



U.S. Department of Justice

Indian Country Investigations and Prosecutions

2016

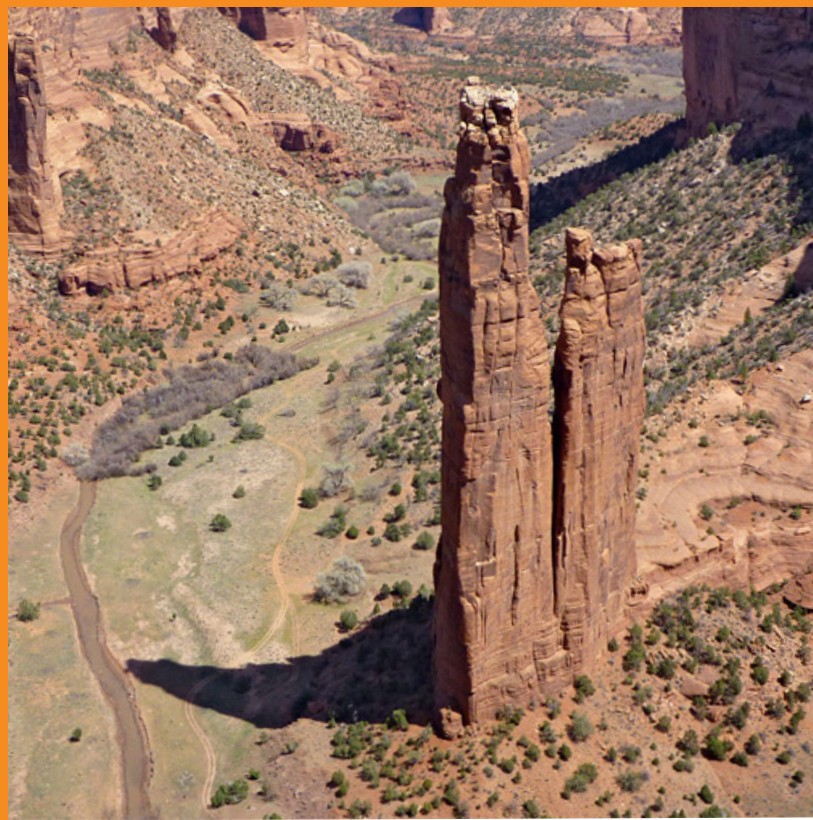


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Cover Photographs

Clockwise starting from the Top of Front Cover:

1. Mission San Xavier del Bac, San Xavier district, Tohono O'odham Nation, Arizona
2. White House Ruins in the Canyon de Chelly National Monument , Navajo Nation, Arizona
3. Canyon de Chelly National Monument, Navajo Nation, Arizona

Executive Summary

The Department of Justice presents this report to Congress on Indian country¹ investigations and prosecutions during calendar year (CY) 2016, as required by Section 212 of the Tribal Law and Order Act (TLOA), which was signed into law by the President on July 29, 2010. In 2009, the Department engaged in an initiative to improve public safety for American Indians and Alaska Natives, to undertake reforms to institutionalize the Federal commitment to public safety for tribal nations, and to bolster the capacity of tribal justice systems to protect their communities and pursue justice.

The Tribal Liaison Program continues to be one of the most important components of the Department's efforts in Indian country. This program was established by the Executive Office for U.S. Attorneys (EOUSA) in 1995 and was codified as part of TLOA in 2010. It requires that the United States Attorney for each district with Indian country appoint at least one Assistant United States Attorney (AUSA) to serve as a Tribal Liaison for that district. Tribal Liaisons serve as the driving force for the Department in negotiating the cultural and legal issues in Indian country. They foster and facilitate relationships between Federal and tribal partners that are vital in reducing violence in tribal communities. As part of their duties, Tribal Liaisons develop multi-disciplinary teams to combat domestic and sexual abuse, conduct community outreach in tribal communities, and coordinate the prosecution of Federal crimes that occur in Indian country.

Section 212 of TLOA requires the Attorney General to submit an annual report to Congress detailing investigative efforts by the Federal Bureau of Investigation (FBI) and dispositions of matters received by United States Attorney's Offices (USAOs) with Indian country responsibility. The data presented in this report covers only those offenses reported to the FBI and Federal prosecutors. The majority of criminal offenses committed, investigated, and prosecuted in tribal communities are adjudicated in tribal justice systems. In many parts of Indian country, tribal law enforcement and tribal courts hold criminals accountable, protect victims, provide youth prevention and intervention programs, and confront precursors to crime such as alcohol and substance abuse. These efforts are often in partnership with Federal agencies or accomplished with support from Federal programs and Federal grant dollars.

To satisfy the TLOA Section 212 reporting requirements for CY 2016, the FBI and EOUSA have compiled four types of case-specific declination information:

- The type of crime(s) alleged;
- The status of the accused as Indian or non-Indian;
- The status of the victim as Indian or non-Indian; and

¹ "Indian country" is the legal term used to describe reservations and other lands set aside for Indian use, such as Indian allotments, and lands held in trust for Indians or Indian tribes. 18 U.S.C. § 1151.

- The reason for deciding against referring the investigation for prosecution (FBI) or the reason for deciding to decline or terminate the prosecution (USAOs).

As discussed in the report, certain limitations in the data make it difficult to draw broad conclusions based on this information. The data nevertheless provide a useful snapshot of the Department's current law enforcement and prosecution work in Indian country. It is our hope that this report will provide helpful context as Congress and the Department work together with the tribes to improve public safety in Indian country in future years.

Despite the data limitations, certain basic facts are clear:

- **FBI's CY 2016 statistics (1,960 total) show a three percent increase in total closed investigations compared to FBI's CY 2015 statistics (1,900 total).**
- **Approximately 65 percent of Indian country criminal investigations opened by the FBI were referred for prosecution.**
- **The majority of Indian country criminal matters resolved² by the USAOs in CY 2016 were prosecuted (charges filed in either District or Magistrate Court).**
- **Of the 680 Indian country investigations that the FBI closed administratively without referral for prosecution, the primary reason for closing (approximately 20 percent) was insufficient evidence to determine that a crime had occurred.** In addition, analysis of CY 2016 data indicates that 19 percent of investigations closed administratively were closed due to unsupported allegations, meaning no evidence of criminal activity was uncovered during the investigations. Another reason for non-referral (18 percent) was that the deaths under investigations were determined to be the result of natural causes, accident, or suicide (*i.e.*, non-homicides).
- **Eighty-two percent (120 out of 147) of the death investigations that were closed administratively by the FBI in CY 2016 were closed due to causes other than homicide, *i.e.*, accidents, suicide, or death due to natural causes.**
- **In CY 2016, the USAOs resolved 2,666 Indian country matters, which is a one-half percent increase from CY 2015's Indian country matters resolved (2,655).**
- **The USAO declination rate remained relatively steady.** USAO data shows that, in CY 2016, 34 percent (903) of all (2,666) Indian country matters resolved were declined. USAOs declined cases at similar rates in prior years: approximately 39 percent (1043) of all Indian country matters resolved (2,655) in CY 2015; approximately 34 percent (989) of all Indian country matters resolved (2,866) in CY 2014; approximately 34 percent (853) of all Indian country matters resolved (2,514)

² "Indian country matters resolved" is the total of Indian country suspects in immediate declinations, suspects in matters terminated (which includes all later declinations), and defendants filed.

in CY 2013; approximately 31 percent (965) of all Indian country matters resolved (3,097) in CY 2012; and approximately 38 percent (1042) of all Indian country matters resolved (2,767) in CY 2011.

- **The most common reason for declination by USAOs was insufficient evidence (68 percent in CY 2016, 71.7 percent in CY 2015, 59.6 percent in CY 2014, 55.6 percent in CY 2013, and 52 percent in CY 2012).** The next most common reason for declination by USAOs was referral to another prosecuting authority (**16.4 percent in CY 2016, 13.8 percent in CY 2015, 16.3 percent in CY 2014, 20.8 percent in CY 2013, and 24 percent in CY 2012).**

The 2009 Senate report accompanying TLOA acknowledged, “Declination statistics alone do not show the Department’s commitment to combating reservation crime. In fact, they likely reflect difficulties caused by the justice system in place” including the “lack of police on the ground in Indian country” and “shortfalls for training, forensics equipment, [and] personnel.” The Department agrees that declination rates are not a useful way to measure justice or success. It is the Department’s position that prioritization of initiatives in Indian country, including the effort to build capacity in tribal courts, will eventually lead to enhanced public safety for Native Americans.

I. Tribal Law and Order Act of 2010 Background

The Tribal Law and Order Act of 2010 (TLOA) established accountability measures for certain Federal agencies responsible for investigating and prosecuting crime occurring in Indian country. To that end, Section 212 of TLOA requires the Attorney General to submit annual reports to Congress detailing investigative efforts and prosecutorial disposition reports.

The FBI is required to report “by Field Division, information regarding decisions not to refer to an appropriate prosecuting authority cases in which investigations had been opened into an alleged crime in Indian country.” The USAOs are to submit to the Native American Issues Coordinator at EOUSA information by Federal judicial district regarding “all declinations of alleged violations of Federal criminal law that occurred in Indian country that were referred for prosecution by law enforcement agencies.” The FBI and the USAOs’ reporting obligations are as follows:

- A. The type of crime(s) alleged;
- B. The status of the accused as Indian or non-Indian;
- C. The status of the victim as Indian or non-Indian; and
- D. The reason for deciding against referring the investigation for prosecution (FBI) or the reason for deciding to decline or terminate the prosecution (USAOs).

The information the FBI is required to report under TLOA is substantively different from the information reported by the USAOs. Most importantly, the FBI is responsible for *investigating* allegations of Federal crimes in Indian country, while the USAOs are responsible for *prosecuting* such crimes. The FBI's data contains criminal matters not referred to USAOs, and EOUSA's data accounts for cases referred by various investigative agencies, only one of which is the FBI. As a result, direct comparisons of FBI and EOUSA numbers are not possible.

II. Federal Criminal Responsibilities in Indian Country

The two main Federal statutes governing Federal criminal jurisdiction in Indian country are the General Crimes Act, 18 U.S.C. § 1152, and the Major Crimes Act, 18 U.S.C. § 1153. Section 1153 gives the Federal government jurisdiction to prosecute certain enumerated offenses, such as murder, manslaughter, rape, aggravated assault, and child sexual abuse, when Indians in Indian country commit them. Section 1152 gives the Federal government exclusive jurisdiction to prosecute all crimes committed by non-Indians against Indian victims in Indian country. Section 1152 also grants the Federal government jurisdiction to prosecute crimes by Indians against non-Indians, although that jurisdiction is shared with tribes, and provides that the Federal government may not prosecute an Indian who has been punished by the tribe.

To protect tribal sovereignty, Section 1152 specifically excludes minor crimes between Indians, which exclusively fall under tribal jurisdiction. The Federal government also has jurisdiction to prosecute Federal crimes of general application, such as drug and financial crimes, when they occur in Indian country unless a specific treaty or statutory provision provides otherwise. On a limited number of reservations, the Federal government ceded Federal criminal responsibilities under Sections 1152 and 1153 to the states pursuant to Public Law (P.L.) 280 or other Federal laws.³

The United States Constitution, treaties, Federal statutes, executive orders, and court decisions establish and define the unique legal and political relationship that exists between the United States and Indian tribes. The FBI and the USAOs are two of many Federal law enforcement agencies with responsibility for investigating and prosecuting crimes that occur in Indian country.⁴ In addition to the FBI, the Department of the Interior's Bureau of Indian Affairs

³ Federal jurisdiction was ceded under Public Law 83-280, 18 U.S.C. § 1162, which granted jurisdiction over Indian country crimes to six states and divested the Federal government of jurisdiction to prosecute under the Major and General Crimes Acts in those areas, while giving other states the option to assume that jurisdiction. Congress has also passed a variety of tribe-specific statutes providing for a similar framework of state jurisdiction over crimes in those locations. The Federal government retains jurisdiction to prosecute generally applicable offenses in P.L. 83-280 areas.

⁴ FBI jurisdiction for the investigation of Federal violations in Indian country is statutorily derived from 28 U.S.C. § 533, pursuant to which the FBI was given investigative authority by the Attorney General. Other Federal agencies with criminal jurisdiction in Indian country include the Bureau of Indian Affairs, the United States Marshals Service, the National Park Service, the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Bureau of Land Management, the United States Postal Service, and the United States Secret Service, to name a few.

(BIA) plays a significant role in enforcing Federal law, including the investigation and presentation for prosecution of cases involving violations of 18 U.S.C. §§ 1152 and 1153. The delineation of responsibilities between the FBI and the BIA was the subject of a Memorandum of Understanding (MOU) made between DOI and DOJ in 1993.⁵ This MOU also provided that each United States Attorney “whose criminal jurisdiction includes Indian country shall develop local written guidelines outlining responsibilities of the BIA, the FBI, and the Tribal Criminal Investigators, if applicable.” Determining which law enforcement agency, Federal or tribal, has primary responsibility for investigation of a particular crime may depend on the nature of the crime committed and any applicable local guidelines, which vary across jurisdictions.

Indian country case statistics can be drawn from three different jurisdictions: Federal, state, or tribal. The FBI’s Uniform Crime Report (UCR) contains offense data from all three sources, but counts only crimes reported to law enforcement for those agencies that volunteer their submission. Furthermore, the UCR does not collect specific information on declinations and administrative closing required by Section 212 of TLOA. In addition, matters and cases from P.L. 280 jurisdictions do not generally appear in Federal Indian country crime statistics because Federal authority to prosecute most cases in those jurisdictions has been transferred to the state. Moreover, this report does not cover cases referred from the BIA or other law enforcement agencies. The numbers presented by the FBI and EOUSA in this report include only cases subject to Federal jurisdiction and reported to the FBI or referred to a USAO by a Federal, state, local, or tribal agency. Thus, this report represents only a portion of the total Indian country violent crime picture—those offenses referred either to the FBI for investigation or to a USAO for prosecution. A more complete understanding of crime rates in Indian country would require that all reported criminal offenses, whether reported to and/or filed with the tribal, state, or Federal government, be collectively assembled and analyzed. Today, no system exists that would permit collection and analysis of aggregate Indian country crime and prosecution data across sovereigns.

III. Federal Bureau of Investigation TLOA Report

Federal Bureau of Investigation

The FBI has investigative responsibility for Federal crimes committed on approximately 200 Indian reservations. This responsibility is shared with BIA and other Federal agencies with a law enforcement mission in Indian country.⁶ This number generally excludes tribes in P.L. 280 states, with the exception of crimes of general applicability (e.g., drug offenses and Indian gaming). Currently, there are approximately 127 Special Agents dedicated full-time and 41

⁵ http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/crm00676.htm.

⁶ Other Federal law enforcement agencies with a criminal justice mission in Indian country include the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the National Park Service; and the Bureau of Land Management, to name a few.

Victim Specialists working on Indian country investigative matters. Table 1 lists FBI Field Divisions with Federally recognized tribes within their area of responsibility.⁷

Table 1: FBI Divisions

FBI Division Name	FBI Abbreviation	State(s)
Albany	AL	NY
Albuquerque	AQ	NM
Anchorage	AN	AK
Boston	BS	MA, ME, RI
Buffalo	BF	NY
Charlotte	CE	NC
Columbia	CO	SC
Denver	DN	WY, CO
Detroit	DE	MI
El Paso	EP	TX
Indianapolis	IN	IN
Jackson	JN	MS
Kansas City	KC	KS, MO
Las Vegas	LV	NV
Los Angeles	LA	CA
Memphis	ME	TN
Miami	MM	FL
Milwaukee	MW	WI
Minneapolis	MP	MN, ND, SD
Mobile	MO	AL
New Haven	NH	CT
New Orleans	NO	LA
New York	NY	NY
Oklahoma City	OC	OK
Omaha	OM	NE, IA
Portland	PD	OR
Phoenix	PX	AZ
San Antonio	SA	TX
Sacramento	SC	CA
Seattle	SE	WA
San Diego	SD	CA
San Francisco	SF	CA
Salt Lake City	SU	UT
Tampa	TP	FL

All FBI investigations must follow the Attorney General’s Guidelines for Domestic FBI Operations (AGG-Dom) and the FBI Domestic Investigations and Operations Guide (DIOG). These documents standardize policy to ensure all FBI investigative activities are conducted in compliance with relevant laws, policies, and regulations designed to protect civil liberties and privacy. Under DIOG, FBI investigations regarding allegations of Federal law violation in Indian country may be either an “assessment” or a “predicated investigation.”⁸ Therefore, whenever the FBI engages in any substantive investigative activity (e.g., interviewing a complainant or

⁷ Not all FBI Divisions listed had CY 2016 Indian country investigations to report under TLOA. In addition, some states contain multiple Divisions, and some Divisions overlap multiple states.

⁸ FBI Domestic Investigations and Operations Guide (DIOG), 2013 version.

potential victim of a vague or non-specific allegation), it is considered an “investigation” for the purposes of TLOA reporting.

FBI Indian Country Assessments

The two most prevalent examples of Indian country assessments, resulting in an FBI investigation but not a predicated investigation or referral for prosecution, are as follows:

Example A: A non-specific allegation of child sexual abuse is referred to the FBI. The FBI arranges for the child to have a forensic interview and medical examination. The child discloses no allegation of child sexual abuse, and the medical exam and other preliminary investigation reveal no corroborative evidence of sexual abuse. The matter is documented to an FBI Indian country child sexual abuse assessment file and the investigation is administratively closed. (NOTE: Documenting the incident permits the FBI to reopen the matter as a Predicated Investigation at a later date, should new evidence be uncovered.)

Example B: The FBI is called to a hospital that reports treating an assault victim from a nearby reservation. During the course of this assessment, the assault victim, who may have serious bodily injuries, chooses not to make a report and does not identify the assailant or describe the details of the assault. The FBI documents the matter to an FBI Indian country assault assessment file and administratively closes the investigation.

By including assessments in TLOA investigation data, the FBI seeks to provide further information regarding the breadth and scope of alleged crimes in Indian country. The classification of assessments involving any substantive investigative activity as “investigations” reflects the commitment of the FBI to accurate and complete reporting under TLOA. Additionally, ongoing FBI investigations do not preclude tribal law enforcement from continuing an investigation and making a referral to tribal court.

FBI Predicated (Full) Investigations

Predicated “full” investigations in Indian country are submitted to the Federal, state, or tribal prosecuting authority, or are administratively closed after all appropriate investigation into the alleged crime has been completed by the FBI.

FBI TLOA Investigation Data Collection

The following information provides a description of the FBI data used to generate the tables in this report. Most importantly, these figures represent only a portion of the Indian country cases investigated annually by the FBI. As required by TLOA, this report contains detailed information only on FBI Indian country investigations administratively closed or not referred for prosecution.

Measurement of FBI TLOA Requirements

1. **Types of crimes alleged** are classified by the most serious offense and are determined at case initiation. To protect information regarding sensitive investigations, the following criminal programs are combined: Financial Crime, Public Corruption and Civil Rights. Domestic violence investigations are included under the “Assault” category.⁹ The “Property Crime” category includes burglary, larceny, theft, arson, and motor vehicle theft. The “Death Investigation” category includes homicides, vehicular homicides, and other investigations of suspicious or unattended deaths. The “Other” category includes offenses such as weapon possession by felons, robbery, counterfeit or trafficking of cultural items, and any other investigations not applicable to the other nine categories.

2. **The status of the victim and subject** as Indian or non-Indian is generally based on self-reported information provided to the FBI or records obtained from tribal authorities.¹⁰ In the following circumstances, the victim or subject status is not applicable: the victim or subject is a business; the case was opened with an unknown/unidentified subject and/or victim; victim or subject information was not documented in case file (e.g., drug investigations, public corruption matters); duplicate cases or administrative errors.

3. **Reasons for non-referral to prosecuting authorities** are determined after reviewing all individual case circumstances. Table 2 provides a list of non-referral categories.

Table 2: Reasons for FBI Non-Referral for Prosecution in Indian Country

Non-Referral Category
Death was not a homicide
Does not meet USAO guidelines or statutory definitions
No remaining leads¹¹
Victim is unable to identify subject
Unsupported allegation
Victim or witness is unable or unwilling to assist
Interagency cooperation¹²
Cannot be addressed with current resources¹³
Duplicate or case reopened
Subject died

⁹ 18 U.S.C. § 113 (Assault) applies to domestic violence (18 U.S.C. § 113(a)(7) and (8) and general assault offenses. Another exception to this overlap is 18 U.S.C. § 117 (Domestic Violence by a Habitual Offender).

¹⁰ The FBI does not have direct access to tribal enrollment information.

¹¹ The FBI exhausted all logical investigation, and the facts were insufficient for a prosecutive opinion.

¹² The FBI may open an investigation solely for the purpose of assisting another agency (such as opening an investigation solely to administer a polygraph examination). Because the FBI is not the primary investigator, these investigations are administratively closed and not referred.

¹³ Primarily due to the prioritization of violent crimes against persons.

Data Collection and/or Limitations and Verification Process

The FBI's case management system does not automatically collect TLOA-mandated data. Therefore, all closed case files are reviewed manually on a quarterly basis. Due to this manual process, a small amount of error may be present in the data. FBI computer systems were designed for case management purposes, not to serve as statistical databases. The following limitations should be considered when reviewing reported data:

- The FBI is only able to track allegations reported to the FBI. Allegations investigated by BIA or tribal law enforcement are not fully represented in the FBI's data.
- Crime rates using this data may not be calculated due to the variation between divisions regarding local guidelines, agreements and the presence of other agencies (e.g., BIA).
- Non-referral is not necessarily a permanent status. It is possible a closed case can be re-opened and referred for prosecution if new information is received.

FBI TLOA Reporting Information

The FBI closed 1,960 Indian country investigations during CY 2016. For reporting purposes, each closed case was manually reviewed. For CY 2016, 680 investigations or 35 percent were closed administratively and/or not referred for prosecution. Approximately 65 percent were referred to Federal, state, or tribal prosecutors. Four Indian country divisions – Phoenix (PX), Minneapolis (MP), Salt Lake City (SU), and Albuquerque (AQ) – accounted for approximately 70 percent of all FBI Indian country investigation closures during CY 2016. Table 3 lists by FBI division the total number of closed investigations for CY 2016 (i.e., investigations, which were referred for prosecution, and investigations administratively closed and/or not referred for prosecution).

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Table 3: Number of Indian Country Criminal Investigations Closed, by FBI Division, CY 2016

Division	Division Name	# Administratively Closed/Not Referred for Prosecution	# Cases Referred for Prosecution	Total Cases Closed
AN	Anchorage	1	3	4
AQ	Albuquerque	62	58	120
BS	Boston	1	1	2
CE	Charlotte	1	3	4
CI	Cincinnati		1	1
DE	Detroit	1	69	70
DN	Denver	39	71	110
EP	El Paso		1	1
JN	Jackson		14	14
KC	Kansas City	1		1
LA	Los Angeles	1	4	5
LV	Las Vegas	3	8	11
MM	Miami	2	15	17
MO	Mobile		1	1
MP	Minneapolis	127	263	390
MW	Milwaukee	3	29	32
NO	New Orleans		1	1
OC	Oklahoma	5	48	53
OM	Omaha	5	71	76
PD	Portland	8	25	33
PX	Phoenix	311	274	585
SA	San Antonio		1	1
SC	Sacramento	2	2	4
SD	San Diego	1	3	4
SE	Seattle	31	101	132
SF	San Francisco	1	2	3
SU	Salt Lake City	73	206	279
TP	Tampa	1	5	6
Total		680	1280	1960

Approximately 72 percent of all closed (both referred and not referred) Indian country investigations were violent crime-related. Table 4 lists types of Indian country crimes alleged for all administrative closures by FBI division for CY 2016.

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Table 4: Types of Indian Country Criminal Investigations Administratively Closed, by FBI Division, CY 2016

Division	Assault	AFO/KFO ¹⁴	Child Physical Abuse	Child Sexual Abuse	Death Investigation	Drug Crime	Financial Crimes/Public Corruption/Civil Rights	Property Crime	Sexual Assault	Other	Total
AN							1				1
AQ	11	1	1	26	17		1		3	2	62
BS							1				1
CE							1				1
DE				1							1
DN	14	4	2	9	5				5		39
KC							1				1
LA							1				1
LV					1	2					3
MM					1			1			2
MP	13		3	49	39	8	5	3	7		127
MW	1			1					1		3
OC	1					1	2			1	5
OM	1			1	3						5
PD	3		1			2	2				8
PX	75	1	18	92	50	18	7	16	23	11	311
SC					1					1	2
SD							1				1
SE	9			9	3	1	1		2	6	31
SF							1				1
SU	19		1	14	27	1	1	1	8	1	73
TP									1		1
Total	147	6	26	202	147¹⁵	33	26	21	50	22	680

For CY 2016, the majority of victims and subjects in cases administratively closed by the FBI were Indian. Table 5 lists the status of victims and subjects in FBI Indian country investigations administratively closed for CY 2016.¹⁶

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¹⁴Assault of Federal Officer/Killing of a Federal Officer.

¹⁵ In 120 or 82 percent of administratively closed death investigations, investigation revealed the death was not a result of homicide.

¹⁶ These numbers represent a count of all victims and subjects, not a count of investigations. Some investigations may have multiple victims and/or subjects, while others may have not identified subjects (e.g., death investigations determined to be suicides.) Investigations in which victim or subject status was not applicable (e.g., drug investigations) will not contribute to totals.

Table 5: Status of Victim and Subject for Administratively Closed Cases, by FBI Division, CY 2016

Division	American Indian Victim	Non-American Indian Victim	American Indian Subject	Non-American Indian Subject	Business Victim/Subject	Unknown Victim/Subject ¹⁷
AN			1		1	
AQ	56		40		1	8
BS			1		1	
CE					1	1
DE	1		1			
DN	34	2	29	1		2
KC					1	1
LA					1	1
LV	1		1			
MM		1		1		1
MP	106		54	1	1	47
MW	2	1	3			
OC	2		2		2	2
OM	5		2			
PD	4		6			3
PX	248	2	173	7	3	34
SC					1	1
SD					1	3
SE	21	1	17	3	1	7
SF						2
SU	65	3	40	1		8
TP						2
Total	545	10	370	14	15	123

For CY 2016, of the 680 cases administratively closed and/or not referred for prosecution, 120 or 18 percent were death investigations where it was determined the victim died due to natural causes, an accident, or suicide. Another 19 percent were determined to be unsupported allegations, meaning no evidence of criminal activity was uncovered during the investigation. In 20 percent of investigations, it was determined no Federal crime occurred. Table 6 addresses the reasons for non-referral of CY 2016 investigations for prosecution.

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¹⁷ Unknown victims or subjects are most common in cases where the identity of the perpetrator is unknown, the victim does not identify the perpetrator, or a child victim may not disclose the identity of his or her abuser.

Table 6: Investigative Closure Reasons for Administratively Closed Cases, by FBI Division, CY 2016

Division	Does not meet USAO guidelines or statutory definitions	Death was not a homicide	No remaining leads	Victim is unable to identify subject	Unsupported Allegation	Victim or Witness is unable or unwilling to assist	Interagency Cooperation	Cannot be addressed with current resources	Duplicate case or case reopened	Subject Died	Total
AN	1										1
AQ	13	14	1		18	4	8			4	62
BS							1				1
CE	1										1
DE					1						1
DN	5	3	1		10	14	2		3	1	39
KC					1						1
LA					1						1
LV	2	1									3
MM		1		1							2
MP	12	37	1	2	36	10	19		7	3	127
MW					1		2				3
OC	2				1		2				5
OM		3				1				1	5
PD			3		2	2	1				8
PX	90	36	48	4	29	60	22	11	2	9	311
SC							2				2
SD	1										1
SE	1	3	4	2	9	7	2	1	1	1	31
SF	1										1
SU	10	22	10	1	20	10					73
TP						1					1
Total	139	120	68	10	129	109	61	12	13	19	680

Table 7 provides additional information on a selection of violent crime investigations for CY 2016 administratively closed by four Indian country FBI divisions with the largest Indian country caseload.¹⁸ The victim/subject status is provided for each investigation. Information is omitted from this table if Indian or non-Indian status were documented for either the subject or victim (i.e., the subject or victim does not fit into one of the categories below), no subject was identified, or the subject was a business.

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¹⁸ Only investigations from four Divisions (responsible for 75 percent of all cases) for the top four violent crimes are represented. Again, this data does not include alleged crimes within these categories that were investigated solely by the BIA or other Federal law enforcement agencies.

Table 7: Violent Crimes Administratively Closed, Victim and Subject Status by FBI Division, CY 2016

	Assault			Child Sexual Abuse		
	Indian Victim, Indian Subject	Indian Victim, Non-Indian Subject	Non-Indian Victim, Indian Subject	Indian Victim, Indian Subject	Indian Victim, Non-Indian Subject	Non-Indian Victim, Indian Subject
AQ	7			22		
MP	12			21		
PX	47	1		61	1	
SU	13			12		
Total	79	1	0	116	1	0

	Death Investigation ¹⁹			Sexual Assault		
	Indian Victim, Indian Subject	Indian Victim, Non-Indian Subject	Non-Indian Victim, Indian Subject	Indian Victim, Indian Subject	Indian Victim, Non-Indian Subject	Non-Indian Victim, Indian Subject
AQ	5			3		
MP	1			4		
PX	7			13		
SU	3			6	1	1
Total	16	0	0	26	1	1

IV. Executive Office for United States Attorneys TLOA Report

The Department recognizes its trust responsibility to the Federally recognized tribes across the United States and strives to uphold and enhance public safety in tribal communities. Indian country prosecutions, particularly violent crime prosecutions, are a significant focus for the 50 Federal judicial districts with Indian country responsibility. On January 11, 2010, then-Deputy Attorney General David Ogden issued a memorandum to all United States Attorneys declaring, “Public safety in tribal communities is a top priority for the Department of Justice.”

The memorandum directed that: (1) every USAO with Indian country in its district must engage annually, in coordination with its law enforcement partners, in consultation with the tribes in that district; and (2) every newly confirmed U.S. Attorney must conduct a consultation with tribes in his or her district and develop or update the district’s operational plan within eight months of assuming office. District operational plans have been implemented in all

¹⁹ Most death investigations do not have victim or subject classifications because it is determined the victim died as a result of natural causes, an accident or suicide.

USAOs with Indian country responsibilities. The subject matter of each district's plan will depend on the legal status of the tribes in that district as well as the unique characteristics and circumstances confronting those tribal nations. Operational plans often include certain core elements regarding communication between Federal and tribal partners; coordination of investigations among law enforcement entities; USAO community outreach; law enforcement training; victim advocacy; combating violence against women and children; and accountability.

The Attorney General Advisory Committee's (AGAC) Native American Issues Subcommittee (NAIS) is the oldest subcommittee of the AGAC and is vital to the Department's mission in Indian country to build and sustain safe and secure communities for future generations. In 2016, the majority of United States Attorneys with Indian country responsibility served on the NAIS. The focus of the NAIS is exclusively on Indian country issues, both criminal and civil. The NAIS is responsible for making policy recommendations to the Attorney General regarding enhancing public safety and addressing legal issues that affect tribal communities.

All USAOs with Indian country responsibilities have at least one Tribal Liaison to serve as the primary point of contact with tribes in the district. Tribal Liaisons are integral to the USAOs' efforts in Indian country. The Tribal Liaison program was first established in 1995 and codified with the passage of TLOA. Tribal Liaisons play a critical and multi-faceted role. In addition to their duties as prosecutors, Tribal Liaisons often coordinate and train Federal and tribal law enforcement agents investigating violent crime, including sexual abuse, cases in Indian country.

Tribal Liaisons often function in a role similar to that of a local district attorney in a non-Indian country jurisdiction; and are accessible to the community in ways not required of other Assistant United States Attorneys (AUSAs). The unique nature and circumstances of the tribes in their district often influence the job duties of Tribal Liaisons. They serve as the primary point of contact between the USAO and the Indian tribes located in the district. Tribal Liaisons typically have personal relationships and frequent contact with tribal governments, including tribal law enforcement officers, tribal leaders, tribal courts, tribal prosecutors, and social service agency staff.

In 2016, Tribal Liaisons continued to demonstrate leadership on behalf of the USAOs to support effective implementation of both TLOA and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) by addressing the need for skilled, committed prosecutors working on the ground in Indian country. In particular, Tribal Liaisons organized multi-disciplinary teams consisting of Federal, tribal, and state partners to combat domestic and sexual violence; performed outreach in tribal communities to educate tribal members on various issues involving substance abuse and violent offenses in an effort to reduce crime; and trained tribal law enforcement on legal issues such as search and seizure. Tribal Liaisons also helped foster and cultivate relationships among Federal, state, and tribal law enforcement officials by convening meetings to discuss jurisdictional issues and developing inter-agency law enforcement taskforces. In addition, Tribal Liaisons worked to coordinate and collaborate among Federal, tribal, and state law enforcement agencies and prosecutors to discuss the merits of the prosecution of an offense committed within Indian country and to determine the

appropriate venue for the matter to be prosecuted. These relationships enhanced information sharing and assisted the coordination of all criminal prosecutions.

Although Tribal Liaisons may be the most experienced Federal prosecutors of crimes in Indian country, the large volume of cases in Indian country requires these prosecutions to be distributed among numerous AUSAs in many districts. Table 8 contains a list of all USAOs with Indian country responsibility.

Table 8: U.S. Attorneys’ Offices with Indian Country Responsibility

District Name	District Abbreviation	District Name	District Abbreviation
Middle District of Alabama	ALM	District of Nebraska	NE
Southern District of Alabama	ALS	District of Nevada	NV
District of Alaska	AK	District of New Mexico	NM
District of Arizona	AZ	Eastern District of New York	NYE
Central District of California	CAC	Northern District of New York	NYN
Eastern District of California	CAE	Western District of New York	NYW
Northern District of California	CAN	Western District of North Carolina	NCW
Southern District of California	CAS	District of North Dakota	ND
District of Colorado	CO	Eastern District of Oklahoma	OKE
District of Connecticut	CT	Northern District of Oklahoma	OKN
Middle District of Florida	FLM	Western District of Oklahoma	OKW
Southern District of Florida	FLS	District of Oregon	OR
District of Idaho	ID	District of Rhode Island	RI
Northern District of Indiana	INN	District of South Carolina	SC
Northern District of Iowa	IAN	District of South Dakota	SD
District of Kansas	KS	Western District of Tennessee	TNW
Western District of Louisiana	LAW	Eastern District of Texas	TXE
District of Maine	ME	Western District of Texas	TXW
District of Massachusetts	MA	District of Utah	UT
Eastern District of Michigan	MIE	Eastern District of Virginia	VAE
Western District of Michigan	MIW	Eastern District of Washington	WAE
District of Minnesota	MN	Western District of Washington	WAW
Northern District of Mississippi	MSN	Eastern District of Wisconsin	WIE
Southern District of Mississippi	MSS	Western District of Wisconsin	WIW
District of Montana	MT	District of Wyoming	WY

Overview of How a Matter or Case is Handled in a USAO

Referrals: A referral is the mechanism by which the law enforcement agency seeks involvement or advice of the USAO in a particular matter. A referral may take many forms, ranging from a formal, written presentation by a law enforcement agency to an informal phone call. In addition, how and when a law enforcement agency decides to refer a matter to a USAO depends on many factors, including the nature of the case, the stage of the investigation, and the relationship between the USAO and the law enforcement agency.

Declinations: A declination is a decision by a USAO not to pursue criminal prosecution of a referral from a law enforcement agency. The fact that a USAO has received a referral does not mean that a prosecutable case exists. As will be discussed later in this report, the vast majority of declinations involve cases in which the USAO lacks sufficient evidence to prosecute. Further, cases that are initially declined may be reopened at a later date and successfully prosecuted.

Types of Declinations: There are two types of declinations, namely, an “immediate declination” and a “later declination.” An “immediate declination” occurs when the USAO does not open a file on a referral and does not pursue prosecution of the referral. Examples of the types of cases that would be immediately declined are:

- A crime that was thought to have been committed in Indian country, which upon further examination turned out to have been committed on state land. The state—not the Federal government—would have jurisdiction to prosecute.
- A crime in Indian country that involves a Native American victim and defendant but that does not rise to the level of a violation of the Major Crimes Act. The tribal court has exclusive jurisdiction over the matter.
- A crime committed in Indian country that involves non-Indians as both defendant and victim. In this case, the state ordinarily would have exclusive jurisdiction to prosecute.

In these examples, the USAO may likely have been consulted and thus these examples would appear as matters that the office had declined, even though there was no authority to prosecute Federally.

Examples of immediate declinations:²⁰

Sexual Assault Referral

A 17-year-old Indian male slapped the buttocks of a 15-year-old female while at school, injuring the victim. The incident happened in Indian country. The case is immediately

²⁰ These examples represent actual matters.

declined because the Indian male is a juvenile, the injury was minimal, and the tribal system has adequate resources to deal with the case in the most effective manner.

Assault Referral

Casino security presents a case in which a fight between two individuals broke out on an Indian casino premises, but outside of the casino itself. One person is seriously injured. The case is opened, but upon review it is determined that neither party is an Indian. The case was declined for lack of jurisdiction and referred to the State for prosecution.

A “later declination” occurs when the USAO opens a file on the referral, conducts a more significant amount of work on the matter, but ultimately does not pursue prosecution of the referral. Here is an example of a later declination:²¹

Sexual Assault Referral

Victim reported she had been drinking at a house party and passed out in a spare bedroom. She reported waking up and finding that her clothing had been removed. She reported no knowledge of a sexual assault but that “something did not feel right.” The victim consented to a sexual assault exam and swabs of the victim were collected. All suspects also provided buccal swabs. The forensic evidence was sent to the FBI lab. No semen was found present on the victim’s swabs. No other swabs revealed DNA that matched the victim with the suspects. The case was declined because the prosecutor lacked sufficient evidence of any Federal crime.

Prosecutorial Discretion/Guidelines and Ethical Obligations: While Federal prosecutors have discretion in charging and declining cases, they operate within the confines of the law, Department of Justice policy, and the evidence gathered in the cases. The United States Attorneys’ Manual (USAM) provides guidance as to proper considerations for charging or declining a case. USAM 9-27.200 provides:

If the attorney for the government has probable cause to believe that a person has committed a Federal offense within his/her jurisdiction, he/she should consider whether to: (1) request or conduct further investigation; (2) commence or recommend prosecution; (3) decline prosecution and refer the matter for prosecutorial consideration in another jurisdiction; (4) decline prosecution and initiate or recommend pretrial diversion or other non-criminal disposition; or (5) decline prosecution without taking other action.

Further, USAM 9-27.220 provides:

The attorney for the government should commence or recommend Federal prosecution if he/she believes that the person’s conduct constitutes a Federal offense and that the admissible evidence will probably be sufficient to obtain

²¹ This example represents an actual matter.

and sustain a conviction, unless, in his/her judgment, prosecution should be declined because: (1) no substantial Federal interest would be served by prosecution; (2) the person is subject to effective prosecution in another jurisdiction; or (3) there exists an adequate non-criminal alternative to prosecution.

Communications with Tribes Regarding Declinations: The Department recognizes the importance of communication between the Department of Justice and the tribes, particularly regarding law enforcement and case coordination. The Department is committed to continuing to improve these communications.

Current avenues for communication: As stated previously, each USAO with Indian country in its district has at least one Tribal Liaison. Declination information is communicated to tribal law enforcement through the Tribal Liaison. Federal law provides:

If a United States Attorney declines to prosecute, or acts to terminate prosecution of, an alleged violation of Federal criminal law in Indian country, the United States Attorney shall coordinate with the appropriate tribal justice officials regarding the status of the investigation and the use of evidence relevant to the case in a tribal court with authority over the crime alleged.

25 U.S.C. § 2809(a)(3). Subsection (c) of section 2809 provides that “[n]othing in this section requires any Federal agency or official to transfer or disclose any confidential, privileged, or statutorily protected communication, information, or source to an official of any Indian tribe.”²² However, this statute also provides that reports and information learned during a criminal investigation may be shared with the tribe.²³ The Department has taken the position that sharing appropriate information to enable tribal prosecutors to pursue a criminal matter is in the best interest of justice. Moreover, USAO operational plans frequently address how declination decisions will be communicated to tribal justice officials and how case evidence will be shared.

The responsibility to determine whether to charge or decline a case is not taken lightly by the Department. The evidence, applicable law, ethical considerations, and the circumstances of each case drive indictments, complaints, and declination decisions. Federal prosecutors take seriously their obligation to pursue justice in Indian country and work diligently in conjunction with tribal officials to improve the lives of all who live in Indian country. See Figure 1 below.

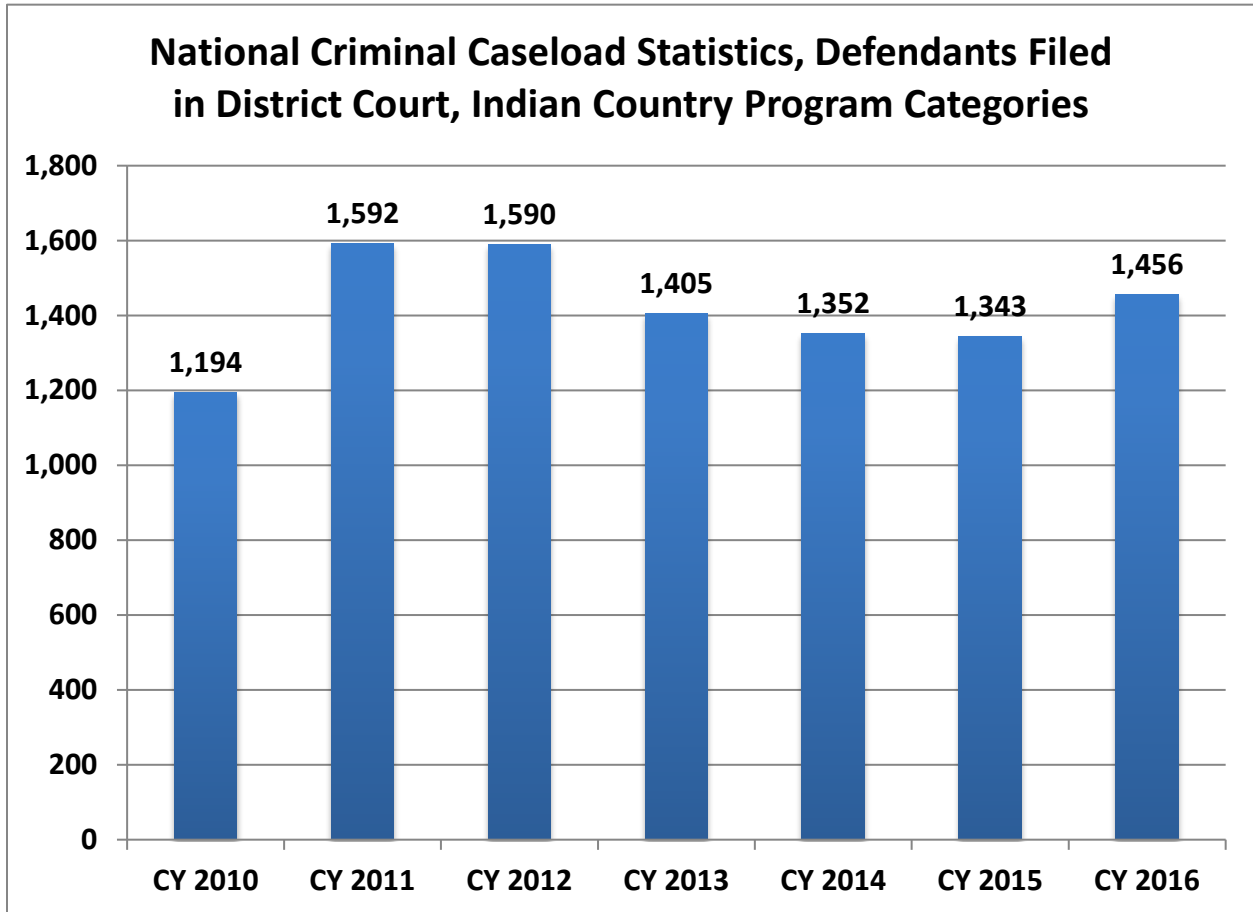
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²² See 25 U.S.C. § 2809(c)(1).

²³ See 25 U.S.C. § 2809(a)(1).

Figure 1: Defendants Filed in All Indian Country, CY 2010-CY 2016

Two program categories are relevant to Indian country cases and this report. “Violent Crime in Indian Country” (Program Category 092) is used to identify violent offenses that occur in Indian country, such as assaults, homicides, and sexual abuse cases. “Indian Offenses” (known as Program Category 065) is used to identify nonviolent offenses occurring in Indian country, such as immigration, fraud, and nonviolent drug offenses.



This chart includes data for cases classified under Program Category Code 092 (Violent Crime in Indian Country) and Program Category Code 065 (Indian Offenses).

Total criminal cases filed against defendants in Indian country were up in CY 2016 from the previous year. Federal prosecutors filed cases against 262 more defendants in 2016 than in 2010, when the Tribal Law and Order Act was enacted.

In 2016, implementation of VAWA 2013 remained an important priority for the Department. Federal prosecutors continued to utilize the Federal assault charges²⁴ created by

²⁴ The statutes used in these calculations of VAWA 2013 prosecutions were: 18 USC §113(a)(4), 18 USC §113(a)(7), and 18 USC § 113(a)(8).

VAWA 2013. In CY 2016, Federal prosecutors filed cases against 143 defendants (an increase of 17 percent from CY 2015 (122 defendants)) under VAWA 2013's enhanced Federal assault statutes. They obtained 103 convictions (a decrease of 7 percent from CY 2015 (111)). Also in CY 2016, prosecutors filed cases against 33 defendants in Indian country cases using the domestic assault by a habitual offender statute, 18 U.S.C. § 117, and obtained 17 convictions.

Examples of successfully prosecuted violent crime cases during the reporting period follow:

Aggravated Sexual Abuse

A child under the age of 12 years was sexually assaulted by her uncle. The FBI and a tribal police department jointly investigated the case. The assault occurred while the child was in the care of her uncle while the child's mother was at work. The defendant was convicted of aggravated sexual abuse of a child and was sentenced to serve 30 years (360 months) of imprisonment.

Strangulation

During an intense argument, the defendant grabbed his intimate partner by the hair and punched her repeatedly in the face. The victim fell to the floor, at which time the defendant slammed a large painting canvas on her. The defendant proceeded to wrap his hands around her throat and choke her until she was unconscious. The case was investigated jointly by Federal and tribal law enforcement. The defendant was charged and convicted of assault resulting in serious bodily injury and strangling an intimate partner. The defendant was sentenced to 42 months in prison for his conviction.

Assault Resulting in Serious Bodily Injury

Over a series of days, the defendant assaulted his intimate partner repeatedly, which resulted in serious bodily injury to the victim. During the assaults, the defendant used a metal weight and a knife to inflict pain on the victim. The defendant also strangled the victim as part of the assaults. The defendant admitted that his assaults on the victim caused her to lose a tooth, suffer from bruising to her face, head, abdomen, back, pubic region, and legs as well as suffer from stab wounds to her legs. The defendant pleaded guilty in Federal court to the charge of assault resulting in serious bodily injury. The defendant received a sentence of 36 months in prison followed by three years of supervised release for his conviction on the charge.

In addition to Federal prosecution, a key provision of VAWA 2013 recognizes tribes' inherent power to exercise special domestic violence criminal jurisdiction (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status. Title 25, United States Code, Section 1304 allows tribal prosecutors to prosecute domestic violence, dating violence, and violations of certain protection orders, regardless of whether the offender is Indian or non-Indian. This Congressional recognition of tribal authority to exercise SDVCJ was the result of a Congressional effort to respond to the Supreme Court's 1978 decision in *Oliphant v. Suquamish Indian Tribe*. The *Oliphant* decision restricted the authority of tribal courts to try and convict

non-Indians who committed crimes on tribal lands. In addition, TLOA amended the Indian Civil Rights Act to allow tribes, if TLOA's prerequisites are satisfied, to gain enhanced sentencing authority. This allows tribes to impose a sentence of no more than 3 years of imprisonment and a \$15,000 fine for any single offense, but TLOA specifies that a tribe may not "impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of 9 years."

On March 7, 2015, SDVCJ took effect nationwide and tribes could choose to implement. VAWA 2013 also specifies the rights that a participating tribe must provide to defendants in SDVCJ cases. These protections are similar to those required for TLOA enhanced sentencing. For example, a tribe must provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; provide a law-trained judge; provide access to the tribe's laws; and maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.

The Department, along with the Department of Interior's Bureau of Indian Affairs, has worked to help ensure that tribes seeking to exercise SDVCJ have the capacity to do so. VAWA 2013 authorized a Pilot Project whereby designated tribes could commence exercising SDVCJ on an accelerated basis before 2015, so long as the tribe had adequate safeguards to protect defendants' rights. The first five "Pilot" tribes—Pascua Yaqui Tribe of Arizona, Confederated Tribes of the Umatilla Indian Reservation, Tulalip Tribes of Washington, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota, and Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana—have successfully prosecuted cases using the newly created SDVCJ that would otherwise have been prosecuted only in the Federal system. Both Departments continue to assist tribes with implementation.

A. Data Collection within the United States Attorneys' Offices

EOUSA regularly provides case data information to Congress, Department of Justice leadership, the Office of Management and Budget, other Federal agencies, and the general public to demonstrate the tremendous efforts of the USAOs in prosecuting wrongdoers, protecting the public, and defending the interests of the United States. Leadership at every level of the government relies, in part, on these numbers to measure the success of the USAOs in carrying out national and local law enforcement priorities, making effective use of taxpayer dollars, and achieving the goals set by the Department and the Administration. EOUSA relies on case management information to track the prodigious work of the USAOs and to make important resource allocation decisions. In addition, USAO supervisors use case management reports as tools to manage their offices and staffing needs. Although data can never fully represent the time, effort, and skill required to prosecute and defend cases, it provides one objective means to measure caseload and workflow.

The Legal Information Office Network System

The USAOs' portion of this report has been prepared using data from EOUSA's Legal Information Office Network System (LIONS), a case management system. LIONS is one method used by EOUSA and USAOs to track data related to the work of the 94 USAOs in developing resource allocation and litigation priorities. The LIONS system is a database with online capabilities that permits the USAOs and EOUSA to compile, maintain, and track case management information relating to defendants, crimes, criminal charges, court events, and witnesses. Given that all USAOs use LIONS, it was determined that LIONS data would be used to gather the information required by TLOA to be reported to Congress.

"Matters" are referrals from law enforcement that have been opened in LIONS, but where no charges have been filed. Most cases begin as "matters" in LIONS, and are subject to further law enforcement investigation, after which either charges are filed or the matter is declined. The opening of a "matter" in LIONS is an important step at which critical choices must be made about how the matter will be characterized and recorded.

"Declinations," as discussed above, are matters in which the USAO decides not to pursue a criminal prosecution after referral from a law enforcement agency. All immediate and later declinations must be entered into LIONS. An immediate declination occurs when an investigative agency presents a referral 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 assigned to the matter.

Data on Indian country is identified in LIONS through its "Program Category" designation. Program Category codes are critical to identifying and characterizing the types of matters handled by the USAOs.²⁵ As noted earlier, two Program Categories are particularly relevant to Indian country cases.²⁶ EOUSA had instructed the USAOs that all cases arising in Indian Country

²⁵ There are nearly 100 Program Categories listed in LIONS; for example, there are designations for corporate fraud, health care fraud, mortgage fraud, domestic terrorism, wildlife protection, drug trafficking, child pornography, firearms offenses, and domestic violence. LIONS can capture more than one program area in a single case through the use of multiple Program Category codes. For example, if one case involved drug trafficking, money laundering, and immigration offenses, the matter should be coded using all three Program Category codes. More than one Program Category may be selected when entering cases into LIONS, but only one category designation is required.

²⁶ "Violent Crime in Indian Country" (Program Category 092) is used to flag violent offenses that occur in Indian country, such as assaults, homicides, and sexual abuse cases; "Indian Offenses" (Program Category 065) is used to identify nonviolent offenses occurring in Indian country, such as fraud and nonviolent drug offenses.

must include an Indian Country Program Category code in addition to any other code assigned to the case. The Indian Country code need not be the primary code.

Limitations of the LIONS Data

The statistics presented in this report are subject to a number of limitations present in the LIONS case management system.

At the point of case data entry into LIONS, the identification of a Program Category is determined at the discretion of each USAO, after assessing which category or categories are applicable. The office determines who enters the data, how and when data is entered, and how cases are designated. During data entry, more than one Program Category may be associated with a case, but only one is required. Therefore, TLOA data selected in LIONS may exclude a small number of cases that indeed occurred in Indian country, but were not designated as either Program Category 065 or 092.

The LIONS data system is not designed to check entries for accuracy and internal consistency. It does not require a case to be identified as either being in Indian country or not, and does not crosscheck entry fields or funnel data entry options based on previous responses. This means that a case can be classified with incorrect information and LIONS does not reject these entries or force them to be corrected. The entry will remain in LIONS until it is detected and manually corrected within the fiscal year in which the case or matter was opened.

LIONS data represents a snapshot in time. Thus, not all declinations, matters, and cases reported in a given calendar year are necessarily crimes that occurred in that year or law enforcement referrals made to a USAO in that year. For example, a USAO may show two sexual assault declinations in CY 2016, yet not have had any sexual assaults referred for prosecution in CY 2016. Rather, these two declinations may represent referrals received in previous years where the investigation was completed in CY 2016 and where the prosecutor concluded that there was insufficient evidence to prosecute the cases. This is further complicated by referrals with multiple suspects. For example, if a murder referred for prosecution was declined and had four suspects; four declinations would show in LIONS. Accordingly, no conclusions can be drawn from this report that, for example, eight declinations equal eight different criminal offenses. Five declinations for murder in CY 2016 can in fact be two murders that occurred in CY 2014, with one of the murders having four suspects.²⁷

The uniformity of LIONS data and its suitability for statistical analysis are affected by the variances among districts and by the discretion afforded the 93 individual United States Attorneys to use the system to manage their offices to meet local priorities and needs. A change in a LIONS-generated declination rate may be entirely attributable to a change in the

²⁷ Additionally, the October 1 to December 31, 2016, data appearing in this report is contingent and is subject to change before the close of Fiscal Year 2017 on September 30, 2017.

office’s policy rather than any changes in the crime rate or prosecution practices or capabilities in that district.

Methodology for Generating Declination Data

Persons inputting data into the LIONS system currently choose from six declination reasons when recording a declination. Persons inputting the data may enter any of the available declination codes, without an automatic verification by the system. Accordingly, it is difficult to know the extent of any misclassification errors without crosschecking against the paper case files.

Prior to March 1, 2014, there were 33 declination codes available. The 33 declination codes were reviewed and consolidated into the six declination codes shown in this report: Legally Barred, Insufficient Evidence, Defendant Unavailable, Matter Referred to Another Jurisdiction, Alternative to Federal Prosecution Appropriate, and Prioritization of Federal Resources and Interests. Table 9 summarizes how the 33 declination codes were consolidated and merged to fall under six newly created declination codes based on legal commonality.

Table 9: LIONS Declination Merged Categories

Category Name	Description
LIONS List Subcategory	
Legally Barred	<i>Cases where the United States has no choice but to decline a case because legally the United States lacks jurisdiction to file charges.</i>
JUVP	Jurisdiction or Venue Problems
NFOE	No Federal Offense Evident
NKSU	No Known Suspect
OEOE	Opened in Error/Office Error
STAL	Staleness
STLM	Statute of Limitations
Insufficient Evidence	<i>Cases where the United States declines a case because of an inability to prove the case in court beyond a reasonable doubt.</i>
LECI	Lack of Evidence of Criminal Intent
WKEV	Weak or Insufficient Admissible Evidence
WTPR	Witness Problems
Defendant Unavailable	<i>Cases where the defendant is physically unavailable or where the prosecutor exercises prosecutorial discretion based on defendant’s circumstances.</i>
AHPR	Offender’s Age, Health, Prior Record, or Personal Matter
SUDC	Suspect Deceased
SUDP	Suspect Deported

Category Name	Description
LIONS List	
Subcategory	
SUFU	Subject a Fugitive
Matter Referred to Another Jurisdiction	<i>Cases where the defendant is not prosecuted by the Federal government but is subject to the authority of another jurisdiction.</i>
JUVN	Juvenile Suspect
PEPO	Petite Policy ²⁸
RECU	Recusal
SPOA	Suspect to be Prosecuted by Other Authorities
SRSC	Suspect Referred for Prosecution Decision in State/Local/Military Court
SRTC	Suspect Referred for Prosecution Decision in Tribal Court
SPOC	Suspect Being Prosecuted on Other Charges
Alternative to Federal Prosecution Appropriate	<i>Cases where the defendant could have been prosecuted by the Federal government but an alternative to prosecution was viewed by the United States, within its discretion, as appropriately serving the ends of justice.</i>
CADA	Civil, Administrative, or Other Disciplinary Alternative
PTDR	Pretrial Diversion Completed
REST	Restitution/Arrearage Payments Made or Being Made
SUCO	Suspect Cooperation
Prioritization of Federal Resources and Interests	<i>Cases where the case is declined because of existing DOJ or USAO policy.</i>
AGRE	Agency Request
DEPO	Department Policy
GWDA	Declined per Instructions from DOJ
LKIR	Lack of Investigative Resources
LKPR	Lack of Prosecutorial Resources
LOAG	Local Agency Referral Presented by Federal Agency
MFIN	Minimal Federal Interest or No Deterrent Value
OFPO	Office Policy (Fails to Meet Prosecutorial Guidelines)
SSSE	Suspect Serving Sentence

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²⁸ The Department of Justice's *Petite* policy generally precludes the initiation or continuation of a Federal prosecution, following a prior state or Federal prosecution based on substantially the same act(s) or transaction(s). USAM 9-2.031. This policy does not apply to successive tribal/Federal prosecutions. However, successive tribal/Federal prosecutions should not be undertaken unless there is a compelling Federal interest. "In determining whether Federal interests have been satisfied, consideration should be given to the limitations on tribal sentencing power measured against the seriousness of the offense." DOJ Criminal Resource Manual § 682.

B. EOUSA LIONS Information

Based on the methodology outlined above, aggregate declination data for calendar year 2016— by reason — is displayed by Federal judicial district in Table 10.²⁹

Table 10: Number of Suspects in Indian Country Declinations by USAOs, by Reason, CY 2016

	Legally Barred	Insufficient Evidence	Defendant Unavailable	Referred to Diff Jurisdiction	Alt to Federal Prosecution	Prioritization of Fed Interests	Total
AK	0	3	0	0	0	1	4
ALS	0	1	0	0	0	0	1
AZ	4	171	2	26	4	13	220
CAE	0	0	0	0	0	1	1
CO	0	5	0	1	5	2	13
FLM	0	1	0	0	0	0	1
IAN	0	6	0	0	0	0	6
ID	0	14	0	2	2	0	18
KS	0	2	0	0	0	0	2
LAW	0	2	0	0	0	0	2
ME	0	1	0	0	0	0	1
MIE	1	18	0	3	3	6	31
MIW	0	20	1	1	0	0	22
MN	0	10	0	1	0	0	11

²⁹ Prosecutors may only choose one declination reason for Suspects in Later Declinations, as opposed to Suspects in Immediate Declinations, where prosecutors may use up to three declination reasons. In every data point in this report where declination reasoning is being counted, only the first declination entered by the docketer is used for analysis. For example, a suspect in an Immediate Declination may have declination reason #1 = Insufficient Evidence, #2 = Prioritization of Federal Interests, and #3 = Defendant Unavailable. In this situation, EOUSA is only counting the suspect once, as declined due to Insufficient Evidence.

MSN	0	3	0	0	0	0	3
MSS	0	4	0	16	0	1	21
MT	1	50	0	19	10	4	84
NCW	0	2	0	0	0	0	2
ND	10	33	1	14	0	4	62
NE	0	28	1	6	0	0	35
NM	5	67	1	10	0	3	86
NV	0	11	0	2	0	1	14
NYN	1	12	0	0	0	0	13
OKE	0	5	1	2	0	3	11
OKN	2	3	0	8	0	1	14
OKW	0	1	1	0	0	0	2
OR	0	8	0	0	2	0	10
SD	12	56	1	9	1	3	82
VAE	0	1	0	0	0	0	1
WAE	0	11	2	5	1	0	19
WAW	1	13	0	15	1	1	31
WIE	0	8	0	2	0	0	10
WY	8	44	1	6	1	10	70
TOTAL	45	614	12	148	30	54	903

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Variances in reporting are a direct result of the way that data may be collected over a period of one or more years. Cases may be opened in a USAO during one calendar year and may continue to be investigated in a second or even a third year before ultimately being resolved. For example, in 2016, the USAO for the Western District of Washington reported that it had 31 declinations in total, compared to 22 in 2015. Some of the criminal matters that originated in 2015 were not declined until 2016. Hence, the total declination number for 2016 was higher than for 2015.

Explanation of “Referred to Different Jurisdiction”

The declination category of “referred to different jurisdiction” requires additional explanation. This number is oftentimes the result of how USAOs staff Indian country cases. Many districts hold meetings to review Indian country cases with law enforcement personnel. These meetings, conducted by phone or in person, may involve an AUSA, tribal prosecutor, and Federal and tribal law enforcement. During the meetings, cases arising on a particular reservation are discussed. The decision about which jurisdiction—Federal or tribal—will prosecute a particular case is considered and discussed by the Federal and tribal prosecutors, with input from investigative law enforcement agencies. Therefore, a case opened in LIONS with a subsequent referral to the tribe for prosecution will appear in LIONS as a declination because the tribe, in lieu of Federal prosecution, is prosecuting the case.

This collaboration and coordination was contemplated by TLOA’s amendment of 25 U.S.C. § 2809(a)(3), the Indian Law Enforcement Reform Act. It also confirms the Department’s January 2010 directive that “tribal governments have the ability to create and institute successful programs when provided with the resources to develop solutions that work best for their communities.”³⁰

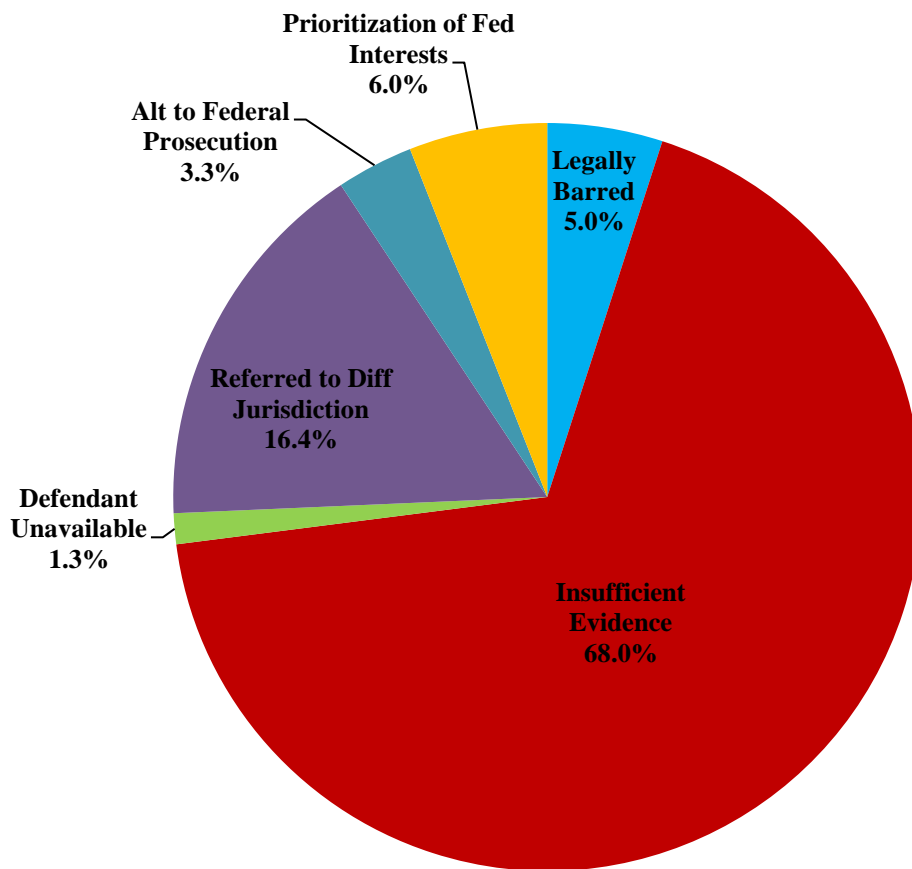
Where Federal prosecutors have declined prosecution in favor of the tribal court process, the cases are coded in the USAO LIONS as declinations—referred to a different jurisdiction.

As noted above, the passage of TLOA with its provision of enhanced sentencing authority for qualifying tribal courts means that more cases will be referred to tribal court for prosecution. These referrals are typically done at the request or with the consent of the tribe’s law enforcement authorities. While deemed a declination in LIONS, referral of a criminal matter for prosecution in tribal court is, in fact, often the result of successful collaboration and shared-decision making between the tribal prosecutor and the USAO.

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³⁰ <http://www.justice.gov/dag/dag-memo-indian-country.html>.

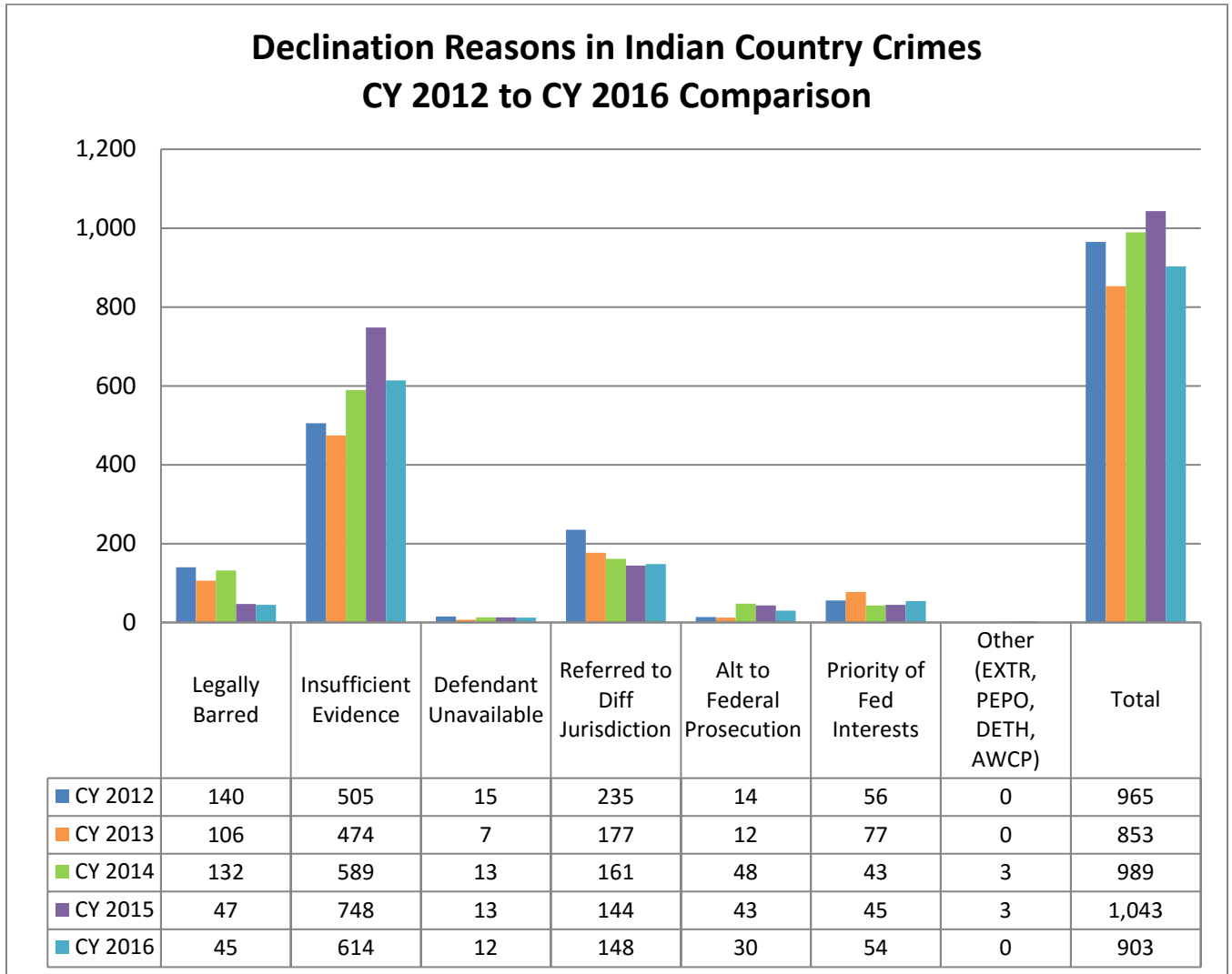
Figure 2: Declination Reasons for Indian Country Crimes, CY 2016



As demonstrated in Figure 2, the majority of all declined cases for CY 2016 were declined due to insufficient evidence. The insufficient evidence category includes circumstances where there is a lack of evidence of criminal intent, weak or insufficient evidence, or witness problems. Figure 3, on the following page, provides a comparison of declination categories selected for CYs 2012 through 2016 Indian country cases. In matters where there is insufficient evidence, the government cannot sustain its burden of proof beyond a reasonable doubt, and the prosecutor has no choice but to decline these matters. If additional evidence is developed later, however, the matter may be reopened and successfully prosecuted.

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Figure 3: Declination Reasons in Indian Country Crimes: CY 2012 to CY 2016 Comparison



Methodology for Generating Type of Crime Data

USAOs enter matters within a LIONS Program Category by the lead charge code or type of crime. The LIONS User Manual states the lead charge is the substantive statute that is the primary basis for the referral. Given the number of Federal criminal code sections and the ability to assimilate state law for certain crimes occurring in Indian country (under the Assimilative Crimes Act, 18 U.S.C. § 13), this report assigns the lead charge to broad categories based on case commonality. As noted above, all lead criminal statutes appearing in CY 2016 Indian country cases (those assigned Program Category code 065 or 092) were reviewed and grouped into six categories: assault (including threats to a Federal officer or public or foreign officials, as well as Violence Against Women Act violations); murder; sexual assault (including child and adult victims); drug, alcohol, and other offenses; financial crimes, public corruption, and fraud; jurisdictional, penalty, or state statutes.³¹

Aggregate Declination Data by Type of Crime

Table 11 reports aggregate declinations by type of crime and Federal judicial district and Figure 4 provides a percentage breakdown of aggregate declinations by types of crime. Table 12 categorizes the aggregate declinations and the reasons those cases were declined.

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³¹ A complete list of all lead criminal charges used in CY 2016, as assigned to one of the six categories created for purposes of this report, can be found at Appendix B.

Table 11: Indian Country Defendants Declined, by USAO, by Type of Crime, CY 2016³²

Indian Country Defendants Declined by Type of Crime

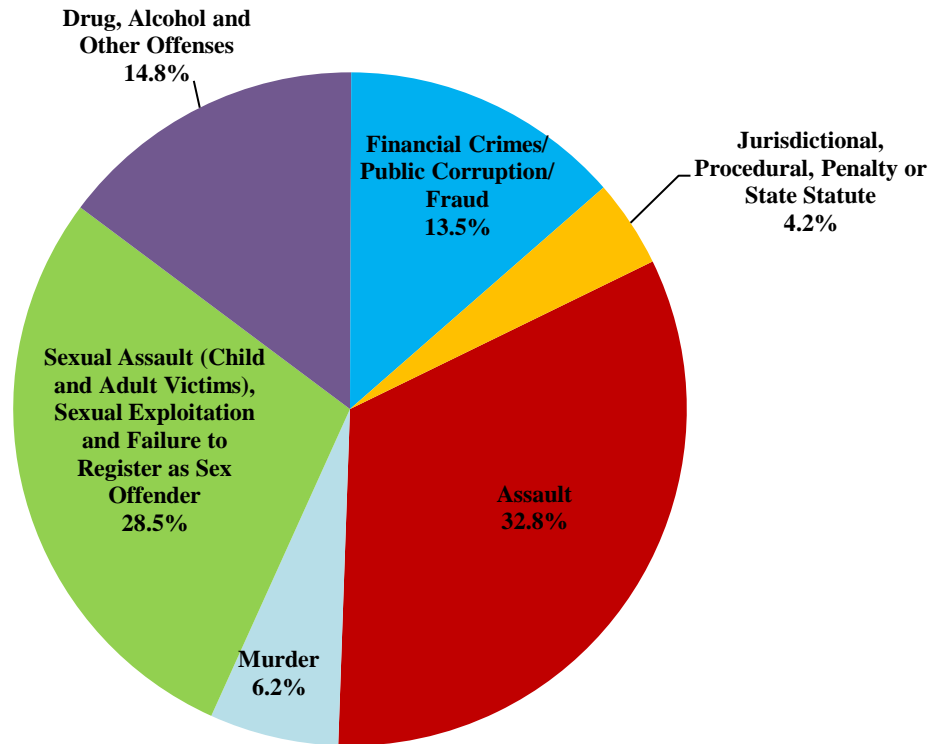
	Assault	Murder	Sexual Assault (Child and Adult Victims), Sexual Exploitation and Failure to Register as Sex Offender	Drug, Alcohol and Other Offenses	Financial Crimes/ Public Corruption/ Fraud	Jurisdictional, Procedural, Penalty or State Statute	Total
AK	0	0	0	1	3	0	4
ALS	0	0	0	0	1	0	1
AZ	78	18	64	27	20	13	220
CAE	0	0	0	0	1	0	1
CO	6	0	3	0	4	0	13
FLM	0	0	0	0	1	0	1
IAN	1	0	1	2	2	0	6
ID	11	2	2	3	0	0	18
KS	0	0	0	1	1	0	2
LAW	0	0	0	0	1	1	2
ME	0	0	0	0	1	0	1
MIE	16	1	5	5	4	0	31
MIW	9	0	9	2	0	2	22
MN	4	0	4	3	0	0	11
MSN	0	0	0	3	0	0	3
MSS	7	1	6	0	7	0	21
MT	22	6	23	25	4	4	84
NCW	0	0	1	0	1	0	2
ND	22	3	23	7	6	1	62

³² This table excludes USAOs that did not report any declinations for CY 2016.

NE	12	2	12	5	4	0	35
NM	30	6	28	6	15	1	86
NV	7	2	3	2	0	0	14
NYN	0	0	0	7	6	0	13
OKE	3	0	1	0	5	2	11
OKN	0	0	2	6	6	0	14
OKW	1	1	0	0	0	0	2
OR	1	0	0	2	5	2	10
SD	19	7	38	7	6	5	82
VAE	0	0	0	0	0	1	1
WAE	9	2	6	2	0	0	19
WAW	5	3	9	7	5	2	31
WIE	6	0	4	0	0	0	10
WY	27	2	13	11	13	4	70
TOTAL	296	56	257	134	122	38	903

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Figure 4: Indian Country Declinations, by Investigative Charge, CY 2016



In 2016, the majority of declinations involved physical assaults or sexual assaults, sexual exploitation, or failure to register as a sex offender. These statistics are consistent with statistics from previous years.

In June 2016, then-Attorney General Loretta Lynch issued a directive to United States Attorneys with Indian country responsibilities to develop and implement Federal sexual violence guidelines that detail specific responsibilities of each Federal partner, in collaboration with Federal, state, and tribal law enforcement partners. This directive was developed in response to recommendations for strengthening and improving the Federal response to sexual abuse in tribal communities from the Office for Victims of Crime’s National Coordination Committee on the American Indian and Alaskan Native Sexual Assault Nurse Examiner — Sexual Assault Response Team Initiative. The USAOs with Indian country have complied with the Attorney General’s directive.

Table 12: Indian Country Defendants Declined by Type of Crime and Declination Reason, CY 2016

	Legally Barred	Insufficient Evidence	Defendant Unavailable	Referred to Different Jurisdiction	Alt. to Federal Prosecution	Prioritization of Fed. Resources and Interests	Total
Assault	8	205	3	60	10	10	296
Murder	3	50	0	2	0	1	56
Sexual Assault (Child and Adult victims)	13	199	6	28	5	6	257
Drug, Alcohol, and Other Offenses	6	74	2	29	10	13	134
Financial Crimes/Public Corruption/Fraud	12	60	1	22	4	23	122
Jurisdictional, Penalty, or State Statute	3	26	0	7	1	1	38
Total	45	614	12	148	30	54	903

Declinations alone do not provide an accurate accounting of the USAOs’ commitment in Indian country criminal cases. To provide context to the declination numbers, Table 13 lists for each Federal judicial district the “total Indian country matters resolved” — that is, the total number of Indian country suspects in immediate declinations, suspects in matters terminated (which includes all later declinations), and defendants filed.³³

For example, Table 13 shows that in the District of South Dakota there were 405 Indian country matters resolved in CY 2016. This number includes the 82 declinations previously reported in Tables 10 and 11. It also includes an additional 323 Indian country cases that the District of South Dakota resolved in CY 2016 by means other than a Federal declination.

Similarly, for all districts combined, 2,666 Indian country matters were resolved in CY 2016. This number includes the 903 declinations reported in Tables 10 and 11. It also includes 1,763 matters in Indian country that were resolved in CY 2016 by means other than a Federal declination. In 2015, the USAOs resolved 2,655 matters. In other words, in 2016 the USAOs resolved 11 more matters than in 2015.

³³ Please note that LIONS is not self-correcting and that a USAO can, in error, report an Indian country declination.

Table 13: Total Indian Country Matters Resolved by USAO, CY 2016

District	CY 2016 Indian Country Matters Resolved	CY 2016 Indian Country Declinations	CY 2016 Indian Country Matters Resolved Other than by Federal Declination
ALASKA	5	4	1
ALABAMA SOUTHERN	1	1	0
ARIZONA	842	220	622
CALIFORNIA EASTERN	3	1	2
COLORADO	26	13	13
FLORIDA MIDDLE	1	1	0
IOWA NORTHERN	6	6	0
IDAHO	38	18	20
KANSAS	4	2	2
LOUISIANA WESTERN	2	2	0
MAINE	1	1	0
MICHIGAN EASTERN	59	31	28
MICHIGAN WESTERN	49	22	27
MINNESOTA	38	11	27
MISSISSIPPI NORTHERN	11	3	8
MISSISSIPPI SOUTHERN	35	21	14
MONTANA	206	84	122
NORTH CAROLINA WESTERN	16	2	14
NORTH DAKOTA	137	62	75
NEBRASKA	99	35	64
NEW MEXICO	205	86	119
NEVADA	25	14	11
NEW YORK EASTERN	1	0	1
NEW YORK NORTHERN	89	13	76
NEW YORK SOUTHERN	1	0	1
OHIO SOUTHERN	6	0	6
OKLAHOMA EASTERN	18	11	7
OKLAHOMA NORTHERN	31	14	17
OKLAHOMA WESTERN	39	2	37
OREGON	45	10	35
SOUTH DAKOTA	405	82	323
TENNESSEE MIDDLE	1	0	1
TEXAS WESTERN	1	0	1
UTAH	5	0	5
VIRGINIA EASTERN	1	1	0
WASHINGTON EASTERN	47	19	28

WASHINGTON WESTERN	46	31	15
WISCONSIN EASTERN	22	10	12
WYOMING	99	70	29
ALL DISTRICTS	2,666	903	1,763

Defendant and Victim Indian/non-Indian Status

TLOA requires that USAOs record the Indian/non-Indian status of the defendant(s) and victim(s). Historically, this information was not a required field in LIONS. In an effort to ensure that all relevant data is properly captured, EOUSA developed and began implementing a new case management system, known as CaseView, which makes it much easier for USAO personnel to input all necessary data regarding Indian country matters. Additionally, in 2016, EOUSA issued guidance and hosted a Webinar training on using CaseView and inputting the defendant / victim status information for Indian country declinations. USAOs were required to fully transition to the CaseView system by August of 2017. Because of these measures, the Indian/non-Indian defendant and victim status information included in LIONS declination data has improved significantly. Accordingly, for the first time, the Department has included the Indian or non-Indian status of defendant(s) and victim(s) in the USAO data in this CY 2016 Indian Country Investigations and Prosecutions Report.³⁴

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³⁴ Now that CaseView is fully implemented, Indian or non-Indian status of defendants and victims USAO data will continue to improve in accuracy and reliability.

Table 14: Indian Status of Suspects and Victims in Indian Country Matters, CY 2016

Indian Status of Suspects Declined and the Victims in those Matters, in which:

	All suspects in the matter were declined				At least 1 suspect in the matter was declined, but other co-suspects in the same matter are either still under investigation, or have had charges filed against them in court			
	Suspects Declined, Indian	Suspects Declined, Non-Indian	Victims in these Matters, Indian	Victims in these Matters, Non-Indian	Suspects Declined, Indian	Suspects Declined, Non-Indian	Victims in these Matters, Indian	Victims in these Matters, Non-Indian
Financial Crimes/Public Corruption/Fraud	44	72	20	26	1	5	1	1
Drug, Alcohol, and Other Offenses ³⁵	50	73	36	11	1	10	0	0
Assault	209	82	183	68	2	3	2	3
Murder	27	29	32	20	0	0	0	0
Sexual Assault (Child and Adult Victims), Sexual Exploitation and Failure to Register as Sex Offender	175	81	192	66	1	0	2	0
Jurisdictional, Procedural, Penalty, or State Statute	17	19	21	5	2	0	1	0

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³⁵ Please see Appendix B, beginning on page 48, for a list of charges that are included in this category.

C. Examples of Successful Indian Country Prosecutions

The data shows that Indian country prosecutors secure thousands of convictions every year. Below are examples of convictions that provided a significant impact to the affected communities.

U.S. v. Anthony Ray Shirley -- District of Arizona

A Federal jury convicted Anthony Ray Shirley, age 29, a member of the Tohono O'Odham Nation, on Oct. 28, 2016, of four counts of aggravated sexual abuse and two counts of abusive sexual contact. The Pascua Yaqui Tribal Police Department and the Federal Bureau of Investigation conducted the investigation in this case. The evidence at trial indicated that Shirley had molested two young victims, both members of the Pascua Yaqui Tribe. Shirley was sentenced to 360 months in prison, followed by lifetime Federal supervised release and he will be required to register as a sex offender.

U.S. v. Dakota Lane Willison – Eastern District of Oklahoma

Dakota Lane Willison, age 20, of Idabel, Oklahoma was indicted on Murder in the First Degree in Indian Country Committed During the Perpetration of Child Abuse, in violation of Title 18, United States Code, Sections 1111, 1151 and 1153. According to trial testimony, Willison insisted that his girlfriend leave a two-year-old child with him rather than taking the child to day care. At about noon, Willison called 911 and claimed he awoke to find the child unresponsive. The child was pronounced dead shortly after arriving at the hospital. Medical experts at trial testified that the toddler suffered extensive fatal injuries to her torso and head as a result on blunt force trauma. Every internal organ was damaged and she suffered massive internal injuries and bleeding. The charges arose from an investigation conducted by the Federal Bureau of Investigation, the Oklahoma State Bureau of Investigation, the McCurtain County Sheriff's Office and the Choctaw Nation Tribal Police. The crime occurred at a residence located on a restricted Choctaw allotment. Willison was sentenced in Federal court to life without the possibility of release in connection with the beating death of a two-year-old child.

U.S. v. Jesus Deniz Mendoza – District of Montana

Jesus Deniz Mendoza, 20, of Worland, Wyoming, was sentenced to life in prison after pleading guilty to a superseding information charging him with two counts of second-degree murder, assault with intent to commit murder, assault with a dangerous weapon, and three counts of using a gun during crimes of violence. The charges stemmed from events that occurred on July 29, 2015. On that day, a family attempted to assist Mendoza, who appeared in need of roadside assistance, as he stood near a vehicle parked on the side of the road. When the family approached Mendoza, he stepped out of his vehicle and fired his gun, killing the mother and father and hitting the daughter in the back as she escaped on foot. Mendoza fled in the family's car. Later, Mendoza returned to the scene and fired at one of three individuals, a woman, who was trying to assist the mother and father lying on the ground. Mendoza also

pointed a gun at two males who were assisting at the scene before he was taken into custody. The Federal Bureau of Investigation, Bureau of Indian Affairs, and the Montana Highway Patrol investigated this case.

U.S. v. Jeremiah Johnson – District of Arizona

Jeremiah Johnson, 26, a member of the San Carlos Apache Tribe, pled guilty to assault with a dangerous weapon. The evidence showed that Johnson threw a full, 40-ounce bottle of alcohol at the victim, who was holding a child at the time. The bottle hit the child, who suffered serious injuries as a result. The victim and child are also members of the San Carlos Apache Tribe. The Bureau of Indian Affairs conducted the investigation. Johnson was sentenced to 45 months in Federal prison, followed by three years of supervised release, for the assault, which occurred on the San Carlos Apache Indian Reservation.

U.S. v. Nelson Ray McKee – District of Nevada

Nelson Ray McKee, a member of the Fort McDermitt Paiute-Shoshone Tribe of Nevada, was convicted of the voluntary manslaughter of his wife at their home on the Fort McDermitt Indian Reservation. The evidence showed that McKee fatally stabbed his wife in the chest. She was a member of the Te-Moak Tribe of the Western Shoshone. The Bureau of Indian Affairs, Federal Bureau of Investigation, and Humboldt County Sheriff's Office investigated the case. McKee was sentenced to 120 months in Federal prison.

V. Department of Justice Commitment to Indian Country

In January 2010, the Deputy Attorney General issued a memorandum, entitled *Indian Country Law Enforcement Initiative*, declaring public safety in tribal communities a top priority for the Department of Justice and outlining the responsibilities of the United States Attorneys' offices to Federally recognized tribes in their districts.³⁶ Many reservations have high frequencies of violence against women and children, including sexual assault and domestic violence. Vigorous investigation and prosecution of these crimes is essential to crime reduction and public safety in Indian country.

Communication and collaboration between Federal, tribal and state partners is essential to enhancing public safety and fostering secure communities within Indian country. Effective law enforcement investigations and prosecutions depend upon strong working relationships between law enforcement and the communities they serve in order to ensure justice for all. In partnership with tribes and states, the Department of Justice continues to develop and implement immediate and long-term strategies to address the public safety challenges in Indian country. The Department is committed to strengthening relationships with Federally recognized tribes; improving the coordination of information-sharing, training opportunities, and research

³⁶ The Deputy Attorney General's memorandum to USAOs concerning the Indian Country Law Enforcement Initiative can be found online at <http://www.justice.gov/dag/dag-memo-indian-country.html>.

development which will enhance tribal law enforcement capacity and promote our shared law enforcement and prosecution efforts.

It is of paramount importance to the Department that law enforcement in Indian country is fully supported in their efforts. Although we have made great strides in our efforts in conjunction with our tribal and state partners, we recognize that there is still much work to be done.

“Law enforcement in Indian Country faces unique practical and jurisdictional challenges and the Department of Justice is committed to working with them to provide greater access to technology, information and necessary enforcement.”

*—Jeff Sessions, U.S. Attorney
General*

VI. Appendix A: Glossary of Terms

Cases Filed – all proceedings for which a significant paper has been filed in court during the reporting period and regardless of the reporting period in which the proceeding was opened as a criminal matter in LIONS. Significant papers include indictments and informations filed in district court. U.S. Magistrate Court and U.S. Appeals Court filings are not included in these counts.

Defendants in Cases Filed – a count of the defendant or defendants associated with each Case Filed. Note that if at least one defendant is in case status, the proceeding is counted as a case even though one or more additional suspects may remain in matter status.

Defendants in Matters Received – a count of the suspect(s) associated with each Matter Received.

Defendants in Matters Terminated – a count of the suspect(s) whose matter(s) was/were terminated. Note that a count is not added to Matters Terminated, above, until proceedings related to all suspects associated with the matter are terminated.

Immediate declination – occurs when the USAO does not open a file on a referral and does not pursue prosecution of the referral.

Matters Received – all proceedings on which AUSAs spend one hour or more of time and that districts open in LIONS after the beginning of the reporting period are counted as Matters Received for that reporting period. Matters Received includes criminal referrals from investigative agencies and matters that may be handled as misdemeanor cases in U.S. Magistrate Court. Matters Received does not include criminal miscellaneous matters (requests for arrest warrants, search warrants, etc.), petty offenses or infractions, or matters that are immediately declined.

Matters Terminated – all proceedings terminated (closed) during the reporting period without ever having attained case status are counted as Matters Terminated. Matters Terminated includes Later Declinations, No True Bills, and criminal matters that are handled as misdemeanor cases in U.S. Magistrate Court.

Suspect – refers to those individuals identified as potential wrongdoers in an open matter.

VII. Appendix B: Lead Charges Entered into LIONS on Indian Country Declinations in CY 2016

Assault

18 USC 113a1	Assault with intent to commit murder
18 USC 113a4	Assault by striking, beating, or wounding
18 USC 113a6	Assault resulting in serious bodily injury
18 USC 113a3	Assault with dangerous weapon intent to bodily harm without just cause
18 USC 113a8	Assault of a spouse/partner by strangling/suffocating or attempting
18 USC 117	Domestic assault by an habitual offender
18 USC 113a5	Assault within maritime and territorial jurisdiction - Simple Assault
18 USC 111a1	Forcibly assault/resist/impede/intimidate person engaged official duty
18 USC 111	Assaulting, resisting, impeding certain officers
18 USC 111a	Assaulting, resisting, or impeding certain officers or employees
14S:14-09-22	Abuse or neglect of child
18 USC 113a7	Assault resulting in substantial bodily injury to an individual
18 USC 2261a1	Interstate domestic violence: Crossing a state line
18S:113a5	Assault
18 USC 112a	Assault, strike, wound, imprison, offer violence to foreign official

Murder

18 USC 1111	Murder
18 USC 1112	Manslaughter
20T:00504	Negligent homicide by means of motor vehicle
18 USC 1121	Killing persons aiding Federal investigation/State
18 USC 1113	Attempt to commit murder or manslaughter

Sexual Assault (Child and Adult Victims), Sexual Exploitation and Failure to Register as Sex Offender

18 USC 2241c	Aggravated sexual abuse with children
18 USC 2252a4B	Knowingly possess books, magazines, etc., which contain visual depiction
18 USC 2243a	Sexual abuse of a minor
18 USC 2241a	Aggravated sexual abuse by force or threat
18 USC 2241	Aggravated sexual abuse
18 USC 2242(1)	Whoever threatens or causes another person to engage in a sexual act
18 USC 2244	Abusive sexual contact
18 USC 2243	Sexual abuse of a minor or ward
18 USC 2252	Material involving sexual exploitation of minors

18 USC 2243a1	Sexual abuse of a minor that has attained age 12 but not age 16
18 USC 2242	Sexual abuse
18 USC 2251	Sexual exploitation of children
18 USC 2242(2)	Engages in a sexual act with another person
18 USC 2250	Fail to register as sex offender after traveling interstate commerce
22D:04801	Rape
18 USC 2250a	Failure to register - In general
18 USC 2243b	Sexual abuse of a ward
18 USC 1591	Sex trafficking of children or by force, fraud, or coercion
18 USC 2422	Transport for sex - Coercion and enticement
18S:2222.1	Incest
18 USC 2252Ab1	Attempt/conspire/violate activity relate or contain child pornography
18 USC 1470	Transfer of obscene materials to minors
18 USC 2251b	Custodial person permit minor engage sexual explicit visual depiction

Drug, Alcohol, and Other Offenses

21 USC 841	Drug Abuse Prevention & Control-Prohibited acts A
18 USC 922g1	Unlawful shipment, transfer, receipt, or possession by a felon
18 USC 81	Arson in special maritime and territorial juris.
21 USC 846	Attempt and conspiracy
18 USC 2118b	Attempt/enter property of person register with DEA w/ intent to steal
18 USC 876	Mailing threatening communications
18 USC 922g5A	Unlawful possession by an Alien unlawfully in the United States
21 USC 844a	Knowing/intentionally possess mixture and substance containing cocaine
18 USC 1201	Kidnaping
18 USC 875	Interstate Communications
22D:00301	Arson
18 USC 912	False personification - Officer or employee of US
18 USC 115a1B	Threatens to assault, kidnap, or murder Federal official
18 USC 1951	Hobbs Act
18 USC 1961	RICO - definitions
18 USC 1512d	Intentionally harass a person thereby hinder, delay, prevent, dissuade
18 USC 1073(1)	Flight to avoid prosecution, custody, or confinement after conviction
21 USC 952	Importation of controlled substances
18 USC 875c	Transmit interstate/foreign commerce communication threat to kidnap
30S:30-6-1D2	Knowingly cause/permit child to be tortured/cruelly confined/punish
18 USC 242	Deprivation of rights under color of law
18 USC 1363	Buildings or property within special maritime/territorial jurisdiction
21 USC 841a1	Manufacture, distribute, dispense, possess a controlled substance
18 USC 1512	Tampering with a witness, victim, or an informant
21 USC 841b1Aviii	500 grams or more mixture/substance detectable amount methamphetamine

06S:6-2-503	Child abuse
750S:750.136b2	Child Abuse - 1st Degree
16S:16-11-102	Pointing gun or pistol at another
18 USC 2111	Robbery/burglary - Special jurisdiction
16 USC 668	Bald and golden eagles
26 USC 5861d	Receive/possess firearm not register in National Firearm Registration
18 USC 922j	Receipt or possession of a stolen firearm and ammunition
18 USC 1071	Concealing person from arrest
16 USC 3372	Illegally Taken Fish & Wildlife - prohibited acts
18 USC 1201a1	Person is willfully transported in interstate or foreign commerce

Financial Crimes/Public Corruption/Fraud

18 USC 1163	Embezzlement and theft from Indian Tribal organization
18 USC 1343	Fraud by wire, radio, or television
18 USC 1167	Theft from gaming establishments on Indian lands
18 USC 1344	Bank Fraud
18 USC 371	Conspiracy to commit offense or to defraud US
18 USC 666	Theft or bribery in programs receiving Fed funds
18 USC 1001	Fraud/false statements or entries generally
18 USC 661	Embezzlement/theft in special jurisdictions
18 USC 1167a	Takes/carry away intent to steal money/property value \$1,000 or less
18 USC 641	Public money, property or records
IS:145.05(2)	Damages property of another person in an amount exceeding \$250.00
26 USC 7206	Fraud and False statements
18 USC 1001a3	Make or use any false writing/document knowing contain false statement
18 USC 224	Bribery in sporting contests
18 USC 1168	Insider Theft of gaming establishments Indian land
18 USC 1956	Laundering of monetary instruments
18 USC 201	Bribery of public officials and witnesses
18 USC 510	Forging endorsements on Treasury checks, bonds se
15 USC 714mc	Larceny; conversion of property
18 USC 1707	Theft of property used by Postal Service
18 USC 666a1	Theft/bribery agent Organization/State Local/Indian tribal government
16S:16-8-2	Theft by taking
15 USC 1175	Gambling devices in specific jurisdictions
18 USC 643	Accounting generally for public money
7 USC 13a3	Knowingly make false statement with respect to any material fact
18 USC 1341	Mail Fraud - Frauds and swindles
42 USC 408	Fed Old Age, Survivors & Disab Insur -Penalties
18 USC 1361	Malicious Mischief - Govrnmt property or contracts
8 USC 1357	Administration of oath; taking of evidence

Jurisdictional, Procedural, Penalty, or State Statute

13S:13-3623	Child or vulnerable adult abuse
18 USC 7	Special Maritime/Territorial Jurisdiction of US
8 USC 1324a1Ai	Knowingly brings or attempts to bring in illegal aliens to US
45S: 6-204	Burglary
45S:45-5-207	Criminal endangerment
30S:30-6-1D1	Knowingly permit child placed situation endanger child life/health
16 USC 470	Archeological Resource Protection
LS:525.060	Disorderly conduct in the second degree
18S:2232.1	Burglary First Degree
18S:2610.1	Abuse of or cruelty to minor as felony - Defense to charge
22 USC 612	Foreign Agents & Propaganda Registration statement
18 USC 924c1Ai	Use/carry/possess firearm during commission Federal crime of violence
18 USC 13	Laws of States Adopted in Federal jurisdiction
18 USC 13b1	Conviction for operating motor vehicle under influence of drug/alcohol
18 USC 5032	Delinquency Proceedings in District Court
14T:00299	Simple assault and battery
12S:12.1-31-01	Disorderly conduct
05S:5-39-202a1	Break/enter building/structure/vehicle purpose of commit theft/felony
13S:13-2911	Interference with or disruption of an educational institution
13S:13-1201A	Recklessly endangering person risk of imminent death/ physical injury