

# US Probation & Pretrial Services District of South Dakota Annual Report Fiscal Year 2021



U.S. District Court  
District of South Dakota  
January 2022

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## Introduction

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



### **Central Division** **Courthouse located in Pierre**

#### District Judge

Roberto A. Lange, Chief Judge

#### Magistrate Judge

Mark A. Moreno (part-time;  
full-time status began on 5/10/2021)



### **Northern Division** **Courthouse located in Aberdeen**

#### District Judge

Charles B. Kornmann

#### Magistrate Judge

William D. Gerdes (part-time and  
retired on 5/10/2021)



### **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

#### 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).

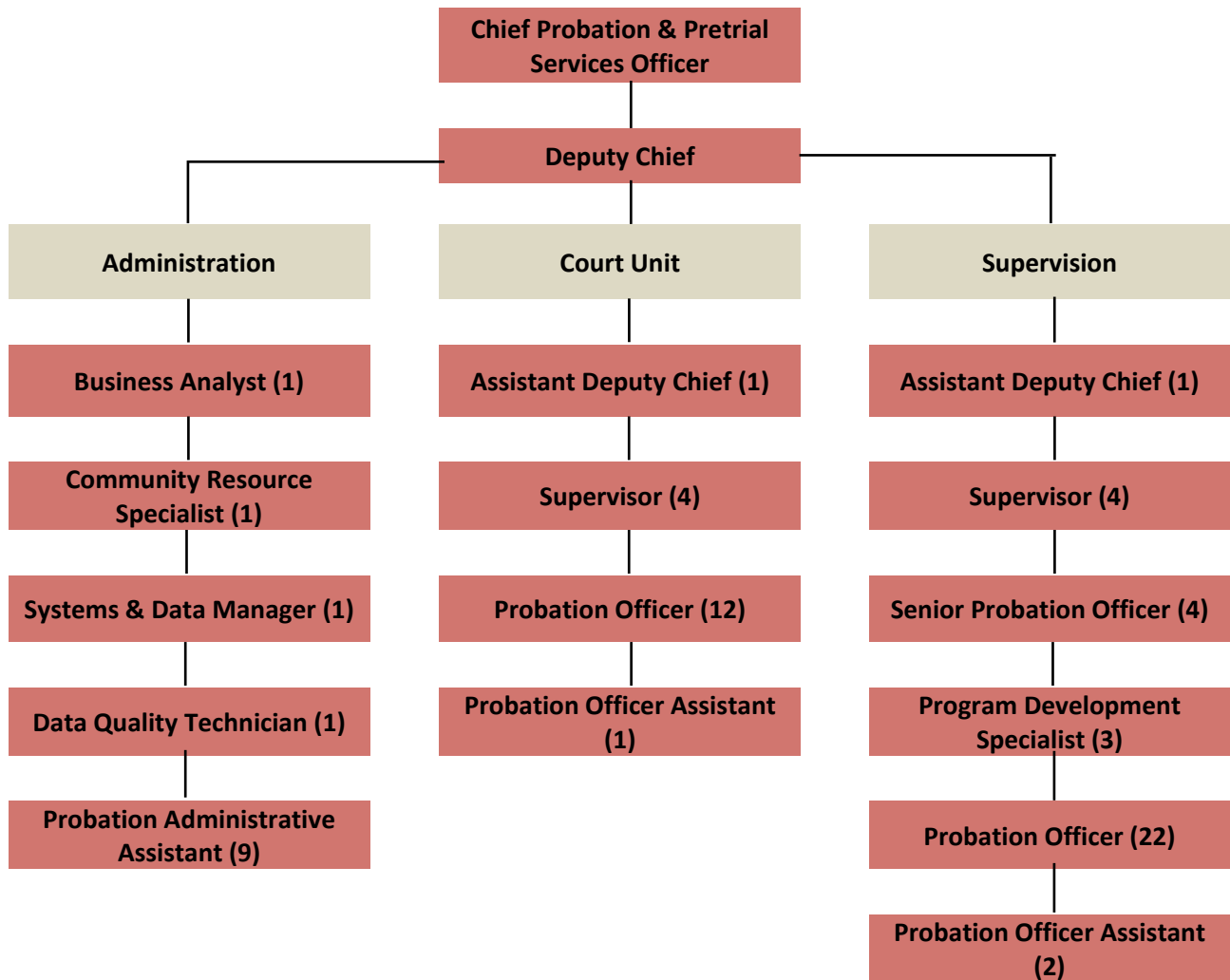
### **When an Organization is Evidence-based:**

- *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 FY2021 there were a total of 69 persons employed with the Office, with 11 classified as Administrators & Supervisors, 44 classified as Line Officers, and 14 classified as Administrative/Community Resource Specialist/Support Staff. Following is a breakdown of staff gender, education level, and years of service.

**Administrators & Supervisors  
(16% of Total Staff)**

Gender: 7 male and 4 female  
 Education Level: 8 with graduate degrees and 3 with bachelor's degrees  
 Years of Service in the Office: Range from 5 years to 22 years of service  
 Average of 14 years of federal service

**Line Officers  
(64% of Total Staff)**

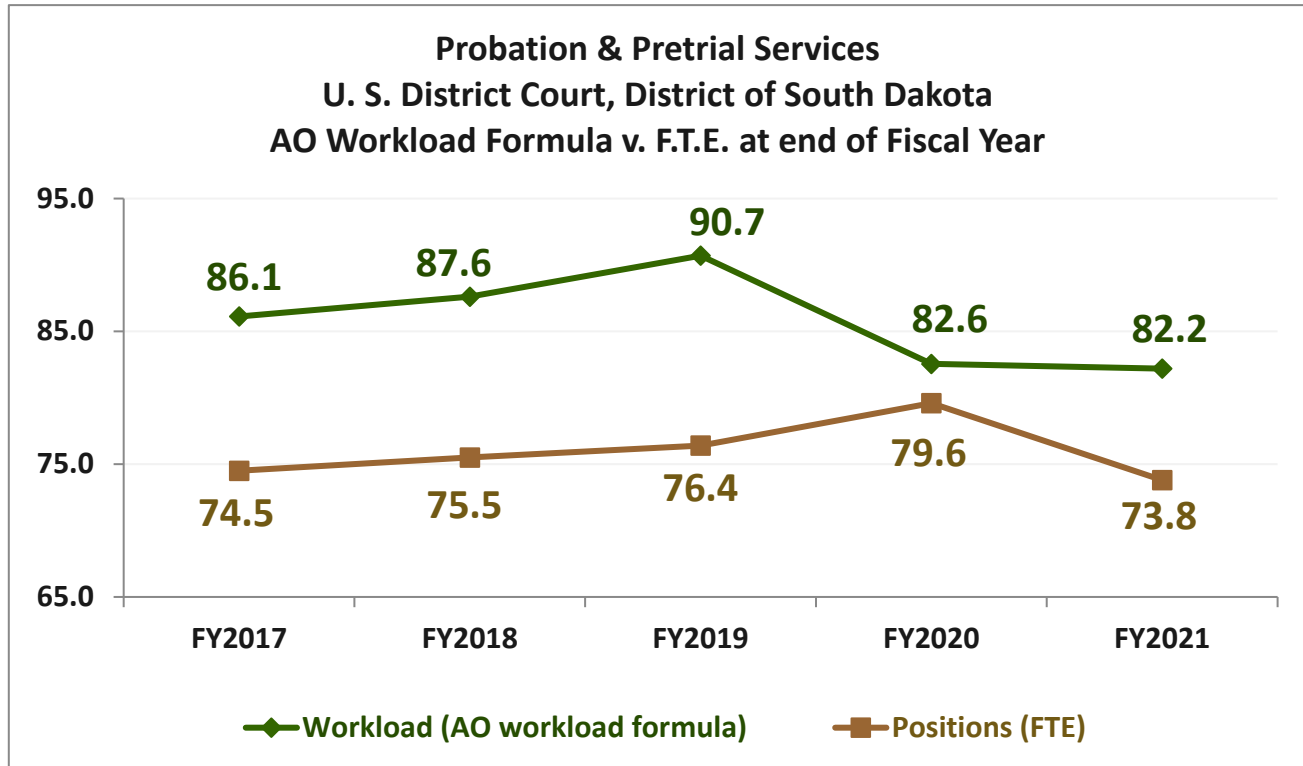
Gender: 18 male and 26 female  
 Education Level: 9 with graduate degrees and 32 with bachelor's degrees  
 Years of Service: Range from less than 1 year to 27 years of service  
 Average of 7 years of federal service

**Administrative/Community Resource Specialist/Support Staff  
(20% of Total Staff)**

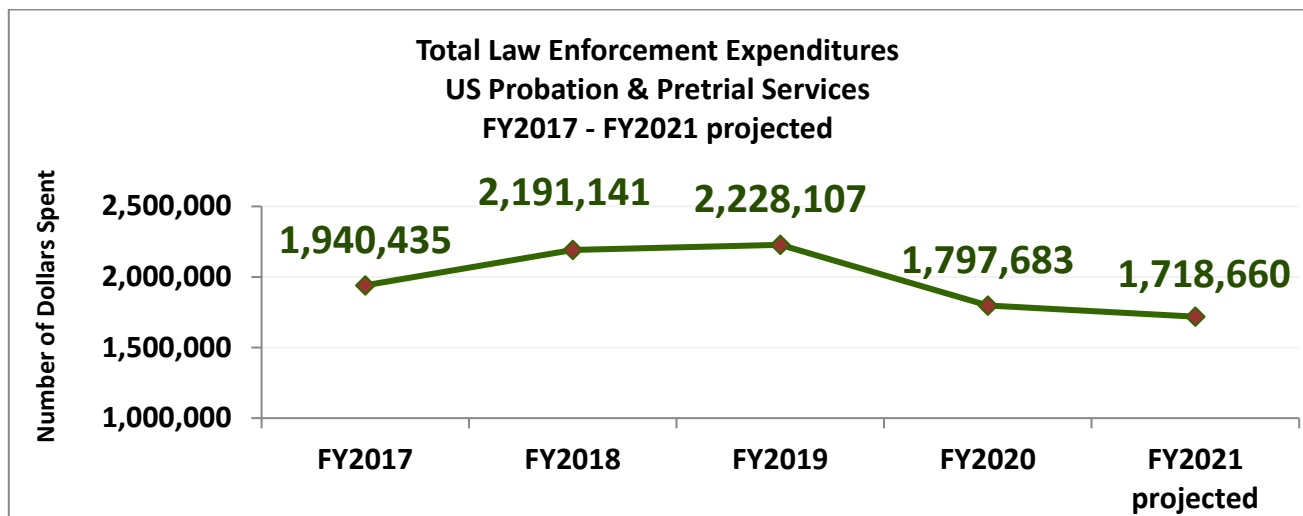
Gender: 1 male and 13 female  
 Education Level: 7 with bachelor's degrees  
 Years of Service: Range from less than 1 year to 23 years of service  
 Average of 10 years of federal service

## Budget

The funding of the Office is determined in large measure by the workload formulas established by the Administrative Office (AO) 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 reduction in authorized work units from 2019 to 2020 is due to the reduction in workload in all five specialty areas and the new workload formula developed by the AO.

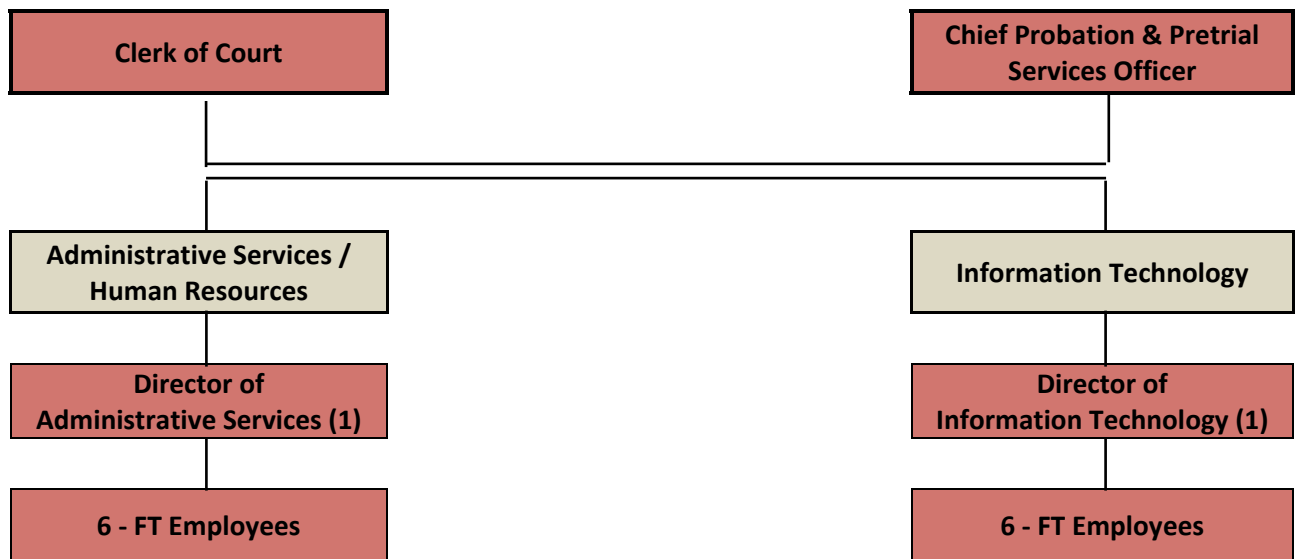


The graph below reflects the Probation & Pretrial Services fiscal year law enforcement expenditures. The expenditures reflect costs to provide treatment/counseling/training to persons under the Office's supervision to increase their competencies to behave lawfully. It also includes costs associated with monitoring of court-imposed restrictions of liberty and the travel costs of Office staff.



### Shared Administrative Services

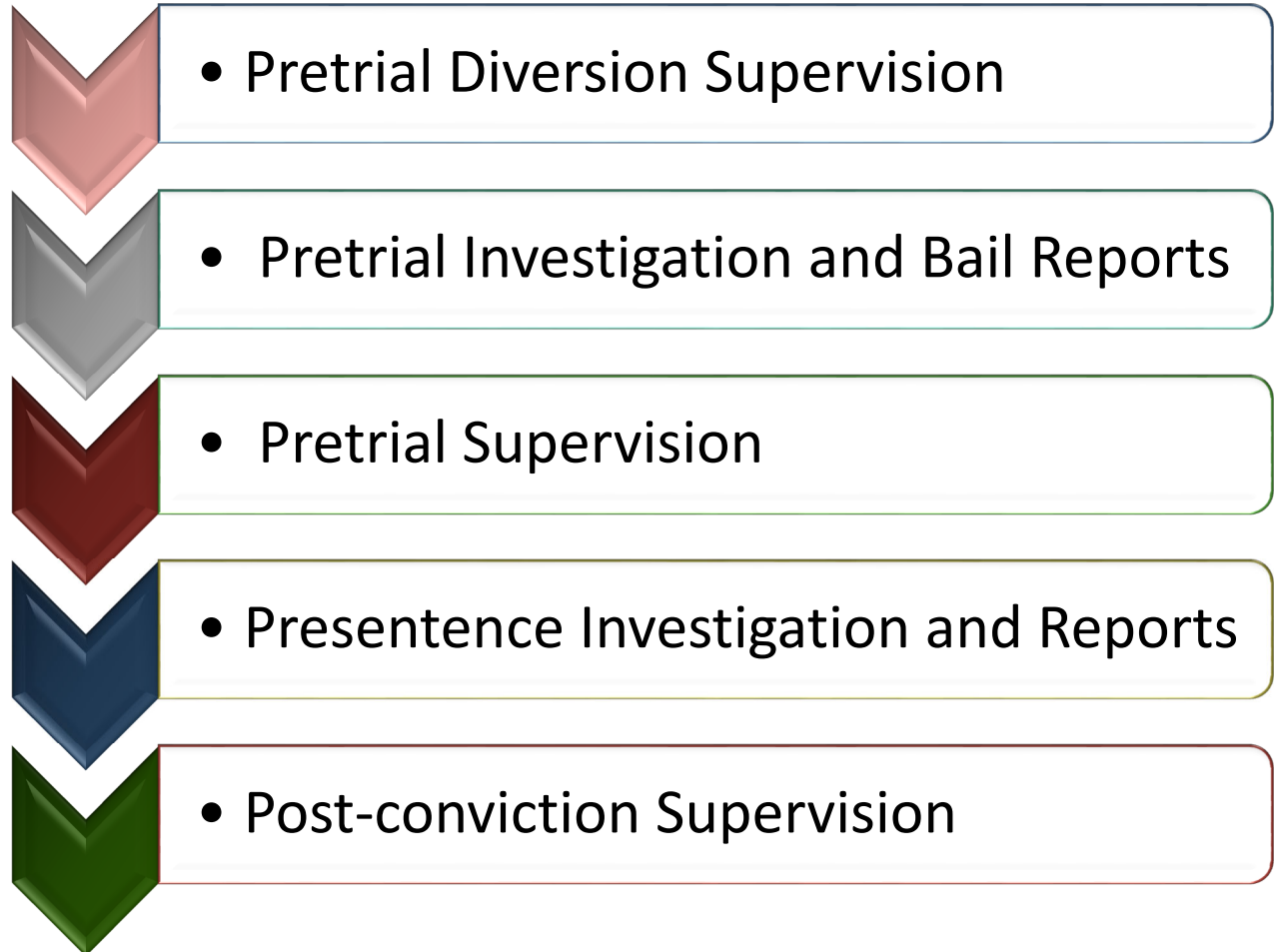
To provide more cost-effective administrative services, the District Court in South Dakota has established an agreement to share services among its three operational components – Chambers, the Clerk of Court Office, and Probation and Pretrial Services Office. The shared services include the information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

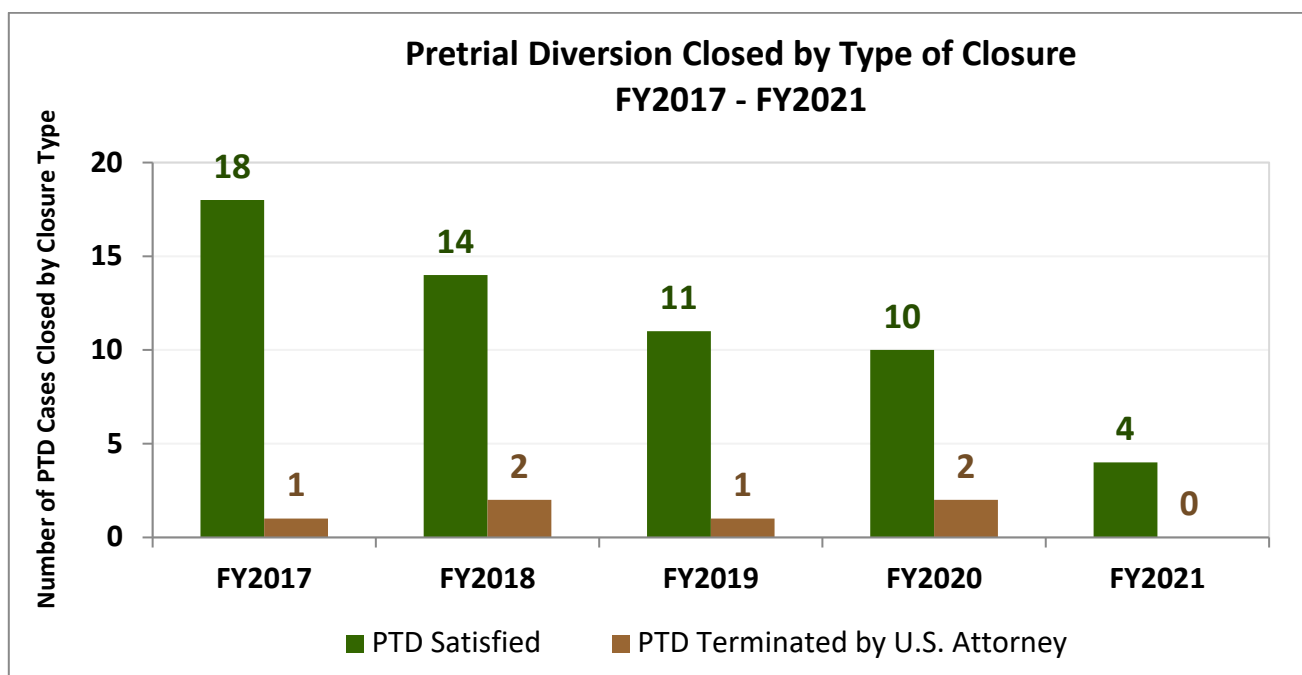
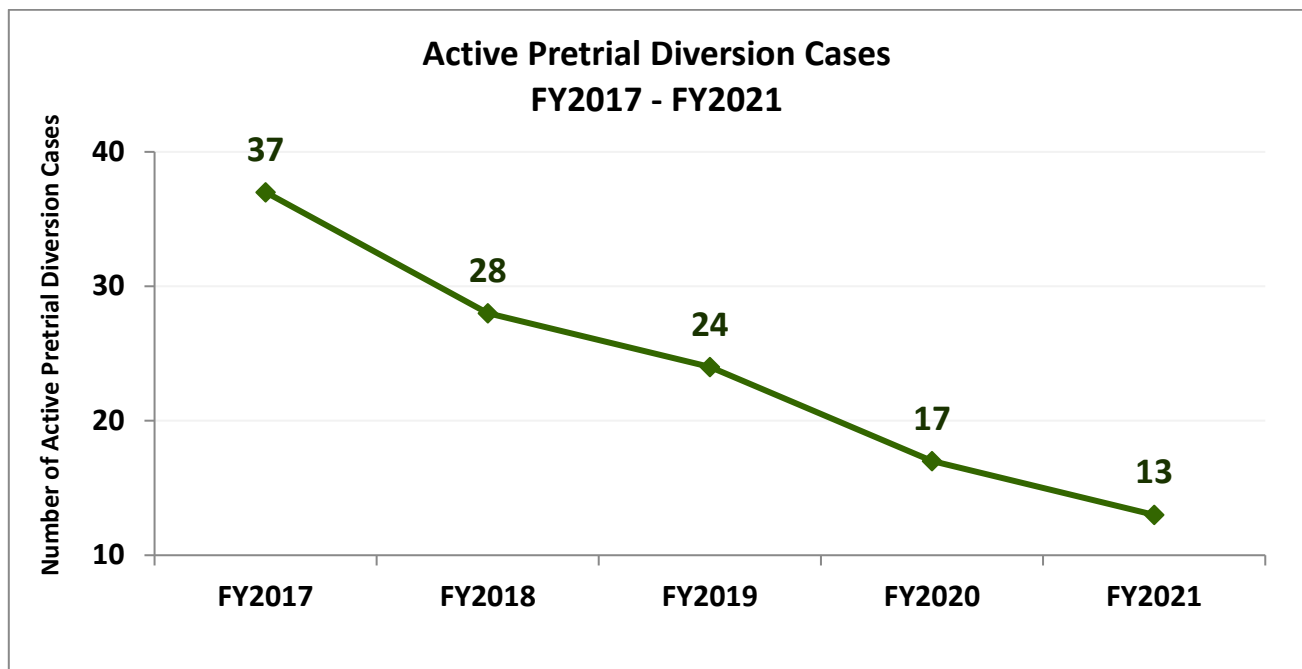
The Probation and Pretrial Services Office performs services for the court and the justice system in five major areas:



## Pretrial Diversion Supervision

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 FY2021, four persons under pretrial diversion supervision successfully completed the supervision period. The U.S. Attorney did not terminate any pretrial diversion cases in FY2021.



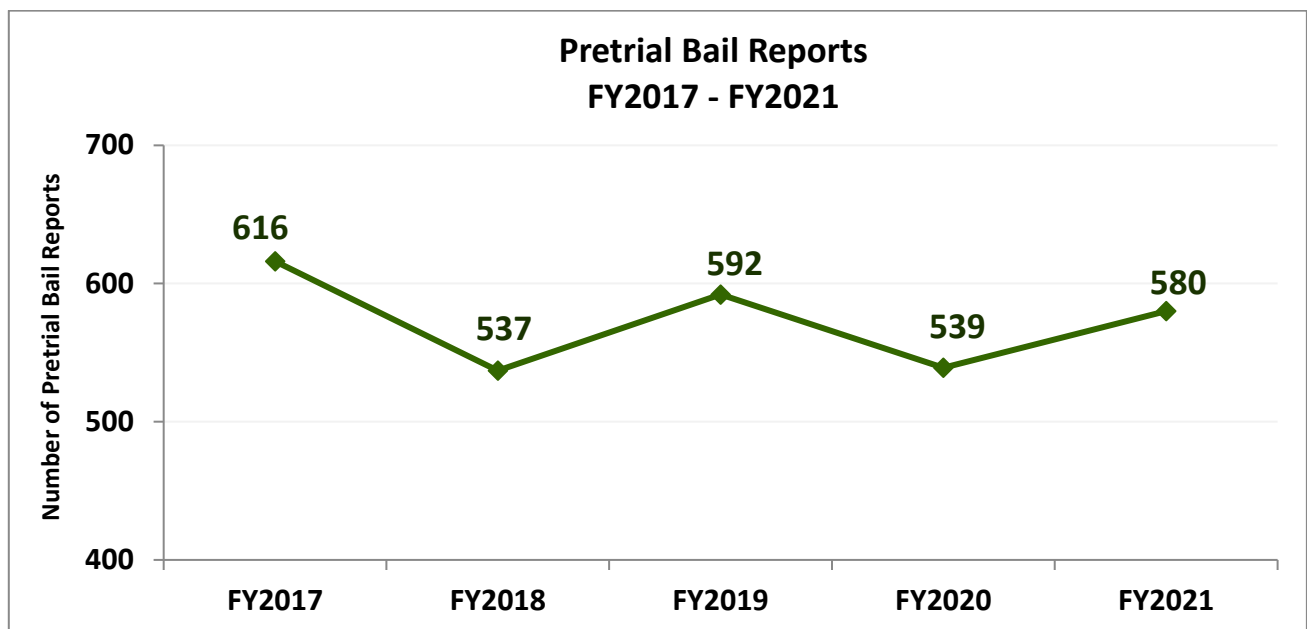
## Pretrial Bail Investigations and Reports

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 in the community 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.

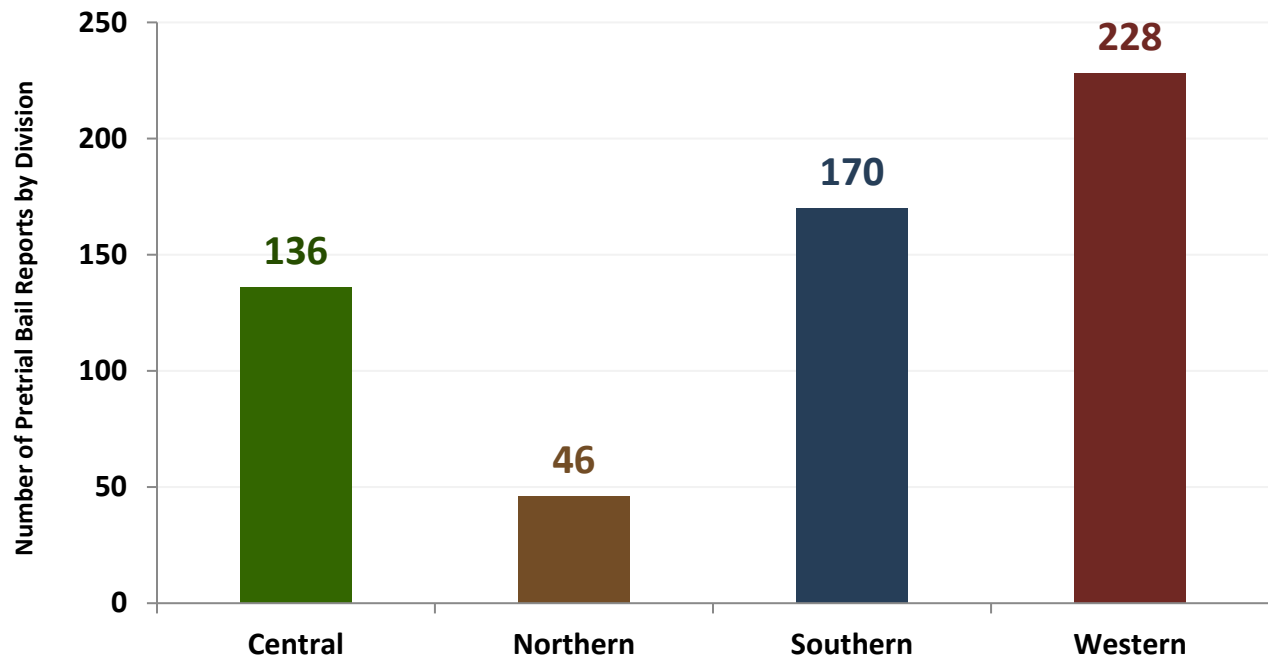
The Office employees involved in pretrial bail investigations and reports are dedicated to achieving justice and enhancing community safety by:

- 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.

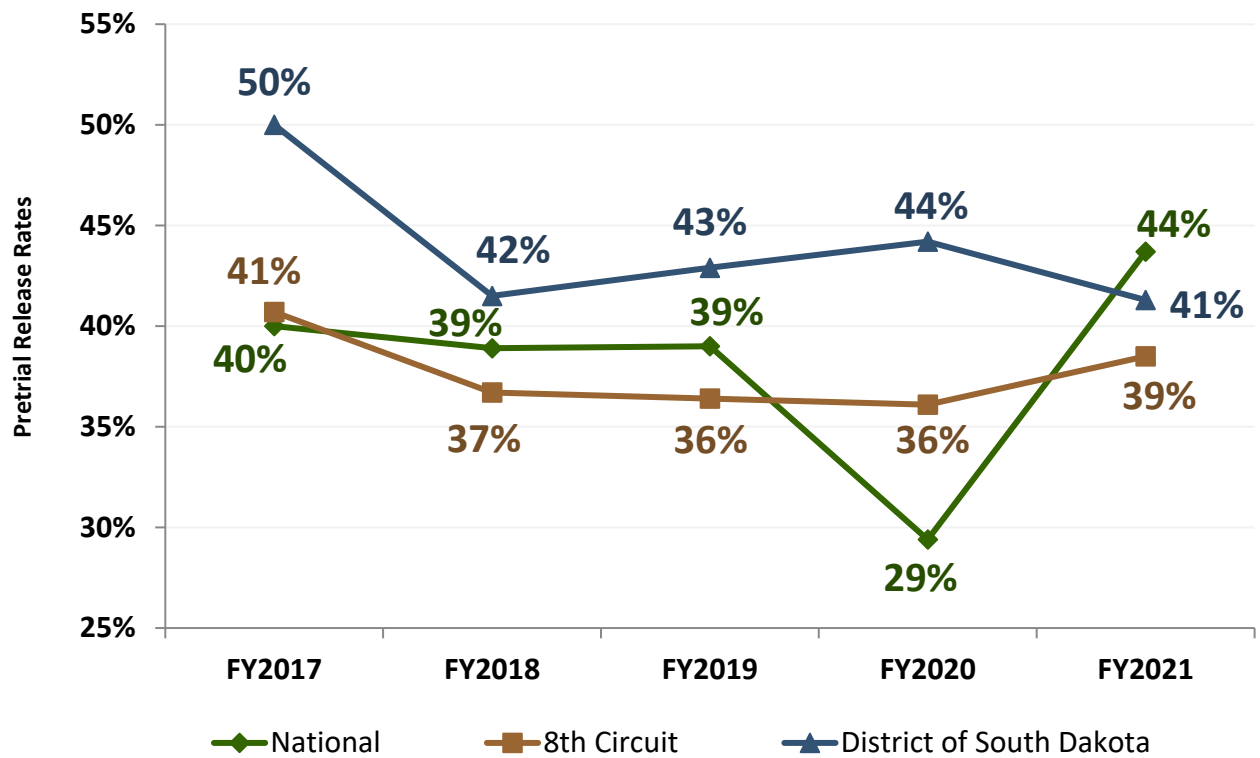




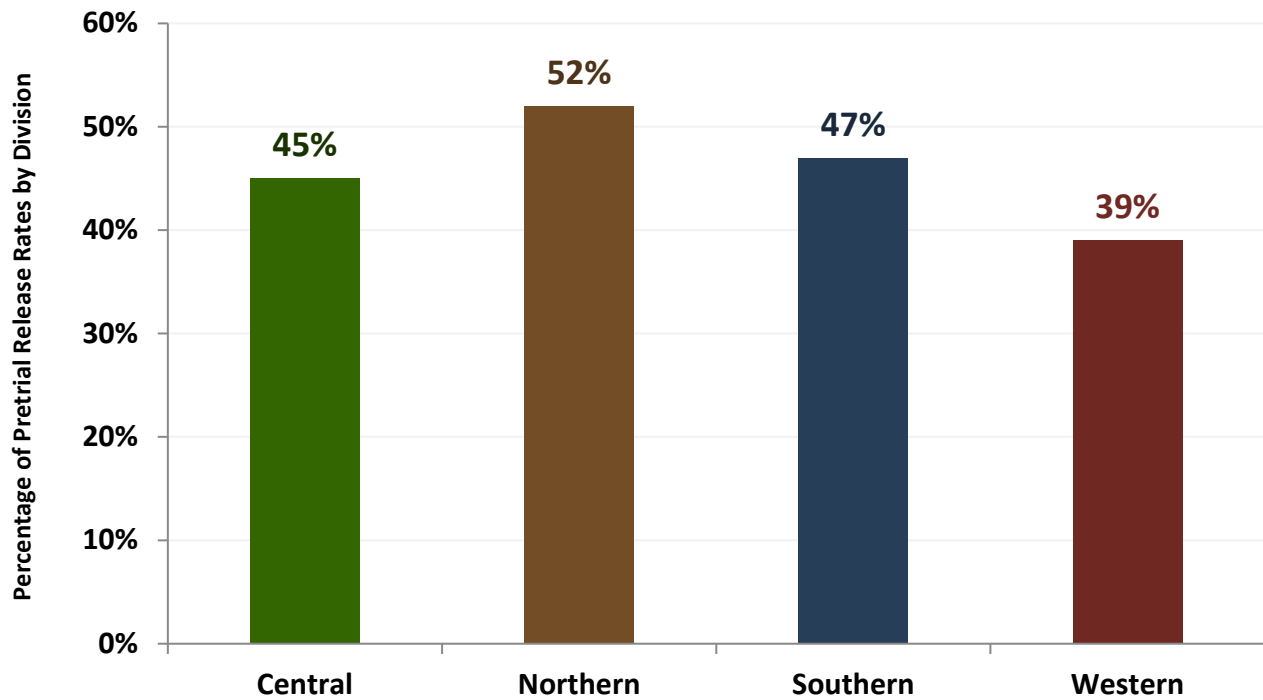
**Pretrial Bail Reports by Division  
FY2021**



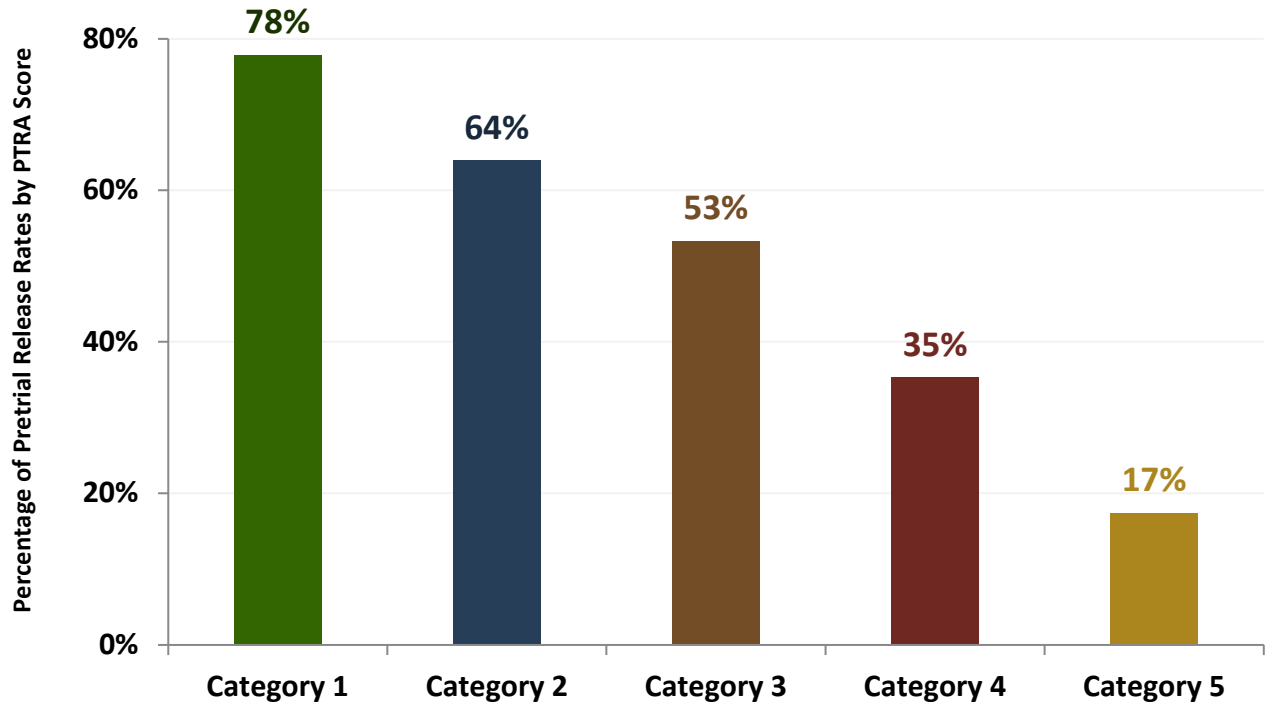
**Pretrial Release Rates  
FY2017 - FY2021**



**Pretrial Release Rates by Division  
FY2021**



**Pretrial Release Rates by PTR A Score  
FY2021**

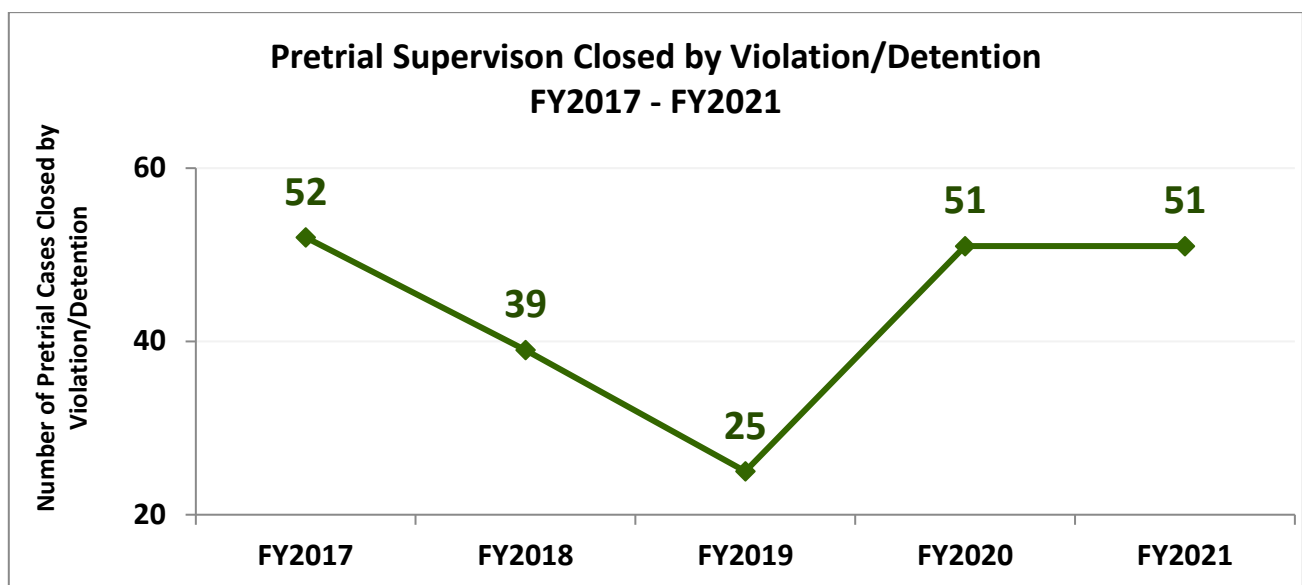
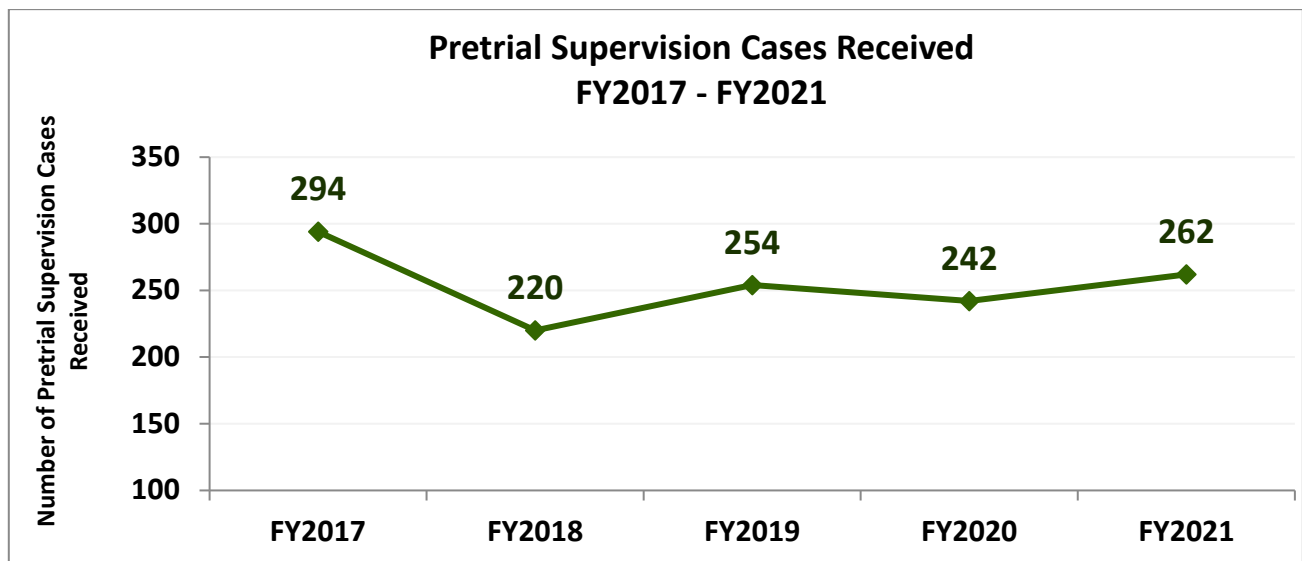


## Pretrial Supervision

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.



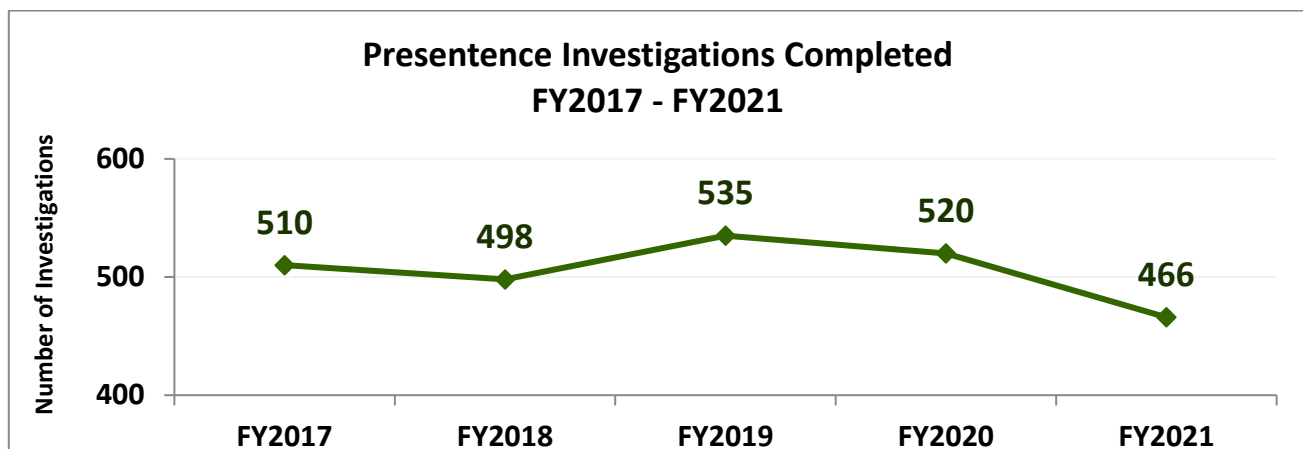
## Presentence Investigations and Reports

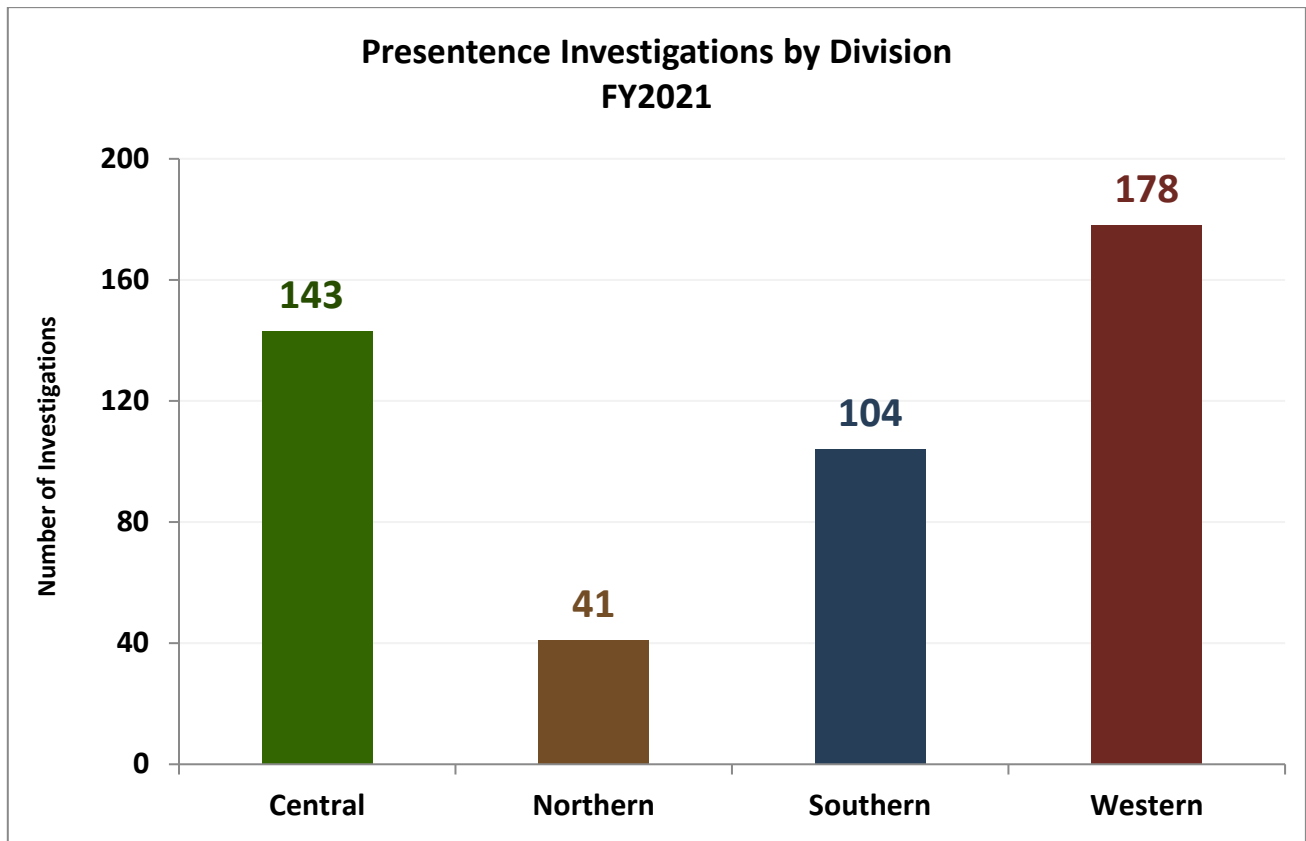
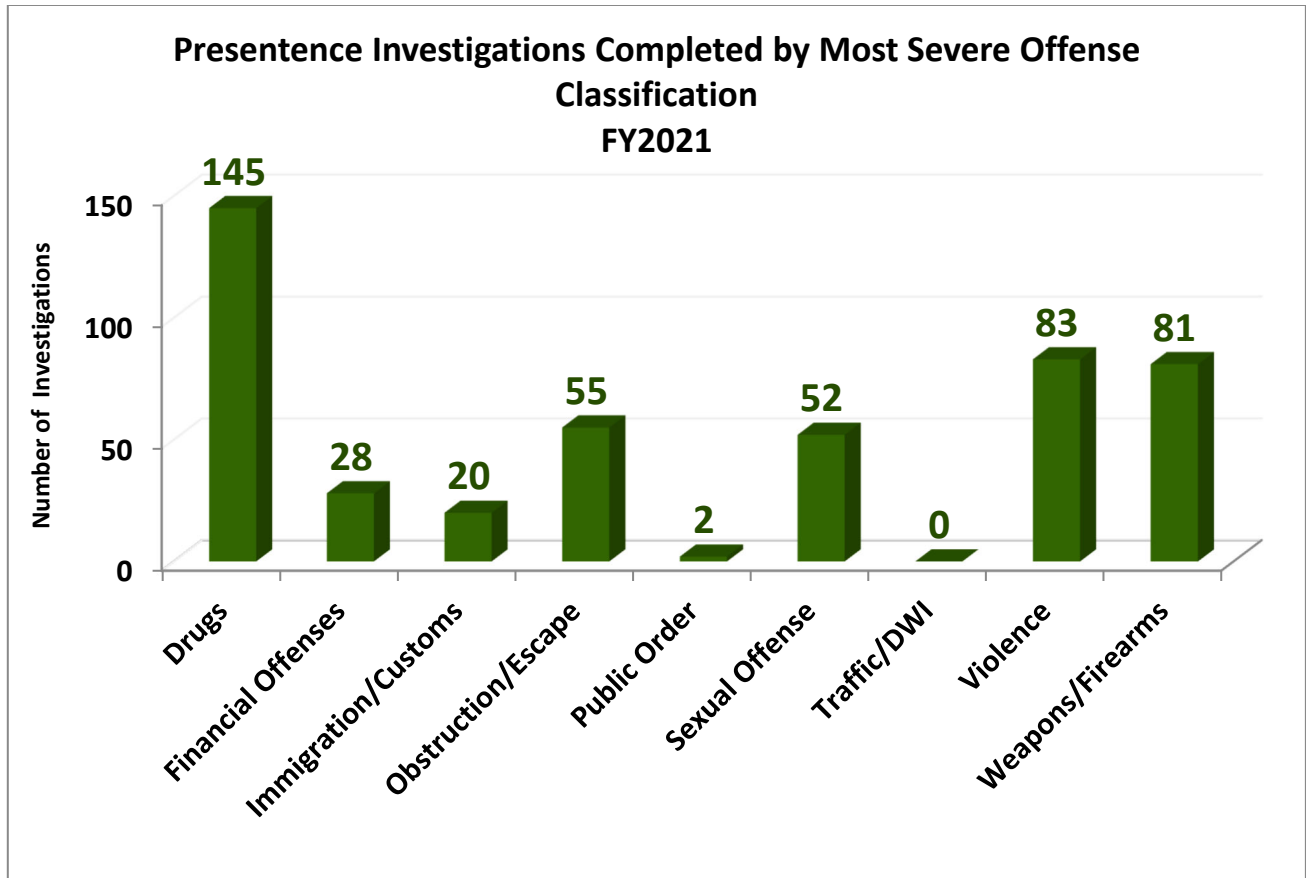
After a person has been convicted of a crime, but prior to sentencing and pursuant to a court order, the Office conducts an independent investigation of the person. The aim of the presentence investigation is to provide a timely, accurate, objective, and comprehensive report to the court. The report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

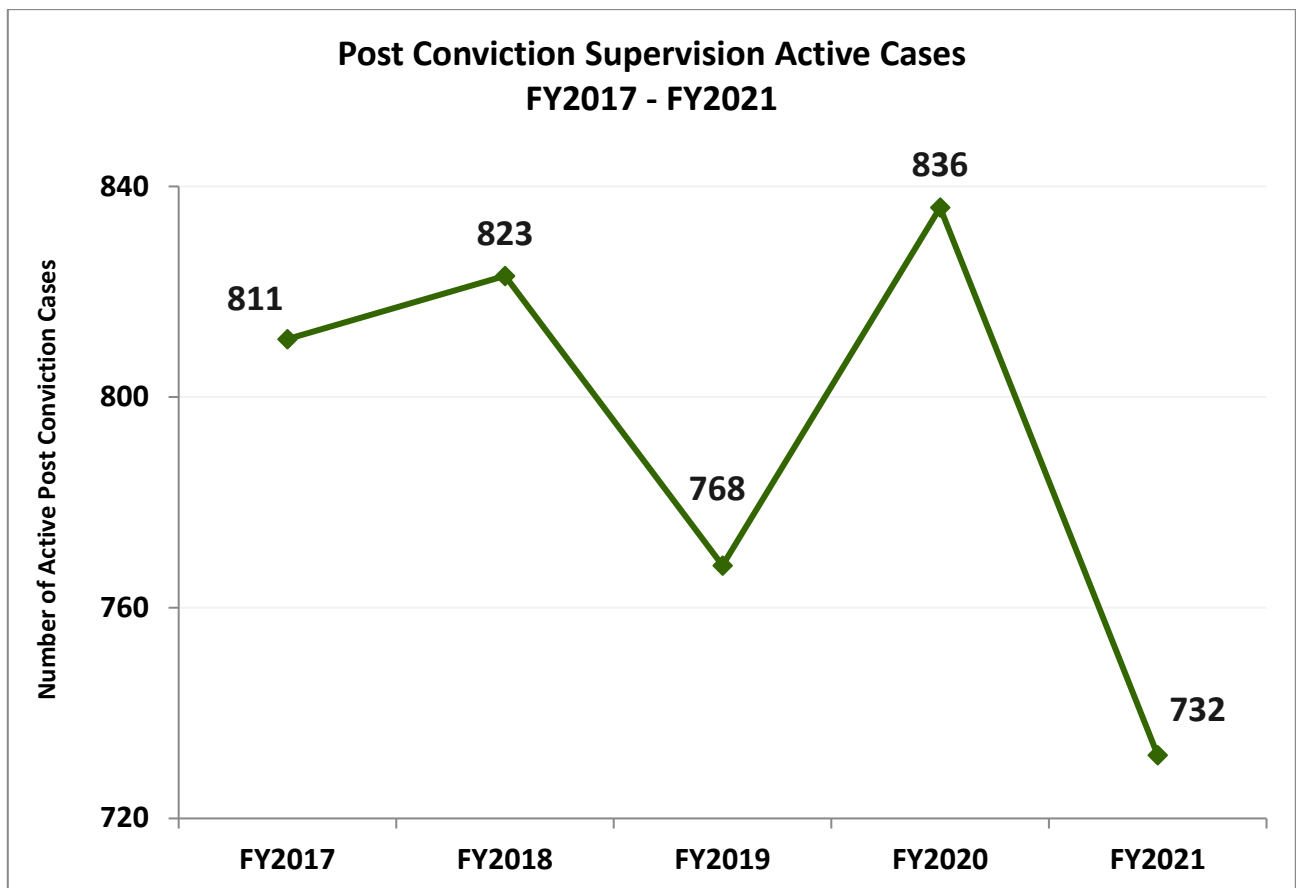
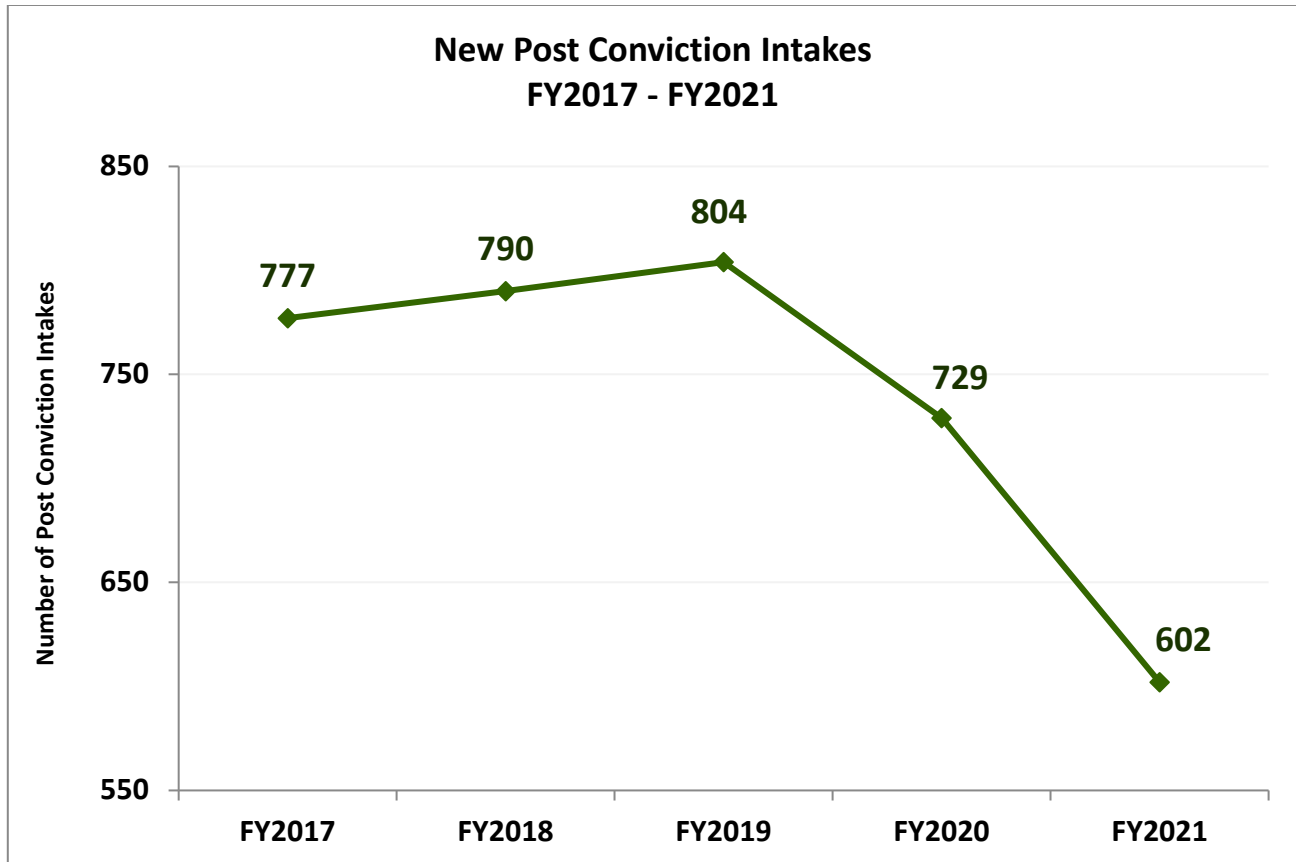
The Office must responsibly manage the risks posed by those under supervision. This requires a collaborative and evolutionary effort among the person under supervision, the Office, treatment providers, and prosocial collateral supports. It is a dynamic process of applying evidence-based interventions,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

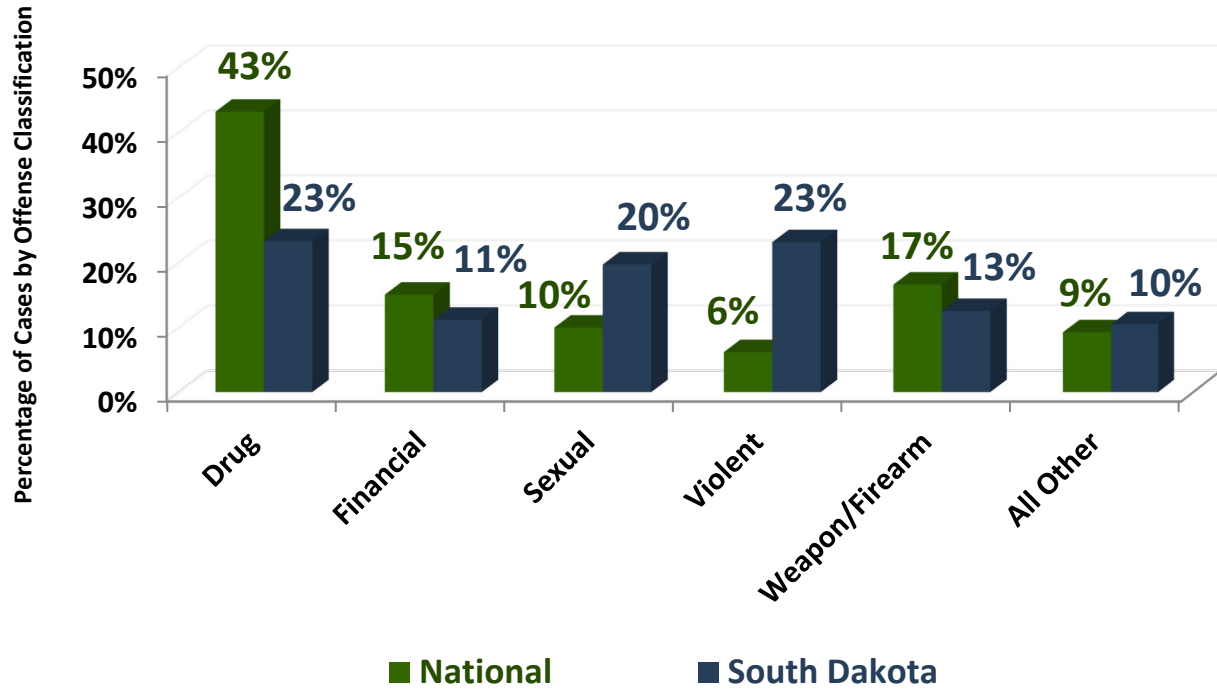
In spite of best efforts and implementation of best practices by the Office, there are persons under supervision who struggle with compliance requirements and exhibit noncompliant and unlawful behavior. When such behaviors rise to an unacceptable level, the Office informs the court and seeks modification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



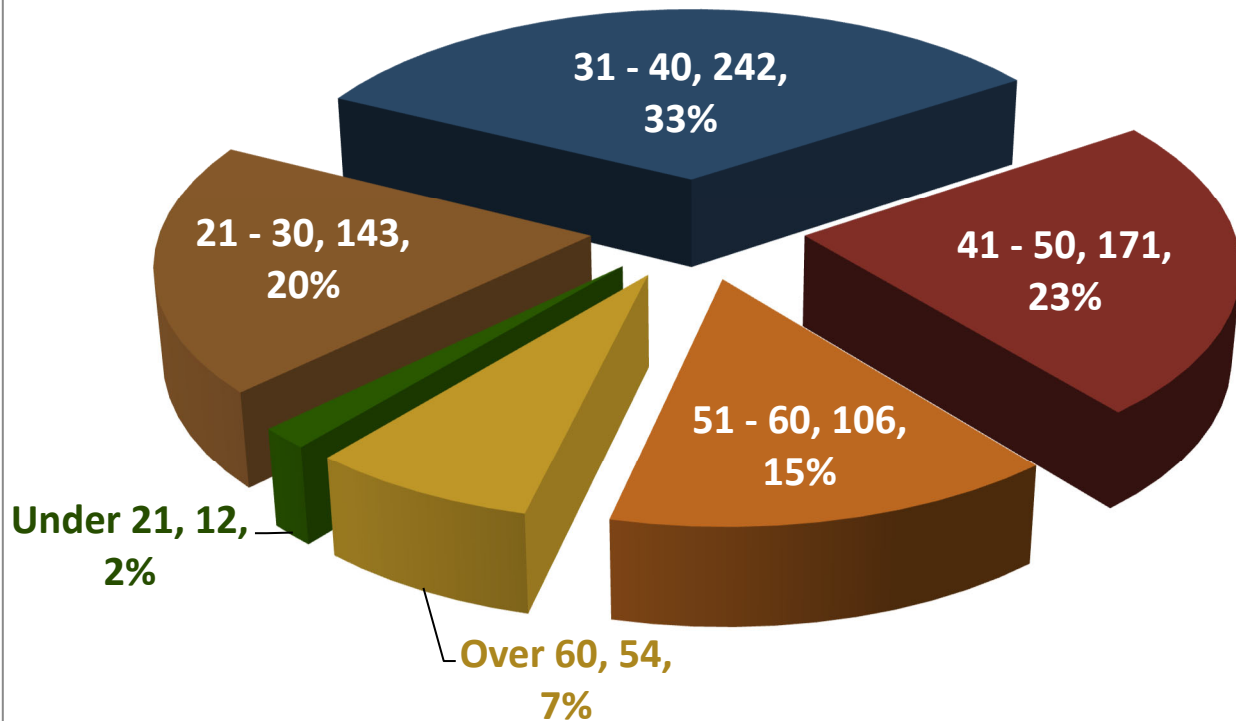




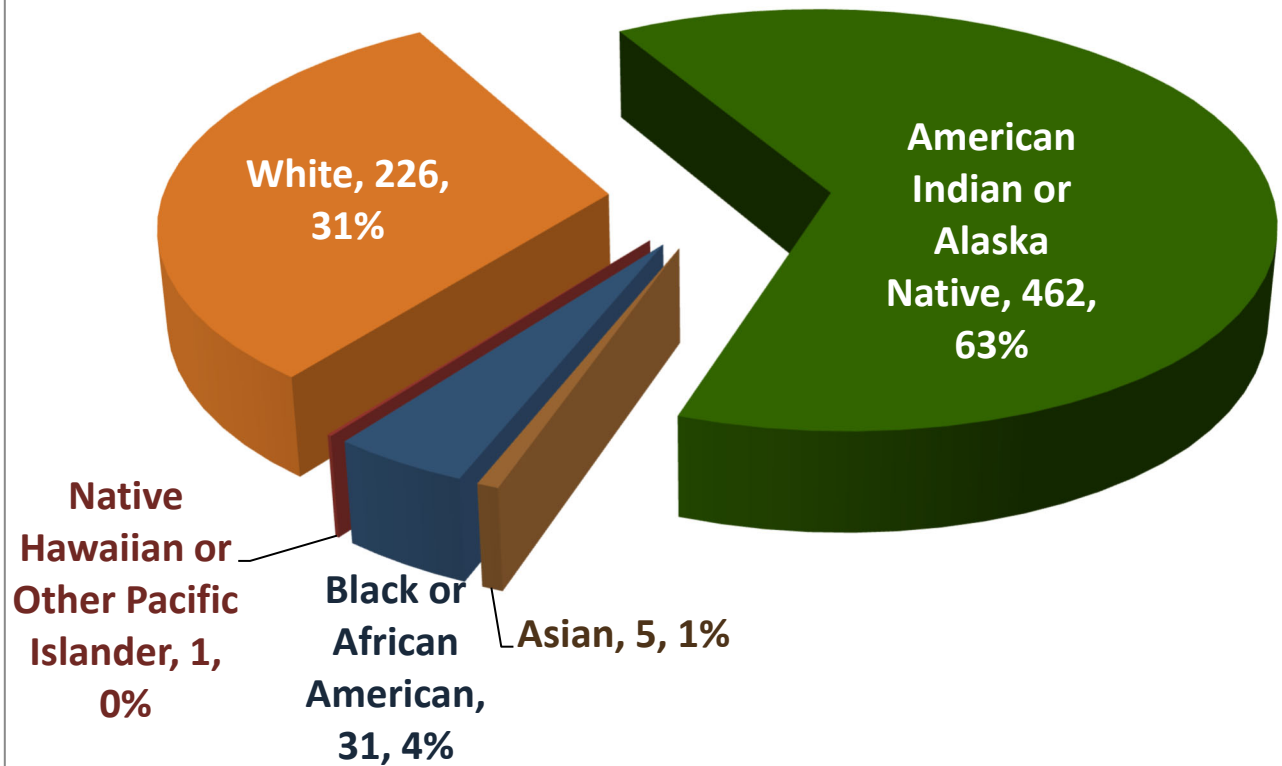
**Percentage of Active Cases by Sentence Offense Classification**  
**Active Caseload as of 9/30/2021**  
**National and South Dakota**



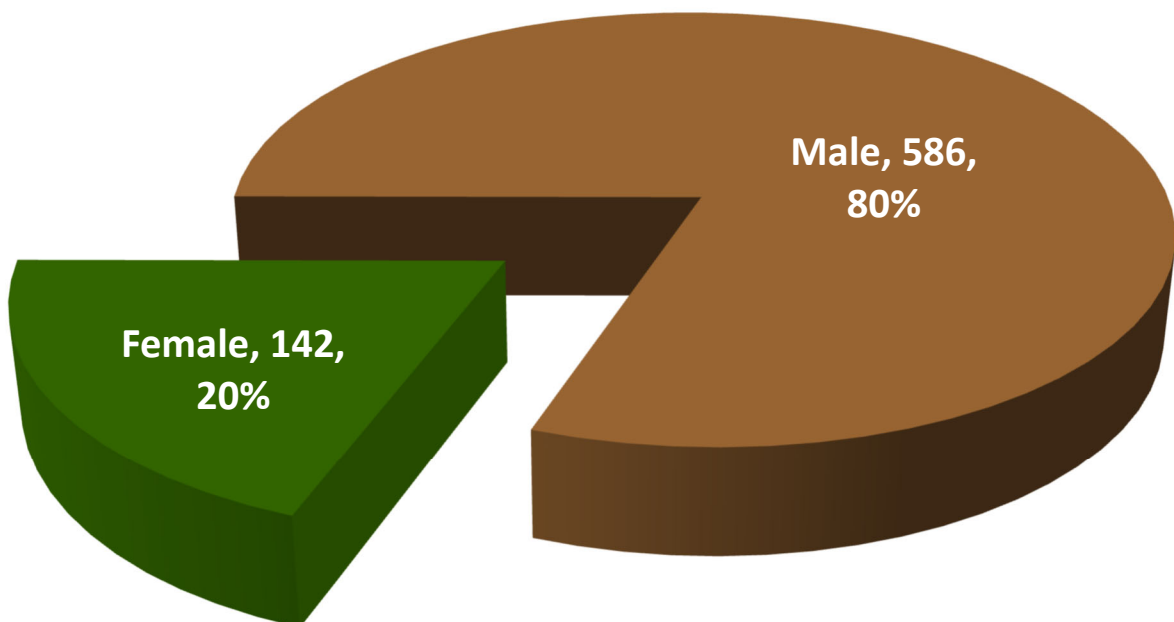
**Number & Percentage of Persons Under Supervision by Age on**  
**Active Caseload as of 9/30/2021**



**Number & Percentage of Persons Under Supervision by Race on Active Caseload as of 9/30/2021**

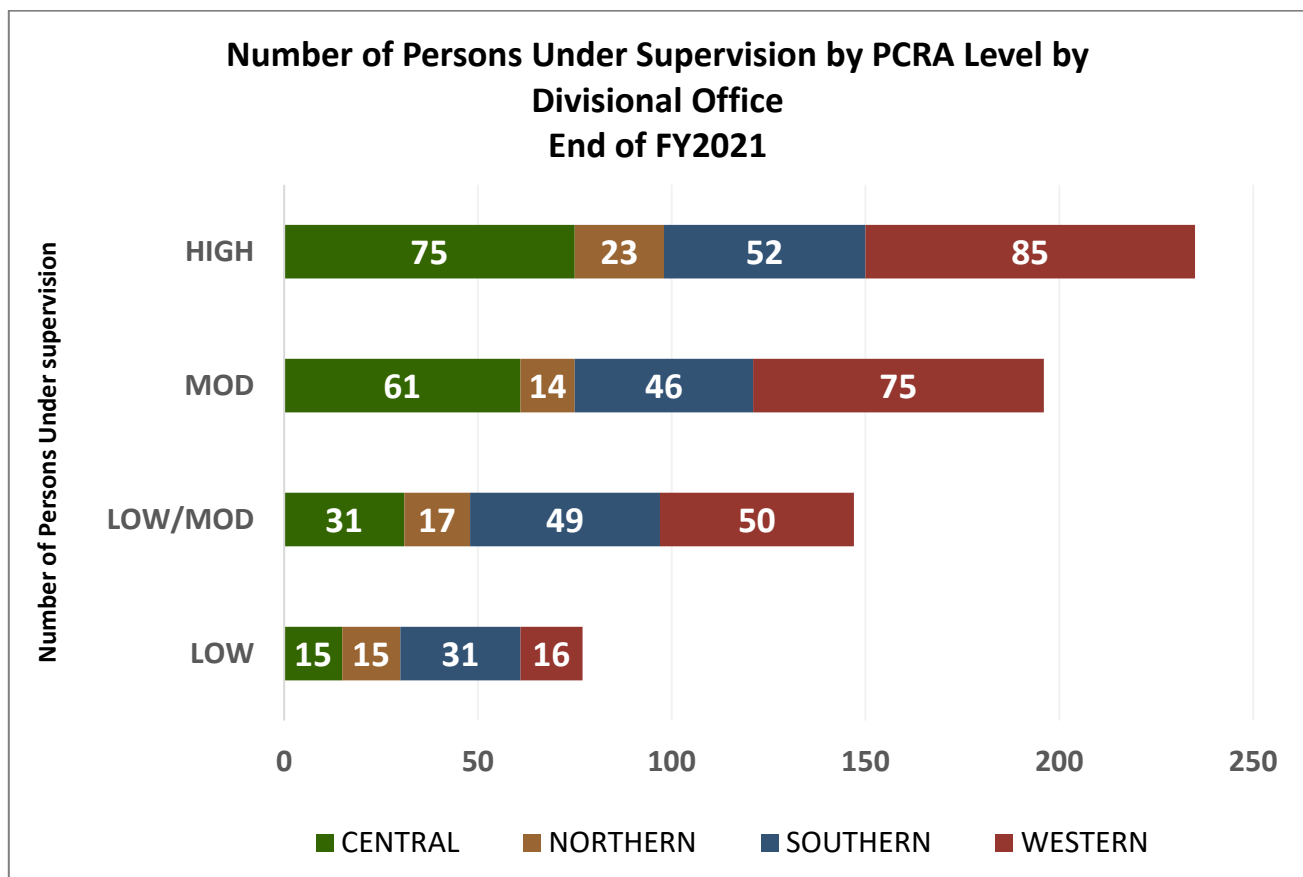
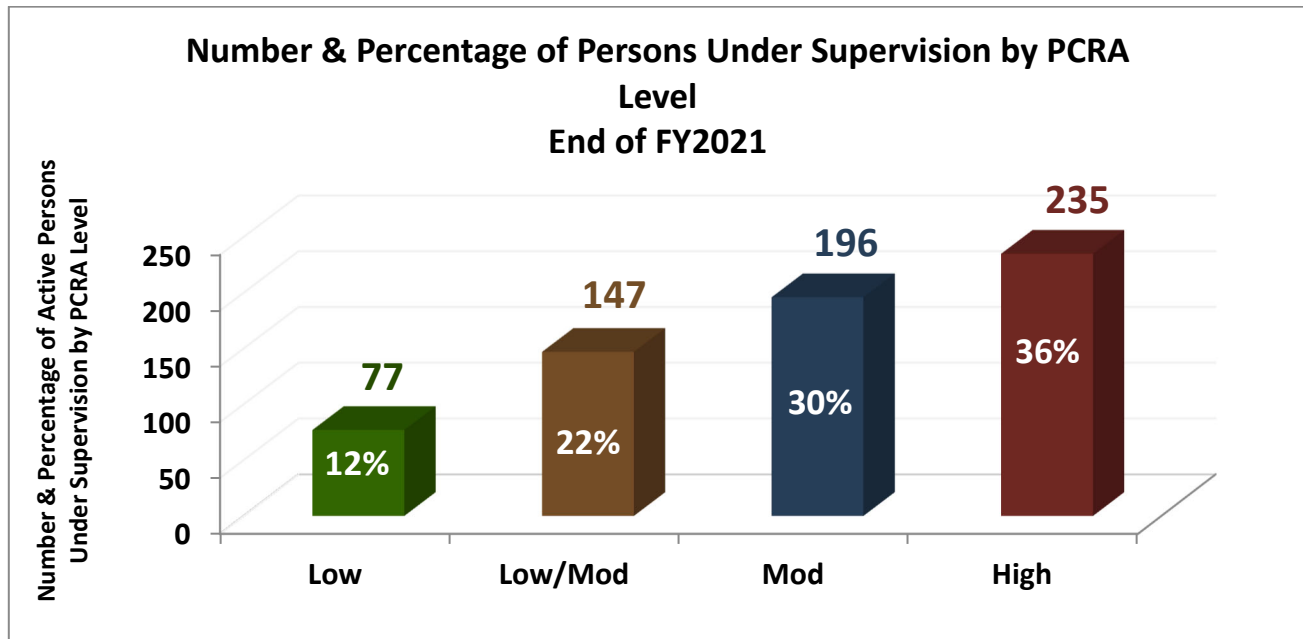


**Number & Percentage of Persons Under Supervision by Gender on Active Caseload as of 9/30/2021**

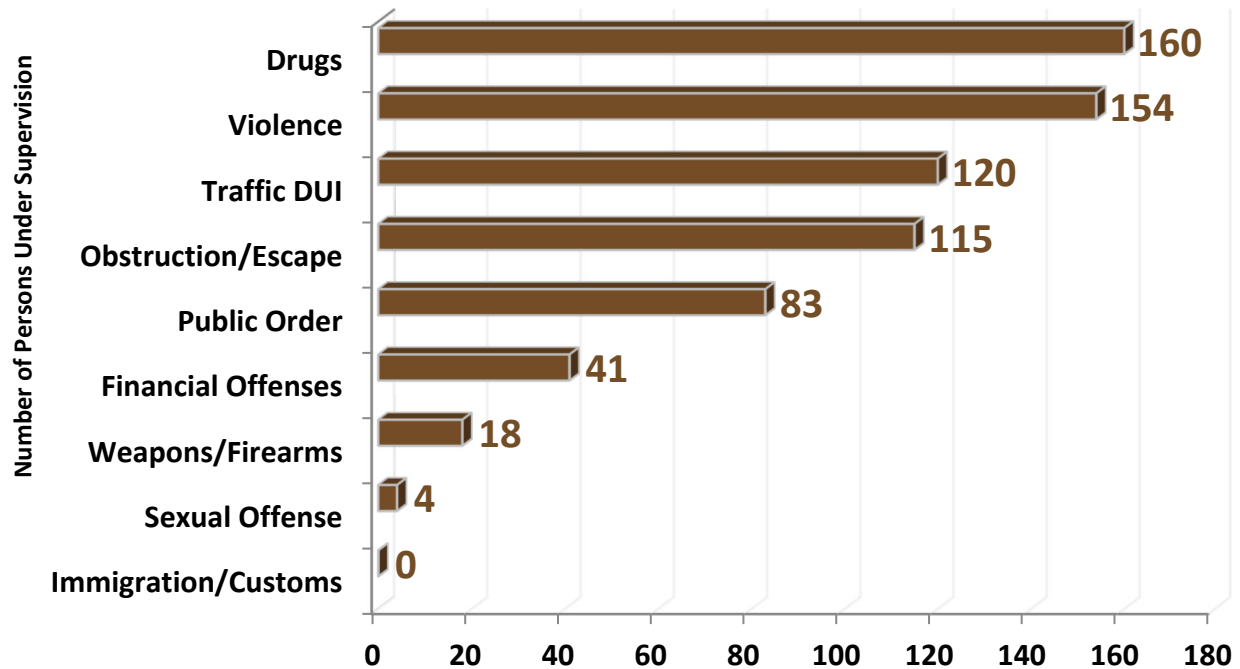


### Post-Conviction Risk Assessment (PCRA)

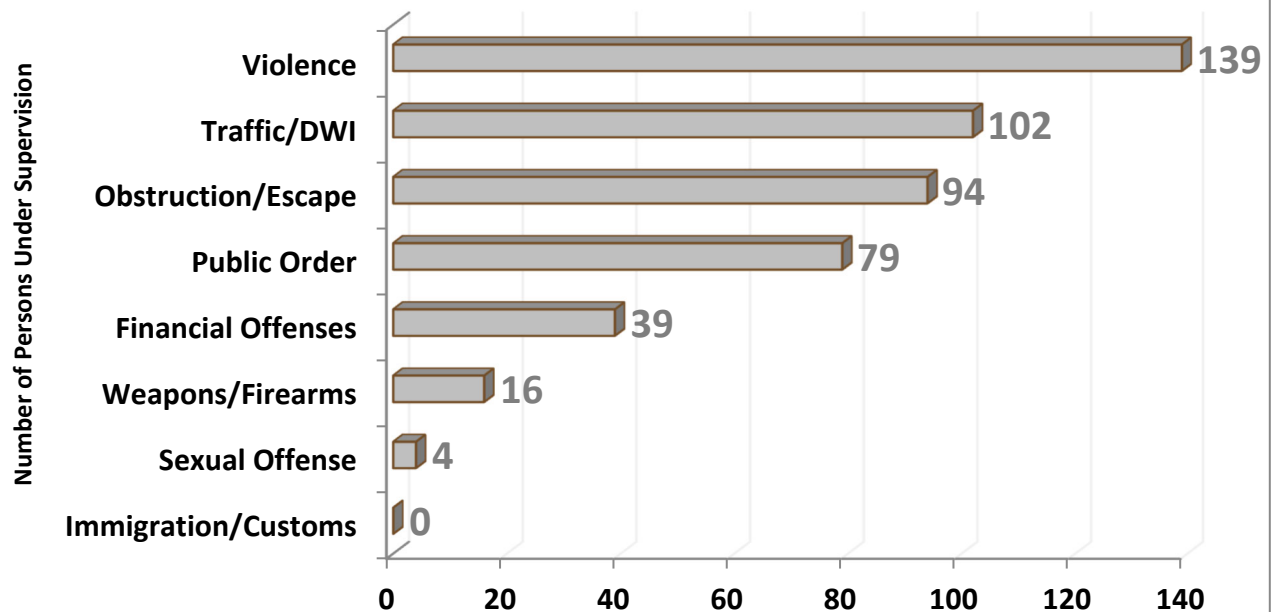
Most instructive for the effective supervision of persons are the results of the federal probation system's risk assessment, i.e., Post-Conviction Risk Assessment. This validated actuarial instrument measures the risk to reoffend for each person under supervision. There are four categories of risk –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



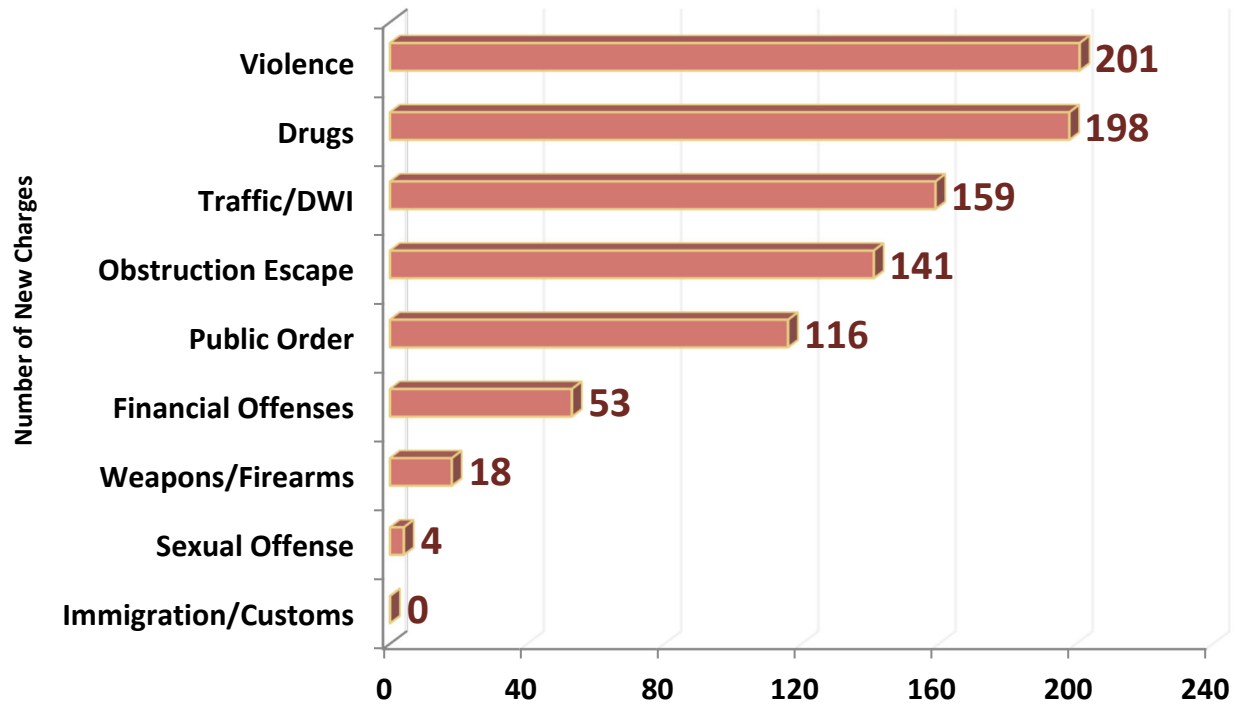
**Number of Persons Charged with a New Offense by Offense Classification  
FY2021**



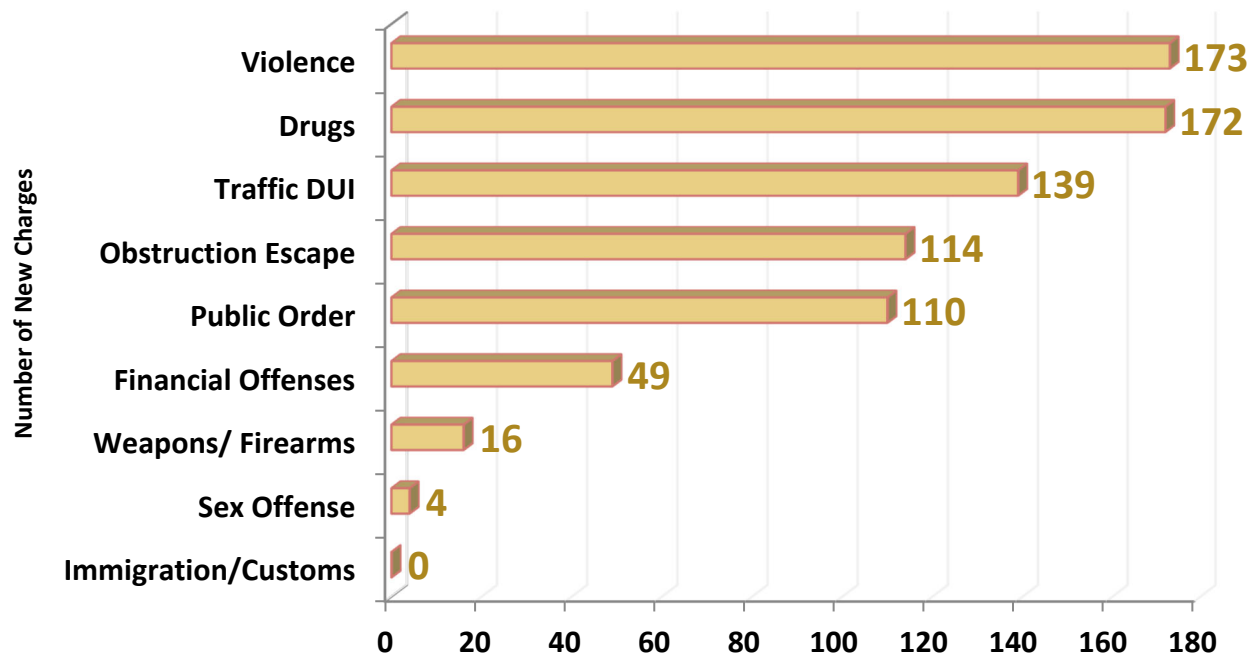
**Number of Persons Charged with a New Offense by Offense Classification and Excludes Persons Charged with a New Offense after Warrant or Custody status  
FY2021**



**Number of New Charges by Offense Classification  
FY2021**

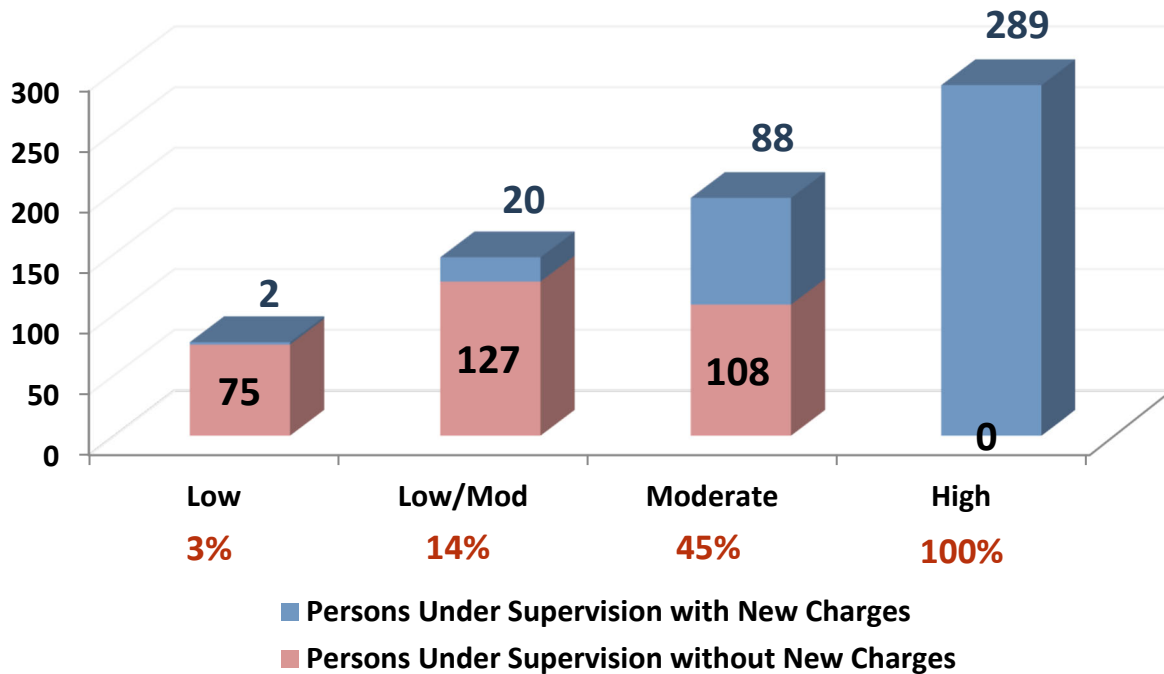


**Number of New Charges by Offense Classification and Excludes  
Charges that occurred after Warrant or Custody status  
FY2021**

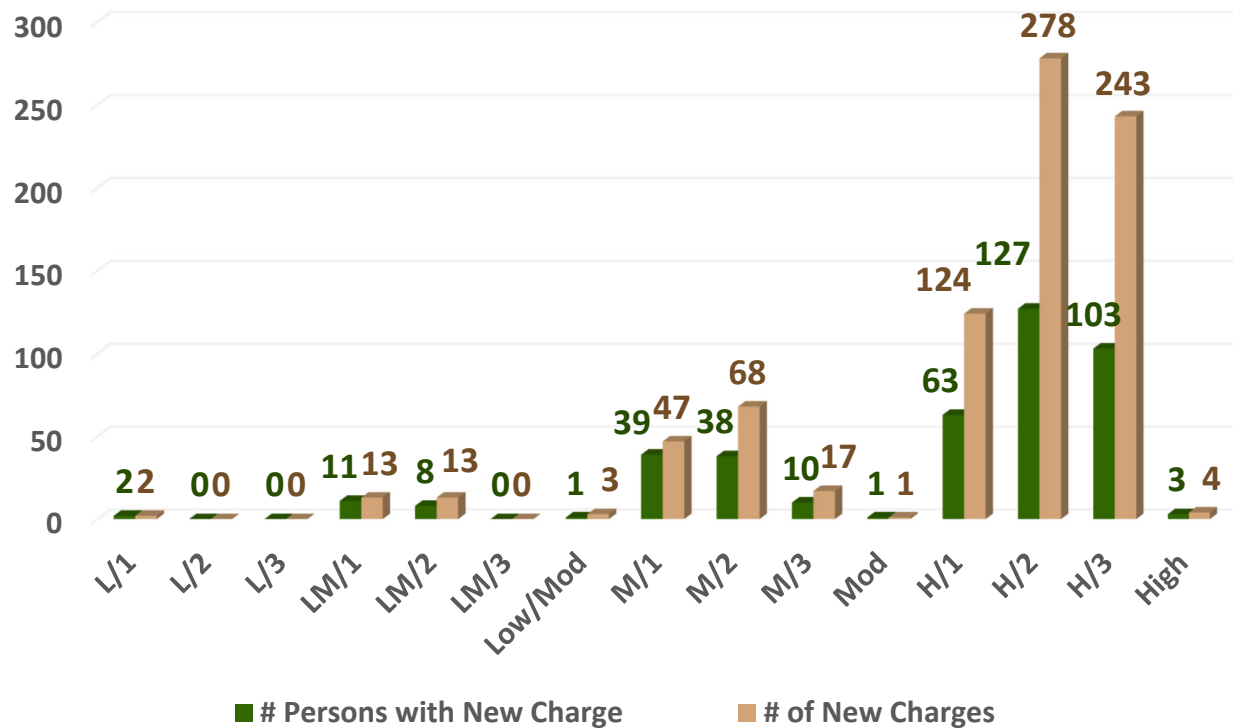




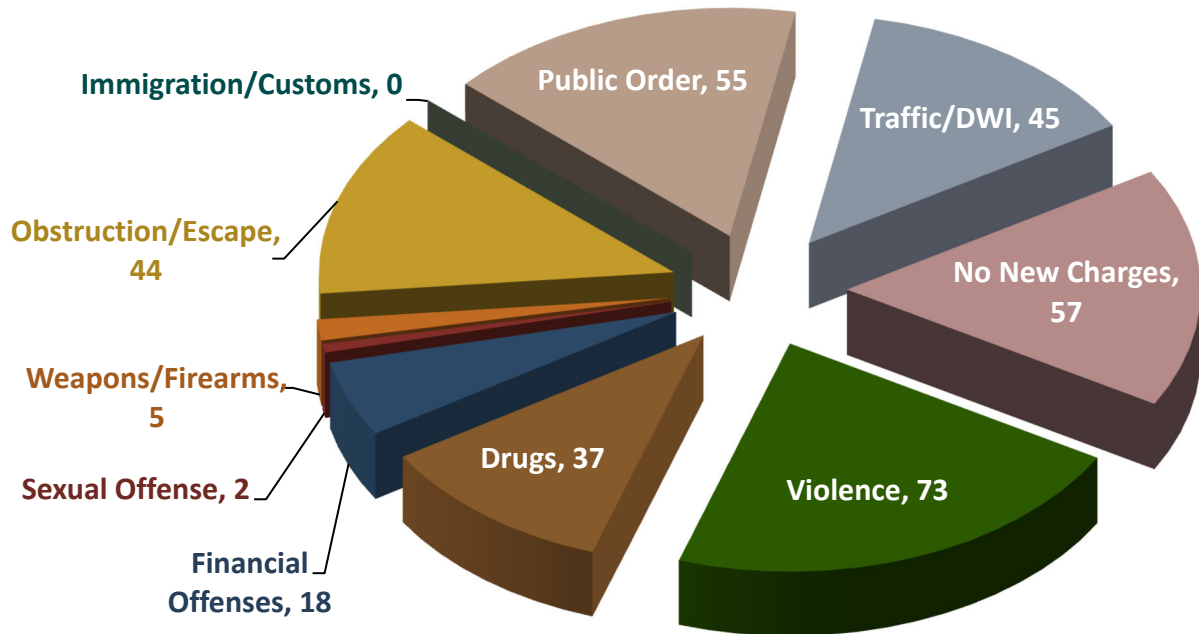
**Persons Under Supervision with and without New Charges by PCRA Level at Time of New Charge  
FY2021**



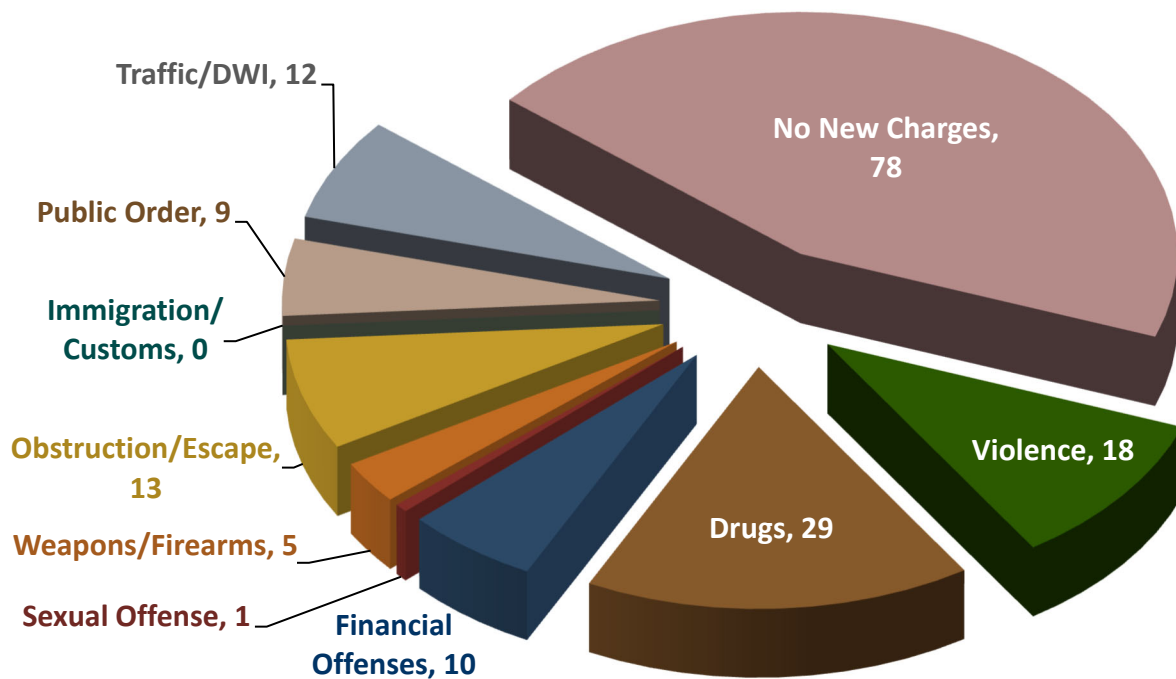
**Number of Persons with New Charges & Number of New Charges by PCRA Level at Time of New Charge with Violence Trailer  
FY2021**



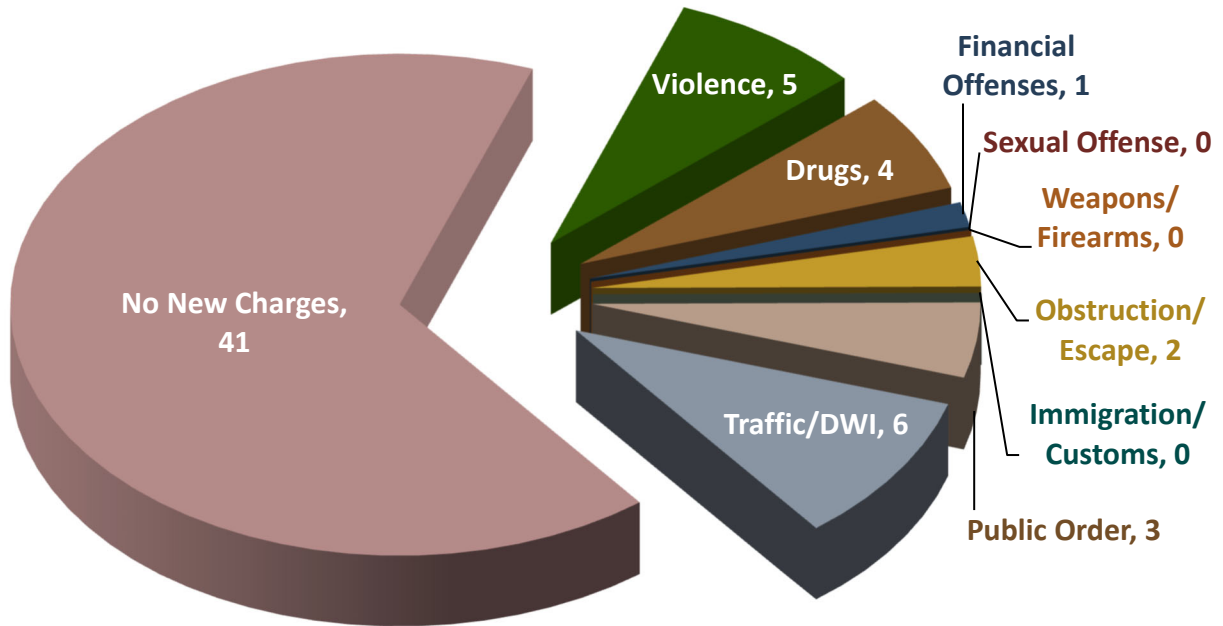
**Number of Terms of Supervision Closed with Instant Offense  
Violence with New Charges Committed During that Term of  
Supervision by Offense Classification  
FY2021**



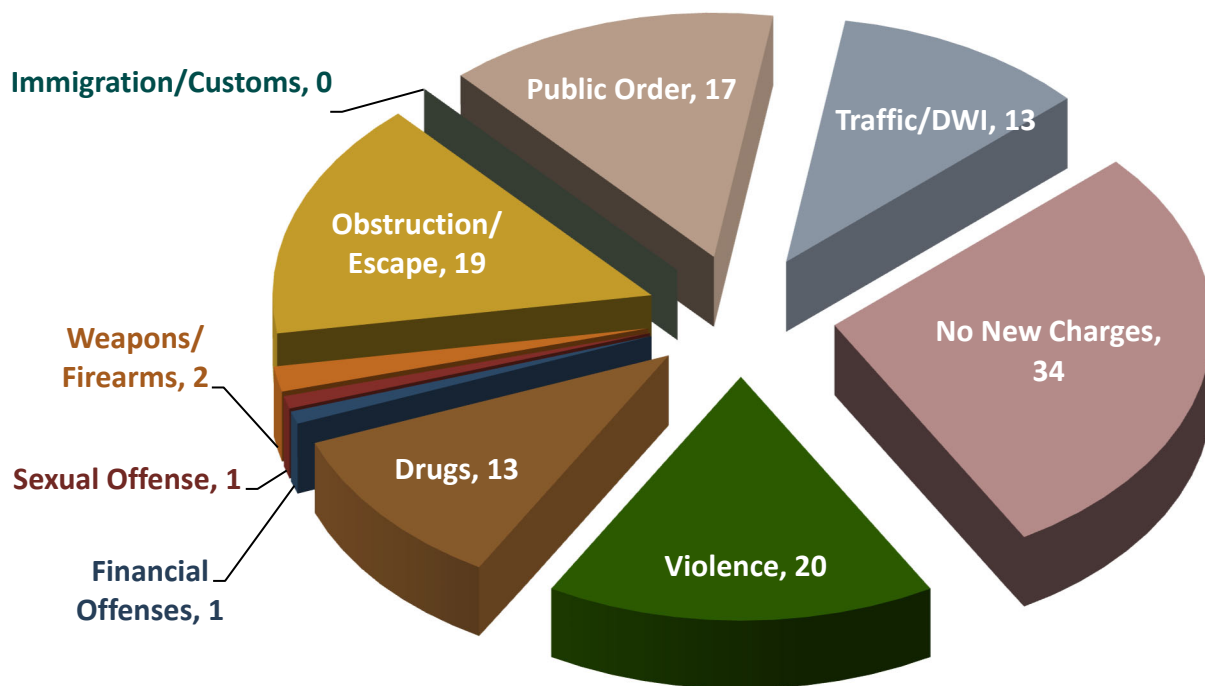
**Number of Terms of Supervision Closed with Instant Offense  
Drugs with New Charges Committed During that Term of  
Supervision by Offense Classification  
FY2021**



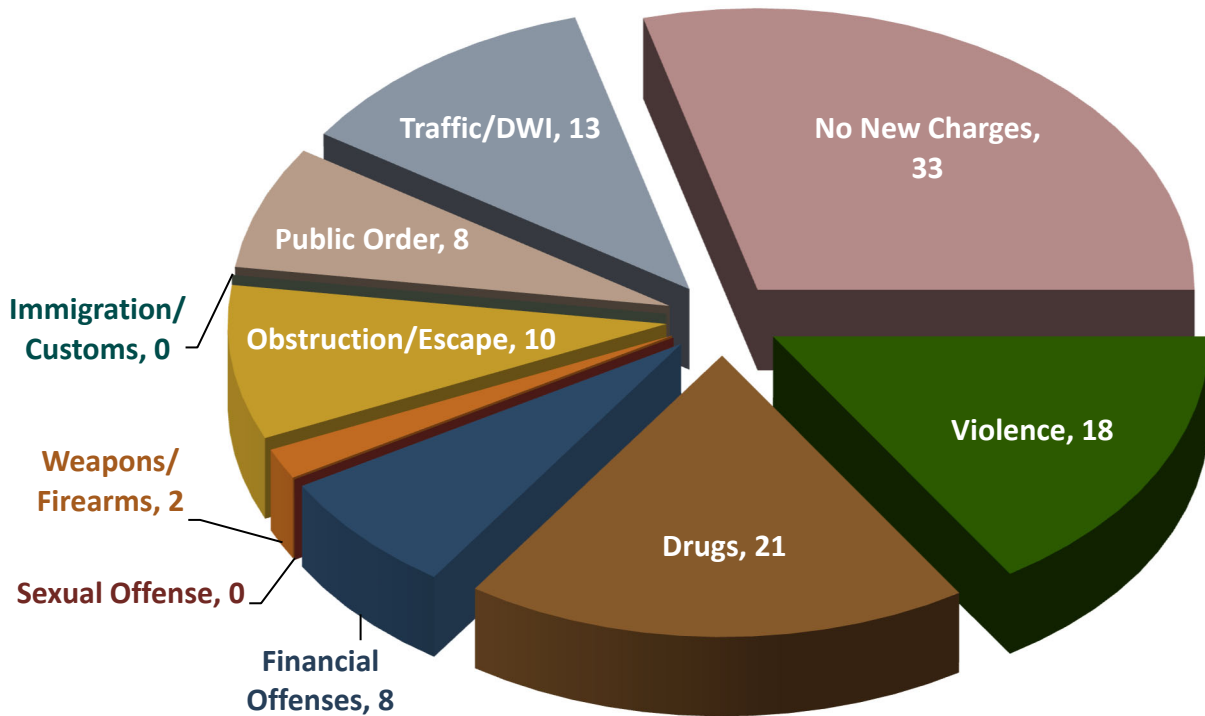
**Number of Terms of Supervision Closed with Instant Offense  
Financial Offenses with New Charges Committed During that  
Term of Supervision by Offense Classification  
FY2021**



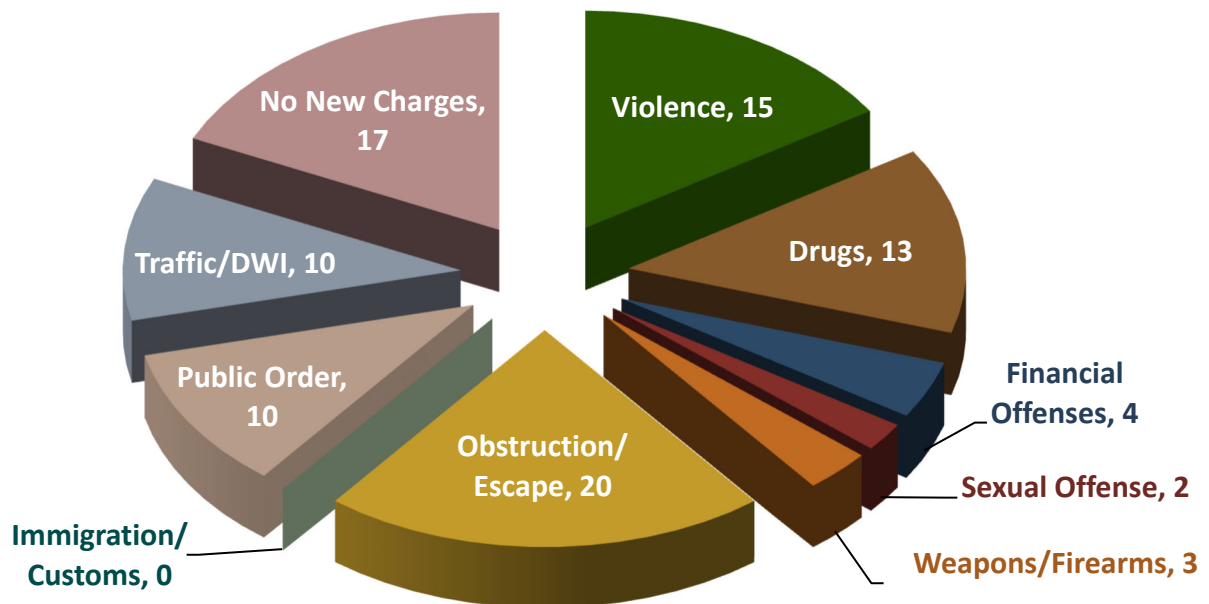
**Number of Terms of Supervision Closed with Instant Offense  
Sexual Offense with New Charges Committed During that Term of  
Supervision by Offense Classification  
FY2021**



**Number of Terms of Supervision Closed with Instant Offense  
Weapons/Firearms with New Charges Committed During that  
Term of Supervision by Offense Classification  
FY2021**



**Number of Terms of Supervision Closed with Instant Offense  
Obstruction/Escape with New Charges Committed During that  
Term of Supervision by Offense Classification  
FY2021**



## Intervention Services

### Telehealth Services

The District of South Dakota (Office) has continued to incorporate telehealth services to creatively address the needs of persons under supervision in response to the COVID-19 pandemic. The Office has received approval from the Administrative Office of the U.S. Courts (AO) to continue offering telehealth services on a case-by-case basis. Treatment vendors are approved to use a mixed model of face-to-face and telehealth modalities to address the dynamic nature of a global pandemic. While we believe face-to-face is the most beneficial in impacting persons under supervision growing prosocial skills, the ability to provide telehealth programming assists in meeting treatment needs.

The Office created a statewide Domestic Violence-Moral Reconciliation Therapy program to meet the needs of women under supervision who are required to complete domestic violence programming. By utilizing telehealth services for this program, we hope to create the environment for women to receive programming in more culturally appropriate ways. By offering telehealth services the Office can follow evidence informed modalities to address the unique experience of women under supervision with a history of intimate partner and domestic violence.

### Vendor & Second Chance Contracts

In September of 2021, the Office hosted a vendor conference to prepare new and existing vendors for the upcoming fiscal year. We provided education and training about best practices in utilizing the Post-Conviction Risk Assessment and Risk to Harm in treatment programming. The Shared Services Unit provided training on common questions in the contract solicitation process. Vendors reported a general increase in their comfort with the contracting process, as well as a more well-informed utilization of risk assessment tools for their programming.

To address the need for persons under supervision to develop prosocial skills and criminogenic needs, the Office was able to create and maintain 104 contracts for treatment services and Second Chance Act programming in preparation for FY 2022. Through treatment services contracting, there are 46 contracts for services to address substance use disorders. These services range from cognitive behavioral programs, drug testing services, substance use assessments, individual and group counseling, and treatment for co-occurring substance and mental health disorders. There are 13 contracts for mental health support district wide which provide individual and family counseling, psychological and psychiatric evaluations, and medication assistance. The Office has 18 contracts for sex offender treatment. These include services for individual and group treatment, chaperone training, readiness programming, and polygraphs. The Office has 27 contracts funded through the Second Chance Act which address cognitive skills and domestic violence.

To support persons under supervision successful reentry, the Office spent more than \$115,789 in Second Chance Act funds. These expenditures primarily assisted persons under supervision with a moderate to high-risk to reoffend with housing, transportation, work materials, and documentation. The Second Chance Act of 2008 was reauthorized in 2018 to assist defendants and persons under supervision address barriers to successful pretrial and post-conviction supervision.



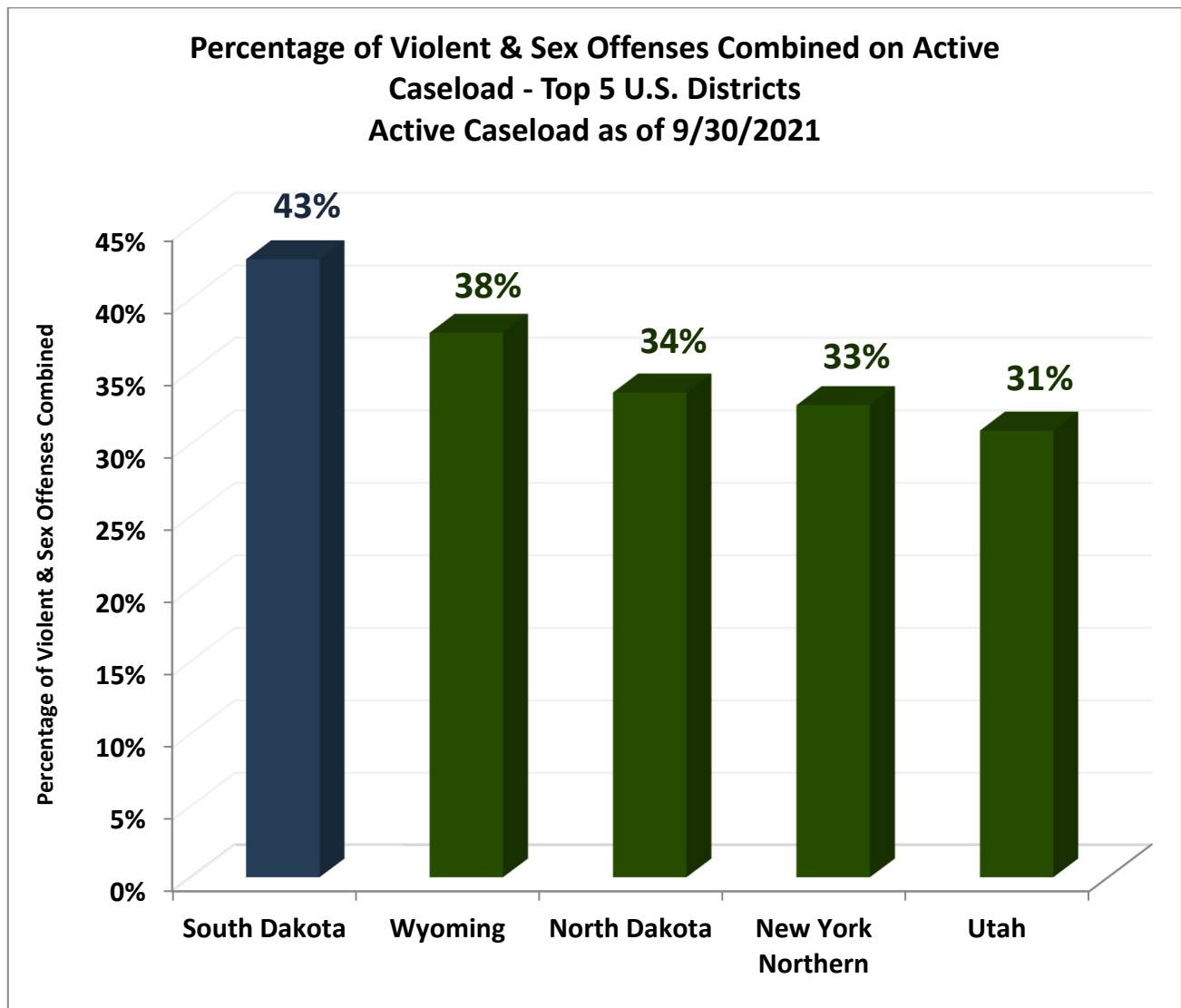
## Extraordinary Factors

### Economic Status

According to the U.S. Census Bureau's Social, Economic, and Housing Statistics Division, the small area income poverty estimates for 2020 indicate that South Dakota has four of the top ten counties with the highest poverty rates in the country. The poorest South Dakota counties and their national rank are: Ziebach (1), Todd (3), Oglala Lakota (6), and Corson (10).

### Violent and Sex Offenses

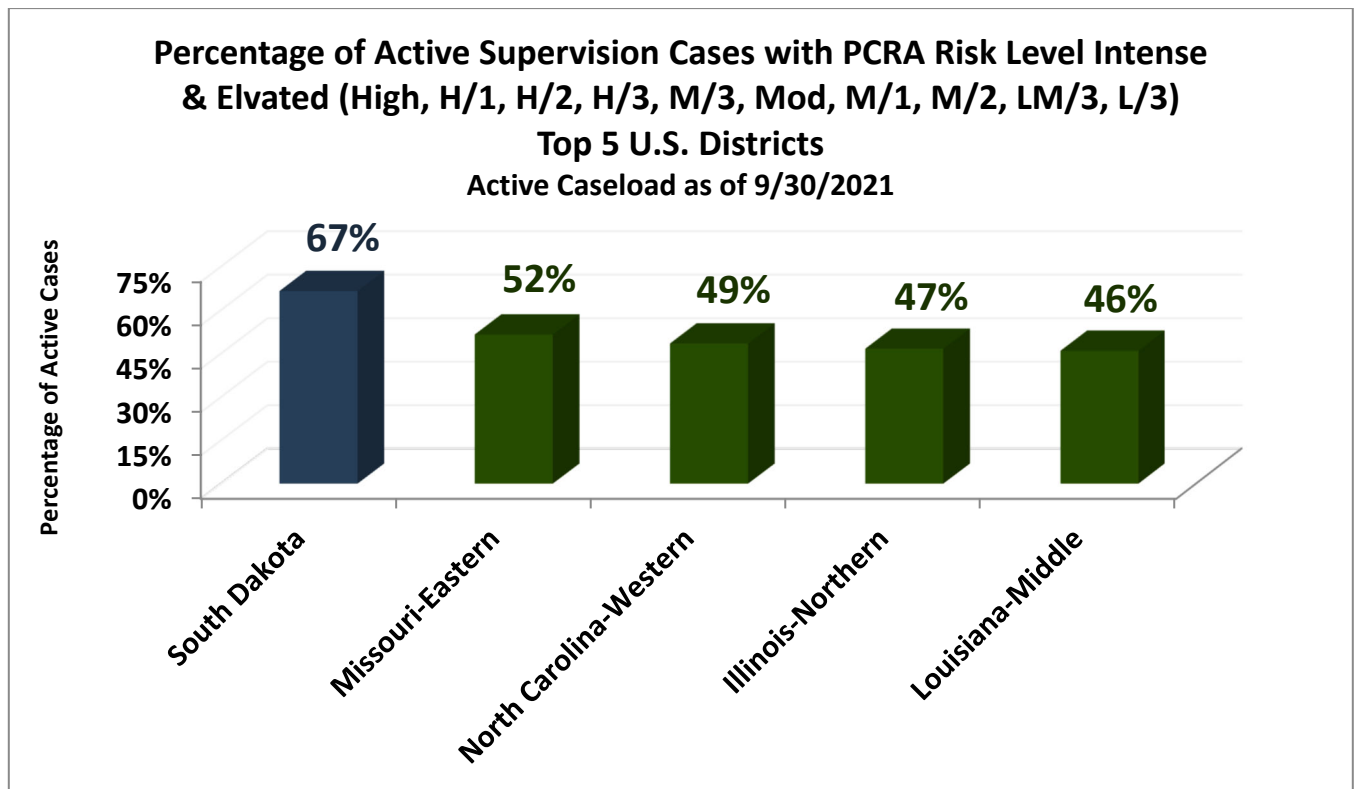
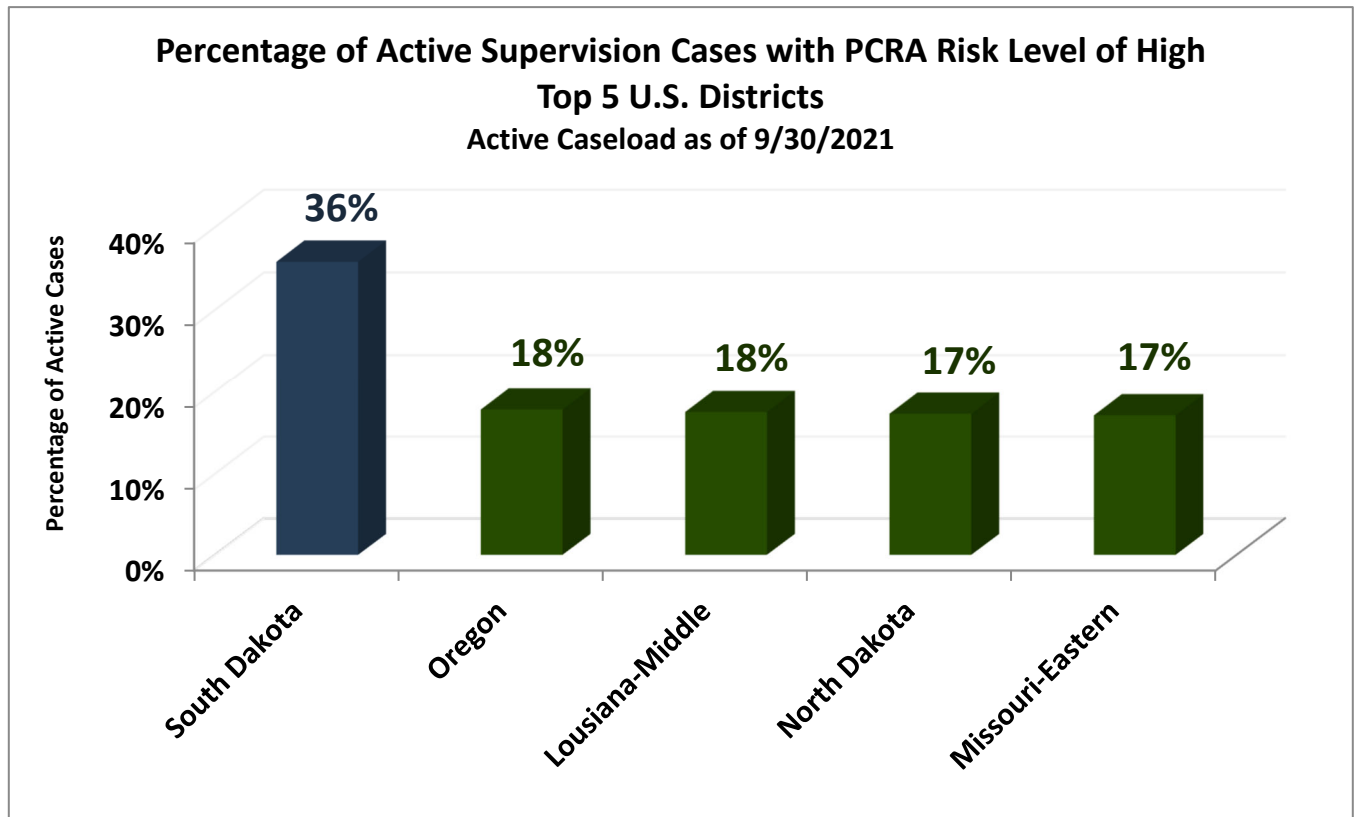
At the end of FY2021, the District of South Dakota ranked 63<sup>rd</sup> out of 94 districts in the number of post-conviction persons under supervision. In percentage of total cases being supervised, it ranked 1<sup>st</sup> in the country for persons whose most severe offense was either a violent offense 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

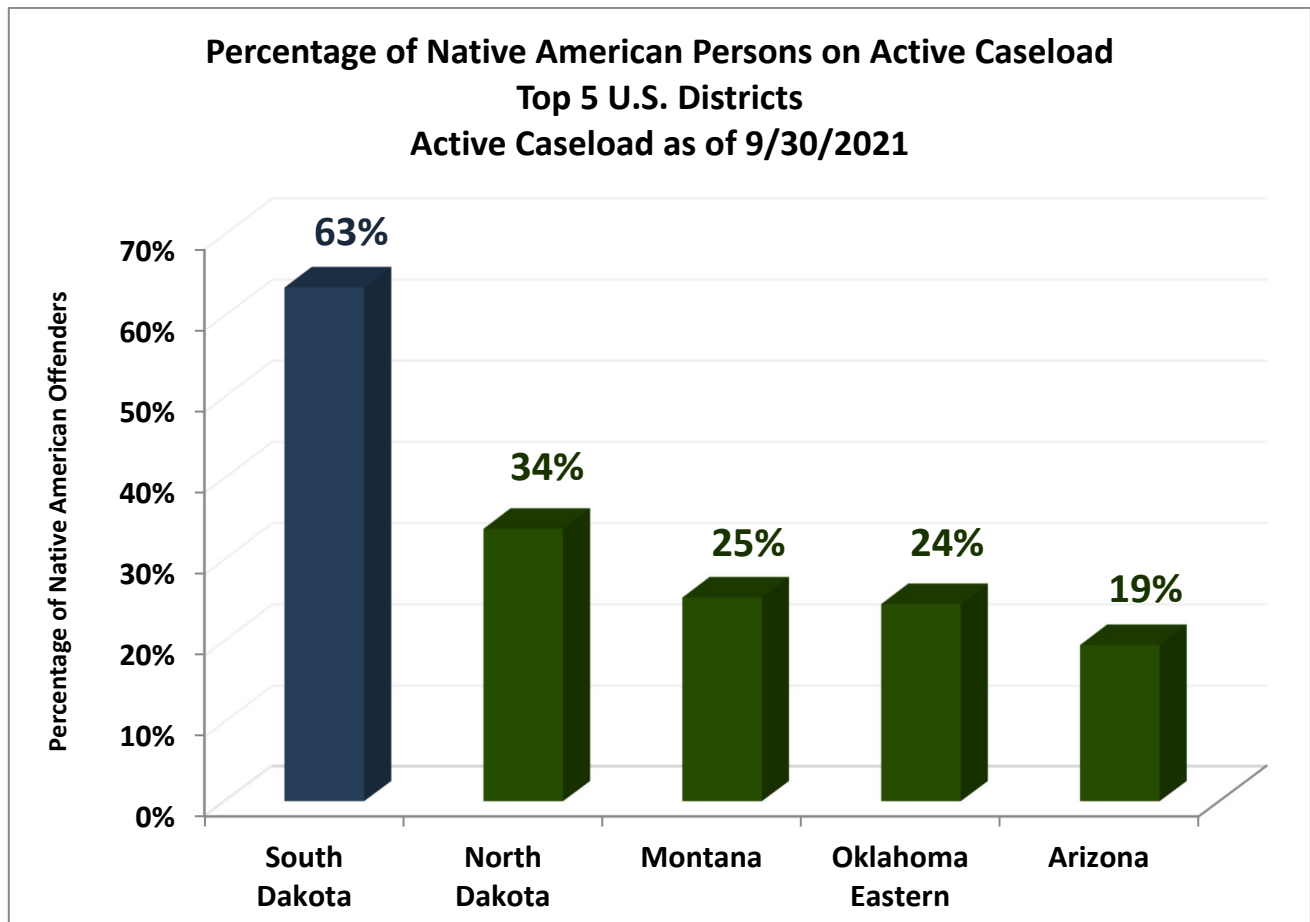
South Dakota ranks number one in the country in the percentage of high risk cases.



## Native American Population

According to the U.S. Census Bureau's 2019 estimate, approximately 9% of the population in South Dakota is American Indian/Alaska Native. And yet, 63% of the persons under post-conviction supervision in FY2021 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 comprised of volunteer officers who are responsible for the safety of all personnel. The current members of the team are: three certified safety instructors, two certified firearms instructors, one member of the executive leadership team, two supervisors, and one officer pending safety instructor certification.

### New Employee Safety Training

In FY2021, eleven employees completed their first annual safety training academy, which consisted of classroom presentations, officer response tactics, and decision-based scenarios. New officers are provided individual safety training prior to obtaining a caseload.

### General Safety Training for Officers

Each year, all officers are required to participate in one of two 16-hour safety training academies developed and presented by the safety team. Due to the COVID-19 pandemic, this year provided the first opportunity to complete the office's safety training academy since fall of 2019. FY2021 safety academy, took place in Pierre, SD. Safety academy consisted of classroom presentation, officer response tactics, and safety scenarios assessing officer's judgment.

### Firearms Training and Qualifications

Officers authorized to carry a firearm participated in two required qualifications for the year. They also participated in firearms scenario training, was based on application of good judgment in rapidly evolving role play scenarios.

### Safety Related Incidents

In FY2021, employees of the Office reported 34 safety related incidents to the national safety incident reporting system. The types and quantity of incidents was as follows: Possession of a Weapon (14), Other (6), Vehicle Related (3), Verbal/Written Threat (2), Animal (2), Drugs/Paraphernalia (2), Intimidation (2), Attempted Physical Attack (1), Defendant/Person Under Supervision Erratic/Suicidal Behavior (1), Training or Equipment Accident (1). 59.4 percent of the office safety related incidents in FY2021 occurred at defendant or person under supervision's residence.

## Searches

The Office conducts court-approved searches based on the presence of the appropriate condition of supervision and reasonable suspicion of illegal activity or activity in violation of the conditions of supervision. The Office has three certified search coordinators and one additional staff pending training and certification. Search coordinators are responsible for providing expertise on local and national search policies, as well as planning and collaboration with assisting law enforcement, to ensure searches are conducted in a safe, respectful, and efficient manner.

Three searches of a person's residence were conducted during FY2021.

## 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, and 20 hours minimum for support and administrative staff is expected each year. During FY2021, a total of 3,661 training hours were completed for an average of 67 hours per officer, and a total of 358 training hours were completed for an average of 26 hours per support and administrative staff.

### Travel

For FY2021, the District of South Dakota maintained a fleet of 20 cars for a total of 261,547 miles driven. This remains significantly down from FY2019 where officers traveled more than 409,000 miles and can be attributed to the coronavirus and continuing COVID-19 pandemic.

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.

