

US Probation & Pretrial Services District of South Dakota Annual Report Fiscal Year 2019



U.S. District Court
District of South Dakota
February 2020

Contents

Introduction	2
Vision, Mission, Values.....	4
Evidence-Based Practices	6
Organization	7
Budget	9
Operations	11
Pretrial Diversion Supervision	12
Pretrial Bail Investigations & Reports.....	13
Pretrial Supervision	16
Presentence Investigations & Reports	17
Post-conviction Supervision	19
Intervention Services.....	30
Extraordinary Factors	31
Safety.....	34
Searches.....	34
Training.....	35
Travel	35

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.



Central Division **Courthouse located in Pierre**

District Judge

Roberto A. Lange

Magistrate Judge

Mark A. Moreno (part-time)



Northern Division **Courthouse located in Aberdeen**

District Judge

Charles B. Kornmann

Magistrate Judge

William D. Gerdes (part-time)



Southern Division **Courthouse located in Sioux Falls**

District Judges

Karen E. Schreier

Lawrence L. Piersol

Magistrate Judge

Veronica L. Duffy



Western Division **Courthouse located in Rapid City**

District Judge

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:

- 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)
- Northern Division – 2 offices; Aberdeen and McLaughlin (Standing Rock 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 self-management, promoting changes in the person's 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 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:

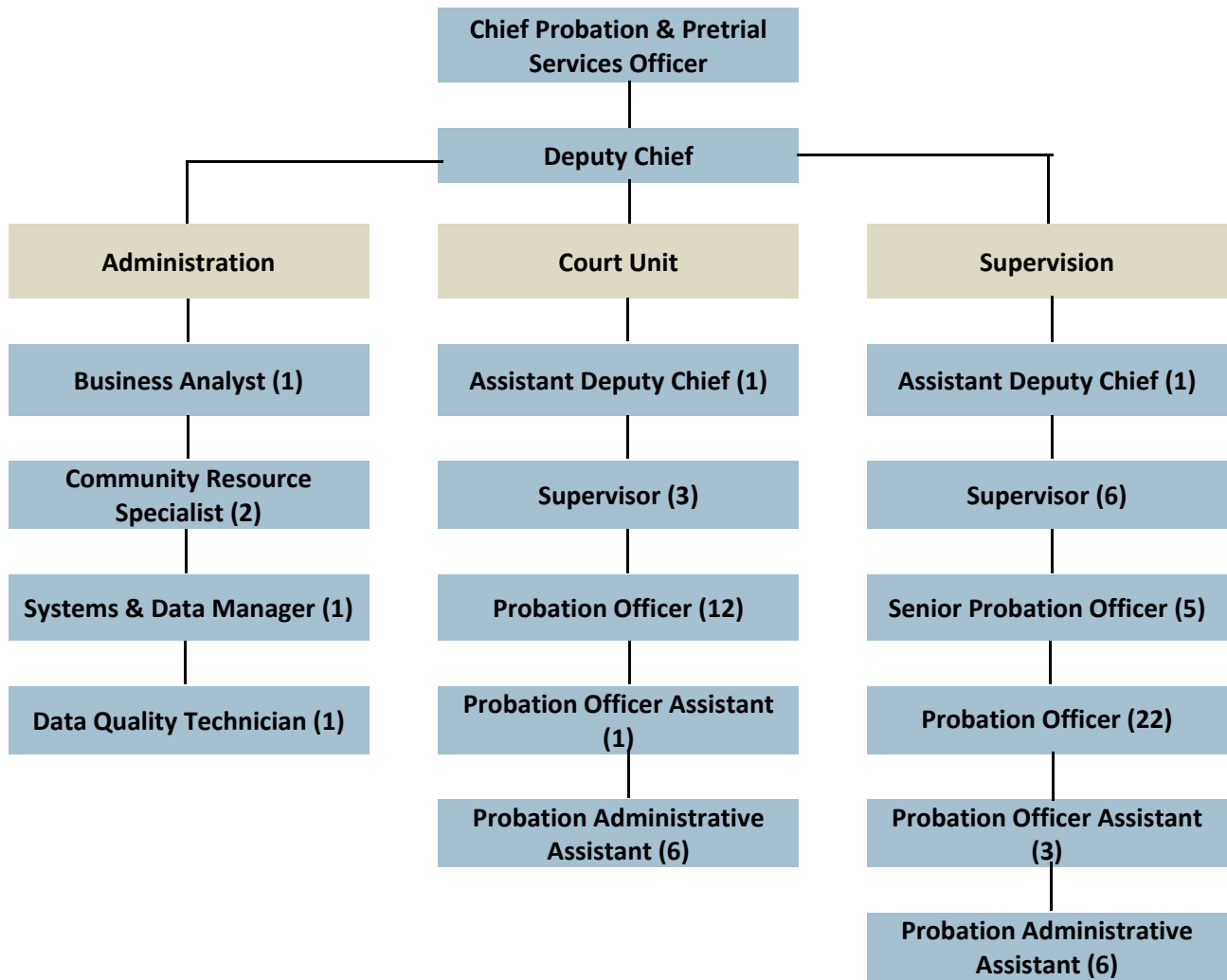
- the Office's expertise (knowledge and skills of probation staff through rigorous study of human behavior and disciplined regimen of training);
- the Office's own evidence (purposeful collection and analysis of both local aggregate outcome data associated with the application of empirically supported 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 FY2019 there were a total of 73 persons employed with the Office, with 13 classified as Administrators & Supervisors, 43 classified as Line Officers, and 17 classified as Administrative/Community Resource Specialist/Support Staff. Following is a breakdown of staff gender, education level, and years of service.

**Administrators & Supervisors
(18% of Total Staff)**

Gender: 8 male and 5 female
 Education Level: 9 with graduate degrees and 4 with bachelor's degrees
 Years of Service in the Office: Range from 3 years to 20 years of service
 Average of 12 years of federal service

**Line Officers
(59% of Total Staff)**

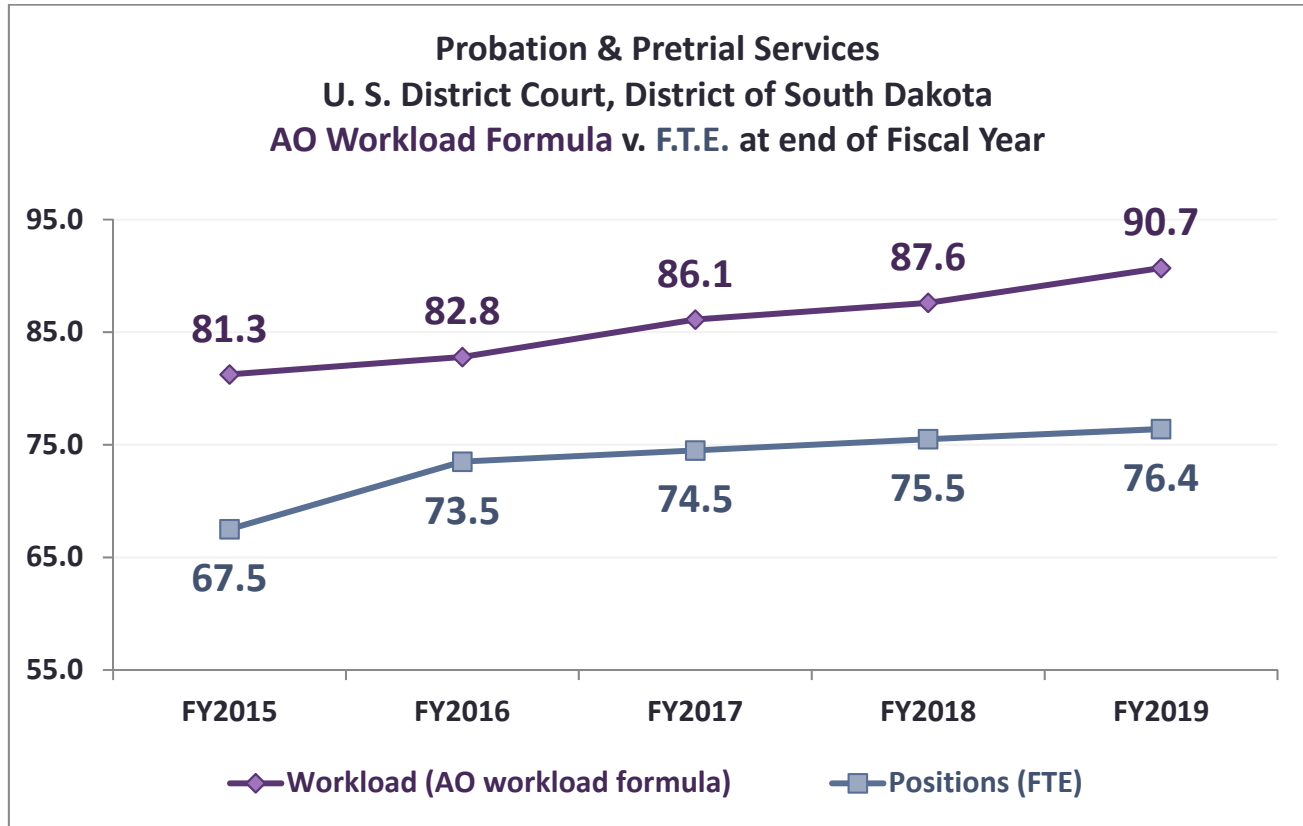
Gender: 19 male and 24 female
 Education Level: 9 with graduate degrees and 30 with bachelor's degrees
 Years of Service: Range from less than 1 year to 25 years of service
 Average of 7 years of federal service

**Administrative/Community Resource Specialist/Support Staff
(23% of Total Staff)**

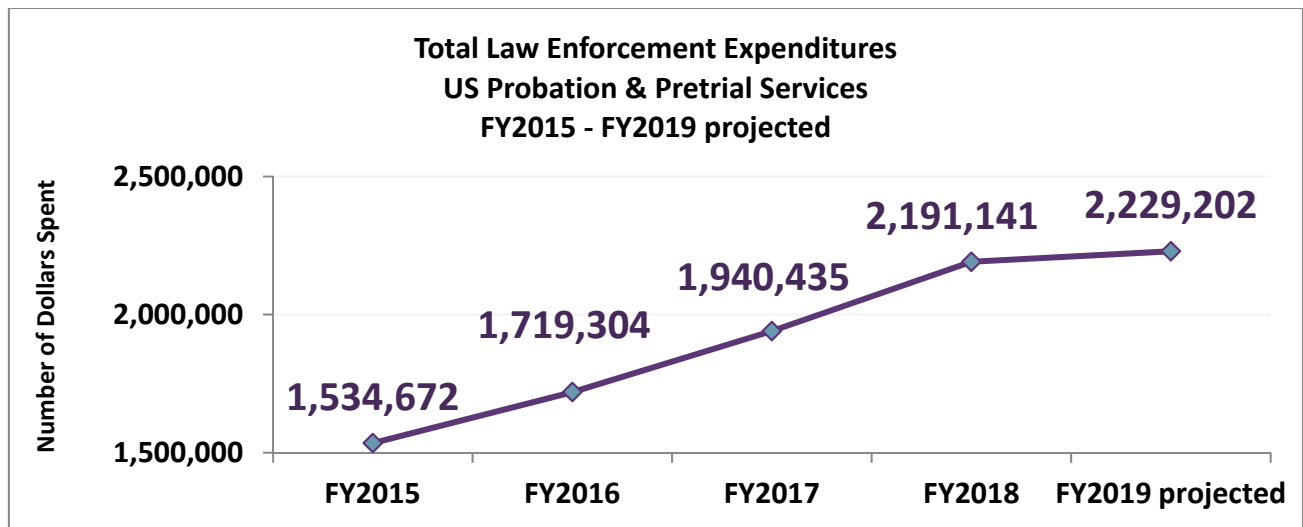
Gender: 2 male and 15 female
 Education Level: 1 with a graduate degree and 8 with bachelor's degrees
 Years of Service: Range from 1 year to 24 years of service
 Average of 10 years of federal service

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.).

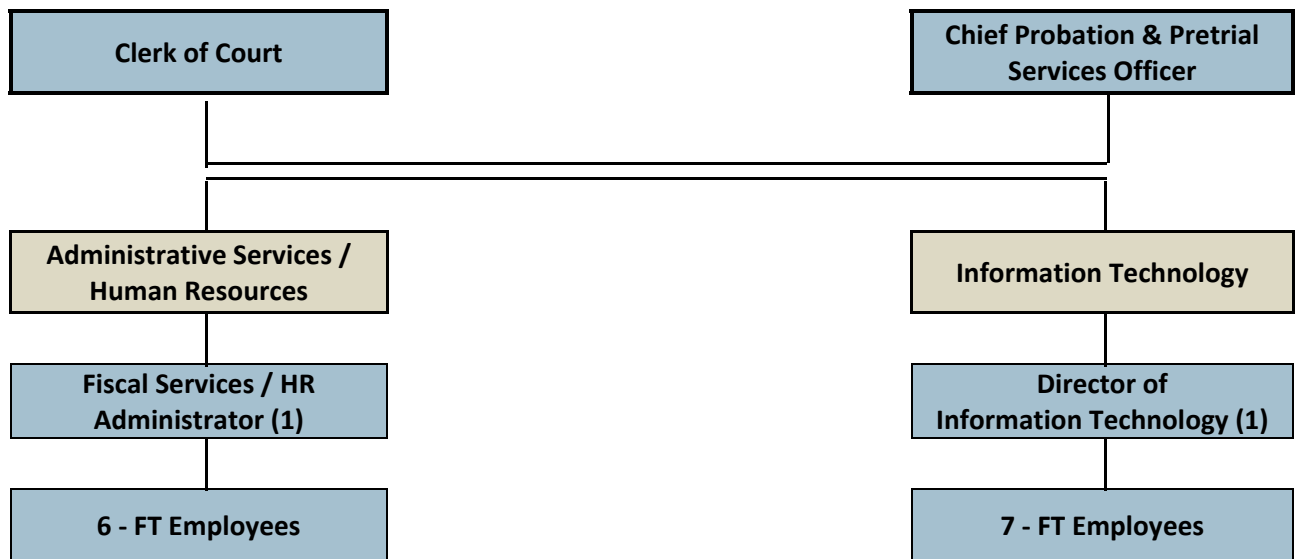


The graph below reflects the Probation & Pretrial Services fiscal year law enforcement expenditures. The expenditures reflect costs to provide treatment/counseling/training to persons under the Office's supervision to increase their competencies to behave lawfully. It also includes costs associated with 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

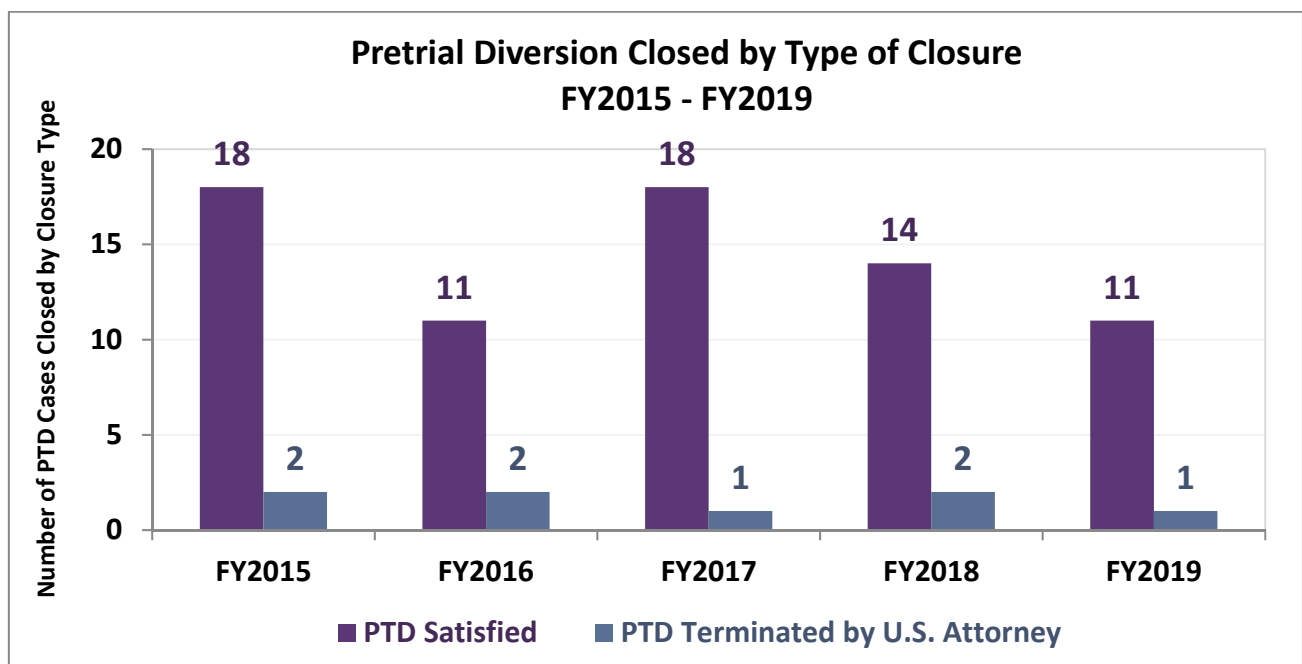
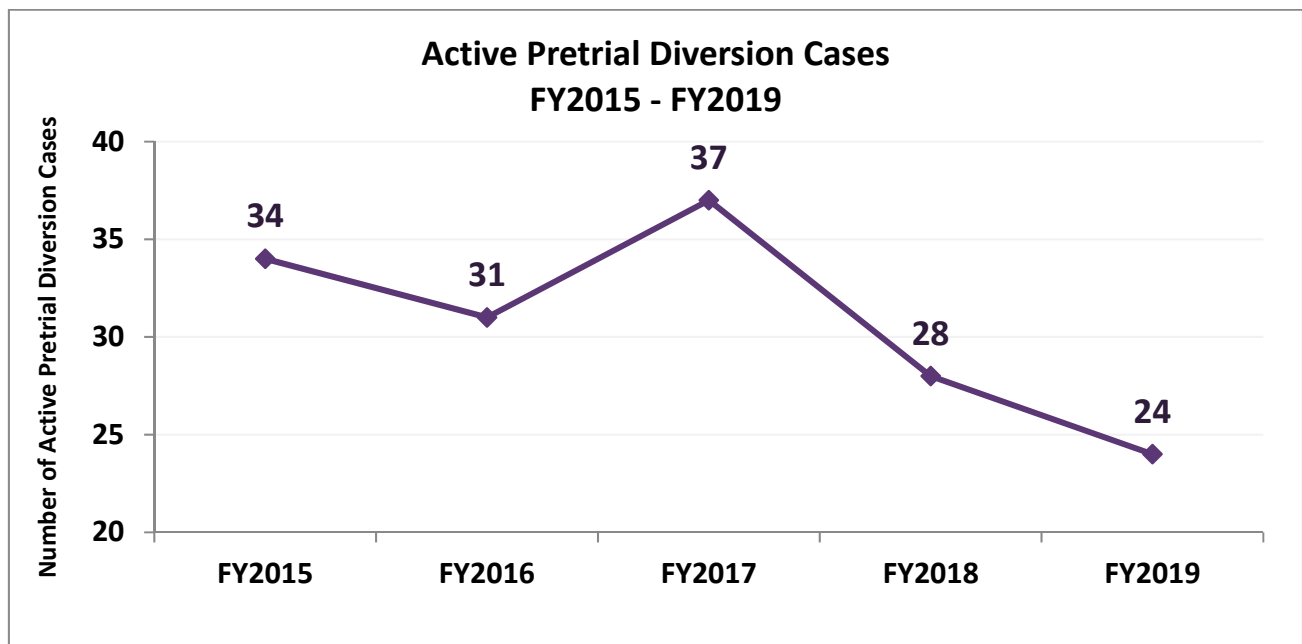
The Probation and Pretrial Services Office performs services for the court and the justice system in five major areas:

- 
- 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 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 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 FY2019, eleven persons under pretrial diversion supervision successfully completed the supervision period. The U.S. Attorney terminated only one pretrial diversion case in FY2019.



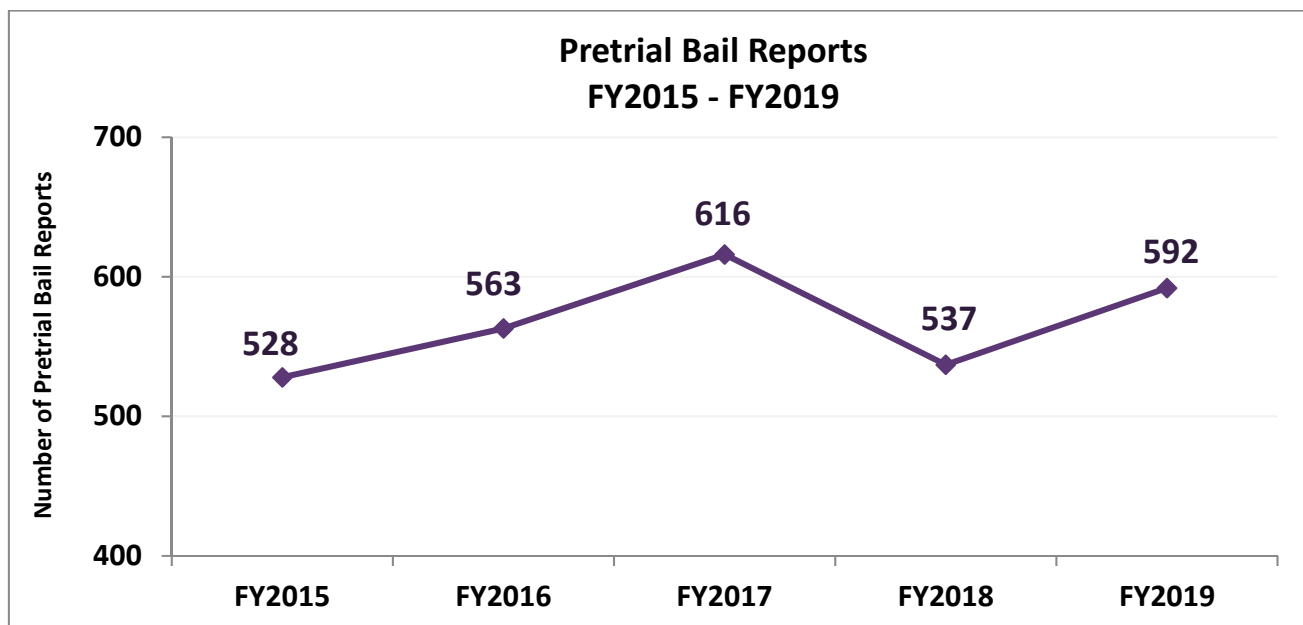
Pretrial Bail Investigations and Reports

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.

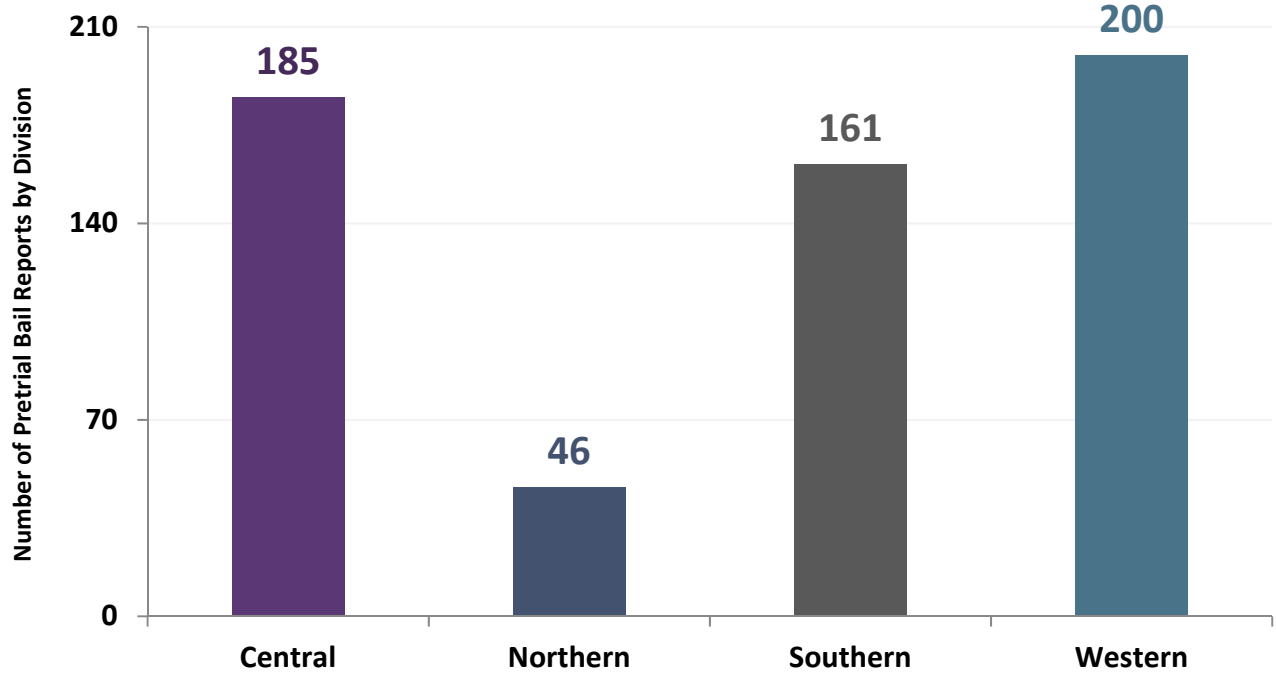
The assessment of a person's likelihood to appear and remain lawful is determined by the application of the Pretrial Risk Assessment (PTRA) tool and the Office's best judgment based on the totality of all known factors and circumstances. The PTRA is a validated risk assessment instrument created by the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

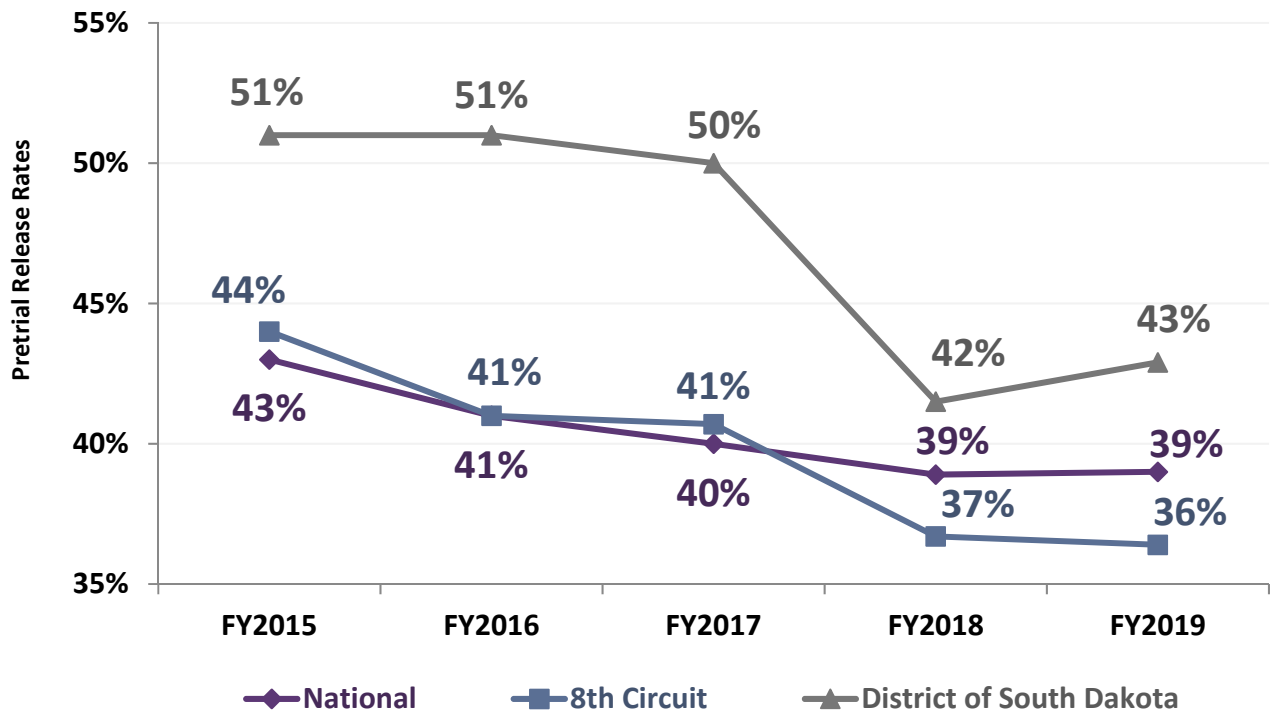


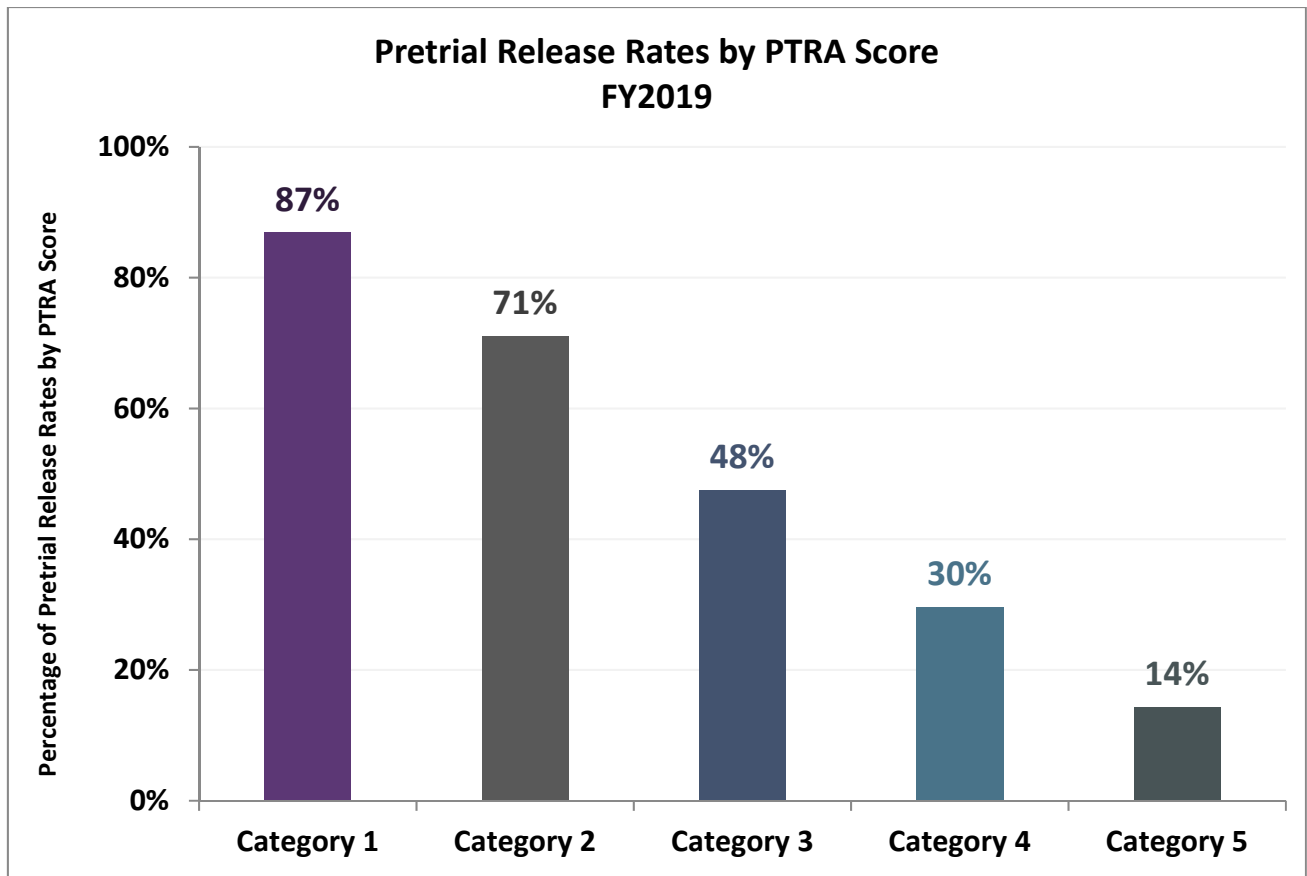
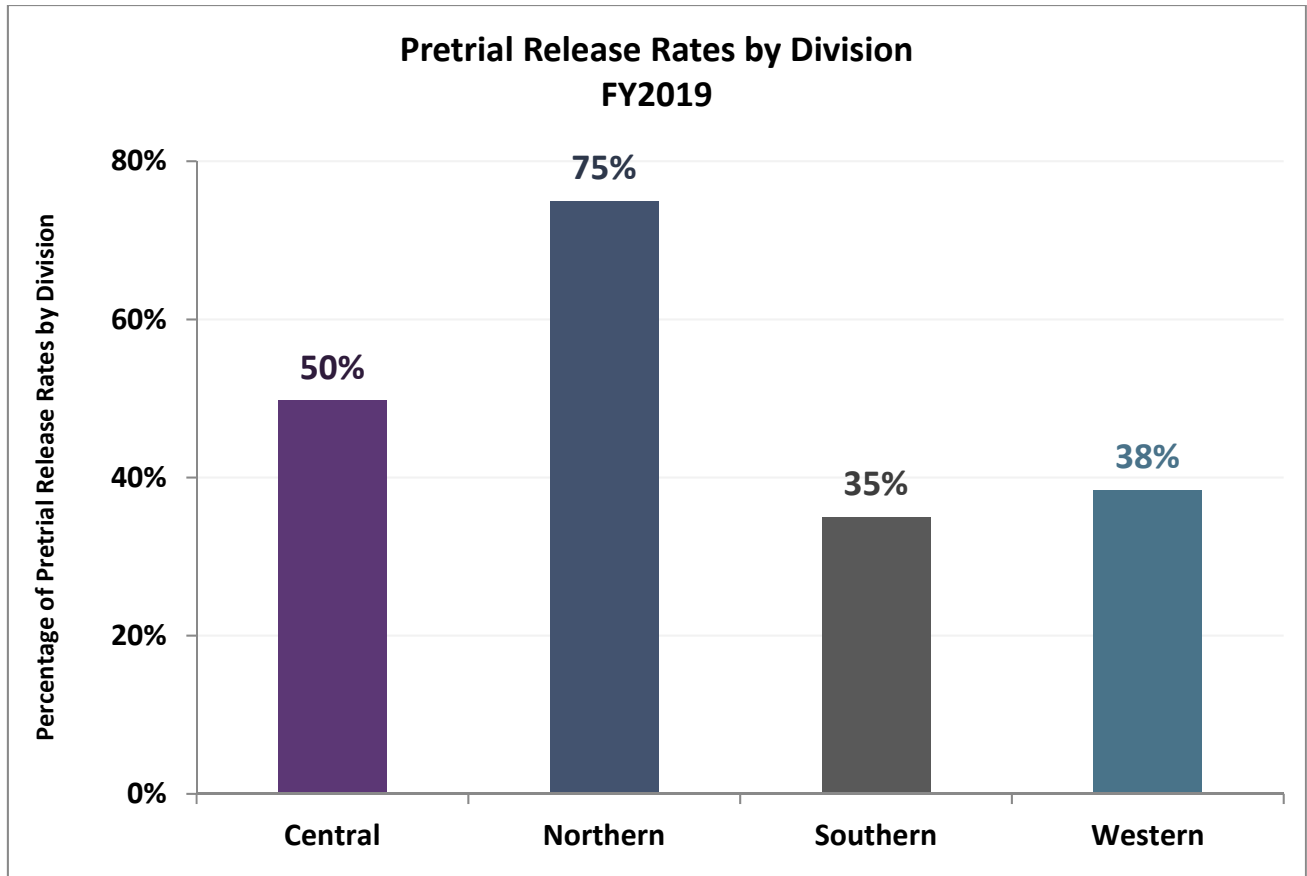
**Pretrial Bail Reports by Division
FY2019**



**Pretrial Release Rates
FY2015 - FY2019**

National, 8th Circuit, & District of South Dakota



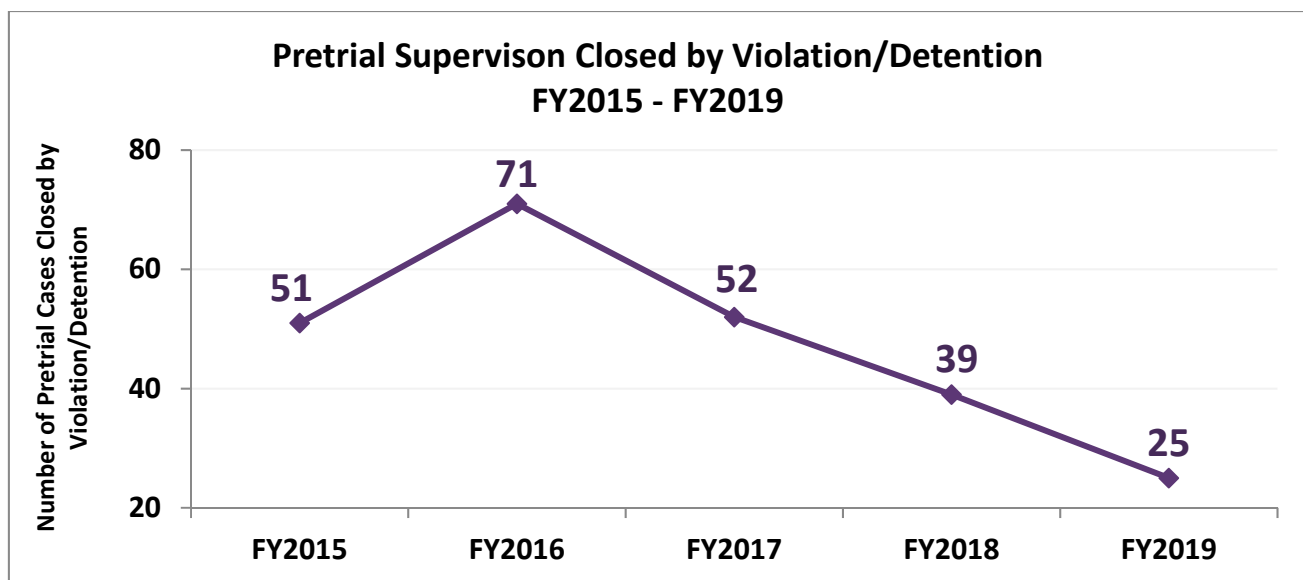
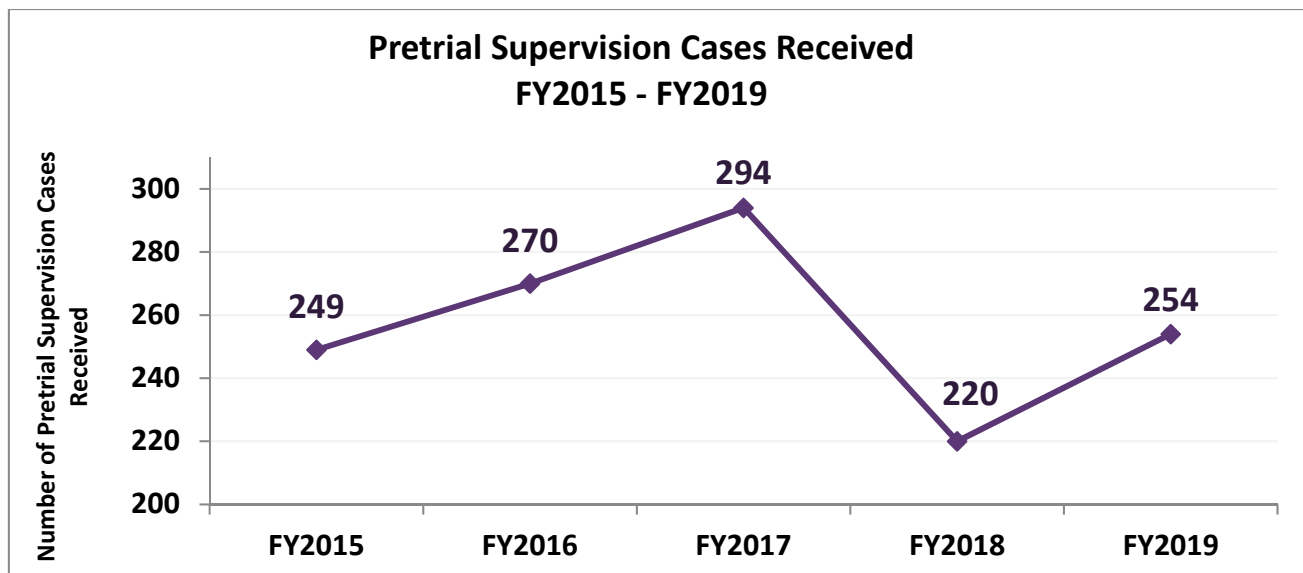


Pretrial Supervision

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.



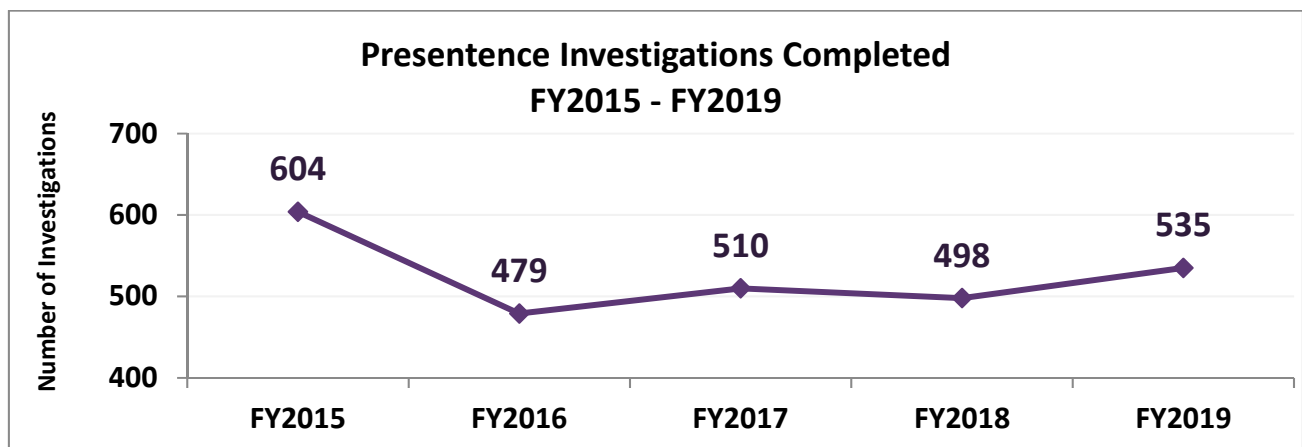
Presentence Investigations and Reports

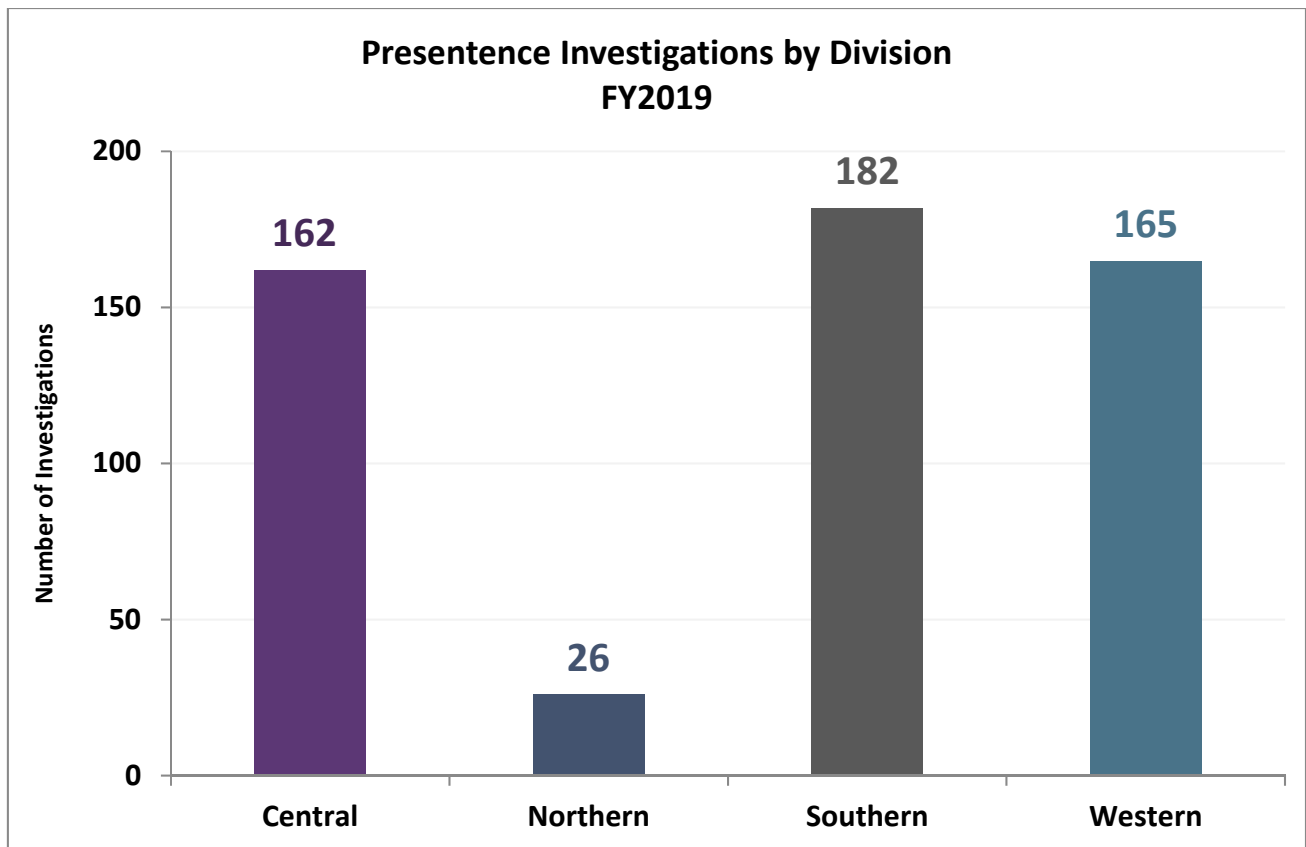
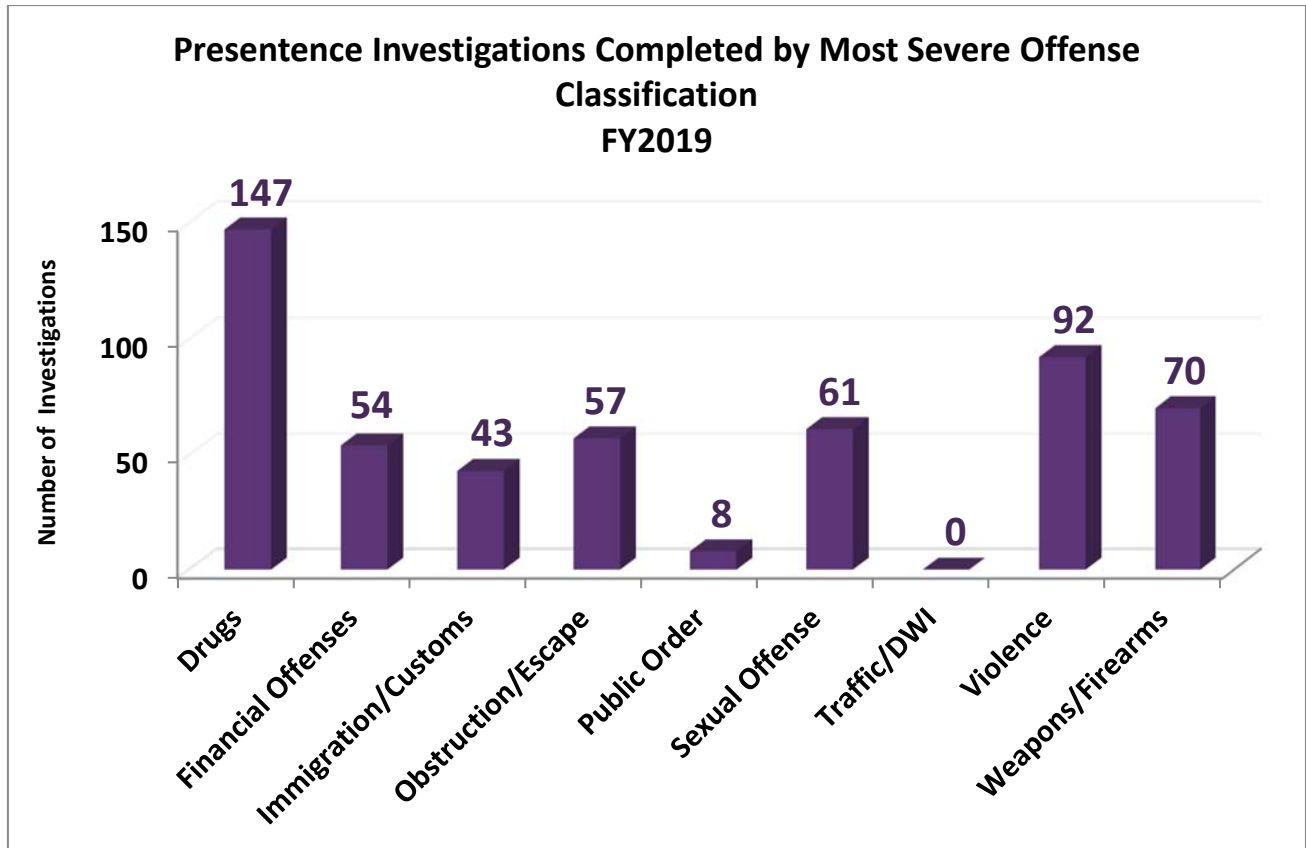
After a person has been convicted of a crime, but prior to sentencing and pursuant to a court order, the Office conducts an independent investigation of the person. The aim of the presentence investigation is to provide a timely, accurate, objective, and comprehensive report to the court. The report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





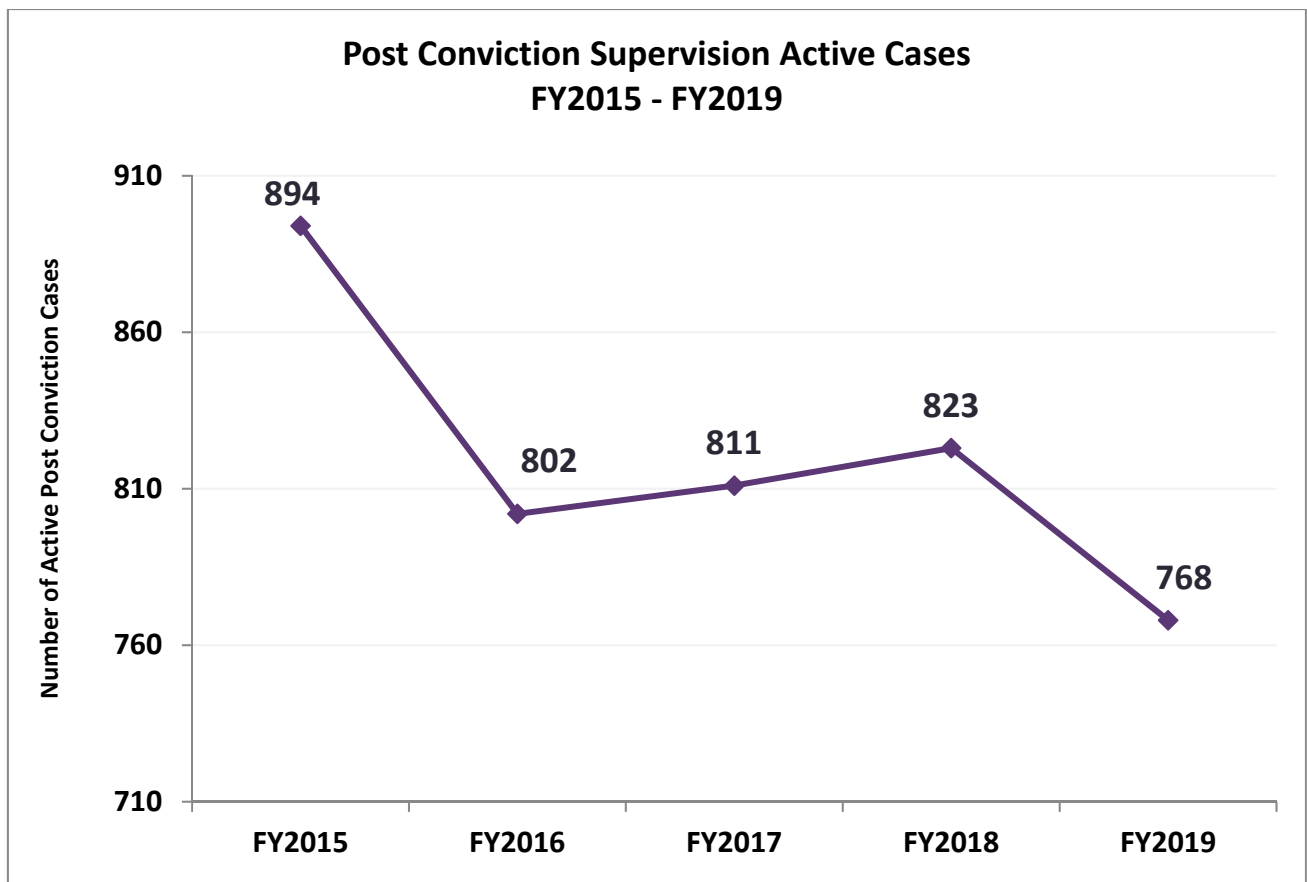
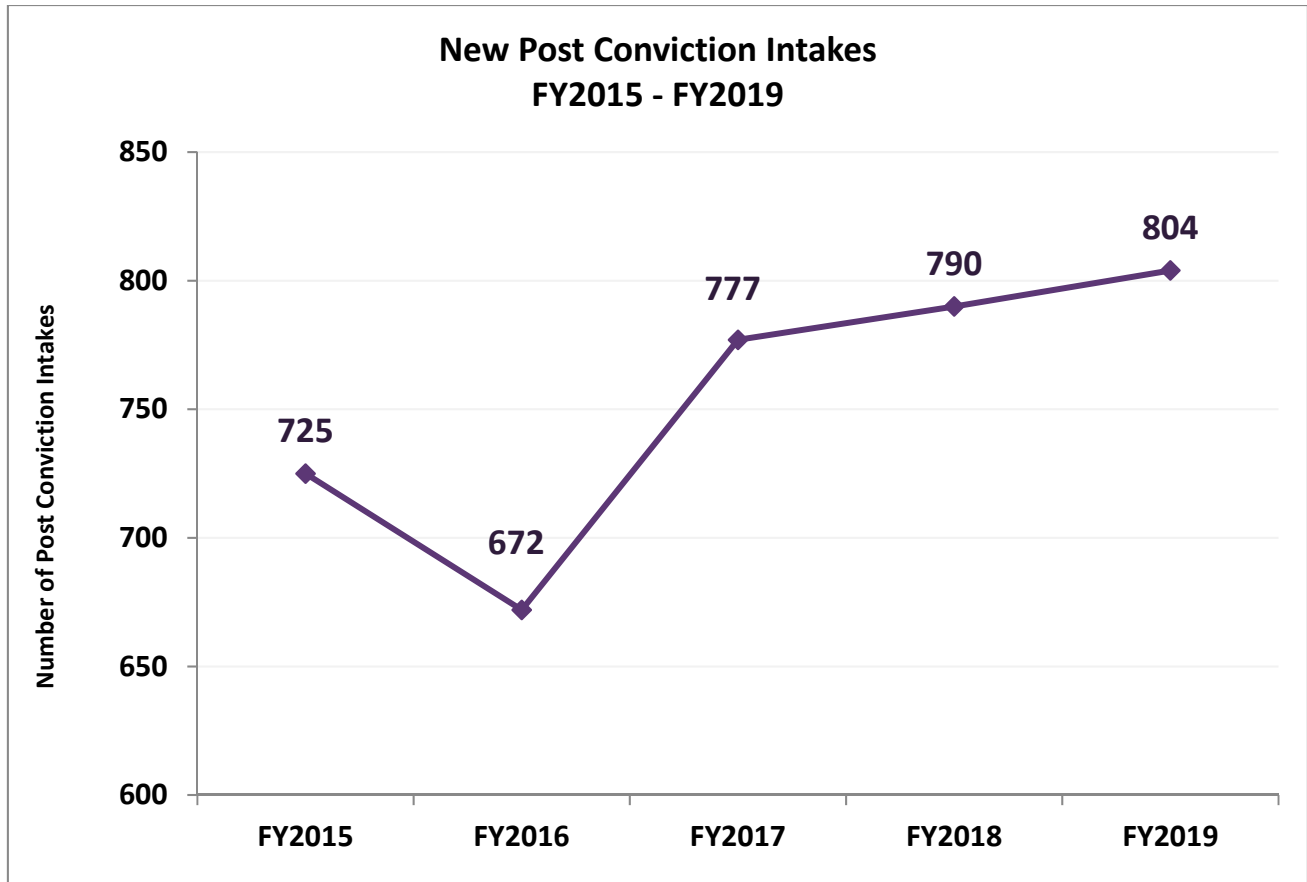
Post-conviction Supervision

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.

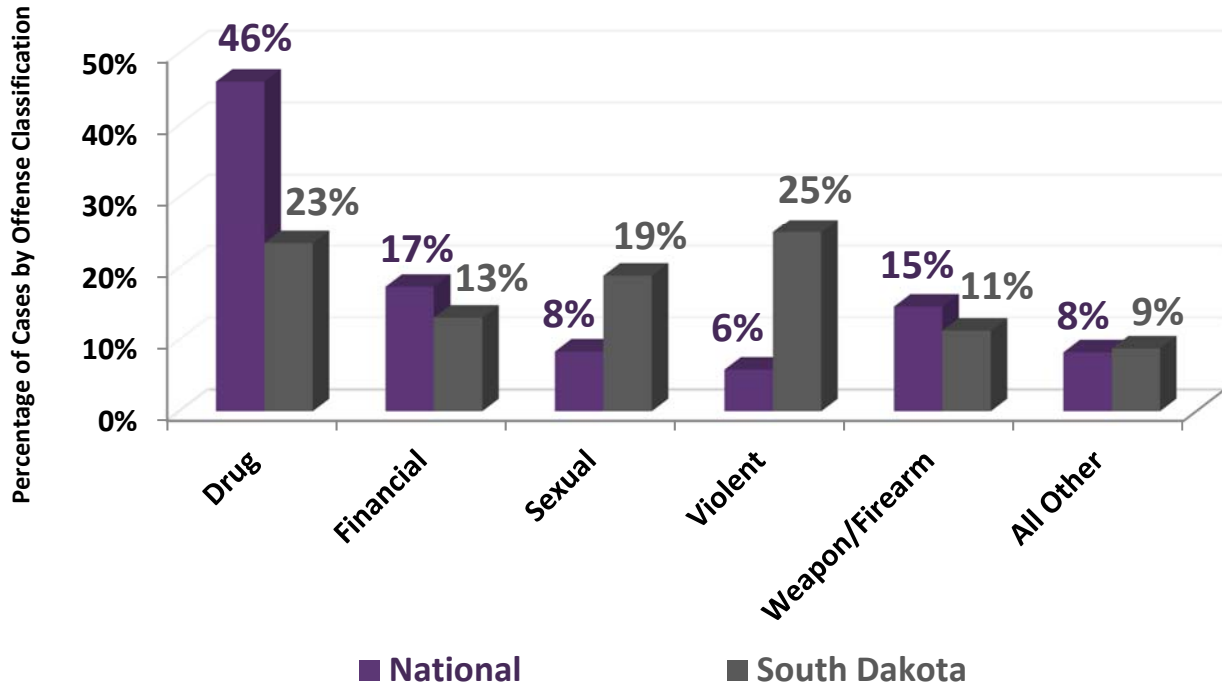
The Office must responsibly manage the risks posed by those under supervision. This requires a collaborative and evolutionary effort among the person under supervision, the Office, treatment providers, and prosocial collateral supports. It is a dynamic process of applying evidence-based interventions,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

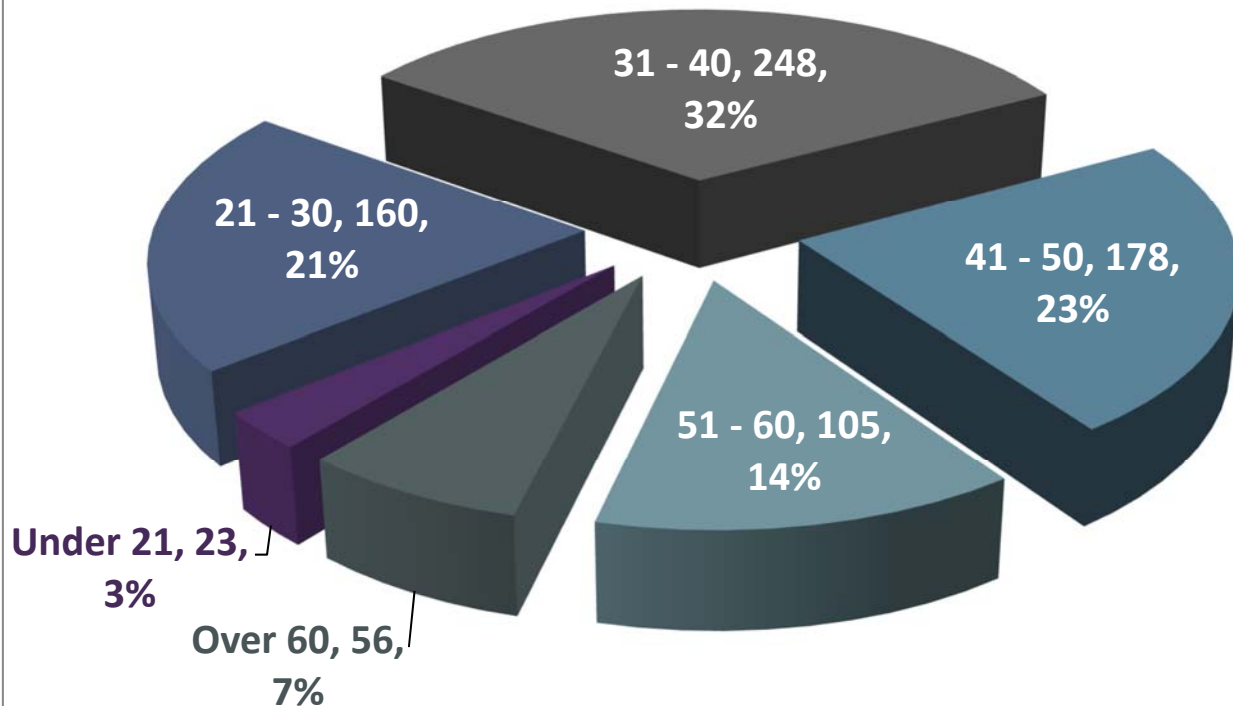
In spite of best efforts and implementation of best practices by the Office, there are persons under supervision who struggle with compliance requirements and exhibit noncompliant and unlawful behavior. When such behaviors rise to an unacceptable level, the Office informs the court and seeks modification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



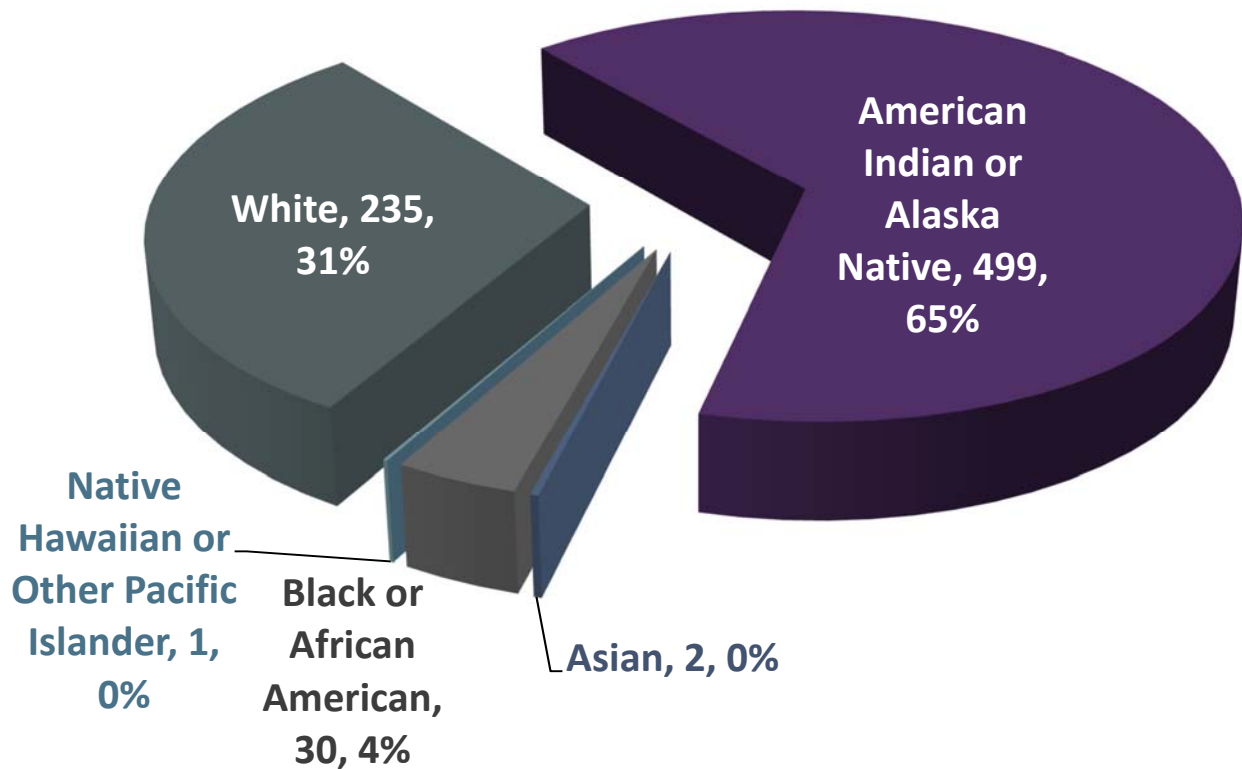
Percentage of Active Cases by Sentence Offense Classification
Active Caseload as of 9/30/2019
National and South Dakota



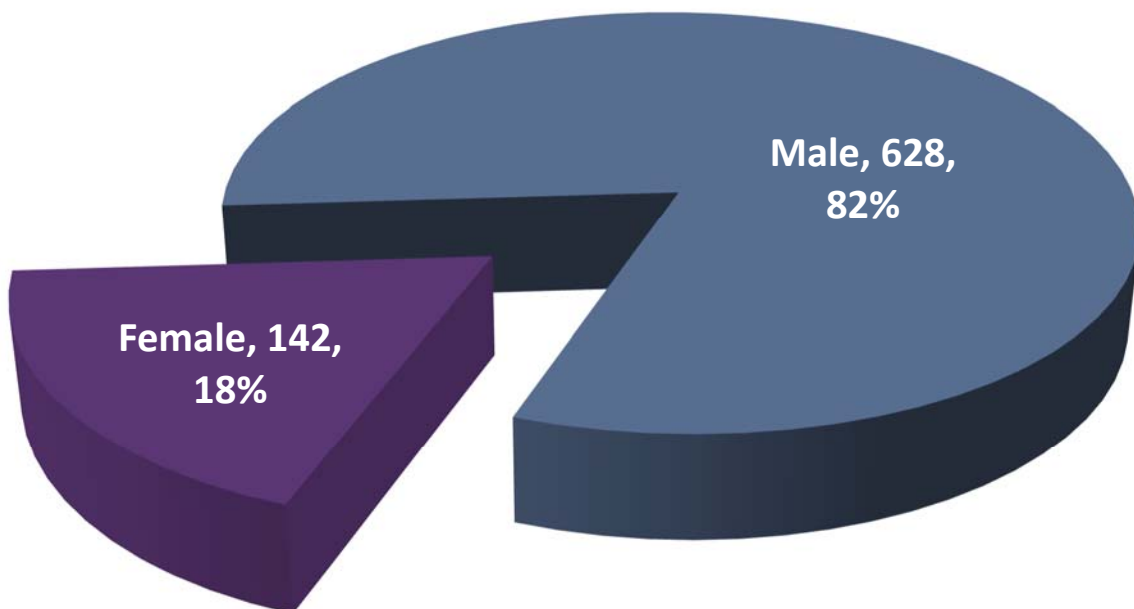
Number & Percentage of Persons Under Supervision by Age on
Active Caseload as of 9/30/2019



Number & Percentage of Persons Under Supervision by Race on Active Caseload as of 9/30/2019

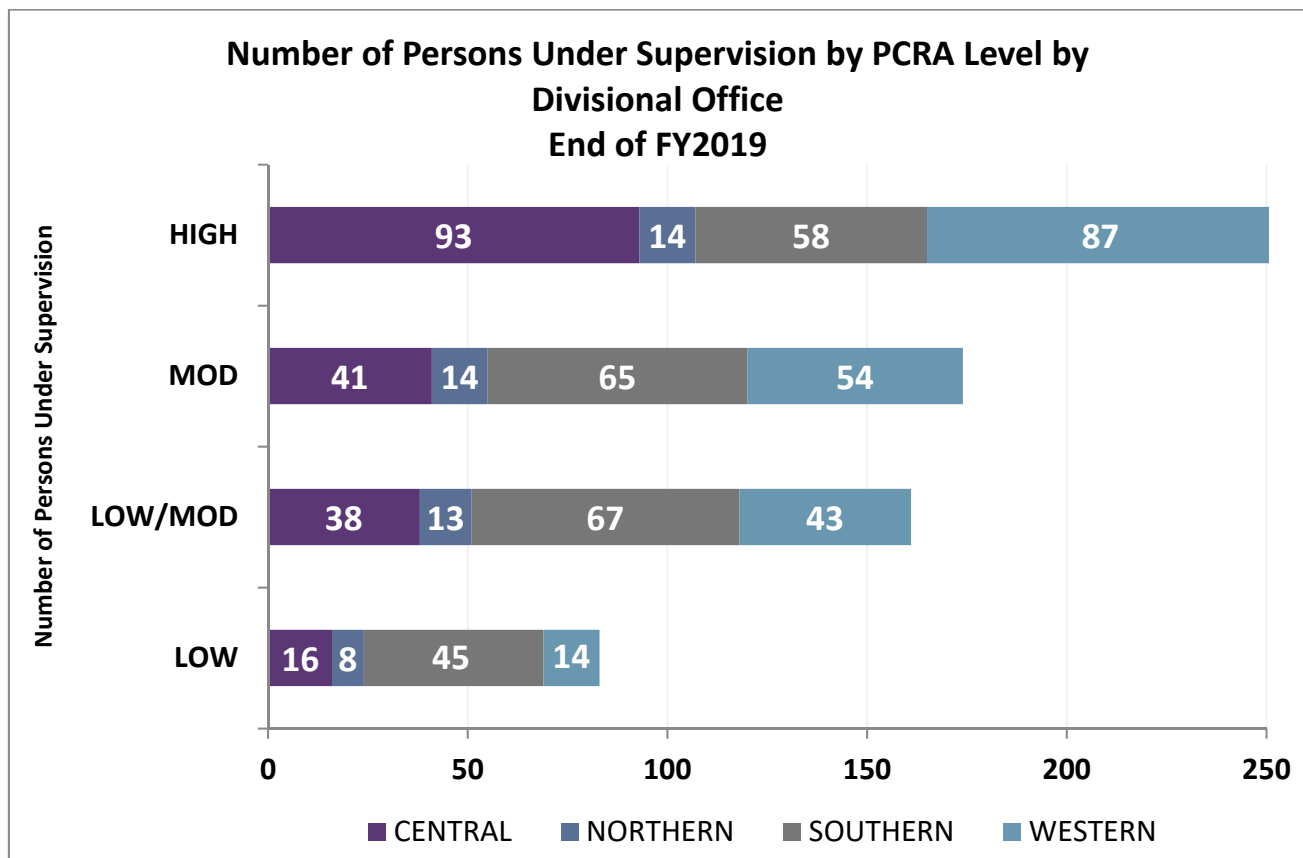
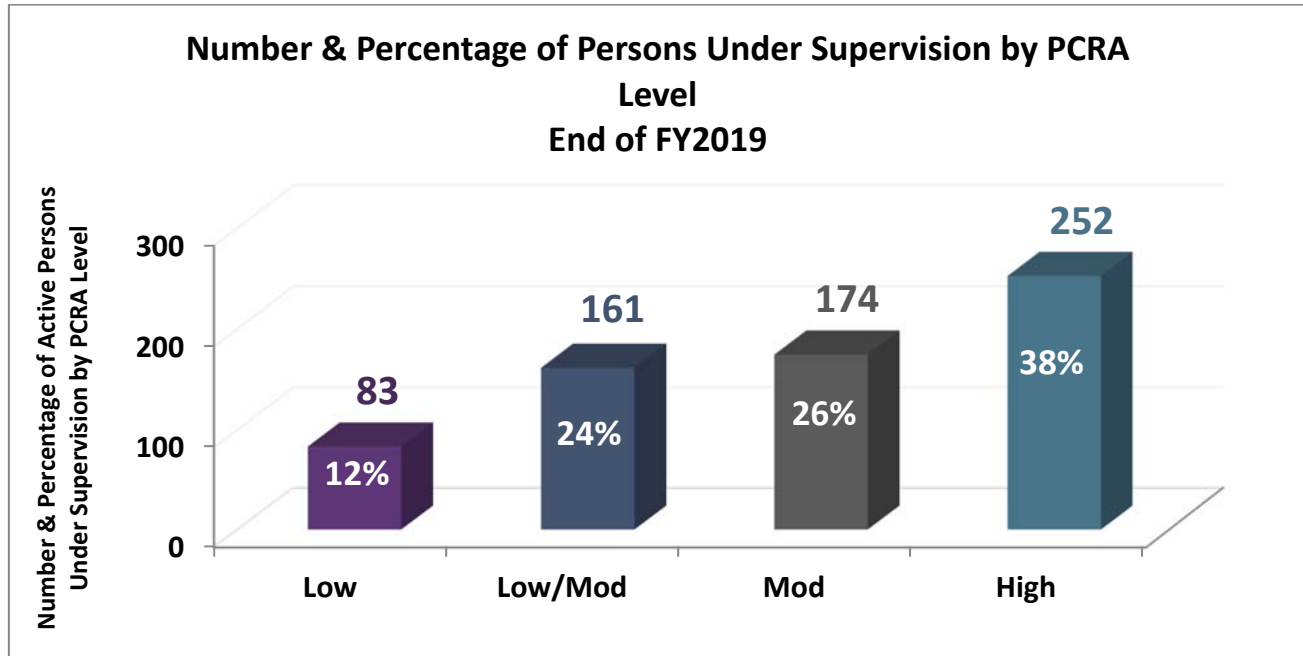


Number & Percentage of Persons Under Supervision by Gender on Active Caseload as of 9/30/2019

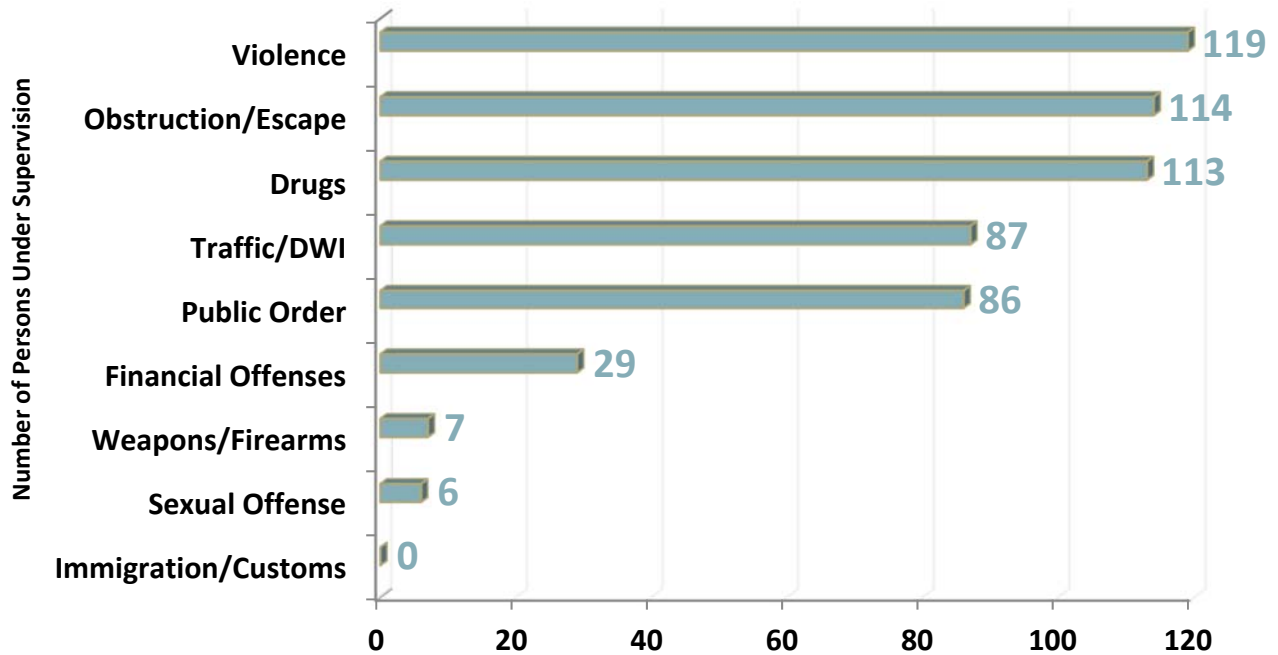


Post-Conviction Risk Assessment (PCRA)

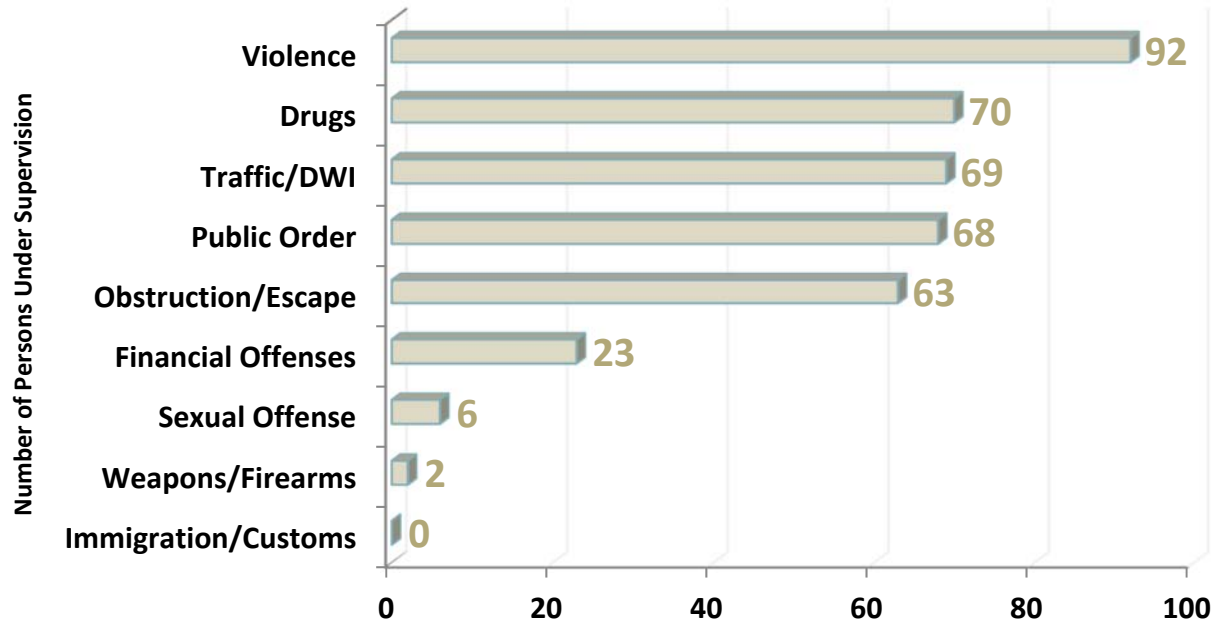
Most instructive for the effective supervision of persons are the results of the federal probation system's risk assessment, i.e., Post-Conviction Risk Assessment. This validated actuarial instrument measures the risk to reoffend for each person under supervision. There are four categories of risk –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



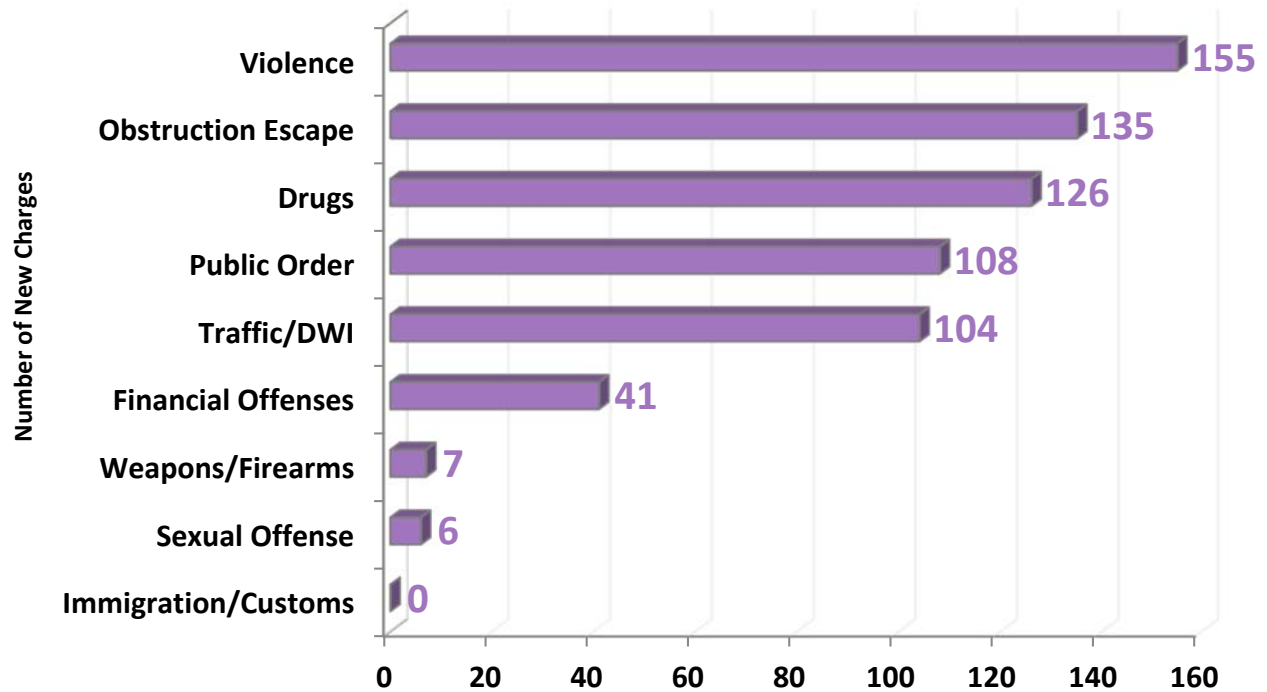
**Number of Persons Charged with a New Offense by Offense Classification
FY2019**



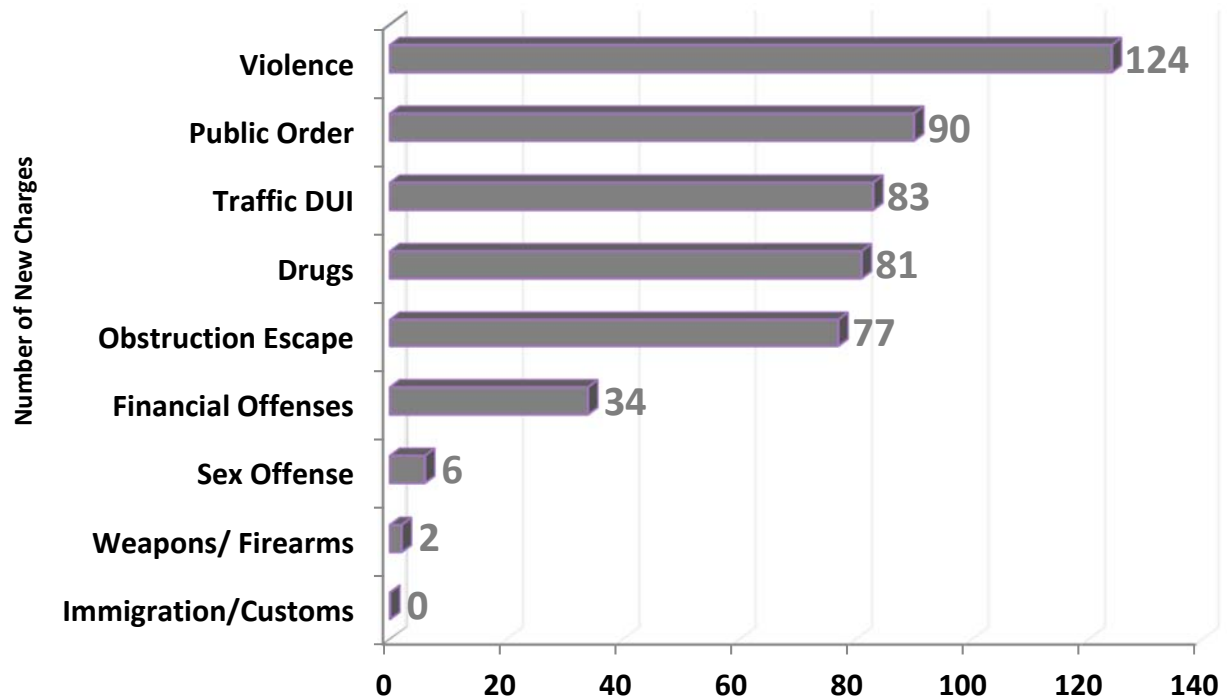
**Number of Persons Charged with a New Offense by Offense Classification - Excludes Persons Charged with a New Offense after Warrant or Custody status
FY2019**



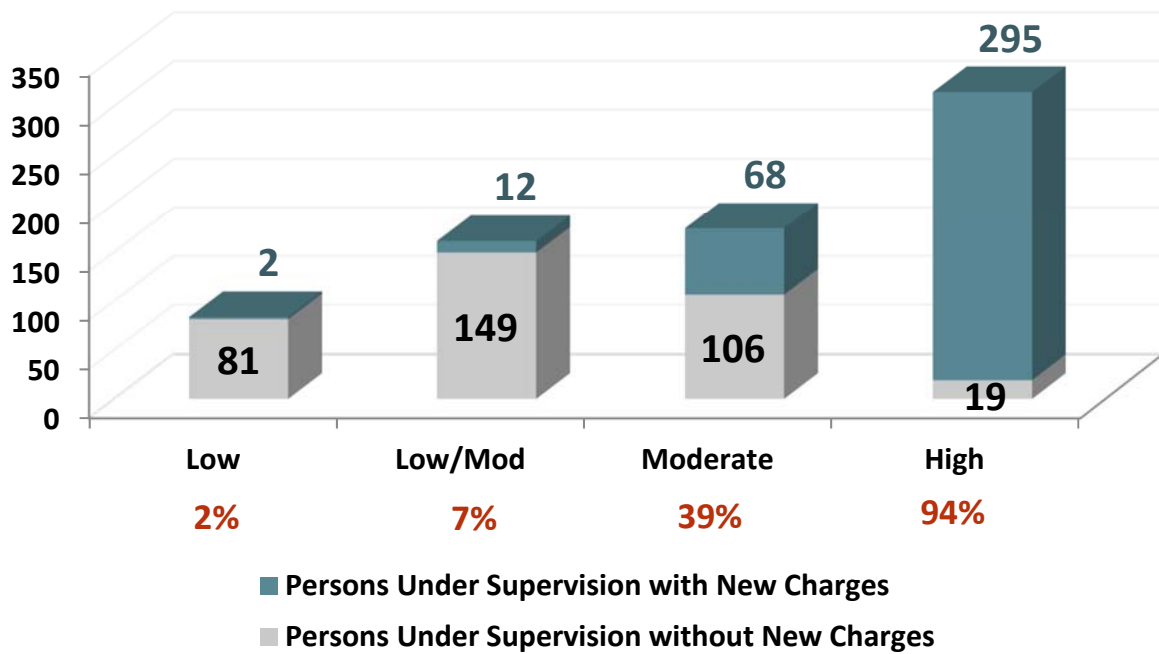
**Number of New Charges by Offense Classification
FY2019**



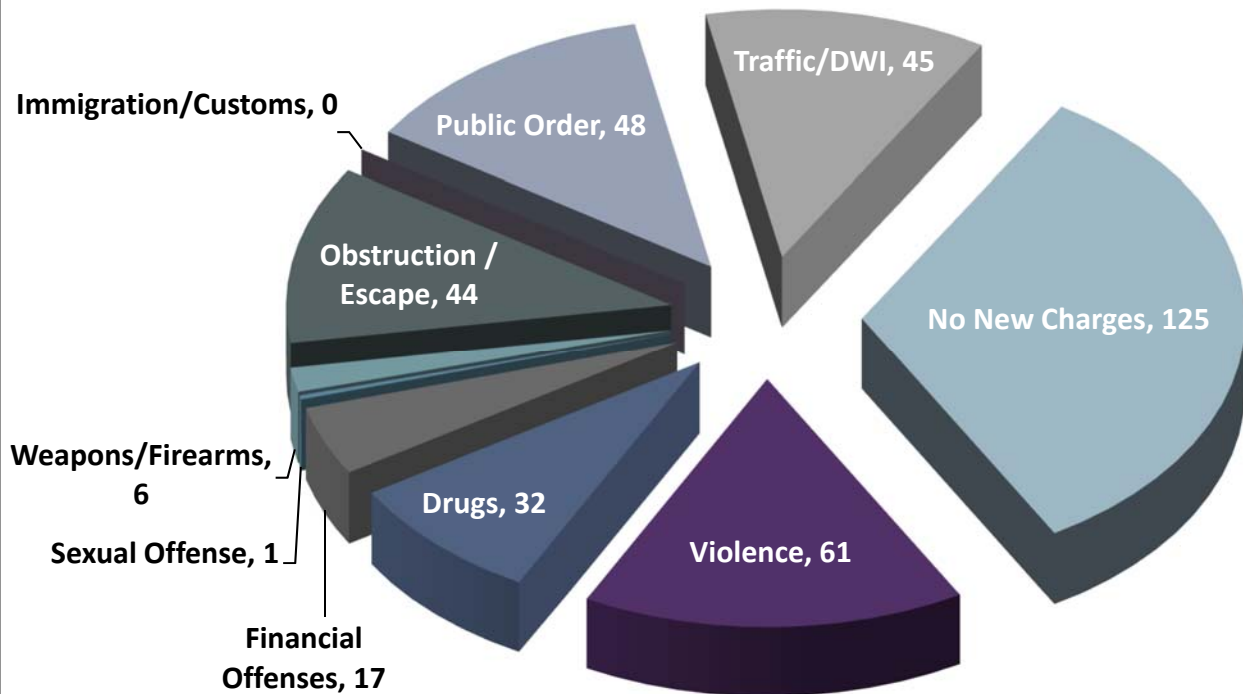
**Number of New Charges by Offense Classification - Excludes
Charges that occurred after Warrant or Custody status
FY2019**



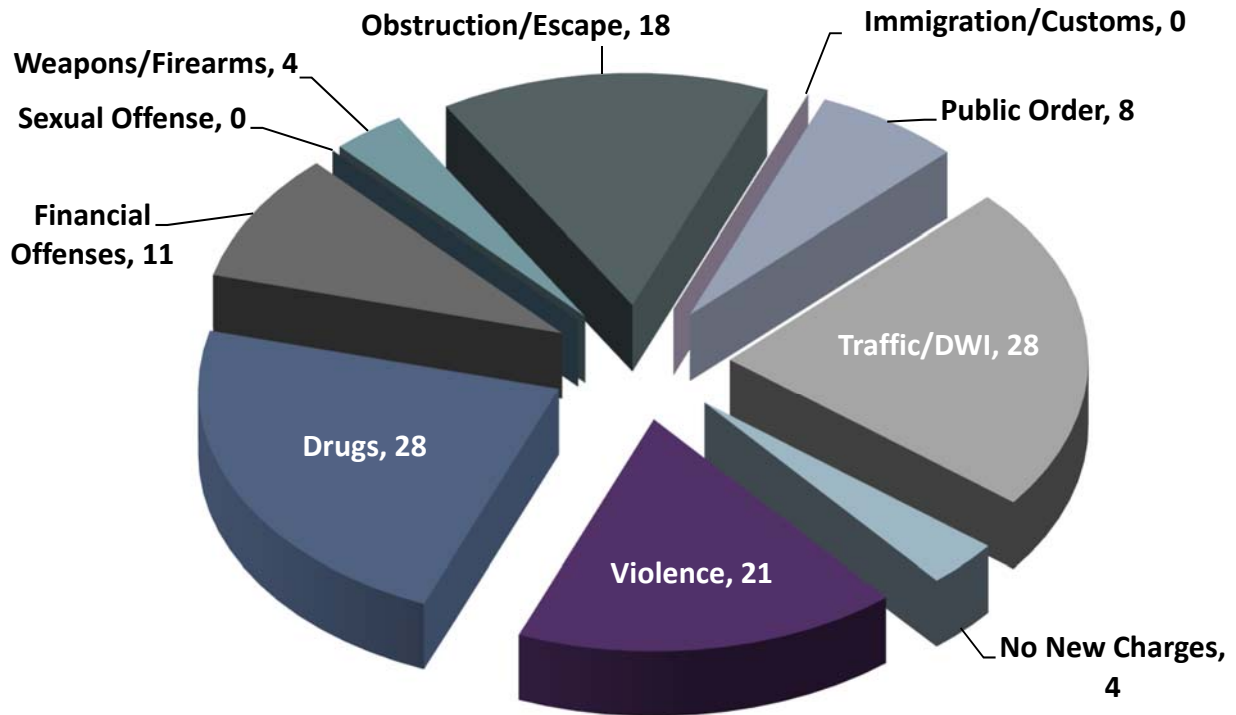
**Persons Under Supervision with and without New Charges by PCRA Level
FY2019**



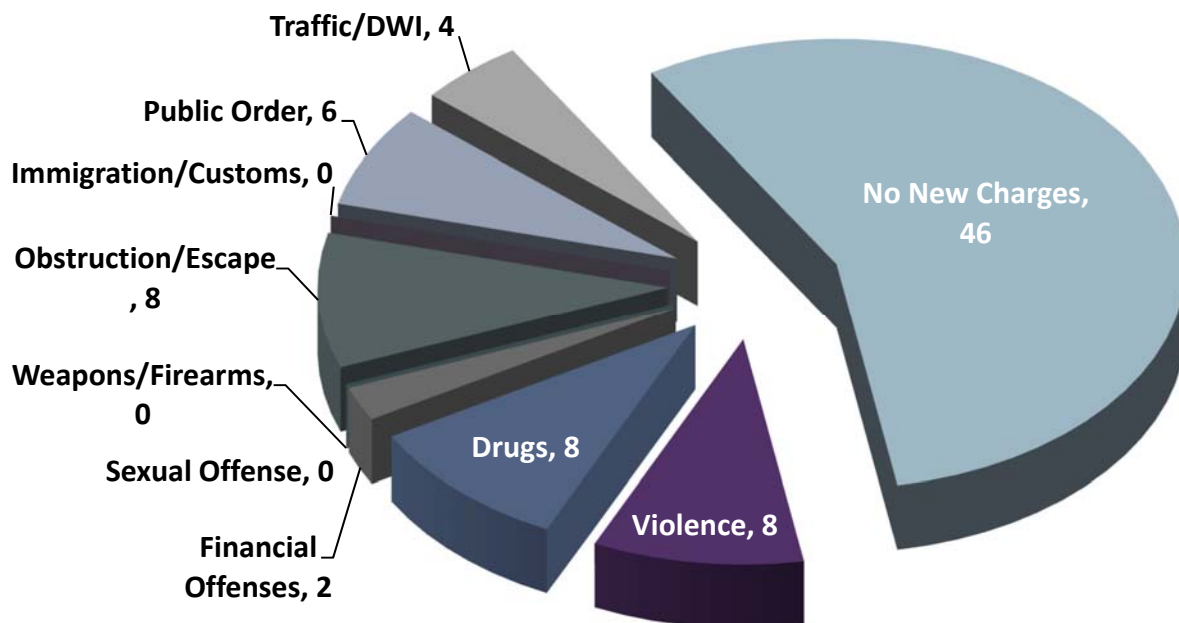
**Number of Cases Closed with Instant Offense of *Violence* with New Charges Committed During that Term of Supervision by Offense Classification
FY2019**



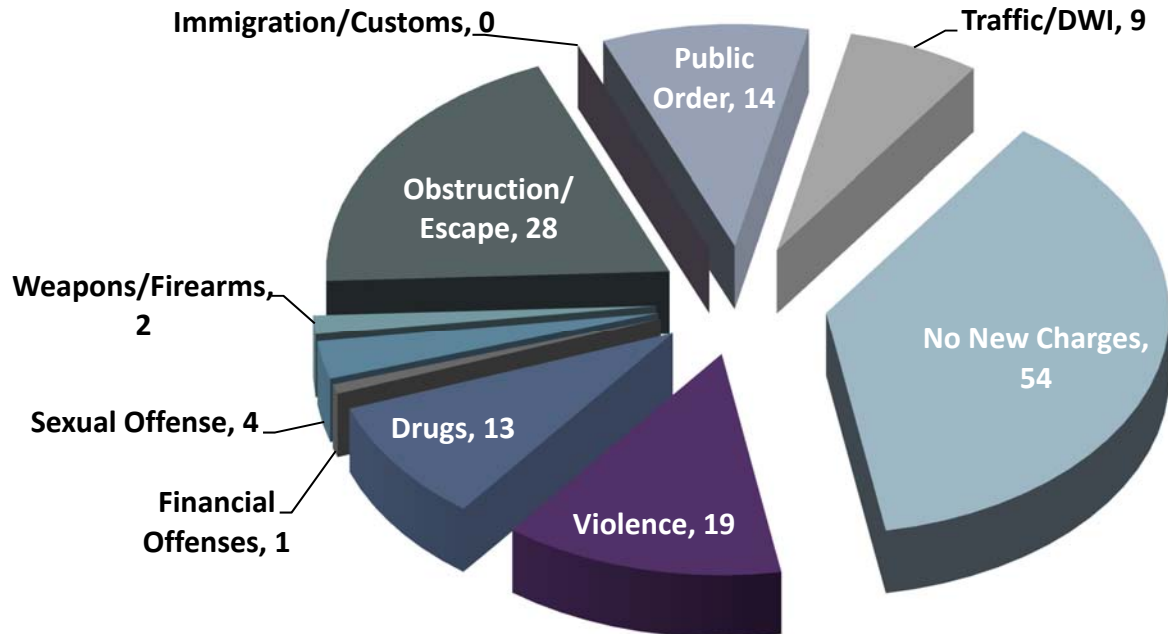
**Number of Terms of Supervision Closed where Instant Offense is
Drugs with New Charges Committed During that Term of
Supervision by Offense Classification
FY2019**



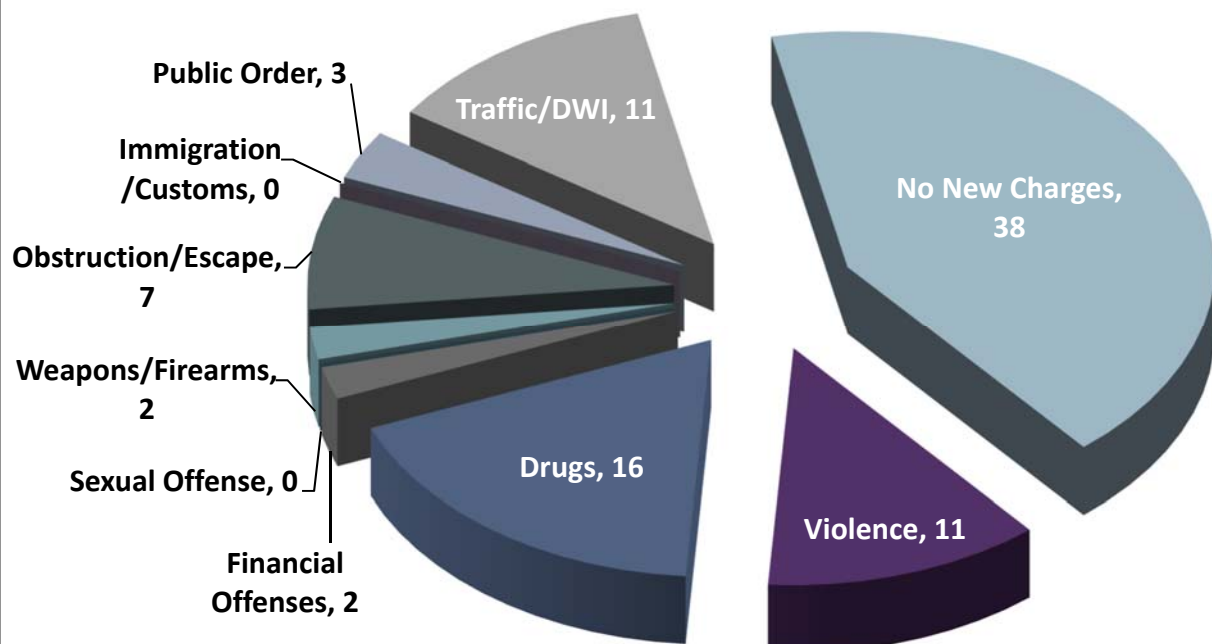
**Number of Terms of Supervision Closed where Instant Offense is
Financial Offenses with New Charges Committed During that
Term of Supervision by Offense Classification
FY2019**



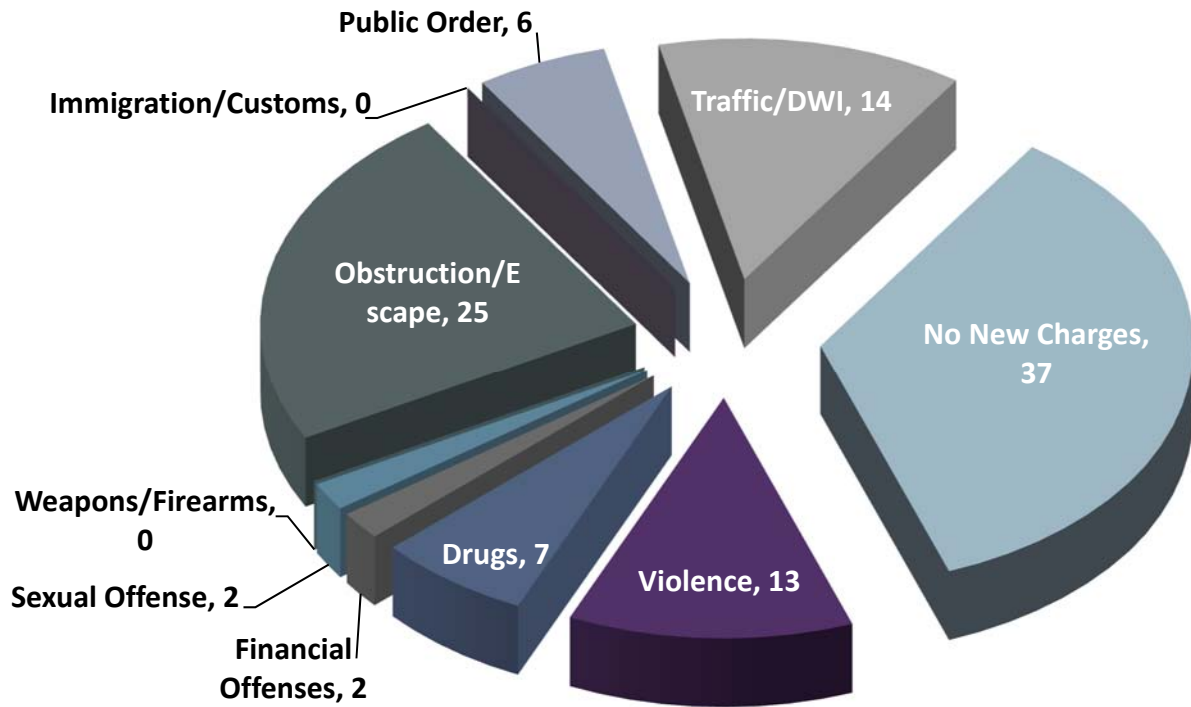
**Number of Terms of Supervision Closed where Instant Offense is
Sexual Offense with New Charges Committed During that Term of
Supervision by Offense Classification
FY2019**



**Number of Terms of Supervision Closed where Instant Offense is
Weapons/Firearms with New Charges Committed During that
Term of Supervision by Offense Classification
FY2019**



**Number of Terms of Supervision Closed with Instant Offense
Obstruction/Escape with New Charges Committed During that
Term of Supervision by Offense Classification
FY2019**



Intervention Services

The Districts Risk Profile

The federal probation system utilizes the Post-Conviction Risk Assessment (PCRA) tool to drive the supervision of individuals on community supervision. The PCRA assists officers, treatment providers, and individuals on supervision in addressing behaviors that will help the individuals on supervision succeed in the community. Nationally only 5% of federal post-conviction supervision cases fall into the highest risk category (High) to reoffend. At the end of FY2019, South Dakota's caseload has 38% in the High-risk category. Through the skilled work of officers, treatment providers, along with the work of the persons under supervision, the District of South Dakota addresses risk factors and effectively provides interventions to assist individuals in making positive changes in their lives.

Tele-health

In 2019, the District of South Dakota (Office) obtained approval to begin offering Second Chance cognitive behavioral interventions utilizing tele-health technology. By offering interventions via tele-health, the Office will be able to better meet the needs of individuals on supervision in innovative ways.

Vendor Conference

In September, the Office hosted vendor conferences in Sioux Falls and Rapid City. These conferences provided vendors the opportunity to ask questions before the start of their contracted services. The Office provided education about the Post-Conviction Risk Assessment (PCRA), the Risk to Harm assessment, Quarterly Treatment Plans, and how treatment providers can utilize these tools when working with persons under supervision. The Office plans to continue to offer these conferences in order to deepen the working alliance between the probation office and treatment providers in the community. It is our hope that by strengthening our working alliance, we will be able to better serve those we supervise and continue to reduce harm in communities.

Cheyenne River Project

Cheyenne River Project is a Cognitive Behavioral Program piloted in Eagle Butte, SD, within the Cheyenne River Reservation. Since its inception in 2017, the Cheyenne River Project has completed three cycles. Each cycle runs 11 months. During this time, individuals on supervision complete a manualized work book, meet with a Community Coach, and are eligible for a prosocial time-off incentive for continued lawful behavior. The Office has contracted with the University of Cincinnati Research Institute to assess three components of the Cheyenne River Project: its fidelity to evidence based and evidence informed practices, the effectiveness of the incentive structure, and any recommendations for the Cheyenne River Project which would aid in lowering re-arrest rates. Cycle 4 will start while the University of Cincinnati Research team completes the assessment of the program.

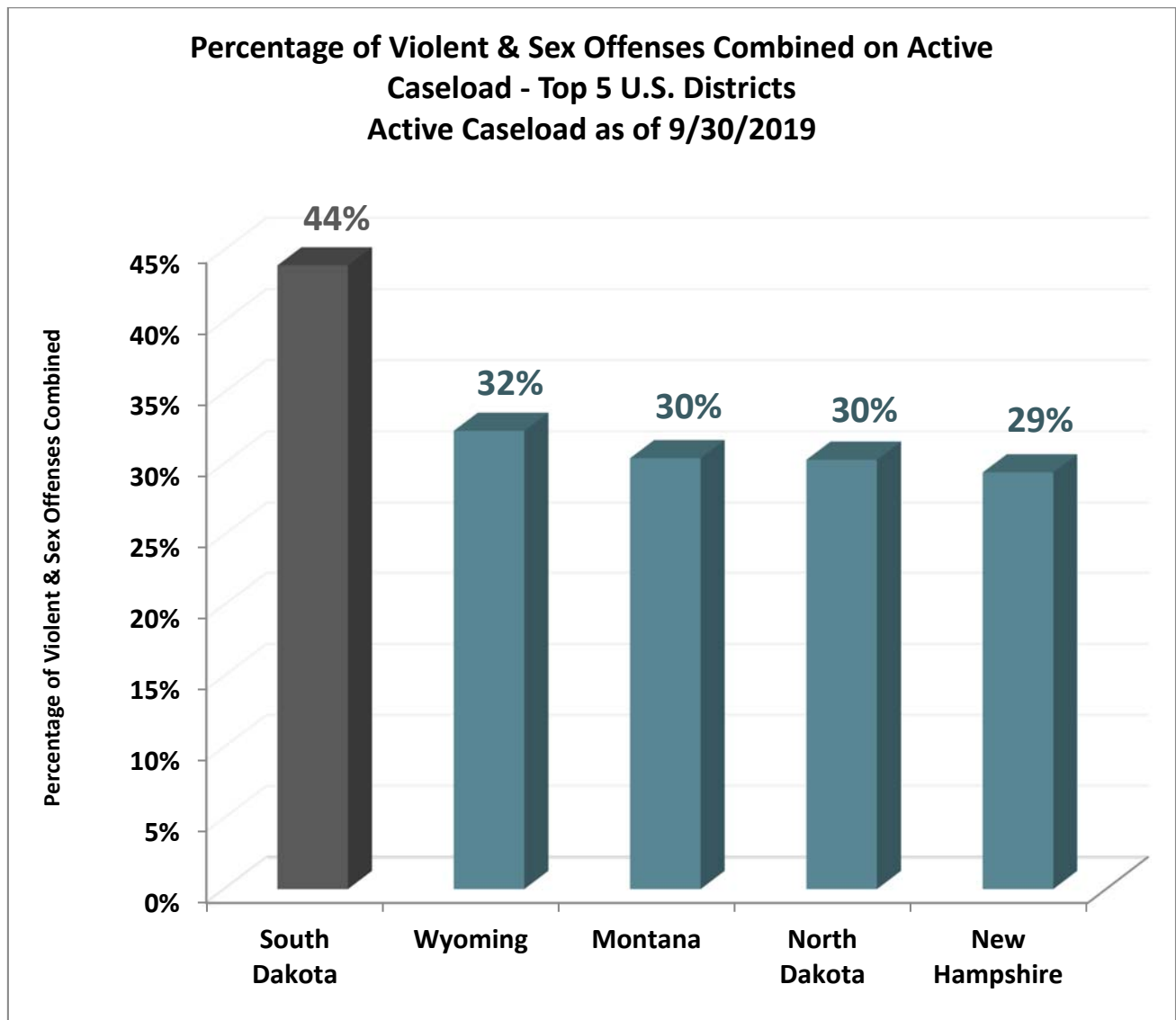
Extraordinary Factors

Economic Status

According to the U.S. Census Bureau's Social, Economic, and Housing Statistics Division, the small area income poverty estimates for 2017 indicate that South Dakota has five of the top eleven counties with the highest poverty rates in the country. The poorest South Dakota counties and their national rank are: Ziebach (1), Todd (2), Buffalo (5), Corson (7), and Oglala Lakota (11).

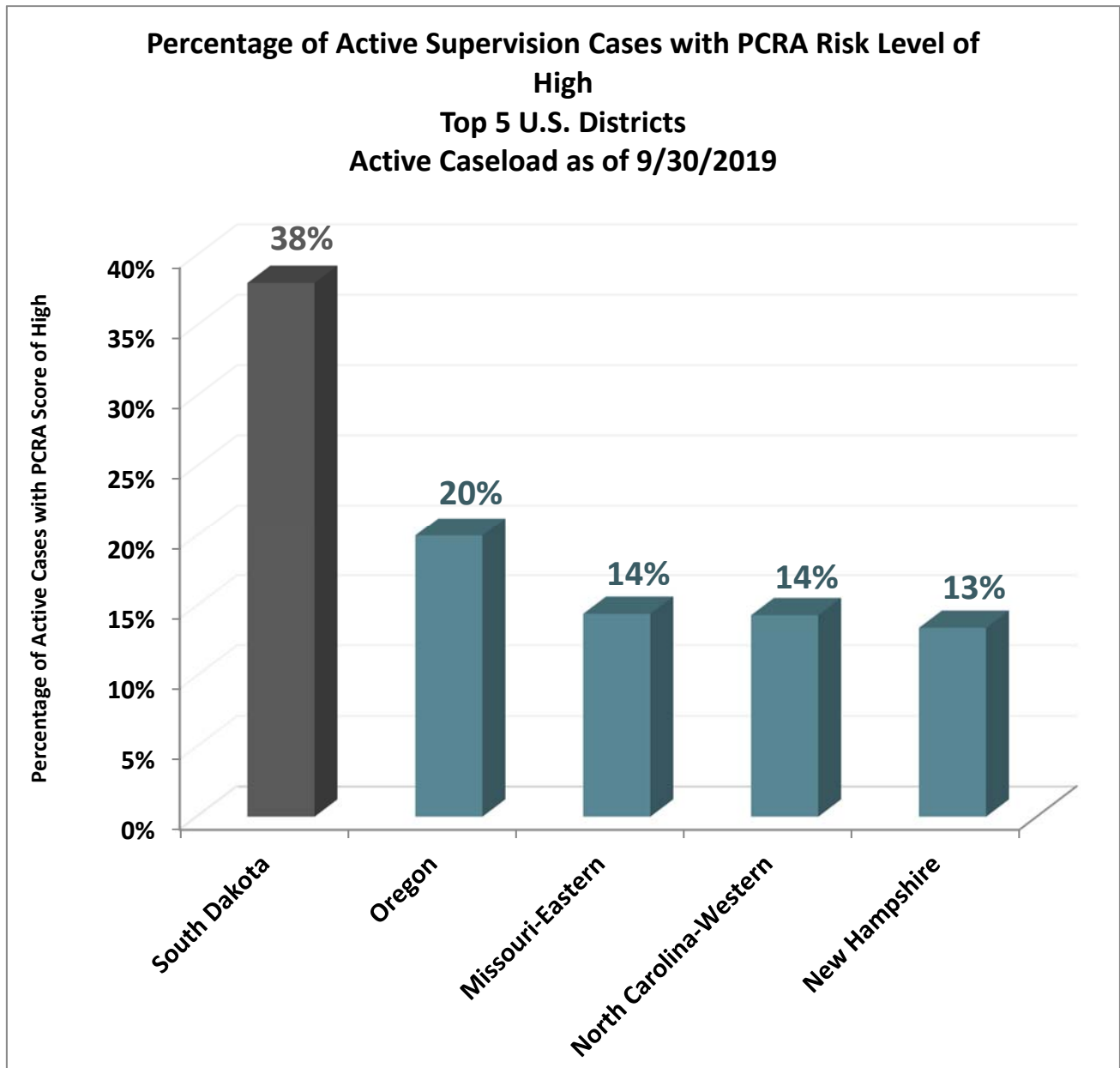
Violent Offenses

At the end of FY2019, the District of South Dakota ranked 63rd out of 94 districts in the number of post-conviction persons under supervision. In percentage 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

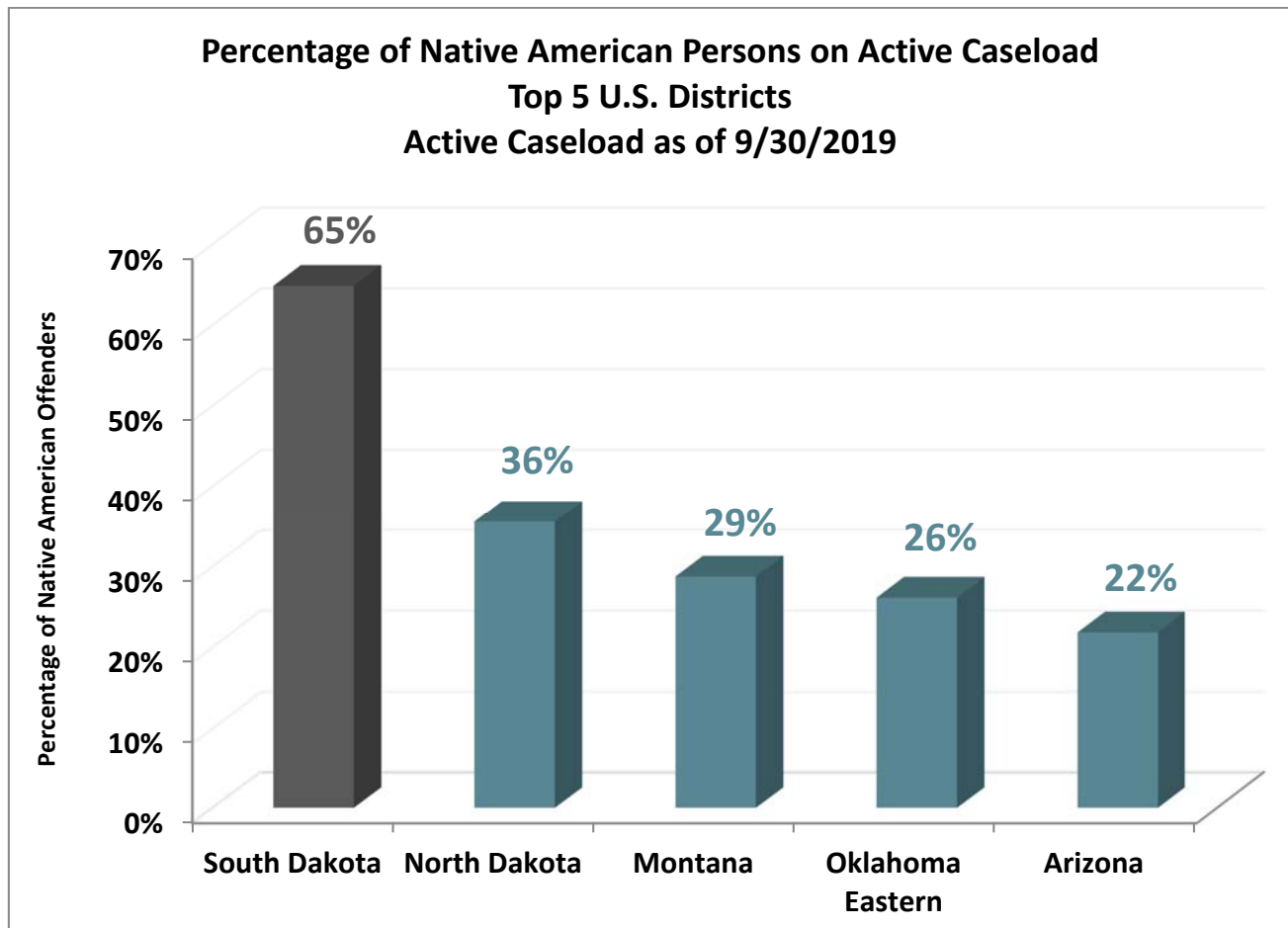
South Dakota ranks number one in the country in the percentage of high risk cases.



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 FY2019 were Native American. There are nine Indian reservations in South Dakota.

<u>Tribe</u>	<u>Indian Reservation</u>
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, four managers, and three officers.

New Officer Safety Training

In FY2019, six 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 FY2019, the training sessions were held in Sioux Falls; one in May 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

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 FY2019, 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 FY2019, the staff in the District reported 22 safety incidents. The types and number of incidents were: Other (7), Intimidation (6), Animal (2), Possession of Weapon (2), Threat (1), Vehicle (1), Suicidal Threat (1), Training Accident (1), and Witness of a Crime (1).

Searches

The Office conducts court approved 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 is established prior to conducting a 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.

No searches were conducted during FY2019.

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 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 FY2019, a total of 5,190 training hours were completed for an average of 93 hours per officer.

Travel

For FY2019, the District of South Dakota maintained a fleet of 20 cars for a total of 409,343 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.

