



February 2016

**U.S. Department of Justice
Billy J. Williams
United States Attorney
District of Oregon**

Indian Country Law Enforcement District Operational Plan

I. OVERVIEW

A. Introduction to the District of Oregon

Public safety in Indian Country is a top priority for the United States Attorney's Office (USAO) in the District of Oregon. This USAO has a proud history of actively engaging in government-to-government relationship building with the nine federally recognized tribal nations in the District of Oregon and intertribal organizations involved in law enforcement on Indian Country lands located within the district. Routine and meaningful government-to-government consultations with tribes and tribal organizations serve as a critical focus of this district's public safety efforts. Active, frequent, and concerted efforts to address crimes in Indian Country are pursued in coordination with our tribal, federal, state, and local law enforcement partners. To that end, we will continue our consultations with tribal nations to create and institute individually tailored programs for each unique tribal nation that we proudly serve.

The nine federally recognized tribes offer diverse cultures, distinct lifestyles and traditions. Few places offer Oregon's diversity of landscapes, natural beauty, and proud Indian tribal cultures. The nine federally recognized tribal nations within the jurisdiction of the United States Attorney's Office for the District of Oregon are:

- ▶ Burns Paiute Tribe
- ▶ Confederated Tribes of the Coos, Lower Umpqua & Siuslaw Indians
- ▶ Coquille Indian Tribe
- ▶ Cow Creek Band of Umpqua Tribe of Indians
- ▶ The Confederated Tribes of Grand Ronde
- ▶ The Klamath Tribes

- ▶Confederated Tribes of Siletz Indians
- ▶The Confederated Tribes of the Umatilla Indian Reservation
- ▶The Confederated Tribes of Warm Springs

The USAO recognizes its trust responsibility to the federally-recognized tribes within the District of Oregon. It has a specific responsibility for enforcement and prosecution of crimes falling within the concurrent jurisdiction of the federal government on the Burns Paiute, Warm Springs, and Umatilla reservation lands. The USAO recognizes that it has sole jurisdiction with authority to investigate and prosecute non-Indians for crimes occurring in Indian Country that involve Indian victims. Major and General Crimes Act jurisdictional authority has been delegated to the State of Oregon by the federal government with regard to the Coos, Coquille, Cow Creek, Grand Ronde, Klamath, and Siletz tribes pursuant to Public Law 280. The state's jurisdiction is concurrent with the tribes' inherent jurisdiction over crimes occurring on their Indian Country lands. The USAO maintains a trust responsibility with regard to all tribal nations within the district. The Chemawa Indian School is a federal enclave that falls under the USAO's criminal jurisdiction.¹ There are also fishing sites within Oregon that constitute Indian Country for purposes of criminal jurisdiction. The USAO will continue to work with tribal nations that make up the Columbia River Inter-Tribal Fish Commission in coordinating law enforcement on the Columbia River. Accordingly, the United States Attorney for the District of Oregon has adopted the following Indian Country plan, which will govern its daily operations in Indian Country.

As discussed in detail below, this district's operational plan includes the following elements:

- ▶Communication
- ▶Investigations
- ▶Federal Prosecutions
- ▶Victim Advocacy
- ▶Training

¹ Effective October 27, 2010, the USAO entered into a MOU with the BIE (on behalf of the Chemawa Indian School), Marion County Commissioners, Marion County District Attorney, Marion County Sheriff's Office, and the Marion County Juvenile Department. The MOU provides for assumption of state jurisdiction, on a case-by-case basis, over juvenile matters occurring on the grounds of the Chemawa Indian School in Salem, Oregon. The USAO retains jurisdiction over all matters charged under the Major Crimes Act (Title 18, United States Code, Sections 1152 and 1153). The intent of the MOU is to ensure the availability of relevant rehabilitation services for juveniles engaging in conduct that does not rise to the level of federal prosecution. This MOU was entered into following consultation and approval of the nine federally recognized tribal nations within the District of Oregon. The MOU is scheduled to be renewed by October, 2016.

- ▶Outreach
- ▶Reduction of Violence Against Women and Children
- ▶Primary Challenges
- ▶Annual Government-to-Government Consultations
- ▶Review

II. OPERATIONAL PLAN

A. Communication

Direct, frequent, and meaningful two-way communication has been a hallmark of this district’s interactions with tribal communities. The U.S. Attorney personally leads this effort, traveling often to meet with tribal leaders in their communities. Face-to-face communication is of critical importance in furthering our government-to-government relationships. Furthermore, the USAO will engage in government-to-government consultations with tribal nations. To foster these relationships, Indian Country AUSAs and tribal liaisons will communicate directly with agency representatives, tribal leaders and pertinent tribal officials about matters of general importance to the respective tribal nations and the USAO.

Contact Information for the Tribal Liaisons				
Tribe	AUSA	Address	Phone Nos.	Email Address
Burns Paiute Umatilla Warm Springs Chemawa	Jennifer Martin	USAO 1000 SW Third Ave., Suite 600 Portland, OR 97204	(503) 727-1087	JMartin2@usa.doj.gov
Coos, Lower Umpqua & Siuslaw Coquille Cow Creek Band Siletz Grand Ronde Klamath Tribes	Tim Simmons	USAO 405 E. 8th Ave., Suite 2400 Eugene, OR 97401	(541) 465-6740	tim.simmons@usdoj.gov

AUSAs and tribal liaisons will communicate case-specific matters to the appropriate tribal officials and victims of crime to ensure open and accurate communication while maintaining case-specific confidentiality. We have, for many years, undertaken monthly case reviews with our tribal partners and will continue to do so. Communication efforts will include informing

tribal prosecutors and law enforcement about court hearings, continuance requests, defense motions to suppress or dismiss, court rulings, and general case updates.

Where appropriate, and when discovery concerns are not present, the USAO will provide written declination letters to the appropriate tribal and federal law enforcement officials. AUSAs will address case-specific declination issues with tribal and federal law enforcement, tribal prosecutors, and other pertinent personnel. The USAO will work with tribal and federal law enforcement officials to ensure thorough investigations, as well as successful and timely prosecutions in federal and tribal courts. Case reviews provide constructive discussions on improving investigations and prosecutions. Decreasing declination rates and improving prosecution conviction rates in tribal and federal court remain primary goals.

AUSAs and tribal liaisons will continue to work with the various federal, state, county, and local law enforcement officials and representatives for the pertinent agencies who interact with the respective tribal communities in their jurisdictions. We will complete an annual Indian Country report, highlighting the achievements of the year, obstacles encountered and suggestions for addressing them, and on-going or new projects. The annual report will be provided to the nine tribal nations, our federal partners, and the general public.

Press releases on indictments, sentencing, and supervised released violations will be done on all Indian Country cases to keep tribal communities and the general public apprised of case outcomes. Communication regarding charging decisions and declinations, as well as statute of limitations will be a part of our on-going discussions with tribal police and tribal prosecutors.

B. Investigations

1. Overview

The USAO has excellent working relationships with the Federal Bureau of Investigation, tribal police departments, Oregon State Police, and the various county/local law enforcement agencies that have interactions with tribal nations. Communication between law enforcement and AUSAs is critical to ensuring timely response to criminal activity, thorough investigations, and prompt decisions on prosecutions in Indian Country. We will facilitate the coordination and coverage of investigations in Indian Country, fishing sites, and at the Chemawa Indian School. We remain available to assist and facilitate cooperation of the law enforcement agencies and county prosecution teams that handle criminal investigations for all tribal governments subject to the state's jurisdictional authority under Public Law 280. The USAO has federal jurisdiction over violations of general applicable crimes in Indian Country such as felons in possession of firearms/ammunition, drug trafficking, and gaming violations. Jurisdiction for these crimes applies to all of Indian Country, regardless of Public Law 280.

Through government-to-government consultation, the USAO works with tribal governments to individually tailor protocols to address specific tribal government issues as needed. More generally, protocols for Major Crimes Act violations and any other applicable

offenses for Indian Country are in place for each reservation served by the USAO. These protocols provide clear instructions on investigative steps consistent with FBI and tribal protocols, suspect interviews and authorization procedures for recording interviews, and mandatory immediate notification to the USAO. Tribal contacts have around-the-clock contact information for the USAO. Cases are accepted for prosecution review directly from tribal police or in conjunction with the FBI. Cases are reviewed on an individual basis with no minimum threshold requirements beyond the facts of each case.

AUSAs conduct monthly case reviews with tribal investigators and the FBI. They conduct the reviews at the police departments of individual reservations or the nearby FBI resident agency offices. Other efforts to address the myriad community safety concerns facing tribal communities include periodic meetings with representatives from tribal courts, tribal prosecutors, tribal investigators, tribal administrators, victim advocates, child abuse advocates, child protective service workers, and forensic evaluators, IHS medical officials, tribal probation officers, the FBI, and the DEA. Discussions include tribal systematic issues in confronting gangs, drug trafficking, juveniles, registered sex offenders, child abuse and domestic violence. These issues are critical to improving the quality of life in Indian Country. We will continue to hold these meetings with relevant local and state law enforcement representatives and tribal law enforcement officials to encourage cooperation and enhancement of government-to-government relationships.

2. Warm Springs Multi-Disciplinary Child Abuse Team

The Warm Springs Multi-Disciplinary Child Abuse Team was created by an agreement signed in May of 2006. This agreement established the team to advise and assist each statutorily-authorized agency with regard to its role in the assessment, investigation and prosecution of child physical and sexual abuse cases, and the treatment and protection of child victims and their families. The team meets monthly to review every Child Protective Service and Law Enforcement generated report of child physical and/or sexual abuse. The team drafts an annual report for the signatories of the agreement to enable the signatories to evaluate the team's progress.

C. Federal Prosecutions

1. Overview

Improving public safety in tribal communities is a top priority of the Department of Justice and the USAO in the District of Oregon. We take our role as the primary prosecutor of serious crimes in Indian Country with the utmost sense of responsibility to citizens in Indian Country. To that end, the USAO is committed to working with tribal nations, as well as federal, state, and local authorities in the efforts targeting the reduction of crime on tribal lands.

As has been our long-standing practice, we will continue to ask law enforcement to send us every case that is reported to tribal officers, tribal victim advocates, domestic violence advocates, child protection workers, federal agents, or state agencies who may have reason for involvement

with tribal nations. There has never been a threshold for our willingness to review a case report. Every case is reviewed with an eye toward prosecution in federal court where the facts satisfy the elements of applicable statutes, there is admissible evidence, and the case otherwise satisfies the requisite considerations of a federal prosecution.

Prosecution decisions are generally based upon the following non-exclusive list of factors:

- Establishing Jurisdiction
- Federal Law Enforcement Priorities
- Nature and Seriousness of the Offense
- Provable Facts
- Search and Seizure Issues
- Victims' Rights/Concerns/Credibility/Availability
- Witness Cooperation/ Credibility/Availability
- Deterrence Effect of Prosecution
- Appropriateness of Dual Prosecution Specific to the Case
- Offender's Culpability
- Offender's Criminal History
- Offender's Cooperation with Law Enforcement
- Probable Federal Sentence if Convicted
- Probable Tribal Court Sentence if Convicted
- Appellate Issues

As noted above, in those cases where prosecution is not possible, we provide declination to the relevant parties. Case reviews with tribal and federal investigators will continue to address issues of jurisdiction, evidence gathering, investigative strategies and techniques, inter-agency cooperation, witness interviews, and prosecution.

The District of Oregon continues to bring significant prosecutions related to Indian Country. In Fiscal Year 2015, the District of Oregon prosecuted approximately 34 cases in Indian Country. The types of cases prosecuted were incredibly diverse consisting of numerous violent crimes (homicide, domestic violence, gang assaults, and firearms offenses), drug trafficking, and fraud/embezzlement cases.

D. Victim Advocacy

The USAO for the District of Oregon recognizes our responsibilities to victims of crime in Indian Country. We have an excellent victim witness team that works to ensure victims of crime are accorded all rights to notification and participation in the criminal justice processes in federal court. We recognize that justice in Indian Country is not limited to non-Indian perceptions of punishment, incarceration, and rehabilitation. In addition to these concepts, the overall quality of justice sought by the USAO will include recognition of individual tribal needs for community restoration.

VW Contact Information			
VW Advocate	Address	Phone & Fax Nos.	Email Address
Gerri Badden	USAO 1000 SW Third Ave., Suite 600 Portland, OR 97204	(503) 727-1033 (503) 727-1117 (fax)	gerri.badden@usdoj.gov

The USAO’s Victim Witness Advocate Unit has extensive and well-defined procedures for servicing victims of crime. In general, the USAO Victim Advocates coordinate with the FBI, tribal victims of crime specialists, and family service agencies. The USAO Victim Advocates diligently strive to provide meaningful and helpful services to victims of crime for the duration of their ordeals, navigating the federal/tribal criminal justice systems. Every step is taken to ensure that someone is available to respond to a victim’s needs, from the inception of the investigation of the offense conduct through sentencing. Communication between the AUSA, investigators, Victim Witness Advocate, and victims of crime is excellent and remains a key part of our efforts.

The USAO will continue its efforts to communicate with community-based domestic violence and sexual assault advocates. The USAO is keenly aware of the difficult and unique challenges faced by advocates working with victims of domestic violence and sexual assault. We will continue to advocate for a multi-disciplinary team approach to work cooperatively with tribal nations to address domestic violence and sexual assaults.

E. Training

The USAO will continue its training efforts to improve the quality of criminal investigations, prosecutions, and services to victims of crime in the tribal communities we serve. The AUSAs serving Indian Country as prosecutors and tribal liaisons, as well as other AUSAs with specific expertise in pertinent subject matters, will participate in the ongoing training programs. Target audiences for training opportunities will include federal, tribal, state, and local law enforcement personnel who are responsible for responding to crimes in Indian Country. Topics include jurisdiction; search and seizure; investigation protocols; courtroom testimony; interviewing suspects, witnesses, and victims; child physical and sexual abuse investigations; federal firearms cases; VAWA statutes and prosecutions; and other relevant topics.

The USAO is dedicated to exploring the applicability of cultural sensitivity training to employees whose responsibilities include Indian Country cases. The AUSAs, tribal liaisons, and Victim Witness Advocates who handle Indian Country cases spend extensive amounts of time on the reservations we serve learning and communicating with tribal law enforcement, tribal agencies, and tribal victims. The USAO will continue to incorporate cultural sensitivity training and experiences to ensure awareness of this important issue.

F. Outreach

Effective outreach is critical to our efforts to build better relationships with tribes. The U.S. Attorney can and must lead these efforts, with regular outreach to tribal leaders in both formal and informal settings. The U.S. Attorney and tribal liaisons work to check in with tribal leaders for each tribe regularly and makes frequent trips to Indian Country for meetings with council.

Broadly speaking, the outreach efforts of the USAO include elements of prosecution strategies and cases, tribal-federal-state-and local law enforcement training, victim services, tribal community-centered outreach, USAO public relations, and state-wide education of Indian Country jurisdiction. Specific outreach efforts include the following:

- ▶ Chemawa Indian School MOU and FBI cross-designation of Marion County Sheriff's Department Deputy Sheriff personnel assigned to the Chemawa Indian School
- ▶ Establishment of a Peer Court at Chemawa Indian School
- ▶ Warm Springs Indian Country HIDTA
- ▶ Warm Springs Child Advocacy Center
- ▶ FBI Safe Trails Task Force cross-deputation of Warm Springs personnel
- ▶ Encouragement of Safe Trails Task Force cross-deputation of Umatilla Tribal Police Department personnel
- ▶ Training and enforcement coordination with CRITFE personnel
- ▶ Warm Springs Anti-Gang Prosecution Initiative
- ▶ Enhancing the tribal SAUSA program
- ▶ Press releases on every Indian Country prosecution
- ▶ Active use of the Department's Community Relations Service (Seattle branch)
- ▶ Appellate Chief's assistance to tribal attorneys, Oregon DOJ Appellate section, and AUSAs in other districts on Indian Country cases
- ▶ Facilitating training with Oregon Commission on Indian Services
- ▶ Domestic violence prevention efforts with partners in tribal communities

- ▶Developing a Federal-Tribal Re-Entry Court

G. Reduction of Violence Against Women and Children

Addressing violence against women and children will continue to be a focus of the USAO. In keeping with the Major Crimes Act investigation protocols noted above, the USAO will continue to investigate **every reported** act of domestic violence and crime committed against children that is referred to our office. We encourage tribal law enforcement, domestic violence advocates, victim-witness coordinators, child protection service (CPS) workers, and educators to work collaboratively with tribal communities to encourage disclosure of any act of violence toward women and children. The USAO will vigorously investigate and prosecute these offenses. The USAO actively engages with tribal entities in community education events and training on domestic violence, child abuse, and firearms violations. Specific efforts include written Major Crimes protocols outlining the notification and investigative responsibilities of the FBI, tribal, and local law enforcement officers involved in each case.

H. Primary Challenges & Opportunities for Advancing Public Safety In Indian Country

Addressing jurisdictional challenges that are unique to Indian Country is a primary concern for the USAO. The USAO will work with tribal leaders, state and local officials, and our federal partners to improve our response to public safety issues in Indian Country. Responses to such challenges provide opportunities for advancing public safety in Indian Country include the following:

- ▶**Special Law Enforcement Commissions (SLEC)** – The USAO has worked with representatives of BIA/Office of Justice Services, Columbia River Inter-Tribal Fisheries Enforcement (CRITFE), and tribal police departments to facilitate the necessary training for tribal officers to obtain the SLEC cards. An SLEC training took place at Umatilla Reservation in December, 2015 and an additional SLEC training will be conducted in 2016.

- ▶ **Tribal SAUSA** - The District of Oregon has an established Tribal Special Assistant United States Attorney (SAUSA) with the Confederated Tribes of the Umatilla Indian Reservation (Umatilla Tribe). Since the SAUSA also serves as the tribal prosecutor for the Umatilla Tribe, the District of Oregon is better able to address overall criminal justice and expand coordination between the federal system and the tribal justice system.

- ▶ **VAWA “Special Domestic Violence Criminal Jurisdiction”** - The Umatilla Tribe was one of the few tribes which applied for and was granted “Special Domestic Violence Criminal Jurisdiction” established under the 2013 Violence Against Women Reauthorization Act (VAWA 2013). The “Special Domestic Violence Criminal Jurisdiction”, which allows for the prosecution of non-Indians for certain domestic violence related crimes, was granted to the Umatilla Tribe as

part of a Pilot Project in 2014. During Fiscal Year 2015, the Umatilla Tribe exerted VAWA “Special Domestic Criminal Jurisdiction” in 2 cases.

► **Indian Country CVB Docket** - The District of Oregon worked with the United States District Court to establish and adopt a Central Violations Bureau (CVB) collateral schedule for Indian Country. The Indian Country CVB schedule was adopted by the District Court in March, 2015 and will enable officers to cite non-tribal members for 21 different misdemeanors on tribal lands. The District of Oregon has developed and been conducting trainings for tribal officers to allow issuing of the CVB citations. To date, seven (7) Indian Country CVB citations have been issued.

► **Jurisdictional Training** - The jurisdictional maze created by federal and state law with respect to law enforcement in and around Indian Country has created practical difficulties for tribal, state, federal law enforcement, and justice personnel. Addressing the issues presented by the challenge of patchwork areas of jurisdiction on some reservations and the interplay of multi-jurisdictional response by law enforcement is a priority. Accordingly, the USAO has worked with tribal police departments, tribal leaders, the Oregon State Police, and the Oregon Attorney General’s Office to conduct Indian Country jurisdictional training for tribal, local, state, and federal law enforcement agencies and judicial personnel. Training sessions will be conducted on a regional basis across the district of Oregon.

► **Tribal Fishing and Fishing Rights in the Columbia Basin** – Tribal fishing and fishing rights in the Columbia River Basin is critically important to tribal nations within the District of Oregon. The USAO considers it an important trust responsibility to work with Columbia River Inter-Tribal Fish Commission (CRITFC) & Columbia River Inter-Tribal Fisheries Enforcement (CRITFE) in supporting the sovereignty of the tribes, and the mission of managing fishery resources, and protecting reserved treaty rights. CRITFE maintains 24-hour effort to enforce fishing regulations and protect treaty tribal fishing rights. They protect the “In Lieu” and “Tribal Fishing Access Sites” (TFAS) that are for the exclusive use of the four tribes and their members engaged in their traditional fishing activities. They also protect archeological sites along the Columbia River Gorge. The USAO has facilitated discussions with representatives of CRITFC, the four Treaty Nations, and other federal partners about a proposed memorandum of understanding (MOU) concerning jurisdictional clarification, recognition of tribal sovereignty, and furthering law enforcement cooperation along the Columbia River Basin. The USAO is committed to working with CRITFC and CRITFE, the four Tribal Nations, and the states of Oregon and Washington on the proposed MOU.

► **Gangs in Indian Country** - Gang violence and related activities continue to present public safety issues for some of the tribal nations in the district. Combating gang violence in tribal communities will continue to be a focus of our district’s Anti-Gang Unit efforts to work in concert with our Indian Country AUSAs, tribal liaisons, and tribal partners.

► **Community Relations Service (CRS) Outreach** – The CRS is the Department of Justice’s “peacemaker” for community conflicts and tensions arising from differences of race, color, and national origin. CRS is the only federal agency dedicated to assist tribal, state, and local community groups with preventing and resolving racial and ethnic tensions, incidents, and civil disputes, and in restoring racial stability and harmony. The USAO will continue to encourage participation between tribal nations and neighboring communities and local governments in utilizing the services of the CRS.

► **Challenges of County Funding & Law Enforcement for PL 280 Tribes** – It is a challenging time for tribal, state, local, and federal governments in addressing budget constraints and limitations. This is particularly true with the reality of diminishing budgets for law enforcement personnel and services in Oregon counties that historically relied on income from federal forest payments to finance public safety as that funding stream has dried up. The USAO is committed to working with Public Law 280 tribal nations to ensure public safety. We will continue to consult with tribal leaders, and the local and state law enforcement agencies who have the responsibility to provide law enforcement and prosecution services.

► **Warm Springs HIDTA** – The Confederated Tribes of the Warm Springs Indian Reservation secured the first HIDTA in the nation dedicated to Indian Country. This is an important step for tribal nations nationally in their efforts to address drug trafficking in their tribal communities. The Warm Springs HIDTA is working closely with the Central Oregon Drug Enforcement team in neighboring Deschutes County on training and investigations. The USAO will continue to work closely with the Warm Springs Police Department, and local and state agencies that will be participating in this endeavor. It is a national milestone for tribal law enforcement in Indian Country. We are extremely proud of our law enforcement partners and the tribal leadership at Warm Springs for taking the lead in this project.

► **Re-Entry Court** – The District of Oregon continues to explore the establishment of a federal/tribal Re-Entry Court for eastern Oregon. Working in concert with tribal entities to assist tribal members who are returning to the Umatilla tribal community following incarceration would benefit tribal communities. Such a program would encourage voluntary participants under federal and tribal supervision to commit to individualized plans for participants emphasizing sobriety, employment, and constructive problem-solving skills.

► **Cultural Resource Training**- In 2015, there was a substantial increase of looting and damage to cultural resource sites on federal, state and tribal land. We have been approached by several tribes, federal agencies and state officials regarding the need to conduct a training of law enforcement and relevant employees regarding applicable cultural resource laws. In addition, state officials have requested a coordinated effort between state and federal law enforcement to address and prosecute these crimes. We will continue to work with state and tribal leaders to develop and conduct state wide cultural resource training and to coordinate discussion between federal and state law enforcement regarding these crimes.

I. Annual Government-to-Government Consultations

In addition to regular formal and informal contact between the U.S. Attorney and tribal leaders, which takes place on an ongoing basis, the USAO will engage in annual government to-government consultations with the tribal nations in the district. The scheduling of such consultations will be done in a manner consistent with the USAO's responsibilities and mandate to meet with tribal leaders, as well as the needs and wishes of individual tribal nations. Each tribal nation will be encouraged to facilitate the setting and the agenda for their nation's consultations with the USAO.

J. Review

The District of Oregon is committed to its mission of ensuring public safety in Indian Country. We are committed to fostering sound and meaningful government-to-government relationships with each of the tribal nations. We will annually review the nature and quality of the district's plan and its effectiveness internally, as well as with our tribal partners to ensure that we are addressing our responsibilities to tribal nations. It is intended that the annual review will include an analysis of whether the operational plan is being met, how it can be improved, its successes, failures, and amendments.

K. Report

The USAO will provide an annual report on the status of the district's Indian Country plan.