

UNITED STATES ATTORNEY'S OFFICE

District of Nebraska

2012 INDIAN COUNTRY ANNUAL REPORT



*Omaha Tribe's Annual Harvest Celebration is held every year during the first full moon in August.
Photo courtesy of The Nebraska Tourism Commission*

DEBORAH R. GILG
UNITED STATES ATTORNEY



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MESSAGE FROM THE UNITED STATES ATTORNEY

I am pleased to present the 2012 Indian Country Annual Report for the District of Nebraska.

Last year I reported to you that I was the Chair of Attorney General Eric Holder’s Violence Against Native-American Women Federal and Tribal Prosecution Task Force. We are close to realizing our goal of producing a handbook for prosecutors to utilize which will increase our effectiveness in combating this tragic problem. The handbook is in its final editing process and I expect that copies will be available sometime in mid-to late 2013.

Throughout 2012, our staff and I traveled to each reservation for our quarterly meetings and we were fortunate to also host the tribal councils at our Omaha office as well. Unlike 2011 when we had transportation challenges as a result of the Missouri River flood, in 2012 we did not have those same types of challenges but unfortunately the landscape changed to drought which, of course, affects the agricultural sector. As always, we found the meetings to be most informative in understanding the law enforcement priorities and concerns of tribal councils. Our tribal liaison, Doug Semisch and our victim-witness advocate, Erin Aliano, traveled monthly to the Multi-Disciplinary Team meetings and reviewed cases with tribal prosecutors, tribal law enforcement and social services. Once our Tribal Special Assistant United States Attorney, Jill Finken, entered duty, she also attended the Multi-Disciplinary Team meetings. It is our priority to make sure that cases are timely and thoroughly investigated with an opportunity to collaborate with our tribal partners in determining whether a case is best prosecuted in federal court or tribal court.

In April, 2012, I was invited to present a keynote address at the Nebraska Urban Indian Health Coalition Domestic Violence Conference in Omaha. The theme of the conference was “Developing Culturally Competent Community Response Teams”. This well-attended conference brought together local and national experts as well as law enforcement, victim advocates, counselors and other service providers to victims of domestic violence. I was particularly honored to be given a beautiful star quilt by those in attendance. It holds a place of prominence on my wall and reminds me every day of our responsibility to make life safer and better for Native American women.

In the spring of 2012, we were honored to be invited to participate in an informative meeting in Norfolk, Nebraska with the Ponca Tribe. We had an exchange of information about how the Ponca Tribal Court system works and the challenges that the Ponca Tribe faces in serving their tribal

members in their “service areas” in Nebraska. We came away from that meeting with greater understanding of the Ponca Tribe issues and their resiliency in working towards solutions.

In July, 2012, our District co-sponsored the 2012 Indian Country Conference on “Protecting and Empowering Families” at Haskell Indians Nations University in Lawrence, Kansas. Again, it was well attended by a variety of victim service providers, law enforcement, school personnel and other service providers. My colleague, U.S. Attorney Barry Grissom for the District of Kansas was the host and the Northern District of Iowa also was a co-host. We look forward to hosting the 2013 conference in Sloan, Iowa.

A continuing endeavor of our office has been to facilitate assistance by the Department of Interior and Environmental and Natural Resources Division of the Department of Justice to the Omaha Tribe and its legal counsel in the Omaha Tribe’s boundary litigation with the Village of Pender, Nebraska. This litigation had been pending in the tribal court. As I write this message, the U.S. Federal District Court for the District of Nebraska, has now taken over this litigation. The Department of Justice will continue to provide assistance with an amicus curiae brief on the alleged diminishment issue.

In 2012, Omaha was the site of a national meeting of state courts on the issue of ethnic/minority justice in the court system. Misty Plenty-Holes, from Bureau of Indian Affairs, Leslie Hagan, Native American Indian Country National Training Coordinator for the Department of Justice, Erin Aliano and I presented a panel discussion on cultural competency issues in Indian Country. As a result of this presentation, an article that I authored with the assistance of Erin Aliano was published in “The Nebraska Lawyer”, a publication of the Nebraska State Bar Association. A copy of this article is reprinted in this report.

For those of you that are interested in the general 2012 Annual Report of the United States Attorney Office, the link is:

http://www.justice.gov/usao/ne/press_releases/2012%20Web%20Annual%20Report.pdf

A partial list of the Indian Country cases that our office handled in 2012 is included in this report. Those cases listed are not a complete list but merely snapshots to exemplify the types of cases that our office prosecutes.

As always, I look forward to my 2013 travels in Indian Country.

Cultural Competency in Prosecution of Domestic Violence on Nebraska Indian Reservations

By: Deborah R. Gilg, Assisted by Erin Aliano

On the Santee Reservation in Nebraska, after a night at the bar, Shannon, pointed and fired his rifle 10 times within 25 feet at his former girlfriend Dawn. 5 of the 10 shots hit Dawn, killing her instantly. Because of fear of retaliation of family members, Dawn's previous allegations of domestic violence in their relationship were never reported to the police.

In Jackson, Kentucky, 54 year old Sheila cooked her husband, Stanley's breakfast eggs "wrong". Stanley shot and killed Sheila and her daughter with a 12 gauge pump shotgun. Stanley also shot and killed 3 neighbors that Sheila had gone to for help. One of the neighbors was killed in front of her 7 year old daughter. Stanley then shot and killed himself. Stanley was known to be violent in the past but yet he had no criminal record.

In Ogallala, Nebraska, Jody, was tied by her estranged husband to the bed. She had a tampon shoved in her mouth with water poured over it to expand. Her underpants then were stuffed in her mouth and used to gag her. She was brutally raped at knifepoint – all of this while their two young children were in the other room. John kidnapped the two children and was finally captured after a multi-state manhunt. John was a decorated war hero with no criminal record.

In Racine, Wisconsin, Teri was kidnapped by her ex-husband. He taped her head and hands, beat her with a baseball bat, sealed her in a garbage can partly filled with snow and left her to die – three years to the day after their divorce was finalized. Teri lost her toes and miscarried the baby she was carrying by her new husband.

Pervasive Nature of Domestic Violence

Violence infects all sectors of our society, all races, all genders, all ages, rich and poor. I know first hand the cycle of violence. I was raised in a blue collar, hard-working, hard-drinking Irish-Catholic family where alcohol-fueled violence was commonplace. My grandmother, mother and I learned at an early age about walking on eggshells to minimize or avoid emotional or physical violence when Grandpa or Dad had too much to drink and became enraged over the tiniest of things. I witnessed violence in my family and became the victim of violence at an early age. Just as generations of females in my family were victims and survivors, I became the generation that not only was a victim and survivor but stopped the cycle of violence. I was lucky. By my experience, I overcame the violence in my childhood to live and pursue a life where I can make a difference for others that have experienced violence.

The Economics of Domestic Violence

As all of us that deal with violence and its effects know there is no one cause for violence and no easy or simple solutions. America annually spends billions of dollars on long-term medical and mental health treatment, emergency response, productivity losses and administration of health insurance and disability payments for injuries from violent assaults between intimate partners. Successful prevention means saving people and society the human suffering and financial cost of caring for the injured and the resulting disabled.

High Rates of Violence Against Native American Women

In 2008, there were over a half million non-fatal violence victimizations committed against women age 12 or older by an intimate partner. Furthermore, over 2,000 women and men are killed by intimate partners. These are not mere statistics – we are talking about our friends, colleagues, co-workers, neighbors, relatives. We should be appalled that this type of violence exists this day and age. We must do everything in our power to stop it.

While women are by no means the only victims of domestic violence, the facts are clear – women are most often murdered by people they know. Women are more likely than men to be victims of gun violence. 91% of murdered women were killed by someone they knew and the person they knew as most likely to be their husband, intimate partner, or former partner. By comparison, 16 percent of male homicide victims were murdered by a family member or intimate partner. Disturbingly, intimate partner homicide is the leading cause of death for African-American women ages 15 to 45. The numbers are worse for Native American females with a rate of domestic violence 2 ½ times higher than other females in this country.

A study funded by the National Institute of Justice found that one-third of all Native American women will be raped in their lifetimes. Native American women are murdered at a rate more than 10 times the national average.

The numbers are staggering when it comes to children's experiences of domestic violence. According to a survey by the Office of Juvenile and Delinquency Prevention, 1 in 4 children are exposed to some form of family violence in their lifetime. This is shocking and unacceptable. When children witness or experience violence in the home, it affects how children feel, how they act, and how they learn. Without intervention, children are at higher risk for school failure, substance abuse, repeat victimization and perhaps most tragically, in perpetuating the cycle of violence in their own lives.

Federal Task Force Objectives

As Chair of the United States Attorney General Eric Holder's Federal Task Force on Violence Against Native American Women, we are working hard to develop effective strategies for prosecutors. Our task force is composed of federal and tribal prosecutors as well as tribal court judges, FBI and medical experts. We have been collecting best practices from across the country. As a result, we are producing a resource manual to help federal and tribal prosecutors. Through this experience, I have learned a great deal about the importance of being culturally competent in the dynamics of violent crime against Native American women.

Weakness in Law Protecting Native American Victims

From a legal perspective, until recently no matter how violent the offense, tribal courts could only sentence Indian offenders to one year in prison. Under the Tribal Law and Order Act, tribal courts can now sentence Indian offenders for up to three years per offense. But tribal courts have NO authority at all to prosecute a non-Indian, even if he lives on the reservation and is married to a tribal member. It is not uncommon for tribal police officers to respond to a domestic violence call, only to discover that the accused is non-Indian and therefore outside the tribe's criminal jurisdiction. This could change through the Senate's Violence Against Women Act reauthorization bill (S. 1925, <http://www.govtrack.us/congress/bills/112/s1925#>). Research shows that abusers who are not arrested are more likely to repeat and escalate their attacks. Research shows that law enforcement's failure to arrest and prosecute abusers both emboldens attackers and deters victims from reporting future

incidents. Add to that the cultural dynamic that on the reservations, tribal law enforcement may be related to the victim, the abuser or both and the failure becomes more frequent.

Cultural Dynamics in Violence Against Native American Women

A Native American woman who has been raped by a Native American man may be reluctant to press charges because of the feeling that if she does, she'll be betraying her community as a whole because of the political, economic and social issues raised by disproportionate number of Native American men already incarcerated.

Differences in ways of communicating among cultures may also be a cause for misunderstanding in the examination and treatment process of victims. For example, among many people of Native American and Latino background, it is a sign of disrespect to look directly at someone while talking, particularly if the person to whom they are speaking is an authority figure. However, for most people of European descent looking directly at someone is seen as positive and looking away is a sign of guilt, shame or lying. These differences could cause misinterpretations during interactions throughout the medical exam or police interview. Cultural values may influence other factors such as whether or not the survivor blames herself for the attack, who she tells about the rape/assault, who she goes to for support, etc.

Training police and prosecutors to be culturally sensitive and culturally competent when investigating violent crimes against Native American women is one of the keys to successful prosecution and conviction. This will give the investigators the skills needed to concentrate on gathering all the facts of the case instead of falling back on the old stereotypes which will only hinder the case.

In Native American culture, if there has been a homicide, it is important to be aware of the spiritual and cultural aspects of delivering death notifications. Many tribal cultures have a certain time frame between death and burial and also have spiritual beliefs about the body of the deceased. While an autopsy in a homicide is necessary, this is a very difficult thing for American Indians. Victim advocates play an important role. In tribal communities, word travels fast when a homicide occurs and family members may arrive at the scene or at times, family and friends may have been present at the time of the homicide. Having a victim advocate present that can deal with the cultural dynamics and assist the victim as well as act as a bridge between the victim and law enforcement can make or break a case.

Importance of Culturally Competent Victim-Witness Advocates

Be sure to make the most of the advocates available in Nebraska and the resources and knowledge these advocates are willing to share when working with Native American victims. The Santee Sioux tribe has recently secured a seven bedroom house to serve as a Women's Shelter for Tribal Women, the "Otokahe Teca Tipi" or "New Beginnings House." For assistance with advocacy or the shelter, advocates can be reached at 402-857-2316.

The Winnebago Domestic Violence Intervention & Family Preservation Program assists victims and their families to escape from the cycle of violence with a newly renovated shelter. They assist women and children in strengthening their self-sufficiency and securing long-term independence. An advocate can be reached at 402-878-1308.

The Omaha Nation's Crisis Response Team has The Ten Clans Domestic Violence Initiative which employs two family advocates who are available 24 hours to respond to domestic violence incidents and victim referrals. An advocate can be reached at 402-837-5010.

The Ponca Tribe of Nebraska with a population of slightly over 3,100 nationwide does not have a reservation. Although the Ponca Tribe lacks a land base in Nebraska, the Tribe does have designated "Service Delivery Area" counties; fifteen counties in Nebraska with 1,100 members in these counties. For services for domestic violence, stalking, sexual assault in Lincoln call 402-438-9222 x204, in Omaha call 402-734-5275 x3168, in Norfolk call 402-371-8834, or in Niobrara call 402-857-3341.

Furthermore, the United States Attorney's office (USAO) devotes a team of three Assistant U.S. Attorneys to prosecution of Indian Country cases. AUSA Doug Semisch is the Tribal Liaison for the USAO. He can be reached regarding Federal Tribal cases at 800-889-9124. Due to a recent grant the U.S. Attorney's office and the Winnebago Tribe also as one Special Assistant U.S. Attorney, Jill A. Finken, who devotes 100 percent of her time to the prosecution of sexual assault and domestic violence crimes occurring on the three Indian reservations located in Nebraska. Her office number at the Winnebago Reservation is: 402-878-2192. The FBI Victim Witness Specialist is Phil Kratz. He can be reached regarding current Federal Investigations at 402-493-8688. The USAO Victim Witness Specialist is Erin Aliano. She can be reached regarding cases currently in Federal Court at 402-661-3700.

Welcome Jill A. Finken, Tribal Special Assistant U.S. Attorney

In 2012, the Winnebago Tribe of Nebraska was awarded a three-year grant for a Special Assistant United States Attorney (SAUSA) to address domestic violence, sexual assaults, child and domestic violence physical assaults and dating violence on the Winnebago, Omaha and Santee Sioux Indian reservations. The goals of the project are to increase coordination among the three tribes and local, state, and federal investigators and prosecutors, bridge gaps in jurisdictional coverage, establish cohesive relationships between federal prosecutors and tribal communities, and improve the quality of violence against women cases through effective case management, and the promotion of higher quality investigations and improved training.

Our new Tribal Special Assistant United States Attorney is Jill A. Finken. Ms. Finken is a graduate of University of Northern Iowa. She received her J.D. in 2004 from Drake Law School. After graduating first in her law school class, Ms. Finken clerked for the Honorable Robert E. Mahan, Iowa Court of Appeals Judge and the Honorable Mark W. Bennett, Federal District Court Judge, Northern District of Iowa. Thereafter, Ms. Finken worked in private sector as a litigation attorney practicing both civil and criminal law. She is also an active member of the Iowa Army National Guard's Judge Advocate General's Corps with 15 years' total military experience, including a one-year combat deployment to Afghanistan.

In her current capacity as a Special Assistant United States Attorney, she is responsible for prosecuting sexual assault and domestic violence crimes occurring on the three Indian Reservations located in Nebraska. The Tribal SAUSA works in close coordination with the Tribal Police, BIA and FBI to ensure cases are prepared appropriately for prosecution on all levels, and she prosecutes cases in both federal and tribal court. Ms. Finken is co-located at the Winnebago Reservation and the United States Attorney's Office.

In addition to the funding of the SAUSA position there are training dollars to address domestic violence and child abuse issues in Indian Country. The SAUSA will collaborate with the LEC and the V/W Specialist on all training needs.



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**DISTRICT OF NEBRASKA
INDIAN COUNTRY OPERATIONAL PLAN FOR
LAW ENFORCEMENT ON THE
OMAHA, SANTEE SIOUX AND WINNEBAGO RESERVATIONS
Revised Effective January 1, 2012**

I. Background

Tribes With Reservations

The United States Attorney's Office (USAO) for the District of Nebraska has jurisdiction on three Indian reservations located in the State of Nebraska. These are: the Winnebago, the Omaha, and the Santee Sioux reservations. The Omaha and Winnebago reservations are contiguous to one another and are situated 80 miles north of the main office of the USAO, which is in Omaha, Nebraska. The Santee Sioux Tribe is located 190 miles northwest of the City of Omaha and 115 miles west of the Winnebago and Omaha reservations. Although Nebraska was originally designated as a Public Law 280 state, each of these reservations has retroceded jurisdiction so that the USAO has jurisdiction under Title 18, United States Code, Section 1153 for major crimes committed by Native Americans against other Native Americans or property owned by other Native Americans. Additionally, the USAO has jurisdiction under Title 18, United States Code, Section 1152 for all offenses committed by non Native Americans against Native Americans or property owned by Native Americans. The USAO also has jurisdiction for all offenses committed by a Native American against the person or property of a non Native American except where said Native American has already been punished by the local law of the tribe for the same conduct. Federal laws of general applicability which are not dependent on Indian Country or exclusive federal jurisdiction as a jurisdictional basis also apply in Indian Country. These crimes include, but are not limited to, mail and wire fraud, felon in possession of a firearm, use of a weapon during a crime of violence, interstate violence against women, interstate violation of protection orders, and illegal distribution of controlled substances.

Felony assaults, rapes, child sexual assaults and child physical abuse are the main offenses routinely prosecuted federally on the three reservations. The Federal Bureau of Investigation (FBI) assumes primary responsibility for the bulk of these investigations. However, in almost all instances, local tribal law enforcement is the first responder. On occasion, when available, a Bureau of Indian Affairs (BIA) criminal investigator assists with these investigations.

The population on the Winnebago Indian reservation is 1,100 with another 600 Winnebago Tribal members living in the rural county areas adjacent to the reservation. There are another 2,200 enrolled members living in the contiguous Omaha reservation within the villages of Macy and Walthill. The Santee Sioux population is approximately 600.

The Native American population is the largest racial group in the Thurston County area representing 53% of the total population. The poverty rate for non-Native Americans in Thurston County is 12%, for Native Americans it is 49%. For non-Indian children under the age of five, 17% live in poverty while 67% of Native American children under the age of five in Thurston County live in poverty. The percentage of Native Americans living in poverty on the Winnebago and Omaha reservations is 46%, more than four times the rate for white Nebraskans (9.9%). The Village of Santee is 89% Native American and the percentage of Santee living below the poverty line is

approximately 47.5%. Studies generally show that poverty is a more significant risk factor than race or ethnic origin for becoming a victim of a violent crime or committing a violent crime. (Nebraska Health and Human Services Minority Health Report 2001).

Anecdotal information received from the tribal council meetings indicates serious drug problems, particularly a methamphetamine problem. The three tribes report a drug problem but lack the necessary resources to investigate and prosecute the cases. The Winnebago tribal prosecutor, a former criminal defense attorney, suggests there is a methamphetamine problem on the reservation in regard to usage, but that his experience indicated the methamphetamine users usually travel to Sioux City, Iowa to purchase their meth. This would be a similar source for the Omaha reservation. The Santee Sioux, through interviews with the Child Protective Service personnel, indicate a methamphetamine problem. In all likelihood the source of the drugs is either from Lincoln, Nebraska or the Yankton, South Dakota area, 46 miles away. There are no indicators of meth labs or significant meth distribution on any of these reservations.

The Winnebago tribe has a Methamphetamine Task Force that addresses the meth problem through prevention and education. While the USAO is a part of this effort, it should be noted that this is not a law enforcement task force.

There is a Safe Trails Task Force for the three reservations which is part of an FBI initiative to combat gang violence in Indian Country. However, due to the minimal amount of gang activity on the reservations in Nebraska, the three FBI agents assigned full time to Indian Country primarily investigate major crimes without regard to gang involvement. Recent local FBI statistics indicate a 77% increase in indictments and a 150% increase in convictions with a corresponding number in federal referrals as a result of increasing manpower devoted to Indian Country.

There are two Bureau of Indian Affairs (BIA) investigators assigned to the three reservations; one as a drug investigator and one to investigate criminal matters. Information from the BIA, FBI and the Tribal Councils indicate the BIA investigators serve on a part-time basis for the three Nebraska reservations and cover a 200 mile radius between Nebraska and South Dakota. The Winnebago Reservation is covered by BIA sworn officers with federal certification and Winnebago Tribal Police officers without federal certification. The Omaha Reservation and the Santee Sioux Reservation are covered by tribal officers who do not have federal certification. There is a tremendous amount of turnover of tribal law enforcement personnel on all three reservations.

The Juvenile probation systems on the reservations are inadequate. Historically, the USAO had not prosecuted juveniles except in very egregious cases. However, when the tribal prosecutors indicated they would welcome an increase in federal referrals of juvenile cases, it was determined that juvenile cases would be screened on a case by case and community needs basis. This has resulted in an increase in federal juvenile delinquency petitions and an increase in juveniles being prosecuted as adults. It is anticipated the focus on juvenile offenders will continue wherever federal jurisdiction otherwise exists.

The Santee Sioux tribe has recently secured a seven bedroom house to serve as a Woman's Shelter for Tribal Women. Due to the availability of a shelter specifically for native women, an increase in reporting of domestic violence and child abuse/sexual assaults is anticipated from the Santee Sioux Reservation.

The USAO devotes a team of three AUSAs to prosecution of Indian Country cases, one from the drug unit and two from the general crimes unit. The USAO has received additional Indian Country funding to assist with Indian Country prosecutions.

Tribe With No Reservation

The Ponca Tribe of Nebraska with a population of slightly over 3,100 nationwide, does not have a reservation. In 1858, the Ponca Tribe relinquished most of its land to the federal government. In 1877, the remaining land was relinquished to the federal government due to a law passed by Congress in 1876. In 1962, Congress terminated its relationship with the Ponca Tribe. However, federal recognition was restored in 1990 when Congress re-recognized the Ponca Tribe. Trust land is owned by the tribe in Iowa. Although the Ponca Tribe lacks a land base in Nebraska, the Tribe does have designated “Service Delivery Area” counties; fifteen counties in Nebraska with 1,100 members in these counties.

II. Statute of Limitations Considerations

In allocating resources and determining the appropriate jurisdiction for prosecution of offenses, the USAO will consider the applicable federal and tribal statute of limitations. To the extent possible based upon the investigation, federal prosecutive decisions will be made on a timely basis to allow tribal prosecutors to consider lesser or alternative charges which may not have been filed prior to the federal referral. In this respect, the following provisions apply:

A. Federal Statutes

1. Capital offenses may be prosecuted at any time without limitation pursuant to 18 U.S.C. §3281.
2. Except as otherwise provided by law, non-capital offenses may be prosecuted at any time within five years of the date of the offense pursuant to 18 U.S.C. §3282.
3. Prosecution for an offense involving the kidnapping of a child under the age of 18, or the sexual or physical abuse of a child under the age of 18 may be prosecuted any time during the life of the child or for ten years after the offense, whichever period is longer pursuant to 18 U.S.C. §3283.

B. Winnebago Laws

1. Rule 1B-203 of the Winnebago Rules of Criminal Procedure required criminal proceedings to be commenced within three years of the date of the commission of the offense.
2. Any time a defendant spends outside of the jurisdiction of the Winnebago Tribe for the purpose of avoiding prosecution is not counted toward the three year statute of limitations period.

C. Omaha Laws

1. There is no statute of limitations for homicides committed on the Omaha Indian Reservation.
2. For serious offenses such as aggravated assault and burglary, there is a five year statute

of limitations.

3. For all other offenses there is a one year statute of limitations.

D. Santee Sioux Laws

1. The Santee Sioux Tribe has essentially adopted Chapter 28 of the Nebraska Revised Statutes as its Criminal Code. However, as Chapter 28 does not contain any statute of limitations provisions, it is assumed that the provisions of Section 29-110 of the Nebraska Revised Statutes apply.
2. Except as noted below, there is a one year six month statute of limitations for most misdemeanor offenses. However, for offenses punishable only by a fine or by imprisonment for not more than three months, the statute of limitations is one year.
3. The statute of limitations for the offenses of kidnapping, false imprisonment, child abuse, pandering, debauching a minor, or an offense under section 28-813, 28-813.01 or 28-1463.03 when the victim is under 16 years of age at the time of the offense, is seven years after the commission of the offense, or seven years after the victim turns 16, whichever is greater.
4. The statute of limitations for the offenses of criminal impersonation, identity theft and identity fraud is five years.
5. There is no statute of limitations for the offenses of treason, murder, arson, forgery, sexual assault in the first or second degree, sexual assault of a child in the first, second or third degree, incest, or sexual assault in the third degree when the victim is under 16 years of age.
6. The time limitations noted above do not extend to any person fleeing from justice.

III. Prosecution Guidelines

A. Major Crimes Act cases (18 USC §1153)

The USAO has jurisdiction pursuant to the Major Crimes Act to prosecute Native Americans for certain designated felonies occurring within the confines of the Omaha, Winnebago and Santee Sioux Indian reservations. These designated felonies are: murder, manslaughter, kidnapping, maiming, a felony under chapter 109A of Title 18, United States Code (sexual abuse crimes), incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, assault on a child less than 16 years of age, felony child abuse or neglect, arson, burglary, robbery, and a felony under §661 of Title 18. All provable felonies under this list will be considered for prosecution. Particular attention will be paid to crimes involving domestic abuse which occur on a reservation or which contain aspects of interstate (including travel across reservation lines) domestic violence or stalking. Included in this focus on domestic assaults are prosecutions of habitual offenders under 18 U.S.C. §117.

B. Exclusive Federal Jurisdiction cases (18 USC §1152)

The USAO has exclusive jurisdiction to prosecute all offenses, both felonies and misdemeanors, committed by non-Native Americans against the person or property of Native Americans which occur within the confines of the Omaha, Winnebago and Santee Sioux Indian reservations. As a consequence, all provable cases, regardless of whether they are

felonies or misdemeanors, will be considered for prosecution where the perpetrator is non-Native American, but the victim is Native American.

C. Drug Offenses

Provable cases occurring within the confines of the Omaha, Winnebago and Santee Sioux Indian reservations involving the possession of marijuana weighing more than one pound, or possession of any weight of any other illegal drug, will be considered for prosecution on a case by case basis. Provable cases involving the distribution of any type of illegal drug will be considered for prosecution regardless of weight.

D. Juvenile cases arising in Indian Country (18 USC §5031 *et seq*)

Crimes committed by Native American juveniles within the confines of the Omaha, Winnebago and Santee Sioux Indian reservations will ordinarily be handled in Tribal Court. However, particularly serious crimes, crimes committed by repeat Native American offenders, and/or Native American offenders causing significant problems in the community will all be considered for federal prosecution regardless of the age of the offender provided jurisdiction otherwise exists under 18 U.S.C. §1152 or 1153. Any crime committed by non- Native American juveniles within the confines of the Omaha, Winnebago and Santee Sioux Indian reservations will be considered for prosecution under the provisions of 18 U.S.C. §1152 and §5031, *et seq*.

E. Embezzlement and theft from Indian tribal organizations (18 U.S.C. §1163)

All provable cases involving the embezzlement, theft or conversion of the monies or property of an Indian tribal organization which occurs in the District of Nebraska will be considered for prosecution as long as the amount involved is greater than \$1,000. Misdemeanor cases involving loss amounts of less than \$1,000 will be considered on a case by case basis.

F. Theft from gaming establishments on Indian Lands (18 U.S.C. §1167 & 1168)

All provable cases involving the abstraction, purloining, willful misapplication or carrying away with intent to steal any money or property belonging to an establishment operated by or for or licensed by an Indian Tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission which involves a person other than an employee or officer of such an establishment will be considered for prosecution as long as the amount involved is greater than \$1,000. Misdemeanor cases involving loss amounts of less than \$1,000 will be considered on a case by case basis. However, all provable cases against an employee or officer of such an establishment will be considered for prosecution regardless of the amount.

G. Crimes of general applicability within the United States

All provable felony cases, regardless of the race of the perpetrator, involving violations of federal laws which are not dependant on the exclusive territorial jurisdiction of the United States but which occur within Indian Country in the District of Nebraska will be considered for prosecution based upon the prosecution guidelines in effect in the District of Nebraska at the time any such case is referred to the USAO. These types of cases include, but are not

limited to, felon in possession, use of a firearm during a crime of violence or drug trafficking offense, conspiracy, and mail or wire fraud.

IV. Investigations/Charging

In most instances, it is anticipated that the tribal police and/or the BIA will be the initial responders and will be responsible for securing the crime scene and any evidence gathered, taking initial statements from victims and witnesses, getting victims needed forensic and medical attention, detaining suspects where appropriate, and coordinating with tribal prosecutors regarding possible tribal charges or search warrants. For any case appearing to meet federal prosecution standards as set forth above, the tribal police shall immediately notify the FBI and/or the BIA criminal investigator assigned to the area. Once called, the FBI or BIA criminal investigator shall assume primary responsibility for the case and all subsequent investigation although the tribal police may be asked to assist with the ongoing investigation.

Tribal police will prepare written reports regarding their investigations and will make them available to the FBI and the USAO. Tribal officers should anticipate being called as witnesses in preliminary hearings or at trial in federal cases. Similarly, in any case where federal charges are declined, but tribal charges are still viable, federal investigators should be prepared to make their reports available to the tribal prosecutors and to testify in tribal court when required.

In any case involving potential federal charges, it is expected that search warrants will be sought in federal court rather than tribal court with input and review by an assigned AUSA. It is anticipated there may be cases which were initially investigated solely for tribal law violations and which may involve tribal search warrants, but which are later adopted by the FBI and this USAO. However, whenever the FBI or the BIA criminal investigator becomes involved in an investigation, search warrant requests should go through the USAO except in the most extenuating circumstances.

For child sexual abuse cases and child abuse cases, Multidisciplinary Teams (MDTs) have been established on the Omaha, Winnebago and Santee Sioux Indian Reservations. These MDTs will meet once every two months on each reservation and will meet more often if the inventory of incidents reflects numerous serious cases in need of immediate attention or if a special staffing for a particular case is needed. Special staffing will usually occur at a CAC facility so that the doctors/experts can provide needed guidance. Outside of the special staffing, the MDTs will be comprised of an AUSA (who is also the tribal liaison), the USAO and the FBI victim specialists, CPS workers, tribal police, tribal prosecutors, CAC personnel, and, on the Winnebago MDT, Indian Health Service Hospital personnel.

Tribal prosecutors make their own independent determinations of what tribal charges are warranted. However, whenever an incident gives rise to both tribal and federal charges, tribal prosecutors, after consultation with the USAO, will generally dismiss their tribal charges in favor of related federal charges so that the more severe federal penalties can be imposed. When a defendant is in tribal custody, and continued detention of the defendant is warranted, it is anticipated that tribal prosecutors will defer dismissing their charges until after federal charges are filed. Further, before taking a plea or proceeding to sentencing on tribal charges where the defendant is a Native American and the victim is non-Native American, tribal prosecutors will

be asked to consult with the tribal liaison as to whether federal charges are contemplated as 18 U.S.C. §1152 prohibits federal prosecution of a Native American who has already been punished by the local law of the tribe. As noted in the prosecution guidelines above, whenever a case is a misdemeanor at both the tribal and federal level, prosecution will normally be left in tribal court.

Review of Indian Country referrals will be completed as expeditiously as possible including any follow-up investigation requested by the USAO. Due consideration will be given to expediting charging decisions when appropriate to ensure that dangerous offenders are arrested and detained.

Each AUSA prosecuting cases in Indian Country will be encouraged to notify the FBI, tribal police and tribal prosecutor of any federal case filing within a reasonable time after the filing. In addition, the tribal liaison AUSA will maintain a list of filed cases and will review that list with tribal prosecutors and tribal police chiefs at the regular meetings described in section VII below. Tribal councils and the Native American community will be advised of filed cases and any dispositions during the USAO's annual visit to a tribal council meeting on each reservation. Finally, the USAO shall continue to issue press releases relating to the filing and making public of federal charges and the sentencing of any federal defendant.

EOUSA must annually report to Congress certain declination data. In addition to the general declination information which EOUSA reports, beginning in 2011, EOUSA was required to begin reporting declinations in Indian country cases, as mandated in the Tribal Law and Order Act. All immediate and later declinations must be entered in LIONS. An **immediate declination** occurs when an investigative agency presents a referral in writing to the USAO that does not warrant federal prosecution based on the facts and circumstances presented. In such an instance, no further investigation is authorized, no matter is opened, and the referral is declined immediately. A **later declination** occurs when a matter has been opened in LIONS, and the USAO later decides to close the matter without filing charges. This typically follows some investigation or further consultation with the AUSA.

Known by many names, a field declination, exception, or "over-the-phone declination" occurs when an investigative agency seeks a USAO declination based on the agency's own internal guidelines or presents a matter orally to the USAO that does not warrant federal prosecution based on the facts and circumstances presented. Field declinations, exceptions, and "over-the- phone declinations" should not be entered into LIONS.

In November of 2011, the Native American Issues Subcommittee (NAIS) Working Group convened to discuss how best to comply with Congressional reporting requirements. The NAIS wanted to ensure that cases declined for federal prosecution which were referred to tribal prosecutors or to state, local or military prosecutors for potential prosecution were accurately identified in the LIONS system. The NAIS then recommended and the Attorney General Advisory Committee (AGAC) agreed that the following disposition reasons should be added to the list of the current Declination Disposition Reasons in LIONS:

SRTC – Suspect referred for prosecution decision by tribal court.

SRSC – Suspect referred for prosecution decision by state, local or military court

These new codes implemented January 1, 2012, will allow for better tracking of investigations

where prosecution was sought, just not by a U.S. Attorney's office. These codes should be used when a referral was made to a tribal, state or other court prosecutor, either orally or in writing, and accepted for review. "Referral" contemplates direct consultation with a prosecutor for possible prosecution in a tribal, state, local or military court. The new referral disposition codes should not be used, where declination by the USAO effectively concludes the prosecution. In other words, if the matter was not accepted for review by another prosecutorial authority, the user should select the appropriate declination code. Please note: these new codes are applicable to all criminal matters which are referred to another jurisdiction for possible prosecution. Their application is not limited to Indian Country matters.

Federal declinations will be timely made and communicated to tribal prosecutors so that any viable tribal prosecutions can be initiated within the applicable statute of limitations periods noted above. Federal declinations shall be in writing setting forth the facts of the case and the reasons for declination. Written declinations must be approved by the criminal chief. Copies of approved declination memos will be provided to the FBI, tribal police chiefs and tribal prosecutors.

V. Victim Advocacy

A. FBI victim specialist responsibilities

Once the FBI has been notified of a crime on a reservation and a Special Agent has been assigned, the agent will identify the crime victim and notify the FBI's victim specialist. The specialist will then meet with the victim and/or the victim's family and explain the crime victim's rights under 18 USC §3771. The FBI victim specialist will notify the USAO Victim/Witness coordinator for Indian Country of the identity of the victim and/or the victim's family. The FBI specialist will further coordinate with the USAO Victim/Witness coordinator to ensure that there is a smooth transition between the FBI victim specialist and the USAO Victim/Witness coordinator for Indian Country. The FBI victim specialist will gather pertinent information and upload that information into the Victim Notification System (VNS). He will also provide an explanation to the victim regarding the VNS system and the criminal justice process with respect to the roles of the FBI and the USAO.

The FBI victim specialist will be responsible for conducting a short term and long term victim's need assessment. Based on that assessment, the specialist will make referrals to tribal resources (victim advocates, DV advocates, CPS, Tribal Family Services, tribal counseling services, housing, transportation, etc) and coordinate with these local providers to meet the victim's needs.

During the investigation of the case, the specialist will keep the victim and USAO Victim/Witness Coordinator informed of the progress of the investigation. When the case is indicted, the FBI specialist will work with the USAO Victim/Witness Coordinator and the victim to transition the victim into the prosecution phase.

B. USAO Victim/Witness Coordinator for Indian Country

The USAO Victim/Witness Coordinator will meet with the FBI victim specialist as the case is nearing Grand Jury or as soon as possible after an Indictment is returned. The coordinator

will meet with the victim and continue the efforts of the FBI to make referrals to tribal resources and local providers to meet the victim's current needs.

The USAO victim coordinator will be responsible for communicating with the victim to keep the victim informed of the progression of the criminal case. This will include use of the VNS, email, phone, and/or personal visits. The coordinator will also serve as the liaison between the victim and the assigned AUSA regarding plea negotiations, court appearances, preparation of victim impact statements, and allocution at sentencing.

The USAO victim coordinator will accompany and provide assistance to the victim at any public court hearings. This will include arranging transportation and/or lodging, making the victim familiar with the courtroom, and, to the extent possible, shielding the victim from unwanted contact with families of the defendant.

The victim coordinator is currently a member of the crisis response team at the Santee Sioux reservation. The purpose of this response team is to address the needs of adult victims of sexual assaults and domestic violence.

The four Nebraska Tribes are English speaking, so the need for a translator is rare. Should a translator be needed, the victim/witness coordinator will contact tribal authorities to identify an appropriate translator.

The USAO is unaware of any Native American culturally specific restitution concerns on any of the three reservations. However, should such an issue arise, the victim coordinator will contact tribal authorities for assistance.

C. Tribal Victim Specialists or Advocates

These advocates shall work with the tribal prosecutors and the victims during the pendency of any tribal prosecution. The advocates will also be consulted by the FBI victim specialist and the USAO victim/witness coordinator.

VI. Training and Law Enforcement Coordination

The mission of the United States Attorney's Office Law Enforcement and Community Coordination (LECC) Unit is to assist law enforcement and criminal justice agencies throughout the District of Nebraska, and to facilitate community based efforts on issues related to criminal justice and community restoration. The LECC Unit manages or facilitates a number of programs designed to support and coordinate the objectives of the criminal justice system at various levels, provides services to witnesses and victims of federal crime, conducts training, and apprises the community at large about issues related to the criminal justice system. The LECC Unit maintains strong collaborative partnerships among the federal, state, local and tribal law enforcement agencies to improve the effectiveness of law enforcement in the District of Nebraska. In this respect, the LECC Unit, in conjunction with the designated AUSA Tribal Liaison, will continue to serve as a liaison between the AUSAs doing Indian Country prosecutions, the BIA and FBI, and tribal law enforcement. In addition, the LECC Unit will continue to work to find ways to improve the working relationship between the Thurston County Sheriff's Department and the Omaha and Winnebago law enforcement units.

The LECC Unit will continue to host trainings and conferences at various venues throughout the District of Nebraska. The LECC will ensure that these trainings include topics relevant to current issues in Indian Country, domestic abuse, sexual abuse including sexual abuse of children, violence against women, and victim issues. The LECC Coordinator and the Victim/Witness Coordinator will be responsible for providing notice of these trainings and conferences to the Tribal Chairs, Tribal law enforcement chiefs, and tribal service providers. Reasonable efforts will be made to ensure tribal law enforcement personnel have ample opportunity to attend these trainings and conferences. When possible, tuition costs for tribal law enforcement will be reduced or eliminated.

In addition to the standard trainings and conferences held by the LECC as noted above, when requested, the LECC, with the assistance of the designated Tribal Liaison AUSA, will design and hold informal training sessions at either the USAO's facilities or at the law enforcement headquarters of any tribal law enforcement entity. Initially, training will be developed to satisfy requests from tribal prosecutors from the Winnebago and Omaha Tribes for training for officers concerning report writing, questioning of juveniles, understanding addictions and addictive behaviors, and testifying. Additional training will be developed on an as needed basis if not already covered by other training sponsored by the LECC Unit for all law enforcement officers.

The LECC Unit will continue to offer tribal law enforcement officers a myriad of training currently being offered to other law enforcement officers in the District. Through recent meetings with the tribal councils of the Winnebago, Omaha and Santee Sioux it was expressed that tribal law enforcement officers receive training specific to report writing and case preparation.

The LEC will continue to provide such training and further encourage the tribal police to attend the basic certification course for sworn law enforcement officers through the Nebraska Law Enforcement training Center in Grand Island, Nebraska. This 15 week training course is open to all tribal law enforcement officers. In lieu of this training, Nebraska recognizes the BIA certification of tribal law enforcement officers through the Federal Law Enforcement Training Center.

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

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

The LECC coordinator and the Victim/Witness Coordinator will continue to work directly with tribal representatives to provide assistance on the Collaborative Tribal Assistance Solicitation relating to available grant funds. The coordinators will keep the tribes apprised of the solicitation deadlines and will provide information and guidance on the funding parameters to assist the tribes in applying for and receiving the maximum amount of grant funds possible.

VII. Outreach

The USAO will meet at least annually with the Omaha, Winnebago, Santee Sioux and Ponca Tribal Councils. The purpose of these meetings will be to: (a) keep the tribes informed of the criminal cases being handled by the USAO (due regard will be given to the Privacy Act so that only cases that are a matter of public record will be specifically addressed); (b) provide information on grants and funding; and (c) ascertain any needs the tribes may have which the USAO can address. The meetings will be attended by the United States Attorney, First Assistant US Attorney, Tribal Liaison, Drug Chief, Criminal Chief, LECC Coordinator and the Victim/Witness Coordinator for Indian Country. Representatives from the FBI and BIA will be invited to attend as well. It is anticipated that tribal police chiefs and tribal service providers will be at these council meetings in addition to members of the tribal community.

MDT meetings will continue to be held on each of the reservations. Meetings will be held every two months unless the inventory of child sexual abuse and child abuse cases dictates more frequent meetings.

In 2009, the USAO made application to be part of the Indian Country Community Prosecution Team pilot program, but was not selected. The goal of the program was to hire an additional AUSA and victim/witness coordinator to work with the Winnebago tribal prosecutor (and to a lesser extent the Omaha tribal prosecutor because of the contiguous border to the Winnebago Tribe) to provide better case coordination between federal and tribal prosecutions and to better assist victims of crimes.

The pilot program AUSA would have been required to be on the reservation 2-3 days per week to assist the tribal prosecutor with: (a) case screening; (b) coordination of cases between federal and tribal court; (c) interviewing witnesses and victims and providing input for CAC interviews of children; and (d) preparing tribal and federal cases for trial. Additional goals for the pilot program AUSA were to: (a) provide direction and training for tribal officers to enable them to better assist the FBI and BIA with follow-up investigation of federal level cases to help eliminate any backlog; (b) to help the tribal officers obtain their federal law enforcement certificates; and (c) to work with tribal prosecutors in screening juvenile cases to find appropriate cases to refer to federal court and to otherwise help develop programs to deter youth violence.

The pilot victim/witness coordinator was to co-locate on the Winnebago Reservation to better be able to provide a seamless system of victim advocacy with the FBI and tribal specialists. This coordinator would also be responsible for implementing and otherwise participating in community outreach prevention and education programs developed by the LECC Unit. These outreach and public education efforts would be coordinated with the HoChunk Community Develop Corporation's non-profit programs and the Winnebago Methamphetamine Task Force.

Although the USAO was not selected for participation in the pilot program, the USAO was alternatively granted an additional AUSA to be assigned to prosecution of cases in Indian Country. To the extent feasible, the USAO intends to implement parts of the pilot program goals set forth above, by detailing an AUSA to the reservations on at least a monthly basis.

In addition to the foregoing, the USAO intends to modify the work plan of the assigned AUSA tribal liaison to allow the AUSA to perform many of the functions suggested in the April 9, 2010 memo of Director H. Marshall Jarrett regarding Indian Country Law Enforcement Initiative District Operational Plans. As part of his expanded duties, the AUSA Tribal Liaison will schedule meetings with tribal prosecutors, tribal police chiefs and FBI special agents assigned to Indian Country to precede or immediately follow the regularly scheduled MDT meetings on each of the reservations. During these meetings, the AUSA will be able to inform tribal prosecutors and police chiefs of the status of federal investigations and prosecutions, to review the inventory of pending tribal investigations and prosecutions to determine whether any cases warrant federal intervention, and to address any law enforcement concerns the prosecutors or police chiefs may have.

For 2012, the USAO will have one AUSA designated as the tribal liaison for each of the three reservations in Nebraska. The assigned AUSA for 2012 is Douglas R. Semisch.

The Department of Justice Community Relations Service was utilized several years ago in a facilitated mediation process between representatives of the Omaha Tribe and Thurston County government officials. There have been long standing disagreements and geographic boundary disputes between the Omaha Tribe and Thurston County. The attempts of the Community Relations Service were not considered very effective and there are no current plans to utilize CRS assistance at this time. In addition, the State of Nebraska, through the Nebraska Justice Center, a private non-profit corporation, approved by the Nebraska Office of Dispute Resolution, attempted to resolve conflict of individuals and organizations in Northeast Nebraska and the four Indian Tribes of Nebraska. Nebraska Justice Center made several attempts to ameliorate the relationship between the Omaha Tribe and the Thurston county government, with little or no success. Continuing efforts will be led by the USAO to address this conflict.

VIII. Violence Against Women

A. Priority

All reports of sexual assault and/or domestic violence in Indian Country will receive top priority. All reports of either sexual assault or domestic violence will be immediately investigated unless there is clearly an absence of credible evidence that such crimes have been committed. The FBI will take the lead in all sexual assault investigations without regard to whether the case will be prosecuted in federal or tribal court. The FBI will assume the lead in all domestic violence cases whenever it has been determined that a dangerous weapon was used, that the victim sustained serious bodily injuries, that the perpetrator crossed state or tribal boundaries with the requisite intent to commit the offense, or when the subject has a prior domestic violence conviction as that term is defined in 18 U.S.C. §2265A.

All reports of sexual assault and/or domestic violence will be reviewed by the USAO. Under no circumstances will CVB citations be used as the charging mechanism for cases of sexual assault or domestic violence. All such cases that satisfy the Principles of Federal Prosecution will ordinarily be prosecuted unless, in the judgment of the United States Attorney, there are too many weaknesses in the case (lack of third party witnesses, lack of DNA evidence, recanting victims, etc.) to warrant an expectation that a conviction could be obtained.

B. Sexual Assault Cases

In most instances, sexual assault victims on the Omaha and Winnebago Indian Reservations will be taken to either the Mercy Medical Center or St. Luke's Hospital in Sioux City, Iowa for the purpose of forensic examinations. In addition, the Indian Health Service Hospital in Winnebago has a trained SANE nurse position which was funded through a grant program. However, this is a daytime position and no funds are available for overtime or evening hours. Thus, unless other grant funds become available for additional staffing, victims will be taken to the IHS hospital only when it is known that a SANE nurse is on duty. Victims on the Santee Sioux Indian Reservation, regardless of age, are generally taken to the Norfolk CAC for the purpose of forensic examinations. On occasion, victims will be taken to the Avera Sacred Heart Hospital in Yankton, South Dakota.

Rape kits at the Mercy Medical Center and St. Luke's Hospital are readily available. These kits are provided by the Iowa Department of Criminal Investigations. Rape kits are also available at the IHS although the source of those kits is unknown. For the Norfolk CAC, rape kits are readily available. Those kits are donated by the Norfolk Police Department, the Nebraska State Patrol and the Madison County Sheriff's Department on a rotating basis.

Generally, rape kits and other forensic evidence will be submitted to the FBI laboratories with a request that such evidence be assigned to the unit specifically designated to work Indian Country cases. However, when funding is available or when expedited processing is required and the FBI lab is unable to accommodate such processing, evidence may be taken to the Nebraska State Patrol lab or to the Nebraska Medical Center. It shall be the responsibility of the AUSA assigned to the case to monitor and make certain that rape kits and other forensic evidence has been promptly submitted to the FBI laboratory or that such evidence is promptly submitted to the Nebraska State Patrol lab or the Nebraska Medical Center lab. The AUSA shall coordinate and make certain that all available funding for such private lab testing has been secured either through the FBI Indian Country grant for such testing or through a request to the USA for expenditure of litigation funds.

C. Domestic Violence Cases

As noted in subsection A above, domestic violence cases in Indian Country are a priority and will be treated accordingly. Further, it is recognized there are instances of misdemeanor level domestic violence on the three Nebraska reservations which are committed by non-Indian offenders against Indian victims. In those cases, the FBI will assume the lead role in the investigation and the USAO will prosecute all such cases that satisfy the Principles of Federal Prosecution the same as it would for any felony level offense.

Tribal domestic violence advocates on the three reservations are given the responsibility of meeting with the victims and completing the domestic violence threat assessment. This assessment addresses such issues as lethality risks and victim safety considerations. While the threat assessment is primarily used by the tribal advocates in determining the needs of the victim, where appropriate, the risk assessment will be made available to law enforcement and to tribal and federal prosecutors to be considered when making charging or plea determinations. These assessments will also be provided to the USAO victim/witness coordinator.

The Santee Sioux Tribe has a crisis response team dedicated to domestic violence issues. The USAO victim/witness coordinator is a member of this team. The Omaha Reservation also has a crisis response team which is not dedicated solely to domestic violence matters. The Winnebago Tribe does not have a crisis response team.

Domestic violence victims on the Omaha and Winnebago Reservations can be taken to shelters in Sioux City, Iowa and in Wayne and Norfolk in Nebraska. In addition there is a safe house on the Winnebago Reservation which can be used on a short term basis. Domestic violence victims on the Santee Sioux Reservation can be taken to shelters in Wayne and Norfolk in Nebraska. In addition the Santee Sioux Tribe has recently acquired a home which is used as a shelter.

There is a domestic violence tribal council which meets once per month. This council consists of members from the three Nebraska reservations along with members of the Ponca Tribe. In addition, the FBI victim specialist sits on this council. This council does not discuss pending cases. Rather, the purpose of the council is to share ideas and programs dealing with domestic violence. Frequently, events sponsored by one tribe are attended and supported by members of the other Nebraska tribes.

IX. Cross Deputization Agreements in Indian Country

A. Santee Sioux Tribe

There is a cross deputization agreement in effect between the Santee Sioux Tribe, the Knox County Sheriff, and the Nebraska State Patrol. For Santee Sioux law enforcement officers to be eligible for cross deputization, they must be certified by the Federal Law Enforcement Training Center, or have equivalent training. In addition, they must successfully complete “in lieu of training” provided by the Nebraska Law Enforcement Training Center. For Nebraska State Patrol or Knox County Sheriff’s Department officers to be eligible for cross deputization, they must successfully complete the “in lieu of training” provided by the Bureau of Indian Affairs and receive certification by the BIA.

The cross deputization agreement provides that state arrest warrants for persons located on the Santee Sioux Reservation will be executed by the Santee Sioux law enforcement with invitations to state officers to participate. Similarly, tribal arrest warrants for persons located off the Santee Sioux Reservation will be executed by state or county law enforcement with invitations to tribal law enforcement to participate.

B. Omaha Tribe

The July 14, 2005 Intergovernmental Cooperative Agreement between the State of Nebraska and the Omaha Tribe has expired. The parties are currently working on a new agreement. There is no cross deputization agreement between the Omaha Tribe and the Thurston County Sheriff’s Department, and none is anticipated.

C. Winnebago Tribe

There is a cross deputization agreement in effect between the Winnebago Tribe and the

Nebraska State Patrol. There is no cross deputization agreement with the Thurston County Sheriff's Department and none is anticipated. For Winnebago law enforcement officers to be eligible for cross deputization, they must be certified by the Federal Law Enforcement Training Center, or have equivalent training. In addition, they must successfully complete "in lieu of training" provided by the Nebraska Law Enforcement Training Center. For Nebraska State Patrol or Knox County Sheriff's Department officers to be eligible for cross deputization, they must successfully complete the "in lieu of training" provided by the Bureau of Indian Affairs and receive certification by the BIA. The cross deputization agreement provides that state arrest warrants for persons located on the Winnebago Reservation will be executed by the Winnebago law enforcement officers with invitations to state officers to participate. Similarly, tribal arrest warrants for persons located off the Winnebago Reservation will be executed by state or county law enforcement with invitations to tribal law enforcement to participate.

D. LECC Assistance with Cross Deputization

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

X. Accountability of Time Spent in Indian Country

All AUSAs assigned to Indian Country will be required to accurately report time spent on Indian Country matters by keeping the USA 5 and LIONS updated according to office and DOJ protocols. USA 5/5A will be updated on a weekly basis. Lions/Alcatraz will be updated as significant cases events occur, and case/matter data contained within Lions/Alcatraz will be certified by each AUSA every six months. Periodic training on use of these two data bases will be conducted at the annual retreat or as otherwise directed by the United States Attorney. In the interim, the criminal chief will continue to send monthly reminders to all AUSAs reminding them of these obligations.



DEBORAH R. GILG
United States Attorney
District of Nebraska



Attorney General Eric Holder's Tribal Nations Leadership Council

Alaska Region:	Michael J. Stickman First Chief, Nulato Village
Eastern Region:	Lynn Malerba Chief, The Mohegan Tribe of Indians of Connecticut
Eastern Oklahoma Region:	Ron Sparkman Chairman, Shawnee Tribe
Great Plains Region:	Charles W. Murphy Chairman, Standing Rock Sioux Tribe
Midwest Region:	Melanie Benjamin Chief Executive, Mille Lacs Band of Ojibwe Indians
Navajo Region:	Ben Shelly President, Navajo Nation
Norwest Region:	W. Ron Allen Tribal Chairman/Executive Director, Jamestown S'Klallam Tribe
Pacific Region:	Juana Majel Dixon 1 st Vice President-NCAI, Pauma-Yuima Band of Mission Indians
Rocky Mountain Region:	(Position open)
Southern Plains Region:	John Barrett, Jr. Chairman, Citizen Potawatomi Nation
Southwest Region:	Gary Hayes Chairman, Ute Mountain Tribe of the Ute Mountain Reservation
Western Region:	Diane Enos President, Salt River Pima-Maricopa Indian Community

District of Nebraska Tribal Council Members

Winnebago Tribe of Nebraska - Tribal Council:

John Blackhawk, Chairman
Darwin Snyder, Vice-Chairman
Louis C. Houghton, Jr., Secretary
Thomas Snowball, Sr., Treasurer
Larry Payer, Member
Travis Mallory, Member
Charles Aldrich, Member
Ramona Wolfe, Member
Morgan Earth, Member

Santee Sioux Tribe of Nebraska - Tribal Council:

Roger Trudell, Chairman
David Henry, Vice Chairman
Franklin Whipple, Treasurer
(Vacant), Secretary
Don LaPointe, Jr., Member
Roberta Redwing, Member
Marion Brandt, Member
Larry Ike Denny, Member

Ponca Tribe of Nebraska - Tribal Council:

Rebecca White, Chairwoman
Deborah Robinette, District 1
Patrick Lamoureux, District 1
Brenda Bogacz, District 2
Judy Allen, District 2 & Treasurer
Stephanie Slobotski, District 3 & Secretary
Jeremy Wright, District 3 & Vice Chairman
Candace Bossard, District 4
Alex Taylor, District 4

Omaha Tribe of Nebraska Tribal Council:

Rodney Morris, Chairman
Doran Morris, Jr., Vice-Chairman
Gwen V. Porter, Secretary
Tillie Aldridge, Treasurer
Jeffrey S. Miller, Member
Forrest Aldrich, Jr., Member
Mitchell Parker, Member

District of Nebraska Tribal Liaison Coordinator

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District of Nebraska Tribal Police Chiefs

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Macy Police Department
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Macy, NE 68039
(402) 937-5906

Santee Sioux Nation
Chief Rob Henry
Route 2, Box 5160
Niobrara, NE 68760
(402) 857-2527

Winnebago Tribe of Nebraska
Chief Jason Lawrence
103 Bluff Avenue
Winnebago, NE 68071
(402) 878-2245

INDIAN COUNTRY VIOLENT CRIME

Leland Parker—Parker was sentenced to ten years in prison to be followed by ten years of supervised release following his conviction for abusive sexual contact with a child less than 12 years of age. In 1999, Parker sexually abused a young female in the basement of a home at a time when he was 16 years of age. The victim never reported the incident. The matter was uncovered in 2011, when the victim's mother found a letter the victim had written but never sent detailing the sexual abuse. The sexual assault occurred on the Omaha Indian Reservation.

George Henry—Henry was sentenced to 41 months in prison for two offenses he committed on the Santee Indian Reservation. Henry unlawfully possessed an SKS assault rifle after previously having been convicted of a felony offense. Henry hid the weapon from the FBI and attempted to sell it to others. In addition, Henry and 3 other individuals stole a safe from a residence, broke it open at another location, and kept a firearm and approximately \$15,000 in cash and jewelry.

Victor Smith—Smith was sentenced 12 months in prison following his conviction for abusive sexual contact with an 18 year old girl. He was also sentenced to an additional 24 months in prison for violating the terms of his order of supervised release which had been imposed following a previous abusive sexual contact conviction. The sexual assault occurred on the Winnebago Indian Reservation.

Anthony Whitewater—Whitewater was sentenced to 41 months in prison following his conviction for assault resulting in serious bodily injuries on the Winnebago Indian Reservation. He was also sentenced to an additional 6 months in prison for his violation of an order of supervised release imposed following a previous assault conviction. Three days after being placed on supervised release, Whitewater was in a house with other males when an altercation broke out. When his sister went to investigate, Whitewater and the other males fled the house. As Whitewater was running away, he struck a neighbor with a bat or broom handle causing injuries to the victim's eye.

Joseph Snowball—Snowball was convicted of driving under the influence of alcohol with a minor child present in the vehicle. He was sentenced in March, 2013 to probation for a period of five years and restitution of \$188,621.25 unless a lesser amount is otherwise ordered by the court. Snowball had been heavily drinking before going for a ride in a vehicle on the Winnebago Indian Reservation. A five year old child was present in the vehicle. When the car's owner became too intoxicated to drive, Snowball took over even though he had never obtained a driver's license. Shortly after taking control of the car, Snowball lost control of the vehicle and caused it to swerve off the road and slam into a tree. His BAC was determined to be .234.



2012 Indian Country Conference Protecting and Empowering Families

The 2012 Indian Country Conference was held on July 10th through the 12th at the Haskell Indian Nations University in Lawrence, Kansas. The conference was sponsored by the U.S. Attorney's Offices in Kansas, Nebraska and the Northern District of Iowa. This was a three-day conference providing a variety of Law Enforcement related workshops. Sessions dealt with concerns relevant to the Native American and Alaskan Native cultures. Topics are approached in a manner that respects and honors the cultural and spiritual traditions of Native Americans and Alaskan Natives.

Two U.S. Attorneys, as captioned, were in attendance and provided welcome remarks for the conference.

Indian Country Conference attendees totaled 124 coming from Kansas, Nebraska, Iowa and 13 individuals from other surrounding states. The conference offered 14 speakers, some professional and others were experts in their area of work. Individual presentations covered a variety of topics regarding working with victims with disabilities, human trafficking, dealing with gangs and the victims of gang violence, federal prosecution, tribal community policing partnerships, violence and abuse against indigenous women, domestic violence and healing through art.



*U.S. Attorney Deborah R. Gilg, District of Nebraska &
U.S. Attorney Barry Grissom, District of Kansas*

In 2013 the U.S. Attorney's Office in the Districts of Kansas, Nebraska and Northern Iowa will be hosting the annual conference in Sloan, Iowa. The 2013 conference will center on Domestic Violence and Sexual Assault in Indian Country.

TRIBAL ASSISTANCE AWARDS LIST

Below is a listing of the 2012 U.S. Department of Justice Coordinated Tribal Assistant Solicitation Awards for Nebraska:

BJA Bureau of Justice Assistance
OVC Office of Victim Crimes

Omaha Nation Law Enforcement Services Professional Development Project	<u>Omaha Tribe of Nebraska</u>	<u>2012-DJ-BX-0597</u>	\$12,861	BJA	<u>BJA FY 12 Edward Byrne Memorial Justice Assistance Grant (JAG) Program</u>	NE
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Omaha Tribe Comprehensive Tribal Victim Assistance Program	<u>Omaha Tribe of Nebraska</u>	<u>2012-VR-GX-0004</u>	\$450,000	OVC	<u>OVC FY 12 CTAS Purpose Area 8: Comprehensive Tribal Victim Assistance Program</u>	NE
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Justice System and Alcohol and Substance Abuse	<u>Omaha Tribe of Nebraska</u>	<u>2012-IC-BX-0010</u>	\$481,190	BJA	<u>BJA FY 12 CTAS Purpose Area 3: Justice Systems and Alcohol and Substance Abuse Program</u>	NE
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OMAHA TRIBE OF NEBRASKA



The Omaha Tribe originated because of a division within the Sioux nation in the early 1500s. They had lived together near the junction of the Ohio and Wabash Rivers, near present-day Cincinnati, Ohio. Migrating westward with the Quapaw, the Omahas settled at the mouth of the Missouri River on the northern edge of present-day St. Louis, Missouri. The Quapaw traveled further south and located on the western side of the Mississippi.

The Omaha, “those going against the wind or current,” remained near St. Louis until the late 1700s. At this time, they migrated north up the Missouri River to the mouth of the Big Sioux River, near present-day Sioux City, Iowa. From there they followed the Big Sioux to the Rock River and finally stopped near Pipestone, Minnesota. From here the Omaha began a migration back south to the Missouri River staking extended out hunting grounds on the west side of the Missouri River, now known as Nebraska. Their territory extended from near Yankton, South Dakota, south to Rulo, Nebraska, and up to 150 miles west, an area of 35,600,000 acres.

Around 1750, the Omaha encountered the first European fur traders in the Bellevue area. Around 1800, the first of these fur traders married into the Omaha tribe. The Omaha thrived through the 1700s, as they were excellent hunters and good farmers. They always grew good gardens of corn, beans, squash and melons. Buffalo served as their general store, providing food, clothing, blankets, rope, moccasins, fuel, shelter, and utensils.

By 1815, the Omaha became very worried about the dwindling bison food supply and protection from hostile tribes. This led to the first signing of a treaty with the United States government. The tribe is a federally recognized Indian Tribe organized pursuant to Section 16 of the Act of June 18, 1934. (48 Stst. 984), Code 25 U.S.C. 476 et. Seq.; as amended by the Act of June 15, 20135 (49 Stat. 378), a Constitution and By Laws ratified by the members of the Omaha Tribe of Nebraska on February 15, 1936, and approved by the Secretary of the Interior on March 23, 1936, as amended on July 9, 1954, October 2, 1960, December 30, 1981, and August 19, 1986.

The tribe today consists of some 5,000 enrolled members with approximately 3,000 residing on the reservation, which is headquartered at Macy, Nebraska. The reservation covers parts of Thurston and Burt Counties in Nebraska, and a portion of Monona County in Iowa. The headquarters is about sixty miles northward from Omaha and within the limits of their original country.

Demography: Membership as of January 20, 2006
Total Population; Male 2,894 & Female 2,957
Includes on and off reservation. Total 5,861

Total reservation acres includes: Trust and Fee 198,550.00 within the boundaries of the Omaha Indian Reservation, including portions of counties of Burt, Cuming and Wayne
Trust only 29,417.94
Omaha Tribal 12,439.37



HOMELAND

The Ponca Tribe of Nebraska is one of four tribes considered indigenous to Nebraska with the other three—the Omaha, Santee Sioux, and Winnebago—possessing reservations. Historically, the Ponca are believed to have been part of the Omaha Tribe, having separated by the time Lewis and Clark came upon them in 1804. At that time, they were situated along Ponca Creek, in Knox County, near present-day Verdel. They lived in earth lodges, were primarily horticulturists, but also made seasonal hunting trips. They were on such a trip when Lewis and Clark came upon their village. Although the tribe's exact origin is unknown, some scholars believed the Ponca migrated from an area along the Red River near Lake Winnipeg. However, by the early 1700s, the warring Sioux had forced them to relocate to the west bank of the Missouri River.

SIZE

The Ponca were never a large tribe. The tribe's probable size in 1780 was estimated at 800. By 1804, largely because of smallpox, their numbers dwindled to around 200. By 1829, their population had increased to 600 and by 1842, to about 800. In 1906, the Ponca in Oklahoma numbered 570 and those in Nebraska, 263. The census of 1910 listed 875 Ponca's, including 619 in Oklahoma and 193 in Kansas. By 1937, the Ponca population reached 1,222 with 825 in Oklahoma and 397 in Nebraska. Today, the Ponca Tribe of Nebraska alone numbers slightly over 2,800.

MISSION STATEMENT

Today, the Ponca Tribe is in the process of restoration as is so aptly expressed by its mission statement: *We, the Ponca Tribe of Nebraska, in order to restore all rights previously held by our people and their descendants, promote peace, prosperity, happiness, and the general welfare of the citizens of our Tribe and our posterity: to exercise home rule, to conserve and perpetuate all worthy traditions and cultural elements of our people long established by customs; to improve our social order; to protect our rights as individuals; to promote business enterprise, both cooperative and individual; to promote educational opportunities for all Northern Ponca people; to consolidate our land holdings; and to provide for the inheritance of both real and personal property.*

Currently, the main concerns of the Ponca Tribe are twofold:

To provide for the needs of its people, namely, through the programs offered by the Tribe, and
To preserve what remains of its culture.

Although lacking any land base, the Tribe does have designated "Service Delivery Area" counties: twelve in Nebraska, one in South Dakota, and two in Iowa. The Tribe also has office sites located in six of these counties: Niobrara, Norfolk, Lincoln, and Omaha, in Nebraska, and Carter Lake and Sioux City office in Iowa.

Niobrara houses three offices—the Tribe's headquarters, a health modular, and the Culture and Enrollment Departments. In addition, the pow wow grounds, a re-stored Community Building, and tribal cemetery are located just a few miles outside of Niobrara. The Community Building is on the list of Nebraska's historical sites.

The Norfolk location houses two sites, a field office and the Northern Ponca Housing Authority. A Tribal Court located at the Norfolk site is also in place to address civil matters.

The Omaha site includes a clinic that is open to all Native Americans.

Other types of services provided by the Tribe include education, health care, and social services.

SANTEE SIOUX TRIBE OF NEBRASKA

Known as the “frontier guardians of the Sioux Nation.”



History:

Known as the “frontier guardians of the Sioux Nation,” which ranges from Minnesota to the northern Rocky Mountains in Montana and south through the northwestern part of Nebraska, the Santee division of the Sioux Nation was called the Dakota and consisted of four bands. In the English language, Dakota translates to mean “allies” or “friends.” The four bands were the Mdewakantonwan, Wahepeton, Sissetonwan and Wahpekute. A woodland tribe, the Santee lived in semi-permanent villages and engaged in agriculture/farming. Hunts were conducted twice a year. Around 1660, French explorers were the first Europeans to encounter the Santee Dakota. Due to forced relocation to the plains, their culture soon resembled that of the nomadic tribes of the west.

The biggest tragedy to befall the Santee was the bloodiest of wars against Indian people in American history, known as the Minnesota Uprising of 1862. Mistrust felt by settlers and the Santee led to isolated outbreaks of violence. An argument between two young Santee men over the courage to steal eggs from a white farmer became a dare to kill. This test of courage killed three white men and two women. Anticipating retaliation by “blue coats,” the federal army, the Santee took the offensive, but were soon forced to surrender under the overpowering attack of the U.S. troops. Because of this short-lived uprising, 38 Santee were mass executed in Mankato, Minnesota in December of 1862. This was the largest mass execution in the history of the United States.

In 1863, Congress abrogated all existing treaties between the Santee and the government. They were exiled to a site in South Dakota called Crow Creek. Over 300 Santee died during the first three months, mostly from disease and malnutrition. Recognizing the unfeasibility of making Crow Creek a permanent reservation site, the government settled the Tribe in northeast Nebraska.

The settlement of the Santee in this region ended their tragic removal from their Minnesota homeland to South Dakota and finally Nebraska in 1866.

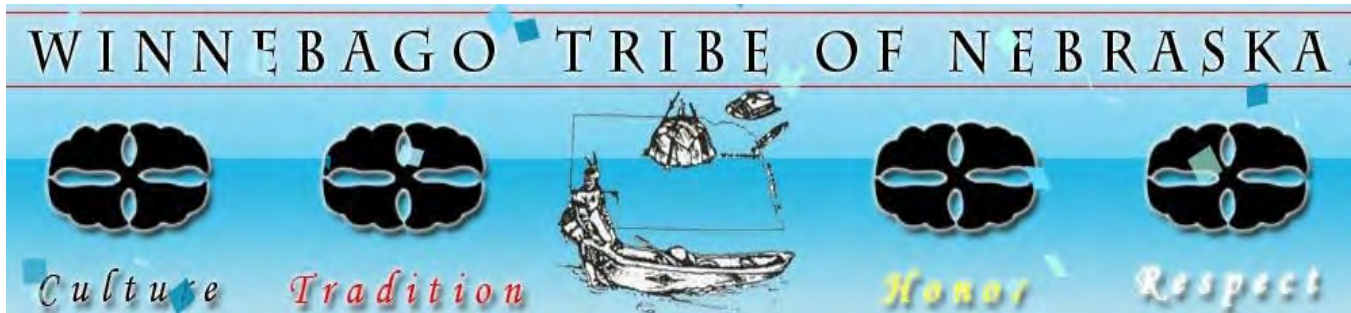
The Santee Normal Training School, established by missionaries in 1870 greatly influenced the development of the tribe during the latter decades of the 19th century. In 1936 the school closed because of insufficient funding.

Today the Santee Sioux Reservation is located in northeast Nebraska along the Missouri River. Bordered on the north side by the Lewis and Clark Lake, it encompasses an area approximately 17 miles long and 13 miles wide.

In spite of removal of their traditional homelands in 1862, the Santee Sioux Tribe continues to strive toward self-determination through economic development and education. The village of Santee has various small businesses with the Santee Hay Cubing Plant and tribal ranch among the tribe’s leading enterprises. The Santee Public School District and the Nebraska Indian Community College provide education.

Constitution and Bylaws:

We, the Santee Sioux Nation, in order to organize for the common welfare for the Nation and its posterity and to insure domestic tranquility, to enjoy certain rights of self-government and self-determination, to conserve and develop our land and natural resources, to protect the nation’s sovereignty, traditional values of respect, generosity, bravery, wisdom, that guide our nation, do ordain and establish this constitution for the general health, safety, welfare and integrity of the nation according to the Act of Congress, dated June 18, 1934 (48 Stat. 984).



MISSION STATEMENT: The Winnebago Tribe of Nebraska, as a sovereign Nation, is committed pursuant to its Constitution, to maintain, improve and protect the Tribe; To preserve its resources and cultural heritage; To create opportunities for its members to thrive and become economically and socially self-sufficient as individuals, families and as a tribal government; and, thereby, promote the harmony of traditional values, beliefs which will ensure a positive course of action for future generations.

THE WINNEBAGO INDIAN RESERVATION: The Winnebago Indian Reservation lies in the northern half of Thurston County in northeastern Nebraska. The largest community on the Reservation is the Village of Winnebago. Located on the eastern side of the Reservation, Winnebago is home to most Winnebago tribal members and accounts for almost thirty percent of the Reservation's resident population. The closest large urban centers are Sioux City, Iowa, about 20 miles north of the Reservation, and Omaha, Nebraska, approximately 80 miles to the south. Reservation land holdings extend to Iowa to the east and are not accessible within the Reservation boundaries. There are approximately 1800 acres situated in Thurston County and in the Woodbury County area of western Iowa.

At present, approximately 2,600 people live on the Reservation. Based on demographic modeling, the Reservation population is expected to increase from its year 1990 level of 2,377 to 5,050 in year 2040, due in large part to the high birth rate and relatively youthful composition of the Native American habitants. Much of the growth will occur in the Village of Winnebago, where it is anticipated that the population will more than double by year 2040. Some population expansion and settlement will occur outside Winnebago but the extent, scope and direction of this development is primarily dependent on accessibility within the reservation area.

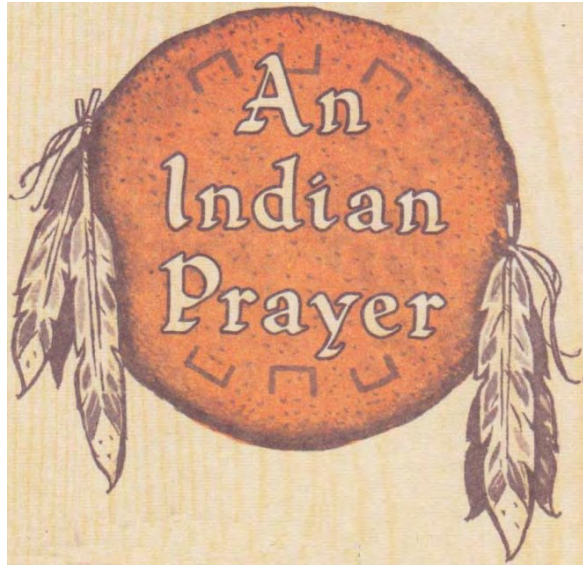
Important sectors of employment on the Reservation include health and education services, manufacturing, agriculture, public administration, and retail trade. Relative to statistics for the state of Nebraska and the nation as a whole, unemployment is rather high and household and per capita income is low for Native Americans living on the Reservation. According to 1990 U.S. Bureau of Census figures, unemployment on the Reservation was 20.4 percent overall and 20.4 percent for the Native American population compared to 3.7 percent unemployment statewide and 5.6 percent unemployment nationally. It is estimated that 44 percent of the Native American population on the Reservation lives at or below the poverty level.

The Winnebago Tribe's Trust Lands and holdings in Iowa are approximately 1800 acres at present with plans to extend ownership as development occurs. The Winnevegas Casino and the Convenience Store/Gas Station complex play a significant part in the general economy both in employment and revenue for the tribe.

CULTURAL STATEMENT: A proud heritage, a unique culture, an illustrious history, a distinct language and beautiful music; these are the foundations upon which our lives as Ho-Chungra (Winnebagoes) are based.

Without these we have no identity and without identity we are nothing. Therefore it is imperative that we preserve and use these vital elements as the solid foundation to build our future.

As "Ho-Chunks" (Winnebago) working together nothing can prevent us from achieving our dreams and visions to once again be self-sufficient and economically self-reliant. This is how important our heritage and tradition are to us. Without it our descendants have no hope for a better life as a tribal entity. With it nothing is impossible. A tribal way of life is the best way to live!



O' GREAT SPIRIT,
*Whose voice I hear in the winds,
And whose breath gives life to all the world, hear me! I
am small and weak, I need your strength and wisdom.*

LET ME WALK IN BEAUTY, and make my eyes ever behold the
red and purple sunset.

MAKE MY HANDS respect the things you have made and my ears
sharp to hear your voice.

MAKE ME WISE SO that I may understand the things you have
taught my people.

LET ME LEARN the lessons you have hidden in every leaf and
rock.

I SEEK STRENGTH, not to be greater than my brother, but to fight
my greatest enemy – myself.

MAKE ME ALWAYS READY to come to you with clean hands
and straight eyes.

SO WHEN LIFE FADES, *as the fading sunset, my spirit may
come to you without shame.*

Courtesy of Red Cloud Indian School, Pine Ridge, South Dakota