

**UNITED STATES ATTORNEY'S OFFICE  
DISTRICT OF SOUTH DAKOTA**

**Community Prosecution Strategy**



**BRENDAN V. JOHNSON  
UNITED STATES ATTORNEY**



## US Department of Justice

*Brendan V. Johnson  
United States Attorney  
District of South Dakota*

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PO Box 2638 605.357.2304  
Sioux Falls, SD 57101-2638 FAX: 605.330.4405

August 5, 2010

Dear Friends and Colleagues:

The purpose of this letter is to introduce our Community Prosecution Strategy. This new strategy fulfills the commitment our office made to South Dakota's tribal leaders to deliver an operational plan designed to reflect a renewed commitment to public safety in Indian country. Our work on the Community Prosecution Strategy was guided by the thoughtful discussions we have had over the course of the past eight months, as well as by the recently enacted Tribal Law & Order Act and the Justice Department's Indian Country Initiative.

The Community Prosecution Strategy begins with an overview of the District of South Dakota and describes our unprecedented level of engagement with members of tribal communities and law enforcement leaders. It also includes a summary of the changes we are making before setting out the details of the Community Prosecution Strategy and what it means for tribal communities. Finally, we have also included some highlights from South Dakota's Tribal Listening Conference which was held last February and which, in my view, was a great success.

The Community Prosecution Strategy will not solve all of our law enforcement challenges in tribal communities, but it is my hope that it signals a new era of government-to-government relationships and a concerted effort to address public safety cooperatively. The key aspects of this strategy include:

- **Additional Prosecutive Resources:** We requested and received authorization from the Department of Justice to add three additional prosecutors to handle cases arising in Indian country. Our hope is that this will enable us to prosecute more cases, more expeditiously.
- **Community Prosecution Pilot Program at Pine Ridge:** Our office crafted an innovative proposal to make available a federal prosecutor on the Pine Ridge Reservation at least three days each week. This proposal has been approved by the Department of Justice and will be implemented this fall.
- **Cooperation with Tribal Courts:** At the request of tribal leaders and effective immediately, when a case is not suitable for federal prosecution, our office will provide detailed declination letters explaining why the case cannot be prosecuted federally.
- **Tribal Special Assistant United States Attorneys (SAUSAs):** Our office has developed a new Tribal SAUSA program. This program allows tribal prosecutors who are members

in good standing with the South Dakota Bar Association and meet other specified requirements to prosecute certain cases alongside federal prosecutors in federal court.

- **Greater Emphasis on Diversity and Cultural Understanding:** We have developed a Diversity Action Plan for the District of South Dakota and will mandate cultural training for our attorneys. We will also strengthen our efforts to recruit a diverse workforce in the U.S. Attorney's Office.
- **Increased Interaction with Tribal Communities:** Our office will increase our interaction with tribal communities and strengthen our tribal liaison program.
- **United States Attorney's Tribal Advisory Council:** We have organized a group of tribal leaders who will monitor the office's progress and provide guidance in areas such as tribal community outreach and promoting diversity.
- **Tribal Town Hall Meetings:** We will soon initiate bi-annual town hall meetings open to all tribal members and law enforcement leaders.
- **Violence Against Women:** Our office will continue to prosecute cases involving violence against women, and our Community Prosecution Strategy will outline some of the new steps that will be implemented to ensure we remain vigilant and aggressive.
- **Native American Youth Summit:** In the spirit of the Listening Conference, our office will soon begin preparations to host tribal youth leadership and listening conferences where we will bring together Native American youth leaders from across South Dakota to discuss important issues affecting their communities.

As always, I welcome your feedback on these changes and others described in greater detail in the Community Prosecution Strategy. I look forward to continuing our dialogue about how we can improve law enforcement efforts in tribal communities.

Sincerely,

A handwritten signature in black ink, appearing to read "Brendan V. Johnson", with a stylized, flowing script.

BRENDAN V. JOHNSON  
United States Attorney

BVJ/jml

## **COMMUNITY PROSECUTION STRATEGY**

### **The District of South Dakota**

The District of South Dakota has been an “Indian country district” since territorial days. What is now South Dakota was and is home to several different tribes that are commonly and collectively referred to as the “Sioux.” In the 1868 Fort Laramie Treaty, all of the land west of the Missouri River, in what is now South Dakota, was designated as the “Great Sioux Reservation.” In 1889, Dakota Territory was divided into the separate states of North and South Dakota. At the same time, the remaining land of the Great Sioux Reservation was divided into smaller, separate reservations for various Sioux tribes. These reservations, along with those created east of the Missouri River, exist today as nine distinct Indian reservations within the District of South Dakota.

South Dakota’s enabling legislation and state constitution disclaimed state court criminal jurisdiction for cases arising in Indian country. An effort by the state legislature to assert Indian country jurisdiction in 1961 was unsuccessful, and South Dakota remains a non-Public Law 280 state.

The volume of criminal cases arising in Indian country is relatively high. Between 50-60 percent of the criminal caseload for the United States Attorney’s Office is comprised of Indian country offenses.

The District is rural in nature. It encompasses the entire state of South Dakota which has a total of 77,116 square miles, of which over 12 percent are reservation or trust lands. Census data puts the state population at 812,383, and a conservative estimate places the number of Native American residents at 68,976 (8.57 percent). The vast majority of the Native American population resides on the District’s nine Indian reservations – each with its own history, culture, characteristics, and challenges.

### **Overview of Community Prosecution Plan**

The United States Attorney’s Office for the District of South Dakota’s Community Prosecution Strategy is an operational plan for improving public safety in South Dakota’s tribal communities. South Dakota’s United States Attorney’s Office has a rich history of achieving tangible results in its Indian country prosecutions and bringing hope to victims – some of whom are among the most vulnerable members of our society.

These efforts have received renewed national prominence through the Tribal Law and Order Act of 2010 and a recent Department of Justice-wide initiative designed to bring greater safety to Indian country. The Indian Country Initiative also seeks to place greater emphasis upon addressing violence against women and children in tribal communities.

However, there is no one-size-fits-all approach. This Community Prosecution Strategy is designed to be flexible and reflect the unique characteristics of the District, the United States



Attorney's Offices, and the federally recognized tribes within the District. It is intended to focus on the particular needs of the communities we serve and implement the ideas and suggestions that have come directly from these communities.

The Community Prosecution Strategy is rooted in the "broken-windows" theory of law enforcement – maintaining communities in a well ordered condition may prevent an escalation into more serious crime. The strategy focuses on having at least one Assistant United States Attorney assigned to each reservation in South Dakota. That Assistant United States Attorney will work closely with tribal prosecutors and other members of the community to identify and address crime trends in that community. The Assistant United States Attorney will also meet on a regular basis with all law enforcement partners in the community (including tribal police, Bureau of Indian Affairs, and Federal Bureau of Investigation) to make sure that cases are not slipping through jurisdictional cracks in the system.

This program also strengthens the relationship between federal and tribal prosecutors by appointing tribal prosecutors as Special Assistant United States Attorneys, so that when directed to do so by the tribe, tribal prosecutors can prosecute cases shoulder-to-shoulder with federal prosecutors in federal court. As part of this strategy, the United States Attorney's Office will explore additional training and cooperative opportunities for South Dakota's tribal prosecutors. The office will also make its technology professionals available to tribal court systems so that current technology can be reviewed and recommendations made for improvements in technological infrastructure. This strategy is intended to foster greater cooperation between tribal and federal law enforcement with the hope that greater cooperation will create safer communities.

#### **Government-to-Government Consultations With Tribal Leaders to Formulate a New Strategy**

The United States Attorney's Office has spent the past eight months engaging in consultations with members of tribal communities about their law enforcement concerns and ideas. One of the highlights along the way was the Tribal Listening Conference held on February 4, 2010, in Oacoma. The Listening Conference was the first of its kind to be sponsored by a United States Attorney's Office, and it did precisely what it was intended to do – produce a candid and wide-ranging discussion and provide South Dakota's tribes with an opportunity to present their views regarding public safety in Indian country directly to members of the United States Attorney's Office. The format of the conference was designed to promote the discussion of issues that were particularly important to individual tribes and also allow tribes to share their concerns with the larger community of tribal leaders from across the state. Some of the topics discussed were, as a practical matter, beyond the capacity of both the United States Attorney's Office and the tribes to implement change. Other topics, however, were not, and this Community Prosecution Strategy describes the specific courses of action which the United States Attorney's Office can deliver to South Dakota's tribal communities in an effort to enhance public safety.

The Tribal Listening Conference was successful in at least two other respects. It brought tribal leaders and officials together with not only members of the United States Attorney's Office, but also with officials from the FBI, Housing and Urban Development, Treasury Department, Department of the Interior, and other federal agencies. State officials who participated in the conference included the Governor, the Chief Justice of the South Dakota Supreme Court, and the South Dakota Attorney General. Above all, the conference confirmed the universal view that tribal communities must become safer places to live and strengthened the relationships among those committed to that ideal.

A promise was made to tribal leaders during the conference that the ideas discussed would not be forgotten, but rather would form the basis of a new operational plan for Indian country. Our new Community Prosecution Strategy is the fulfillment of that promise. It is not realistic to think that this strategy will solve all of our law enforcement challenges, but we hope that it will demonstrate the power of working cooperatively.

### **Specific Components of Community Prosecution Plan**

#### **A. Additional Prosecutors for Indian Country Cases**

The United States Attorney's Office obtained authority to add three additional prosecutors to handle cases arising in Indian country. We received these additional Assistant United States Attorney (AUSA) positions as part of a Department of Justice allocation of 33 new AUSA positions distributed among 21 judicial districts that contain Indian country. United States Attorneys' Offices were asked to submit requests for additional prosecutors that were reviewed with relevant statistical data by a team of United States Attorneys and staff in the Executive Office of United States Attorneys. Two of South Dakota's new AUSAs will focus directly upon prosecuting violent crime arising in Indian country in federal court. The third new prosecutor will be part of a new Community Prosecution Pilot Project with the Oglala Sioux Tribe on the Pine Ridge Reservation.

#### **B. Community Prosecution Pilot Program at Pine Ridge**

Following the Listening Conference, our office drafted a proposal to implement a revolutionary pilot project for the Pine Ridge Reservation. Our hope was that this new pilot program would form the cornerstone of our new Community Prosecution Strategy. We were delighted when this proposal was approved by the Department of Justice.

The Community Prosecution Pilot Project at Pine Ridge recognizes that the best way for the United States Attorney's Office to effect change in tribal communities is to become a stronger part of tribal communities, including the police department, prosecutor's office, and tribal court. This is a particular challenge in South Dakota because these communities are often a long distance from the federal courthouses.

Fortunately, Assistant United States Attorney Gregg Peterman volunteered to spearhead this project and will travel to the Pine Ridge Reservation approximately three days each week. AUSA Peterman is an experienced prosecutor who has spent over 12 years working with law enforcement and crime victims on the Pine Ridge Reservation. His top priorities include exploring methods to strengthen the tribal court system, working closely with the tribal prosecutor's office to improve its efficiency and effectiveness, and determining what technology needs exist in the entire system and whether our office can provide technical assistance.

AUSA Peterman will also be serving as a liaison between federal law enforcement and tribal law enforcement to help insure that criminal matters are properly investigated by the appropriate agency. We will also hire a new victim/witness assistant to work with victims of crime on Pine Ridge.

We have already been asked by other tribal leaders whether this program will be expanded in the future. We hope so, but the potential expansion of this program will be dictated by the results we achieve in Pine Ridge and available financial resources. This program will receive funding for a term of two years. After the conclusion of the program, our office will evaluate whether resources are available to expand it to other tribal communities.



2010 National Crime Victims Rights Week Awards: The U.S. Attorney's Office recognizes individuals and organizations who have exhibited outstanding services on behalf of victims of crime.  
 Upper Left: Shiloh Long Visitor - heroic efforts in coming to the aid of a female police officer who was being assaulted.  
 Above: Leatrice "Chic" Big Crow - intervened on behalf of a 1-year-old abused child.  
 Left: Eugenio White Hawk - heroic efforts to restrain a man who was resisting arrest and swinging a bat at law enforcement officers.

**C. Fostering an ongoing Government-to-Government relationship with federally recognized tribes.**

**Responsibilities of the United States Attorney:** The United States Attorney will serve as the primary contact with South Dakota's nine Indian tribes. In order to fulfill this responsibility and remain informed of tribal concerns, the United States Attorney will travel to each reservation as needed, but at least twice per year. During these visits, the United States Attorney will strive to meet with community leaders, elected tribal leaders, tribal judges, tribal prosecutors, and tribal law enforcement personnel.

**Strengthened Tribal Liaison Program:** The United States Attorney's Office is implementing a strengthened Tribal Liaison Program which represents a tangible commitment to the goal of fostering government-to-government relationships with South Dakota's tribes. The Tribal Liaison Program includes the direct involvement of the United States Attorney, as well as the designation of a Chief Tribal Liaison. The new Chief Tribal Liaison for South Dakota is First Assistant United States Attorney Randolph Seiler. In addition to serving as the principal deputy to the United States Attorney, Mr. Seiler is a 14-year veteran of the office with extensive experience in Indian country. He recently received the Department of Justice's prestigious Director's Award conferred for the first time ever for exceptional contributions to public safety in Indian country.

Because of the importance of the position and the need for a broad view of all issues arising out of Indian country, the Chief Tribal Liaison, for the first time since the position was created, does not have ongoing responsibilities for prosecuting Indian country criminal cases. The Chief Tribal Liaison is charged with the responsibility of fostering ongoing government-to-government relationships with South Dakota's tribes and, like the United States Attorney, will visit each reservation twice per year in order to meet personally with those most affected by the need for greater public safety in Indian country.

Assisting the United States Attorney and the Chief Tribal Liaison in the continuing effort to foster intergovernmental relationships with South Dakota's tribes will be individual AUSAs who have been designated to serve as tribal liaisons and points of contact for specific tribes. These AUSAs will serve as initial points of contact between the United States Attorney's Office and tribal leaders, prosecutors, and law enforcement, most often in instances involving specific, ongoing prosecutions or investigations. The AUSAs assigned to each tribe, as well as their contact information, are listed on pages 13 and 14 of this Community Prosecution Strategy.

**Improving Communication with Tribal Leadership:** At the Listening Conference, our office created a tribal chairman's e-mail list and an e-mail list for key tribal contacts. We are using these e-mail lists to regularly convey important information about grant opportunities and law enforcement issues to tribal leaders. We have also created a similar list for tribal prosecutors to further improve communication.

**D. Improving communications with each tribe, including the timely transmittal of charging decisions to tribal law enforcement officials**

**Updated Performance Work Plans:** In an effort to improve communication with tribal officials, the United States Attorney has updated Performance Work Plans (PWP) for Indian country prosecutors to reflect their critical and wide-ranging duties. The PWPs for tribal points of contact and other AUSAs who work in Indian country will be amended to allow for the appraisal of an AUSA's efforts to communicate with tribal prosecutors and officials on topics related to public safety and about the status of Indian country matters referred to the United States Attorney's Office. Specifically, the new PWPs will include the following work plan standards:

1. Assist in the development of multi-disciplinary teams to monitor child abuse cases in Indian country.
2. When requested, provide and coordinate information and training to tribal leaders, law enforcement, and other appropriate tribal, state, local, and federal personnel on legal issues affecting Indian tribes.
3. Handle contacts and correspondence with tribal officials professionally, promptly, and effectively, with an eye toward the USAO's strategic goal of improving public safety in Indian country.

**Case Referral and Non-Prosecution Decisions:** The United States Attorney's Office will continue to work with tribal and state partners to determine the appropriate forum for the prosecution of criminal cases arising in and around Indian country. Circumstances frequently arise when a criminal matter is sent to the office for review, but it is determined that case should be brought in tribal or state court because of jurisdictional or statutory constraints upon the federal government's ability to proceed.

In addition, the office may exercise its discretion to decline to prosecute a particular case where, in our judgment, there is insufficient admissible evidence to obtain and sustain a conviction. Our decisions in this regard will be guided and informed by the Principles of Federal Prosecution contained in the United States Attorney's Manual and the Attorney General's memorandum of May 19, 2010, setting forth the Department Policy on Charging and Sentencing.

The office will continue its practice of providing written notice to the tribal or state prosecutor when a case is being referred to that sovereign. Additionally, the office will implement a new practice of providing a more detailed explanation of why the matter is not being prosecuted by the United States Attorney's Office. The previous practice of the office did not involve such an explanation. Situations may arise, however, where the interests of justice, including the privacy rights of the victim or the need to protect witnesses, prevents this office from providing a detailed reason of why a case is not appropriate for federal prosecution. In these situations the Assistant United States Attorney who reviewed the case will consult with the tribal prosecutor and explain why a detailed letter is not advisable.

**Creation of New Monthly Law Enforcement Meetings:** The United States Attorney's Office will continue to participate in Multi-Disciplinary Team (MDT) meetings with each tribe on a monthly basis to discuss investigations involving violence against children. Immediately following these MDT meetings, AUSAs will participate in law enforcement meetings with tribal and federal officials to discuss and track reports of violence involving adult victims. These monthly law enforcement meetings will include a review of all ongoing investigations involving cases of domestic violence and sexual assault.

**U.S. Attorney's Tribal Advisory Council:** The United States Attorney has created a Tribal Advisory Council to consult on issues which include tribal community outreach and the development of diversity and cultural awareness plans for the office. This group will meet at least twice per year.

**Tribal Town Hall Meetings:** The United States Attorney also will host Tribal Town Hall Meetings in the fall and spring of each year at Wakpa Sica in Fort Pierre. The bi-annual frequency of these meetings will provide continuity for the ongoing discussions among the United States Attorney's Office, tribal leaders, and public safety officials. We anticipate that state, local, and federal law enforcement officers will also attend these meetings.

**Technology Collaboration:** The United States Attorney's Office will work to improve cooperation with tribal prosecutor offices in the area of information technology resources. The initial phase will feature collaboration efforts in connection with the pilot project at the Pine Ridge Reservation.

**South Dakota Tribal Prosecutors' Association:** The United States Attorney's Office recognizes the importance of strengthening relationships with South Dakota's tribal prosecutors. Each Assistant United States Attorney who has prosecutorial responsibilities in Indian country will be tasked with the responsibility of continuing to develop these relationships. We will also be attempting to work with tribal prosecutors to create a tribal prosecutors' association. This is an organization that must be created and fostered by the tribal prosecutors to succeed, but our office will be working with tribal prosecutors to promote the concept and to assist in creating the organization.

**E. A plan to initiate cross-deputization, Special Law Enforcement Commission (SLEC) training, and a tribal Special Assistant U.S. Attorney (SAUSA) program**

**SLEC Training:** The United States Attorney's Office has initiated a program to encourage tribal, state, and local law enforcement officers to obtain Special Law Enforcement Commissions (SLECs) through the BIA. Law enforcement members possessing SLECs have broader authority to enforce federal criminal laws in tribal communities. Also, wider use of SLECs among law enforcement officers helps address a critical resource issue because it increases the number of officers authorized to enforce federal law.

Through an agreement with the BIA, the United States Attorney's Office will now

undertake the primary responsibility for providing the SLEC training. Two AUSAs have significant experience serving as SLEC instructors and providing the training at local sites within Indian country. They will continue working to develop and improve the SLEC training curriculum and the format of the examination.

**Mutual Assistance Agreements:** To further address manpower issues, upon request from interested tribes, the United States Attorney's Office will encourage and facilitate the implementation of mutual assistance agreements among state, local, and tribal law enforcement agencies. When asked to do so, the United States Attorney's Office will provide law enforcement training on matters related to jurisdiction of law enforcement agencies involved in these mutual assistance agreements.

**Tribal Special Assistant United States Attorneys Program:** The United States Attorney's Office will implement a new tribal SAUSA program. Tribal prosecutors who are licensed and in good standing with the South Dakota Bar Association may apply to participate in this program if they receive the support of their tribal council. After completing a background check and the execution of a memorandum of understanding between the tribe and the United States Attorney's Office, the tribal prosecutor will be cross-designated as a SAUSA. In this capacity, the SAUSA will have the opportunity to try cases in federal court with an AUSA. We anticipate that additional training will be available to tribal prosecutors who become SAUSAs.

**F. A plan to establish training for U.S. Attorney staff and all relevant criminal justice personnel on issues related to Indian country criminal jurisdiction and prosecutions.**

**Diversity Plan:** The United States Attorney's Office believes that diversity is a strength and has created a new diversity plan for the office. This plan will include annual cultural awareness training, as well as new strategies for promoting and encouraging diversity in the workplace. For example, effective immediately, this office will notify the Native American Bar Association whenever there is an attorney vacancy within the office.

**Training Programs:** In an effort to foster greater awareness of the unique cultural and historic characteristics of each tribe, the United States Attorney's Office will implement a training program to increase familiarity with tribal history and culture for office personnel working on or affiliated with a particular reservation. The United States Attorney anticipates that the training will be held annually. The United States Attorney's Office also plans to conduct Tribal Youth Leadership and Listening Conferences to discuss concerns raised by tribal youth regarding suicide, alcohol, drugs, gangs, and other issues.

**G. Violence Against Women and Native American Youth**

The United States Attorney's Office is committed to prosecuting all provable cases of domestic violence where federal courts have jurisdiction. New procedures are being initiated in our office to insure that cases involving domestic violence are staffed by multiple prosecutors. We will also be expanding the responsibilities of the AUSA in our office designated as the violence against women coordinator. This individual will be responsible for training AUSAs on



an annual basis regarding the unique aspects of domestic violence cases and will work with domestic violence shelters to insure that these cases remain a top priority in the office.

Specific to sexual assault cases, the United States Attorney's Office will encourage Indian Health Services to provide adult victims with access to medical professionals who possess the necessary expertise to perform forensic medical examinations and will be available to testify, if necessary. The United States Attorney's Office will also follow up with Indian Health Services to insure that cases of sexual assault and domestic violence are being properly reported to law enforcement and prosecution authorities. We will also examine any existing memoranda of understanding and investigative guidelines that assign responsibility to various federal law enforcement agencies for investigating sexual assault cases to insure that there are no gaps in coverage and they are understood and followed so that cases of sexual assault and domestic violence are investigated in a timely manner.

**Domestic Violence Involving Non-Indian Offenders:** Effective immediately, the United States Attorney and Criminal Division Chief will review all cases of domestic violence perpetrated by non-Indians upon Indian victims in tribal communities. The United States Attorney's Office has exclusive jurisdiction over these cases, and their prosecution will be a top priority. Additionally, effective immediately, the United States Attorney's Office will accept investigative reports directly from tribal police and BIA law enforcement without the necessity of FBI involvement.



May 25, 2010, at the Women's Circle Domestic Violence Shelter in Sisseton, South Dakota. From the left: Catherine Thompson, Children's Coordinator/Advocate; South Dakota U.S. Attorney Brendan Johnson; Julie Watts, Director/Advocate; and Delight Hemminger, Shelter Manager/Advocate.

**Domestic Violence Summit:** In 2011, the United States Attorney's Office will sponsor a statewide domestic violence summit to discuss strategies for reducing domestic violence in Indian country and working with victims.

**Juvenile Justice:** The United States Attorney's Office is committed to the prosecution of juveniles who commit the most serious juvenile offenses or prey on innocent people as part of an organized gang in Indian country. Our office, in addition to the prosecutive aspects of juvenile justice, is committed to the rehabilitative aspects of federal prosecution concerning juvenile offenses. The United States Attorney will consider any information or materials submitted by the tribe bearing upon the determination of whether this particular juvenile case shall be certified and prosecuted federally or more appropriately handled at the tribal court level. The United States Attorney's Office recognizes that tribal prosecution may be the most effective method of handling juvenile misconduct in some cases.

**Tribal Youth:** One of the comments we received most often from tribal leaders was that more services need to be available to the next generation of Native Americans. In the spirit of our Listening Conference, we have begun planning Native American Youth Conferences with the goal of bringing together Native American youth from across South Dakota to discuss the challenges they are facing and provide them with information to take back to their communities.

#### **H. Supporting the FBI's Northern Plains Safe Trails Drug Enforcement Task Force**

The FBI has been a leader in addressing crime in South Dakota's tribal communities. One particularly strong effort has been the creation of the Northern Plains Safe Trails Drug Enforcement Task Force. This organization is comprised of federal, tribal, state, and local law enforcement. The mission of the task force has been to investigate drug conspiracies in South Dakota. This mission was recently expanded to include the investigation of violent crime. Our office will continue to promote tribal involvement on the task force and will continue to designate an AUSA to this organization.

#### **I. Individual Tribal Law Enforcement Assessment and Assistance**

The United States Attorney's Office has been reaching out to all tribes in South Dakota to discuss their specific law enforcement challenges, realizing and recognizing that the challenges that exist on one reservation may not exist on another reservation in a different part of the state. The United States Attorney's Office has attempted to work side by side, in partnership with the various tribes, in identifying potential issues and solutions. This Community Prosecution Strategy will not identify each and every issue and challenge faced by each of South Dakota's nine tribes, as these issues are unique and fluid. The United States Attorney's Office is available, however, for any tribe that wishes for our office to undertake an assessment of its particular law enforcement efforts and to make recommendations regarding capacity building technical assistance and potential solutions. This assessment will be conducted by a management team within the South Dakota U.S. Attorney's Office and will be overseen by the United States Attorney.

**J. Additional Components of the Community Prosecution Strategy**

- The United States Attorney's Office is revising and initiating a pro-active and aggressive file opening policy with respect to matters referred and cases accepted by this office. The new file opening policy will be implemented effective October 1, 2010. Training for all employees of the South Dakota United States Attorney's Office will take place in September 2010. Reports of potential criminal activity received from non-law enforcement sources will be reviewed with the appropriate law enforcement investigative agency to determine if the matter should be investigated and a file should be opened by the United States Attorney's Office.
- The South Dakota U.S. Attorney's Office has a zero-tolerance policy regarding methamphetamine offenses. South Dakota is fortunate to have the Northern Plains Safe Trails Drug Enforcement Task Force actively investigating drug offenses in South Dakota's tribal communities. The U.S. Attorney's Office has assigned a full time prosecutor to the Northern Plains Safe Trails Drug Enforcement Task Force and will continue to work closely with the Task Force in coordinating investigative and prosecutive efforts regarding the presence of methamphetamine in Indian country in South Dakota.
- The United States Attorney will continue to meet with South Dakota's Attorney General, state's attorneys, tribal prosecutors, and tribal leaders to discuss the creation of mutual cooperation agreements and extradition agreements between the State of South Dakota and tribes. The Governor of the State of South Dakota, the Chief Justice of the South Dakota Supreme Court, and the Attorney General of the State of South Dakota all spoke at the U.S. Attorney-sponsored Tribal Listening Conference in February 2010. Building upon efforts that are already under way, the U.S. Attorney's Office will facilitate this discussion while being sensitive to the unique, sovereign status of Indian nations and that there is a government-to-government relationship between the United States and each Indian tribe.
- The United States Attorney's Office will work with the BIA to promote the full staffing of all assigned positions in Indian country in all aspects and facets of the criminal justice system, including police, courts, and corrections. Additionally, the office will work with the BIA to insure that background checks for law enforcement personnel are handled in a timely fashion and encourage the immediate assignment of personnel to vacant positions.
- The United States Attorney currently serves as the Chairman of Attorney General Eric Holder's Native American Issues Subcommittee (NAIS). The United States Attorney will continue to serve on this committee during his term in office and will regularly consult with South Dakota's tribal leaders about issues that should be brought to the attention of the Attorney General and will communicate with tribal leaders regarding the actions taken by the NAIS and the Department of Justice that impact Indian country.
- The United States Attorney's Office recognizes the importance of properly documenting all time spent on Indian country matters to insure that these matters remain a priority within the office. Accordingly, annual guidance will be provided to office personnel on

entering timely and accurate information on Indian country matters and cases into the LIONS case management system. The guidance will also direct office personnel to continue to record time spent on Indian country matters on a weekly basis under the appropriate Indian country categories of the USA-5a timekeeper system.

- The United States Attorney's Office will continue to aggressively seek restitution from criminal defendants for their victims. This includes an office policy encouraging Assistant United States Attorneys to address the issue of restitution as part of the plea negotiation process and advocating for restitution for victims at the sentencing of defendants. The United States Attorney's Office will continue to support a fully staffed and aggressive Financial Litigation Unit which will pursue available legal remedies, including the potential of utilizing the Treasury Offset Program to obtain restitution for victims of crime. Our office will also undertake a systematic review of existing policies and procedures to insure that all available legal options are being pursued on behalf of victims of crime.
- The United States Attorney's Office will continue to host an annual multi-state conference on victim advocacy. We will encourage participation in the conference from tribal leaders who work on behalf of crime victims, as well as from United States Attorney's Office personnel and law enforcement.
- The United States Attorney's Office will continue to seek new and innovative avenues for bringing tribal communities together with state and local communities to foster greater awareness and understanding. The Tribal Listening Conference held in February 2010 was the first in the nation among U.S. Attorney Offices in this regard and was a tremendous success. We hope to replicate this success with a Native American Youth Summit to be held in the fall of 2010 on a regional basis, as well as a Domestic Violence Summit tentatively scheduled for spring of 2011.
- The United States Attorney's Office will conduct an annual review of the Community Prosecution Strategy to identify areas of potential improvement and innovation.

### **Summary**

The Department of Justice is dedicating additional resources to combat crime in South Dakota's tribal communities. This commitment of resources requires the United State's Attorney's Office to evaluate existing strategies for fighting crime. After extensive consultations with tribal leaders and law enforcement, we have developed a new model for addressing crime, the Community Prosecution Strategy. This strategy emphasizes the importance of communication and collaboration with tribal communities. It does not represent the completion of our work with the tribes, but rather a new beginning.

**U.S. Attorney's Office  
District of South Dakota  
Contact Information**

Sioux Falls Office  
325 South First Avenue, Suite 300  
Sioux Falls, SD 57104  
605-330-4400

Pierre Office  
225 South Pierre Street, Suite 337  
Pierre, SD 57501  
605-224-5402

Rapid City Office  
515 Ninth Street, Suite 201  
Rapid City, SD 57701  
605-342-7822

<u>Name</u>	<u>Phone</u>	<u>Email</u>
Brendan V. Johnson US Attorney, Sioux Falls	605-357-2304	<a href="mailto:USASD-Brendan.Johnson@usdoj.gov">USASD-Brendan.Johnson@usdoj.gov</a>
Randy Seiler First Assistant US Attorney/ Chief Tribal Liaison, Sioux Falls	605-357-2320	<a href="mailto:Randy.Seiler@usdoj.gov">Randy.Seiler@usdoj.gov</a>
Dennis Holmes Criminal Chief, Sioux Falls	605-357-2350	<a href="mailto:Dennis.Holmes@usdoj.gov">Dennis.Holmes@usdoj.gov</a>
Diana Ryan Civil Chief, Sioux Falls	605-357-2340	<a href="mailto:Diana.Ryan@usdoj.gov">Diana.Ryan@usdoj.gov</a>
Mark Salter Appellate Chief, Sioux Falls	605-357-2360	<a href="mailto:Mark.Salter@usdoj.gov">Mark.Salter@usdoj.gov</a>
Duane Dahl LECC/Grants Coordinator Sioux Falls	605-357-2380	<a href="mailto:Duane.Dahl@usdoj.gov">Duane.Dahl@usdoj.gov</a>

Assistant U.S. Attorneys' contact information:

Flandreau Santee Sisseton-Wahpeton Yankton	Tom Wright Sioux Falls	<a href="mailto:Thomas.Wright2@usdoj.gov">Thomas.Wright2@usdoj.gov</a> 605-357-2353
Crow Creek Lower Brule	Jay Miller Pierre	<a href="mailto:Jay.Miller@usdoj.gov">Jay.Miller@usdoj.gov</a> 605-224-5402
Rosebud	Eric Kelderman Tim Maher Meghan Dilges Pierre	<a href="mailto:Eric.Kelderman@usdoj.gov">Eric.Kelderman@usdoj.gov</a> <a href="mailto:Tim.Maher@usdoj.gov">Tim.Maher@usdoj.gov</a> <a href="mailto:Meghan.Dilges@usdoj.gov">Meghan.Dilges@usdoj.gov</a> 605-224-5402
Oglala	Gregg Peterman Carolyn Olson Rapid City	<a href="mailto:Gregg.Peterman@usdoj.gov">Gregg.Peterman@usdoj.gov</a> <a href="mailto:Carolyn.Olson@usdoj.gov">Carolyn.Olson@usdoj.gov</a> 605-342-7822
Cheyenne River Standing Rock	Mikal Hanson Pierre	<a href="mailto:Mikal.Hanson@usdoj.gov">Mikal.Hanson@usdoj.gov</a> 605-224-5402



“Journey”  
Pati Deuter

The bird in Pati Deuter’s artwork is the magpie. The magpie represents family. Magpies take care of one another. They have an advanced social structure and have even been known to use group effort to prop up the head of a sick bird to dribble water into it’s mouth. They have a very strong will to protect one another.

The magpie symbolizes the journey of all people in South Dakota as we strive to understand, protect, and care for one another. This Listening Conference is the first step in a renewed effort to strengthen our relationships with each other.

HIGHLIGHTS FROM SOUTH DAKOTA’S  
TRIBAL LISTENING CONFERENCE  
FEBRUARY 4, 2010  
CEDAR SHORE RESORT  
OACOMA, SOUTH DAKOTA





## US Department of Justice

*Brendan V. Johnson  
United States Attorney  
District of South Dakota*

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*PO Box 2638  
Sioux Falls, SD 57101-2638*      *605.357.2304  
FAX: 605.330.4405*

### **Brendan V. Johnson's Opening Remarks Tribal Listening Conference February 4, 2010**

First of all, thank you for honoring us today with your drums and for those that honored us with your voices and your dancing. It was all truly spectacular. Thank you. And thank you to the tribal leaders who are here today and who are honoring us with your presence. Thank you to Randy and Marlys and the rest of the folks in our office who put hundreds of hours and incredible energy into putting this conference together.

I want to start off this morning by telling you what I hope today's conference is about. First of all, I hope it is about listening. Specifically, this wasn't set up as a hearing conference; it was set up as a listening conference. One of the things that I've learned as I've traveled across South Dakota and met with tribal leaders is that there is a difference between listening and simply hearing. Tribal leaders have been heard in the past, but they haven't always been listened to. Listening requires engagement by both parties. It requires respect and understanding, and it implies that there will be action. This will be a listening conference.

Next, I hope that today's conference will be marked by honesty. That's another thing I found as I traveled across South Dakota - you can always count on tribal communities to speak honestly about the problems and situations that they're confronted with. It wasn't long ago that I was in Pine Ridge and was able to meet President Two Bulls at Big Bat's, and later I had an opportunity to go to the tribal police station. I met a young woman in the station and introduced myself. She said, "Well, you know, I got to meet Marty Jackley when he was U.S. Attorney." I said, "Ok, great." She said, "You know, he was a very handsome guy." "I've heard that," I said. She looked at me, and there was a long pause. She said, "I bet you have a great sense of humor." So there's no question in my mind that we will receive honest feedback, and it's our responsibility to listen.

Third, I hope that today's conference is also about something that we, in our office, call deliverables. That is, after the listening, our office will take action on what we hear today from all of you. The goal is to have in the next 12 months specific action items that we're able to take back to our tribal communities in the form of deliverables to show that we did, in fact, listen to what you had to say, and that we are acting on it.

In order to ensure that our office is able to come up with specific, actual deliverables coming out of today's conference, I've asked the attorneys who will be meeting with each tribal community to focus specifically on four areas:

One, a plan to develop and foster an ongoing government-to-government relationship;

Two, a plan to improve communications with each tribe;

Three, a plan to initiate cross-deputization agreements; and

Four, a plan to establish training for the US Attorney's office and criminal justice personnel on issues related to Indian country.

I hope that during these discussions a particular focus will be on the issue of violence against women. Native American women are the most victimized group in the United States. We all have an awesome responsibility to do what we can to protect the women and children in our communities, and so I ask that specific focus be placed on that issue.

I also hope that today's meeting will be remembered for mutual respect. The tribal leaders that we have here today, many of whom have come a long way to join us, have honored us with their presence. We are also honored to be joined by law enforcement who have traveled a great distance to be here. The law enforcement that serves our tribal communities didn't take the job for the money. They took the job because they have a real belief in and commitment to Indian country and to working to improve tribal communities. These are people that often get called at 3:00 in the morning when a young girl has been sexually assaulted. They are here to help, and we respect them, honor them, and thank them for being a part of today's conference. Please join me in welcoming our speaker this morning. . . .





South Dakota US Attorney  
Brendan V. Johnson





**South Dakota  
2010 Tribal Listening Conference  
US Attorney Brendan V. Johnson  
Opening Ceremonies**

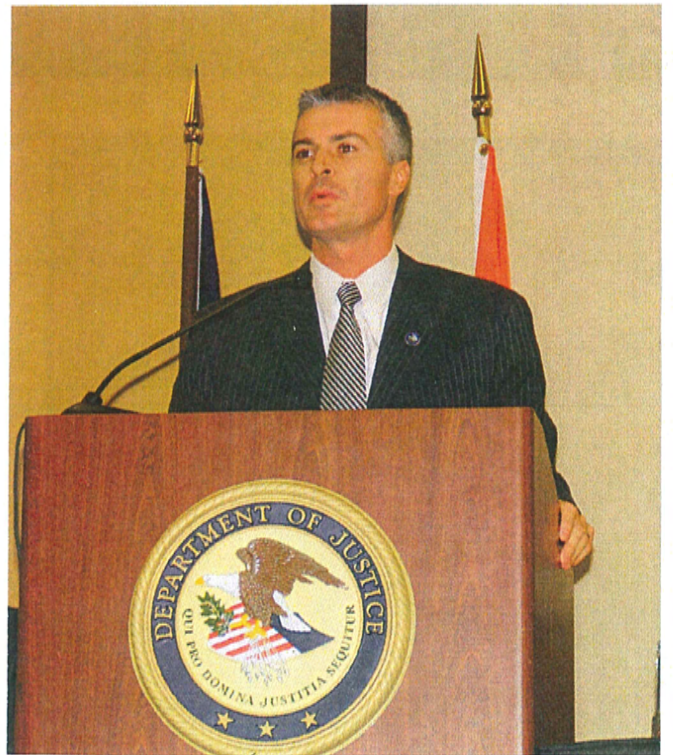
Hunkpati Oyate Lodge Color Guard

Lakota Flag Song: Jenny Ghost Bear

Dancers: St. Joseph's Indian School Students











Current Page:

*Left:*

Wizipan "Wizi" Garriott  
Policy Advisor to the  
Assistant Secretary of  
Indian Affairs  
US Department of Interior

*Below:*

Terryl L. Cadwell  
Chief US Probation Officer  
  
Chief Justice Gilbertson  
Governor Rounds

## Conference Speakers

Previous Page:

*Top Left:*

Christopher Y. Cuestas  
National Violence Prevention Resource Center  
Tucson, Arizona

*Topic:*

Teen Suicide and Gang Activity  
Risk Factors Affecting Tribal Youth

*Top Right:*

Honorable M. Michael Rounds  
Governor  
State of South Dakota

*Bottom Left:*

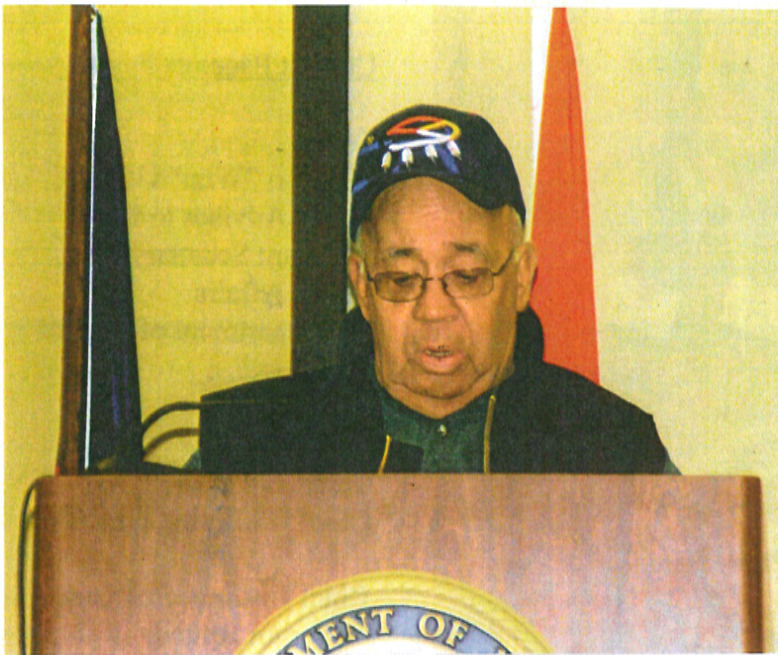
Honorable David Gilbertson  
Chief Justice  
South Dakota Supreme Court

*Bottom Right:*

Honorable Marty J. Jackley  
Attorney General  
State of South Dakota







Michael Jandreau  
Chairman, Lower Brule Sioux Tribe



Rodney Bordeaux  
Chairman, Rosebud Sioux Tribe



Tommy Thompson  
Council Member, Crow Creek Sioux Tribe



Lisa Skye  
Legislative Tech  
Cheyenne River Sioux Tribe





Theresa Two Bulls  
President, Oglala Sioux Tribe



Robert Cournoyer  
Chairperson, Yankton Sioux Tribe



Douglas W. Thesenvitz  
Tribal Prosecutor, Flandreau Santee Sioux Tribe



Jesse Taken Alive  
Council Member, Standing Rock Sioux Tribe



## A Sampling of the Nearly 200 CONFERENCE PARTICIPANTS

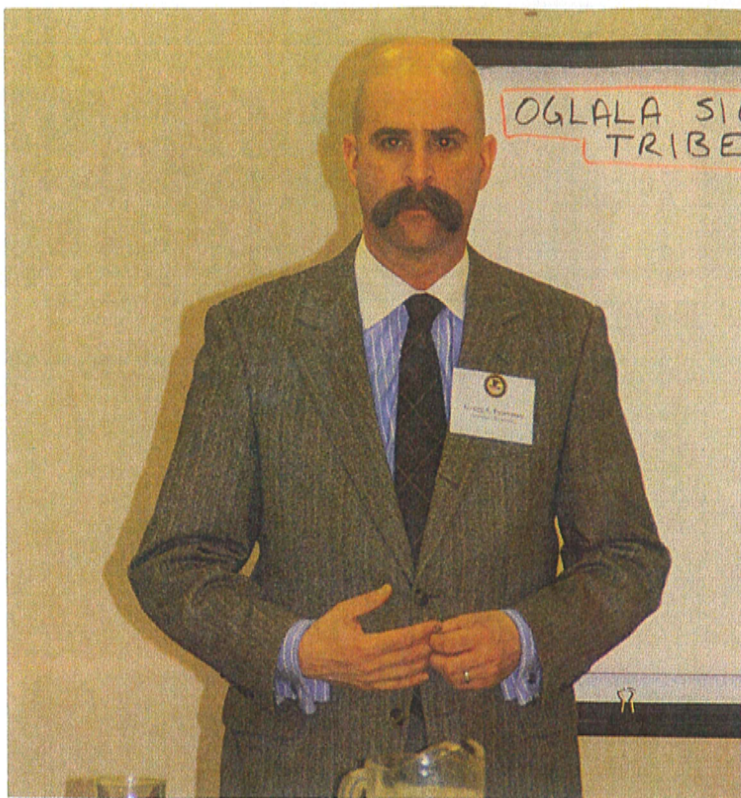


**February 4, 2010  
Cedar Shore Resort  
Oacoma, South Dakota**





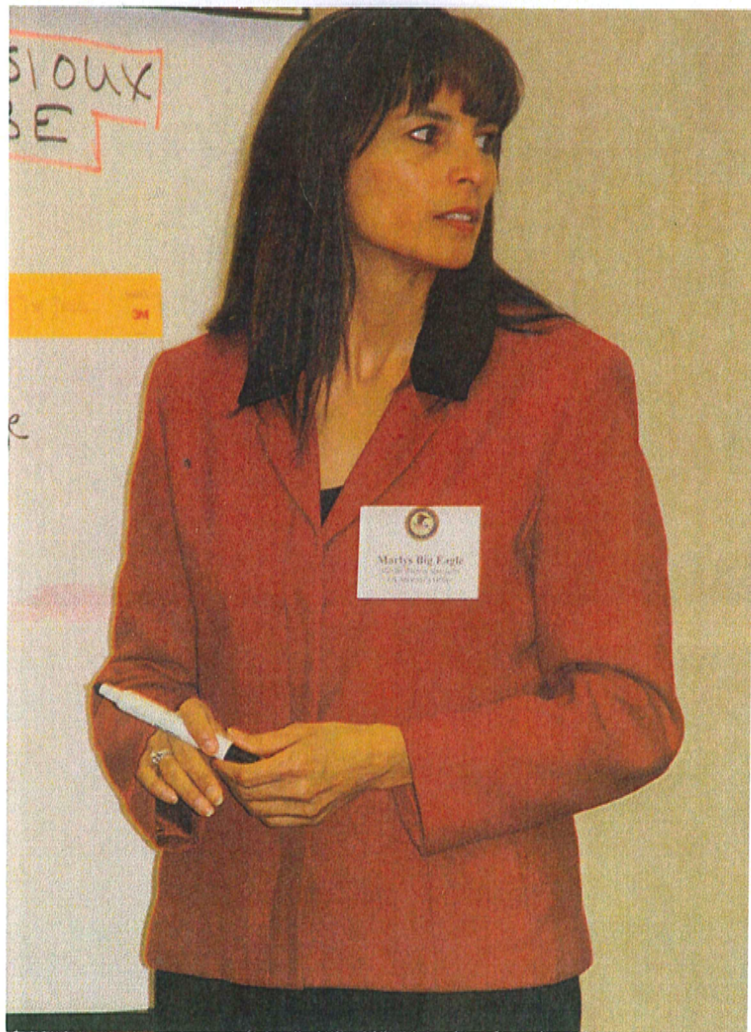




Gregg Peterman, AUSA  
Rapid City Office



Jay Miller, AUSA  
Pierre Office



Marlys Big Eagle  
Victim/Witness Specialist, Rapid City



Mikal Hanson, AUSA  
Pierre Office





Tim Maher  
AUSA



Kevin Koliner, AUSA; Marlys Big Eagle; Wizi Garriott



Randy Seiler, First Assistant US Attorney/Tribal Liaison



Diana Ryan, Civil Chief



Eric Kelderman, AUSA

Jay Miller, AUSA