



## **OPERATIONAL PLAN**

### Promoting Public Safety in Indian Country

Last Updated: December 2023

The United States Attorney's Office for the District of New Mexico ("USAO-DNM") has the solemn trust responsibility to promote public safety in Tribal communities in support of Tribal sovereignty and prosperity. New Mexico is especially fortunate to have a unique and enduring cultural heritage that makes it distinct, and the preservation of those qualities is an earnest obligation to its Tribal communities. The USAO-DNM willingly accepts its responsibility to help these communities stay safe and to ensure justice is achieved.

Therefore, the 2024 District of New Mexico Operational Plan Promoting Public Safety in Indian Country ("Operational Plan") is premised upon respect for Tribal sovereignty and recognition of the government-to-government relationship between the United States and the Tribes and Pueblos within the District of New Mexico. The Operational Plan is intended to further facilitate communication between this office and our federal and Tribal partners, and outlines a strategy prioritizing missing and murdered indigenous people, violent crime committed against women and children, and drug trafficking and substance use disorder in Tribal communities.

## **I. Background**

The USAO-DNM adopted its first Operational Plan in Indian Country in 2010. This was in response to the [2010 Ogden Memorandum](#) directing U.S. Attorneys' Offices to develop a structure and plan for addressing public safety in Indian Country. On July 13, 2022, the Department of Justice, through Deputy Attorney General ("DAG") Lisa Monaco, issued a memorandum entitled [Promoting Public Safety in Indian Country](#) (the "Monaco Memo"). The Monaco Memo directs each U.S. Attorney with Indian Country jurisdiction to update its Operational Plan, with an eye toward consistent engagement, commitment, and collaboration with its Tribal partners.

The USAO-DNM held its annual Tribal Consultation on July 13, 2023 to receive comment from Tribal leadership regarding protecting native families, fighting drug trafficking and substance use disorders, and the type of training and support their communities need. Sixteen Tribes, the Bureau of Indian Affairs' Office of Justice Services, the Eight Northern Pueblos Council, the Coalition to Stop Violence Against Native Women, and the Federal Bureau of Investigations were present.

At the consultation, U.S. Attorney Ubaldez expressed his office's continued commitment to addressing violence, addiction and mental illness through victim centered, trauma informed, and culturally sensitive approaches. He highlighted training, outreach and community building conducted by his office and a 13% increase in prosecutions over the last 12-months, including a dramatic increase violent crime prosecution. Many participants described the deleterious effects Fentanyl is

having on their communities, leading to more crime in their community and higher death rates amongst their members, and asked that the District of New Mexico come up with some opioid education and resources for Tribal communities. Others commended the USAO for improving communication and relations with the Tribes, especially with the implementation of the Tribal Liaison program, but cautioned that more work will need to be done to gain the confidence of Tribal leadership, law enforcement, and communities. Many participants emphasized the importance of communication, transparency, and accountability by the USAO.

The USAO-DNM, including several attorneys from the Indian Country Crimes Section, the Victim Witness Section, and the U.S. Attorney for the District of New Mexico, attended the Not Invisible Act Commission's public hearing hosted in Albuquerque, New Mexico on June 28 and 29, 2023. Those in attendance listened to individuals who provided testimony during the sessions. The testimony provided a stark and emotional perspective of the MMIP crisis and its impact on individuals, families, law enforcement, and community providers in Indian Country.

The USAO-DNM's expanded Tribal Liaison program has been in place for over a year now. The program has increased quality communications between the U.S. Attorney's office, Tribal leadership, and Tribal law enforcement. It has also helped to build positive professional relationships between Tribes and the USAO-DNM. The improved relationships have allowed the USAO-DNM to have a better understanding of the issues confronted by each Tribal community and implement better strategies to address them.

Over the course of 2023, U.S. Attorney Uballez, the assigned Tribal Liaison, and the Indian Country Crimes Supervisor strived to personally visit each Tribal community in the state of New Mexico, and were ultimately able to visit the following 18 communities: Pueblo of Acoma, Pueblo of Cochiti, Pueblo of Isleta, Pueblo of Laguna, Pueblo of Picuris, Pueblo of Pojoaque, Pueblo of Ohkay Ohwingeh, Pueblo of Santa Clara, Pueblo of Sandia, Pueblo of San Felipe, Pueblo of San Ildefonso, Pueblo of Tesuque, Pueblo of Taos, Pueblo of Zia, Pueblo of Zuni, Jicarilla Apache Nation, Mescalero Apache Tribe, and the Navajo Nation. The goal of each visit was to meet in-person with the leadership and law enforcement of each Tribe within their own community. Each meeting was a chance for the Tribal leadership to ask questions or express any concerns with public safety in their community and what role the U.S. Attorney's office played in addressing these public safety concerns. The U.S. Attorney and his Indian Country team had the chance to speak about their on-going public safety initiatives in Indian Country.

Herein, the USAO-DNM incorporates the comments from the Tribal Consultation, testimony heard during the NIAC public hearings, lessons learned from the Tribal Liaison program, and visits to individual Tribal communities as well as the significant legal and legislative developments since the 2010 Ogden Memorandum, including the Tribal Law and Order Act of 2010 ("TLOA"), Savanna's Act, the Not Invisible Act of 2019, the 2013 and 2022 reauthorizations of the Violence Against Women Act ("VAWA"), *Oklahoma v. Castro-Huerta*, and the on-going work with the Bureau of Indian Affairs, ("BIA"), the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), the Drug Enforcement Administration ("DEA"), the Federal Bureau of Investigation ("FBI") and the

United States Marshals Service (“USMS”).

## **II. Indian Country in New Mexico**

New Mexico is home to 22 Native American communities—nineteen Pueblos: Acoma, Cochiti, Isleta, Jemez, Kewa, Laguna, Nambé, Ohkay Owingeh, Picuris, Pojoaque, Sandia, San Felipe, San Ildefonso, Santa Ana, Santa Clara, Taos, Tesuque, Zuni and Zia; two Apache Tribes: Jicarilla and Mescalero; and the Navajo Nation. New Mexico is the fifth largest state in the nation by land area. It is also the fifth least-densely populated state. Tribal communities in Indian Country are found throughout the state. The Tribal governments located within the District of New Mexico are:

### **Pueblo of Acoma**

[www.puebloofacoma.org](http://www.puebloofacoma.org)  
P.O. Box 309  
Acoma, NM 87034  
Phone: (505) 552-6604  
Police: (505) 552-6601/6602

### **Pueblo of Cochiti**

P.O. Box 70  
Cochiti Pueblo, NM 87072  
Phone: (505) 465-2244  
Fax: (505) 465-1135

### **Pueblo of Isleta**

[www.isletapueblo.com](http://www.isletapueblo.com)  
P.O. Box 1270  
Isleta Pueblo, NM 87022  
Phone: (505) 869-3111  
Fax: (505) 869-7596  
Police: (505) 869-9704

### **Pueblo of Jemez**

[www.jemezpuablo.com](http://www.jemezpuablo.com)  
P.O. Box 100  
Jemez Pueblo, NM 87024  
Phone: (575) 834-7359  
Fax: (575) 834-7331  
Police: (575) 834-0468

### **Pueblo of Kewa**

[www.santodomingoTribe.org](http://www.santodomingoTribe.org)  
P.O. Box 99  
Santo Domingo Pueblo, NM 87052  
Phone: (505) 465-2214  
Fax: (505) 465-2688/2215

### **Pueblo of Laguna**

[www.lagunapueblo-nsn.gov](http://www.lagunapueblo-nsn.gov)  
P.O. Box 194  
Laguna Pueblo, NM 87026  
Phone: (505) 552-6654  
Fax: (505) 552-6941  
Police: (505) 552-6666

### **Pueblo of Nambé**

[www.nambepueblo.org](http://www.nambepueblo.org)  
Route 1, Box 117-BB  
Santa Fe, NM 87506  
Phone: (505) 455-2036  
Fax: (505) 455-2038

### **Ohkay Owingeh Pueblo**

P.O. Box 1099  
San Juan Pueblo, NM 87566  
Phone: (505) 852-4400  
Fax: (505) 852-4820  
Police: (505) 852-2757

### **Pueblo of Picuris**

[www.picurispueblo.org](http://www.picurispueblo.org)  
P.O. Box 127  
Penasco, NM 87553  
Phone: (575) 587-2519  
Fax: (575) 587-1071

### **Pueblo of Pojoaque**

[www.pojoaque.org](http://www.pojoaque.org)  
78 Cities of Gold Road  
Santa Fe, NM 87506  
Phone: (505) 455-4500  
Fax: (505) 455-0174  
Police: (505) 455-2295

**Pueblo of San Felipe**

P.O. Box 4339  
San Felipe Pueblo, NM 87001  
Phone: (505) 867-3381  
Fax: (505) 867-3383

**Pueblo of San Ildefonso**

[www.sanipueblo.org](http://www.sanipueblo.org)  
02 Tunyo Po  
Santa Fe, NM 87506  
Phone: (505) 455-2273  
Fax: (505) 455-7351

**Pueblo of Sandia**

[www.sandiapueblo.nsn.us](http://www.sandiapueblo.nsn.us)  
481 Sandia Loop  
Bernalillo, NM 87004  
Phone: (505) 867-3317  
Fax: (505) 867-9235  
Police: (505) 891-7226

**Pueblo of Santa Ana**

[www.santaana.org](http://www.santaana.org)  
2 Dove Road  
Santa Ana Pueblo, NM 87004  
Phone: (505) 867-3301  
Fax: (505) 867-3395  
Police: (505) 771-6730

**Pueblo of Tesuque**

Route 42, Box 360-T  
Santa Fe, NM 87506  
Phone: (505) 983-2667  
Fax: (505) 982-2331

**Pueblo of Zia**

135 Capitol Square Dr.  
Zia Pueblo, NM 87053  
Phone: (505) 867-3304  
Fax: (505) 867-3308  
Police: (505) 867-3304

**Pueblo of Zuni**

[www.ashiwi.org](http://www.ashiwi.org)  
P.O. Box 339  
Zuni, NM 87327  
Phone: (505) 782-7000  
Fax: (505) 782-7202  
Police: (505) 782-7061/7057

**Navajo Nation**

[www.navajo-nsn.gov/index](http://www.navajo-nsn.gov/index)  
P.O. Box 7440  
Window Rock, AZ 86515  
Phone: (928) 871-7000  
Fax: (928) 871-4025  
Police: (928) 871-6113/6114  
Criminal Investigators: (928) 871-6390/6152

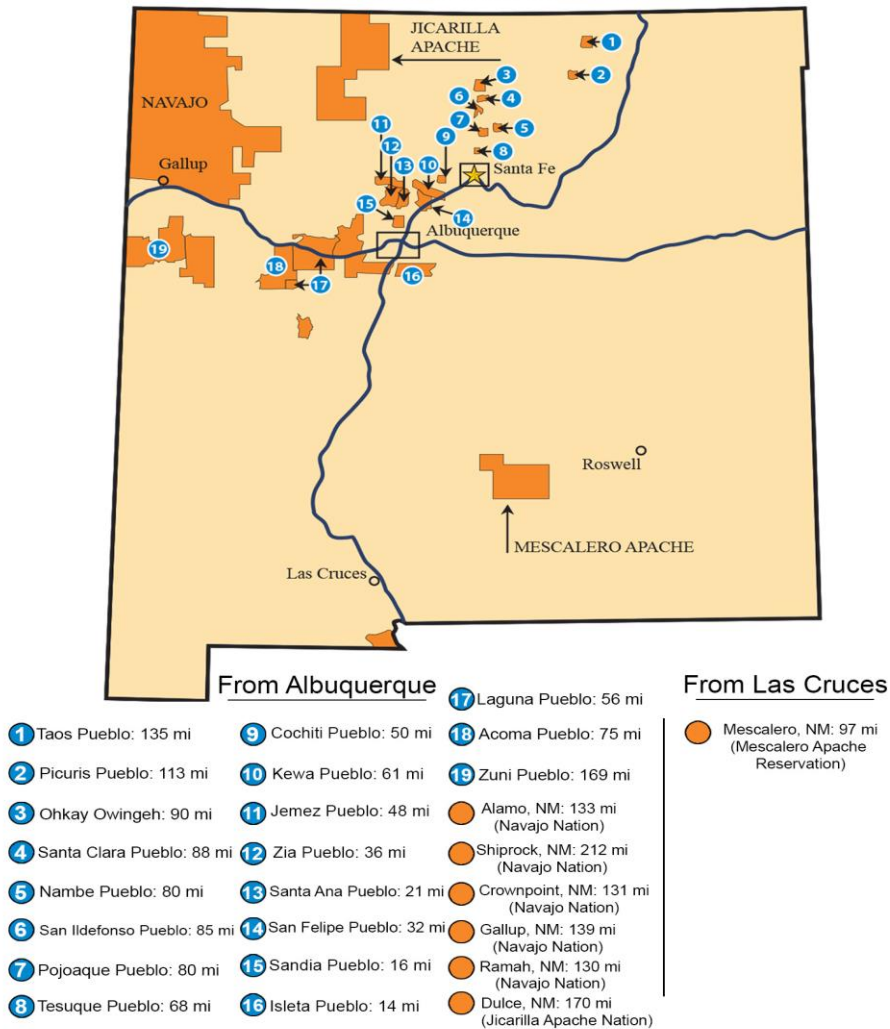
**Jicarilla Apache Nation**

P.O. Box 507  
Dulce, NM 87528  
Phone: (575) 759-3242  
Fax: (575) 759-3005  
Police: (575) 759-3222

**Mescalero Apache Tribe**

[www.mescaleroapachetribe.com](http://www.mescaleroapachetribe.com)  
P.O. Box 227  
Mescalero, NM 88340  
Phone: (575) 464-4494  
Fax: (575) 464-9191  
Police: (575) 464-4451

## Distance - Tribal Communities to USAO-NM



Law enforcement partners working in Indian Country, in addition to Tribal law enforcement, include:

### **Bureau of Indian Affairs Office of Justice Services**

[www.bia.gov/bia/ojs/contact-us](http://www.bia.gov/bia/ojs/contact-us)  
District IV Office  
1001 Indian School Road, NW  
Albuquerque, NM 87104  
Phone: (505) 563-3882

### **Federal Bureau of Investigation**

[www.fbi.gov/contact-us/field-offices/albuquerque](http://www.fbi.gov/contact-us/field-offices/albuquerque)  
Albuquerque Field Office  
4200 Luecking Park Avenue, NE  
Albuquerque, NM 87107  
Phone: (505) 889-1300

### **United States Fish and Wildlife Service Office of Law Enforcement**

[www.fws.gov/southwest/lawenforcement/statecontacts](http://www.fws.gov/southwest/lawenforcement/statecontacts)  
P.O. Box 329  
Albuquerque, NM 87103  
Phone: (505) 248-7889

### **Drug Enforcement Administration**

[www.dea.gov/divisions/elp/elp](http://www.dea.gov/divisions/elp/elp)  
Albuquerque District Office  
2660 Fritts Crossing, SE  
Albuquerque, NM 87106  
Phone: (505) 452-4500

**Homeland Security Investigations**

www.ice.gov/contact/hsi  
1720 Randolph Road, SE  
Albuquerque, NM 87106  
Phone: (505) 346-7912

**New Mexico State Police**

www.sp.nm.gov  
4491 Cerrillos Road  
Santa Fe, NM 87507  
Phone: (505) 827-9000

**Bureau of Alcohol, Tobacco,  
Firearms and Explosives**

www.atf.gov/phoenix-field-division/new-mexico-field-offices  
Albuquerque Field Office  
201 3<sup>rd</sup> Street, Suite 1550  
Albuquerque, NM 87102  
Phone: (602) 777-6510

### **III. USAO-DNM Indian Country Components**

Crimes committed in Indian Country<sup>1</sup> falling within the General Crimes Act, 18 U.S.C. § 1152, the Major Crimes Act, 18 U.S.C. § 1153, as well as federal crimes of general applicability are the responsibility of the United States Attorney's Office to prosecute. Since the Supreme Court's decision in *Oklahoma v. Castro-Huerta*, No. 21-429, 2022 WL 2334307 (June 29, 2022), state governments now have concurrent jurisdiction to prosecute crimes committed by non-Natives against Natives in Indian Country. Regardless, the USAO-DNM will continue to prosecute crimes in Indian Country pursuant to 18 U.S.C. §§ 1152 and 1153. Should the state seek to exercise jurisdiction in Indian Country following *Castro-Huerta*, the USAO-DNM will facilitate consultation between these sovereigns as well as communicate and work closely with its Tribal, state, and local partners to determine the best course of action on a case-by-case basis.

The prosecution of Indian Country crimes can involve many components of the USAO-DNM, all sections of the office regularly support prosecutions and law enforcement efforts in Indian Country. When a prosecution results in restitution ordered by the Court pursuant to the Mandatory Victims Restitution Act, 18 U.S.C. § 3663A, or pursuant to the Victim Witness Protection Act, 18 U.S.C. § 3663, the Financial Litigation Unit ("FLU") seeks garnishment of wages and otherwise works to obtain restitution on behalf of crime victims. Additionally, the Organized Crime ("OC") section lends its expertise for the purpose of obtaining wire taps and pursuing more complex organized crime and narcotics investigations with a nexus to Indian Country. The Public Integrity section regularly supports and engages in prosecutions of Indian Country crimes involving more complex fraud investigations as well as prosecutions for violations of the Indian Arts and Crafts Act, 18 U.S.C. § 1159. The Civil section also engages in litigation on behalf of Tribal entities. In addition to the foregoing, several components of the office have dedicated responsibilities to Indian Country.

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<sup>1</sup> 18 U.S.C. § 1151 defines "Indian country" as (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

### ***A. Indian Country Crimes Section***

In 2010, the USAO-DNM created an Indian Country Crimes Section (“ICCS”). The section has evolved and grown over the years. In 2022, the USAO-DNM submitted a solicitation to the Executive Office for the United States Attorneys requesting additional Indian Country AUSAs and staff positions. This request was made not only because of the outsized caseload that each ICCS AUSA carried but also because of the additional collateral duties assigned to each ICCS AUSA. The USAO-DNM takes its trust responsibilities seriously and requires its ICCS AUSA to prioritize community involvement, communication, and outreach with Tribal communities in addition to prosecuting cases.

Thankfully, the USAO-DNM was granted additional Indian Country positions. Now, ICCS consists of one Supervisory AUSA, one Deputy Supervisor, twelve Assistant United States Attorneys (AUSAs), one legal assistant supervisor, four legal assistants, and one contractor.

The majority of the AUSAs assigned to the ICCS have substantial experience prosecuting violent crimes. The ICCS also seeks to employ prosecutors from the Tribal Courts and other state entities as designated Special Assistant United States Attorney(s) to augment the Section and further develop intergovernmental relationships.

The ICCS relies upon extensive support from other USAO-DNM components, including Victim/Witness advocates, the Law Enforcement Coordinator, and the Public Affairs Officer. In addition, two AUSAs located in the Las Cruces branch office handle cases arising from the Mescalero Apache Reservation in south-central New Mexico. The significant resources assigned to and supporting the ICCS reflect the USAO-DNM’s commitment to supporting law enforcement efforts and reducing violent crime in Indian Country.

### ***B. Tribal Liaisons***

The USAO-DNM previously had a single AUSA assigned to serve as a liaison to all 22 Tribal communities in the state. In order to provide more frequent and particularized attention, twelve attorneys in ICCS serve as Tribal Liaisons and are assigned to no more than two Tribes. The Tribal Liaison program is overseen by the Deputy Supervisor of the ICCS. The revamping of the Tribal Liaison program has strengthened communication and coordination between each Tribal community and the USAO-DNM.

The Tribal Liaisons are responsible for developing positive working relationships and maintaining communication with Tribal leaders and Tribal law enforcement. Additionally, Tribal Liaisons coordinate, plan, and provide training for Tribal law enforcement when it is requested or needed. The USAO-DNM considers the training of our law enforcement partners to be a critical part of its mission in Indian Country. Many Tribal officers do not have the means or opportunity to travel overnight or for several days to get the additional training required to keep up with modern case law, investigative methods, and emerging law enforcement technologies. Therefore, the USAO-DNM

offers on-site training on a variety of subjects including Indian Country jurisdiction, search and seizure warrants, investigation of domestic violence and strangulation, and report writing. Trainings are tailored to Tribal agency requests and needs. We also provide training for our federal partners such as BIA and FBI, including legal updates, narcotics investigations support, or technology training.

### ***C. ICCS Special Programs***

The unique needs of Indian Country communities in New Mexico requires specialized expertise in many subject areas. ICCS implemented several special programs to address these needs. The ICC AUSAs leading each special program are subject-matter specialists who work with federal and Tribal law enforcement partners to effectively implement these programs. These programs include a Missing and Murdered Indigenous Persons (“MMIP”) AUSA, a Child Sexual Abuse (“CSA”) Coordinator, a SORNA Coordinator, a Juvenile Prosecutions Coordinator, a Narcotics in Indian Country (“NIC”) Coordinator, a Victims’ Rights Coordinator (“VRC”), and a Violence Against Women Act (“VAWA”) Coordinator.

#### ***a. Missing and Murdered Indigenous Persons AUSA***

In July of 2023, the Department of Justice announced the creation of the Missing and Murdered Indigenous Persons (MMIP) Regional Outreach Program, which permanently places 10 attorneys and coordinators in five designated regions across the United States to aid in the prevention and response to missing or murdered Indigenous people. The District of New Mexico received one of the five dedicated MMIP Assistant U.S. Attorneys who will provide specialized support to New Mexico, Colorado, Utah, Nevada and Arizona. The MMIP regional program prioritizes MMIP cases consistent with the Deputy Attorney General’s July 2022 [directive](#) to United States Attorneys’ offices promoting public safety in Indian country. The program fulfills the Justice Department’s promise to dedicate new personnel to MMIP consistent with Executive Order 14053, [Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of Missing or Murdered Indigenous People](#), and the Department’s [Federal Law Enforcement Strategy to Prevent and respond to Violence Against American Indians and Alaska Natives, Including to Address Missing or Murdered Indigenous Persons](#) issued in July 2022.

In September of 2023, the District of New Mexico selected an MMIP AUSA for the Southwest Region. The MMIP AUSA will provide specialized support to other U.S. Attorneys’ offices in the region, including investigation of unresolved MMIP cases and related crimes, as well as promote communication, coordination, and collaboration among federal, Tribal, local, and state law enforcement of non-governmental partners on MMIP issues. Consistent with Savanna’s Act and the Department’s directive, the USAO-DNM developed law enforcement-sensitive guidelines for responding to cases of missing or murdered American Indian/Alaskan Native persons. The MMIP AUSA will periodically review these guidelines and recommend revisions as necessary to meet the evolving needs of the Tribal communities in New Mexico.



***b. Child Sexual Assault Coordinator***

The Child Sexual Assault (“CSA”) Coordinator is the subject-matter expert on case law related to delayed disclosure in CSA cases. The CSA Coordinator provides strategic assistance to other attorneys on how to conduct victim centered and trauma informed prosecutions, creates and updates litigation templates, and disseminates newly-developed best practices.

***c. Sex Offender Registration and Notification Act Coordinator***

The Sex Offender Registration and Notification Act (“SORNA”) Coordinator is the subject-matter expert on interstate and Indian Country failure to register case law. The SORNA Coordinator works closely with the USMS and Tribal SORNA Officers to review potential failure to register cases and ensure appropriate cases are referred for prosecution. The SORNA Coordinator also assists Tribes who are interested in creating their own SORNA office to monitor and ensure compliance with federal SORNA laws.

***d. Juvenile Prosecutions Coordinator***

The Juvenile Prosecutions Coordinator is the subject-matter expert in federal juvenile delinquency case law and ensures compliance with the Justice Manual in federal delinquency proceedings originating out of Indian Country. This AUSA is regularly consulted for procedural and substantive legal matters relating to bringing uncommon juvenile charges in the federal system.

***e. Narcotics in Indian Country Coordinator***

The NIC Coordinator works as a liaison between DEA, BIA, FBI, as well as local and Tribal law enforcement agencies who investigate narcotics offenses in Indian Country. The purpose of this specific liaison position is to strengthen communication and coordination between these law enforcement agencies with the goal of conducting proactive rather than just reactive narcotics investigations in Indian Country. The NIC Coordinator will also coordinate education and outreach to Tribal community about substance abuse in Indian Country.

***f. Victims’ Rights Coordinator***

The VR Coordinator is the subject-matter expert in federal victims’ rights law and is tasked with staying up to date of issues concerning the Victims’ Rights and Restitution Act (VRRRA) (34 U.S.C. § 20141) the Crime Victims’ Rights Act (CVRA) (18 U.S.C. § 3771), the AG Guidelines, and other laws, regulations, and policies relevant to federal crime victims. The VRC assists attorneys to comply with federal victims’ rights laws and as well as provides litigation support for motion practice and trial. The VRC collaborates with EOUSA’s Victim Witness Attorney Advisors to create and implement district-wide victims’ rights trainings that reflect the Department’s priority of advancing crime victims’ rights. The VRC coordinates with EOUSA’s Victim-Witness Staff on outreach efforts, national projects and initiatives, policy and guidance, and other issues regarding victims’

rights. The VRC is the USAO-DNM's designated initial point of contact for CVRA complaints, in accordance with 28 C.F.R. § 45.10.

**g. *Violence Against Women Act Coordinator***

The VAWA Coordinator is tasked with implementing programs to address domestic violence in Indian Country. The VAWA Coordinator conducts training specific to crimes that are typically committed during domestic violence incidents, include assault, sexual abuse, interstate domestic violence, and violation of protection orders. The VAWA Coordinator is also starting a Repeat Offender program focused on targeting domestic violence habitual offenders through the direct submissions of these cases to the USAO-DNM from Tribal prosecutor's offices. These habitual offender cases often do not come to the attention of federal law enforcement because the offenders commit repeated misdemeanor assaults or violate tribal protective orders that do not fall under the Major Crimes Act. Tribal prosecutors are best suited to recognize these repeat offenders and refer them directly to the USAO-DNM as potential habitual offenders under 18 U.S.C. § 117, or for violations of VAWA laws such as interstate violation of a protective order under 18 U.S.C. § 2262. The USAO-DNM can review these cases and then refer the case to a federal law enforcement agency for further investigation when appropriate. The goal of the Repeat Offender program is to prevent further escalation of domestic violence offenses into felony level assaults or homicide.

**D. *Victim/Witness Advocates***

The USAO-DNM has a robust Victim/Witness advocate program. Several of our advocates are from the Tribal communities we serve, which means that they are not only familiar with the communities but also are sensitive to cultural norms and differences. This insight also supports case agents and AUSAs who may not be familiar with these cultures when they first start working in ICCS. The Indian Country advocates provide direct victim assistance and services such as notifying victims about their rights, providing notice of court settings, accompanying victims to hearings and trials, and ensuring victims are kept informed of the status of a prosecution. Additionally, they help AUSAs and case agents coordinate meetings with victims, provide supportive services to crime victims, refer victims to appropriate service agencies, and provide emergency victim assistance, including crisis intervention, emergency transportation to court, temporary housing, and criminal justice support. Advocates also consult with victims regarding prosecution issues, assist them in gathering information to prepare victim-impact statements, and serve on Multi-Disciplinary Teams and Child Protection Teams. The Victim/Witness Advocate program is a critical component to the USAO-DNM's efforts in Indian Country.

**E. *Law Enforcement Coordinator***

The Law Enforcement Coordinator ("LEC") serves as the district's lead liaison with federal, state, local, and Tribal law enforcement agencies. The LEC and Tribal Liaisons work collaboratively to build and maintain strong relationships with the Tribal communities within the district. The LEC disseminates training opportunities, open grant solicitations, and funding opportunities to Tribes in

the district. The LEC works closely with the Tribal Liaisons to obtain updated contact information for Tribal Leaders and Law Enforcement. The LEC also provides training and grant opportunities to the Tribal Liaisons so they can also forward the information to their respective assigned Tribes.

The LEC assists in the planning and hosting of Tribal consultations, listening sessions, trainings, and other USAO-DNM events. The MMIP coordinator, as well as the U.S. Attorney's management team, has been involved with cross referencing the FBI's monthly release of a list of missing indigenous persons in New Mexico and the Navajo Nation for any matches. The LEC and the MMIP AUSA work closely together to identify any links between people on the FBI MMIP list and current or past cases in the office.

#### ***F. Reentry and Community Outreach Coordinator***

The Reentry and Community Outreach Coordinator ("RCOC") works with the Tribal Liaisons to research and develop community outreach opportunities in Tribal communities. Using the information gathered from the Tribal Liaisons and meetings with Tribal groups, outreach initiatives are developed to best benefit each community's needs in the areas of crime prevention, substance use disorder, and reentry efforts. The RCOC works with other federal law enforcement agencies to bring information to Tribal communities through public information events and to promote the work and partnerships of the USAO and federal agencies in Indian Country. The RCOC position continues to be developed and will continue to expand outreach efforts in new directions as informed by the needs of Tribal communities.

### **IV. Coordination with Federal, Tribal, State, and Local Law Enforcement to Investigate Crime in Indian Country**

The USAO-DNM depends on federal, Tribal, state, and local law enforcement partners to conduct prompt, thorough, and complete investigations of crimes committed in Indian Country. The coordination between these agencies is essential to adequately address the ongoing threats to public safety in Tribal communities. The next sections provide a description of the law enforcement agencies investigating crimes in Indian Country and the protocol USAO-DNM follows to communicate and coordinate with these agencies to intake cases, review investigations, and make charging decisions.

#### ***A. Law Enforcement Partners***

The FBI and BIA are the two primary federal law enforcement agencies in Indian Country in New Mexico. The BIA also has a Missing and Murdered Unit ("MMU") with one special agent who investigates MMIP cases throughout Indian Country in the state of New Mexico. The USAO-DNM enjoys good working relationships with both agencies.

The same good working relationships exist with Tribal police departments, and the Tribal police departments frequently collaborate with the FBI and BIA on investigations. Criminal investigators and Tribal police officers who have received their Special Law Enforcement Commission ("SLEC")

or are designated as Task Force Officers (“TFO”) through the FBI directly submit some cases to the USAO-DNM.

The ATF, the DEA, and HSI lend support and specific expertise for Indian Country cases when requested to do so or when relevant investigations are brought to their attention. An additional significant category of Indian Country cases in New Mexico are those investigated by the U.S. Fish and Wildlife Service and the BIA involving the Migratory Bird Act, Bald and Golden Eagle Protection Act, the Lacey Act, the Native American Graves Repatriation Act, and the Indian Arts and Crafts Act. The New Mexico State Police also provide investigative assistance through investigators and the Accident Reconstruction Unit.

The USAO-DNM, FBI, and BIA have historically coordinated regarding responsibilities for investigations arising out of Indian Country. An MOU facilitated the close cooperation with these federal agencies but has not been updated since 2006. The USAO-DNM, FBI, and BIA met in November of 2023 to discuss and implement a collaborative effort to update the MOU. The updated MOU will reflect current responsibilities for each agency based on current practices and available resources. A final version should be available early 2024.

The availability of criminal investigative resources in each of New Mexico’s 22 Tribal communities varies widely. For example, the Navajo Nation Department of Public Safety (“NNDPS”) nominally staffs the New Mexico side of the Navajo Nation with approximately 50 patrol officers and 12 criminal investigators, and the FBI maintains Resident Agent Offices in Gallup and Farmington staffed with five agents and six agents, respectively. The Navajo Nation has no BIA investigative presence and, because of its vast geographic span, FBI agents who investigate major crimes on the Navajo Nation are frequently a half-day of travel away from the crime scene. For that reason, the USAO relies heavily on NNDPS investigators and officers as first responders to many major crime scenes on the Navajo Nation.

The BIA provides primary investigative resources for the remaining 21 Pueblos and Tribes through: (i) the Northern Pueblos Agency, which serves the Pueblos of Nambé, Picuris, Pojoaque, San Ildefonso, Ohkay Owingeh, Santa Clara, Taos and Tesuque; (ii) the Southern Pueblos Agency, which serves the Cochiti, Isleta, Jemez, San Felipe, Sandia, Santa Ana, Kewa and Zia; (iii) the Jicarilla Agency, which serves the Jicarilla Apache Nation; (iv) the Laguna Agency, which serves the Laguna and Acoma; (v) the Mescalero Agency, which serves the Mescalero Apache Tribe; (vi) the Ramah Navajo Agency, which serves the Ramah Navajo Chapter; and (vii) the Zuni Agency, which serves the Pueblo of Zuni. The BIA receives support from the FBI and Tribal police departments.

The sheer number of Tribal, state, and federal law enforcement agencies investigating crimes in Indian Country can be daunting. The USAO-DNM’s expanded Tribal Liaison program has improved collaboration and communication between Tribal law enforcement agencies and the USAO-DNM through regular communication with Tribal law enforcement to coordinate resources for investigations and by providing tailored support and training.

In addition to the specifically-assigned Tribal Liaison, the ICCS Supervisor and Deputy Supervisor AUSAs are always available by phone to law enforcement and Tribal officials. When out of the district or otherwise unavailable, the Supervisor and Deputy Supervisor designate another ICCS AUSA to be available and forwards inquiries to that AUSA. Additionally, AUSAs assigned to a particular case are available to the case agent, involved law enforcement agencies, victims, and relevant Tribal officials by desk phone, cell phone, and email.

### ***B. Investigative Intake Process***

All Indian Country investigations referred to ICCS from federal, Tribal, and state law enforcement are submitted to the ICCS Supervisors for screening. Screening responsibilities are divided between the Supervisor and the Deputy Supervisor. The Supervisor for the Albuquerque ICCS reviews all referrals from the Navajo Nation, Zuni Pueblo, and Jicarilla Apache Nation. The Deputy Supervisor for the Albuquerque ICCS reviews all referrals from Pueblo of Acoma, Pueblo of Cochiti, Pueblo of Isleta, Pueblo of Laguna, Pueblo of Jemez, Pueblo of Kewa, Pueblo of Nambé, Pueblo of Picuris, Pueblo of Pojoaque, Pueblo of Ohkay Ohwingeh, Pueblo of Santa Ana, Pueblo of Santa Clara, Pueblo of Sandia, Pueblo of San Felipe, Pueblo of San Ildefonso, Pueblo of Tesuque, Pueblo of Taos, and Pueblo of Zia. The Supervisor for the Las Cruces office reviews referrals from the Mescalero Apache Tribe. The Supervisors determine the next course of action. The ICCS Supervisors and Deputy Supervisor are also the point of contact for law enforcement agents seeking review and approval of search warrants. The ICCS Supervisors will designate an ICCS AUSA as the point of contact for incoming cases and warrants when they are not available.

If a suspect has committed a serious violent crime and poses a continuing threat to the safety the community, the agent and the Supervisory AUSA will discuss whether a criminal complaint and warrant for the immediate arrest of the suspect is supported by sufficient evidence and is warranted. If a complaint is filed, the case will then be assigned to an ICCS AUSA for further review and indictment. The pendency of Tribal charges and whether a suspect is in Tribal custody might influence the decision whether to proceed by complaint or by indictment.

If a case is submitted but needs additional investigation, the case is assigned to an ICCS AUSA for further review. That AUSA reviews the law enforcement reports and other available evidence to determine what further investigation is required to prove the case beyond a reasonable doubt. Then, the AUSA will contact the case agent with the additional investigative steps and proof required. The AUSA relies on the federal case agent from the BIA or FBI to obtain reports, recordings, or evidence from Tribal or local law enforcement. If these items are not received in a timely manner, an alternative plan will be developed to obtain these documents and complete the investigative file. In most cases, the USAO-DNM will not proceed on a case until the investigative file is complete.

ICCS AUSAs are expected to conduct timely reviews and make prompt charging decisions. The ICCS Supervisors have an open-door policy to discuss investigations and charging decisions with AUSAs. Supervisors approve all proposed Indictments before the USAO-DNM's Grand Jury Screening Committee reviews the proposed charges for final approval.

### ***C. Contact with Victims/Witnesses***

Cases involving a victim are assigned a Victim/Witness advocate. The AUSA, case agent, and advocate will meet with the victim or survivors in their home community and discuss potential criminal charges, the legal process of a federal criminal case, and possible outcomes prior to seeking an indictment. The USAO-DNM places a high priority on these pre-prosecution meetings. Once an indictment is filed, the assigned AUSA will maintain contact with the victims or survivors through the advocate and will obtain their position on any potential plea resolutions to the matter. In addition, consistent with the Crime Victims' Rights Act of 2004, 18 U.S.C. § 3771 and the 2022 Attorney General Guidelines for Victim and Witness Assistance, the assigned AUSA, advocate, and USAO staff will work to ensure that victims are informed of their rights under the Act, kept abreast of every stage of the prosecution, and are treated with fairness and dignity throughout the investigation and prosecution for a case.

### ***D. Charging Decision and Timely Disclosure of Declinations***

In reaching a charging decision, the AUSA will either pursue the most serious, readily provable offense (unless good reasons justify an exception) or decline the case. The USAO-DNM recognizes that despite *Castro-Huerta*, it remains the primary prosecutor's office with jurisdiction to prosecute felony offenses involving Tribal members committed in Indian Country. The USAO-DNM continues to take that role seriously and does not take the declination of any felony case lightly. We seek to thoroughly review every felony investigation submitted to our office and work closely with law enforcement investigators to obtain all relevant evidence in any given case. Before declining a case, AUSAs carefully consider all the facts and evidence. In addition to seeking approval to decline from an ICCS supervisor, AUSAs must obtain the position on the decision to decline from the agent assigned to the case and from the alleged victim(s) affected by the conduct.

Ultimately, the ICCS Supervisor decides whether a case should be declined. DOJ policy requires that an AUSA 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 be sufficient to obtain and sustain a conviction, unless (1) the prosecution would serve no substantial federal interest; (2) the person is subject to effective prosecution in another jurisdiction; or (3) there exists an adequate non-criminal alternative to prosecution. The USAO-DNM requires that, in instances where a case is not readily provable, the AUSA will seek to remedy deficiencies in the evidence presented in the case file. If further investigation does not result in a prosecutable case or the factors identified above weigh sufficiently against prosecution, then the matter will be declined. Other reasons for declinations may be a victim or witness who is uncooperative or the existence of certain defenses to otherwise criminal conduct, such as self-defense or defense of others.

When a case is declined, a declination letter is sent to the lead case agent and Tribal prosecutor when applicable. The lead case agent is responsible for passing along the information to other interested parties such as other law enforcement agents involved with the case investigation. The declination

letter is only to serve notice to the agent and prosecutor and does not discuss the facts or include a detailed discussion of why it was declined. Rather the letter indicates a reason from a list of possible reasons for declination such as “insufficient evidence,” “lack of victim/witness cooperation,” or because the statute of limitations has run prior to the case being submitted to the USAO-DNM.

Declinations are a matter of substantial concern to Tribal communities, as expressed in numerous meetings, communications, and during the Tribal Consultation. The USAO-DNM recognizes this concern and is committed to improving investigations to support righteous federal prosecutions. Criminal investigations frequently result in the gathering of highly personal information from the accused as well as victims and witnesses. Accountability to and protection of crime victims is of the utmost importance, as expressed in the Crime Victim’s Rights Act, 18 U.S.C. § 3771, and the Child Victims’ and Child Witnesses’ Rights Act, 18 U.S.C. § 3509. The USAO-DNM will continue to review and address this matter in an attempt to balance the need for accountability and communication to concerned Tribal government officials with the presumption of innocence due all accused persons, necessary respect for the privacy of crime victims and witnesses to crimes, and the need to preserve confidential law enforcement information.

#### ***E. Notice of Prosecution/Resolutions***

It is the USAO-DNM general policy to issue press releases following guilty pleas, trial verdicts, and following sentencing. In certain cases, press releases are written at the time of indictment, arraignment, initial appearance, or preliminary/detention hearing. The name of involved law enforcement agencies, including Tribal law enforcement agencies, are included in the press release. The AUSA assigned to the case consults with the USAO-DNM Public Affairs Officer on the content of press releases. Press releases are posted on the USAO-DNM website and social media accounts and might be shared with the USDOJ Office of Public Affairs for additional awareness and/or distribution.

To meet notification requirements, press releases relating to cases arising in Indian Country are also sent to Tribal officials, law enforcement officers, prosecutors, advocates, or other designated points of contact, as well as relevant media contacts. Additionally, the AUSA assigned to the case will forward press releases regarding guilty pleas, trial verdicts and sentencings to the lead case agent. If for any reason a release would be inappropriate, the AUSA assigned to the case will notify the pertinent Tribal officials directly of the resolution of a case.

### **V. Intergovernmental Relationships with Federally Recognized Tribes**

Public safety in Tribal communities relies on a wholistic approach based in prevention, intervention, training, and community-based solutions. Accordingly, the U.S. Attorney, senior management staff, the LEC, the RCOC, the Victim Witness Unit, and ICCS AUSAs are actively engaged in identifying and developing outreach efforts that strengthen the ability of Tribal communities and their governments, including Tribal police departments, to address public safety in Indian Country.

#### ***A. Annual Consultation with 22 Tribes in the District of New Mexico***

The USAO-DNM conducts an annual Tribal Consultation each year. Attendees are provided the opportunity to submit written and verbal comments to address general or specific areas of concern. All Tribal leaders as well as inter-Tribal organizations, federal and state law enforcement, and other Tribal community groups and providers are invited to participate and comment. The Tribal Consultation has always been an opportunity to meet in person with Tribal leaders and have frank discussions in a public setting about the public safety progress that has been made in Indian Country as well as the work that is still needed.

The U.S. Attorney has also prioritized meeting in person with Tribal Leaders and Law Enforcement in their own communities. The U.S. Attorney and his ICC Team aims to visit each Tribe in their community each year. These meetings provide an opportunity to have a more private and individualized meeting without the time constraints of a public Tribal Consultation.

***B. Regular Consultation and Communication with Each Tribal Community through Assigned Tribal Liaison.***

The expanded Tribal Liaison program provides a direct means for coordination between Tribal governments and the USAO-DNM. The Tribal Liaisons are charged with providing needed support and training in Tribal communities. This includes providing training to law enforcement regarding topics in federal law and best practices for investigations. This includes assisting with Tribal Community Response Plans (“TCRP”) for the Tribes who wish to create these plans. Additionally, Tribal Liaisons will connect with Tribal community providers to provide needed training and support.

Tribal Liaisons are expected to meet in person at least twice a year with Tribal leadership. They are also encouraged to communicate with leadership, law enforcement, and community providers via phone and email on a regular basis. Regular communication and direct availability of the Tribal Liaisons will facilitate a better intergovernmental relationship between Tribal communities and the USAO-DNM.

**VI. Support for Victims, Survivors, and Families**

Victim advocacy is not only one of the most important aspects of maintaining the testimonial evidence of any given case but also a core direct service the USAO-DNM provides to Tribal communities. Victims must get the attention and care they need and deserve to endure the federal judicial process, which, in many cases, is a multi-year ordeal. Victim/Witness advocates, AUSAs, and law enforcement involved in investigations must be properly trained and poised to implement victim-centered and trauma-informed advocacy, investigations, and prosecutions. The USAO-DNM recognizes its responsibility to provide this training to law enforcement and support of victims in its Tribal communities.

***A. Training on Victim-Centered, Trauma-Informed Investigations, Prosecutions and Communications***



Knowing how to support victims is paramount to successful investigations and prosecutions. A trauma-informed investigation and prosecution tailors law enforcement efforts to best support and cater to the unique perspectives and experiences of victims, witnesses, and their families. A trauma-informed approach both considers the emotional impact on victims and their families and is culturally sensitive. The relationship between Tribal communities and the federal government is a fraught one. AUSAs and law enforcement need to acknowledge this history and work hard to gain the trust of Tribal members who may have reasons to distrust the federal government and law enforcement based on past experiences and long histories. AUSAs and law enforcement also need to be familiar with and respectful toward the cultural norms and practices of the Tribal members involved in an investigation and prosecution. Only by considering and catering to the unique perspective and experience of victims, witnesses, and families can the USAO-DNM effectively serve Tribal communities.

The USAO-DNM commits to creating a curriculum for training Victim/Witness advocates, AUSAs, and federal, Tribal, and local law enforcement on evidence-based best practices for conducting victim-centered, trauma-informed, and culturally sensitive investigations and prosecution in Indian Country. It will consult with the National Indian Country Training Initiative in the creation of this material and aim to offer it annually to AUSAs, Victim/Witness Advocates, and law enforcement. This training will include protocols to help ensure victims receive competent medical forensic examinations in both sexual assault and domestic violence cases, and that the evidence is processed effectively and efficiently. It will also incorporate implicit bias training to address gender, sexual orientation, and racial biases that can negatively impact law enforcement responses, investigations, and prosecutions.

### ***B. Victim/Witness Advocates***

The Victim/Witness Advocate section plays an essential role in supporting victims, survivors, and their families as they experience a federal investigation and prosecution. Access to victim assistance is a critical need for victims. Advocates provide needed support, services, and resources in the aftermath of crime and are a friendly face to help guide victims through the criminal justice system. Many of USAO-DNM's Victim/Witness advocates are from Tribal communities in New Mexico, currently reside within those communities, and worked as Tribal social workers prior to joining the USAO-DNM. Their familiarity with Tribal communities, cultural norms and the language spoken in those communities allows them to build rapport and trust.

Throughout the investigation and prosecution of a case, the Victim/Witness advocates provide crime victim support, referrals, and resources such as:

- Crisis intervention in the aftermath of a crime;
- Individual support, information, and referrals for counseling;
- Guidance throughout the Tribal justice system and/or federal criminal justice system;
- Support to the victim's friends and family;

- Ensuring victims receive victim-centered, culturally relevant services;
- Assisting victims with completing victim compensation applications; and
- Helping victims obtain emergency services, transportation, and housing assistance.

In conjunction with a Victim/Witness advocate, AUSAs and case agents meet with the victims throughout a prosecution to build trust and rapport with the victim and the family. Advocates, AUSAs, and case agents meet with victims prior to and after hearings or trials so victims and their family are prepared and can ask questions about the process. AUSAs generally travel to a victim's community to conduct these meetings rather than asking victims and their families to take on that burden.

Additionally, Victim/Witness advocates coordinate efforts and services with Tribal victim advocates, social services, and law enforcement departments, locate hard-to-find victims, and independently visit victims living on Indian reservations and Pueblos to ensure services are offered and/or provided. The Victim/Witness advocates also act as mentors to other victim-witness personnel who assist victims in Tribal territories, provide training and instruction as requested, and speak to special interest groups located in Tribal communities about specific issues directly related to Indian Country victimization. They are often called upon to help develop programs for Tribal victims and issues impacting Tribal communities.

### ***C. Adopt and Implement Guidelines for Victim/Witness Assistance***

On October 21, 2022, the Attorney General released [revised guidelines for Victim and Witness Assistance](#). This update expanded the scope of support for those significantly harmed by crime, provides for early notification and consultation with victims of crime, provides additional guidance regarding vulnerable populations, including American Indians, updates issues regarding technological advances and different types of harm victims might experience due to these advances, and expands the category of employee who will receive training regarding these updated guidelines. These updated guidelines became effective March 31, 2023.

All appropriate staff at the USAO-DNM were trained under these new guidelines. ICCS AUSA have implemented these guidelines in their daily practice. The guidelines are also incorporated into training provided to Tribal law enforcement.

### ***D. Adopt and Implement National Native American Outreach Services Liaison Protocols***

The Department created the National Native American Outreach Services Liaison to address criminal cases involving American Indian/Alaskan Native people where the federal government has jurisdiction. The Liaison is tasked with developing protocols for effective, consistent, and culturally and linguistically appropriate communications with victims, families of victims, and advocates for victims in criminal cases in Indian Country. When these protocols are disseminated, the USAO-DNM will incorporate them into this Operational Plan.

## **VII. Strategy to Address Public Safety Concerns in Indian Country**

Most of the felony crimes prosecuted by the USAO-DNM in Tribal communities are violent crimes. Many of these crimes involve women, youth, and children as victims, witnesses, or family members of those involved. Often, drug trafficking and substance use disorder are underlying or contributing factors to violent crime. Narcotics, including heroin, methamphetamine, and fentanyl, are readily available across the state and in Tribal communities. Substance use disorder has devastating effects on the individuals who use them, their families, as well as the Tribal communities where they live.

Violent crime and the use of illegal narcotics have a significant impact on Tribal communities, not only because of the impact on the victims but also because of the long-term consequences on the community. Addressing violent crimes committed against women, youth, and children necessarily involves tackling drug trafficking and substance use disorder, as they often go hand in hand. Therefore, a multi-faceted approach is needed to address these issues.

### ***A. Violence Against Women, Youth, and Children in Tribal Communities***

One of the biggest sources of violence against women, youth, and children in Indian Country is domestic violence. Often, victims and families have suffered previous incidents of domestic violence that did not rise to the level of federal felony charges, but perhaps resulted in Tribal charges. It is not uncommon for victims of domestic violence to refuse to cooperate with an investigation or a prosecution because they have reconciled with the offender, they are afraid of retribution, or because of lack of faith in the criminal justice system due to previous experiences.

Community support is critical to encouraging victim reporting and cooperation. The USAO-DNM is committed to strengthening the community response to victims of domestic abuse through outreach via the Tribal Liaison program, training and support to community providers who are often the first to encounter victims of domestic violence, and other community assistance. By providing training and support to community providers, these providers will be prepared to respond to the needs of a domestic violence survivor quickly and with the care and compassion they deserve.

The USAO-DNM maintains connections and supports community providers through participation in Multi-Disciplinary Teams (“MDT”). The following MDTs are currently operating in the district:

- *Crownpoint MDT*: USAO, FBI, Indian Health Services medical, mental health, and other local healthcare providers, Navajo Nation Social Services, school counselors, and the Farmington Sexual Assault Program.
- *Northern Pueblos MDT*: USAO, FBI, BIA, Indian Health Service medical and mental healthcare providers, and law enforcement and social services representatives from the northern Pueblos.
- *Gallup MDT*: USAO, FBI, Indian Health Services medical, mental health, and other local healthcare providers, Navajo Nation Social Services, school counselors, and the Farmington Sexual Assault Program.

- *Farmington Sexual Assault MDT*: USAO, FBI, Indian Health Services medical, mental health, and other local healthcare providers, Navajo Nation Social Services, school counselors, and the Farmington Sexual Assault Program.
- *Mescalero Apache Nation MDT*: USAO, FBI, BIA, Indian Health Services, and Tribal prosecutors.
- *Navajo Nation Law Enforcement MDT*: USAO, FBI, Navajo Nation Criminal Investigators, Navajo Nation Police Department, Navajo Nation Prosecutor's Office, New Mexico State Police.

USAO-DNM Victim/Witness advocates and Tribal Liaisons participate in MDTs as well. Liaisons are also encouraged to assist in the creation of an MDT if their assigned Tribe does not already participate in one.

The USAO-DNM is also committed to supporting alternatives to federal prosecution such as Tribal Courts that prosecute domestic violence and other violent crimes in their community. The USAO-DNM will work closely with and support Tribal partners who wish to exercise criminal jurisdiction over non-Indians pursuant to VAWA, as well as enhanced sentencing authority pursuant to TLOA. The exercise of this enhanced jurisdiction is key to addressing domestic violence committed by non-Indians against Tribal members. Tribal prosecutions also serve to intervene at an early stage before violence escalates to the level of a federal felony. Additionally, the USAO-DNM will explore further expanding its Tribal SAUSA program. Finally, the USAO-DNM will consult with Tribal leadership and New Mexico State prosecutors to determine whether state resources can support early intervention and prosecution of domestic violence under *Castro-Huerta*.

## ***B. Drug trafficking and substance use disorder in Indian Country***

Investigating drug trafficking in Indian Country is a challenge due to the rural landscape and sizes of the communities. Typical investigative tools are impractical due to lack of cellphone reception or other technology, surveillance is difficult in open and rural areas, and cooperators and undercovers are easily identified within small, tight-knit communities. Therefore, creating a strategy to address drug trafficking requires innovative ideas and unconventional implementation.

The USAO-DNM prioritizes proactive investigations to uncover the trafficking organizations, groups, and individuals who bring narcotics into Tribal communities. Recognizing that the weight of drugs involved in such investigations is often far below the amounts normally found along the southwest border and in our major urban areas, the USAO-DNM has dramatically expended intake thresholds by removing minimum weight requirements and by focusing on impact cases and players. In support of this effort, the USAO-DNM will utilize both its ICC and Organized Crime sections to develop proactive drug trafficking investigations. Two attorneys in ICCS are assigned narcotics cases that have a nexus to Indian Country. One of these attorneys is the designated Narcotics in Indian Country ("NIC") Coordinator.

The NIC Coordinator is tasked with engaging with the FBI, BIA, DEA, and ATF to focus

investigative efforts on impact cases in Tribal communities, with a focus both on drug trafficking and violent crime with a nexus to drugs. The NIC Coordinator and the involved law enforcement agencies are attempting to revitalize existing task forces and programs and explore how they can further the goal of addressing drug trafficking and substance use disorder in Indian Country. Finally, the NIC Coordinator is partnering with Tribal, federal, state, and local agencies and organizations to engage in prevention, intervention, and treatment alternatives to address substance use disorder.

### 1. Operation Safe Trails

On March 3, 1994, the FBI initiated “Operation Safe Trails” with the Navajo Department of Law Enforcement in Flagstaff, Arizona. The purpose of the operation, which would later evolve into the Safe Trails Task Force (“STTF”) Program, was to federally deputize local, state, and Tribal law enforcement agencies and unite them with the FBI in a collaborative effort to combat the growth of crime in Indian Country. STTFs allow participating agencies to combine limited resources and increase investigative coordination in Indian Country to target drug-related violent crime. The USAO-DNM will work with current members of the STTF to explore how the USAO-DNM can further support and help foster a collaborative effort to combat drug-related violent crime in Indian country.

### 2. Proactive Criminal Enforcement Program

The “Proactive Criminal Enforcement Program” (“PACE”) is a part of the Navajo Police Department. This unit focuses on drug enforcement on the Navajo Nation. It comprises police personnel who conduct field operations to uncover and stop activities, often narcotics-related, that often lead to violent crimes on the Navajo Nation.

The USAO-DNM will collaborate with PACE leadership to provide training and to support investigations that could address drug trafficking in Indian Country. It will also assist in fostering collaboration between PACE and federal agencies such as the ATF, the DEA, and the FBI.

The USAO-DNM will encourage officers who are part of PACE to obtain their Special Law Enforcement Commissions. The BIA Office of Justice Services issues these commissions to Tribal, state, and local full-time certified law enforcement officers who will serve without compensation from the federal government. This process allows law enforcement partners to provide active assistance in the enforcement of federal criminal statutes. In the past, the USAO-DNM taught the course required to obtain the commissions in-person, twice a year. The course is now offered as a webinar titled “Criminal Jurisdiction in Indian Country” through the Office of Legal Education, Department of Justice. The USAO-DNM is committed to supporting the BIA-OJS SLEC program and the force-multiplying effect these deputizations have in Indian Country.

### 3. Tribal Reentry Court

In 2023, New Mexico implemented its first federal reentry court. Reentry through Integrated Opportunities, or *RIO*, is an intensive 52-week program for individuals returning to the

Albuquerque community from federal prison.

Over the course of 2023, a working group consisting of the Chief United States District Court Judge, a United States Magistrate Judge, the U.S. Attorney, the Federal Public Defender, the Chief Probation Officer, and representatives from each office and the United States Department of Veterans Affairs researched, developed, and proposed a unique reentry court for New Mexico. The final plan, approved by the United States District Court Judges in July 2023, supports a pilot group of participants identified as most at risk for violating the terms of their supervised release or committing new crimes. The inaugural cohort of eight voluntary participants met for their first hearing federal court in front of Chief United States District Court Judge William P. Johnson in September.

Those participants continue to meet, as a group, with the Reentry Court Judge every other week to discuss all aspects of their supervision. This intense oversight is augmented by focused resources from the U.S. Probation & Pretrial Office as well as treatment providers and social services that will provide accountability, support, and bridge the needs of participants. The Reentry Court Judge has the authority to levy sanctions for noncompliance. Those who successfully complete the 52-week program will receive a recommendation to the sentencing judge for a reduced term of supervision.

Collaboration is at the heart of this program. Before each hearing, the reentry court team convenes and reviews the individual progress of each participant and assess noncompliance or other needs inhibiting success. Treatment providers, community partners and stakeholders aid participants in areas of employment, housing, education, treatment, veteran's resources, and any other medical or governmental assistance programs. The goals of this non-adversarial process are to ensure compliance, identify resources, and provide a highly structured support system that will ensure the safety and success of the participants and, therefore, the safety of the community.

The reentry court team will review the program annually for effectiveness and statistical data will be collected and published by the U.S. Attorney's Office. RIO is modeled after and in collaboration with problem-solving Courts and programs implemented in the Eastern District of Pennsylvania, the Middle District of Tennessee, the Western District of Oklahoma, and the District of Utah.

The hope for the future of RIO includes specialized reentry courts, including a Tribal RIO located in Indian Country. A Tribal RIO would incorporate traditional methods of treatment and healing depending on an individual's Tribal practices and beliefs.

#### 4. Central Violations Bureau Docket

In 2018, in response to issues raised by numerous Tribal communities, the USAO-DNM sought approval of the Chief Judge to implement a Central Violations Bureau Docket ("CVB") docket for Indian Country crimes. Now, SLEC-commissioned officers can issue citations to non-Indians for violations occurring on Tribal land. The CVB docket provides a valuable tool to hold non-Indians accountable for misconduct occurring on Tribal lands. The USAO-DNM provides training to Tribal

law enforcement agencies and the BIA-OJS regarding the CVB process. In addition, a rotation of at least two AUSAs from the ICC section is assigned to this docket.

Often, non-Indians who commit crimes in Indian Country believe they will not be held accountable because they are not Tribal members. The CVB docket still sends a message to non-Indians who go into Indian Country and commit crimes that they can and will be held accountable. Many of the violations that are brought to the CVB docket involve low-level drug possession or the use of drugs by non-Indians in Tribal lands. Bringing attention to these small offenses tells offenders that committing even small drug infractions could result in a summons to federal court.

#### 5. Outreach and prevention

Finally, the USAO-DNM will partner with Tribal, federal, state, and local agencies and organizations to engage in outreach and prevention alternatives to address substance use disorder. Such efforts will include partnerships with programs like the DEA's Operation Engage to conduct outreach and education in Tribal communities regarding the dangers of opioid use, community building, and education on resources available to those who suffer from substance abuse disorder.

## TRIBAL LIAISON PROGRAM

### United States Attorney's Office for the District of New Mexico Indian Country Crimes Section



Updated: December 2023

AUSAs & Assigned Pueblos/Nations:		
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