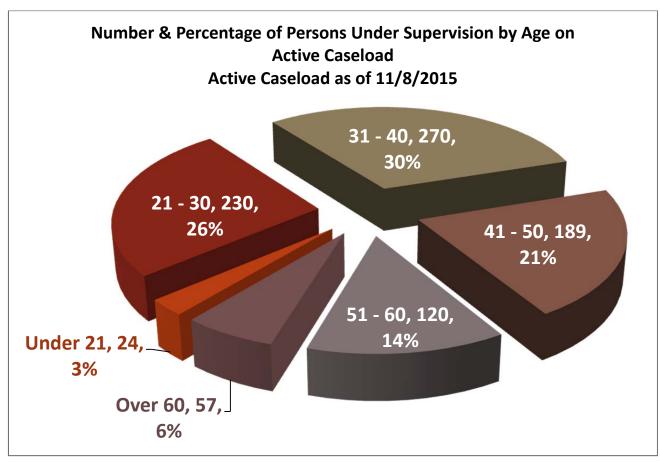
For the person under supervision, supervision is a dynamic commitment to build the skills and to take the steps necessary to willfully comply with the court's orders and to behave responsibly and lawfully during supervision and beyond. Supervision also involves a series of actions the person under supervision takes with structured guidance from the Office and other justice system and community partners.

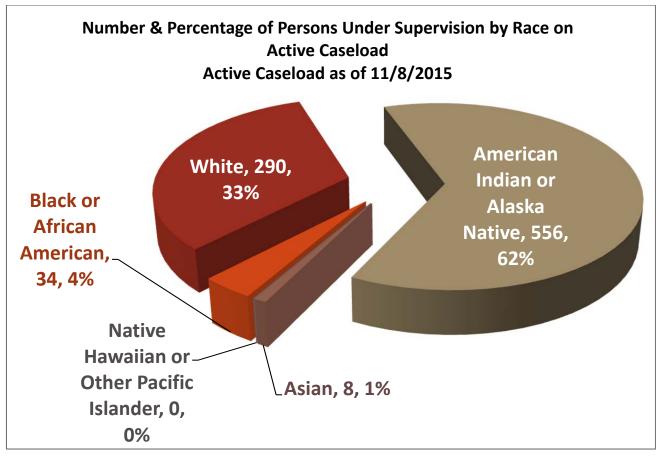
In spite of best efforts and implementation of best practices by the Office, there are persons under supervision who struggle with compliance requirements and exhibit noncompliant and unlawful behavior. When such behaviors rise to an unacceptable level, the Office informs the court and seeks modification of the court's order or seeks revocation of the supervision.

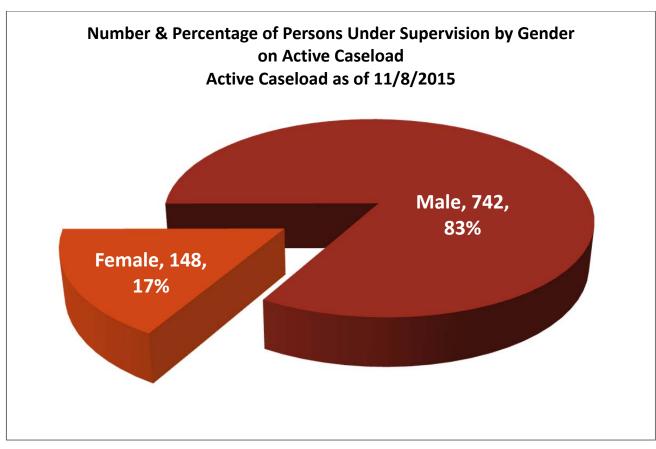






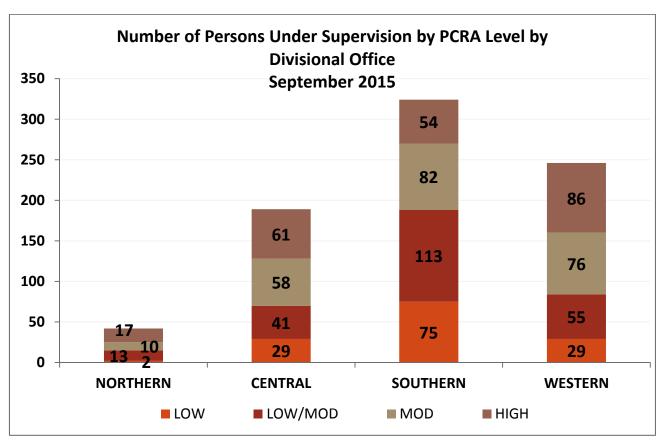


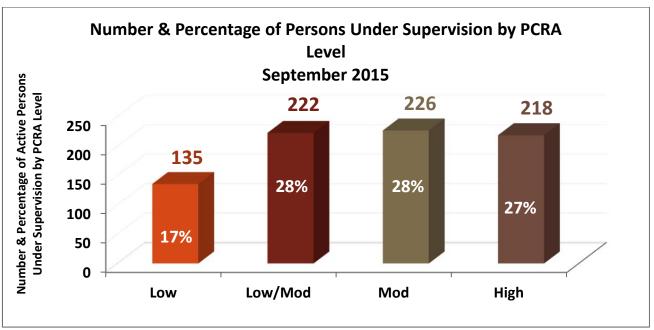


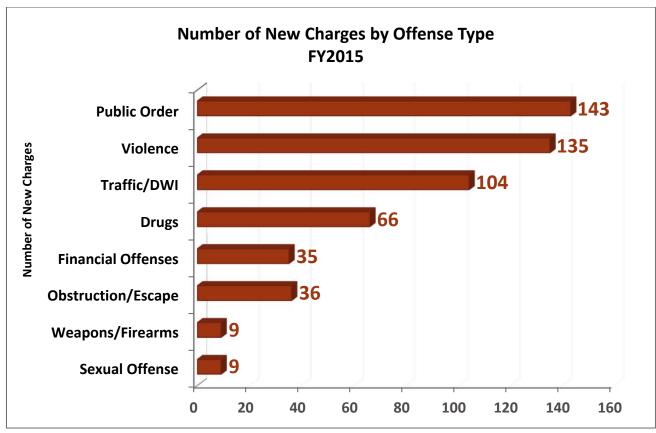


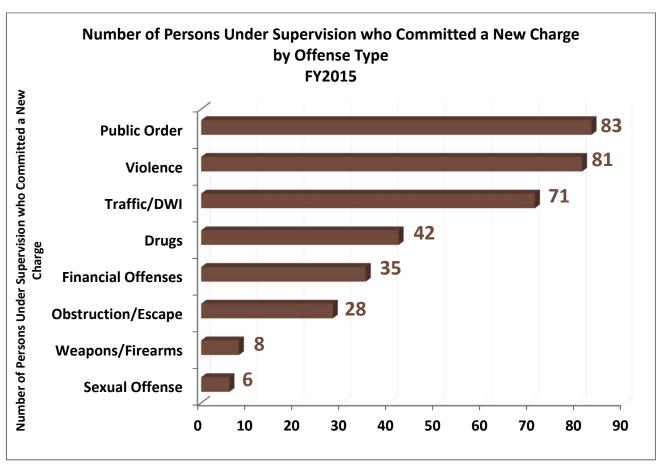
#### Post-Conviction Risk Assessment (PCRA)

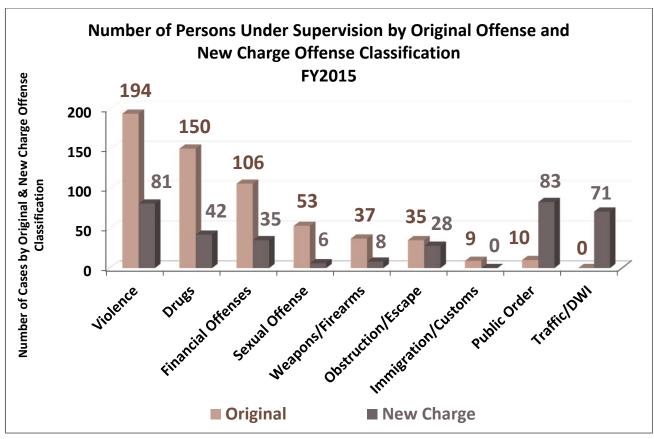
Most instructive for the effective supervision of persons are the results of the federal probation system's risk assessment, i.e., Post-Conviction Risk Assessment. This validated actuarial instrument measures the risk to reoffend for each person under supervision. There are four categories of risk – high, moderate, low/moderate and low.

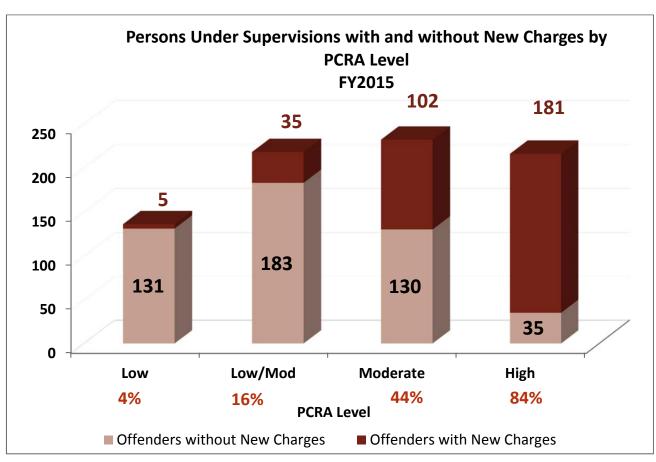


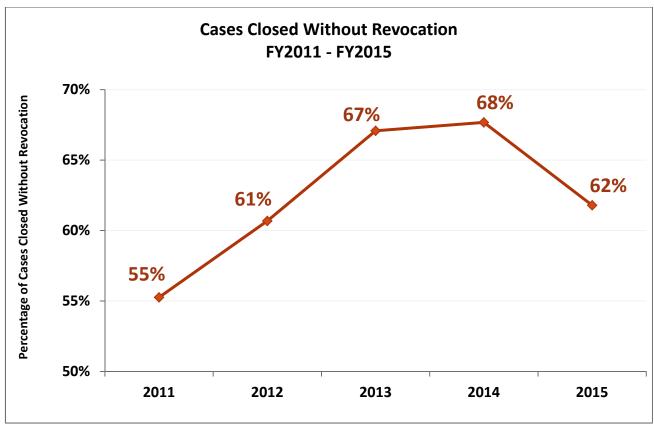


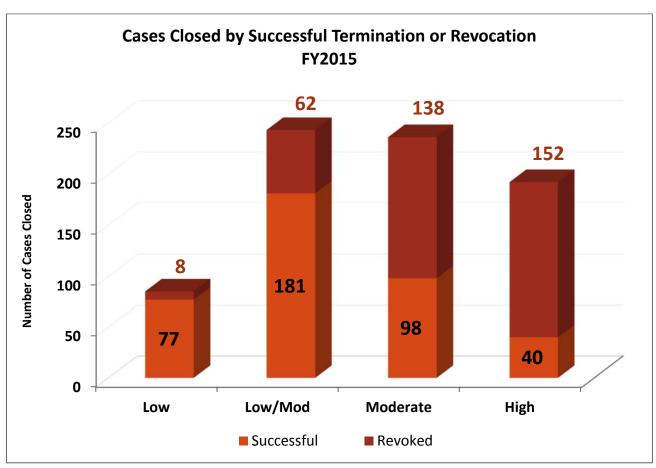












## **Intervention Services**

Efforts to assist individuals toward lawful self-management begin in pretrial, run throughout the individuals' time connected with the criminal justice system, and are designed to extend beyond the term of supervision.

For FY2015, the Office received 249 individuals onto pretrial supervision. Contract services for court-ordered pretrial placement into a structured setting totaled slightly less than \$150,000. Additional contracted intervention services addressing anti-social cognitions, substance abuse, mental health, and location monitoring incurred costs of approximately \$14,000, for total pretrial expenditures of more than \$164,000.

Regarding the Office's post-conviction supervision, sex offenses comprise 17 to 18% of active cases. Typically there are more than 150 persons under active supervision for sexual offense at any given time. Intervention services for individuals convicted of a sex offense include:

- Psycho-sexual examinations
- History and maintenance/monitoring polygraph examinations
- Group, individual, and family treatment sessions
- Treatment readiness group
- Chaperone training and support
- Visual reaction time measure of sexual interest and report

The contracts also contain authority allowing providers to reimburse clients for the clients' transportation costs to and from the treatment location.

In FY2015, the Office had contracts for sex offender treatment services at 10 locations throughout the State including programs specifically located to serve clients on the nine Indian reservations. In FY2015, the Office spent more than \$450,000 in contracted intervention services for individuals convicted of a sex offense.

Nationally, 22% of individuals on federal supervision have substance abuse as a dynamic risk factor, as determined by the valid actuarial risk instrument (PCRA). In the District of South Dakota, 51% of the persons under supervision have substance abuse as a risk factor. The most common re-offense classification, i.e., Public Order, is often alcohol and/or drug related. Additionally, alcohol and/or drugs are contributing factors in many of the violent re-offending behaviors of those supervised by the Office. Driving Under the Influence, another major re-offending behavior by those under supervision, has potentially high harm consequences.

Intervention services for substance abuse involve a wide variety of monitoring capabilities and technological instruments, designed to encourage lawfulness and, through timely intervention, reduce the risk for harmful behavior. The Office utilizes contract services for random urine testing to intermittently monitor for drug use, sweat patch testing to monitor drug use on a continuous basis, random breathalyzer testing to monitor for alcohol use, remote technology that allows for multiple tests per day, and transdermal technology which monitors for alcohol use on a continuous basis. The Office spent approximately \$90,000 in FY2015 on substance abuse monitoring activities and instruments.

There is substantial research that substance abuse intervention encased in a cognitive behavioral treatment design is more effective at influencing positive behavior change than traditional substance abuse treatment. The Office has adjusted its substance abuse contracts to require an evidence based cognitive behavioral format. In FY2015, the Office spent \$275,000 on substance abuse intervention treatment services.

Although mental health is not a major risk factor for most persons under supervision, for some it is linked with re-offending behaviors. Generally, individuals with mental health concerns tend to be less successful completing court-ordered supervision. In FY2015, the Office contracted for \$155,000 in mental health services.

The Office utilizes a variety of location monitoring strategies (curfew, home detention, home incarceration) and technologies (GPS, standard electronic monitoring) to fulfill court orders and as a supervision strategy when the risk presented by an individual's behavior and/or characteristics support restricting their access to the community. In FY2015, the Office spent more than \$50,000 in location monitoring services.

In support of successful reintegration following release from imprisonment, the Office spent more than \$30,000 in Second Chance Act funds in FY2015 assisting individuals to obtain employment or educational goals, as well as for basic assistance with transportation, shelter, and medication in emergency situations. Second Chance funds were also used to purchase basic identification documents needed for a variety of reasons such as obtaining employment, enrolling in vocational or educational programs, being eligible for housing, and accessing various social benefits.

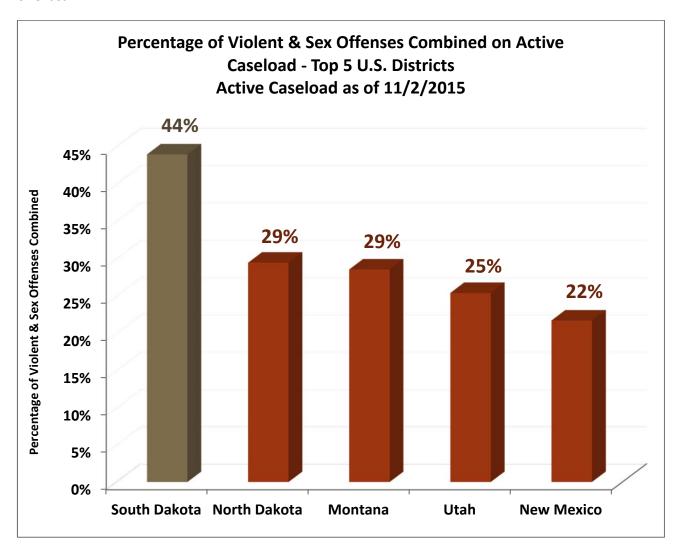
# **Extraordinary Factors**

#### **Economic Status**

According to the U.S. Census Bureau's Social, Economic, and Housing Statistics Division, the small area income poverty estimates indicate that South Dakota has four of the top five counties, five of the top seven counties and eight of the top 25 counties with the highest poverty rates in the country. The poorest South Dakota counties and their national rank are: Buffalo (1), Oglala Lakota (2), Ziebach (4), Todd (5), Corson (7), Dewey (11), Jackson (23), and Bennett (25).

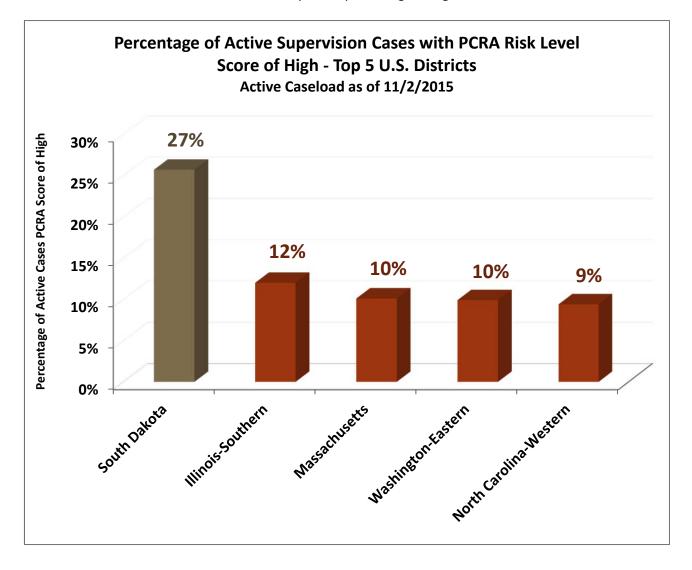
#### **Violence and Sex Offenses**

At the end of FY2015, the District of South Dakota ranked 67<sup>th</sup> out of 94 districts in the number of post-conviction persons under supervision and yet, it ranked 7<sup>th</sup> in the number of persons whose most severe offense was a sex offense and it ranked 6<sup>th</sup> in the number of persons whose most severe offense was violence. In <u>percentage</u> of total cases being supervised, it ranked 1<sup>st</sup> in the country in both categories. The chart below presents the top five districts with the highest percentages combining both violent and sex offenses.



# **Percentage of High Risk Cases**

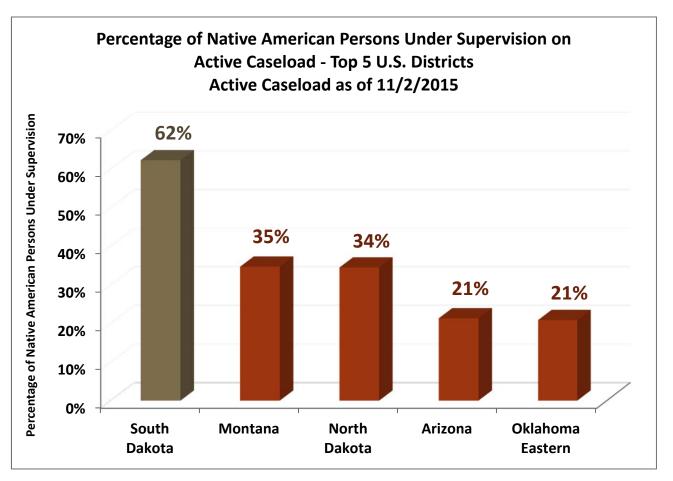
South Dakota ranks number one in the country in the percentage of high risk cases.



#### **Native American Population**

According to the U.S. Census Bureau's 2012 estimate, approximately 9% of the population in South Dakota is American Indian/Alaska Native. And yet, 62% of the persons under post-conviction supervision in FY2015 were Native American. There are nine Indian reservations in South Dakota.

<u>Tribe</u>	Indian Reservation
Yankton Sioux	Yankton Sioux
Rosebud Sioux	Rosebud
Oglala Sioux	Pine Ridge
Cheyenne River Sioux	Cheyenne River
Standing Rock Sioux	Standing Rock
Sisseton Wahpeton Oyate	Lake Traverse
Flandreau Santee Sioux	Flandreau Santee Sioux
Crow Creek Sioux	Crow Creek
Lower Brule Sioux	Lower Brule



# Safety

#### The 2015 Safety Team consisted of the following:

Probation Officer Brent Hubers-Officer Safety Instructor
Probation Officer Brian Messner-District Firearms Instructor
Supervisor Corey Edson-District Firearms Instructor
Probation Officer Roy Weber
Probation Officer Brian Hultman
Supervisor Kandice Mullivan
Supervisor Trevor Wiebe
Probation Officer Shirley L'Esperence
Supervisor Jody Schumaker
Supervisor Craig Baker

Safety Training occurred in Sioux Falls from 05/19/2015 through 05/21/2015 and again from 07/21/2015 through 07/23/2015. 24 probation staff members completed 16 hours of training in May, and 18 probation staff members completed training in July. The training consisted of classroom presentations, officer response tactics, and various scenarios. All participating staff members were certified/recertified in CPR. The staff members who choose to carry OC Spray during the course of their duties were certified/recertified in accordance with the National OC Policy.

The classroom training included a review of the Office's Use of Force Policy and Transportation Policy. Information about various topics was also provided by South Dakota DCI Special Agent James Legg, Sioux Falls Animal Control Officer Missy John, Sioux Falls Police Officer John Lohr, and DEA Special Agent Gary Harvison.

The officer response tactics portion of the training consisted of an overview and demonstration of various hand and elbow strikes. Participants were given the opportunity to practice and demonstrate the techniques in static and dynamic situations, which included scenarios.

Officers also participated in several scenarios, which were devised to simulate "real-life" situations an officer could encounter in the performance of official duties.

#### **Firearms Team & Training**

USPO Brian Messner took over the District Firearms Instructor (DFI) duties this year, as USPO Corey Edson was promoted to SUSPO. USPO Thiesen has agreed to serve as the AFI and is scheduled to attend FLETC Firearms Instructor Training in August of 2016.

The firearms carrying officers successfully completed 2 qualifications this year. Officers qualified on a new course of fire approved by the National Training Academy based on an FBI study to enhance officers' marksmanship fundamentals.

The annual firearms training was conducted in Pierre at the outdoor law enforcement range on September 15, 16, and 17, 2015. Officers performed weapon retention drills, fundamental pistol drills, and live fire drills. Officers also underwent scenario training along with their assigned supervisor. Role players were used to make the training as real to life as possible. Officers had to identify the threats they faced and react appropriately. Following each scenario, officers went through a debriefing about the incident and their response to it. They were also asked to explain how the Office's "use of force" policies applied to each scenario.

#### **Safety Information Reporting System (SIRS)**

In FY2015, the district recorded seven incidents in the following categories: Intimidation (2); Animal (1); Threat (1); Training (1); Vehicle (1); and Other (1). The seven incidents are 1.5% of the incidents reported in SIRS nationally.

# **Training**

## **Policy**

Training and professional development are responsibilities shared by both the employee and the organization. The District of South Dakota is committed to providing training opportunities to each employee and encourages our staff to become "life-long learners" in order to provide a high level of service to our customers. More than an "extracurricular" activity, training and professional development are integral to being a top professional.

#### **Standards**

Every employee of the District of South Dakota is expected to be engaged in the development of his/her career to better serve the mission of the District Court and the Office. To facilitate this growth in knowledge and skill, the Office encourages employees to participate in all relevant in-house training and pursue professionally-related external courses and programs. (A minimum of 40 hours for officers is required.)

#### **Training Hours for Staff Employed Entire FY2015**

The training hours completed by employees of the Office are summarized below:

- 43 Administrators/Managers/Line Officers with a total of 1922.1 training hours for an average of 44.7 hours per person.
- 14 Administrative/Support Staff with a total of 466.75 training hours for an average of 33.34 hours per person.

#### The training included:

- attending relevant workshops and seminars
- viewing relevant video tapes and listening to audio tapes
- attending relevant classes at local colleges and universities
- participating in study groups on relevant books in the field of human behavior

# **Travel**

For FY2015, the District of South Dakota maintained a fleet of 22 cars for a total of 419,153 miles driven.

Shown below is a map of South Dakota with the four divisional and three smaller offices listed with a star beside them, the nine Indian Reservations, and some distances (in miles) shown from divisional offices to frequently traveled locations within the state.

