

UNITED STATES ATTORNEY'S OFFICE District of Nebraska

2014 INDIAN COUNTRY ANNUAL REPORT



*Honoring Clans -- Winnebago Reservation
Photo courtesy of The Nebraska Tourism Commission*

DEBORAH R. GILG
UNITED STATES ATTORNEY



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MESSAGE FROM THE UNITED STATES ATTORNEY

I am pleased to present the 2014 Indian Country Annual Report for the District of Nebraska.

Throughout 2014, 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, Doug Semisch, our Tribal Special Assistant United States Attorney, Jill Finken, and our victim-witness advocate, Erin Aliano, traveled monthly to the Multi-Disciplinary Team meetings and reviewed cases with tribal prosecutors, tribal law enforcement and social services. In late 2014, Assistant United States Attorney, Mike Norris, became the new Tribal Liaison and T.J. O'Neill replaced Jill Finken as the Tribal Special Assistant United States Attorney. 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.

In September, 2014, I travelled to the Navajo reservation by Flagstaff, Arizona, as a member of Attorney General Holder's Native American Issues subcommittee. We were hosted at the beautiful Twin Rivers Casino and Resort owned and operated by the Tribe. Assistant Attorney General Tony West, a dedicated supporter of Native American issues, was a keynote speaker and I was able to visit with him about the success of the Special Tribal Prosecutor Pilot Project and the importance of a continuation of this position beyond the expiration of the grant.

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. Success was obtained this past year when Federal District Judge Richard Kopf issued a well-reasoned opinion determining that the Omaha Tribe's boundary had not been diminished and included the Village of Pender, Nebraska. Judge Kopf's opinion was confirmed by the 8th Circuit Court of Appeals.

For those of you that are interested in the general 2014 Annual Report of the United States Attorney Office, the link is: <http://www.justice.gov/usao-ne/publications>.

A partial list of the Indian Country cases that our office handled in 2014 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 2015 travels in Indian Country.

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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 November 20, 2014 Thomas J. O'Neill, III was appointed as the new Tribal Assistant U.S. Attorney. Mr. O'Neill is dedicated exclusively to Indian Country cases and works in coordination with the tribal police, B.I.A., and F.B.I. to ensure cases are prepared and prosecuted appropriately on both the Tribal and Federal levels. The new Tribal SAUSA has picked up where his predecessor left off, maintaining an active violence against women caseload. He spends approximately 60% of his time on all three Indian Reservations, and regularly appears in the Omaha and Winnebago Tribal

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Courts. He is authorized to practice in federal district court and the Santee Tribal Court. Due in large part to the Pilot Project, the instances of severe domestic violence has reportedly decreased throughout 2014.

Since his hiring in November 2014, the new Tribal SAUSA has attended numerous seminars and trainings in order to better prepare himself to operate effectively on the reservations, including the following: Darkness to Light, for the prevention of child abuse; Human Trafficking in Indian Country; and the National Institute for the Prosecution of Domestic Violence in Indian Country. He will attend further trainings and continues to use that knowledge to help the various reservations. He attends monthly MDT meetings on each reservation, along with Victim Witness Specialist Erin Aliano and the Tribal Liaison AUSA Michael Norris. In addition to the funding of the SAUSA position, there are training funds available to address domestic violence and child abuse issues in Indian Country. The Tribal SAUSA will collaborate with the LECC and the Victim Witness Specialist in putting on future trainings.

TRIBAL SPECIAL ASSISTANT U.S. ATTORNEY TRAINING ATTENDED IN 2014 AND PROVIDED UNDER THE PILOT PROJECT

- January 2014: Child Abuse and Maltreatment Conference (San Diego, CA)
- March 2014: Tribal Liaison, Tribal SAUSA and Indian Country AUSA Training (NAC)
Drug Endangered Children (NAC)
Investigation and Prosecution of SA and DV in Indian Country (NAC)
- November 2014: Domestic Violence 101 (Santee Sioux)

Conferences and Training Organized/Funded by the OWW Grant:

- a. October 2013: (FY 14) This conference funded by the grant took place in coordination and collaboration with Project Harmony of Omaha, Nebraska. The conference entitled "Protect Our Children," included phenomenal plenary presentations and break-out sessions for Law Enforcement, Prosecutors, CPS Workers, Medical Providers, Victim Advocates and Treatment & Prevention Providers. Special focus of the conference centered on Abusive Head Trauma Investigations and Commercial Sexual Exploitation of Children. Additionally, the conference included segments featuring professionals who investigated the Jaycee Lee Dugard case and from Aaron Fischer- Victim #1 of the Sandusky case.
- b. July 2014: Indian Country Conference funded by the grant. Approximately 120 individuals attended this conference. This conference was regional in nature included attendees from the Districts of Kansas, Iowa and Nebraska. The training addressed Domestic Violence and Sexual Assault in Indian Country and featured speakers from all over, including many Native American Speakers.
- c. July and August of 2014: Another conference funded by the grant took place in coordination and collaboration with Project Harmony of Omaha, Nebraska. Specifically, an MDT Conference and Training was held at each of the three reservations in order to improve the conduct and case processing of the MDT meetings on the reservations.

Training Provided Under the Pilot Project:

- July 2014: Drug Endangered Children to Santee Sioux Nation

**DISTRICT OF NEBRASKA
INDIAN COUNTRY OPERATIONAL PLAN
FOR LAW ENFORCEMENT ON THE
OMAHA, SANTEE SIOUX AND WINNEBAGO RESERVATIONS
Revised Effective December 18, 2014**

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/witness advocate work closely with the directors of these shelters to learn about DV cases and to prosecute the same. The victim/witness 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 prosecutive 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 1 B-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 dependant 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/Witness 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/Witness coordinator to ensure that there is a smooth transition between the FBI victim specialist and the USAO Victim/Witness 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/Witness Coordinator informed of the progress of the investigation. When the case is indicted, the FBI specialist will work with the USAO Victim/Witness Coordinator and the victim to transition the victim into the prosecution phase.

B. USAO Victim/Witness Coordinator for Indian Country

The USAO Victim/Witness 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/witness 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/witness 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. 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 witnesses and 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, will continue to serve as a liaison between the AUSAs doing Indian Country prosecutions, the BIA and FBI, and tribal law enforcement. In addition, the LECC Unit will continue to work to find ways to improve the working relationship between the Thurston County Sheriff's Department and the Omaha and Winnebago law enforcement units.

The LECC Unit will continue to host trainings and conferences at various venues throughout the District of Nebraska. The LECC will ensure that these trainings include topics relevant to current issues in Indian Country, domestic abuse, sexual abuse including sexual abuse of children, violence against women, and victim issues. The LECC Coordinator and the Victim/Witness Coordinator will be responsible for providing notice of these trainings and conferences to the Tribal Chairs, Tribal law enforcement chiefs, and tribal service providers. Reasonable efforts will be made to ensure tribal law enforcement personnel have ample opportunity to attend these trainings and conferences. When possible, tuition costs for tribal law enforcement will be reduced or eliminated. In addition to the standard trainings and conferences held by the LECC as noted above, when requested, the LECC, with the assistance of the designated Tribal Liaison AUSA or the SAUSA, will design and hold informal training sessions at either the USAO's facilities or at the law enforcement headquarters of any tribal

law enforcement entity. Initially, training will be developed to satisfy requests from tribal prosecutors from the Winnebago and Omaha Tribes for training for officers concerning report writing, questioning of juveniles, understanding addictions and addictive behaviors, and testifying. Additional training will be developed on an as needed basis if not already covered by other training sponsored by the LECC Unit for all law enforcement officers.

The LECC Unit will continue to offer tribal law enforcement officers a myriad of training currently being offered to other law enforcement officers in the District. Through recent meetings with the tribal councils of the Winnebago, Omaha and Santee Sioux it was expressed that tribal law enforcement officers receive training specific to report writing and case preparation. The LECC will continue to provide such training and further encourage the tribal police to attend the basic certification course for sworn law enforcement officers through the Nebraska Law Enforcement training Center in Grand Island, Nebraska. This 15 week training course is open to all tribal law enforcement officers. In lieu of this training, Nebraska recognizes the BIA certification of tribal law enforcement officers through the Federal Law Enforcement Training Center. The LECC and/or the tribal liaison will notify tribal and federal investigators of any training opportunities available at the National Advocacy Center.

The USAO victim specialists will continue to work with the Districts of Kansas and the Northern District of Iowa in providing collaborative training which addresses specific concerns and needs in Indian Country for victim service providers.

AUSAs assigned to Indian Country prosecutions will be encouraged to seek CLE programs relating to domestic violence, violence against women, and sexual assaults. These programs are available through annual Protect Our Children, LECC and various tribal conferences.

The LECC coordinator and the Victim/Witness Coordinator will continue to work directly with tribal representatives to provide assistance on the Collaborative Tribal Assistance Solicitation relating to available grant funds. The coordinators will keep the tribes apprised of the solicitation deadlines and will 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 will meet at least annually with the Omaha, Winnebago, Santee Sioux and Ponca Tribal Councils. Presently these meetings are being held on a quarterly basis. 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/Witness 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 will continue to be held on each of the reservations. Meetings will be held 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.

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. The SAUSA's presence on the reservations will continue as indicated through FY 2014, and DV cases will continue to receive high priority.

Since the appointment of the Tribal SAUSA, numerous community education events have been held addressing violence against women. Specifically, the USAO hosted a regional Indian Country Conference in May of 2013 that specifically addressed the Investigation and Prosecution of Violence Against Women in Indian Country. Scholarships were awarded to individuals who provided services in Indian Country. In October of 2013, the USAO co-sponsored the Protect our Children conference in coordination with Project Harmony out of Omaha. This conference focused on the investigation and prosecution of child abuse crimes. Individuals working in Indian Country or with Indian victims were awarded scholarships in order to secure maximum participation from those individuals providing services in Indian Country. Additionally, in October of 2013, Violence Against Women Act community training was provided on all three reservations in Nebraska. Comparable trainings will be offered throughout FY 2014.

In addition to the foregoing, the USAO intends to modify the work plan of the assigned AUSA tribal liaison to allow the AUSA to perform many of the functions suggested in the April 9, 2010 memo of Director H. Marshall Jarrett regarding Indian Country Law Enforcement Initiative District Operational Plans. As part of his expanded duties, the AUSA Tribal Liaison will schedule 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 will be 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.

For 2014, the USAO will have one AUSA designated as the tribal liaison for each of the three reservations in Nebraska. The assigned AUSA for 2015 is Michael P. Norris.

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 of 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/witness coordinator.

The Santee Sioux Tribe has a crisis response team dedicated to domestic violence issues. The USAO victim/witness 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. In addition 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. In addition the Santee Sioux Tribe has recently acquired 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. The parties are currently working on a new agreement. 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. There is no cross deputization agreement with the Thurston County Sheriff's Department and none is anticipated. 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.

D. LECC Assistance with Cross Deputization

It is noted that one aspect of the cross deputization agreements concerns the required federal or state certifications that tribal or state law enforcement must have in order to be eligible for cross deputization. This includes the Federal Law Enforcement Training Center or equivalent for tribal officers and the "in lieu of training" from the BIA for state officers or the "in lieu of training" from the Nebraska Law Enforcement Training Center for tribal officers. The USAO's LECC unit will devise programs, with the assistance of federal and

state authorities, to assist officers in obtaining the necessary training and certifications. In this respect, a primary goal for the USAO will be to host a Special Law Enforcement Commission Training for tribal and local law enforcement in Nebraska.

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 Eric Holder's Tribal Nations Leadership Council

The TNLC is composed of tribal leaders selected by tribal governments to advise Justice Department leadership on an ongoing basis, and is the fulfillment of a pledge made by Attorney General Holder at the department's Tribal Nations Listening Session in October 2009. The TNLC is composed of one tribal leader from each of the twelve regions of the Bureau of Indian Affairs:*

Alaska Region:

Michael J. Stickman
First Chief
Nulato Village

Eastern Region:

Lynn Malerba
Chief
The Mohegan Tribe of Indians of Connecticut

Eastern Oklahoma Region:

Ron Sparkman
Chairman
Shawnee Tribe
Mountain Reservation

Great Plains Region:

Bryan Brewer
President
Oglala Sioux Tribe
Community

Midwest Region:

Melanie Benjamin
Chief Executive
Mille Lacs Band of Ojibwe Indians
Indians

Navajo Region:

Ben Shelly
President
Navajo Nation

Rocky Mountain Region:

Merlin Sioux
Council Member
Northern Cheyenne Tribe

Southern Plains Region:

John Barrett, Jr.
Chairman
Citizen Potawatomi Nation

Southwest Region:

Gary Hayes
Council Member
Ute Mountain Tribe of the Ute

Western Region:

Diane Enos
President
Salt River Pima-Maricopa Indian

Pacific Region:

Juana Majel Dixon
Councilwoman
Pauma-Yuima Band of Mission

Northwest Region

W. Ron Allen
Tribal Chairman/Executive Director
Jamestown S'Klallam Tribe

* www.justice.gov/opa/blog

District of Nebraska Tribal Council Members

Winnebago Tribe of Nebraska - Tribal Council:

John Blackhawk, Chairman
Darwin Snyder, Vice-Chairman
Louis C. Houghton, Jr., Secretary
Darla LaPointe, Treasurer
Larry Payer, Member
Travis Mallory, Member
Charles Aldrich, Member
Thomas Snowball, Member
Morgan Earth, 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
Roberta Redwing, 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:

Clifford Wolfe, Jr., Chairman
Doran Morris, Jr., Vice-Chairman
Gwen V. Porter, Secretary
Tillie Aldridge, Treasurer
Jeffrey S. Miller, Member
Vernon Miller, Member
Adriana Saunsoci, Member

District of Nebraska Tribal Liaison Coordinator

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Cell: 402-707-0184
E-mail: michael.norris@usdoj.gov

Tribal Special Assistant U.S. Attorney

Thomas J. O'Neill, III
Special Assistant U.S. Attorney
Cell: 402-922-3664
Omaha Office: 402-661-3765
Tribal Office: 402-878-2192
E-mail: thomas.oneill@usdoj.gov

District of Nebraska Tribal Police Chiefs

Omaha Tribe of Nebraska
Chief Ed Tyndall
Macy Police Department
P.O. Box 368
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

Violence Against Women Tribal Special Assistant United States Attorney Pilot Project

By: Michael P. Norris, Assistant U. S. Attorney

Our Violence Against Women Tribal Special Assistant United States Attorney Pilot Project program has completed its second year. This Pilot Project was for the hiring and use of a Special Assistant United States Attorney (SAUSA) to address domestic violence in Indian Country. Particularly, our Pilot Project addresses domestic and family violence to include the physical and sexual assaults of women and children occurring on the Winnebago, Omaha and Santee Sioux Indian Reservations in Nebraska.

The pilot program facilitates two of the major goals of our office. The first goal is to coordinate more effectively among the tribes, local, state and federal investigators and prosecutors to establish better working relationships between the federal prosecutors and the tribal communities. The second goal is to more effectively discern the types of cases that should be brought in federal court and to provide training and improve the quality of investigations so that the cases may effectively be brought in both tribal and federal court.

The United States Attorney's Office continues to work closely with the F.B.I., B.I.A., tribal police and tribal prosecutors. Communication is fostered through the use of Multi-Disciplinary Teams and conversations between the tribal liaison, the tribal prosecutors and law enforcement. The Tribal SAUSA plays an integral part in this procedure. The Tribal SAUSA can work cases in each of the tribal courts. The Tribal SAUSA frequently meets with the police chiefs and regularly meets with the tribal prosecutors. He assists in determining which cases are best forwarded for federal prosecution. The presence of the Tribal SAUSA is of great assistance in bridging the gap between the tribe, the F.B.I., and the United States Attorney's Office. He remains integral in determining what, if any, steps need to be taken in the investigation prior to a referral for federal or tribal charges. Participation by the Tribal SAUSA in the monthly Multi-Disciplinary Team meetings keeps the United States Attorney's Office apprised of ongoing investigations and assists in the referral of offenders for more serious charges. Through effective coordination the essential relationship between the tribal investigations, tribal and federal law enforcement, tribal prosecutors and the United States Attorney's Office is achieved.

Habitual domestic violent offenders or those who would otherwise prey upon children are treated in a more severe venue. For instance, a habitual domestic offender will likely receive a recommended sentence of approximately 24 months in federal court. This sentence would be served without parole and would include a three-year term of supervised release after the offender is released from prison. That is significantly more than can be achieved at the tribal level where offenses are misdemeanors.

During the year 2014, the United States indicted a total of eight individuals as Habitual Domestic Offenders. A Habitual Domestic Offender is an individual who commits a domestic assault after having accrued a final conviction for domestic violence on at least two prior occasions in federal, state or tribal court. In addition to prosecuting Habitual

Offenders, our Pilot Program authorizes our Tribal SAUSA to bring domestic assault charges in tribal court. Tribal charges address the issue locally and build the predicates for those offenders who are on their way to habitual status.

During the year 2014, there were a total of six Habitual Domestic Offenders sentenced in federal court in the District of Nebraska. The advisory sentencing guidelines frequently recommended sentences of 2 to 2 ½ years for these offenders. The sentences in 2014 ranged from no jail time imposed to a sentence of 33 months. The average term of supervised release imposed was three years.

Our office prosecutes offenders who physically and sexually exploit children on the reservations under Project Safe Childhood. The Tribal SAUSA assists in this endeavor by identifying cases that can be prosecuted in federal court that are being investigated by tribal law enforcement or prosecuted in tribal court. Cases are then referred for consideration of federal prosecution. This report includes two examples of Indian Country cases brought under Project Safe Childhood in 2014.

Robert Dion Webster was sentenced on March 13, 2014 to 30 years of imprisonment for sexual abuse of a child. A prior sexual assault conviction required the imposition of a mandatory minimum sentence. The case involved a delayed reporting of sexual abuse of a child in the household.

Mark Grant was sentenced to eight years imprisonment and three years of supervised release following his conviction for child abuse resulting in death of a fourteen-month old child. Grant, an enrolled member of the Omaha Tribe of Nebraska, resided with his girlfriend and her 14 month old son on the Winnebago Indian Reservation. On September 10, 2013, Grant took the infant to the Indian Health Services Hospital in Winnebago. The child was later life-flighted to Children's Hospital in Omaha where he eventually died. The child's injuries were classified as abusive head trauma, and Grant admitted shaking the infant.

It is hoped that cases facilitated by our Pilot Project will help to reduce the overall incidents of violent crime in Indian Country and will, at a minimum, remove violent offenders from reservations. Through our Tribal SAUSA Pilot Project we are improving communication and, in the process, identifying more federal cases to stem the tide of violent offenders. Our goal is to make the reservations safe from those who would exploit children and women.

Other significant Indian Country Cases:

Travis Gilpin was sentenced to 30 months' imprisonment and three years of supervised release following his conviction for assault resulting in serious bodily injuries. Gilpin, an enrolled member of the Santee Sioux Tribe of Nebraska, got into an argument with another male at his residence on the Santee Indian Reservation and went to his room to retrieve a small sword from his closet. A female in the residence tried to stop Gilpin, but was struck on her hand as Gilpin was swinging the sword. The victim sustained severe injuries.

Continued on page 26

Verlyn Grant was sentenced to 57 months imprisonment and three years of supervised release following his conviction of two counts of assault with a dangerous weapon. Grant was drinking at his residence on the Omaha Indian Reservation when he became angry with his girlfriend. Grant threw his girlfriend to the ground and began punching her and kicking her with his steel toed boots. A second woman attempted to stop Grant by getting on top of Grant's girlfriend as she lay on the floor. She was kicked as well. Both women sustained bodily injuries.

Milton LaRose was sentenced to time served (seven months) and six months at a residential reentry center following his conviction for assault on a federal officer. Larose was encountered by a BIA officer on the Winnebago Indian Reservation following a report of a disturbance. When the officer attempted to arrest LaRose he pushed the officer away and punched him in the face.



2014 TRAINING FOR INDIAN COUNTRY

The 2014 Indian Country Conference was hosted this year on the Prairie Band Potawatomi Reservation in Kansas. It was again sponsored by the three U.S. Attorney's Offices of Kansas, Nebraska and the Northern District of Iowa. Co-sponsors this year were Tribal Victim Services Program-Prairie Band Potawatomi Nation, Kansas Law Enforcement Training Center, and Wichita State University-Midwest Criminal Justice Institute.



Opening Speakers at Indian Country Conference
Alfred Urbina; Cordelia Clapp, RN BSN; Joyce Guermo; Robert C. Stuart, First Assistant U.S. Attorney, District of Nebraska; and Thomas Beall, First Assistant U.S. Attorney, District of Kansas

Approximately 120 people attended the conference. Attendees represented a wide variety of professions, including Victim Advocates, Victim Witness Coordinators, Law Enforcement (Federal, State, and Local), Prosecutors (Federal and Local), Probation/Parole Officers, Educators, and Therapists.

A variety of topics were presented throughout the conference, including updates on tribal laws and initiatives; domestic violence; strangulation; sexual assault and stalking.

- Cultural Sharing Indian World View – Cordelia Clapp, RN, BSN
- Sexual Assault Forensic Examinations, Support, Training, Access and Resources – (SAFESTAR) Program
- Elder Project & Code – Thelma Whitewater
- Healing thru Art - Tribal Victim Services Program- Prairie Band Potawatomi Nation
- Negotiating Vicarious Trauma and Comprehensive Sexual Assault Services – Jessica Haymaker
- Indian Country Drug Endangered Children – Lori Moriarty
- Collaboration – Working Together – Victim Service Providers and Law Enforcement – Daniel Goombi
- Recognizing Strangulation – Erin Aliano, Victim Witness Coordinator District of Nebraska
- Darkness to Light’s Stewards of Children– Erin Aliano, Victim Witness Coordinator District of Nebraska



“D Goombi Mixer”

In partnership with Project Harmony, the metro area's Child Advocacy Center, Erin Aliano from the United States Attorney's Office was trained as a facilitator in Darkness to Light Stewards of Children. This program is the only evidence-based child sexual abuse prevention training proven effective in educating adults to prevent, recognize, and react responsibly to child sexual abuse.

The program was presented on the Sac and Fox Reservation straddling Nebraska and Kansas and various tribes attending the 2014 Indian Country Conference reaching over 80 adults and training them to recognize the signs of abuse as well as situations which create the potential for abuse to occur.

If you are interested in learning more about how to bring the presentation to citizens in your area please contact Erin Aliano at 402-661-3700.



Additional Trainings:

- The U.S. Attorney's Office coordinated with the Winnebago Tribe and Winnebago Public Schools to bring the group RESPECT to Winnebago. RESPECT programs consist of educational theatre presentations paired with panel or group discussions led by community professionals and actor-educators.
- The U.S. Attorney's Office coordinated with the Santee Dakota Tiwahe Service Unit and the Nebraska State Patrol to provide an all-day training for Law Enforcement and Prosecution on working with Native American Victims of Domestic Violence and Responding to Domestic Violence calls for service.
- The U.S. Attorney's Office coordinated with the three tribal Multi-disciplinary Child Abuse Teams to receive "Child Abuse and Neglect 201: Collaboration in Child Abuse Investigations". The purpose of this training is to promote collaborative decision-making among professionals responsible for investigating child abuse and neglect. Project Harmony's theatrical mock apartment is utilized in this training. Participants will be able to:
 - Describe the roles and responsibilities of child protective services, law enforcement, and child advocacy centers in protecting children
 - Make decisions about child safety
 - Create a plan that addresses safety and risk factors evident in the family

Each of the tribes has their own website with historical information regarding their tribe. We encourage you to visit their websites and learn about their culture and tradition.

The Winnebago Tribe of Nebraska – www.winnebagoTribe.com

Omaha Tribe – www.omaha-nsn.gov

Santee Sioux Nation – www.santeedakota.org

Ponca Tribe of Nebraska – www.poncatribene.org



Erin Aliano
Victim Witness Specialist

<p>TRIBAL ASSISTANCE AWARDS LIST</p>

Below is a listing of the 2014 U.S. Department of Justice Coordinated Tribal Assistant Solicitation Awards for Nebraska:

Legal Aid of Nebraska	Violence Against Women Tribal Governments Program (OVW)	\$ 765,183
Omaha Tribe of Nebraska	Justice Systems, and Alcohol and Substance Abuse (BJA)	\$ 294,695
	Violence Against Women Tribal Governments Program (OVW)	\$ 450,000
	Total:	\$ 744,695
Ponca Tribe of Nebraska	Violence Against Women Tribal Governments Program (OVW)	\$ 450,000
Winnebago Tribe of Nebraska	Corrections and Correctional Alternatives (BJA)	\$ 999,745
	Children's Justice Act Partnerships For Indian Communities (OVC)	\$ 444,096
	Total:	\$3,403,719

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, 20135 (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, Wahepeton, 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.

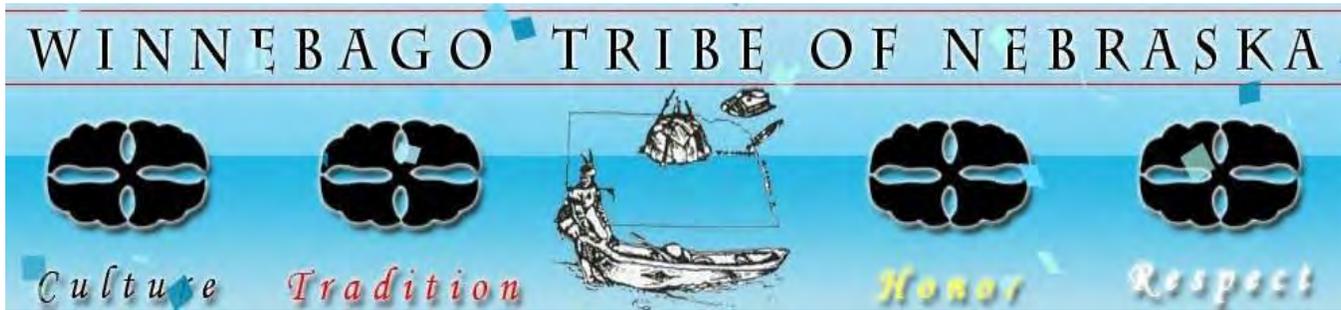
The Santee Normal Training School, established by missionaries in 1870 greatly influenced the development of the tribe during the latter decades of the 19th century. In 1936 the school closed because of insufficient funding.

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.

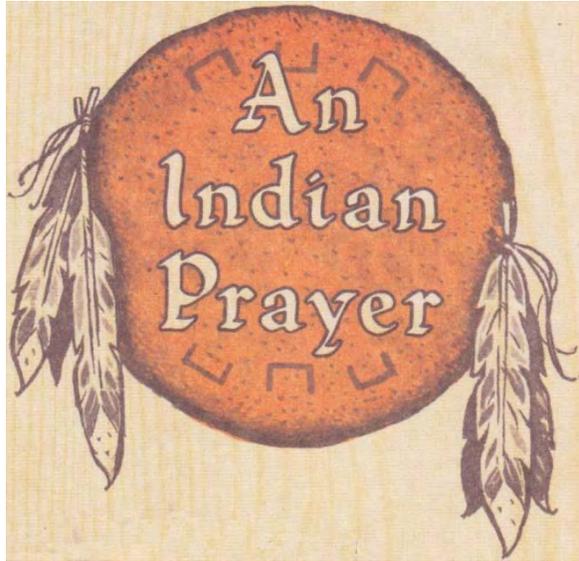
Important sectors of employment on the Reservation include health and education services, manufacturing, agriculture, public administration, and retail trade. Relative to statistics for the state of Nebraska and the nation as a whole, unemployment is rather high and household and per capita income is 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 (Winnebagoes) 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!



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