

**DISTRICT OF MONTANA
INDIAN COUNTRY LAW ENFORCEMENT INITIATIVE
OPERATIONAL PLAN**

*This Operational Plan will be revised annually in consultation with our Tribal
and Federal Law Enforcement Partners*

Introduction: Montana Reservations –Prosecution and Law Enforcement
Resources – Mission

Montana is a vast state with seven Indian Reservations occupying in excess of eight million acres in its northern and eastern regions. The Flathead Reservation is the only PL 280 reservation. The other six reservations are non-PL 280. They are the Blackfeet Reservation; the Rocky Boy’s Reservation; the Fort Belknap Reservation; the Fort Peck Reservation; the Crow Reservation; and the Northern Cheyenne Reservation.

Federal crimes from Blackfeet, Rocky Boy’s, Fort Belknap and Fort Peck are currently prosecuted at Great Falls. Federal crimes from Crow and Northern Cheyenne are prosecuted at Billings.

The FBI investigates major crimes on all six reservations. Three of the reservations, Blackfeet, Crow, and Northern Cheyenne have delegated tribal law enforcement responsibility to the BIA. The other three reservations, Rocky Boy’s, Fort Belknap, and Fort Peck have their own 638 tribal law enforcement.

**OPERATIONAL
PLAN**

A. Communication

General: It is important that Tribal leaders, Department of Justice leadership, and congressional members have information about the USAO’s efforts to combat crime in Indian Country. The USAO will provide press releases about indictments, dispositions, and sentences to local media and the Department of Justice to be published in the Tribal Justice News publication, and continue, through email and liaison visits, to provide district-specific and national information to Tribal leaders about Indian Country issues.

The USAO website will provide links to press releases, opinion editorials, and open letters relevant to Indian Country issues.

Investigations and Prosecutions: It is crucial that the USAO inform tribal law

enforcement about charging decisions, including cases not resolved in federal court. It is equally important that cases are staffed by the Tribe and the USAO on a regular basis so that the most appropriate charging decision, both crime and jurisdiction, is made as quickly as possible.

USAO/Tribal Prosecution Conference: On at least a monthly basis, the AUSA(s) assigned to a particular reservation, the tribal prosecutor(s), and representatives from federal and tribal law enforcement will staff cases by phone that have arisen on that reservation by talking about potential charges and whether the case is most appropriately prosecuted in tribal court, federal court, or both courts. A permanent record of cases staffed, either federal or tribal, will be maintained by the USAO. Efforts will be made to assure that CaseView accurately reflects those cases that are referred to the tribal system.

Written Resolution of Cases: Cases that are referred for federal prosecution, and later resolved by referral to the tribal court, or declined because of an inability to prosecute in either court, must be resolved in writing before the Tribe's statute of limitations period expires, if possible. The resolution letter will be provided by the AUSA to the referring agency. The resolution letter will also be provided to the tribal prosecutor to inform him or her of the decision. The investigating agency or victim of a crime can obtain a review of that decision. Our "second look policy" is invoked when the investigating agency that has been resolved other than by federal prosecution asks the USA to review the matter for a second opinion. Additionally, the AUSA with primary responsibility as point of contact for cases arising on a particular reservation is always available to answer questions and provide legal advice.

Sharing Information with Tribal Prosecutor: If a case is not appropriate for federal prosecution and is referred to tribal court, the lead investigative agency will provide the tribal prosecutor with all appropriate reports, evidence, and information available to insure successful prosecution within 10 days from the date of the notice that federal prosecution is not appropriate. The USAO will provide all pertinent case file information.

Federal Agent Cooperation with Tribal Court: Federal agents working in Indian Country have a responsibility to the Tribal Court to cooperate by honoring subpoenas and providing evidence and testimony for proceedings in tribal court.

B. Investigation and Prosecution

A primary goal of the District of Montana's Operational Plan is to enhance law enforcement coordination in Indian Country investigations. The following guidelines apply to all non-PL 280 reservations in the District of Montana.

- **The roles of the respective law enforcement partners, police, prosecutors, and victim advocates.**

Law Enforcement: The investigating agency (or “lead” agency), will be responsible for conducting and coordinating the investigation, presenting the case to the USAO, and assisting the USA at all stages of prosecution. If the agency that has primary responsibility under these guidelines for an investigation is unable to conduct or complete the investigation, other agencies may undertake the investigation.¹

The first law enforcement officer at a crime scene is responsible to secure the scene, preserve evidence, identify witnesses and participants, and take such other steps as may be required to insure successful prosecution. Preservation of the crime scene is the primary concern.

On July 11, 2014, the Department of Justice implemented a policy concerning the recording of statements. The policy establishes a presumption in favor of electronically recording custodial interviews, with certain exceptions, and encourages agents and prosecutors to consider taping outside of custodial interrogations.

Joint investigations involving the FBI are mandated in cases involving death, sexual abuse, rape, kidnapping, arson, assault, and crimes involving weapons. Each agency will share information, provide timely copies of reports, and fully communicate with the other agency concerning all matters relevant to an investigation. To the extent possible, resources of one agency will be made available to the other to assist in case investigation.

Prosecution: It is the role of the AUSA and tribal prosecutor to make a timely determination whether a case will be prosecuted in federal or tribal court, or unable to be prosecuted, in order to maximize resources and provide victims with justice and closure as soon as possible. It is the goal of the USAO to make a charging decision in the case within three months receipt of the completed case file.

The District of Montana has a unit of AUSAs dedicated specifically to Indian Country violent crime, led by a Deputy Criminal Chief. The Indian Country Deputy Criminal Chief will assist the Criminal Chief by supervising the district’s Indian Country Unit by providing leadership and training to the AUSAs who prosecute crime that occurs in Indian Country in the District of Montana.

Victim Witness Personnel: It is the role of victim witness coordinators to assist victims and witnesses throughout the investigation and/or prosecution of a case. To that end, the USAO employs two victim/witness coordinators in Indian Country. Additionally, the FBI and the BIA in the District of Montana employ victim witness specialists that are present on all

¹The Memorandum of Understanding (MOU) between the Department of Interior and the Department of Justice, dated September 3, 1993, sets forth the guidelines for the respective investigative responsibilities of the FBI, BIA, and Tribal law enforcement entities.

six reservations under federal jurisdiction. The USAO has a Victim and Witness Assistance Policy for the District of Montana dated May 2017.

Tribal SAUSA Programs: To enhance collaboration and cooperation between the USAO and the Tribes, particularly in the area of domestic violence prosecutions, the USAO will encourage Tribal Prosecutors to become SAUSAs and prosecute select cases in federal court. Tribal SAUSAs will be able to take advantage of the training opportunities at the National Advocacy Center, and will be supervised and supported by the USAO.

Enhanced Sentencing/Tribal SAUSA Pilot Project: The USAO will support the efforts of all Tribes able to participate in enhanced sentencing and prosecution of non-Indians for domestic violence offenses by providing training and assistance. The Fort Peck Reservation was selected as one of the Tribes to take part in a pilot project for the prosecution of domestic violence cases.

- **Prosecution guidelines or threshold requirements for Indian Country cases.**

The USAO will prosecute all viable federal crimes occurring in Indian Country that meet the prosecution guidelines and threshold requirements of the USAO.

- **Multidisciplinary Team (18 U.S.C. § 3509(g)) convened to investigate or provide case management for child abuse and/or child sexual abuse cases.**

There are currently Multidisciplinary Teams (MDTs) operating on all non-PL 280 reservations under federal jurisdiction in the District of Montana. It is a priority for the AUSA(s) assigned to each reservation to attend the monthly meeting of the MDT on their assigned reservation either in person, by VTC, or by phone. The AUSA shall have discretion to appear by phone, VTC, or in person, at a location on the reservation, as long as the AUSA appears in person at least quarterly. The AUSA will then memorialize the highlights of the meeting in a memo to the USA, Deputy Criminal Chief in charge of the Indian Country Unit, and the Tribal Liaison. There is significant spillover crime among the tribal communities and neighboring counties, especially crimes involving children. To that end, several MDTs have members that are employed by neighboring counties.

- **Child-Advocacy Centers (CARE)**

The District of Montana will continue to advocate for centers on all non-PL 280 reservations. CARE is a child advocacy center that is housed in existing facilities, such as IHS clinics and BIA office space. Representatives from many disciplines meet on a regular basis to discuss and make decisions about the treatment, investigation, and prosecution of child abuse cases. CARE is also focused on the treatment of the victim and family to prevent further victimization of children.

- **Sexual Assault Awareness**

The District of Montana regards sexual abuse as a top priority for the office. The USAO has Sexual Assault Response Teams (SARTs) operational on each of the six reservations under federal jurisdiction.

- **Tribal, state, and local cross-deputation agreements/memorandums of understanding (MOUs) or ongoing efforts or plans to encourage such agreements.**

The USAO supports the use of cross-deputation agreements and memorandums of understanding (MOUs) to most effectively use limited law enforcement resources.

C. Training

There is a need for regularly scheduled training for Indian Country law enforcement, USAO personnel working in Indian Country, Tribal Court personnel, and Tribal leadership. The USAO, in conjunction with the National Indian Country Training Initiative, will track the subject, attendees, date, and location of training provided.

The USAO has determined that some of our most effective trainings are conducted on the reservations. The USAO will continue to work with the FBI and other federal and local law enforcement to put together trainings that are specific to the needs of each community.

The USAO will participate in the Montana-Wyoming tribal judges' association trainings when invited.

The USAO will provide training for recruits attending the Montana Law Enforcement Academy who come from or around Indian reservations as requested.

The USAO will encourage and advise tribal law enforcement of opportunities for training under the Special Law Enforcement Commission and will participate in those trainings, as appropriate.

The USAO's Indian Country Crime Unit meets periodically. Components of the meetings shall include training specific to the dynamic nature of the practice; including best trial practices, tribal law updates, and federal case updates.

D. Outreach

The USAO recognizes that prevention, training, and other grassroots intervention efforts are essential to improving public safety in Indian Country. To that end:

- The USA, the Tribal Liaison, the Deputy Criminal Chief for the Indian Country Unit, and Point of Contact for each reservation will meet with tribal leadership, law enforcement, and tribal court personnel in person on an annual basis to listen, to answer questions, and to provide information about the USAO's efforts in Indian Country. Throughout the year, the Tribal Liaison will stay in contact with the Law and Order Committee of each reservation to answer any questions, provide information, and advise the USA of any issues.
- The Tribal Liaison will maintain contact with State officials, including the Montana Department of Justice Office of Consumer Protection and Victim Services, to assure that a coordinated effort is made on issues in common.
- The USAO will support prosecutions of drug crimes, and support the formulation of drug task forces covering all Montana reservations.
- The USAO will use tribal SAUSAs when possible. The District of Montana currently has a SAUSA on the Fort Peck Indian Reservation.
- The USAO will assist the Tribes in the District of Montana by providing information about grants provided by the Department of Justice.
- The USAO will support the DEA's Drug Take Back program on all reservations.
- The USAO will assist with Sex Offender Registration and Notification Act (SORNA) implementation and enforcement as needed.

E. Support for Viable Crime Prevention Programs

Universally, tribal governments have raised concerns about the need for viable, community-based crime prevention efforts. The USAO will support organizational efforts to prevent violence, including but not limited to encouraging tribes and entities to seek funding opportunities through the Office of Juvenile Justice and Delinquency Program and the Office of Justice Programs.

F. Violence Against Women

The USAO is committed to vigorous investigation and prosecution of domestic violence and other crimes against women and children in Indian Country. The USAO will prosecute all

such viable cases.

Specific to sexual assault cases, the USAO will work in conjunction with the FBI and BIA to –

- Provide training to medical professionals and law enforcement personnel about how best to investigate and document information provided by rape victims, and ensure that rape kits are readily available.
- Encourage IHS and tribal medical facilities to provide adult victims with access to competent and compassionate medical professionals with the requisite skill to perform forensic medical examinations.
- Encourage additional forensic laboratories so that evidence, such as rape kits and other forensic evidence, will be timely analyzed.

Specific to domestic violence cases, the USAO will–

- Provide training to first responder officers about investigation techniques that will greatly improve the ability to prosecute successfully domestic violence cases.
- Coordinate with the Office of Violence Against Women (OVW) grantees to assure that USAO's efforts in domestic violence are consistent with OVW grantee goals.
- Participate on Montana's Native American Domestic Violence Fatality Review Team.

Native Shield: The *Native Shield Initiative* is designed to help protect Indian women from physical and sexual violence. It is designed to use existing federal statutes and jurisdiction to prosecute misdemeanor domestic assaults committed by a non-Indian perpetrator against an Indian victim, specifically, prosecutions of habitual domestic violence offenders under 18 U.S.C. § 117, which can lead to substantial sentences in federal prison if a defendant already has at least two prior federal, state, or tribal convictions for an assault, sexual abuse or serious violent felony committed against a spouse or intimate partner.

In support of the *Native Shield Initiative*, the USAO will provide training to tribal law enforcement partners on how to submit misdemeanor domestic violence cases to the USAO, the investigation and prosecution of crimes against women.

G. Accountability

The USAO will provide periodic training to USAO personnel:

- on entering accurate and timely information on Indian Country matters and cases into CaseView; and
- on recording time on a weekly basis under the appropriate USA-5/5A categories, including the “Management and Administration” category and the use of Indian Country under 5A.

H. Guardians Project

The Guardians Project is intended to curb fraud and corruption associated with federally funded programs in Indian Country in Montana. The Project brings together many federal agencies with responsibility to conduct audits and investigations regarding those funds. The Project also will begin offering training to tribal personnel on how to administer properly federal grant funds and how to report fraudulent activity.

I. Crime Strategies and Trends

In addition to violent crime involving women and children in Indian Country, after consultation with Tribal leadership and law enforcement, and federal law enforcement (FBI, BIA, DEA, and ATF), the USAO has identified two leading crime trends in Indian Country in Montana. Methamphetamine and opioid abuse lead to violent and property crime. Additionally, violent crime involving firearms is more prevalent today in Indian Country in Montana. To address these trends and reduce substance abuse, violent crime and gun violence, the USAO recognizes the following:

1. Under the Project Safe Neighborhoods Initiative, the USAO stands ready to prosecute additional cases involving drug and gun offenders if those cases are presented for prosecution; and
2. A focus on training for federal and tribal law enforcement and prosecutors in Indian Country to recognize Human Trafficking will ensure that cases of Human Trafficking are recognized, investigated, and prosecuted;

The lead investigating agency, tribal law enforcement agencies, child protective services, and victim services for the non-PL 280 reservations in Montana are as follows:

Blackfeet Indian Reservation:

Lead Investigating Agency: FBI and BIA

Tribal Law Enforcement Agency: Blackfeet Law Enforcement Services

Child Protective Services: BIA Social Services

Victim Services: FBI, BIA, and USAO

Rocky Boy's Indian Reservation:

Lead Investigating Agency: FBI

Tribal Law Enforcement Agency: Chippewa Cree Law Enforcement Services

Child Protective Services: Tribal Social Services

Victim Services: FBI and USAO

Fort Belknap Indian Reservation:

Lead Investigating Agency: FBI

Tribal Law Enforcement Agency: Fort Belknap Law Services

Child Protective Services: Tribal Social Services

Victim Services: FBI and USAO

Fort Peck Indian Reservation:

Lead Investigating Agency: FBI

Tribal Law Enforcement Agency: Fort Peck Tribes Department of Law and Justice

Child Protective Services: Tribal Social Services

Victim Services: FBI and USAO

Northern Cheyenne Indian Reservation:

Lead Investigating Agency: FBI and BIA

Tribal Law Enforcement Agency: N/A

Child Protective Services: BIA Social Services

Victim Services: FBI, BIA, and USAO

The Crow Indian Reservation:

Lead Investigating Agency: FBI and BIA

Tribal Law Enforcement Agency: Crow Highway Safety Officers and Game Wardens

Child Protective Services: BIA Social Services

Victim Services: FBI, BIA, and USAO