

UNITED STATES ATTORNEY'S OFFICE

District of Nebraska

2016 INDIAN COUNTRY ANNUAL REPORT



Winnebago Pow Wow - - Photo courtesy of the Winnebago Indian News

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UNITED STATES ATTORNEY



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DEBORAH R. GILG

United States Attorney
District of Nebraska

MESSAGE FROM THE UNITED STATES ATTORNEY

I am pleased to present the 2016 Indian Country Annual Report for the District of Nebraska.

Throughout 2016, our staff and I traveled to each reservation for our quarterly meetings and we were fortunate to also host the tribal councils at our Omaha office as well. As always, we found the meetings to be most informative in understanding the law enforcement priorities and concerns of tribal councils. Our tribal liaison, Lecia Wright, our Tribal Special Assistant United States Attorney, Erin Eldridge, and our victim advocate, Kim Roewert, participated in the Multi-Disciplinary Team meetings and reviewed cases with tribal prosecutors, tribal law enforcement and social services. We have been excited that our Tribal Prosecutor Pilot Project grant has allowed us to provide numerous trainings on issues of domestic violence, child abuse, effective report writing, and other topics of significance.

Although the three year grant to the Winnebago Tribe for the Tribal Prosecutor Pilot Project was scheduled to end in late 2015, a one year extension with additional grant funds was received for the Project to continue in 2016. I worked very hard to try and secure additional funding for the Project from the Department of Justice, the Department of Interior and the Bureau of Indian Affairs to no avail. Fortunately, a private foundation recognized the value of the Tribal Prosecutor and agreed to prove a grant to the Winnebago Tribe to continue the position.

In late August, 2016, the United States Attorney's Offices from Kansas, Northern District of Iowa and District of Nebraska held our annual Indian Country Crimes Against Children conference in South Sioux City, Iowa. A particular highlight of the conference was a member of the Pawnee tribe, Cordelia Clapp, a nationally recognized nurse educator who not only gave an outstanding presentation but also performed an inspirational opening ceremony wearing beautiful native dress as she danced and sang.

In September, I traveled to Missoula, Montana, as a member of Attorney General Lynch's Native American Issues subcommittee. We were hosted by the U.S. Attorney for Montana, Mike Cotter at the beautiful KwaTaqNuk Resort on the Flathead Indian Reservation. We enjoyed a tour of the impressive Salish and Kootenai College and were fortunate to attend a welcome by the Confederated Salish and Kootenai Tribal Council. Also on the agenda was a presentation of wellness court models in Indian Country led by the Chief Tribal Judges from the Confederated Salish and Kootenai Tribe and the Penobscot Tribe.

A continuing endeavor of our office has been to facilitate assistance by the Department of Interior and Environmental and Natural Resources Division of the Department of Justice to the Omaha Tribe and its legal counsel in the Omaha Tribe's boundary litigation with the Village of Pender, Nebraska. Judge Kopf's opinion was confirmed by the 8th Circuit Court of Appeals. At this time last year, we were awaiting a decision from the United States Supreme Court after an appeal by the Village of Pender. The United States Supreme Court affirmed the 8th Circuit Court of Appeals decision. The Village of Pender is within the boundaries of the Omaha Tribe's boundary.

For those of you that are interested in the general 2016 Annual Report of the United States Attorney Office, the link is: <http://www.justice.gov/usao-ne/publications>.

Additionally, a summary of some of the Indian Country trainings is included.

A partial list of the Indian Country cases that our office handled in 2016 is included in this report. Those cases listed are not a complete list but merely snapshots to exemplify the types of cases that our office prosecutes.

As always, I look forward to my 2017 travels in Indian Country.

Erin Eldridge

Tribal Special Assistant U.S. Attorney



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In 2012, the Winnebago Tribe was awarded a grant that permitted the hiring of a Tribal Special Assistant United States Attorney. The grant was funded under the Violence Against Women Tribal Special Assistant United States Attorney Pilot Project of the Office on Violence Against Women (OVW) to address domestic violence, to include sexual assaults, child and domestic violence physical assaults and dating violence on the Winnebago, Omaha and Santee Sioux Indian reservations. The goals of the project include increasing coordination among the three tribes and local, state, and federal investigators and prosecutors, bridging gaps in jurisdictional coverage, establishing cohesive relationships between federal prosecutors and tribal communities, and improving the quality of violence against women cases through effective case management, through the promotion of higher quality investigations and improved training.

On May 31, 2016, Erin Eldridge was appointed as the new Tribal Special Assistant U.S. Attorney. Ms. Eldridge is dedicated exclusively to Indian Country cases and works in coordination with tribal police, B.I.A., and F.B.I. agents and officers to ensure cases are investigated and prosecuted appropriately at both the tribal and federal levels. As a Tribal SAUSA, she maintains an active domestic violence caseload, which includes federal strangulation/suffocation, habitual offender, sexual assault, and child sexual assault crimes as well as tribal domestic violence offenses. She spends a significant amount of time on all three Native American reservations and regularly appears in Winnebago Tribal Court.

Since her hiring in May 2016, the new Tribal SAUSA has attended numerous seminars and trainings, including the following: 2016 Indian Country Conference: Crimes Against Children; 2016 Cultural Competency Training; 2016 Protecting the Innocent Conference; and 2017 National Institute for the Prosecution of Sexual Violence in Indian Country.

Ms. Eldridge attends monthly MDT and *Nebraska Tribal Coalition Ending Family Violence meetings*, along with Victim Advocate Specialist Kim Roewert. Going forward, the Tribal SAUSA intends to aid in the development of victim services and offender programming and to continue to assist with tribal community efforts to combat domestic violence and sexual assault on each of the reservations.



Kim Roewert – Victim Advocate
Specialist

**INDIAN COUNTRY ACCOMPLISHMENTS OF THE JUSTICE DEPARTMENT,
2009-PRESENT**

"Our obligations to our tribal partners run deep, and our commitment is strong. Over the last six years, the Department of Justice has made significant strides in advancing and expanding the promise of equal rights, equal opportunity, and equal justice for American Indian and Alaska Native communities. From creating the Tribal Nations Leadership Council to promoting the Tribal Law and Order Act and from fighting for historic protections in the Violence Against Women Reauthorization Act to establishing a Task Force on American Indian and Alaska Native Children Exposed to Violence, we have taken concrete steps to improve collaboration and understanding between the federal government and sovereign tribes. One of my first acts as Attorney General was to call on Congress to remove barriers to voting faced by American Indians and Alaska Natives and in the days ahead, I look forward to working with our friends and partners in Indian Country to continue advancing our common mission and deepening our relationship of support and trust."

-- Attorney General Loretta Lynch

In June 2009, Attorney General Eric Holder launched a Department-wide initiative to enhance public safety in Indian Country. Significant progress has been made since then. This document offers highlights of the department's progress in the following areas: enhanced prosecution and training efforts; implementation of the Tribal Law and Order Act of 2010 (TLOA); grant opportunities; general litigation; civil rights; and outreach and consultation.

**ENHANCING PROSECUTION, TRAINING AND OUTREACH EFFORTS TO
KEEP TRIBAL COMMUNITIES SAFE**

Passage of Landmark Legislation to Combat Violence Against Native Women

- On March 7, 2013, President Obama signed into the law the reauthorization of the Violence Against Women Act (VAWA 2013). This law contains provisions that significantly improve the safety of Native women and which, importantly, allow federal and tribal law enforcement agencies to hold more perpetrators of domestic violence accountable for their crimes. Many of these critical provisions were drawn from the Department of Justice's July 2011 proposal for new federal legislation to combat violence against native women. The tribal provisions in VAWA 2013 address three significant legal gaps by: (1) recognizing certain tribes' power to exercise concurrent criminal jurisdiction over domestic violence cases, regardless of whether the defendant is Indian or non-Indian; (2) clarifying that tribal courts have full civil jurisdiction to issue and enforce protection orders involving any person, Indian or non-Indian; and (3) creating new federal statutes to address crimes of violence, such as strangulation, committed against a spouse or intimate partner and providing more robust federal sentences for certain acts of domestic violence in Indian Country. The Senate-passed version of VAWA Reauthorization, S. 47, including these tribal provisions, passed both Houses of Congress with significant bipartisan support.
- By the end of February 2015, federal prosecutors had charged 210 defendants under VAWA 2013's enhanced federal assault statutes and obtained 164 convictions. These

numbers include more than 60 cases involving charges of strangulation or suffocation, which are often precursor offenses to domestic homicide.

Pilot Project for Tribal Jurisdiction Over Crimes of Domestic Violence

- VAWA 2013 recognizes tribes' inherent power to exercise special domestic violence criminal jurisdiction over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country. This new law generally takes effect on March 7, 2015, but also authorizes a voluntary "Pilot Project" to allow certain tribes to begin exercising special jurisdiction sooner. On Feb. 6, 2014 the Pascua Yaqui Tribe of Arizona, the Tulalip Tribes of Washington and the Umatilla Tribes of Oregon were selected for this Pilot Project. Prior to the law generally taking effect, the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation in Montana and the Confederated Tribes of the Umatilla Indian Reservation in Oregon were also selected to participate in the Pilot Project. Since the Pilot Project began, more than 20 criminal cases have been charged by tribal prosecutors against non-Indian domestic violence offenders and several have been convicted of domestic violence crimes. Information related to the Pilot Project, related consultations, and other resources, may be found on the VAWA Reauthorization 2013 page.

Native American Issues Subcommittee

- Currently, U.S. Attorneys from 25 districts with Indian Country or one or more federally recognized tribes serve on the Native American Issues Subcommittee (NAIS) of the Attorney General's Advisory Committee (AGAC). The NAIS focuses exclusively on Indian Country issues, both criminal and civil and is responsible for making policy recommendations to the Attorney General regarding public safety and legal issues. The NAIS met on several occasions in 2014 including in August on the Navajo Nation in Arizona in conjunction with the Four Corners Conference, which is hosted by the U.S. Attorneys in Utah, Arizona, Colorado and New Mexico. The NAIS meeting focused on the issues of juvenile justice and offender reentry. During this meeting, the NAIS and senior Department of Justice and Interior officials consulted with tribal leaders from across the Southwest.
- In 2011, 2012 and 2013 the NAIS convened on numerous occasions. During that time, the NAIS has met and consulted with tribes in Rapid City and Pine Ridge, South Dakota; Missoula, Montana; Bismarck, North Dakota; and Hood River, Oregon. In July 2011 the NAIS joined Attorney General Eric Holder in Rapid City, South Dakota, and on the Pine Ridge Indian Reservation, to hear from tribal leaders, law enforcement officials, and community members about public safety issues, including violence against Native American women.
- NAIS Chair Tim Purdon testified before the Senate Committee on Indian Affairs regarding the Indian and Law and Order Act Commission's report, *A Roadmap for Making Native America Safer*

- NAIS has provided support to USAOs bringing domestic violence charges in Indian Country, following the enactment of VAWA 2013. As of the end of February 2015, federal prosecutors had charged 210 defendants under VAWA 2013's enhanced federal statutes and obtained 164 convictions.
- In October 2014, U.S. Attorneys Carter Stewart and Purdon sent a letter to Chief Judge Patti B. Saris, Chair of the U.S. Sentencing Commission, reiterating the department's support for formation of a Tribal Issues Advisory Group to investigate potential unwarranted sentencing disparities in sentences received by American Indians and Alaskan Natives prosecuted in the federal courts. The letter also contained recommendations regarding the scope duration, and membership of the proposed Advisory Group. The group was formed in February 2015. U.S. Attorney Michael W. Cotter, one of two co-chairs of the NAIS, represents the NAIS on the Tribal Issues Advisory Group.
- Tribal Liaisons in many districts have helped develop Multi-Disciplinary Teams comprised of prosecutors (Assistant U.S. Attorneys and tribal prosecutors); tribal, local and federal law enforcement; physicians; counselors; child protective services personnel; and child advocated to foster collaboration and coordination.

U.S. Attorney's Office Tribal Liaisons

- Every U.S. Attorney with Indian Country jurisdiction has appointed at least one tribal liaison to serve as the U.S. Attorney's Office's (USAO) primary point of contact with tribes in the district.

Supporting Implementation of the Sex Offender Registration and Notification Act (SORNA)

- Through the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), the department continues to provide support to tribal jurisdictions that have opted to implement SORNA. Of the 161 eligible tribes, 74 have been found to have substantially implemented SORNA and the rest are continuing to work towards substantial compliance.
- In order to support substantial implementation of SORNA, the department developed a number of innovative projects, including: (1) the SMART Office developed a pilot project to assist tribes needing to submit fingerprints. This project sent equipment and training to four tribal police departments to facilitate direct submission; (2) The SMART Office also worked with the FBI to develop a work around for submission of DNA. This work-around allows tribes to directly submit DNA of offenders to the FBI via mail in kits that are provided at no cost to tribal law enforcement. (3) The department continues to work with tribes, states, local and federal partners in order to facilitate the submission of offender information into the National Crime Information Center and National Sex Offender Registry. (4) The Tribal and Territory Sex Offender Registry System (TTSORS). This system allows tribes to set up a SORNA-compliant public website and public notification system at no cost to them. At this time over 100 tribes have utilized TTSORS to set up public sex offender websites linked to the National Sex Offender Public Website which is administered by SMART.

Enhanced Training for Prosecutors and Law Enforcement Working in Indian Country

- In July 2010, the Executive Office of U.S. Attorneys (EOUSA) launched the National Indian Country Training Initiative (NICTI) to ensure that federal prosecutors and agents, as well as state and tribal criminal justice personnel, receive the training and support needed to address the particular challenges relevant to Indian Country prosecutions. The training effort is led by the department's National Indian Country Training Coordinator. Since 2010, the NICTI has delivered residential training at the National Advocacy Center (NAC) in Columbia, South Carolina, webinars and regional training for federal agencies, tribes and technical assistance providers to thousands of federal, state and tribal stakeholders on a host of criminal justice issues. Importantly, the Department of Justice's Office of Legal Education covers the costs of travel and lodging for tribal attendees at classes sponsored by the NICTI. This allows many tribal criminal justice officials to receive cutting-edge training from national experts at no cost to the student or tribe.
- The NICTI, with funding from the Office for Victims of Crime, completed a training DVD and resource manual on "Using Federal Law to Prosecute Domestic Violence Crimes in Indian Country." This free training DVD highlights the substantive law and four successful federal prosecutions; it models best practice where federal and tribal partners worked collaboratively to ensure justice for the victim and accountability for the offender.
- The Federal Bureau of Investigation's (FBI) Indian Country Crimes Unit (ICCU) has developed a comprehensive training program to include intermediate and advanced classes on various topics related to the investigation of crimes in Indian Country. The mission of ICCU is to support Indian Country Special Agents in the field and to develop and implement strategies to address the most egregious crimes committed in Indian Country. Over the last several years, the FBI has partnered with the NICTI to develop and deliver over 15 courses for federal agents, tribal law enforcement officers and prosecutors. Many of these classes were paid for by the NICTI.
- In January 2013, the NICTI partnered with the National Strangulation Training Institute to deliver the first-ever national Indian Country training on the investigation and prosecution of non-fatal strangulation and suffocation offenses. The training was attended by 17 tribes, several USAOs, the FBI and the Bureau of Indian Affairs. The training, which was held at the National Advocacy Center in Columbia, South Carolina, provided an in-depth examination of the mechanics of strangulation and suffocation from a medical, legal and law enforcement perspective. This training was offered again in February 2015.
- In October 2012, the Environment and Natural Resources Division (ENRD) of the department, in partnership with the NICTI, developed and held the first-ever joint federal-tribal training program on wildlife and pollution enforcement issues. The course was held again in June 2015. The course is designed for tribal and federal enforcement personnel and prosecutors who work to protect tribal lands and resources. The course promotes federal-tribal partnerships in this area and helps tribes further develop the

capacity to assume a greater role in enforcing environmental and wildlife laws affecting tribal lands.

- Since 2011, the department's Access to Justice Initiative (ATJ) has partnered with the Department of the Interior's Bureau of Indian Affairs (BIA) Office of Tribal Justice Services to develop the Tribal Court Trial Advocacy Training Program. This three-day trial advocacy course is designed to improve the trial skills of judges, public defenders and prosecutors who appear in tribal courts. Nine trainings have been held in Rapid City, South Dakota; Phoenix, Arizona; Duluth, Minnesota; Ignacio, Colorado; Great Falls, Montana; Chinle, Navajo Nation, Seattle, Washington, and Albuquerque, New Mexico, and additional trainings are being scheduled for the coming year. All trainings are free and are staffed by attorneys from the initiative, BIA, Assistant U.S. Attorneys who practice in Indian Country, the EOUSA Native American Issues Coordinator, Assistant Federal Public Defenders and tribal prosecutors, public defenders and judges.

Traditional Justice Practices as Alternatives to Incarceration:

- ATJ and the Department of the Interior's BIA, Office of Justice Services, Division of Tribal Justice Support co-sponsored an expert group meeting in April 2013 on the use of traditional Native American justice practices to respond to criminal and delinquent behavior. The one-day roundtable meeting brought together leaders and experts on the use of traditional justice practices to discuss the benefits and challenges of these programs and processes and developed recommendations to the federal government on how to support these practices. In September 2014, ATJ issued a report summarizing the expert group's discussions and recommendations, which was disseminated to tribal criminal justice stakeholders in furtherance of the Tribal Law and Order Act's mandate that both departments help tribes develop alternatives to incarceration:
<http://www.justice.gov/sites/default/files/atj/legacy/2014/10/09/expert-working-group-report-native-american-traditional-justice-practices.pdf>. The Department of Justice Bureau of Justice Assistance's FY 2015 Tribal Civil and Criminal Legal Assistance Program's solicitation authorizes training and technical assistance to support these practices.

Information Sharing with Tribal Governments

- Since 2009, the FBI's Uniform Crime Reporting (UCR) Program Office has coordinated with BIA and the Justice Department's Office of Justice Programs to increase the number of tribes that qualify for Justice Assistance Grants (JAG) eligibility. This has been accomplished primarily through liaison efforts and presentations to increase awareness at tribal law enforcement conferences.

SAFEGUARDING INDIAN CHILDREN

Department of Justice Initiative to Promote Compliance with ICWA

On Dec. 3, 2014, at the White House Tribal Nations Conference, Attorney General Holder announced the department's initiative to promote compliance with the Indian Child Welfare Act of 1978 (ICWA). The department's ICWA initiative has three primary components: (1) participating as *amicus curiae* in state-court and federal-court litigation regarding interpretation of ICWA; (2) partnering with the Departments of the Interior and of Health and Human Services to make sure that all the tools available to the federal government are used to promote compliance with ICWA; and (3) engaging in other targeted actions to increase awareness of ICWA's requirements and promote compliance with the statute, including training and outreach. The department has made progress in each of these areas, including:

- The department filed a successful *amicus curiae* brief in South Dakota district court supporting the Oglala Sioux Tribe's argument that the emergency-removal policies and practices of one of the South Dakota circuit courts and certain state officials in cases involving Indian children violate ICWA and the due process clause of the Constitution. The United States argued that ICWA imposes a specific obligation on state officials to actively investigate and oversee emergency removals of Indian children to insure that the removal ends as soon as possible and that Indian children are expeditiously returned to their parents or their tribe, or that the state commences a child custody proceeding subject to all of ICWA's protections. The United States also argued that due process requires that, when the state takes emergency custody of a child, the parents must be provided with notice and a prompt and meaningful opportunity to be heard. The district court agreed, and granted partial summary judgment for the tribe on March 30, 2015.
- On Nov. 26, 2014, the United States filed a *amicus curiae* brief supporting the tribe's request for rehearing in *Native Village of Tununak v. Alaska* in the Alaska Supreme Court. The Alaska Supreme Court held that an Indian child's grandmother did not formally seek to adopt the child in court, and thus did not qualify for consideration under ICWA's placement preferences. On April 15, 2015, the state of Alaska issued an emergency regulation clarifying that a request to adopt an Indian child may be made in a number of ways and that a formal court petition is not required, thus removing a significant barrier to adoption of tribal children by their family or tribal members.
- The department, along with the Departments of the Interior and Health and Human Services, participated in a listening session on ICWA compliance in April 2015. The listening session included tribal representatives, child welfare workers, and adoptive parents.

American Indian and Alaska Native Children Exposed to Violence Task Force

- Attorney General Holder created the task force in 2013 as part of his Defending Childhood initiative to prevent and reduce children's exposure to violence as victims and witnesses. The task force was also a component of the Justice Department's ongoing collaboration with leaders in American Indian and Alaska Native communities to improve public safety. The task force was comprised of a federal working group that includes U.S. Attorneys and officials from the Departments of the Interior, Justice and Health and Human Services and an advisory committee of experts on American Indian studies, child health and trauma and child welfare.

- On Nov. 18, 2014, the Advisory Committee of the Attorney General's Task Force on American Indian and Alaska Native Children Exposed to Violence released a report outlining significant policy recommendations to the Justice Department. The report recommends a rebuilding of the current services provided to Indian Country, through increased partnering and coordination with tribes and increased funding for programs to support American Indian and Alaska Native children. The report provides the advisory committee's vision for the development of effective, trauma informed and culturally appropriate programs and services to protect American Indian and Alaska Native children exposed to violence.
- The report was the outcome of a year of public hearings of the advisory committee held in Alaska, Arizona, Florida and North Dakota. The advisory committee hearings included tribal researchers, child advocates, domestic violence and sexual assault advocates and local community members, tribal leaders, juvenile court judges and juvenile justice system experts.

TRIBAL LAW & ORDER ACT (TLOA) IMPLEMENTATION

On May 30, 2013, and Aug. 26, 2014, the department released the first two reports to congress entitled *Indian Country Investigations and Prosecutions* which provide a range of enforcement statistics required under the Tribal Law and Order Act of 2010. The reports, based on data compiled from the FBI and the case management system used by USAO with Indian Country jurisdiction shows among other things a substantial increase in Indian Country criminal prosecutions since fiscal year (FY) 2009.

Among other facts and information, the reports showed the following:

- Federal prosecutors continue to bring a substantial number of cases to federal court. Cases filed against defendants in Indian Country have increased by 34 percent from FY 2009 to FY 2013, from 1,091 cases filed in fiscal year (FY) 2009 to 1,138 in FY 2010 to 1,547 in FY 2011 to 1,677 in FY 2012 and to 1,462 in FY 2013.
- USAO data for calendar year (CY) 2013 show that 34 percent (853) of all Indian country submissions for prosecution (2,542) were declined for prosecution. In CY 2012, USAOs declined approximately 31 percent (965) of all (3145) Indian country submissions for prosecution. USAO data for CY 2011 indicate that just under 37 percent (1,041) of all Indian country submissions for prosecution (2,840) were declined. Overall, a substantial majority of Indian Country criminal cases opened by USAOs were prosecuted.
- Of the cases that were declined for federal prosecution, most were declined for insufficient evidence or because they were referred to another prosecuting authority, such as the tribe, for potential prosecution.
- Although declination rates are an imperfect means of evaluating the effectiveness of criminal justice in Indian country or elsewhere, the second report shows that with few exceptions, areas where the largest populations of American Indian people live and suffer

from the most serious crime rates, such as the Southwest and the Northern Plains states (which together handled approximately 70 percent of the 2,542 cases resolved in 2013), federal declination rates were the lowest in the nation. For instance, South Dakota had the second to highest number of cases resolved in the country last year, 470 cases and one of the lowest declination rates of 26 percent. Arizona resolved the highest number of cases, 733 cases and had a declination rate of 28 percent.

Read the reports at www.justice.gov/tribal/tribal-law-and-order-act

Establishment of the Office of Tribal Justice as Separate Component within the Justice Department

- On Nov. 17, 2010, Attorney General Holder announced the establishment of the Office of Tribal Justice (OTJ) as a separate component within the organizational structure of the department. OTJ has a key role in the Department's ongoing initiative to improve public safety in Indian Country and serves as an important resource on matters of Indian law. In 2012, Tracy Toulou, who had served on detail as OTJ Director since 2000, was selected as the first permanent director of the office.

Bureau of Prisons Pilot Project to House Tribal Offenders Sentenced in Tribal Courts

- In November 2010, the Bureau of Prisons (BOP) launched a four-year pilot program to accept certain tribal offenders sentenced in tribal courts for placement in BOP institutions. The pilot program allowed any federally recognized tribe to request that BOP incarcerate a person convicted of a violent crime under the terms of the TLOA. Since the first inmate was accepted on Nov. 20, 2012, an additional five inmates were admitted under the program before its conclusion in November 2014.

Memorandum of Agreement on Alcohol and Substance Abuse

- The Departments of Justice, Interior and Health and Human Services entered into a Memorandum of Agreement that the agencies would collectively, among other things: determine the scope of the alcohol and substance abuse problems faced by American Indians and Alaska Natives, identify the resources each agency can bring to bear on the problem and set minimum standards for applying those resources. This multi-agency collaboration has produced quarterly "Prevention and Recovery" newsletters with information about grant programs, tribal programs and policy initiatives designed to address alcohol and substance abuse in American Indian and Alaska Native communities. The newsletters and more information about this evolving collaboration are available at www.samhsa.gov/tloa/.

Long Term Plan for Building and Sustaining Tribal Justice Systems

- The Departments of Justice and the Interior, working in close coordination with other federal agency partners, developed a long term plan to build and sustain tribal justice systems. Formal consultation sessions and focus groups were held to develop the plan. Read more about the plan here: <http://www.justice.gov/sites/default/files/tribal/legacy/2014/02/06/tloa-tsp-aug2011.pdf>

Rule on Assumption of Concurrent Federal Criminal Jurisdiction

- The department published its final rule in December 2011 to implement Section 221 of the TLOA, which authorizes the Attorney General to assume concurrent federal criminal jurisdiction over certain crimes committed on tribal lands. Through this rule, an Indian tribe that is subject to Public Law 280 may request that the federal government accept concurrent federal criminal jurisdiction within the tribe's Indian Country and, if the Attorney General consents, federal authorities can investigate and prosecute criminal offenses. Public Law 280 is the 1953 law that mandated the transfer of federal law enforcement jurisdiction for certain tribes to six states. Several tribes have submitted requests for assumption by the Attorney General of concurrent federal criminal jurisdiction, which the department currently is reviewing.
- On March 15, 2013, the Department of Justice granted a request by the White Earth Nation for the United States to assume concurrent criminal jurisdiction on the 1,300 square mile White Earth reservation in northern Minnesota. The decision was the first action of its kind under TLOA. The decision, relayed in March 2013 in a letter to the tribe signed by Deputy Attorney General James M. Cole, took effect on June 1, 2013. Tribal, state and county prosecutors and law enforcement agencies will also continue to have criminal jurisdiction on the reservation.

Native American Issues Coordinator Designated in EOUSA

- The department's Native American Issues Coordinator, designated in EOUSA, provides advice and assistance to USAOs on legal and policy issues pertaining to Native Americans and Indian Country and serves as a liaison between the USAOs, the NAIS and other department components and law enforcement agencies. The coordinator's work involves several issues affecting Indian Country, including, among many others, the implementation of the Tribal Justice Plan, which focuses on reentry, alternatives to incarceration and detention; jurisdictional issues for criminal and civil matters; outreach efforts between the department, other federal agencies and local jurisdictions; requests for assumption of concurrent federal jurisdiction under the TLOA; and issues involving federal, state and tribal law enforcement authority, cooperation and emergency response in Indian Country.

Additional Resources to Combat Sexual Assault in Indian Country

- In accordance with Section 265 of the TLOA, the Office for Victims of Crime (OVC), in partnership with the FBI's Office of Victim Assistance (OVA) and the Indian Health Service, is leading an effort to enhance the response to tribal victims of sexual violence. The American Indian / Alaska Native (AI/AN) Sexual Assault Nurse Examiner-Sexual Assault Response Team (SANE-SART) Initiative addresses the comprehensive needs of tribal victims of sexual violence. From the outset of the project in 2010, OVC and its federal and tribal partners have focused on the challenge of building the capacity of tribal communities to provide coordinated, community-based, victim-centered responses to sexual violence. The 5-year project encompasses three demonstration sites, coordinators at the Indian Health Service and the FBI, training and technical assistance and support from the Attorney General's federal advisory committee and multidisciplinary working groups—all committed to institutionalizing sustainable, culturally relevant, evidence-based practices to meet the needs of tribal victims of sexual

assault. More information about the initiative and its multiple components is available at www.ovc.gov/AIANSane-Sart/

Highlights from the initiative's efforts in the past 12 months include the following:

- Three tribal demonstration sites are now operating functional SANE-SART programs and are poised to provide services to both child and adult victims of sexual assault.
- In November 2014, OVC's National Coordination Committee on the AI/AN SANE-SART Initiative finalized its *Report to the U.S. Attorney General on Improving Federal Agency Response to Sexual Violence in Tribal Nations: Issues and Recommendations* and submitted it to the Attorney General.
- OVC established a multi-disciplinary working group of Indian country professionals who have significant experience in developing a coordinated community response to sexual violence to aid in the creation of a national strategy to enhance the ability of tribal governments and their partners to respond to sexual violence. The first draft of the national strategy was completed in early 2014 based on the recommendations of the working group members.

Tribal Crime Data Collection Activities, 2012

- In October 2012, the Bureau of Justice Statistics (BJS) released the report *Tribal Crime Data Collection Activities 2012*, pursuant to TLOA which requires annual reporting on Indian country crime data. This report includes information on the 2010 census population data for AI/AN; tribal law enforcement agency personnel; tribal Edward Byrne Memorial Justice Assistance Grant (JAG) program awards; improvements in tribes reporting crime data to the FBI's Uniform Crime Reporting Program (UCR); tribal specific crimes known to law enforcement; federal justice statistics on investigations and charges filed by U.S. Attorneys for crimes committed in Indian Country; and highlights the new BJS Indian Country justice statistics webpage: <http://www.bjs.gov/index.cfm?ty=tp&tid=200000>

Intergovernmental Collaboration

- The TLOA directs the Attorney General to provide technical assistance on strategies to promote intergovernmental collaboration and relationships among state, tribal and local partners that effectively combat crime and fill jurisdictional and service gaps to enhance public safety and access to justice for all citizens. BJA recognizes these service gaps and continues to promote and support tribal-state-federal collaborations through several avenues: providing training and technical assistance on collaborative public safety efforts, developing promising strategies, publications and webinars highlighting efforts in tribal-state collaboration; and maintenance of the Walking on Common Ground website (www.WalkingOnCommonGround.org). The website highlights tribal/state courts collaboration, promising strategies and provides resource toolkits to assist others.
- Some of these outcomes and promising strategies of joint collaborative efforts are highlighted in BJA's 2013 Intergovernmental Collaboration on Criminal Justice

Webinar Series. For more information: www.bja.gov/Events/Tribal-State_PublicSafetyAgreementsWebinar.pdf

GRANT OPPORTUNITIES

Streamlined Grant Solicitation Process for Tribal Communities

- In February 2010, the department announced a streamlined approach for AI/AN tribes to apply for funding opportunities. The Coordinated Tribal Assistance Solicitation (CTAS) serves as a single application for existing tribal government-specific grant programs administered by the Office of Justice Programs (OJP), Community Oriented Policing Services (COPS) and the Office on Violence Against Women (OVW). The creation of this streamlined process comes in response to tribes' concerns that the department's grants were not flexible enough and that a single application would significantly improve the ability to apply for and receive funding. In September 2014, the department announced the award of 169 grants totaling \$87 million to American Indian tribes and Alaska Native villages, tribal consortia and tribal designees. Over the past five years, the department has awarded over 1,100 grants totaling more than \$530 million.
- On Nov. 20, 2014, the Department of Justice announced the opening of the grant solicitation period for comprehensive funding to support public safety, victim services and crime prevention improvements in American Indian and Alaska Native communities. The department's FY 2015 CTAS was posted at www.justice.gov/tribal/open-sol.html. The solicitation closes on Feb. 24, 2015. Information about the consolidated solicitation is available at www.justice.gov/tribal/. A fact sheet on CTAS is available at www.justice.gov/tribal/ctas2013/ctas-factsheet.pdf.

PROTECTING TRIBAL RESOURCES AND SOVEREIGNTY

Historic Settlements of Trust Litigation

- In 2010, the Departments of Justice and Interior reached a historic \$3.4 billion settlement resolving the litigation in *Cobell v. Salazar*, an Indian trust class-action lawsuit that had been pending for 15 years. The settlement, approved by the court and congress, provides for payments to over 400,000 individual Indians who had Individual Indian Money accounts or an interest in trust or restricted land managed by the Department of the Interior.
- Since January 2009, the United States has settled the trust accounting and trust mismanagement claims of more than 80 federally recognized tribes and paid more than \$2.5 billion in compensation to those tribes, resolving decades-long and costly litigation. For instance, in September 2014, Attorney General Holder and U.S. Secretary of the Interior Sally Jewell announced the settlement of a lawsuit filed by the Navajo Nation regarding the U.S. government's management of funds and natural resources that it holds

in trust for the Navajo Nation. The settlement resolves a long-standing dispute, with some of the claims dating back more than 50 years and brings to an end protracted litigation that has burdened both the Navajo Nation and the United States.

- All of the tribal trust case settlements provide for measures that will lead to strengthened management of tribal trust assets and non-monetary resources and to improved communications between the Department of the Interior and the tribes. The department, along with the Interior and Treasury Departments, are continuing settlement negotiations with other tribes that still have pending trust accounting and trust mismanagement claims against the United States.

Securing Tribal Lands

- ENRD litigates in support of tribal lands. The department helped the Saginaw Chippewa Indian Tribe establish the existence and boundaries of its reservation through a 2010 settlement between the tribe, the United States, the state of Michigan and local governments, which included a series of landmark intergovernmental agreements that provide much-needed clarity regarding authority over law enforcement, child welfare, taxation and land use matters. In addition, the department successfully supported the existence of the Yankton Sioux Reservation in South Dakota by defeating claims that the reservation had been disestablished.
- The department also successfully defended the Secretary of the Interior's decisions to take land into trust for various tribes. These decisions expand tribes' land bases and enhance their ability to provide housing and economic development opportunities for their communities.
- The department has worked closely with the Department of the Interior to address the Supreme Court's 2009 decision in *Carcieri v. Salazar* holding that Interior could not take land into trust for tribes that had not been "under federal jurisdiction" when the Indian Reorganization Act was enacted in 1934. The department helped Interior develop a framework to determine whether a tribe was "under federal jurisdiction" at that time, thus addressing the uncertainty created by the *Carcieri* decision and allowing Interior to address the backlog of trust applications that developed in the wake of that decision.
- Since then, the department has defended Interior's decisions to take land into trust under the new post-*Carcieri* framework and it continues to do so. In the first major district court decision regarding tribal land acquisition after the *Carcieri* decision, on Dec. 12, 2014, the district court upheld the Department of the Interior's decision to acquire land into trust for the Cowlitz Indian Tribe based on a determination that the Tribe was "under federal jurisdiction" in 1934. The court also upheld the National Indian Gaming Commission's approval of gaming on that land. Also, in January 2013, the department secured favorable decisions in two cases where plaintiffs sought, based in part on *Carcieri*, a preliminary injunction or restraining order precluding Interior from taking land into trust on behalf of two Indian tribes in California.

- The department also filed a precedent-setting amicus brief on behalf of the United States in a tribal court defending tribal reservation boundaries. In *Smith v. Parker*, the department supported the Omaha Tribe's argument that an act of Congress did not alter or diminish the tribe's reservation boundary. In February 2013, the tribal court held that the reservation boundaries remain intact. On return of the case to the federal district court in Nebraska, the department intervened in the case and filed a successful motion for summary judgment, resulting in a federal district court determination that the reservation boundary was not changed by congress. This determination was upheld by the Eighth Circuit Court of Appeals in December 2014.
- In a case of first impression, the department secured dismissal of a case that concerned the assertion of local authority over Indian trust lands. The department argued in *Oneida Nation of Wisconsin v. Village of Hobart* that state or local regulation of tribal lands was improper under the facts of that case. The court ultimately provided the relief that the Oneida Nation sought.

Preserving Tribal Culture through Access to Eagle Feathers

- On Oct. 12, 2012, the department announced a policy addressing the ability of members of federally recognized Indian tribes to use the feathers and other parts of eagles and other federally protected birds, an issue of great cultural and religious significance to many tribes and their members. Attorney General Holder signed the new policy after extensive department consultation with tribal leaders and tribal groups. The Attorney General's memorandum is the first formal policy statement adopted by the Justice Department on this issue. It clarifies and expands on longstanding department practice, consistent with the Department of the Interior's 35-year old Morton Policy, of not prosecuting tribal members for possessing or using eagle feathers and other protected bird parts while continuing to prosecute tribal members and nonmembers alike for killing protected birds without a permit or for commercializing federally protected birds or bird parts. The policy is located at www.justice.gov/ag/ef-policy.pdf
- In an important victory, the Tenth Circuit held in *United States v. Wilgus* that the government could provide tribal members with exclusive access to eagle feathers for religious purposes, under exceptions to federal laws prohibiting possession of these wildlife resources.

Supporting Tribal Courts and Tribal Sovereignty

- The department successfully argued as *amicus curiae* in the Supreme Court that the Bay Mills Indian Community's sovereign immunity barred the state of Michigan's action against the tribe for operating an off-reservation gaming facility. The Supreme Court's decision in *Michigan v. Bay Mills Indian Community* affirmed the Supreme Court's prior case law that absent an unequivocal expression by congress abrogating tribal sovereign immunity, tribes enjoy immunity from suit for off-reservation activities, whether commercial in nature or not.
- ENRD also regularly litigates in support of tribal sovereignty. For example, in *Water Wheel Camp Recreation Area, Inc. v. Gary LaRance*, the department successfully

supported tribal court jurisdiction to exclude non-Indians from tribal land. The Ninth Circuit's ruling will help address long-standing problems with non-Indians encroaching on tribal lands and provides strong precedent in support of tribal courts.

- In the Supreme Court case *Hogan v. Kaltag Tribal Council* and the Ninth Circuit case *Parks v. Native Village of Minto*, the department helped successfully support the inherent sovereignty of Alaska Native village tribal courts to adjudicate child custody matters.
- The department defended the validity of tribe-specific employment preferences in leases relating to a particular tribe's trust resources. The department successfully argued that such preferences are based on political classifications, grounded in the government-to-government relationship between the United States and tribal nations and are therefore permissible under Title VII of the Civil Rights Act.

Protecting Tribal Rights and Natural Resources

- ENRD's Indian Resources Section continues to assert water rights claims for the benefit of tribes in order to secure safe and reliable drinking water for tribes, as well as water for sanitation, economic development and other purposes. Most recently, the department successfully argued that the Agua Caliente Band of Cahuilla Indians' federal reserved water rights include groundwater. Further, the department contributed to six landmark Indian water rights settlements and corresponding statutes which, when fully implemented, will resolve complex and contentious water rights issues in New Mexico, Arizona, Montana and Nevada. The department also successfully defended claims for the benefit of the Klamath Tribes in the Klamath Basin Adjudication in Oregon, for the Confederated Tribes of the Yakama Nation in the Yakima River Basin in Washington and the Pyramid Lake Paiute Tribe in Nevada. The department remains involved in 29 complex water rights adjudications in nearly every western state.
- The department is engaged in litigation to protect treaty fishing rights of tribes in the Pacific Northwest. In *United States v. Washington*, the United States sought to address decline in the quality and quantity of fish habitat caused by development pressures in western Washington and in particular, the question of habitat loss caused by poorly constructed and maintained culverts beneath state roads, which impede the passage of fish to spawning grounds and block the access of juvenile fish to the ocean. In March 2013, the court issued a permanent injunction requiring the state to inventory remaining fish-blocking culverts within six months and provide for fish passage at culverts with specified upstream habitat within 17 years.

Protecting the Environment in Indian Country

- As part of a settlement agreement with the Navajo Nation negotiated by ENRD, the federal government will place \$13.2 million into an environmental response trust to pay for the evaluations of 16 priority abandoned uranium mines located across Navajo lands. The evaluations focus on the mines that pose the most significant hazards and will form a foundation for their final cleanup.

- The department is committed to the principles of environmental justice, including for tribal communities and has incorporated environmental justice principles into its cases by working with tribal members to address pollution on their lands. For example, ENRD worked closely with members of the Ute Indian Tribe in reaching a consent decree that resolved Clean Air Act violations at five natural gas compressor stations on the Uintah and Ouray Reservation in Utah. Under the settlement, defendant QEP Field Services, formerly Questar Gas Management Company, will fund a Tribal Clean Air Trust Fund that will fund beneficial environmental projects on the Reservation. In addition, the defendant will pay a \$3.6 million penalty and install pollution controls that will reduce emissions.
- The department also successfully sought recovery for cleanup of environmental contamination in Indian country. In *Tronox, Inc. v. Anadarko Petroleum Corp.*, the United States obtained a \$5.15 billion settlement related to the environmental liabilities of the historic Kerr-McGee Corporation, including \$985 million to be paid to the Environmental Protection Agency to fund the cleanup of approximately 50 abandoned uranium mines in and around the Navajo Nation.
- ENRD also successfully defended the Indian Health Service's efforts to supply modern sewer and water supply systems on the Santa Ysabel reservation in San Diego County for homes whose occupants had previously hauled water from a communal tank on a daily basis.

PROTECTING THE CIVIL RIGHTS OF AMERICAN INDIANS AND ALASKA NATIVES

American Indian and Alaska Native Voting Rights

- On June 9, 2014, Attorney General Holder criticized election practices that adversely affect the ability of American Indian and Alaska Native populations to exercise their right to vote, including inaccessible polling places in tribal areas, English-only ballots for areas with limited English proficiency and "precinct realignment" practices that attempt to combine geographically isolated Native communities. Attorney General Holder announced that the Justice Department would officially enter formal consultations with sovereign tribes to consider a legislative proposal that would require any state or local election administrator whose territory includes part or all of an Indian reservation, an Alaskan native village, or other tribal lands to locate at least one polling place in a venue selected by the tribal government. The department has completed consultations and remains firmly committed to seeking a legislative solution to this problem.
- In May 2015, the department formally proposed legislation that would require states or localities whose territory includes part or all of an Indian reservation, an Alaska Native village, or other tribal lands to locate at least one polling place in a venue selected by the tribal government. This proposal followed formal consultation with Indian tribes and recognizes that AI/AN communities have faced significant obstacles that have prevented them from enjoying equal access to polling places and equal opportunities to cast a

ballot. In addition to suffering from a long history of discrimination, the distance many AI/AN citizens must travel to reach a polling place presents a substantial and ongoing barrier to full voter participation.

- The department's Civil Rights Division has been active in enforcing the voting rights of Native Americans, including the right to vote without discrimination and the right, in some jurisdictions, to have voter information available in certain Native languages. Since 2009, the division has enforced Native American voting rights in Alaska, Arizona, Mississippi, New Mexico and South Dakota.
- In 2013 and 2014, the Civil Rights Division has filed amicus briefs/statement of interest briefs in *Toyukak, et al. v. Treadwell, et al.* and *Wandering Medicine, et al. v. McCulloch, et al.* two cases brought by AI/AN private plaintiffs under the Voting Rights Act. *Toyukak* involves a challenge under the language minority provisions of Section 203 of the Act regarding the translation of election information into the Alaska Native languages in the Dillingham, Wade Hampton and Yukon-Koyukuk Census Areas in Alaska. The *Wandering Medicine* plaintiffs allege that the lack of early voting and late registration opportunities for Native American voters in Big Horn, Blaine and Rosebud Counties in Montana is a violation of Section 2 of the Act.
- For the November 2014 general election, the division monitored elections in three counties under the Voting Rights Act where there are significant populations of Native American voters: Cibola County, New Mexico, Charles Mix County, South Dakota and Shannon County, South Dakota.

Navajo Nation Human Rights Commission

On July 15, 2013, the Civil Rights Division's Indian Working Group (IWG) signed a Memorandum of Understanding (MOU) between the Navajo Nation Human Rights Commission. The commission was established by the Navajo Nation to operate as a clearinghouse entity to address discriminatory actions against citizens of the Navajo Nation. The commission is authorized to receive reports of discriminatory and racially motivated acts perpetrated against citizens of the Navajo Nation and refer such incidents to the proper authorities.

The MOU:

- Establishes a communication process that will ensure that civil rights violations are brought to the IWG when the civil rights of a member of the Navajo Nation is violated.
- Outlines procedures and provides guidance to the commission and IWG in sharing information about civil rights
- Provides for a series of discussions, including face-to-face meetings and teleconferences. There have been several teleconferences between the IWG and the commission and two in-person meetings between the commission and the IWG including representatives from other department components, the USAO's in New Mexico and Arizona and the FBI.

Almost every Civil Rights Division Section has some involvement in American Indian and Alaska Native civil rights enforcement.

In 2014 alone:

- The Educational Opportunities Section reached a settlement (February 2014) with the Ganado School District to make sure its Navajo students and parents who are English language learners have equal access to school programs (under the Equal Educational Opportunities Act of 1974). The school will work to identify English language learners, provide language access instruction and materials, train teachers, tell students and parents about ELL programs and other essential information in accessible language and monitor its success.
- The division participated as amicus in support of plaintiffs-appellees in the Eighth Circuit case *Native American Council of Tribes, et al. v. Weber, et al.* under the Religious Land Use and Institutionalized Persons Act. Prison officials banned tobacco use in the prison, including the ritual use of tobacco in plaintiffs' Native American worship, claiming that tobacco use was "not traditional" in plaintiffs' faith. The district court ruled in plaintiffs' favor and entered a remedial decree providing for limited ritual tobacco use in the prison. The division argued that prison officials improperly relied on their own interpretation of plaintiffs' religious tenets in banning tobacco and that the district court appropriately called on them to show they considered less restrictive alternatives before they imposed the tobacco ban. The division also argued that the district court correctly relied on other prisons' policies permitting ritual tobacco when it concluded that a total tobacco ban was not the least restrictive means available for controlling contraband and ensuring prison security. The Eighth Circuit agreed with the department's brief and affirmed the district court's decision.

Landmark Settlement Reached with Native American Farmers Claiming Discrimination by USDA

- On Oct. 19, 2010, Attorney General Holder and Secretary of Agriculture Tom Vilsack announced a landmark settlement of the *Keepseagle* class-action lawsuit filed against the Department of Agriculture by Native American farmers and ranchers. The settlement ends more than a decade of litigation concerning discrimination complaints from Native Americans generally covering the period from 1981 to 1999.

Prosecution of Hate Crimes and Human Trafficking

Since January 2009, the department's Civil Rights Division, working with the U.S. Attorneys' Offices, has prosecuted civil rights crimes victimizing Native Americans through sex trafficking, hate crimes and police brutality, including prosecuting:

- Defendants for sex trafficking Native American children and adults in South Dakota;
- Police officers for beating Native American victims in Arizona and Montana;
- Corrections officers for beating a Native American detainee in North Carolina;

- Defendants who committed hate crimes against Native Americans, including three defendants in New Mexico for using force to cause bodily injury to a Native American man under the Shepard Byrd Hate Crimes Prevention Act of 2009 and two defendants who assaulted and threatened an Alaska Native in Anchorage.

OUTREACH AND CONSULTATION WITH TRIBAL PARTNERS

Publication of the Department's Consultation Policy and Statement of Principles for Working with Federally-Recognized Tribes

- In accordance with Executive Order 13175 and President Obama's memorandum on Tribal Consultation, the Department of Justice published the policy statement on Tribal Consultation on Aug. 29, 2013. This consultation policy, which applies to all components of the Department of Justice, reflects this agency's commitment to engaging in a meaningful, transparent way with tribal governments. Read the consultation policy here: <http://www.gpo.gov/fdsys/pkg/FR-2014-12-12/pdf/2014-28903.pdf>
- On December 3, 2014, at the White House Tribal Nations Conference, Attorney General Holder announced that the Department of Justice has adopted a Statement of Principles to guide and inform all of the department's interactions with federally recognized Indian tribes. Developed in consultation with the leaders of all 566 tribes, this statement of principles will memorialize the department's determination to serve as a partner in fighting crime and enforcing the law in Indian country. As Attorney General Holder said in his remarks to tribal leaders, the statement of principles, "was meant to codify our intention to serve not as a patron, but as a partner, in Indian country – and to institutionalize our efforts to reinforce relationships, reform the criminal justice system and aggressively protect civil rights and treaty rights. And it will serve as a guide for this Administration – and every Administration – as we seek to build the more perfect Union, and the more just society, that every individual deserves." Read the Statement here: <http://www.gpo.gov/fdsys/pkg/FR-2014-12-12/pdf/2014-28903.pdf>

Increased Cooperation and Consultation with Tribes

- In October 2009, the Attorney General convened the department's Tribal Nations Listening Session on Public Safety and Law Enforcement in St. Paul, Minnesota. Nearly 300 tribal leaders representing approximately 100 tribes attended the session. In addition to representatives from nearly all of the department's components, representatives of the Departments of the Interior, Health and Human Services, Housing and Urban Development, Education and Homeland Security also participated.
- In July 2011, Attorney General Holder visited South Dakota to meet with tribal leaders in Rapid City and visited the Pine Ridge Reservation.
- In June 2014, Attorney General Holder spoke at the Fourth Annual Tribal Consultation Conference at United Tribes Technical College in Bismarck, North Dakota. During the

conference, Attorney General Holder also met with a group of American Indian teenage boys to discuss their experiences and interactions with the criminal justice system.

- In April 2012, Deputy Attorney General Cole attended the District of North Dakota U.S. Attorney's Tribal Consultation Conference in Bismarck, North Dakota, and visited with high school students, tribal leaders and criminal justice personnel at the Standing Rock Reservation.
- In June 2012, Deputy Attorney General Cole addressed the Sovereignty Symposium in Oklahoma City, Oklahoma.
- In June 2012, Acting Associate Attorney General Tony West visited the Crow Nation and Northern Cheyenne Tribe in Montana, where he met with tribal leaders and discussed public safety issues.
- In August 2012, Acting Associate Attorney General West addressed the Four Corners Indian Country Conference in Santa Fe, New Mexico. Other speakers included U.S. Attorneys John Walsh, David Barlow and Kenneth Gonzales.
- Also in August 2012, Acting Associate Attorney General West visited the Ute Mountain Ute Tribe and the Southern Ute Tribe in Colorado, and the Pueblos of Acoma and Laguna in New Mexico, meeting with tribal leaders at each location.
- The department has engaged in dozens of consultations with tribes on issues important to public safety, justice and law enforcement, including violence against American Indian and Alaska Native women, implementation of the Sex Offender Registration and Notification Act, the Prevent All Cigarette Trafficking Act, enforcement of federal bird protection laws in a manner sensitive to tribal concerns and the TLOA.
- The department through the Community Relations Service (CRS) has engaged with tribal communities to assist in reducing tension and improving area communications and partnerships. For example, in November 2013, CRS, at the request of the Oneida Nation of Wisconsin, assisted in addressing racial tensions and law enforcement concerns stemming from increased acts of violence in and around the reservation following a series of shootings involving American Indian, Latino and African American youth. In another instance, in 2014, CRS services were requested by the Mhu Taseen practicing American Indian groups around tensions over civil penalties imposed on non-reservation land around the use of temporary structures, water containment, sweat lodges and food service related to the groups' cultural practices. CRS held multiple mediation sessions with Mhu Taseen leaders and officials of Ventura County, California, which resulted in an agreement between the parties respecting long standing American Indian tradition and cultural practices in line with existing county code regulations.
- The department has also engaged in significant outreach on environmental and natural resource issues. In particular, ENRD has teamed up with U.S. Attorneys' Offices in

Wisconsin, New Mexico, Montana and North Dakota to conduct listening sessions and follow-up meetings on critical issues relating to protection of the environment and tribal resources. In conjunction with EPA, the National Oceanic and Atmospheric Administration and the Natural Resources Conservation Service, ENRD has also conducted outreach meetings with consortia of Puget Sound tribes related to protection of treaty fishing rights. In order to further enhance its tribal outreach and consultation efforts, ENRD has designated a new position, Senior Counsel for Indian Affairs, in its front office.

Tribal Nations Leadership Council

- The department established a Tribal Nations Leadership Council (TNLC), composed of tribal leaders selected by the tribes themselves and charged with advising the Attorney General on issues critical to tribal governments and communities. The TNLC has met biannually since late 2010 with the Attorney General, most recently in February 2014.

National Indian Nations Conference

- OVC continues to support the National Indian Nations Conference, held every two years. Conferences were held in December 2010 and December 2012, each drawing more than 1,000 participants, including tribal leaders, victim advocates, victims, victim service providers, community volunteers, prosecutors, judicial and law enforcement personnel, family violence and sexual assault specialists, medical providers, social services and mental health personnel, probation/corrections, criminal justice and juvenile justice personnel, as well as federal and state agency representatives. The purpose of the Indian Nations Conferences is to share knowledge, experiences and ideas for developing programs that serve the unique needs of crime victims in Indian country. The 14th National Indian Nations Conference was held in December 2014 at the reservation of the Aqua Caliente Band of Cahuilla Indians. Last year's theme, Generational Voices Uniting for Safety, Justice, and Healing, underscores the intergenerational impact that violence and victimization have on American Indian and Alaska Native communities. For additional information on that conference and prior conferences, please visit the conference website at www.ovcinc.org.

National Intertribal Youth Summit

- Approximately 150 young men and women from tribes across the country attended week-long National Intertribal Youth Summits in Santa Fe, New Mexico (July 2011) and in Washington, D.C. (August 2012), featuring Administration officials from the White House and the Departments of Justice, Interior, Health and Human Services and Education. The summit provided an opportunity for Administration officials to hear directly from youth in Indian Country on critical issues such as healthy relationships and lifestyles, education, substance and alcohol abuse, cultural preservation, community development and protecting the environment. In July of 2015, the first youth gathering under the White House's Generation Indigenous Initiative will take place in tandem with the Youth Summit.

National Intertribal Youth Leadership Development Initiative

- Beginning with a grant award in 2013, the department launched the National Intertribal Youth Leadership Development Initiative, known as Today's Native Leaders, which offers youth gatherings, opportunities and services to develop leadership skills among cohorts of tribal youth. The initiative spans a project period of four years and supports eight regional trainings and two national gatherings of tribal youth and their adult advisors. During 2014, regional trainings were held in Portland, Oregon, and Fort Lauderdale, Florida. The initiative also offerings trainings via webinar for youth and adults seeking to start their own tribal youth council.

White House Council on Native American Affairs

- Since the formation of this council in June of 2013, the department has been an active participant at the staff and principal levels.

REPORT ON PRESCRIPTION DRUG MONITORING IN INDIAN COUNTRY

In October 2011, in accordance with the Indian Health Care Improvement Act, the Attorney General submitted a report on the issue of prescription drug monitoring to the Senate Committee on Indian Affairs and the House Committee on Natural Resources. The report describes the capacity of federal and tribal agencies to carry out data collection and analysis and information exchanges as described in the Act; training conducted for Indian health care providers, tribal leaders; law enforcement officers and school officials regarding awareness and prevention of prescription drug abuse and strategies for improving agency resources for addressing prescription drug abuse in Indian communities; infrastructure enhancements required to carry out the activities described in the Act; and statutory or administrative barriers to carrying out the activities required by the Act. Read the full report at www.justice.gov/tribal/publications.html

RESEARCH AND STATISTICS

National Institute of Justice's Tribal Crime and Justice Research & Evaluation Studies

NIJ's Program of Research Examining Violence Against AI/AN Women living in Indian Country and Alaska Native villages

The Violence Against Women Act of 2005 mandates that the National Institute of Justice (NIJ), in consultation with OVW, conduct a national baseline study on violence against AI/AN women living in tribal communities. As a result, NIJ has developed a comprehensive research program consisting of multiple projects. The purpose of the research program is to: examine violence against AI/AN women -- including domestic violence, dating violence, sexual assault, stalking, trafficking and murder -- and identify factors that place AI/AN women at risk for victimization; evaluate the effectiveness of federal, state, tribal and local responses to violence against AI/AN women; and propose recommendations to improve effectiveness of these responses. Phase I methods pilot study was completed in 2012; Phase II (2013-2017) is expected to help quantify the magnitude of violence and victimization in tribal communities and understanding service

needs for the first time, towards helping formulate public policies and prevention strategies to decrease the incidence of violent crimes against AI/AN women.

Federal Advisory Task Force on Research on Violence Against AI/AN Women living in Tribal Communities

In 2008, the Attorney General launched the Violence Against Women in Indian Country Task Force, which is comprised of representatives nominated by national tribal domestic violence and sexual assault nonprofit organizations, tribal governments and national tribal organizations. The task force was created to assist NIJ and OVW in the development and implementation of a program of research that addresses violence against AI/AN women living in tribal communities. Task force members assist NIJ in developing pertinent research questions to be addressed and provide feedback on the different components of the program of research and will assist with recommendations resulting from study findings. The task force most recently met in March 2013.

Lifetime prevalence of interpersonal and sexual violence of self-identified AI/AN men and women living in the U.S. (2012-2014)

This study comprises a nationally representative sample of self-identified AI/AN men and women using the Centers for Disease Control and Prevention's National Intimate Partner and Sexual Violence survey and offers the most comprehensive overview on the prevalence of violence and includes both lifetime and past year measures. This study will provide the best representation of self-identified AI/AN people living in the U.S. than is currently available.

NIJ Investigator-Initiated Tribal Research & Evaluation Solicitations

Since FY 2013 NIJ has released several solicitations seeking research proposals to conduct evaluations of promising programs that effectively respond to violence against Indian women living in tribal communities managed by state, local, or tribal governments. The purpose of these solicitations is to support NIJ tribal data collections, expand the body of policy-relevant research that uses these data and enhance or inform NIJ's tribal crime and justice portfolio.



**DISTRICT OF NEBRASKA
INDIAN COUNTRY OPERATIONAL PLAN
FOR LAW ENFORCEMENT ON THE
OMAHA, SANTEE SIOUX AND WINNEBAGO RESERVATIONS
Revised Effective December 31, 2016**

I. BACKGROUND

Tribes With Reservations

The United States Attorney's Office (USAO) for the District of Nebraska has jurisdiction on three Indian reservations located in the State of Nebraska. These are: the Winnebago, the Omaha, and the Santee Sioux reservations. The Omaha and Winnebago reservations are contiguous to one another and are situated 80 miles north of the main office of the USAO, which is in Omaha, Nebraska. The Santee Sioux Tribe is located 190 miles northwest of the City of Omaha and 115 miles west of the Winnebago and Omaha reservations. Although Nebraska was originally designated as a Public Law 280 state, each of these reservations has retroceded jurisdiction so that the USAO has jurisdiction under Title 18, United States Code, Section 1153 for major crimes committed by Native Americans against other Native Americans or property owned by other Native Americans. Additionally, the USAO has jurisdiction under Title 18, United States Code, Section 1152 for all offenses committed by non-Native Americans against Native Americans or property owned by Native Americans. The USAO also has jurisdiction for all offenses committed by a Native American against the person or property of a non-Native American except where said Native American has already been punished by the local law of the tribe for the same conduct. Federal laws of general applicability which are not dependent on Indian Country or exclusive federal jurisdiction as a jurisdictional basis also apply in Indian Country. These crimes include, but are not limited to, mail and wire fraud, felon in possession of a firearm, use of a weapon during a crime of violence, interstate violence against women, interstate violation of protection orders, and illegal distribution of controlled substances.

Felony assaults, rapes, child sexual assaults and child physical abuse are the main offenses routinely prosecuted federally on the three reservations. The Federal Bureau of Investigation (FBI) assumes primary responsibility for these investigations on the Omaha and Santee Sioux Reservations. However, in almost all instances, local tribal law enforcement is the first responder. A Bureau of Indian Affairs (BIA) criminal investigator assumes primary responsibility on the Winnebago Reservation.

The population on the Winnebago Indian Reservation is approximately 2,600. The Omaha Reservation is home to 5,194 Native Americans and the Santee Sioux has approximately 800 people residing on their reservation. According to the Nebraska American Indian and Alaska Native Socioeconomic Profile from August 2013, "Over 3 times as many AI/AN (of all ages) as non-Hispanic Whites reported being below the poverty level in the past 12 months (36.4% and 9.5%, respectively)." More specifically, Thurston County, where the majority of the Native American population of Nebraska resides, reports that the poverty rate for white non-Hispanic is 7 %, where as it is 39% for Native Americans. Furthermore, according to the same report, American Indians in Nebraska "were almost six times as likely as non-Hispanic White families to be below the poverty level". Studies generally show that poverty is a more significant risk factor than race or ethnic origin for becoming a victim of a violent crime or committing a violent crime. (NDHHS Report - <http://dhhs.ne.gov/publichealth/Documents/7-%20AIAN%20%20Socio.pdf>)

Anecdotal information received from the tribal council meetings indicates serious drug problems, particularly a methamphetamine problem. The three tribes report a drug problem but lack the necessary resources to investigate and prosecute the cases. The Winnebago tribal prosecutor, a former criminal defense attorney, suggests there is a methamphetamine problem on the reservation in regard to usage, but that his experience indicated the methamphetamine users usually travel to Sioux City, Iowa to purchase their meth. This would be a similar source for the Omaha reservation. The Santee Sioux, through interviews with the Child Protective Service personnel, indicate a methamphetamine problem. In all likelihood the source of the drugs is either from Lincoln, Nebraska or the Yankton, South Dakota area, 46 miles away. There are no indicators of meth labs or significant meth distribution on any of these reservations.

The Winnebago tribe has a Methamphetamine Task Force that addresses the meth problem through prevention and education. While the USAO is a part of this effort, it should be noted that this is not a law enforcement task force.

There is a Safe Trails Task Force for the three reservations which is part of an FBI initiative to combat gang violence in Indian Country. However, due to the minimal amount of gang activity on the reservations in Nebraska, the two FBI agents assigned full time to Indian Country primarily investigate major crimes without regard to gang involvement. Recent local FBI statistics indicate a 77% increase in indictments and a 150% increase in convictions with a corresponding number in federal referrals as a result of increasing manpower devoted to Indian Country.

There is one Bureau of Indian Affairs (BIA) investigator assigned in Nebraska. This agent covers criminal matters on the Winnebago Reservation.

The Winnebago Reservation is covered by BIA sworn officers with federal certification and Winnebago Tribal Police officers without federal certification. The Omaha Reservation and the Santee Sioux Reservation are covered by tribal officers who do not have federal certification. There is a tremendous amount of turnover of tribal law enforcement personnel on all three reservations. Efforts are underway to get SLEC certification for tribal officers, Knox County Sheriff Department deputies and Nebraska State Patrol officers.

There is an area drug task force that is available to work drug investigations. Additionally, the two FBI agents assigned to Indian Country will work drug cases. Currently the BIA does not have an agent available to work drug cases. An AUSA in the drug unit is assigned to Indian Country.

The Juvenile probation systems on the reservations are inadequate. Historically, the USAO had not prosecuted juveniles except in very egregious cases. However, when the tribal prosecutors indicated they would welcome an increase in federal referrals of juvenile cases, it was determined that juvenile cases would be screened on a case by case and community needs basis. This has resulted in an increase in federal juvenile delinquency petitions and an increase in juveniles being prosecuted as adults. It is anticipated the focus on juvenile offenders will continue wherever federal jurisdiction otherwise exists.

The USAO devotes a team of two AUSAs and one SAUSA to prosecution of Indian Country cases. One attorney is from the drug unit and the other two are from the general crimes unit.

The SAUSA is currently part of the Violence Against Women pilot project and handles primarily domestic violence and sexual assault cases. This SAUSA also prosecutes similar cases in the Winnebago and Santee Sioux Tribal Courts. This SAUSA also conducts numerous trainings and community education programs on the reservations. She is also available to monitor interviews of children at the area child advocacy centers.

All Three reservations have DV shelters. The SAUSA and the Victim advocate work closely with the directors of these shelters to learn about DV cases and to prosecute the same. The Victim advocate keeps the DV shelter directors informed of the status of cases concerning their residents and the directors aid in facilitating contact with victims.

Tribe With No Reservation

The Ponca Tribe of Nebraska with a population of slightly over 3,100 nationwide, does not have a reservation. In 1858, the Ponca Tribe relinquished most of its land to the federal government. In 1877, the remaining land was relinquished to the federal government due to a law passed by Congress in 1876. In 1962, Congress terminated its relationship with the Ponca Tribe. However, federal recognition was restored in 1990 when Congress re-recognized the Ponca Tribe. Trust land is owned by the tribe in Iowa. Although the Ponca Tribe lacks a land base in Nebraska, the Tribe does have designated "Service Delivery Area" counties; fifteen counties in Nebraska with 1,100 members in these counties.

II. Statute of Limitations Considerations

In allocating resources and determining the appropriate jurisdiction for prosecution of offenses, the USAO will consider the applicable federal and tribal statute of limitations. To the extent possible based upon the investigation, federal prosecution decisions will be made on a timely basis to allow tribal prosecutors to consider lesser or alternative charges which may not have been filed prior to the federal referral. In this respect, the following provisions apply:

A. Federal Statutes

1. Capital offenses may be prosecuted at any time without limitation pursuant to 18 U.S.C. §3281.
2. Except as otherwise provided by law, non-capital offenses may be prosecuted at any time within five years of the date of the offense pursuant to 18 U.S.C. §3282.
3. Prosecution for an offense involving the kidnapping of a child under the age of 18, or the sexual or physical abuse of a child under the age of 18 may be prosecuted any time during the life of the child or for ten years after the offense, whichever period is longer pursuant to 18 U.S.C. §3283.

B. Winnebago Laws

1. Rule 1B-203 of the Winnebago Rules of Criminal Procedure required criminal proceedings to be commenced within three years of the date of the commission of the offense.
2. Any time a defendant spends outside of the jurisdiction of the Winnebago Tribe for the purpose of avoiding prosecution is not counted toward the three year statute of limitations period.

C. Omaha Laws

1. There is no statute of limitations for homicides committed on the Omaha Indian Reservation.
2. For serious offenses such as aggravated assault and burglary, there is a five-year statute of limitations.
3. For all other offenses there is a one-year statute of limitations.

D. Santee Sioux Laws

1. The Santee Sioux Tribe has essentially adopted Chapter 28 of the Nebraska Revised Statutes as its Criminal Code. However, as Chapter 28 does not contain any statute of limitations provisions, it is assumed that the provisions of Section 29-110 of the Nebraska Revised Statutes apply.
2. Except as noted below, there is a one year six-month statute of limitations for most misdemeanor offenses. However, for offenses punishable only by a fine or by imprisonment for not more than three months, the statute of limitations is one year.
3. The statute of limitations for the offenses of kidnapping, false imprisonment, child abuse, pandering, debauching a minor, or an offense under section 28-813, 28-813.01 or 28-1463.03 when the victim is under 16 years of age at the time of the offense, is seven years after the commission of the offense, or seven years after the victim turns 16, whichever is greater.
4. The statute of limitations for the offenses of criminal impersonation, identity theft and identity fraud is five years.
5. There is no statute of limitations for the offenses of treason, murder, arson, forgery, sexual assault in the first or second degree, sexual assault of a child in the first, second or third degree, incest, or sexual assault in the third degree when the victim is under 16 years of age.
6. The time limitations noted above do not extend to any person fleeing from justice.

III. Prosecution Guidelines

A. Major Crimes Act cases (18 USC §1153)

The USAO has jurisdiction pursuant to the Major Crimes Act to prosecute Native Americans for certain designated felonies occurring within the confines of the Omaha, Winnebago and Santee Sioux Indian reservations. These designated felonies are: murder, manslaughter, kidnapping, maiming, a felony under chapter 109A of Title 18, United States Code (sexual abuse crimes), incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, assault on a child less than 16 years of age, felony child abuse or neglect, arson, burglary, robbery, and a felony under §661 of Title 18. All provable felonies under this list will be considered for prosecution. Particular attention will be paid to crimes involving domestic abuse which occur on a reservation or which contain aspects of interstate (including travel across reservation lines) domestic violence or stalking. Included in this focus on domestic assaults are prosecutions of habitual offenders under 18 U.S.C. §117.

B. Exclusive Federal Jurisdiction cases (18 USC §1152)

The USAO has exclusive jurisdiction to prosecute all offenses, both felonies and misdemeanors, committed by non-Native Americans against the person or property of Native Americans which occur within the confines of the Omaha, Winnebago and Santee Sioux Indian reservations. As a consequence, all provable cases, regardless of whether they are felonies or misdemeanors, will be considered for prosecution where the perpetrator is non-Native American, but the victim is Native American.

C. Drug Offenses

Provable cases occurring within the confines of the Omaha, Winnebago and Santee Sioux Indian reservations involving the possession of marijuana weighing more than one pound, or possession of any weight of any other illegal drug, will be considered for prosecution on a case by case basis. Provable cases involving the distribution of any type of illegal drug will be considered for prosecution regardless of weight.

D. Juvenile cases arising in Indian Country (18 USC §5031 *et seq*)

Crimes committed by Native American juveniles within the confines of the Omaha, Winnebago and Santee Sioux Indian reservations will ordinarily be handled in Tribal Court. However, particularly serious crimes, crimes committed by repeat Native American offenders, and/or Native American offenders causing significant problems in the community will all be considered for federal prosecution regardless of the age of the offender provided jurisdiction otherwise exists under 18 U.S.C. §1152 or 1153. Any crime committed by non-Native American juveniles within the confines of the Omaha, Winnebago and Santee Sioux Indian reservations will be considered for prosecution under the provisions of 18 U.S.C. §1152 and §5031, *et seq*.

E. Embezzlement and theft from Indian tribal organizations (18 U.S.C. §1163)

All provable cases involving the embezzlement, theft or conversion of the monies or property of an Indian tribal organization which occurs in the District of Nebraska will be considered for prosecution as long as the amount involved is greater than \$1,000. Misdemeanor cases involving loss amounts of less than \$1,000 will be considered on a case by case basis.

F. Theft from gaming establishments on Indian Lands (18 U.S.C. §1167 & 1168)

All provable cases involving the abstraction, purloining, willful misapplication or carrying away with intent to steal any money or property belonging to an establishment operated by or for or licensed by an Indian Tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission which involves a person other than an employee or officer of such an establishment will be considered for prosecution as long as the amount involved is greater than \$1,000.

Misdemeanor cases involving loss amounts of less than \$1,000 will be considered on a case by case basis. However, all provable cases against an employee or officer of such an establishment will be considered for prosecution regardless of the amount.

G. Crimes of general applicability within the United States

All provable felony cases, regardless of the race of the perpetrator, involving violations of federal laws which are not dependent on the exclusive territorial jurisdiction of the United States but which occur within Indian Country in the District of Nebraska will be considered for prosecution based upon the prosecution guidelines in effect in the District of Nebraska at the time any such case is referred to the USAO. These types of cases include, but are not limited to, felon in possession, use of a firearm during a crime of violence or drug trafficking offense, conspiracy, and mail or wire fraud.

IV. Investigations/ Charging

In most instances, it is anticipated that the tribal police and/or the BIA will be the initial responders and will be responsible for securing the crime scene and any evidence gathered, taking initial statements from victims and witnesses, getting victims needed forensic and medical attention, detaining suspects where appropriate, and coordinating with tribal prosecutors regarding possible tribal charges or search warrants. For any case appearing to meet federal prosecution standards as set forth above, the tribal police shall immediately notify the FBI and/or the BIA criminal investigator assigned to the area. Once called, the FBI or BIA criminal investigator shall assume primary responsibility for the case and all subsequent investigation although the tribal police may be asked to assist with the ongoing investigation.

Tribal police will prepare written reports regarding their investigations and will make them available to the FBI and the USAO. Tribal officers should anticipate being called as witnesses in preliminary hearings or at trial in federal cases. Similarly, in any case where federal charges are declined, but tribal charges are still viable, federal investigators should be prepared to make their reports available to the tribal prosecutors and to testify in tribal court when required.

In any case involving potential federal charges, it is expected that search warrants will be sought in federal court rather than tribal court with input and review by an assigned AUSA. It is anticipated there may be cases which were initially investigated solely for tribal law violations and which may involve tribal search warrants, but which are later adopted by the FBI and this USAO. However, whenever the FBI or the BIA criminal investigator becomes involved in an investigation, search warrant requests should go through the USAO except in the most extenuating circumstances.

For child sexual abuse cases and child abuse cases, Multidisciplinary Teams (MDTs) have been established on the Omaha, Winnebago and Santee Sioux Indian Reservations. These MDTs will meet once every two months on each reservation and will meet more often if the inventory of incidents reflects numerous serious cases in need of immediate attention or if a special staffing for a particular case is needed. Special staffing will usually occur at a CAC facility so that the doctors/experts can provide needed guidance. Outside of the special staffing, the MDTs will be comprised of an AUSA (who

is also the tribal liaison), the USAO and the FBI victim specialists, CPS workers, tribal police, tribal prosecutors, CAC personnel, and, on the Winnebago MDT, Indian Health Service Hospital personnel.

Tribal prosecutors make their own independent determinations of what tribal charges are warranted. However, whenever an incident gives rise to both tribal and federal charges, tribal prosecutors, after consultation with the USAO, will generally dismiss their tribal charges in favor of related federal charges so that the more severe federal penalties can be imposed. When a defendant is in tribal custody, and continued detention of the defendant is warranted, it is anticipated that tribal prosecutors will defer dismissing their charges until after federal charges are filed. Further, before taking a plea or proceeding to sentencing on tribal charges where the defendant is a Native American and the victim is non-Native American, tribal prosecutors will be asked to consult with the tribal liaison as to whether federal charges are contemplated as 18 U.S.C. §1152 prohibits federal prosecution of a Native American who has already been punished by the local law of the tribe. As noted in the prosecution guidelines above, whenever a case is a misdemeanor at both the tribal and federal level, prosecution will normally be left in tribal court.

Review of Indian Country referrals will be completed as expeditiously as possible including any follow-up investigation requested by the USAO. Due consideration will be given to expediting charging decisions when appropriate to ensure that dangerous offenders are arrested and detained.

Each AUSA prosecuting cases in Indian Country will be encouraged to notify the FBI, tribal police and tribal prosecutor of any federal case filing within a reasonable time after the filing. In addition, the tribal liaison AUSA will maintain a list of filed cases and will review that list with tribal prosecutors and tribal police chiefs at the regular meetings described in section VII below. Tribal councils and the Native American community will be advised of filed cases and any dispositions during the USAO's annual visit to a tribal council meeting on each reservation. Finally, the USAO shall continue to issue press releases relating to the filing and making public of federal charges and the sentencing of any federal defendant.

EOUSA must annually report to Congress certain declination data. In addition to the general declination information which EOUSA reports, beginning in 2011, EOUSA was required to begin reporting declinations in Indian country cases, as mandated in the Tribal Law and Order Act. All immediate and later declinations must be entered in LIONS. An **immediate declination** occurs when an investigative agency presents a referral in writing to the USAO that does not warrant federal prosecution based on the facts and circumstances presented. In such an instance, no further investigation is authorized, no matter is opened, and the referral is declined immediately. A **later declination** occurs when a matter has been opened in LIONS, and the USAO later decides to close the matter without filing charges. This typically follows some investigation or further consultation with the AUSA.

Known by many names, a field declination, exception, or "over-the-phone declination" occurs when an investigative agency seeks a USAO declination based on the agency's own internal guidelines or presents a matter orally to the USAO that does not warrant federal prosecution based on the facts and circumstances presented. Field declinations, exceptions, and "over-the-phone declinations" should not be entered into LIONS.

In November of 2011, the Native American Issues Subcommittee (NAIS) Working Group convened to discuss how best to comply with Congressional reporting

requirements. The NAIS wanted to ensure that cases declined for federal prosecution which were referred to tribal prosecutors or to state, local or military prosecutors for potential prosecution were accurately identified in the LIONS system. The NAIS then recommended and the Attorney General Advisory Committee (AGAC) agreed that the following disposition reasons should be added to the list of the current Declination Disposition Reasons in LIONS:

SRTC – Suspect referred for prosecution decision by tribal court.

SRSC – Suspect referred for prosecution decision by state, local or military court

These new codes implemented January 1, 2012, will allow for better tracking of investigations where prosecution was sought, just not by a U.S. Attorney's office. These codes should be used when a referral was made to a tribal, state or other court prosecutor, either orally or in writing, and accepted for review. "Referral" contemplates direct consultation with a prosecutor for possible prosecution in a tribal, state, local or military court. The new referral disposition codes should not be used, where declination by the USAO effectively concludes the prosecution. In other words, if the matter was not accepted for review by another prosecutorial authority, the user should select the appropriate declination code. Please note: these new codes are applicable to all criminal matters which are referred to another jurisdiction for possible prosecution. Their application is not limited to Indian Country matters.

Federal declinations will be timely made and communicated to tribal prosecutors so that any viable tribal prosecutions can be initiated within the applicable statute of limitations periods noted above. Federal declinations shall be in writing setting forth the facts of the case and the reasons for declination. Written declinations must be approved by the criminal chief. Copies of approved declination memos will be provided to the FBI, tribal police chiefs and tribal prosecutors.

V. Victim Advocacy

A. FBI victim specialist responsibilities

Once the FBI has been notified of a crime on a reservation and a Special Agent has been assigned, the agent will identify the crime victim and notify the FBI's victim specialist. The specialist will then meet with the victim and/or the victim's family and explain the crime victim's rights under 18 USC §3771. The FBI victim specialist will notify the USAO Victim coordinator for Indian Country of the identity of the victim and/or the victim's family. The FBI specialist will further coordinate with the USAO Victim coordinator to ensure that there is a smooth transition between the FBI victim specialist and the USAO Victim coordinator for Indian Country. The FBI victim specialist will gather pertinent information and upload that information into the Victim Notification System (VNS). He will also provide an explanation to the victim regarding the VNS system and the criminal justice process with respect to the roles of the FBI and the USAO.

The FBI victim specialist will be responsible for conducting a short term and long term victim's need assessment. Based on that assessment, the specialist will make referrals to tribal resources (victim advocates, DV advocates, CPS, Tribal Family Services, tribal counseling services, housing, transportation, etc.) and coordinate with these local providers to meet the victim's needs.

During the investigation of the case, the specialist will keep the victim and USAO Victim Coordinator informed of the progress of the investigation. When the case is indicted, the FBI specialist will work with the USAO Victim Coordinator and the victim to transition the victim into the prosecution phase.

B. USAO Victim Advocate for Indian Country

The USAO Victim Coordinator will meet with the FBI victim specialist as the case is nearing Grand Jury or as soon as possible after an Indictment is returned. The coordinator will meet with the victim and continue the efforts of the FBI to make referrals to tribal resources and local providers to meet the victim's current needs. The USAO victim coordinator will be responsible for communicating with the victim to keep the victim informed of the progression of the criminal case. This will include use of the VNS, email, phone, and/or personal visits. The coordinator will also serve as the liaison between the victim and the assigned AUSA regarding plea negotiations, court appearances, preparation of victim impact statements, and allocution at sentencing.

The USAO victim coordinator will accompany and provide assistance to the victim at any public court hearings. This will include arranging transportation and/or lodging, making the victim familiar with the courtroom, and, to the extent possible, shielding the victim from unwanted contact with families of the defendant. The victim coordinator is currently a member of the crisis response team at the Santee Sioux reservation. The purpose of this response team is to address the needs of adult victims of sexual assaults and domestic violence.

The four Nebraska Tribes are English speaking, so the need for a translator is rare. Should a translator be needed, the Victim coordinator will contact tribal authorities to identify an appropriate translator.

The USAO is unaware of any Native American culturally specific restitution concerns on any of the three reservations. However, should such an issue arise, the victim coordinator will contact tribal authorities for assistance.

C. Tribal Victim Specialists or Advocates

These advocates shall work with the tribal prosecutors and the victims during the pendency of any tribal prosecution. The advocates will also be consulted by the FBI victim specialist and the USAO Victim coordinator.

VI. Training and Law Enforcement Coordination

The mission of the United States Attorney's Office Law Enforcement and Community Coordination (LECC) Unit is to assist law enforcement and criminal justice agencies throughout the District of Nebraska, and to facilitate community based efforts on issues related to criminal justice and community restoration. Headed up by Joe Jeanette, the LECC Unit manages or facilitates a number of programs designed to support and coordinate the objectives of the criminal justice system at various levels, provides services to victims of federal crime, conducts training, and apprises the community at large about issues related to the criminal justice system.

The LECC Unit maintains strong collaborative partnerships among the federal, state, local and tribal law enforcement agencies to improve the effectiveness of law enforcement in the District of Nebraska. In this respect, the LECC Unit, in conjunction with the designated AUSA Tribal Liaison, serves as a liaison between the AUSAs doing Indian Country prosecutions, the BIA and FBI, and tribal law enforcement.

The Unit hosts trainings and conferences at various venues throughout the District of Nebraska. The LECC ensures these trainings include subject matter relevant to current issues in Indian Country, domestic abuse, sexual abuse including sexual abuse of children, violence against women, and victim issues. The LECC and the Victim Advocate are responsible for providing notice of these trainings and conferences to the Tribal Chairs, Tribal law enforcement chiefs, and tribal service providers. Reasonable efforts are made to ensure tribal law enforcement personnel have ample opportunity to attend these trainings and conferences.

The USAO victim specialist collaborates with the Districts of Kansas and the Northern District of Iowa in providing training which addresses specific concerns and needs in Indian Country for victim service providers.

The LECC coordinator and the Victim Coordinator provide assistance to the tribal representatives on the Collaborative Tribal Assistance Solicitation (CTAS) grants, a variety of program initiatives related to community policing, juvenile justice, domestic violence, prosecution and incarceration. The coordinators keep the tribes apprised of the solicitation deadlines and provide information and guidance on the funding parameters to assist the tribes in applying for and receiving the maximum amount of grant funds possible.

VII. Outreach

The USAO meets regularly with the Omaha, Winnebago, Santee Sioux Tribal Councils. The purpose of these meetings will be to: (a) keep the tribes informed of the criminal cases being handled by the USAO (due regard will be given to the Privacy Act so that only cases that are a matter of public record will be specifically addressed); (b) provide information on grants and funding; and (c) ascertain any needs the tribes may have which the USAO can address. The meetings will be attended by the United States Attorney, First Assistant US Attorney, Tribal Liaison, Drug Chief, Criminal Chief, LECC Coordinator and the Victim Coordinator for Indian Country. Representatives from the FBI and BIA will be invited to attend as well. It is anticipated that tribal police chiefs and tribal service providers will be at these council meetings in addition to members of the tribal community.

MDT meetings are held with each of the reservations every two months unless the inventory of child sexual abuse and child abuse cases dictates more frequent meetings.

In 2011, the USAO was awarded a grant that permitted the hiring of a Tribal SAUSA under the Violence Against Women Tribal Special Assistant United States Attorney Pilot Project of the Office on Violence Against Women (OVW) to address domestic violence, sexual assaults, child and domestic violence physical assaults and dating violence on the Winnebago, Omaha and Santee Sioux Indian reservations.

The project's initiatives include increasing coordination among the three tribes and local, state, and federal investigators and prosecutors, bridging gaps in jurisdictional coverage, establishing cohesive relationships between federal prosecutors and tribal communities, and improvement of the quality of violence against women cases through effective case management, and through the promotion of higher quality investigations and improved training. This project will continue for at least the next three years as a result of private funding secured by the HoChunk Community Development Center. This funding was due largely to the success realized throughout the initial grant period as indicated above.

A Tribal SAUSA was appointed in October of 2012. The Tribal SAUSA is dedicated exclusively to Indian Country cases and works in coordination with and close proximity to the Tribal Police, BIA and FBI to ensure cases are prepared appropriately for prosecution on all levels. The cross-designated SAUSA maintains an active violence against women crime caseload and serves the Winnebago, Omaha and Santee Sioux Indian Reservations in Nebraska. The Tribal SAUSA spends approximately 60% of her time on the Indian Reservations and regularly appears in the Santee Sioux and Winnebago Tribal Courts in addition to federal district court. Moreover, on all three of the reservations, cases have been taken under new federal statutes that have been implemented in order to address violence against women on the Indian Reservations, such as 18 U.S.C. §117, Domestic Assault by an Habitual Offender, and 18 U.S.C. §113(a)(8), Assault by Strangulation in Indian Country.

Since the appointment of the Tribal SAUSA federal DV case filings have increased as have DV convictions in the Winnebago Tribal Court. Further, the number of reported incidents of domestic violence and sexual assault has also increased on all three reservations. According to testimonial evidence from law enforcement, the increased reporting is attributed to the increased prosecution of domestic violence offenses. Additionally, each of the reservations fully participating in the project have experienced an increased consistency in the handling and treatment of domestic violence and sexual assault cases, both at the tribal and federal levels, due to the increased contact with investigators at the initiation of the case and better coordination of federal and tribal prosecutions.

As part of her expanded duties, the AUSA Tribal Liaison schedules meetings with tribal prosecutors, tribal police chiefs and FBI special agents assigned to Indian Country to precede or immediately follow the regularly scheduled MDT meetings on each of the reservations. During these meetings, the AUSA is able to inform tribal prosecutors and police chiefs of the status of federal investigations and prosecutions, to review the inventory of pending tribal investigations and prosecutions to determine whether any cases warrant federal intervention, and to address any law enforcement concerns the prosecutors or police chiefs may have. AUSA Lecia Wright serves as the Tribal Liaison.

VIII. Violence Against Women

A. Priority

All reports of sexual assault and/or domestic violence in Indian Country will receive top priority. All reports of either sexual assault or domestic violence will be immediately investigated unless there is clearly an absence of credible evidence that such crimes have been committed. The FBI will take the lead in all sexual assault investigations without regard to whether the case will be prosecuted in federal or tribal court.

The FBI will assume the lead in all domestic violence cases whenever it has been determined that a dangerous weapon was used, that the victim sustained serious bodily injuries, that the perpetrator crossed state or tribal boundaries with the requisite intent to commit the offense, or when the subject has a prior domestic violence conviction as that term is defined in 18 U.S.C. §2265A.

All reports of sexual assault and/or domestic violence will be reviewed by the USAO. Under no circumstances will CVB citations be used as the charging mechanism for cases of sexual assault or domestic violence. All such cases that satisfy the Principles of Federal Prosecution will ordinarily be prosecuted unless, in the judgment of the United States Attorney, there are too many weaknesses in the case (lack or third party witnesses, lack of DNA evidence, recanting victims, etc.) to warrant an expectation that a conviction could be obtained.

B. Sexual Assault Cases

In most instances, sexual assault victims on the Omaha and Winnebago Indian Reservations will be taken to either the Mercy Medical Center or St. Luke's Hospital in Sioux City, Iowa for the purpose of forensic examinations. In addition, the Indian Health Service Hospital in Winnebago has a trained SANE nurse position which was funded through a grant program. However, this is a daytime position and no funds are available for overtime or evening hours. Thus, unless other grant funds become available for additional staffing, victims will be taken to the IHS hospital only when it is known that a SANE nurse is on duty. Victims on the Santee Sioux Indian Reservation, regardless of age, are generally taken to the Norfolk CAC for the purpose of forensic examinations. On occasion, victims will be taken to the Avera Sacred Heart Hospital in Yankton, South Dakota.

Rape kits at the Mercy Medical Center and St. Luke's Hospital are readily available. These kits are provided by the Iowa Department of Criminal Investigations. Rape kits are also available at the IHS although the source of those kits is unknown. For the Norfolk CAC, rape kits are readily available. Those kits are donated by the Norfolk Police Department, the Nebraska State Patrol and the Madison County Sheriff's Department on a rotating basis.

Generally, rape kits and other forensic evidence will be submitted to the FBI laboratories with a request that such evidence be assigned to the unit specifically designated to work Indian Country cases. However, when funding is available or when expedited processing is required and the FBI lab is unable to accommodate such processing, evidence may be taken to the Nebraska State Patrol lab or to the Nebraska Medical Center. It shall be the responsibility of the AUSA assigned to the case to monitor and make certain that rape kits and other forensic evidence has been promptly submitted to the FBI laboratory or that such evidence is promptly submitted to the Nebraska State Patrol lab or the Nebraska Medical Center lab. The AUSA shall coordinate and make certain that all available funding for such private lab testing has been secured either through the FBI Indian Country grant for such testing or through a request to the USA for expenditure of litigation funds.

C. Domestic Violence Cases

As noted in subsection A above, domestic violence cases in Indian Country are a priority and will be treated accordingly. Further, it is recognized there are instances of misdemeanor level domestic violence on the three Nebraska reservations which are committed by non-Indian offenders against Indian victims. In those cases, the FBI will assume the lead role in the investigation and the USAO will prosecute all such cases that satisfy the Principles of Federal Prosecution the same as it would for any felony level offense. Tribal domestic violence advocates on the three reservations are given the responsibility of meeting with the victims and completing the domestic violence threat assessment. This assessment addresses such issues as lethality risks and victim safety considerations. While the threat assessment is primarily used by the tribal advocates in determining the needs of the victim, where appropriate, the risk assessment will be made available to law enforcement and to tribal and federal prosecutors to be considered when making charging or plea determinations. These assessments will also be provided to the USAO Victim coordinator.

The Santee Sioux Tribe has a crisis response team dedicated to domestic violence issues. The USAO Victim coordinator is a member of this team. The Omaha Reservation also has a crisis response team which is not dedicated solely to domestic violence matters. The Winnebago Tribe does not have a crisis response team.

Domestic violence victims on the Omaha and Winnebago Reservations can be taken to shelters in Sioux City, Iowa and in Wayne and Norfolk in Nebraska. There is a safe house on the Winnebago Reservation which can be used on a short term basis. Domestic violence victims on the Santee Sioux Reservation can be taken to shelters in Wayne and Norfolk in Nebraska. The Santee Sioux Tribe has a home which is used as a shelter.

There is a domestic violence tribal coalition called the Nebraska Tribal Coalition Ending Family Violence which meets once per month. This group consists of members from the three Nebraska reservations along with members of the Ponca Tribe. In addition, the FBI victim specialist sits on this council. This council does not discuss pending cases. Rather, the purpose of the council is to share ideas and programs dealing with domestic violence. Frequently, events sponsored by one tribe are attended and supported by members of the other Nebraska tribes.

IX. Cross Deputization Agreements in Indian Country

A. Santee Sioux Tribe

There is a cross deputization agreement in effect between the Santee Sioux Tribe, the Knox County Sheriff, and the Nebraska State Patrol. For Santee Sioux law enforcement officers to be eligible for cross deputization, they must be certified by the Federal Law Enforcement Training Center, or have equivalent training. In addition, they must successfully complete "in lieu of training" provided by the Nebraska Law Enforcement Training Center.

For Nebraska State Patrol or Knox County Sheriff's Department officers to be eligible for cross deputization, they must successfully complete the "in lieu of training" provided by the Bureau of Indian Affairs and receive certification by the BIA.

The cross deputization agreement provides that state arrest warrants for persons located on the Santee Sioux Reservation will be executed by the Santee Sioux law enforcement with invitations to state officers to participate. Similarly, tribal arrest warrants for persons located off the Santee Sioux Reservation will be executed by state or county law enforcement with invitations to tribal law enforcement to participate.

B. Omaha Tribe

The July 14, 2005 Intergovernmental Cooperative Agreement between the State of Nebraska and the Omaha Tribe has expired. There is no cross deputization agreement between the Omaha Tribe and the Thurston County Sheriff's Department, and none is anticipated.

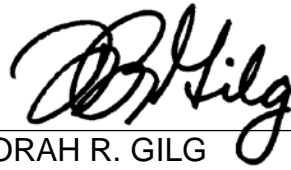
C. Winnebago Tribe

There is a cross deputization agreement in effect between the Winnebago Tribe and the Nebraska State Patrol. For Winnebago law enforcement officers to be eligible for cross deputization, they must be certified by the Federal Law Enforcement Training Center, or have equivalent training. In addition, they must successfully complete "in lieu of training" provided by the Nebraska Law Enforcement Training Center. For Nebraska State Patrol or Knox County Sheriff's Department officers to be eligible for cross deputization, they must successfully complete the "in lieu of training" provided by the Bureau of Indian Affairs and receive certification by the BIA.

The cross deputization agreement provides that state arrest warrants for persons located on the Winnebago Reservation will be executed by the Winnebago law enforcement officers with invitations to state officers to participate. Similarly, tribal arrest warrants for persons located off the Winnebago Reservation will be executed by state or county law enforcement with invitations to tribal law enforcement to participate.

X. Accountability of Time Spent in Indian Country

All AUSAs assigned to Indian Country will be required to accurately report time spent on Indian Country matters by keeping the USA 5 and LIONS updated according to office and DOJ protocols. USA5/5A will be updated on a weekly basis. Lions/Alcatraz will be updated as significant cases events occur, and case/matter data contained within Lions/Alcatraz will be certified by each AUSA every six months. Periodic training on use of these two data bases will be conducted at the annual retreat or as otherwise directed by the United States Attorney. In the interim, the criminal chief will continue to send monthly reminders to all AUSAs reminding them of these obligations.



DEBORAH R. GILG
United States Attorney
District of Nebraska



Attorney General's Tribal Nations Leadership Council

The Tribal Nations Leadership Council (TNLC) is composed of tribal leaders selected by tribal governments to advise Justice Department leadership on an ongoing basis. “The Department of Justice is committed to working with tribal partners to create stronger, safer, and healthier communities for all American Indians and Alaska Natives,” said Attorney General Loretta E. Lynch. The TNLC is composed of one tribal leader from each of the twelve regions of the Bureau of Indian Affairs:*

- Michael J. Stickman, First Chief, Nulato Village (*Alaska Region*)
- Lynn Malerba, Chief, The Mohegan Tribe of Indians of Connecticut (*Eastern Region*)
- Ron Sparkman, Chairman, Shawnee Tribe (*Eastern Oklahoma Region*)
- Dave Archambault, II, Chairman, Standing Rock Sioux Tribe (*Great Plains Region*)
- Melanie Benjamin, Chief Executive, Mille Lacs Band of Ojibwe (*Midwest Region*)
- Russell Begaye, President, Navajo Nation (*Navajo Region*)
- W. Ron Allen, Tribal Chairman/Executive Director, Jamestown S’Klallam Tribe (*Northwest Region*)
- Juana Majel Dixon, Councilwoman, Pauma-Yuima Band of Mission Indians (*Pacific Region*)
- Merlin Sioux, Council Member, Northern Cheyenne Tribe (*Rocky Mountain Region*)
- John Barrett, Jr., Chairman, Citizen Potawatomi Nation (*Southern Plains Region*)
- Gary Hayes, Council Member, Ute Mountain Tribe of the Ute Mountain Reservation (*Southwest Region*)

* <http://www.justice.gov/opa/blog/tribal-nations-leadership-council-meeting>

District of Nebraska Tribal Council Members

Winnebago Tribe of Nebraska - Tribal Council:

Frank White, Chairman
Vince Bass, Vice-Chairman
Victoria Kitcheyan, Secretary
Kenny Mallory, Member
James Snow, Member
Darla LaPointe, Member
Curtis St. Cyr, Member
Isaac Smith, Member
Coly Brown, Member

Santee Sioux Tribe of Nebraska - Tribal Council:

Roger Trudell, Chairman
David Henry, Vice Chairman
Franklin Whipple, Treasurer
Stuart Redwing, Secretary
Don LaPointe, Jr., Member
Darlene Bluebird, Member
Marion Brandt, Member
Larry "Ike" Denny, Member

Ponca Tribe of Nebraska - Tribal Council:

Larry Wright, Jr., Chairman
Patrick Lamoureux, District 1 & Vice-Chairman
Phil Wendzillo, District 1
Crystal Howell, District 2
Judy Allen, District 2
Stephanie Slobotski, District 3
James LaPointe, District 3 & Treasurer
Candace Bossard, District 4 & Secretary
Alex Taylor, District 4

Omaha Tribe of Nebraska Tribal Council:

Vernon Miller, Chairman
Adriana Saunsoci, Vice-Chairman
Jessica Webster-Valentino, Treasurer
Jeff Miller, Secretary
Mike Wolfe, Member
Rodney Morris, Member
Clifford Wolfe, Jr., Member

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Macy Police Department
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Macy, NE 68039
(402) 937-5906

Santee Sioux Nation
Chief Rob Henry
Route 2, Box 5160
Niobrara, NE 68760
(402) 857-2527

Winnebago Tribe of Nebraska
Chief Jason Lawrence
103 Bluff Avenue
Winnebago, NE 68071
(402) 878-2245

Significant Cases in Indian Country

Daniel Webster III was sentenced to 48 months' imprisonment following his conviction for involuntary manslaughter on the Omaha Indian. Webster, his brother, their girlfriends and Webster's nieces were at an abandoned house on the Omaha Indian Reservation when Webster and his brother got into an argument. Webster went into another room and obtained a knife and returned to confront his brother. Webster ultimately stabbed his brother in the neck and left the knife in his neck. The brother died from his injuries.

Deonte Smith was convicted of negligent child abuse resulting in serious bodily injuries on the Winnebago Indian Reservation and was sentenced to five years of probation. Smith, a non-Native American, was taking care of his three-month old daughter when she began crying. He claimed he placed her on a cradleboard and began bouncing her in his lap. However, he admitted he may have shaken her too hard while she was on the cradleboard. The child was life-flighted to a hospital and found to be suffering from a life-threatening subdural hematoma.

Wyatt Thomas was sentenced to 48 months after being convicted of sexual abuse of a minor between the ages of 12 and 16. He digitally penetrated a minor child over the course of approximately two years. His crimes took place on the Santee Sioux Indian Reservation.

Kenneth Carufel was sentenced to 30 months in prison following his conviction for assault on a juvenile. The crime occurred on the Santee Sioux Indian Reservation. Carufel broke the bones of his girlfriend's three-year-old daughter on no less than 5 occasions.

Michael Thomas was sentenced to 37 months following his conviction for suffocation of an intimate partner and domestic assault by a habitual offender. Defendant was convicted on both counts after a jury trial. He assaulted the mother of his children by covering her mouth and pinching her nose while she attempted to scream help. Thomas had previous convictions for domestic assault. The offenses occurred on the Winnebago Indian Reservation.

Mark Hannan was sentenced to five years' probation and ordered to pay \$12,196 in restitution following his conviction for theft from an Indian gaming establishment. Hannan, a cage cashier at the Native Star Casino on the Winnebago Indian Reservation, stole funds from the casino and converted them to his personal use.



2016 TRAINING FOR INDIAN COUNTRY

August 16th-17th, 2016 – Nebraska VW Specialist Kim Roewert coordinated with VW Specialists from the Northern District of Iowa and the District of Kansas for a 1 ½ day “Indian Country Conference Domestic Violence and Sexual Assault in Indian Country”. There were 103 attendees from all three districts. In addition to a listening session with the U.S. Attorneys, the topics included:

- Amber Alert for Native American Children
- Child Advocacy in Indian Country
- A Pebble in the Pond
- One Mom's Battle: Narcissistic Personality Disorder
- Human Trafficking in Indian Country
- Drug Endangered Children in Indian Country: Effects of Meth
- Neurobiology of Trauma

Ongoing:

Our office regularly attends the Nebraska Human Trafficking Task Force meetings to stay informed on trends and finding in and around the reservations.

Our office regularly facilitates/attends the Child Abuse/Child Sexual Abuse Multidisciplinary Team Meetings.

Our office regularly participates in the Nebraska Tribal Coalition Ending Family Violence meetings.

TRIBAL ASSISTANCE AWARDS LIST

Below is a listing of the 2016 U.S. Department of Justice Coordinated Tribal Assistant Solicitation (CTAS) Awards for Nebraska:

FY 2016 Awards

Santee Sioux Nation of Nebraska	Corrections and Correctional Alternatives (BJA)	\$1,000,000
Santee Sioux Nation of Nebraska	Tribal Youth Program (OJJDP)	\$344,395

Santee Sioux Nation of Nebraska \$1,344,395
Total

Winnebago Tribe of Nebraska	Public Safety and Community Policing (COPS)	\$202,501
Winnebago Tribe of Nebraska	Justice Systems and Alcohol and Substance Abuse (BJA)	\$360,707

Winnebago Tribe of Nebraska Total \$563,208

OMAHA TRIBE OF NEBRASKA



The Omaha Tribe originated because of a division within the Sioux nation in the early 1500s. They had lived together near the junction of the Ohio and Wabash Rivers, near present-day Cincinnati, Ohio. Migrating westward with the Quapaw, the Omahas settled at the mouth of the Missouri River on the northern edge of present-day St. Louis, Missouri. The Quapaw traveled further south and located on the western side of the Mississippi.

The Omaha, “those going against the wind or current,” remained near St. Louis until the late 1700s. At this time, they migrated north up the Missouri River to the mouth of the Big Sioux River, near present-day Sioux City, Iowa. From there they followed the Big Sioux to the Rock River and finally stopped near Pipestone, Minnesota. From here the Omaha began a migration back south to the Missouri River staking extended out hunting grounds on the west side of the Missouri River, now known as Nebraska. Their territory extended from near Yankton, South Dakota, south to Rulo, Nebraska, and up to 150 miles west, an area of 35,600,000 acres.

Around 1750, the Omaha encountered the first European fur traders in the Bellevue area. Around 1800, the first of these fur traders married into the Omaha tribe. The Omaha thrived through the 1700s, as they were excellent hunters and good farmers. They always grew good gardens of corn, beans, squash and melons. Buffalo served as their general store, providing food, clothing, blankets, rope, moccasins, fuel, shelter, and utensils.

By 1815, the Omaha became very worried about the dwindling bison food supply and protection from hostile tribes. This led to the first signing of a treaty with the United States government. The tribe is a federally recognized Indian Tribe organized pursuant to Section 16 of the Act of June 18, 1934. (48 Stst. 984), Code 25 U.S.C. 476 et. Seq.; as amended by the Act of June 15, 2013 (49 Stat. 378), a Constitution and By Laws ratified by the members of the Omaha Tribe of Nebraska on February 15, 1936, and approved by the Secretary of the Interior on March 23, 1936, as amended on July 9, 1954, October 2, 1960, December 30, 1981, and August 19, 1986.

The tribe today consists of some 5,000 enrolled members with approximately 3,000 residing on the reservation, which is headquartered at Macy, Nebraska. The reservation covers parts of Thurston and Burt Counties in Nebraska, and a portion of Monona County in Iowa. The headquarters is about sixty miles northward from Omaha and within the limits of their original country.

Demography: Membership as of January 20, 2006

Total Population; Male 2,894 & Female 2,957

Includes on and off reservation. Total 5,861

Total reservation acres includes: Trust and Fee 198,550.00 within the boundaries of the Omaha Indian Reservation, including portions of counties of Burt, Cuming and Wayne

Trust only 29,417.94

Omaha Tribal 12,439.37



HOMELAND

The Ponca Tribe of Nebraska is one of four tribes considered indigenous to Nebraska with the other three tribes: Omaha, Santee Sioux, and Winnebago possessing reservations. Historically, the Ponca are believed to have been part of the Omaha Tribe, having separated by the time Lewis and Clark came upon them in 1804. At that time, they were situated along Ponca Creek, in Knox County, near present-day Verdel. They lived in earth lodges, were primarily horticulturists, but also made seasonal hunting trips. They were on such a trip when Lewis and Clark came upon their village. Although the tribe's exact origin is unknown, some scholars believed the Ponca migrated from an area along the Red River near Lake Winnipeg. However, by the early 1700s, the warring Sioux had forced them to relocate to the west bank of the Missouri River.

SIZE

The Ponca were never a large tribe. The tribe's probable size in 1780 was estimated at 800. By 1804, largely because of smallpox, their numbers dwindled to around 200. By 1829, their population had increased to 600 and by 1842, to about 800. In 1906, the Ponca in Oklahoma numbered 570 and those in Nebraska, 263. The census of 1910 listed 875 Ponca's, including 619 in Oklahoma and 193 in Kansas. By 1937, the Ponca population reached 1,222 with 825 in Oklahoma and 397 in Nebraska. Today, the Ponca Tribe of Nebraska alone numbers slightly over 2,800.

MISSION STATEMENT

Today, the Ponca Tribe is in the process of restoration as is so aptly expressed by its mission statement: *We, the Ponca Tribe of Nebraska, in order to restore all rights previously held by our people and their descendants, promote peace, prosperity, happiness, and the general welfare of the citizens of our Tribe and our posterity: to exercise home rule, to conserve and perpetuate all worthy traditions and cultural elements of our people long established by customs; to improve our social order; to protect our rights as individuals; to promote business enterprise, both cooperative and individual; to promote educational opportunities for all Northern Ponca people; to consolidate our land holdings; and to provide for the inheritance of both real and personal property.*

Currently, the main concerns of the Ponca Tribe are twofold: To provide for the needs of its people, namely, through the programs offered by the Tribe, and To preserve what remains of its culture.

Although lacking any land base, the Tribe does have designated "Service Delivery Area" counties: twelve in Nebraska, one in South Dakota, and two in Iowa. The Tribe also has office sites located in six of these counties: Niobrara, Norfolk, Lincoln, and Omaha, in Nebraska, and Carter Lake and Sioux City office in Iowa.

Niobrara houses three offices—the Tribe's headquarters, a health modular, and the Culture and Enrollment Departments. In addition, the pow wow grounds, a re-stored Community Building, and tribal cemetery are located just a few miles outside of Niobrara. The Community Building is on the list of Nebraska's historical sites.

The Norfolk location houses two sites, a field office and the Northern Ponca Housing Authority. A Tribal Court located at the Norfolk site is also in place to address civil matters.

The Omaha site includes a clinic that is open to all Native Americans.

Other types of services provided by the Tribe include education, health care, and social services.

SANTEE SIOUX TRIBE OF NEBRASKA

Known as the “frontier guardians of the Sioux Nation.”



History:

Known as the “frontier guardians of the Sioux Nation,” which ranges from Minnesota to the northern Rocky Mountains in Montana and south through the northwestern part of Nebraska, the Santee division of the Sioux Nation was called the Dakota and consisted of four bands. In the English language, Dakota translates to mean “allies” or “friends.” The four bands were the Mdewakantonwan, Wahpeton, Sissetonwan and Wahpekute. A woodland tribe, the Santee lived in semi-permanent villages and engaged in agriculture/farming. Hunts were conducted twice a year. Around 1660, French explorers were the first Europeans to encounter the Santee Dakota. Due to forced relocation to the plains, their culture soon resembled that of the nomadic tribes of the west.

The biggest tragedy to befall the Santee was the bloodiest of wars against Indian people in American history, known as the Minnesota Uprising of 1862. Mistrust felt by settlers and the Santee led to isolated outbreaks of violence. An argument between two young Santee men over the courage to steal eggs from a white farmer became a dare to kill. This test of courage killed three white men and two women. Anticipating retaliation by “blue coats,” the federal army, the Santee took the offensive, but were soon forced to surrender under the overpowering attack of the U.S. troops. Because of this short-lived uprising, 38 Santee were mass executed in Mankato, Minnesota in December of 1862. This was the largest mass execution in the history of the United States.

In 1863, Congress abrogated all existing treaties between the Santee and the government. They were exiled to a site in South Dakota called Crow Creek. Over 300 Santee died during the first three months, mostly from disease and malnutrition. Recognizing the unfeasibility of making Crow Creek a permanent reservation site, the government settled the Tribe in northeast Nebraska.

The settlement of the Santee in this region ended their tragic removal from their Minnesota homeland to South Dakota and finally Nebraska in 1866.

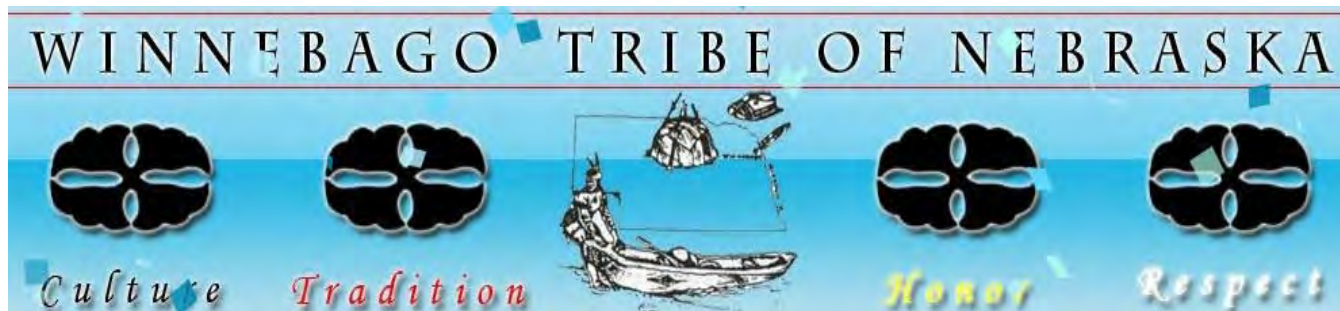
The Santee Normal Training School, established by missionaries in 1870 greatly influenced the development of the tribe during the latter decades of the 19th century. In 1936 the school closed because of insufficient funding.

Today the Santee Sioux Reservation is located in northeast Nebraska along the Missouri River. Bordered on the north side by the Lewis and Clark Lake, it encompasses an area approximately 17 miles long and 13 miles wide.

In spite of removal of their traditional homelands in 1862, the Santee Sioux Tribe continues to strive toward self-determination through economic development and education. The village of Santee has various small businesses with the Santee Hay Cubing Plant and tribal ranch among the tribe’s leading enterprises. The Santee Public School District and the Nebraska Indian Community College provide education.

Constitution and Bylaws:

We, the Santee Sioux Nation, in order to organize for the common welfare for the Nation and its posterity and to insure domestic tranquility, to enjoy certain rights of self-government and self-determination, to conserve and develop our land and natural resources, to protect the nation’s sovereignty, traditional values of respect, generosity, bravery, wisdom, that guide our nation, do ordain and establish this constitution for the general health, safety, welfare and integrity of the nation according to the Act of Congress, dated June 18, 1934 (48 Stat. 984).



MISSION STATEMENT: The Winnebago Tribe of Nebraska, as a sovereign Nation, is committed pursuant to its Constitution, to maintain, improve and protect the Tribe; To preserve its resources and cultural heritage; To create opportunities for its members to thrive and become economically and socially self-sufficient as individuals, families and as a tribal government; and, thereby, promote the harmony of traditional values, beliefs which will ensure a positive course of action for future generations.

THE WINNEBAGO INDIAN RESERVATION: The Winnebago Indian Reservation lies in the northern half of Thurston County in northeastern Nebraska. The largest community on the Reservation is the Village of Winnebago. Located on the eastern side of the Reservation, Winnebago is home to most Winnebago tribal members and accounts for almost thirty percent of the Reservation's resident population. The closest large urban centers are Sioux City, Iowa, about 20 miles north of the Reservation, and Omaha, Nebraska, approximately 80 miles to the south. Reservation land holdings extend to Iowa to the east and are not accessible within the Reservation boundaries. There are approximately 1800 acres situated in Thurston County and in the Woodbury County area of western Iowa.

At present, approximately 2,600 people live on the Reservation. Based on demographic modeling, the Reservation population is expected to increase from its year 1990 level of 2,377 to 5,050 in year 2040, due in large part to the high birth rate and relatively youthful composition of the Native American habitants. Much of the growth will occur in the Village of Winnebago, where it is anticipated that the population will more than double by year 2040. Some population expansion and settlement will occur outside Winnebago but the extent, scope and direction of this development is primarily dependent on accessibility within the reservation area.

Important sectors of employment on the Reservation include health and education services, manufacturing, agriculture, public administration, and retail trade. Relative to statistics for the state of Nebraska and the nation as a whole, unemployment is rather high and household and per capita income is low for Native Americans living on the Reservation. According to 1990 U.S. Bureau of Census figures, unemployment on the Reservation was 20.4 percent overall and 20.4 percent for the Native American population compared to 3.7 percent unemployment statewide and 5.6 percent unemployment nationally. It is estimated that 44 percent of the Native American population on the Reservation lives at or below the poverty level.

The Winnebago Tribe's Trust Lands and holdings in Iowa are approximately 1800 acres at present with plans to extend ownership as development occurs. The Winnevegas Casino and the Convenience Store/Gas Station complex play a significant part in the general economy both in employment and revenue for the tribe.

CULTURAL STATEMENT: A proud heritage, a unique culture, an illustrious history, a distinct language and beautiful music; these are the foundations upon which our lives as Ho-Chungra (Winnebagos) are based.

Without these we have no identity and without identity we are nothing. Therefore it is imperative that we preserve and use these vital elements as the solid foundation to build our future.

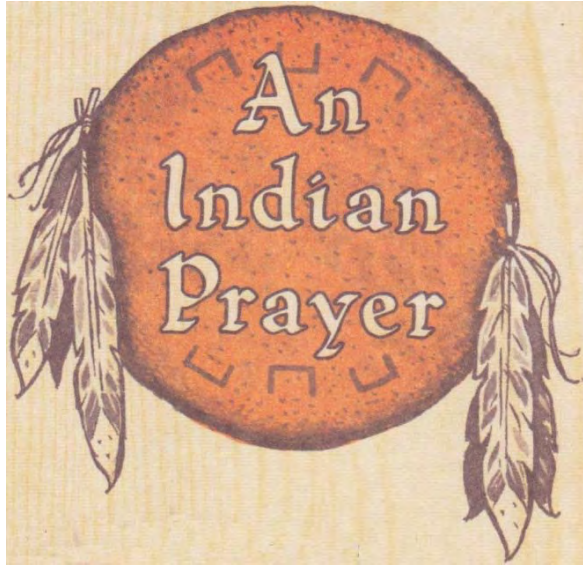
As "Ho-Chunks" (Winnebago) working together nothing can prevent us from achieving our dreams and visions to once again be self-sufficient and economically self-reliant. This is how important our heritage and tradition are to us. Without it our descendants have no hope for a better life as a tribal entity. With it nothing is impossible. A tribal way of life is the best way to live!

When you teach a man to hate and fear his brother, when you teach that he is a lesser man because of his color or his beliefs or the policies he pursues, when you teach that those who differ from you threaten your freedom or your job or your family, then you also learn to confront others not as fellow citizens but as enemies.

We must admit the vanity of our false distinctions among men and learn to find our own advancement in the search for the advancement of all. We must admit in ourselves that our own children's future cannot be built on the misfortunes of others. We must recognize that this short life can neither be ennobled nor enriched by hatred or revenge.

Robert F. Kennedy





O' GREAT SPIRIT,
*Whose voice I hear in the winds,
And whose breath gives life to all the world, hear me! I
am small and weak, I need your strength and wisdom.*

LET ME WALK IN BEAUTY, and make my eyes ever behold the
red and purple sunset.

MAKE MY HANDS respect the things you have made and my ears
sharp to hear your voice.

MAKE ME WISE SO that I may understand the things you have
taught my people.

LET ME LEARN the lessons you have hidden in every leaf and
rock.

I SEEK STRENGTH, not to be greater than my brother, but to fight
my greatest enemy – myself.

MAKE ME ALWAYS READY to come to you with clean hands
and straight eyes.

SO WHEN LIFE FADES, *as the fading sunset, my spirit may
come to you without shame.*

Courtesy of Red Cloud Indian School, Pine Ridge, South Dakota