US Probation & Pretrial Services District of South Dakota Annual Report Fiscal Year 2018



U.S. District Court
District of South Dakota
January 2019

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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

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

Magistrate Judge
William D. Gerdes (part-time)



Central Division Courthouse located in Pierre

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

Magistrate Judge 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 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 offices in each of the four divisions. Below is a breakdown of the offices and their locations:

- Northern Division 2 offices; Aberdeen and McLaughlin (Standing Rock Sioux Tribe)
- Central Division 5 offices; Pierre, Mission (Rosebud Sioux Tribe), Timber Lake and Eagle Butte (Cheyenne River Sioux Tribe), and Winner (coverage for Rosebud Sioux Tribe, Crow Creek Sioux Tribe, and Lower Brule Sioux Tribe)
- Southern Division 1 office; Sioux Falls
- Western Division 2 offices; Rapid City and Kyle (Oglala 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 information and recommendations we provide to the Court facilitate just decisions and foster the best possible justice outcomes. The individuals we supervise choose to be lawful, 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.

INDIVIDUAL AND ORGANIZATIONAL GROWTH

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 through competency building, effective communication, and utilizing evidence-based practices.

FULFILLING WORK LIFE

We believe every employee can achieve personal satisfaction and fulfillment in their work, by commitment to the mission, exercising individual responsibility, building competency, and by supporting coworkers. We support a 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 court, 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:

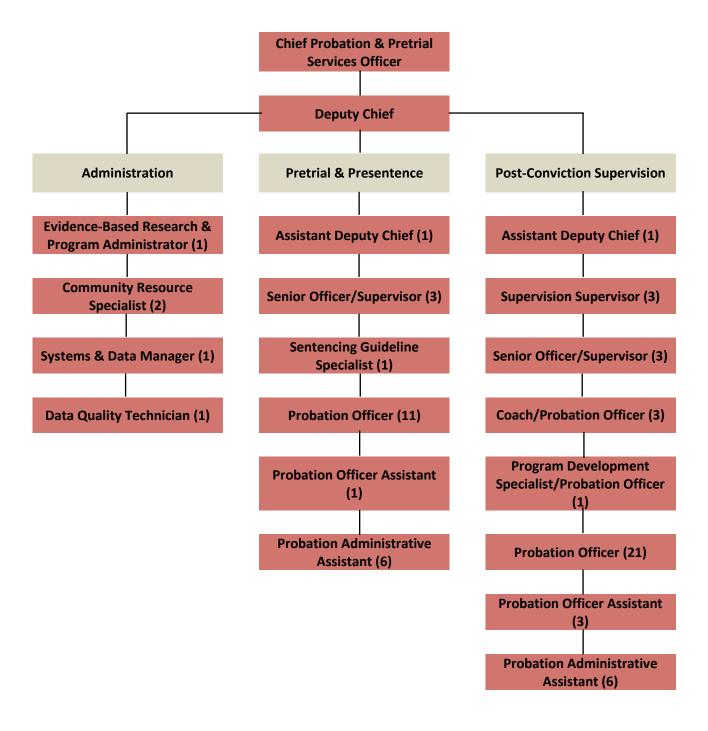
- the Office's expertise (knowledge and skills of probation staff through rigorous study of human behavior and disciplined regimen of training);
- the Office's own evidence (purposeful collection and analysis of both local aggregate outcome data associated with the application of empirically supported practices and local outcome data at the individual level to ensure the empirically supported practice is 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 FY2018 there were a total of 71 persons employed with the Office, with 8 classified as Administrators & Supervisors, 6 classified as Split-time Supervisors/Officers, 41 classified as Line Officers, 2 classified as a Community Resource Specialists, and 14 classified as Administrative/Support Staff. Following is a breakdown of staff gender, education level, and years of service.

Administrators & Supervisors (11% of Total Staff)

Gender: 6 male and 2 female

Education Level: 6 with graduate degrees and 2 with a bachelor degrees

Years of Service in the Office: Range from 5 years to 23 years of service

Average of 14 years of federal service

Split-time Supervisors/Officers (8% of Total Staff)

Gender: 4 male and 2 female

Education Level: 4 with graduate degrees and 2 with a bachelor's degrees

Years of Service in the Office: Range from 4 years to 18 years of service

Average of 11 years of federal service

Line Officers (58% of Total Staff)

Gender: 18 male and 23 female

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

Years of Service: Range from less than 1 year to 24 years of service

Average of 7 years of federal service

Community Resource Specialist (3% of Total Staff)

Gender: 2 male

Education Level: 1 with a graduate degree and 1 with a bachelor's degree

Years of Service: Range from less than 1 year to 1 year of service

Administrative/Support Staff (20% of Total Staff)

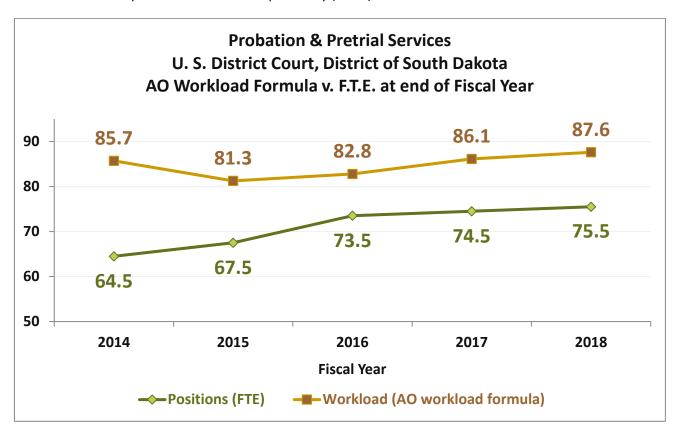
Gender: 14 female

Years of Service: Range from less than 1 year to 23 years of service

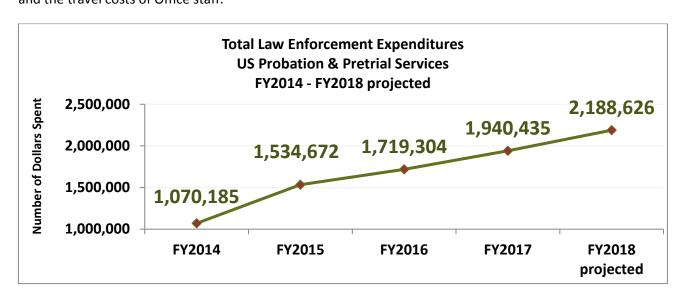
Average of 11 years of federal service

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.).

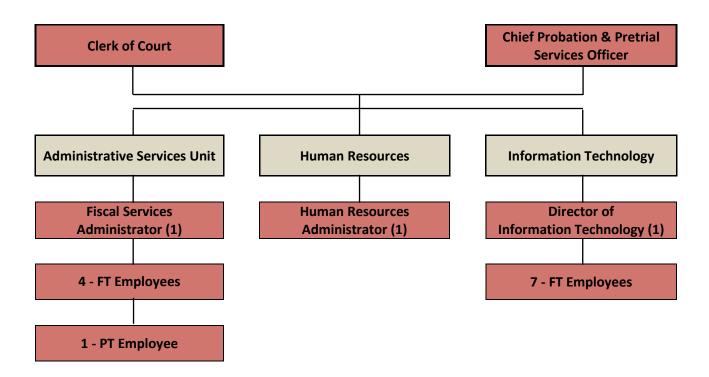


The graph below reflects the Probation & Pretrial Services fiscal year law enforcement expenditures and illustrates a recent annual growth pattern of approximately 13%. The expenditures reflect costs to provide treatment/counseling/training to persons under the Office's supervision to reduce criminal thinking and criminal behaviors. It also includes costs associated with monitoring of court-imposed restrictions of liberty and the travel costs of Office staff.



Shared Administrative Services

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.



An informal agreement has evolved between the U.S. Bankruptcy Court and the U.S. District Court in South Dakota to share information technology services.

Operations

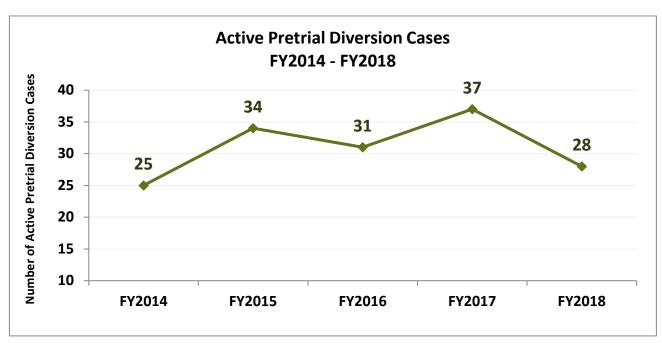
The Probation and Pretrial Services Office performs services for the court and the justice system in five major areas:

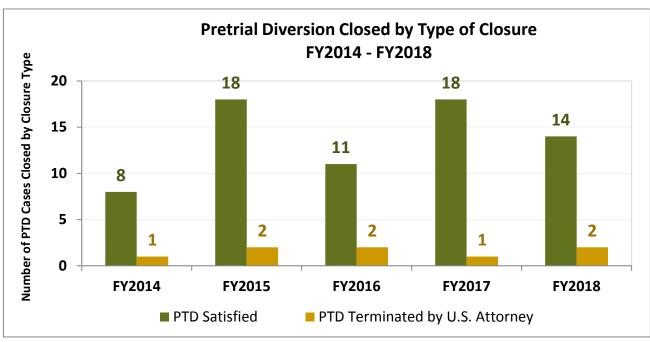
- Pretrial Diversion Supervision
- Pretrial Investigation and Bail Reports
- Pretrial Supervision
- Presentence Investigation and Reports
- Post-conviction Supervision

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 eligibility 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 FY2018, fourteen persons under pretrial diversion supervision successfully completed the supervision period. The U.S. Attorney terminated only two pretrial diversion cases in FY2018.





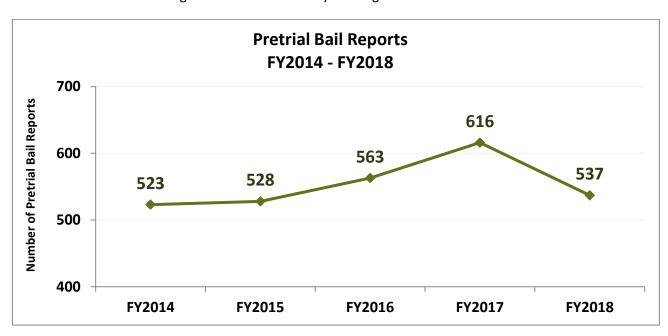
Pretrial Bail Investigations and Reports

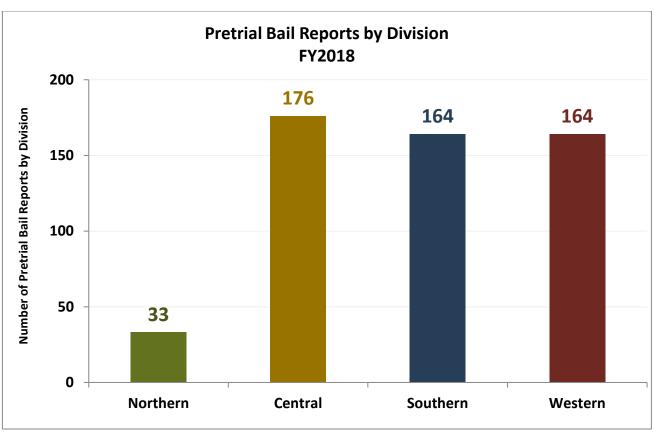
After federal charges have been filed, the Office investigates persons who have been charged and submits a bail report to the court on each person. The reports provide information to the court to determine if the person should remain free or be detained during the pretrial phase based on the assessed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

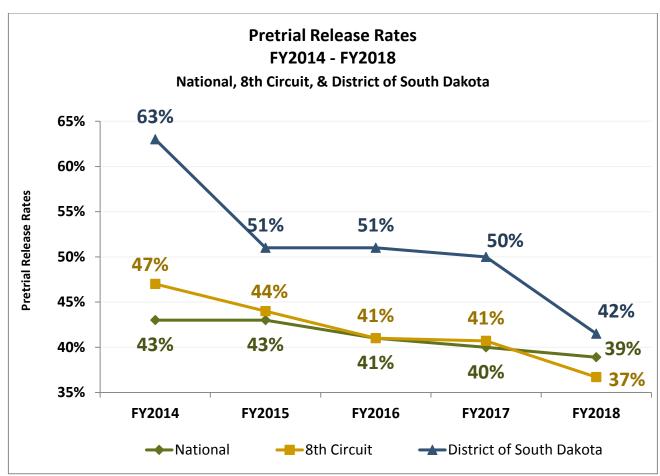
The assessment of a person's likelihood to appear and remain lawful is determined by the application of the Pretrial Risk Assessment (PTRA) tool and the Office's best judgment based on the totality of all known factors and circumstances. The PTRA is a validated risk assessment instrument created by the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

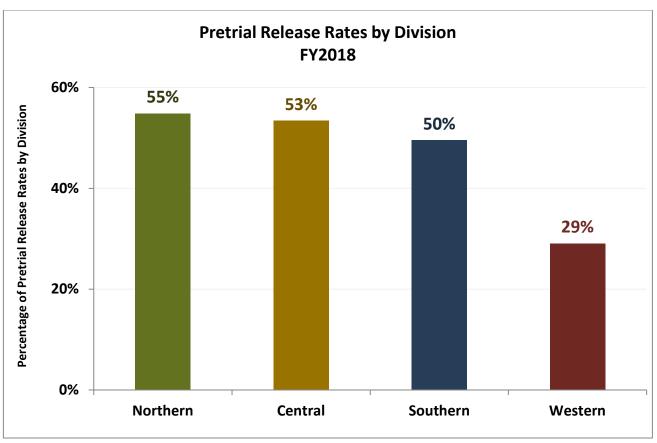
The Office employees involved in pretrial bail investigations and reports are dedicated to achieving justice and enhancing community safety by:

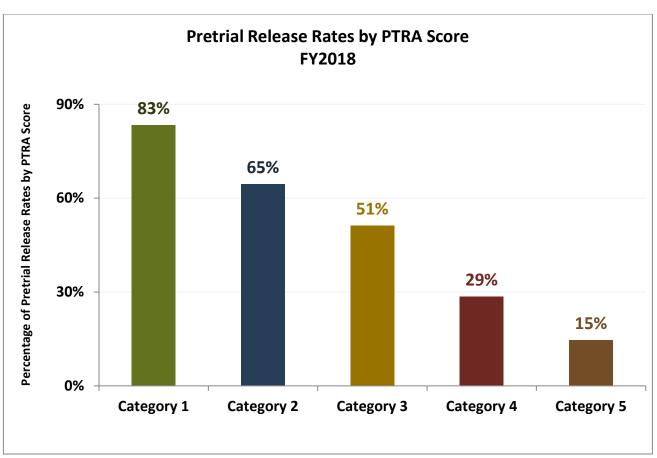
- Ensuring each defendant is given the opportunity to participate in a pretrial interview;
- Providing accurate, thorough, and objective information and their best judgment to the court throughout all phases of pretrial for the issuance of individualized, fair, and equitable court orders;
- Assessing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









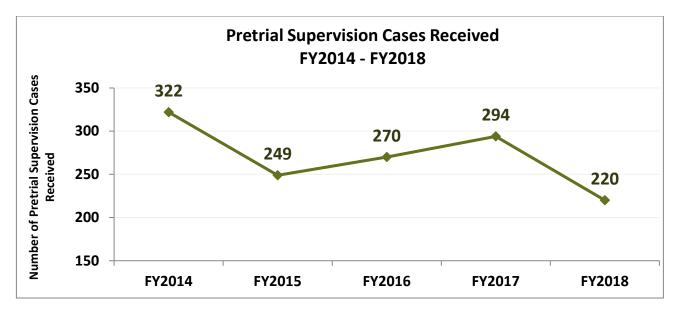


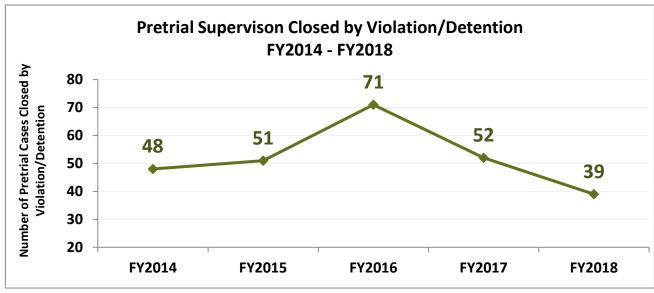
Pretrial Supervision

When the court determines a person should remain free during the pretrial phase, but requires supervision during this period, the 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.





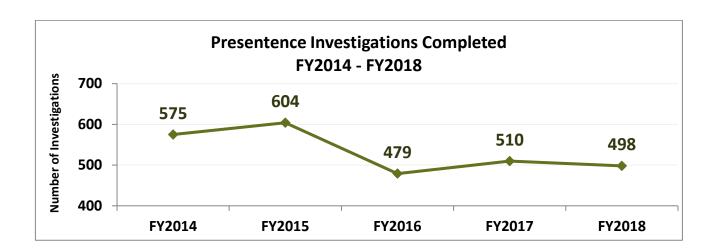
Presentence Investigations and Reports

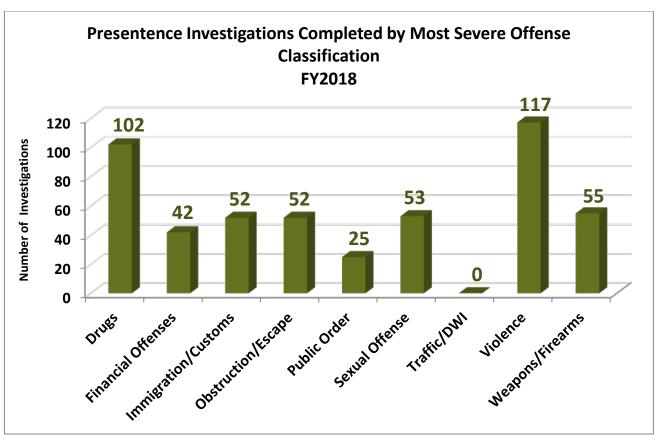
After a person has been convicted of a crime, but prior to sentencing and pursuant to a court order, the Office conducts an independent investigation of the person. The aim of the presentence investigation is to provide a timely, accurate, objective, and comprehensive report to the court. The report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

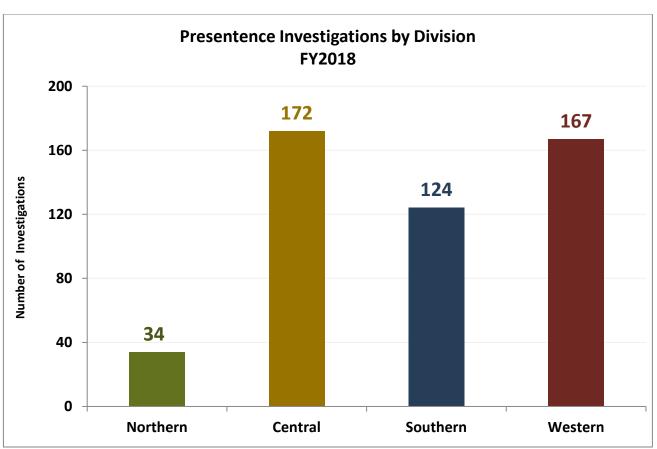
Separate from the presentence report, the Office provides the court with recommendations regarding any proposed departures from or statutory variances to the U.S. Sentencing Commission Guidelines. The Office also makes recommendations for alternatives to incarceration, for the length of post-conviction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







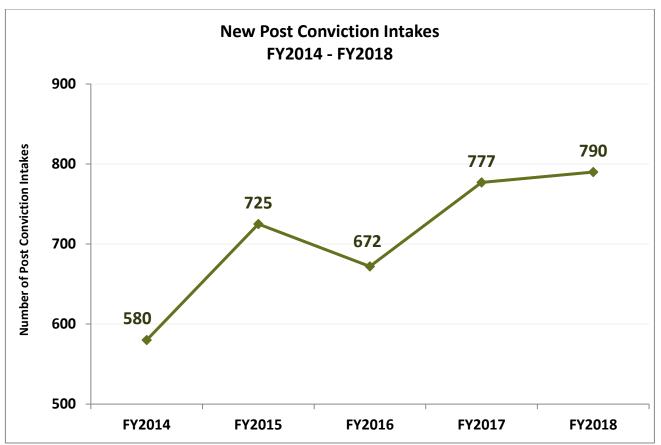
Post-conviction Supervision

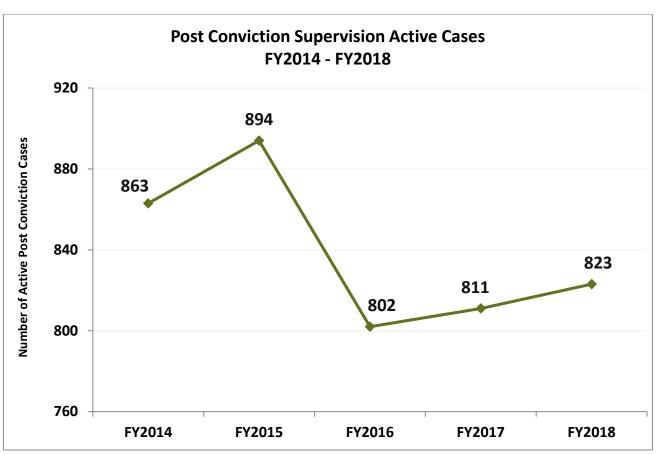
After sentencing when a person is allowed to remain in the community or is returning to the community from a period of incarceration, the Office supervises the person for the duration of time specified by Court order or by the US Parole Commission. The two primary goals of supervision are for the person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

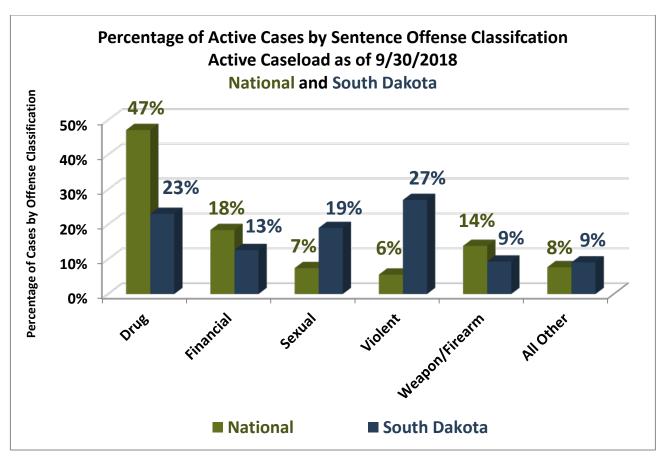
The Office must responsibly manage the risks posed by those under supervision. This requires a collaborative and evolutionary effort among the person under supervision, the Office, treatment providers, and prosocial collateral supports. It is a dynamic process of applying evidence-based interventions,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

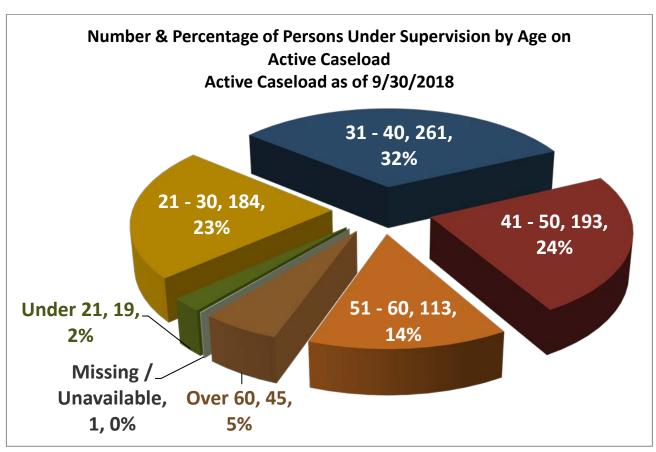
For the person under supervision, supervision is a dynamic commitment to build the skills and to take the steps necessary to willfully comply with the court's orders and to behave responsibly and lawfully during supervision and beyond. Supervision also involves a series of actions the person under supervision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

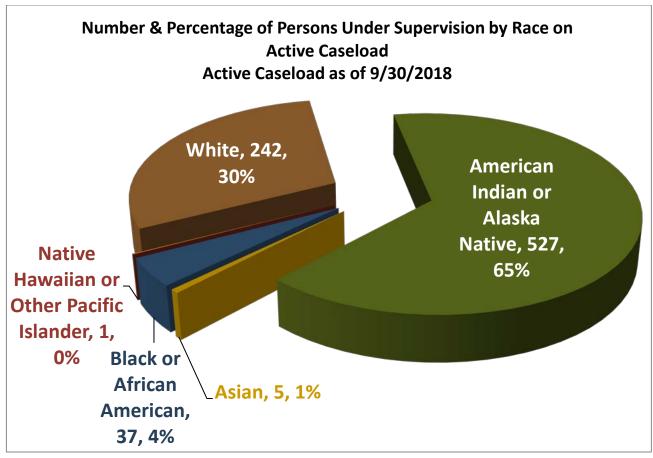
In spite of best efforts and implementation of best practices by the Office, there are persons under supervision who struggle with compliance requirements and exhibit noncompliant and unlawful behavior. When such behaviors rise to an unacceptable level, the Office informs the court and seeks modification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

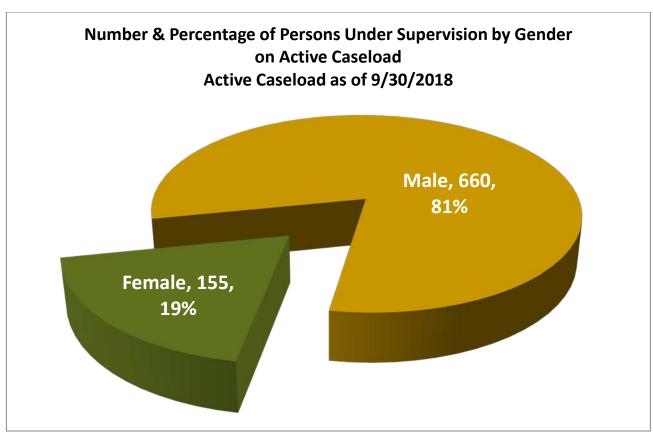






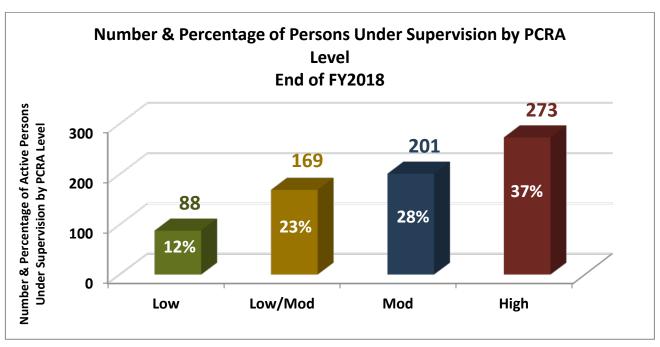


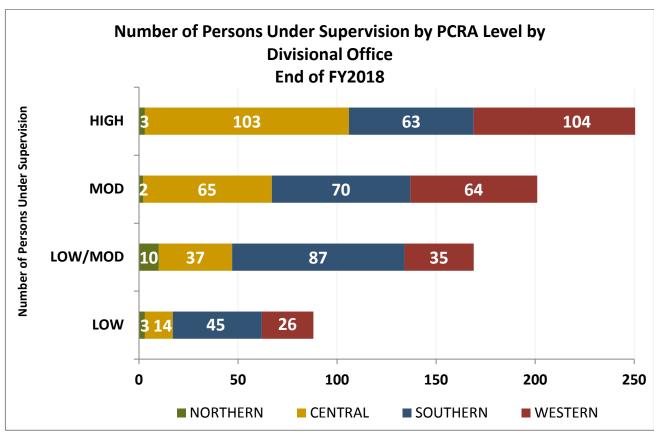


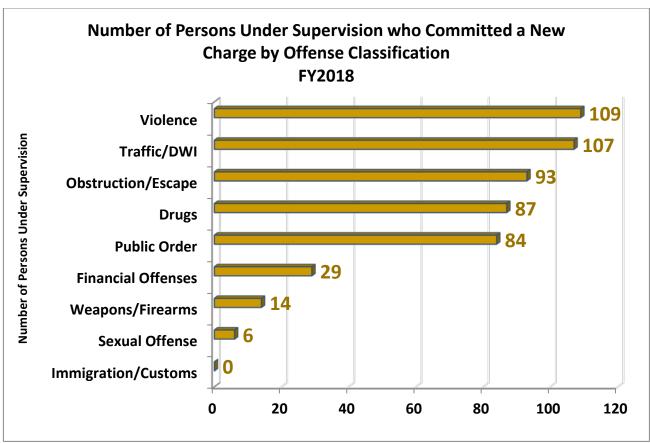


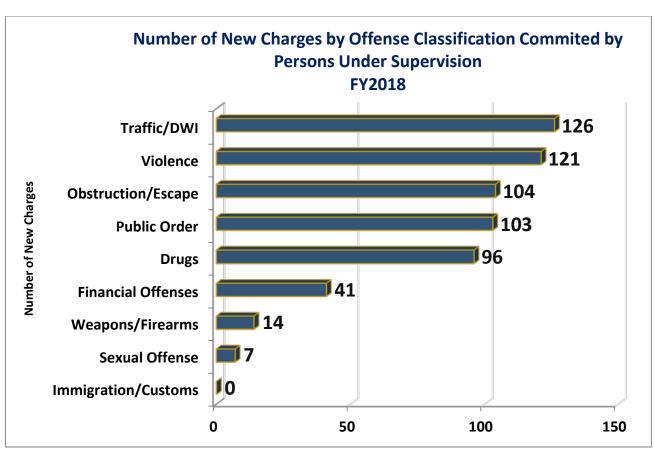
Post-Conviction Risk Assessment (PCRA)

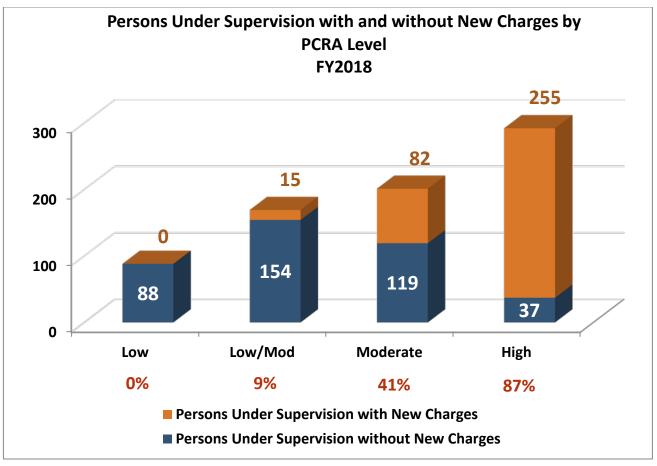
Most instructive for the effective supervision of persons are the results of the federal probation system's risk assessment, i.e., Post-Conviction Risk Assessment. This validated actuarial instrument measures the risk to reoffend for each person under supervision. There are four categories of risk –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

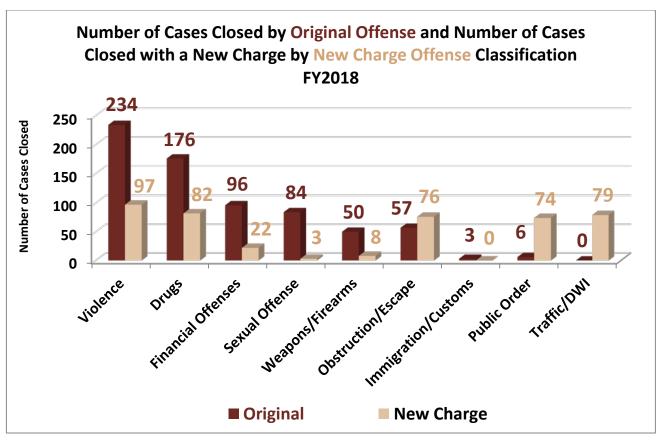












Intervention Services

The District's Risk Profile

The risk profile for cases in the District South Dakota (Office) differed significantly from the national profile in FY2018. The Office again had the highest percentage (46%) of individuals under post-conviction supervision for a violent or sex offense. The national average for individuals supervised for a violent or sex offense was 13%. The Office also had the highest percentage (37%) of individuals on post-conviction supervision who were scored as "high" risk on the national Post-Conviction Risk Assessment (PCRA) instrument. The average number of "high" risk individuals nationally is 5%.

Efforts toward Lawful Self-Management

The Office has two and one-half positions dedicated to the development of evidence-based and evidence-informed interventions to increase lawful behavior. The personnel in these positions identify the need for services to reduce re-offending and recruit justice partners to work with the Office toward this end.

Research indicates cognitions as the primary target for intervention services, and anti-social cognitions are present in 79% of the cases in the District of South Dakota; the national average is 37%. Cognitive behavioral training (CBT) interventions are the most effective at reducing re-offending; consequently, the Office primarily contracts for CBT curricula.

Preparedness for long-term lawful behavior is a challenge for individuals with a chronic pattern/history of criminal activity. If a person is not open to the pro-social requirements of a costly treatment service, the public funds spent on such treatment are generally wasted. The probation officers in the Office provide direct intervention services and/or they engage local treatment providers to provide appropriate services to those under supervision, who are not quite prepared for intensive treatment services. Through treatment readiness, thinking that supports criminal behavior is addressed, and the person becomes prepared and accepting of the prospective treatment services.

The second most influential target for lawful behavior is social networks/associations, and 90% of the individuals under post-conviction supervision in the District of South Dakota have social networks as a risk factor. The Office has built a Community Coach program to lower this risk. Community coaches (also known as mentors) are citizens who are matched with a person under supervision to offer support and a level of informal accountability. Community coaches meet with a person under supervision several times each month to assist with problem solving and to connect them with resources, other pro-social people in the community, and to develop pro-social interests and hobbies. In Indian Country, the community coach may facilitate the individual's participation in traditional Native American ceremonies and activities. The Office currently has approximately 75 community coaches, the majority of whom are volunteers. Some coaches have been recruited, selected, and trained by vendors paid through Second Chance Act funds. In one Division a community member has developed private funding to support a non-profit organization which is recruiting, training, and managing volunteer community coaches. The Office developed local needs language authorizing community coach contracts with faith-based, secular, and traditional Native American orientations.

Efforts to Improve Treatment Effectiveness, especially for High Harm Behaviors

In FY2018, crimes of violence were the Office's most common re-offense behavior, and domestic violence comprised approximately 75% of re-offending crimes of violence. The Second Chance Act re-delegation in November 2017 authorized funding for domestic violence interventions. Although funding became available, two critical challenges remain: (1) finding evidence-based intervention curricula for domestic violence, and (2) developing intervention services resources in remote areas, most frequently on tribal land. The Office subsequently solicited for Moral Reconation Therapy – Domestic Violence (MRT-DV) services, which is a cognitive behavioral training curriculum. The Office currently has MRT-DV services in five locations and is seeking to expand the availability of MRT-DV throughout the State.

The Office developed a domestic violence protocol which includes special conditions of supervision focusing on reductions in domestic violence, a Behavior Agreement for Relations with an Intimate Partner, and an incentives package. Specifically, the Office developed an incentive structure, which provides potential time off the period of supervision for actively participating in and completing an MRT-DV program while remaining lawful. Accepting and working with a community coach provides an additional incentive for individuals participating in MRT-DV.

In alignment with the risk principle, the Office developed a protocol for individuals convicted of a sex offense, who are actuarially low risk to reoffend sexually and low risk to reoffend generally. The protocol reduces the treatment dosage, does not comingle lower risk individuals in treatment with higher risk individuals, and continues to utilize polygraph examinations for the identification of prospective treatment services. Cost savings are repurposed to evidence-based interventions for higher risk persons under supervision.

Stewardship and Respecting Civil Liberties

The Office worked with its contract providers to expand the use of case management services for individuals with severe and chronic mental illnesses. Because severe and chronic mental illnesses tend to be long lasting, the new emphasis involves using case management services to get individuals connected to mental health services that will support the person beyond their term of supervision.

The Office became aware some contract providers were using client treatment agreements that reflected restrictions that may have gone beyond those contained in the person's court order, potentially impeding upon client's civil liberties. With the AO's approval, the Office informed its contract providers not to impose limitations on individuals which are not specifically part of the court's order of supervision.

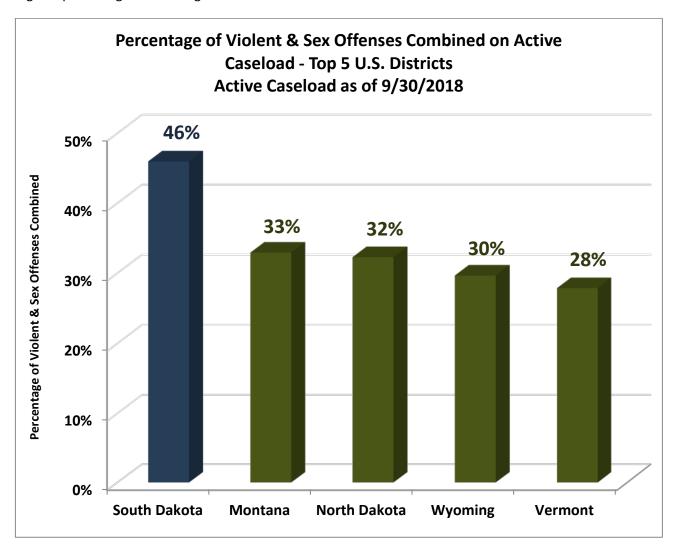
Extraordinary Factors

Economic Status

According to the U.S. Census Bureau's Social, Economic, and Housing Statistics Division, the small area income poverty estimates for 2016 indicate that South Dakota has four of the top fifteen counties with the highest poverty rates in the country. The poorest South Dakota counties and their national rank are: Todd (1), Ziebach (4), Oglala Lakota (11), and Buffalo (14).

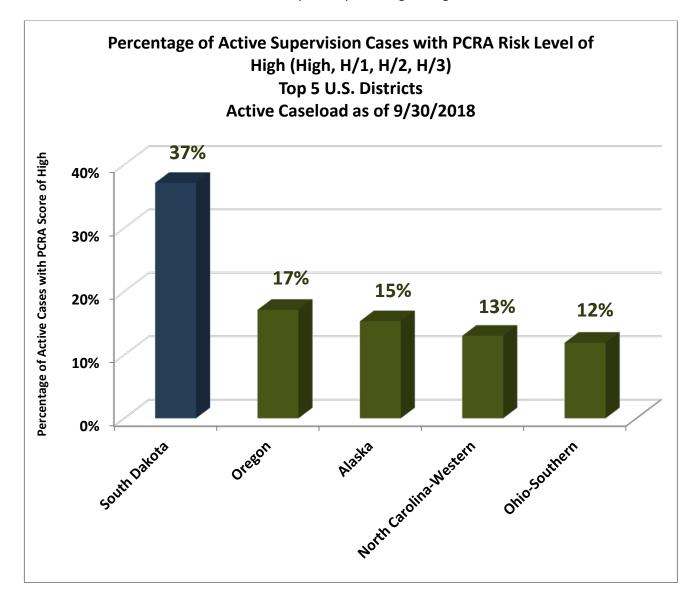
Violence and Sex Offenses

At the end of FY2018, the District of South Dakota ranked 61st out of 94 districts in the number of post-conviction persons under supervision and yet, it ranked 20th in the number of persons whose most severe offense was a sex offense and it ranked 6th 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 for persons whose most severe offense was either a violent offense or a sex offense. The chart below presents the top five districts with the highest percentages combining both violent and sex offenses.



Percentage of High Risk Cases

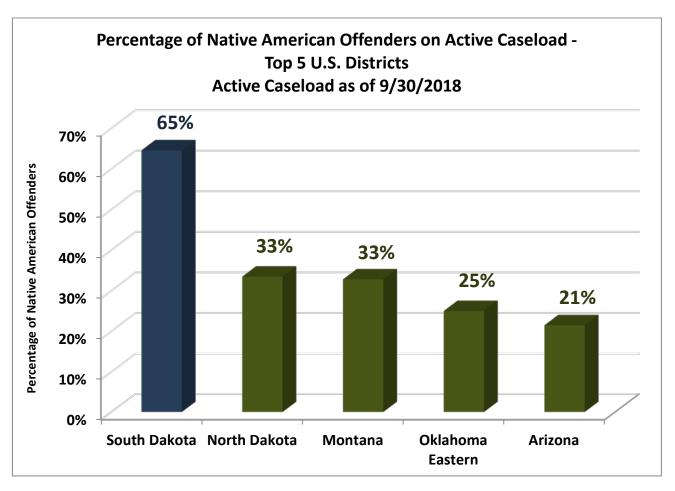
South Dakota ranks number one in the country in the percentage of high risk cases.



Native American Population

According to the U.S. Census Bureau's 2017 estimate, approximately 9% of the population in South Dakota is American Indian/Alaska Native. And yet, 65% of the persons under post-conviction supervision in FY2018 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 Office has a Safety Team which is responsible for the safety training of all employees. The team also provides recommendations for changes in policies and procedures which impact the safety of staff. The voluntary members of the Safety Team are the certified Lead and Assistant Firearms Instructors, the three certified Office Safety Instructors, and three managers.

New Officer Safety Training

In FY2018, five new officers were trained in basic safety. Training consisted of classroom presentations, officer response tactics, and scenarios. The new officers also shadowed and received coaching from experienced officers.

General Safety Training for All Officers

All officers are required to annually participant in one of the two 16-hour safety training workshops developed by the Safety Team. In FY2018, training sessions were held in Rapid City; one in April and the other in September. The training involved education and skill-building in a variety of safety-related areas. Officers were required to demonstrate knowledge of Office safety policies and procedures, good judgment in response to presented safety scenarios, and proficient skills in response to various physical challenges.

Firearms Training and Qualifications

All officers authorized to carry firearms in the performance of their official duties are required to successfully complete two training qualifications each year. The Office's firearm instructors conducted indoor and outdoor sessions in FY2018, consisting of education and skill-building on the appropriate use of the Office issued firearm. The Iowa Northern Probation Office opened its doors in Sioux City and allowed officers from South Dakota to use the MILO Range Simulator to further enhance officer skills to identify and respond to threats.

Safety Incidents

In FY2018, the staff in the District reported 7 safety incidents. The types and number of incidents were: Intimidation (2), Vehicle (1), Witnessing a crime or violent act (1), Person under supervision with erratic/suicidal behavior (2), and Exposure to substances (1).

Searches

The Office conducts warrantless searches of a person, the person's residence and/or person's vehicle in fulfillment of a court authorized search condition of supervision. Reasonable suspicion and Court approval is determined prior to conducting a warrantless search. The Office has three search coordinators covering the entire district. The Office coordinates searches with local law enforcement and the U.S. Marshal Service, based on availability and jurisdiction.

During FY2018, the Office conducted five (5) searches. Knives, a hatchet, and a machete were discovered and seized by local law enforcement.

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 line and managerial officer is expected. During FY2018, a total of 5,176 training hours were completed for an average of 96 hours per officer.

Travel

For FY2018, the District of South Dakota maintained a fleet of 20 cars for a total of 405,910 miles driven.

Shown below is a map of South Dakota with the four divisional and six 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.

