



August 2, 2012

**U.S. Department of Justice
S. Amanda Marshall
United States Attorney
District of Oregon**

Indian Country Law Enforcement District Operational Plan

I. OVERVIEW

A. Introduction to the District of Oregon

Public safety in Indian Country is a top priority for the United States Attorney's Office (USAO) in the District of Oregon. This USAO has a proud history of actively engaging in government-to-government relationship building with the nine federally recognized tribal nations in the District of Oregon and intertribal organizations involved in law enforcement on Indian Country lands located within the district. Routine and meaningful government-to-government consultations with tribes and tribal organizations serve as a critical focus of this district's public safety efforts. Active, frequent, and concerted efforts to address crimes in Indian Country are pursued in coordination with our tribal, federal, state, and local law enforcement partners. To that end, we will continue our consultations with tribal nations to create and institute individually tailored programs for each unique tribal nation that we proudly serve.

The nine federally recognized tribes offer diverse cultures, distinct lifestyles and traditions. Few places offer Oregon's diversity of landscapes, natural beauty, and proud Indian tribal cultures. The nine federally recognized tribal nations within the jurisdiction of the United States Attorney's Office for the District of Oregon are:

- ▶ Burns Paiute Tribe
- ▶ Confederated Tribes of the Coos, Lower Umpqua & Siuslaw Indians
- ▶ Coquille Indian Tribe
- ▶ Cow Creek Band of Umpqua Tribe of Indians
- ▶ The Confederated Tribes of Grand Ronde
- ▶ The Klamath Tribes

- ▶Confederated Tribes of Siletz Indians
- ▶The Confederated Tribes of the Umatilla Indian Reservation
- ▶The Confederated Tribes of Warm Springs

The USAO recognizes its trust responsibility to the federally-recognized tribes within the District of Oregon. It has a specific responsibility for enforcement and prosecution of crimes falling within the concurrent jurisdiction of the federal government on the Burns Paiute, Warm Springs, and Umatilla reservation lands. The USAO recognizes that it has sole jurisdiction with authority to investigate and prosecute non-Indians for crimes occurring in Indian Country that involve Indian victims. Major and General Crimes Act jurisdictional authority has been delegated to the State of Oregon by the federal government with regard to the Coos, Coquille, Cow Creek, Grand Ronde, Klamath, and Siletz tribes pursuant to Public Law 280. The state's jurisdiction is concurrent with the tribes' inherent jurisdiction over crimes occurring on their Indian Country lands. The USAO maintains a trust responsibility with regard to all tribal nations within the district. The Chemawa Indian School is a federal enclave that falls under the USAO's criminal jurisdiction.¹ There are also fishing sites within Oregon that constitute Indian Country for purposes of criminal jurisdiction. The USAO will continue to work with tribal nations that make up the Columbia River Inter-Tribal Fish Commission in coordinating law enforcement on the Columbia River. Accordingly, the United States Attorney for the District of Oregon has adopted the following Indian Country plan, which will govern its daily operations in Indian Country.

As discussed in detail below, this district's operational plan includes the following elements:

- ▶Communication
- ▶Investigations
- ▶Federal Prosecutions
- ▶Victim Advocacy
- ▶Training
- ▶Outreach

¹ Effective October 27, 2010, the USAO entered into a MOU with the BIE (on behalf of the Chemawa Indian School), Marion County Commissioners, Marion County District Attorney, Marion County Sheriff's Office, and the Marion County Juvenile Department. The MOU provides for assumption of state jurisdiction, on a case-by-case basis, over juvenile matters occurring on the grounds of the Chemawa Indian School in Salem, Oregon. The USAO retains jurisdiction over all matters charged under the Major Crimes Act (Title 18, United States Code, Sections 1152 and 1153). The intent of the MOU is to ensure the availability of relevant rehabilitation services for juveniles engaging in conduct that does not rise to the level of federal prosecution. This MOU was entered into following consultation and approval of the nine federally recognized tribal nations within the District of Oregon.

- ▶Reduction of Violence Against Women and Children
- ▶Primary Challenges
- ▶Accountability
- ▶Annual Government-to-Government Consultations
- ▶Review

II. OPERATIONAL PLAN

A. Communication

Direct, frequent, and meaningful two-way communication has been a hallmark of this district's interactions with tribal communities. The U.S. Attorney personally leads this effort, traveling often to meet with tribal leaders in their communities. Face-to-face communication is of critical importance in furthering our government-to-government relationships. Furthermore, the USAO will engage in government-to-government consultations with tribal nations. To foster these relationships, Indian Country AUSAs and tribal liaisons will communicate directly with agency representatives, tribal leaders and pertinent tribal officials about matters of general importance to the respective tribal nations and the USAO.

Contact Information for the Tribal Liaisons				
Tribe	AUSA	Address	Phone & Fax Nos.	Email Address
All Tribes	Bill Williams	USAO 1000 SW Third Ave., Suite 600 Portland, OR 97204	(503) 727-1108 (503) 727-1117 (fax)	bill.williams@usdoj.gov
Burns Paiute Umatilla Warm Springs	Craig Gabriel	USAO 1000 SW Third Ave., Suite 600 Portland, OR 97204	(503) 727-1107 (503) 727-1117 (fax)	craig.gabriel@usdoj.gov
Coos, Lower Umpqua & Siuslaw Coquille Cow Creek Band Siletz Grand Ronde Klamath Tribes	Tim Simmons	USAO 405 E. 8th Ave., Suite 2400 Eugene, OR 97401	(541) 465-6740 (541) 465-6531 (fax)	tim.simmons@usdoj.gov

AUSAs and tribal liaisons will communicate case-specific matters to the appropriate tribal officials and victims of crime to ensure open and accurate communication while maintaining case-specific confidentiality. We have, for many years, undertaken monthly case reviews with our tribal partners and will continue to do so. Communication efforts will include informing tribal prosecutors and law enforcement about court hearings, continuance requests, defense motions to suppress or dismiss, court rulings, and general case updates.

Where appropriate, and when discovery concerns are not present, the USAO will provide written declination letters to the appropriate tribal and federal law enforcement officials. AUSAs will address case-specific declination issues with tribal and federal law enforcement, tribal prosecutors, and other pertinent personnel. The USAO will work with tribal and federal law enforcement officials to ensure thorough investigations, as well as successful and timely prosecutions in federal and tribal courts. Case reviews provide constructive discussions on improving investigations and prosecutions. Decreasing declination rates and improving prosecution conviction rates in tribal and federal court remain primary goals.

AUSAs and tribal liaisons will continue to work with the various federal, state, county, and local law enforcement officials and representatives for the pertinent agencies who interact with the respective tribal communities in their jurisdictions. We will complete an annual Indian Country report, highlighting the achievements of the year, obstacles encountered and suggestions for addressing them, and on-going or new projects. The annual report will be provided to the nine tribal nations, our federal partners, and the general public.

Press releases on indictments, sentencing, and supervised released violations will be done on all Indian Country cases to keep tribal communities and the general public apprised of case outcomes. Communication regarding charging decisions and declinations, as well as statute of limitations will be a part of our on-going discussions with tribal police and tribal prosecutors.

B. Investigations

1. Overview

The USAO has excellent working relationships with the Federal Bureau of Investigation, tribal police departments, Oregon State Police, and the various county/local law enforcement agencies that have interactions with tribal nations. Communication between law enforcement and AUSAs is critical to ensuring timely response to criminal activity, thorough investigations, and prompt decisions on prosecutions in Indian Country. We will facilitate the coordination and coverage of investigations in Indian Country, fishing sites, and at the Chemawa Indian School. We remain available to assist and facilitate cooperation of the law enforcement agencies and county prosecution teams that handle criminal investigations for all tribal governments subject to the state's jurisdictional authority under Public Law 280. The USAO has federal jurisdiction over violations of general applicable crimes in Indian Country such as felons in possession of

firearms/ammunition, drug trafficking, and gaming violations. Jurisdiction for these crimes applies to all of Indian Country, regardless of Public Law 280.

Through government-to-government consultation, the USAO works with tribal governments to individually tailor written protocols to address specific tribal government issues as needed. To date, we have established individually-tailored protocols for The Confederated Tribes of the Umatilla Indian Reservation and The Confederated Tribes of Warm Springs.² More generally, protocols for Major Crimes Act violations and any other applicable offenses for Indian Country are in place for each reservation served by the USAO. These protocols provide clear instructions on investigative steps consistent with FBI and tribal protocols, suspect interviews and authorization procedures for recording interviews, and mandatory immediate notification to the USAO. Tribal contacts have around-the-clock contact information for the USAO. Cases are accepted for prosecution review directly from tribal police or in conjunction with the FBI. Cases are reviewed on an individual basis with no minimum threshold requirements beyond the facts of each case.

AUSAs conduct monthly case reviews with tribal investigators and the FBI. They conduct the reviews at the police departments of individual reservations or the nearby FBI resident agency offices. Other efforts to address the myriad community safety concerns facing tribal communities include periodic meetings with representatives from tribal courts, tribal prosecutors, tribal investigators, tribal administrators, victim advocates, child abuse advocates, child protective service workers, and forensic evaluators, IHS medical officials, tribal probation officers, the FBI, and the DEA. Discussions include tribal systematic issues in confronting gangs, drug trafficking, juveniles, registered sex offenders, child abuse and domestic violence. These issues are critical to improving the quality of life in Indian Country. We will continue to hold these meetings with relevant local and state law enforcement representatives and tribal law enforcement officials to encourage cooperation and enhancement of government-to-government relationships.

2. Warm Springs Multi-Disciplinary Child Abuse Team

The Warm Springs Multi-Disciplinary Child Abuse Team was created by an agreement signed in May of 2006. This agreement established the team to advise and assist each statutorily-authorized agency with regard to its role in the assessment, investigation and prosecution of child physical and sexual abuse cases, and the treatment and protection of child victims and their families. The team meets monthly to review every Child Protective Service and Law Enforcement generated report of child physical and/or sexual abuse. The team drafts an annual report for the signatories of the agreement to enable the signatories to evaluate the team's

² Official government-to-government consultations with the CTUIR Board of Trustees (BOT) have not yet taken place on written protocols. The existing written protocols in place were developed after consultations with tribal police, prosecutors, the FBI, and the USAO to ensure communication between the parties responsible for investigations and prosecutions. The USAO looks forward to future consultations with the CTUIR BOT on these important issues.

progress.

C. Federal Prosecutions

1. Overview

Improving public safety in tribal communities is a top priority of the Department of Justice and the USAO in the District of Oregon. We take our role as the primary prosecutor of serious crimes in Indian Country with the utmost sense of responsibility to citizens in Indian Country. To that end, the USAO is committed to working with tribal nations, as well as federal, state, and local authorities in the efforts targeting the reduction of crime on tribal lands.

As has been our long-standing practice, we will continue to ask law enforcement to send us every case that is reported to tribal officers, tribal victim advocates, domestic violence advocates, child protection workers, federal agents, or state agencies who may have reason for involvement with tribal nations. There has never been a threshold for our willingness to review a case report. Every case is reviewed with an eye toward prosecution in federal court where the facts satisfy the elements of applicable statutes, there is admissible evidence, and the case otherwise satisfies the requisite considerations of a federal prosecution.

Prosecution decisions are generally based upon the following non-exclusive list of factors:

- Establishing Jurisdiction
- Federal Law Enforcement Priorities
- Nature and Seriousness of the Offense
- Provable Facts
- Search and Seizure Issues
- Victims' Rights/Concerns/Credibility/Availability
- Witness Cooperation/ Credibility/Availability
- Deterrence Effect of Prosecution
- Appropriateness of Dual Prosecution Specific to the Case
- Offender's Culpability
- Offender's Criminal History
- Offender's Cooperation with Law Enforcement
- Probable Federal Sentence if Convicted
- Probable Tribal Court Sentence if Convicted
- Appellate Issues

As noted above, in those cases where prosecution is not possible, we provide declination to the relevant parties. Case reviews with tribal and federal investigators will continue to address issues of jurisdiction, evidence gathering, investigative strategies and techniques, inter-agency cooperation, witness interviews, and prosecution.

D. Victim Advocacy

The USAO for the District of Oregon recognizes our responsibilities to victims of crime in Indian Country. We have an excellent victim witness team that works to ensure victims of crime are accorded all rights to notification and participation in the criminal justice processes in federal court. We recognize that justice in Indian Country is not limited to non-Indian perceptions of punishment, incarceration, and rehabilitation. In addition to these concepts, the overall quality of justice sought by the USAO will include recognition of individual tribal needs for community restoration.

VW Contact Information			
VW Advocate	Address	Phone & Fax Nos.	Email Address
Gerri Badden	USAO 1000 SW Third Ave., Suite 600 Portland, OR 97204	(503) 727-1033 (503) 727-1117 (fax)	gerri.badden@usdoj.gov

The USAO's Victim Witness Advocate Unit has extensive and well-defined procedures for servicing victims of crime. In general, the USAO Victim Advocates coordinate with the FBI, tribal victims of crime specialists, and family service agencies. The USAO Victim Advocates diligently strive to provide meaningful and helpful services to victims of crime for the duration of their ordeals, navigating the federal/tribal criminal justice systems. Every step is taken to ensure that someone is available to respond to a victim's needs, from the inception of the investigation of the offense conduct through sentencing. Communication between the AUSA, investigators, Victim Witness Advocate, and victims of crime is excellent and remains a key part of our efforts.

The USAO will continue its efforts to communicate with community-based domestic violence and sexual assault advocates. The USAO is keenly aware of the difficult and unique challenges faced by advocates working with victims of domestic violence and sexual assault. We will continue to advocate for a multi-disciplinary team approach to work cooperatively with tribal nations to address domestic violence and sexual assaults.

E. Training

The USAO will continue its training efforts to improve the quality of criminal investigations, prosecutions, and services to victims of crime in the tribal communities we serve. The AUSAs serving Indian Country as prosecutors and tribal liaisons, as well as other AUSAs with specific expertise in pertinent subject matters, will participate in the ongoing training programs. Target audiences for training opportunities will include federal, tribal, state, and local law enforcement personnel who are responsible for responding to crimes in Indian Country. Topics include jurisdiction; search and seizure; investigation protocols; courtroom testimony; interviewing suspects, witnesses, and victims; child physical and sexual abuse investigations; federal firearms cases; VAWA statutes and prosecutions; and other relevant topics.

The USAO is dedicated to exploring the applicability of cultural sensitivity training to

employees whose responsibilities include Indian Country cases. The AUSAs, tribal liaisons, and Victim Witness Advocates who handle Indian Country cases spend extensive amounts of time on the reservations we serve learning and communicating with tribal law enforcement, tribal agencies, and tribal victims. The USAO will continue to incorporate cultural sensitivity training and experiences to ensure awareness of this important issue.

Specific training opportunities in the coming year will include facilitation of training for Special Law Enforcement Commission (SLEC) cards in concert with BIA Law Enforcement for officers of all tribal nations who wish to participate. As noted in the 2012 update below, these trainings have been facilitated and officers have received their commissions. State-wide jurisdictional training for state, local, tribal, and federal law enforcement have been held in locations throughout the state to encourage participation. This is an ongoing effort.

Specific training opportunities in the coming year will include:

- ▶Facilitation of training for Special Law Enforcement Commission (SLEC) cards in concert with BIA Law Enforcement for officers of all tribal nations who wish to participate. As noted in the 2012 update below, these trainings have been facilitated and officers have received their commissions.
- ▶State-wide jurisdictional training for state, local, tribal, and federal law enforcement has been held in locations throughout the state to encourage participation. This is an ongoing effort.

F. Outreach

Effective outreach is critical to our efforts to build better relationships with tribes. The U.S. Attorney can and must lead these efforts, with regular outreach to tribal leaders in both formal and informal settings. The U.S. Attorney and tribal liaisons work to check in with tribal leaders for each tribe regularly and makes frequent trips to Indian Country for meetings with council.

Broadly speaking, the outreach efforts of the USAO include elements of prosecution strategies and cases, tribal-federal-state-and local law enforcement training, victim services, tribal community-centered outreach, USAO public relations, and state-wide education of Indian Country jurisdiction. Specific outreach efforts include the following:

- ▶Chemawa Indian School MOU
- ▶Warm Springs Indian Country HIDTA
- ▶Warm Springs Child Advocacy Center
- ▶Continued FBI Safe Trails Task Force cross-deputation of Warm

Springs Tribal Police Department personnel

- ▶Continued FBI cross-designation of Marion County Sheriff's Department Deputy Sheriff personnel assigned to the Chemawa Indian School
- ▶Encouragement of Safe Trails Task Force cross-deputation of Umatilla Tribal Police Department personnel
- ▶Training and enforcement coordination with Columbia River Inter-Tribal Fisheries Enforcement Officers
- ▶Warm Springs Anti-Gang Prosecution Initiative
- ▶Continuing and enhancing the tribal SAUSA program
- ▶Press releases on every Indian Country prosecution
- ▶Active use of the Department's Community Relations Service (Seattle branch) for conflict resolution between tribes and local governments
- ▶Appellate Chief's assistance to tribal attorneys, Oregon DOJ Appellate section, and AUSAs in other districts on Indian Country cases
- ▶Cooperation with the Oregon Commission on Indian Services to facilitate training and educational opportunities concerning tribal communities
- ▶Cooperation with Oregon Department of Justice STOP VAWA to address domestic violence on Oregon's Indian reservations
- ▶Developing a Re-Entry Court for federally convicted tribal members that incorporates the participation of tribal court judges
- ▶DOJ grants to federally recognized tribes in this district include the following:
 - Court Training (Northern California Tribal Court Coalition-Medford)
 - Violence Against Women (Umatilla Indian Reservation)
 - Tribal Victim Assistance (Warm Springs Indian Reservation)
 - Transitional Housing (Warm Springs Indian Reservation)
 - Children's Justice Act Partnerships (Coos, Lower Umpqua & Siuslaw Indians)
- ▶Continued facilitation of government-to-government meetings between Siletz Tribal Council, Oregon State Police, and BLM over tribal gathering rights on the Oregon coast

- ▶U.S. Attorney “Train the Trainers” DPSST presentation to state and local law enforcement on Working with Tribal Communities and the History of Jurisdiction in Indian Country.

G. Reduction of Violence Against Women and Children

Addressing violence against women and children will continue to be a focus of the USAO. In keeping with the Major Crimes Act investigation protocols noted above, the USAO will continue to investigate **every reported** act of domestic violence and crime committed against children that is referred to our office. We encourage tribal law enforcement, domestic violence advocates, victim-witness coordinators, child protection service (CPS) workers, and educators to work collaboratively with tribal communities to encourage disclosure of any act of violence toward women and children. The USAO will vigorously investigate and prosecute these offenses. The USAO actively engages with tribal entities in community education events and training on domestic violence, child abuse, and firearms violations. Specific efforts include written Major Crimes protocols outlining the notification and investigative responsibilities of the FBI, tribal, and local law enforcement officers involved in each case

Domestic Violence

- ▶Community-based training opportunities open to tribal members on domestic violence and abuse prevention
- ▶Service provider training for domestic violence and child abuse identification, evidence collection, and prosecution efforts
- ▶Efforts to establish a domestic violence MOU with Umatilla reservation
- ▶Cooperative efforts with Oregon DOJ STOP VAWA to collect data on domestic violence in tribal communities
- ▶Aggressively pursue prosecution of individuals who commit domestic violence offenses that qualify under the Habitual Offender provisions of Title 18, United States Code, Section 117
- ▶Pursue non-Indian perpetrators of domestic violence for misdemeanor and felony level offenses

Sexual Assault

- ▶Ensure that medical professionals and law enforcement personnel have rape kits

readily available

- ▶Ensure that accredited forensic laboratories are used to timely analyze rape kits and other forms of forensic evidence (Oregon State Police Crime Lab or FBI Lab)
- ▶Development of the Child Advocacy Center at Warm Springs

H. Primary Challenges & Opportunities for Advancing Public Safety In Indian Country

Addressing jurisdictional challenges that are unique to Indian Country is a primary concern for the USAO. The USAO will work with tribal leaders, state and local officials, and our federal partners to improve our response to public safety issues in Indian Country. Responses to such challenges provide opportunities for advancing public safety in Indian Country include the following:

▶**Special Law Enforcement Commissions (SLEC)** – The USAO has worked with representatives of BIA/Office of Justice Services, Columbia River Inter-Tribal Fisheries Enforcement (CRITFE), and tribal police departments to facilitate the necessary training for tribal officers to obtain the SLEC cards. Training was conducted in May 2011 and November/December 2011. Additional training will be ongoing as needed.

▶**Jurisdictional Training** – The jurisdictional maze created by federal and state law with respect to law enforcement in and around Indian Country has created practical difficulties for tribal, state, federal law enforcement, and justice personnel. Addressing the issues presented by the challenge of patchwork areas of jurisdiction on some reservations and the interplay of multi-jurisdictional response by law enforcement is a priority. Accordingly, the USAO has worked with tribal police departments, tribal leaders, the Oregon State Police, and the Oregon Attorney General's Office to conduct Indian Country jurisdictional training for tribal, local, state, and federal law enforcement agencies and judicial personnel. Training sessions are being conducted on a regional basis across the district of Oregon.

▶**Tribal Fishing and Fishing Rights in the Columbia Basin** – Tribal fishing and fishing rights in the Columbia River Basin is critically important to tribal nations within the District of Oregon. The USAO considers it an important trust responsibility to work with **CRITFC** in supporting the sovereignty of the tribes, and the mission of managing fishery resources, and protecting reserved treaty rights.

▶**Columbia River Inter-Tribal Fish Commission (CRITFC) & Columbia River Inter-Tribal Fisheries Enforcement (CRITFE)** – Protecting tribal fishing, treaty rights, and tribal sovereignty is of critical importance to the four tribes represented by **CRITFC**– the Nez Perce, Umatilla, Yakama, and Warm Springs tribes. These tribes signed a treaty with the United

States in 1855 to reserve their right to fish at all of their usual and accustomed public places. **CRITFE** is a part of **CRITFC**, and is made up of the fish and wildlife committees of the four tribes. **CRITFE** maintains 24-hour effort to enforce fishing regulations and protect treaty tribal fishing rights. They protect the “In Lieu” and “Tribal Fishing Access Sites” (TFAS) that are for the exclusive use of the four tribes and their members engaged in their traditional fishing activities. They also protect archeological sites along the Columbia River Gorge, as well as regulating salmon sales along the gorge. The USAO has facilitated discussions with representatives of **CRITFC**, the four Treaty Nations, and other federal partners about a proposed memorandum of understanding (MOU) concerning jurisdictional clarification, recognition of tribal sovereignty, and furthering law enforcement cooperation along the Columbia River Basin. The USAO is committed to working with **CRITFC** and **CRITFE**, the four Tribal Nations, and the states of Oregon and Washington on the proposed MOU.

► **Gangs in Indian Country** – Gang violence and related activities continue to present public safety issues for some of the tribal nations in the district. Combating gang violence in tribal communities will continue to be a focus of our district’s Anti-Gang Unit efforts to work in concert with our Indian Country AUSAs, tribal liaisons, and tribal partners.

► **Substance Abuse and Prescription Drug Issues** – Substance abuse is one of the most pressing challenges faced by our communities in the District of Oregon. This reality includes our tribal nations and their communities. A summit was convened in November of 2010 by the US Attorney, the Governor of Oregon, and the Oregon Attorney General to address the challenges presented and consider solutions to this crisis. We will continue to work with the nine tribal nations in the district to address the issues presented by this important public health problem. A southern Oregon regional summit was conducted in June 2011; tribal members from southern Oregon attended and participated.

► **Community Relations Service (CRS) Outreach** – The CRS is the Department of Justice’s “peacemaker” for community conflicts and tensions arising from differences of race, color, and national origin. CRS is the only federal agency dedicated to assist tribal, state, and local community groups with preventing and resolving racial and ethnic tensions, incidents, and civil disputes, and in restoring racial stability and harmony. The USAO will continue to encourage participation between tribal nations and neighboring communities and local governments in utilizing the services of the CRS.

► **Challenges of County Funding & Law Enforcement for PL 280 Tribes** – It is a challenging time for tribal, state, local, and federal governments in addressing budget constraints and limitations. This is particularly true with the reality of diminishing budgets for law enforcement personnel and services in Oregon counties that historically relied on income from federal forest payments to finance public safety as that funding stream has dried up. The USAO is committed to working with Public Law 280 tribal nations to ensure public safety. We will continue to consult with tribal leaders, and the local and state law enforcement agencies who have the responsibility to provide law enforcement and prosecution services.

► **Warm Springs HIDTA** – The Confederated Tribes of the Warm Springs Indian Reservation secured the first HIDTA in the nation dedicated to Indian Country. This is an important step for tribal nations nationally in their efforts to address drug trafficking in their tribal communities. The Warm Springs HIDTA is working closely with the Central Oregon Drug Enforcement team in neighboring Deschutes County on training and investigations. The USAO will continue to work closely with the Warm Springs Police Department, and local and state agencies that will be participating in this endeavor. It is a national milestone for tribal law enforcement in Indian Country. We are extremely proud of our law enforcement partners and the tribal leadership at Warm Springs for taking the lead in this project.

► **Re-Entry Court** – We have had discussions with Chief U.S. District Judge Ann Aiken, Magistrate Judge Patricia Sullivan, and Judge William Johnson, and Umatilla Tribal Court Judge William Johnson about establishing a Re-Entry Court for eastern Oregon. This would include working in concert with tribal entities to assist tribal members who are returning to the Umatilla tribal community following incarceration. Such a program would encourage voluntary participants under federal and tribal supervision to commit to individualized plans for participants emphasizing sobriety, employment, and constructive problem-solving skills. The goals would include reducing, enhancing community safety, and creating productive partnerships.

► **Tribal Summit** – The USAO plans to host a Tribal Summit. Representatives from the nine federally recognized tribal nations, the State of Oregon, and all relevant federal agencies will be invited to participate in the summit. The goal is to have an open dialogue about the major concerns of individual tribal nations, and to seek solutions to the problems identified. This has been somewhat complicated by budgetary restrictions.

I. Accountability

By the process of careful selection of AUSAs who want to work in Indian Country, the USAO works to ensure the utmost dedication to our commitment to public safety in the tribal communities that we serve in the District of Oregon. AUSAs who work in Indian Country have been or will be trained on the proper use of the USA-5/5A system and its Indian Country categories to record their time properly, including weekly input of their time. This regime is enforced by the USA-5 system implementation in the district, which does not allow AUSAs to input time more than a week after the fact. Additionally, the Criminal Chief and the Violent Crimes Unit Chief maintain statistics on Indian Country AUSAs' total number of files opened, cases charged, pleas, sentencing, trials, declinations, and appeals. We will ensure that the USAO is familiar with meeting the amended Evaluations and Review Staff (EARS) management strategy for Indian Country.

J. Annual Government-to-Government Consultations

In addition to regular formal and informal contact between the U.S. Attorney and tribal leaders, which takes place on an ongoing basis, the USAO will engage in annual government

to-government consultations with the tribal nations in the district. The scheduling of such consultations will be done in a manner consistent with the USAO's responsibilities and mandate to meet with tribal leaders, as well as the needs and wishes of individual tribal nations. Each tribal nation will be encouraged to facilitate the setting and the agenda for their nation's consultations with the USAO.

K. Review

The District of Oregon is committed to its mission of ensuring public safety in Indian Country. We are committed to fostering sound and meaningful government-to-government relationships with each of the tribal nations. We will annually review the nature and quality of the district's plan and its effectiveness internally, as well as with our tribal partners to ensure that we are addressing our responsibilities to tribal nations. It is intended that the annual review will include an analysis of whether the operational plan is being met, how it can be improved, its successes, failures, and amendments.

L. Report

The USAO will provide an annual report on the status of the district's Indian Country plan.

III. JULY 2011- JULY 2012 UPDATE

A. Indian Country SAUSA

Brent Leonard, Tribal Attorney for the Confederated Tribes of the Umatilla Indian Reservation was designated as an Indian Country SAUSA in the past year. Brent will be working directly with AUSA Craig Gabriel in the prosecution of Indian Country criminal cases in the district.

B. Special Law Enforcement Commission Training

The USAO sponsored Special Law Enforcement Commission training in May 2011, and again in November/December 2011. Attendees included personnel from various tribal law enforcement departments, and the Columbia River Inter-Tribal Fisheries Enforcement (CRITFE). BIA Law Enforcement officials have confirmed attendance, exam results, and receipt of attendees' commissions. This is an important step in assisting tribal and CRITFE officers in carrying out their duties. It is also critically important in furthering the recognition of tribal and CRITFE officers as police officers by state, local, and federal law enforcement entities.

C. BIA Law Enforcement-District VIII

Thanks to the assistance of the Department of the Interior-Bureau of Indian Affairs, Office of Justice Services, the District VIII Law Enforcement Office was created and opened in Portland, Oregon. Thomas E. Woolworth, Special Agent in Charge, is in charge of the Portland, Oregon

office. Tom brings a wealth of experience and dedication to Indian Country. He is actively involved in the efforts to improve services to tribal communities in Indian Country in the Pacific Northwest.

D. Warm Springs Child Advocacy Center

Thanks to the hard work of members of the Warm Springs Multi-Disciplinary Child Abuse Team, and the leadership of the Warm Springs Tribal Council, development of the “Shwiyaila Miyashna” (San-wee-yai-thla Mee-yan-ah-na, translation “Talking for the Children,” Child Advocacy Clinic (CAC) is well underway. The CAC will be housed in the Indian Health Service Clinic at Warm Springs. Dedication and opening will occur by the end of 2012.

E. CVB Dockets at Chemawa and NON-PL 280 Tribes

A CVB schedule of offenses and fines for Chemawa has been approved by Chief Judge Aiken. Citation notebooks have been provided to the officers at Chemawa, and the Chemawa officers have received CVB training from the USAO. The CVB docket is therefore now fully implemented at Chemawa. A draft of the CVB fine schedule for Umatilla, Warm Springs, and Burns-Paiute is in progress at the USAO. The fine schedule is expected to be finalized and approved by Chief Judge Aiken by the end of the calendar year. Tribal officers at those reservations will then receive CVB notebooks and training from the USAO.

F. Fourth Amendment Training

In April of 2012, training on Fourth Amendment issues was co-hosted by the USAO and the Warm Springs Tribal Police Department. Officers from various tribes and the FBI attended. Instructors included AUSAs, tribal police, and the FBI.

D. Declination Working Group Update

1. Issues addressed in the past year

A working group from tribal law enforcement, the FBI, and the USAO has met to discuss Indian Country declinations in 2011 in the District of Oregon. The working group consisted of Carmen Smith (Chief, WSPD); Gary Samuel (Supervisory Detective, WSPD); Ray Denny (Director of Public Safety, CTUIR); Tim Addleman (Chief, CTUIR); Max Daggett (Detective, CTUIR); Marvin Beauvais (Prosecutor, CTUIR); Terry O'Brien (Supervisory Special Resident Agent, FBI); and Craig Gabriel (AUSA).

During the calendar year 2011, the USAO took action on 46 open cases that had been referred from Indian Country Law Enforcement. The 46 cases were acted upon as follows:

- 31 cases were charged by information or indictment (Warm Springs– 21 cases; Umatilla– 8 cases; Burns-Paiute– 1 case; Cow Creek– 1 case).

- 15 cases were declined in 2011 (Warm Springs– 11 declinations; Umatilla– 4 declinations).

[Note: The above statistics are based on USAO decisions made in 2011, that is: (a) the filing of a charging instrument; or (b) a declination and case closure. As such, these statistics may differ from how the Government Accountability Office calculates Indian Country declination rates.

2. Declination Rate

The Indian Country declination rate for 2011 in the District of Oregon was, therefore, 33%. The declinations can be categorized as follows:

- (1) No cases were declined due to lack of jurisdiction.
- (2) Two cases were declined due to problematic investigations. Both of these declinations involved cases from Warm Springs in which the officers arguably violated the suspect's Fourth Amendment rights. The WSPD agrees with the USAO's assessment that, if charged, the evidence in these cases would have likely been suppressed. To assist Warm Springs law enforcement with search and seizure issues, in April 2012, the USAO conducted a 3-hour Fourth Amendment training with Warm Springs patrol officers, detectives, prosecutors, and judges, as well as FBI agents working in Indian Country.
- (3) No cases were declined due to a tribe asking the USAO not to pursue a case, so that the case could be handled exclusively in tribal court.
- (4) Twelve cases were declined based on insufficient evidence, even though there were no investigative errors in the cases. The tribes agreed with all 12 of these declination decisions.
- (5) 1 case was declined because the case, which involved a small amount of a controlled substance, did not meet the USAO's prosecution thresholds.

3. Further Discussion

Other noteworthy discussion topics within the working group included:

- Declination letters from the USAO will generally be brief. The USAO will separately address specific reasons for a declination and any investigative concerns with tribal law enforcement (*i.e.*, chiefs of police, detectives, prosecutors).
- Tribal law enforcement agreed that if they wish to track inquiries and consultations with the USAO that do not rise to formal referrals for federal prosecution, then the respective tribal police departments will keep such statistics internally.

- In 2011, 4 cases were referred to the USAO with non-Indian suspects: 2 of those cases were prosecuted; 2 of those cases were declined. The 2 cases accepted for prosecution involved domestic violence by non-Indians against Indians.

- The working group would like to meet annually to discuss Indian Country prosecutions and declinations in the District of Oregon, with continued representation from the USAO, FBI, Umatilla, and Warm Springs, and the added participation of Burns-Paiute.

F. Tribal Consultations

Since taking office, US Attorney Amanda Marshall and the tribal liaisons have met with the tribal leadership of the following tribes:

- ▶Confederated Tribes of the Coos, Lower Umpqua & Siuslaw Indians
- ▶Coquille Indian Tribe
- ▶The Confederated Tribes of Grand Ronde
- ▶The Klamath Tribes
- ▶Confederated Tribes of Siletz Indians
- ▶The Confederated Tribes of the Umatilla Indian Reservation
- ▶The Confederated Tribes of Warm Springs

These consultations have taken place at each tribes' governance center. We have consultations scheduled with the following tribes:

- ▶Burns Paiute Tribe
- ▶Cow Creek Band of Umpqua Tribe of Indians

G. Columbia River Inter-Tribal Fish Commission (CRITFC) & Columbia River Inter-Tribal Fisheries Enforcement (CRITFE) Proposed Jurisdictional Memorandum of Agreement

As noted above, there have been ongoing discussions concerning clarification of jurisdiction and law enforcement cooperation along the Columbia River Basin. Following a series of meetings over the past year amongst the Columbia River Tribes, federal partners, and the USAO offices in Washington and Idaho, we are awaiting the final MOA proposal from the tribes for further consideration. Once the tribes have agreed upon the language of the proposal, the matter will be reviewed and considered by the various representatives.

H. Confederated Tribes of Siletz Indians & Collection of Shellfish

The USAO has assisted the Siletz Tribe in their negotiations with the State of Oregon over issues related to tribal members harvesting shellfish. Participants have included the Siletz Tribal

Council, Siletz Tribal Natural Resources, Siletz Cultural Resources, Siletz Tribal Attorneys, Governor Kitzhaber's Office, Oregon State Police, Oregon Attorney General, and Oregon Fish and Wildlife.