US Probation & Pretrial Services District of South Dakota Annual Report Fiscal Year 2016



U.S. District Court District of South Dakota December 2016

Contents

Introduction 2	
Vision, Mission, Values4	
Evidence Based Practices6	
Organization7	
Budget 9	
Operations 11	
Pretrial Diversion Supervision12	
Pretrial Bail Investigations & Reports	
Pretrial Supervision16	
Presentence Investigations & Reports 17	
Post-conviction Supervision19	
Intervention Services	
Extraordinary Factors	
Safety	
Training	
Travel	

Introduction

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









Northern Division Courthouse located in Aberdeen

District Judge Charles B. Kornmann

Magistrate Judge William D. Gerdes (part-time)

Central Division Courthouse located in Pierre

District Judge 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

<u>Magistrate Judge</u> 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 four smaller offices on tribal land in Kyle (Oglala Sioux Tribe), Mission (Rosebud Sioux Tribe), Timber Lake (Cheyenne River Sioux Tribe), and McLaughlin (Standing Rock 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:

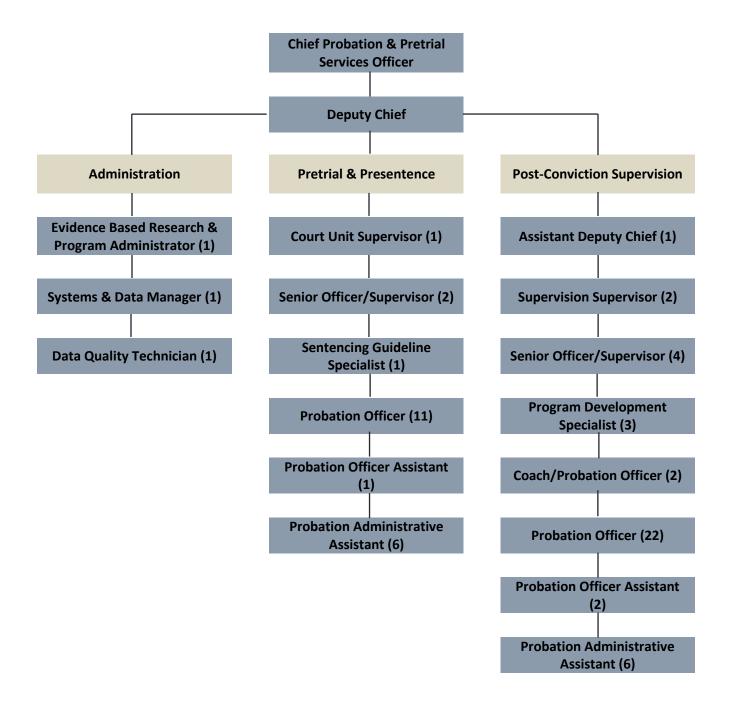
- the Office's expertise (knowledge and skills of probation staff through rigorous study of human behavior and disciplined regimen of training);
- the Office's own evidence (purposeful collection and analysis of both local aggregate outcome data associated with the application of empirically supported 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 FY2016 there were a total of 67 persons employed with the Office, with 7 classified as Administrators & Supervisors, 6 classified as Split-time Supervisors/Officers, 40 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 & Supervisors (10% of Total Staff)

Gender:	5 Male and 2 Female
Education Level:	6 with graduate degrees and 1 with a bachelor's degree
Years of Service in the Office:	Range from 4 years to 21 years of service
	Average of 13 years of federal service

Split-time Supervisors/Officers (9% of Total Staff)

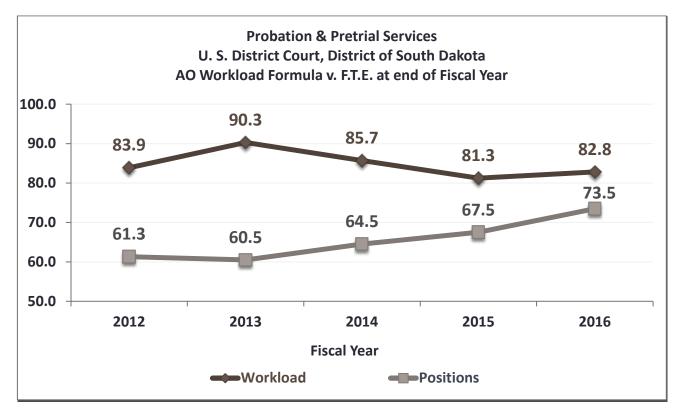
Gender:	4 Male and 2 Female
Education Level:	4 with graduate degrees and 2 with bachelor degrees
Years of Service in the Office:	Range from 2 years to 16 years of service
	Average of 8 years of federal service
Line Officers (60% of Total Staff)	
Gender:	20 Male and 20 Female
Education Level:	8 with graduate degree and 29 with a bachelor's degree
Years of Service:	Range from less than one year to 22 years of service
	Average of 8 years of federal service

Administrative/Support Staff (21% of Total Staff)

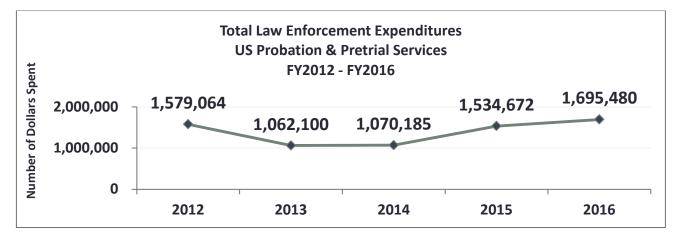
Gender:	14 Female
Years of Service:	Range from 2 years to 21 years of service
	Average of 11 years of federal service

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 2016 (FY2016), the workload and the funding are more aligned.

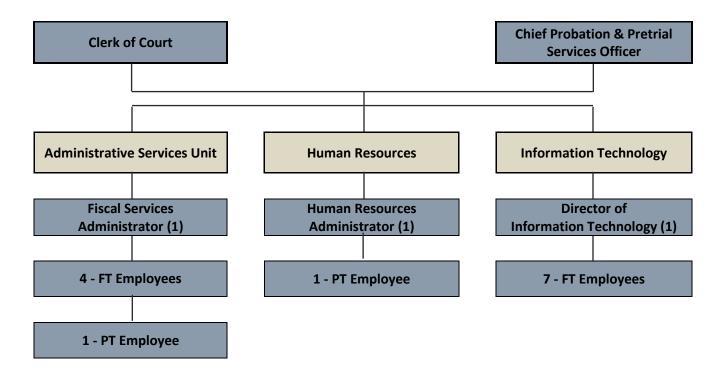


During sequestration, the Office reduced law enforcement treatment programs and services. Between fiscal years 2012 and 2014, spending in this area dropped by over 30%. During FY2015 and FY2016, the Office was able to expand the programs and services proven to be most effective at reducing re-offending. The graph below illustrates the expenditure change during this time frame.



Shared Administrative Services

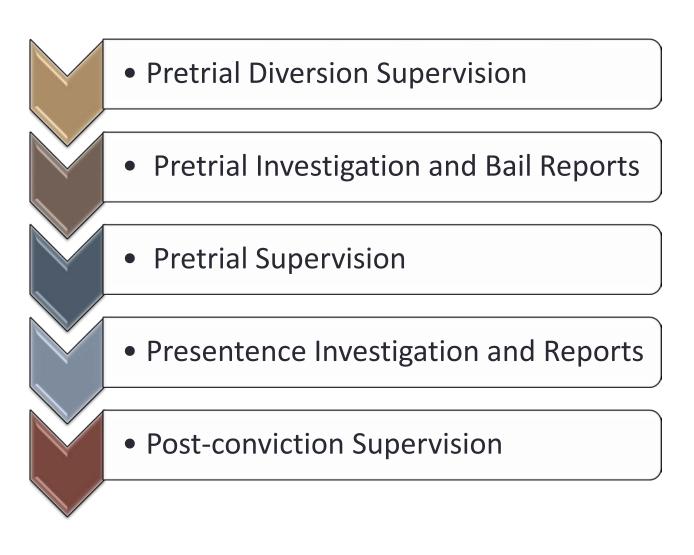
In order to provide more cost-effective administrative services, the District Court in South Dakota has established an agreement to share services among its three operational components – Chambers, the Clerk of Court Office, and Probation and Pretrial Services Office. The shared services include the information technology unit, the administrative services unit, and the human resources unit. 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

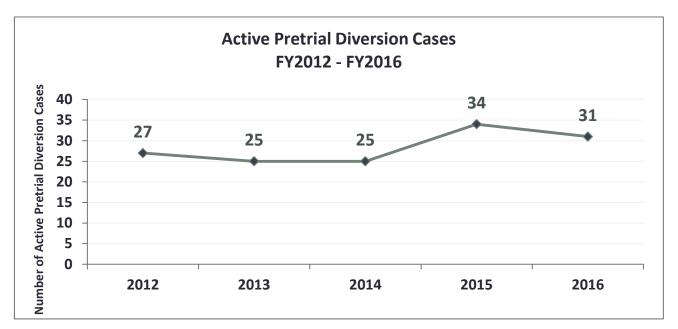
The Probation and Pretrial Services Office performs services for the court and the justice system in five major areas:

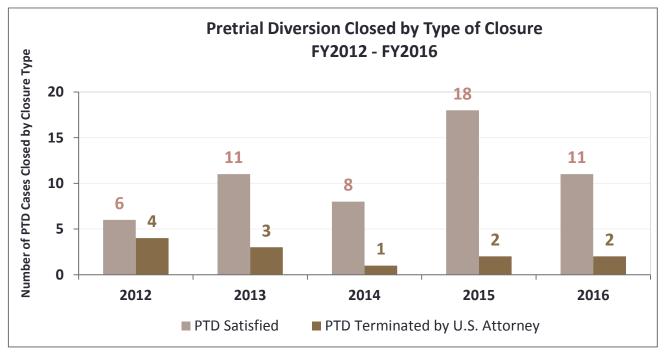


Pretrial Diversion Supervision

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 FY2016, eleven persons under pretrial diversion supervision successfully completed the supervision period. The U.S. Attorney terminated two pretrial diversion cases in FY2016.





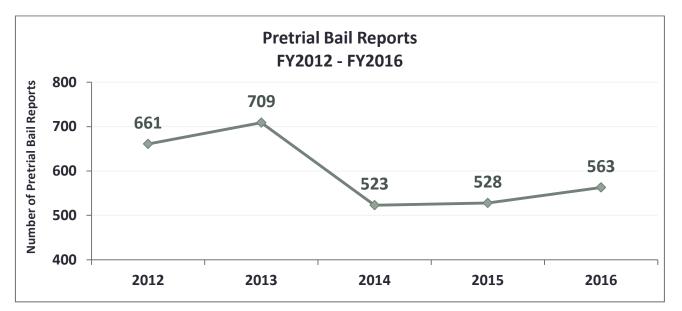
Pretrial Bail Investigations and Reports

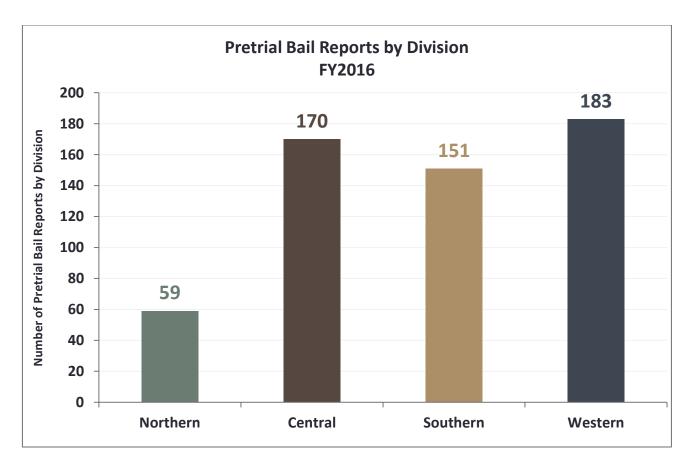
After charges have been filed, the Office investigates persons who have been charged and submits a bail report to the court on each person. The reports provide information to the court to determine if the person should remain free or be detained during the pretrial phase based on the assessed likelihood 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.

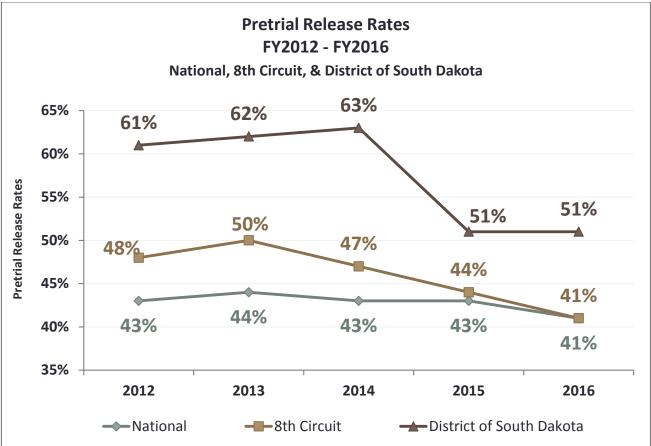
The assessment of a person's likelihood to appear and remain lawful is determined by the application of the Pretrial Risk Assessment (PTRA) tool and the Office's best judgment based on the totality of all known factors and circumstances. The PTRA is a validated risk assessment instrument created by the 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.

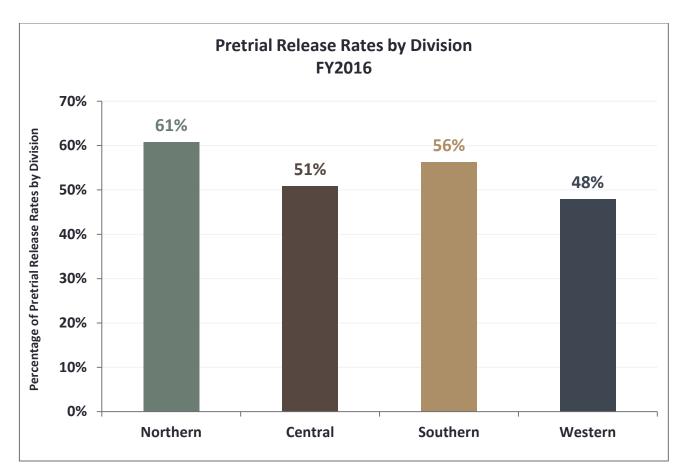
The Office employees involved in pretrial bail investigations and reports are dedicated to achieving justice and enhancing community safety by:

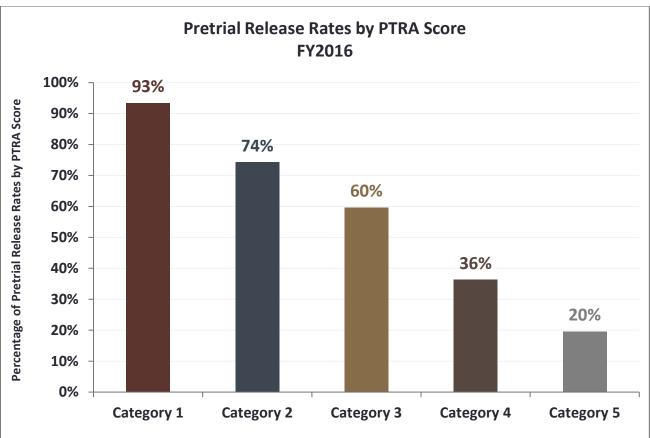
- Ensuring each defendant is given the opportunity to participate in a pretrial interview;
- Providing accurate, thorough, and objective information and their best judgment to the court throughout all phases of pretrial for the issuance of individualized, fair, and equitable court orders;
- Assessing 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.









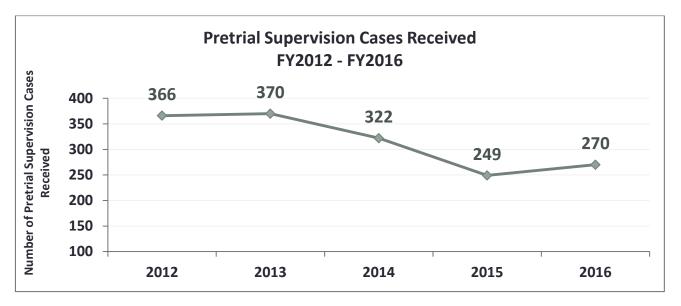


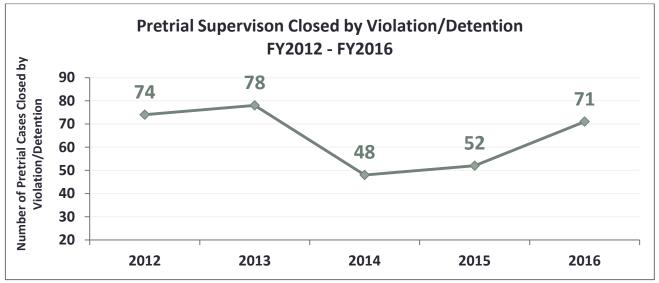
Pretrial Supervision

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 under supervision to ensure appearance at all court hearings, compliance with court mandates, and no new law violations.





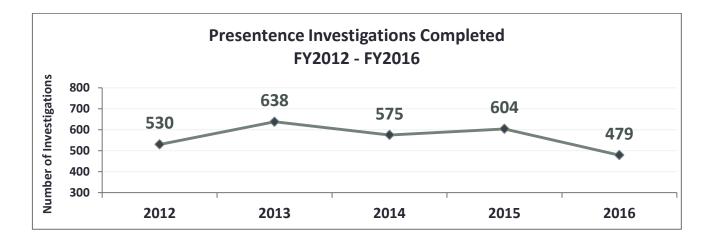
Presentence Investigations and Reports

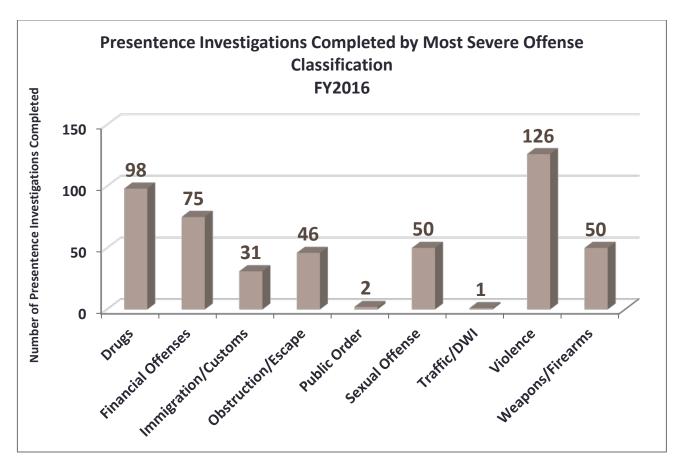
After a person has been convicted of a crime, but prior to sentencing and pursuant to a court order, the Office conducts an independent investigation of the person. The aim of the presentence investigation is to provide a timely, accurate, objective, and comprehensive report to the court. The report 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 must also 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.

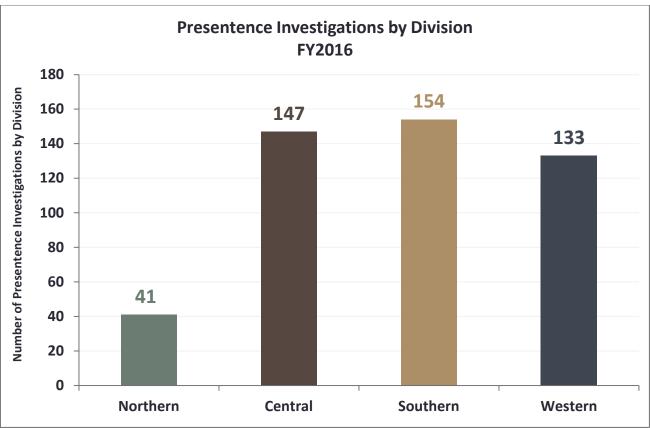
Separate from the presentence report, the Office provides the court with recommendations regarding any proposed departures from or variances to the U.S. Sentencing Commission Guidelines. The Office also makes recommendations for alternatives to incarceration, for the length of post-conviction supervision,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







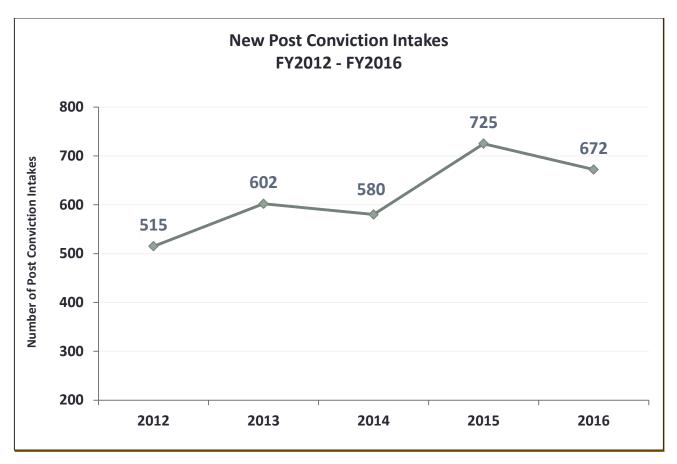
Post-conviction Supervision

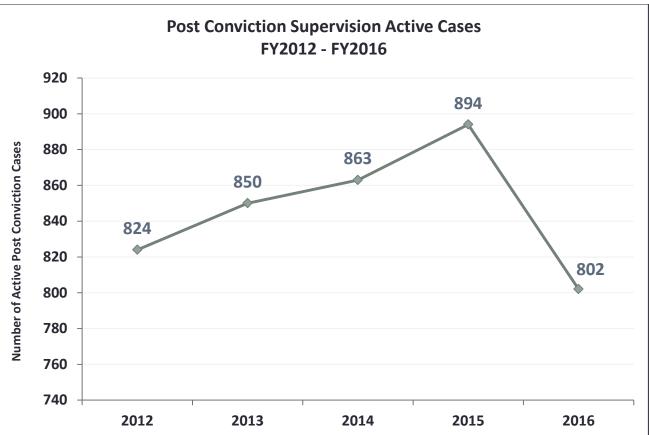
After sentencing when a person is allowed to remain in the community or is returning to the community from a period of incarceration, the Office supervises the person for the duration of time specified by the court order or by the paroling authorities. The two primary goals of supervision are for the 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.

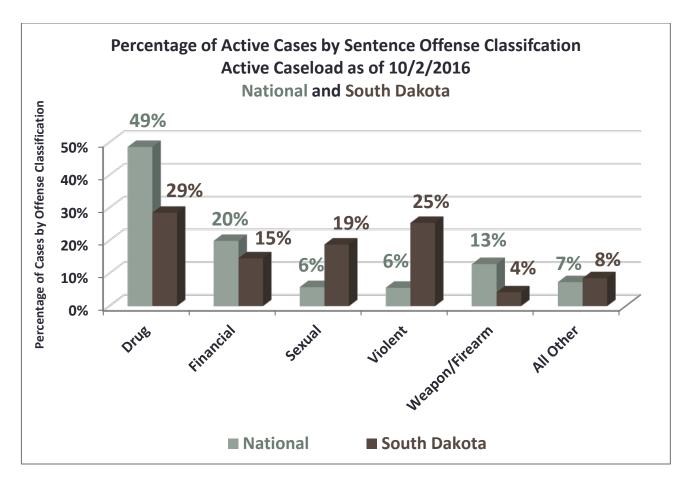
The Office must responsibly manage the risks posed by those under supervision. This requires a collaborative and evolutionary effort among the person under supervision, the Office, treatment providers, and prosocial collateral supports. It is a dynamic process of applying evidence-based interventions, 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.

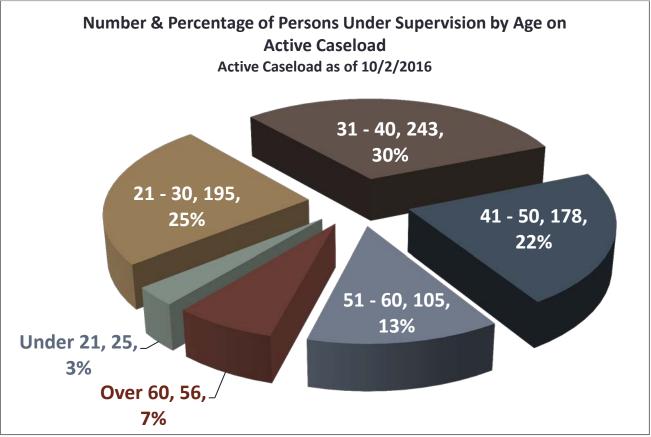
For the person under supervision, supervision is a dynamic commitment to build the skills and to take the steps necessary to willfully comply with the court's orders and to behave responsibly and lawfully during supervision and beyond. Supervision also involves a series of actions the person under supervision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

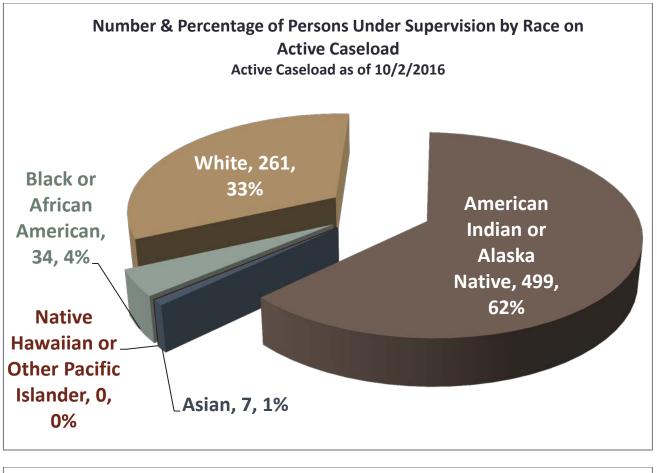
In spite of best efforts and implementation of best practices by the Office, there are persons under supervision who struggle with compliance requirements and exhibit noncompliant and unlawful behavior. When such behaviors rise to an unacceptable level, the Office informs the court and seeks modification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

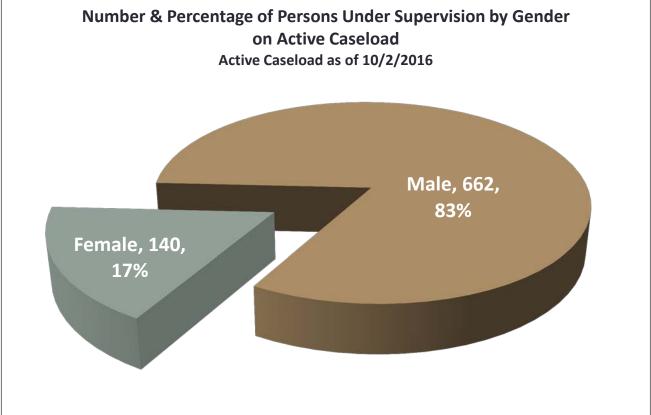






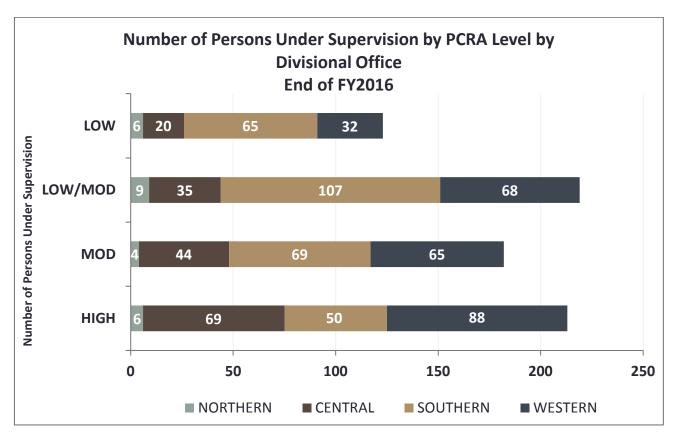


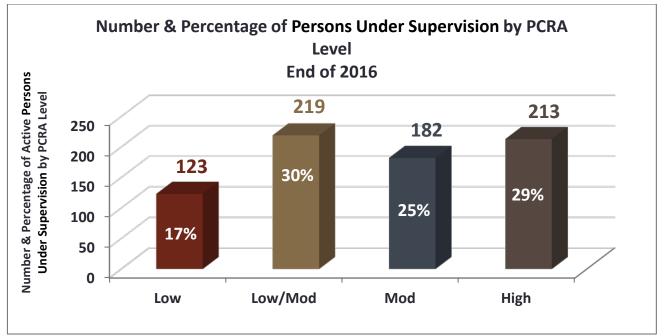


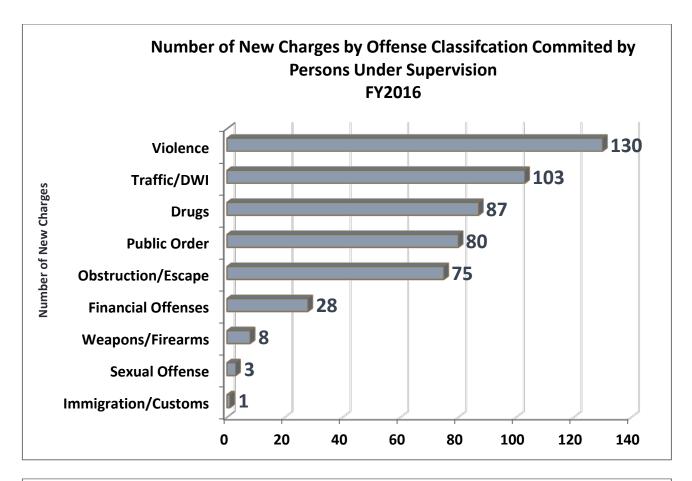


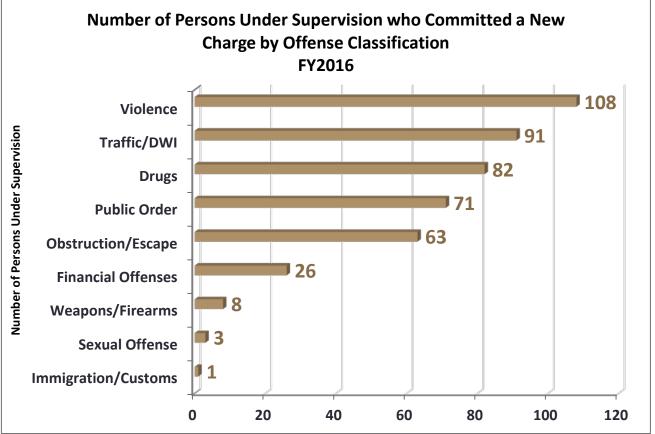
Post-Conviction Risk Assessment (PCRA)

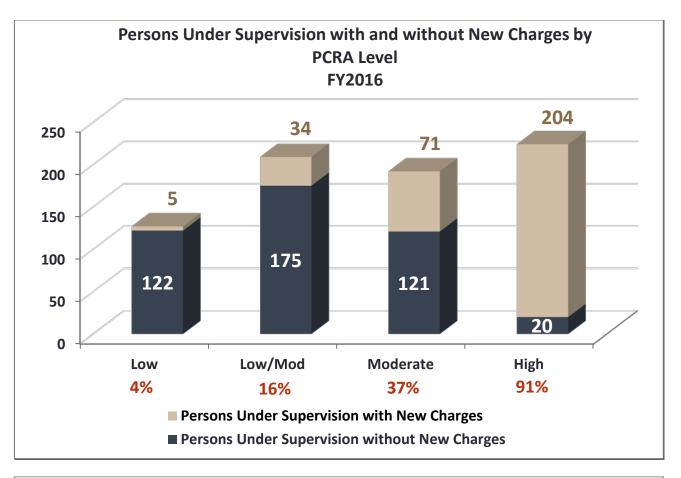
Most instructive for the effective supervision of persons are the results of the federal probation system's risk assessment, i.e., Post-Conviction Risk Assessment. This validated actuarial instrument measures the risk to reoffend for each person under supervision. There are four categories of risk –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

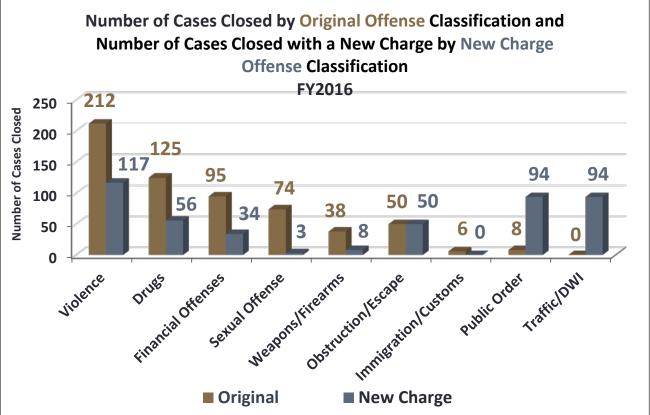


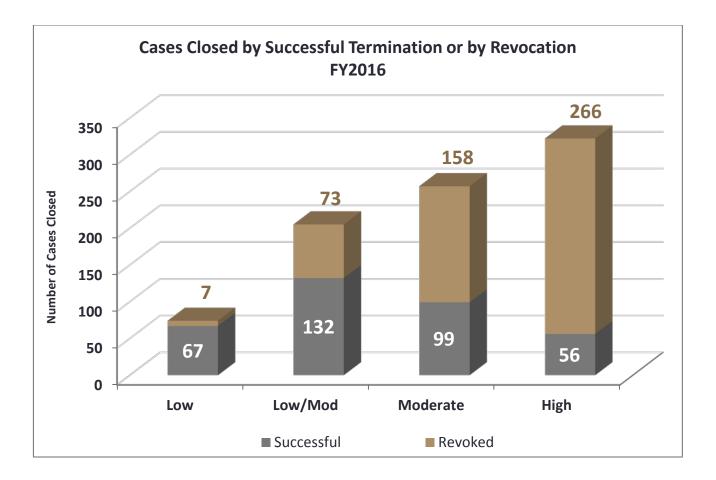












Re-offending Data

At the end of FY2016, 29% of the persons under supervision in the District had a PCRA score of "High" risk (see the second chart on page 23). This is a 2% increase over FY2015.

Notwithstanding the increase in actuarial risk posed by those under supervision, the number of new charges recorded for those under active supervision decreased from 521 in FY2015 to 511 in FY2016. This represents a 1% decrease in the re-offending rate based on the average number of persons supervised in each fiscal year. More significantly, the number of new charges for a violent/sex offense decreased from 147 in FY2015 to 131 in FY2016. This is a 1.5% decrease in violent/sex re-offending.

Intervention Services

The Office conducts and provides intervention services for persons under its charge at various stages of the criminal justice process. Mainly, the intervention services are rendered for those court-ordered to be supervised by the Office as:

- a condition of remaining free in the pretrial phase;
- a sentence of probation; or
- a term of supervised release.

Intervention services are also available for the persons supervised by the Office under the United States Attorney's Pretrial Diversion Program.

The Office has two primary goals of supervision. The first is the person under supervision complies with the court order/supervision requirements and the second is the person remains lawful during and beyond the period of supervision.

For FY2016, the Office received 261 orders of pretrial supervision. Contract services for court-ordered pretrial placement into a structured community-based setting totaled more than \$120,000. Additional contracted intervention services addressing anti-social cognitions, substance abuse, mental health, and location monitoring incurred costs of approximately \$15,000 for total pretrial expenditures of more than \$135,000.

Regarding post-conviction supervision, the Office has the highest ratio of individuals convicted of a sex offense of any federal district in the nation. Sex offenses comprise approximately 6% of all federal sentences; yet, they comprise 19% of South Dakota's supervision cases. Typically there are more than 150 persons under supervision in the district at any given time convicted of a sex offense. Intervention services for individuals convicted of a sex offense include:

- group, individual, and family treatment sessions
- treatment readiness group
- history and maintenance/monitoring polygraph examinations
- chaperone training and support
- transportation assistance

The Office has established contracts for sex offender treatment services at 10 locations throughout the district including programs specifically located to serve individuals on the Pine Ridge, Rosebud, Cheyenne River/Standing Rock, Lower Brule/Crow Creek, Yankton Sioux, and Sisseton-Wahpeton reservations. In FY2016, the Office spent more than \$567,000 in contracted intervention services that specifically only address sexual offending. Additionally, individuals convicted of a sex offense required other contract resources in the areas of substance abuse, mental health, location monitoring, placement in structured settings, etc...

While individuals convicted of sex offenses comprise approximately 19% of the Office's supervision cases, they absorb more than 40% of its intervention services budget. Despite this substantial expenditure on

individuals convicted of sex offenses, these persons under supervision continue to reoffend with non-sexual crimes at a rate that appears fully undisturbed by the intervention services they receive. Consequently, the Office intends to continue its efforts to convince the Administrative Office in Washington D.C. to authorize the use of intervention services proven to reduce general recidivism.

Nationally, 25% of individuals on federal supervision have substance abuse as a criminogenic need; and yet, the rate for those supervised in the District of South Dakota is twice as high at 55%. As indicated in the charts on page 24 of this report, violence is the number one re-offending behavior in the District. The most frequent offense category of violence in the District is domestic violence, which often has an alcohol/drug related component. Driving Under the Influence, which is potentially a high harm consequence, is the second highest re-offending behavior for those under the Office's supervision.

The Office's surveillance services for monitoring substance abuse involve a wide variety of strategies and techniques. Contract services are utilized 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 alcohol tests per day; and
- transdermal technology that monitors for alcohol use on a continuous basis.

In total, \$159,000 was spent in FY2016 on substance abuse monitoring activities.

There is a preponderance of empirical evidence supporting the delivery of cognitive behavioral interventions within a social learning theory model as the most effective in reducing re-offending. Adhering to the evidence-based methods, the Office has begun to shift its resources from traditional substance abuse treatment to treatment which addresses antisocial attitudes/values/beliefs and antisocial associations. In FY2016, the Office spent approximately \$350,000 on cognitive behavioral intervention treatment services which target both cognitions and substance use. Another \$20,000 was expended on cognitive behavioral interventions that were not substance abuse related.

Mental health problems are not identified as a primary criminogenic need, but they are strongly related to being less compliant/less successful on court-ordered supervision. The Office continues to follow the evolving research regarding the possible causal link between experiencing psychological trauma, which often increases the propensity to adopt dysfunctional coping mechanisms such as abusing substances or hyper-vigilance with violent outbursts, and committing various types of crime. The Office expended nearly \$150,000 on mental health services for persons under supervision this past fiscal year.

Although location monitoring technologies have significant limitations and there is research evidence location monitoring has no proven effect on altering criminal behavior in the long-term, occasionally it can be an effective strategy for restricting community access for short periods of time. The district uses curfew, home detention, and home incarceration as part of its location monitoring strategies. Technologies such as global positioning systems (GPS) and standard electronic monitoring are used to fulfill court orders and as a supervision strategy to reasonably manage risk when an individual's behavior and/or characteristics support restricting their access to the community. In FY2016, the Office spent more than \$20,000 in location monitoring services for pretrial defendants and persons under post-conviction supervision.

The Office spent more than \$30,000 in Second Chance Act funds in FY2016 assisting individuals to overcome common barriers to re-entry into society following release from incarceration. These expenditures included assistance with transportation, various forms of identification, emergency and transitional housing, costs of educational programs, testing, and certificates, as well as employment assistance related to tools/equipment and specialized clothing. While the data set is too small to generalize, preliminarily it appears assisting individuals with barriers to successful re-entry may have a significantly positive effect on reducing re-offending.

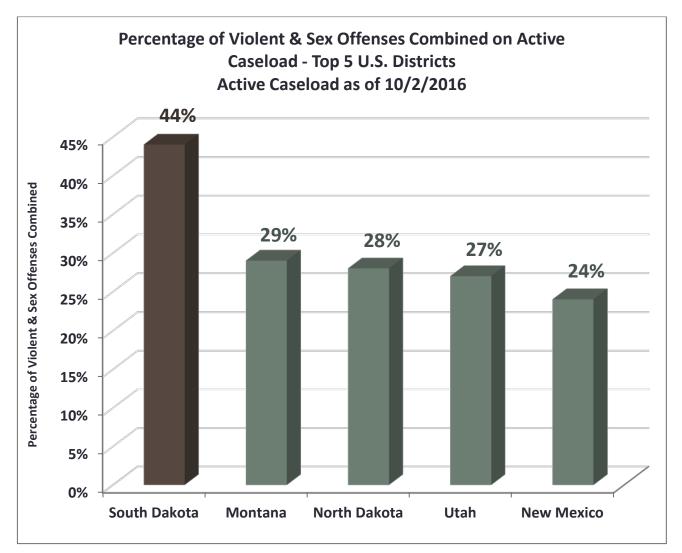
Extraordinary Factors

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 eight counties with the highest poverty rates in the country. The poorest South Dakota counties and their national rank are: Corson (1), Ziebach (2), Oglala Lakota (7), and Todd (8).

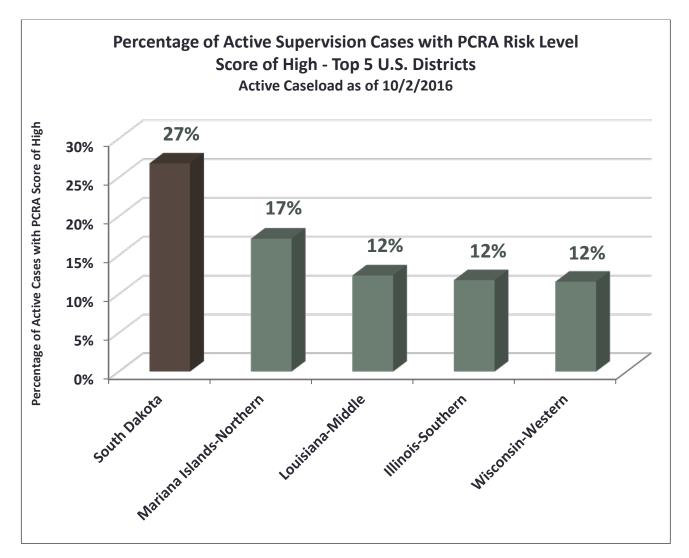
Violence and Sex Offenses

At the end of FY2016, the District of South Dakota ranked 62nd out of 94 districts in the number of postconviction persons under supervision and yet, it ranked 11th in the number of persons whose most severe offense was a sex offense and it ranked 9th in the number of persons whose most severe offense was violence. In <u>percentage</u> of total cases being supervised, it ranked 1st 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

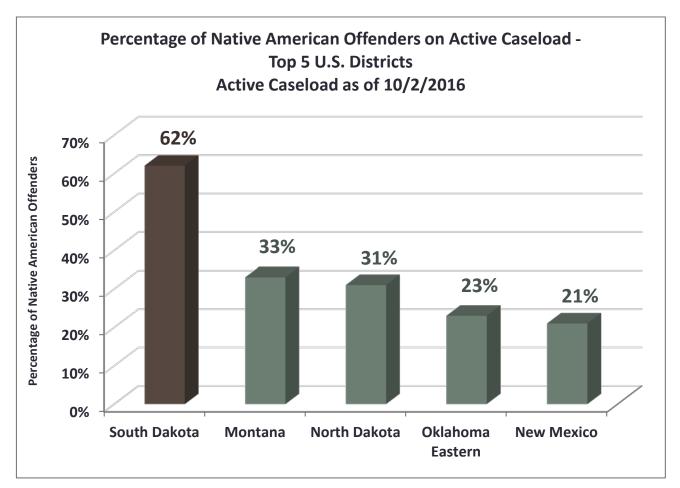
South Dakota ranks number one in the country in the percentage of high risk cases.



Native American Population

According to the U.S. Census Bureau's 2016 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 FY2016 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

Safety Team members:

District Firearms Instructor-**Brian Messner** Probation Officer Officer Safety Instructor-**Alan Swartz** Senior Probation Officer/Supervisor **Chris Haught** Probation Officer Specialist **Craig Baker** Supervisor **Kandice Mullivan** Assistant Deputy Chief **Lynn Bowers** Deputy Chief

Search Coordinators:

Greg Hronick Probation Officer Brian Graves Probation Officer Brent Hubers Probation Officer

In FY2016, 10 new officers were trained in basic safety. Training consisted of classroom presentations, officer response tactics, and various scenarios. New officers shadowed and were coached by experienced officers.

Firearms Training:

The firearms carrying officers successfully completed two qualifications this year under the supervision of Lead Firearms Instructor Brian Messner. These officers also participated in two firearms training sessions in September 2016. One was held at an outdoor range in Corson, SD, and the other at the Sioux Falls Fire and Rescue Training Center. In Corson, the officers performed weapon retention drills, fundamental pistol drills, and live fire drills. In Sioux Falls, the officers underwent scenario training with role players to make the scenarios as realistic as possible. Officers were required to identify the threats they faced and to react appropriately. Following each scenario, officers were through a debriefing about the incident and assessed how they responded to it. All officers were required to articulate how they applied the Office's "Use of Force" policy to each scenario.

Safety Information Reporting System (SIRS)

In FY2016, the staff in the district experienced 16 safety incidents. The types and number of incidents were: Intimidation (9), Animal (3), Threat (2), and Vehicle (2).

Training

Policy

Training and professional development are responsibilities shared by both the employees and the management team. The Office provides training opportunities for each employee, and employees are encouraged to become "life-long learners" to continually enhance their knowledge and skills.

Every employee of the Office is expected to be take ownership over the development of his/her career to better serve the missions 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 each officer is expected.

Travel

For FY2016, the District of South Dakota maintained a fleet of 19 cars for a total of 431,102 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.

