



U.S. Department of Justice

Indian Country Investigations and Prosecutions

2018





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Executive Summary

The Department of Justice presents to Congress this report on Indian country investigations and prosecutions during calendar year (CY) 2018, as required by Section 212 of the Tribal Law and Order Act (TLOA). Since TLOA's inception, the Department has worked to improve public safety for American Indians and Alaska Natives by working collaboratively with other federal agencies and Tribal Leaders to develop reforms aimed at improving public safety in Indian country and at strengthening the capacity of Tribal law enforcement and justice systems to protect their communities and pursue justice.

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

To satisfy TLOA's Section 212 reporting requirements for CY 2018, the FBI and the Executive Office for United States Attorneys (EOUSA) have compiled four types of case-specific declination information:

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

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

Despite data limitations, certain basic facts are clear:

- FBI's CY 2018 statistics show a three percent increase in total closed investigations (2,281 total) compared to FBI's CY 2017 statistics (2,210 total).
- Approximately 67 percent (1,527 out of 2,281) of Indian country criminal investigations opened by the FBI were referred for prosecution.

- For CY 2018, in 414 of the 754 (55 percent) Indian country investigations that the FBI closed administratively without referral for prosecution, it was determined there was no evidence of a federal crime, or no evidence of criminal activity was uncovered. The primary reason for closing (approximately 25 percent) was that the case did not meet statutory definitions of a crime or USAO prosecution guidelines. In addition, analysis of CY 2018 data indicates that 15.5 percent of investigations closed administratively were closed due to unsupported allegations, meaning no evidence of criminal activity was uncovered during the investigations. Another reason for non-referral (15.5 percent) was that the deaths under investigations were determined to be the result of accident, suicide, or natural causes (*i.e.*, non-homicides).
- Seventy-eight percent (112 out of 143) of the death investigations that were closed administratively by the FBI in CY 2018 were closed because the death was due to causes other than homicide (*i.e.*, accidents, suicide, or natural causes).
- In CY 2018, the USAOs resolved 2,523 Indian country matters.
- The majority of Indian Country criminal matters resolved by the USAOs in CY 2018 were prosecuted (charges filed in either Magistrate or District Court).
- The USAO declination rate remained relatively steady. USAO data shows that, in CY 2018, 39 percent (999) of all (2,523) Indian country matters resolved were declined. USAOs declined cases at a similar rate in prior years: 37 percent (891) of all Indian country matters resolved (2,390) in CY 2017; 34 percent (903) of all Indian country matters resolved (2,666) in CY 2016; 39 percent (1,043) of all Indian country matters resolved (2,655) in CY 2015; 34 percent (989) of all Indian country matters resolved (2,886) in CY 2014; 34 percent (853) of all Indian country matters resolved (2,514) in CY 2013; 31 percent (965) of all Indian country matters resolved (3,097) in CY 2012; and 38 percent (1,042) of all Indian country matters resolved (2,767) in CY 2011.
- The most common reason for declination by USAOs was insufficient evidence (64.3 percent in CY 2018, 70.9 percent in CY 2017, 68.0 percent in CY 2016, 71.7 percent in CY 2015, 59.6 percent in CY 2014, 55.6 percent in CY 2013, and 52 percent in CY 2012). The next most common reason for declination by USAOs was referral to another prosecuting authority (17.9 percent in CY 2018, 13.2 percent in CY 2017, 16.4 percent in CY 2016, 13.8 percent in CY 2015, 16.3 percent in CY 2014, 20.8 percent in CY 2013, and 24 percent in CY 2012).

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

I. Tribal Law and Order Act of 2010 Background

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

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

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

The information the FBI is required to report under TLOA is substantively different from the information reported by the USAOs. The FBI is responsible for *investigating* allegations of Federal crimes in Indian country, while the USAOs are responsible for reviewing for *prosecution* such crimes referred by all Federal and Tribal investigative agencies. The FBI’s data contains criminal matters not referred to USAOs, and EOUSA’s data accounts for cases referred by various investigative agencies, only one of which is the FBI, making direct comparisons between FBI and EOUSA numbers uninformative.

II. Federal Criminal Responsibilities in Indian Country

The two main Federal statutes governing Federal criminal jurisdiction in Indian country are the General Crimes Act, 18 U.S.C. § 1152, and the Major Crimes Act, 18 U.S.C. § 1153. Section 1153 gives the Federal government jurisdiction to prosecute certain enumerated offenses, such as murder, manslaughter, sexual abuse, aggravated assault, and child sexual abuse, when committed by Indians in Indian country. Section 1152 gives the Federal government exclusive jurisdiction to prosecute most crimes committed by non-Indians against Indian victims in Indian country.¹ Section 1152 also grants the Federal government jurisdiction to prosecute crimes by Indians against non-Indians, although that jurisdiction is shared with Tribes, and provides that

¹ The exception to this exclusive jurisdiction is set forth in 25 U.S.C. 1304, which recognizes the inherent power of a participating tribe to exercise special domestic violence criminal jurisdiction.

the Federal government may not prosecute an Indian who has been punished by the Tribe for that offense.

The Federal government also has jurisdiction to prosecute Federal crimes of general applicability, such as drug and financial crimes, when they occur in Indian country unless a specific treaty or statutory provision provides otherwise. On a limited number of reservations, the Federal government ceded Federal criminal responsibilities under Sections 1152 and 1153 to the states pursuant to Public Law (P.L.) 280 or other Federal laws.²

The United States Constitution, treaties, Federal statutes, executive orders, and court decisions establish and define the unique legal and political relationship that exists between the United States and Indian Tribes. The FBI and the USAOs are two of many Federal law enforcement agencies with responsibility for investigating and prosecuting crimes that occur in Indian country.³ In addition to the FBI, the Department of the Interior's Bureau of Indian Affairs, Office of Justice Services (BIA-OJS) plays a significant role in enforcing Federal law, including the investigation of cases involving violations of 18 U.S.C. §§ 1152 and 1153. The delineation of responsibilities between the FBI and the BIA was the subject of a Memorandum of Understanding (MOU) between DOI and DOJ in 1993.⁴ This MOU also provided that each United States Attorney "whose criminal jurisdiction includes Indian country shall develop local written guidelines outlining responsibilities of the BIA, the FBI, and the Tribal Criminal Investigators, if applicable." Determining which law enforcement agency, Federal or Tribal, has primary responsibility for investigation of a particular crime may depend on the nature of the crime committed and any applicable local guidelines.

Indian country case statistics can be drawn from three different jurisdictions: Federal, state, or Tribal. The FBI's Uniform Crime Report (UCR) contains offense data from all three sources, but submission of the data is generally voluntary (except for Federal agencies), and thus counts only crimes reported to law enforcement for those non-Federal agencies that choose to submit. Furthermore, the UCR does not collect the specific information on declinations and administrative closing required by TLOA Section 212. In addition, matters and cases from P.L. 280 jurisdictions do not generally appear in Federal Indian country crime statistics because Federal authority to prosecute most cases in those jurisdictions has been transferred to the state. Moreover, this report does not cover cases referred to the BIA or other law enforcement agencies. The numbers presented by the FBI and EOUSA in this report include only cases

² Federal jurisdiction was ceded under Public Law 83-280, 18 U.S.C. § 1162, which granted jurisdiction over Indian country crimes to six states and divested the Federal government of jurisdiction to prosecute under the Major and General Crimes Acts in those areas, while giving other states the option to assume that jurisdiction. Congress has also passed a variety of Tribe-specific statutes providing for a similar framework of state jurisdiction over crimes in those locations. The Federal government retains jurisdiction to prosecute generally applicable offenses in P.L. 83-280 areas.

³ FBI jurisdiction for the investigation of Federal violations in Indian country is statutorily derived from 28 U.S.C. § 533, pursuant to which the FBI was given investigative authority by the Attorney General. Other Federal agencies with criminal jurisdiction in Indian country include the Bureau of Indian Affairs, the United States Marshals Service, the National Park Service, the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Bureau of Land Management, the United States Postal Service, and the United States Secret Service, to name a few.

⁴ http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/crm00676.htm.

subject to Federal jurisdiction and reported to the FBI or referred to a USAO by a Federal, state, local, or Tribal agency. Thus, this report represents only a small portion of the total Indian country violent crime picture—those offenses referred either to the FBI for investigation or to a USAO for prosecution. A more complete understanding of crime rates in Indian country would require that all reported criminal offenses, whether reported to and/or filed with the Tribal, state, or Federal Government, be collectively assembled and analyzed. There is no system or database that exists for collecting and analyzing all Indian country crime and prosecution data across sovereigns.

III. Federal Bureau of Investigation

The FBI has investigative responsibility for Federal crimes committed on approximately 200 Indian Reservations. This responsibility is shared concurrently with BIA-OJS and other Federal agencies with a law enforcement mission in Indian country. This number generally excludes tribes in P.L. 280 states, with the exception of crimes of general applicability (e.g., drug offenses). Currently, there are approximately 141 Special Agents and 41 Victim Specialists working in support of Indian country investigative matters. Table 1 lists FBI Field Divisions with federally recognized Tribes within their area of responsibility.⁵

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⁵ Not all FBI Divisions listed had CY 2018 Indian country investigations to report under TLOA. Also, some states contain multiple Divisions, and some Divisions overlap multiple states.

Table 1: FBI Divisions

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

All FBI investigations are required to follow the Attorney General’s Guidelines for Domestic FBI Operations (AGG-Dom) and the FBI Domestic Investigations and Operations Guide (DIOG). These documents standardize policy to ensure all FBI investigative activities are

conducted in compliance with relevant laws, policies, and regulations designed to protect civil liberties and privacy. Under DIOG, FBI investigations regarding allegations of Federal law violation in Indian country include both “assessments” and “predicated investigations.”⁶ Therefore, whenever the FBI engages in any substantive investigative activity (e.g., interviewing a complainant or potential victim of a vague or non-specific allegation), it is considered an “investigation” for the purposes of TLOA reporting.

FBI Indian Country Assessments

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

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

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

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

FBI Predicated (Full) Investigations

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

FBI TLOA Investigation Data Collection

The information following provides a description of the FBI data used to generate the tables in this report.

⁶ FBI Domestic Investigations and Operations Guide (DIOG), 2018 version.

Measurement of FBI TLOA Requirements

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

2. **The status of the victim and subject** as American Indian or non-American Indian is generally based on self-reported information provided to the FBI or records obtained from tribal authorities.⁷ In the following circumstances, the victim or subject status is not applicable: the victim or subject is a business; the case was opened with an unknown/unidentified subject and/or victim; victim or subject information was not documented in case file (e.g., drug investigations, public corruption matters); duplicate cases or administrative errors.

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

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

Non-Referral Category
Death was not a homicide
Does not meet USAO guidelines or statutory definitions
No remaining leads ⁸
Victim is unable to identify subject
Unsupported allegation
Victim or witness is unable or unwilling to assist
Interagency cooperation ⁹
Cannot be addressed with current resources ¹⁰
Duplicate/reopened case
Subject died

Data Collection and/or Limitations and Verification Process

The FBI’s case management system does not automatically collect TLOA-mandated data. Therefore, all closed case files are manually reviewed on a quarterly basis. Due to this manual

⁷ The FBI does not have direct access to tribal enrollment information.

⁸ The FBI exhausted all logical investigation, and was unable to present enough facts for a prosecutive opinion.

⁹ The FBI may open an investigation solely for the purpose of assisting another agency (such as opening an investigation solely to give a subject a polygraph examination). Because the FBI is not the primary investigating agency, these investigations are administratively closed.

¹⁰ Primarily due to the prioritization of violent crimes against persons.

process, a small amount of error may be present in the data. FBI computer systems were designed for case management purposes, not to serve as statistical databases. The following limitations should be considered when reviewing reported data:

- The FBI is only able to track allegations reported to the FBI. Allegations investigated by BIA or tribal law enforcement are not fully represented in the FBI's data.
- Calculating crime rates using this data is inappropriate due to the wide variation between divisions regarding local guidelines, agreements and the presence of other agencies (e.g., BIA).¹¹
- Non-referral is not necessarily a permanent status. It is possible a closed case can be re-opened and referred for prosecution if new information is received.

FBI TLOA Reporting Information

The FBI closed 2,281 Indian country investigations during CY 2018. For reporting purposes, each closed case was manually reviewed. For CY 2018, 754 investigations (or 33 percent) were closed administratively and/or not referred for prosecution. Approximately 67 percent were referred for prosecution. In most FBI divisions, the total number of cases referred for prosecution exceeded the number of cases administratively closed. Four Indian country divisions – Phoenix (PX), Minneapolis (MP), Salt Lake City (SU), and Albuquerque (AQ) – accounted for approximately 75 percent of all FBI Indian country investigation closures during CY 2018. Table 3 lists by FBI division the total number of closed investigations for CY 2018 (i.e., investigations which were referred for prosecution and investigations administratively closed and/or not referred for prosecution).

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¹¹ The FBI has an MOU with the Bureau of Indian Affairs (BIA) and local agreements based on available resources with other agencies. For example, in some areas but not others, the FBI may work only child sexual abuse cases for victims under age twelve, while the BIA would be responsible for all other sexual abuse and sexual assault investigations, including those involving adult victims.

Table 3: Number of Indian Country Criminal Investigations Closed, by FBI Division, CY 2018

Division	Division Name	# Administratively Closed/Not Referred for Prosecution	# Cases Referred for Prosecution	Total Cases Closed
AQ	Albuquerque	32	97	129
AN	Anchorage	2	4	6
BS	Boston	1	0	1
CE	Charlotte	1	6	7
DN	Denver	27	63	90
DE	Detroit	4	61	65
JN	Jackson	0	29	29
KC	Kansas City	0	2	2
LV	Las Vegas	18	14	32
LA	Los Angeles	0	1	1
MM	Miami	10	11	21
MW	Milwaukee	0	20	20
MP	Minneapolis	188	372	560
MO	Mobile	0	2	2
NO	New Orleans	1	4	5
OC	Oklahoma	16	37	53
OM	Omaha	2	77	79
PX	Phoenix	343	447	790
PD	Portland	4	27	31
SC	Sacramento	0	1	1
SU	Salt Lake City	56	169	225
SA	San Antonio	0	1	1
SD	San Diego	0	2	2
SE	Seattle	44	77	121
TP	Tampa	5	3	8
Total		754	1527	2281

Table 4: Types of Indian Country Criminal Investigations Administratively Closed, by FBI Division, CY 2018

Division	Assault	AFO/KFO ¹²	Child Physical Abuse	Child Sexual Abuse	Death Investigation	Drug Crime	Financial Crimes/Public Corruption/Civil Rights	Property Crime	Sexual Assault	Other	Total
AQ	1		2	14	13	1			1		32
AN							2				2
BS							1				1
CE						1					1
DN	6		1	13	4				3		27
DE	1						1		2		4
LV	3	1	1	6	1		1	2	2	1	18
MM	1						3	4	2		10
MP	24		5	87	52	8	2	2	7	1	188
NO				1							1
OC	2			3	3	4	1	1		2	16
OM					1			1			2
PX	88	9	9	107	46	8	4	16	23	33	343
PD	3	1									4
SE	13		2	12	5	4	2		6		44
SU	8			20	18	2	2	1	2	3	56
TP								1	1	3	5
Total	150	11	20	263	143 ¹³	28	19	28	49	43	754

For CY 2018, the majority of victims and subjects in cases administratively closed by the FBI were Native American. Table 5 lists the status of victims and subjects in FBI Indian country investigations administratively closed for CY 2018.¹⁴

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¹²Assault of Federal Officer/Killing of a Federal Officer.

¹³ In 112 (or 78%) of administratively closed death investigations, the investigation revealed the death was not a result of a homicide. It was determined the victim died of natural causes, accident, or suicide.

¹⁴ These numbers represent a count of all victims and subjects, not a count of investigations. Some investigations may have multiple victims and/or subjects, while others may not have identified subjects (e.g., death investigations determined to be suicides). Investigations in which victim or subject status was not applicable (e.g., drug investigations) will not contribute to totals.

Table 5: Status of Victim and Subject for Administratively Closed Cases, by FBI Division, CY 2018

Division	American Indian Victim	Non-American Indian Victim	American Indian Subject	Non-American Indian Subject	Business Victim/Subject	Unknown Victim/Subject¹⁵
AQ	32		17		2	6
AN			2		2	1
BS						2
CE					1	1
DN	32		26			1
DE	3		2			3
LV	11	2	9	4	4	6
MM				2	7	11
MP	131	1	58			65
NO	1			1		
OC	7			6	6	12
OM	1					2
PX	280	2	196	4	1	45
PD	1	1	2			4
SE	28	1	23	3	2	16
SU	48	1	30	1	3	5
TP					4	6
Total	575	8	365	21	30	180

For CY 2018, in 414 (or 55) percent of cases administratively closed it was determined there was no evidence of a Federal crime, or no evidence of criminal activity was uncovered. As mentioned previously, in 112 (or 78 percent) of administratively closed death investigations, the investigation revealed the death was not a result of a homicide. It was determined the victim died of natural causes, accident, or suicide.

¹⁵ Unknown subjects are most common in cases where the identity of the perpetrator is unknown, the victim does not identify the perpetrator, or a child victim may not be able to disclose the identity of his or her abuser.

Table 6: Investigative Closure Reasons for Administratively Closed Cases, by FBI Division, CY 2018

Division	Does not meet USAO guidelines or statutory definitions	Death was not a homicide	No remaining leads	Victim is unable to identify subject	Unsupported Allegation	Victim or Witness is unable or unwilling to assist	Interagency Cooperation	Cannot be addressed with current resources	Duplicate case or case reopened	Subject Died	Total
AQ	4	12	1		7		6			2	32
AN					2						2
BS							1				1
CE					1						1
DN	5	3	1		4	3	6		2	3	27
DE	2				1	1					4
LV	1	1	3		5		8				18
MM	2		1				7				10
MP	23	49	7		43	31	25		5	5	188
NO							1				1
OC	2	1	5		2	3	3				16
OM		1					1				2
PX	127	24	32	27	33	65	23		1	11	343
PD					1		2			1	4
SE	6	4	4		6	11	9		3	1	44
SU	13	17	6	1	12	4	1			2	56
TP			1			1	3				5
Total	185	112	61	28	117	119	96		11	25	754

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Table 7 provides additional information on a selection of violent crime investigations for CY 2018 administratively closed by four Indian country FBI divisions with the largest Indian country caseload.¹⁶ The victim/subject status is provided for each investigation. Information is omitted from this table if the subject or victim does not fit into one of the categories below or, if the subject was not identified, or the subject was a business.

Table 7: Violent Crimes Administratively Closed, Victim and Subject Status by FBI Division, CY 2018

	Assault			Child Sexual Abuse		
	Indian Victim, Indian Subject	Indian Victim, Non-Indian Subject	Non-Indian Victim, Indian Subject	Indian Victim, Indian Subject	Indian Victim, Non-Indian Subject	Non-Indian Victim, Indian Subject
AQ	1			8		
MP	6		1	32		
PX	64			66	1	
SU	7		1	15	1	
Total	78	0	2	121	2	0

	Death Investigation ¹⁷			Sexual Assault		
	Indian Victim, Indian Subject	Indian Victim, Non-Indian Subject	Non-Indian Victim, Indian Subject	Indian Victim, Indian Subject	Indian Victim, Non-Indian Subject	Non-Indian Victim, Indian Subject
AQ	4			1		
MP	0			3		
PX	8			15		
SU	3			1		
Total	15	0	0	20	0	0

¹⁶ Due to low frequency, only investigations from four Divisions (responsible for 75% of all cases) for the top four violent crimes are represented. Again, this data does not include alleged crimes within these categories that were investigated solely by the BIA, Tribal law enforcement, or other Federal law enforcement agencies.

¹⁷ Most death investigations do not have a victim/subject dynamic because it is determined the victim died as a result of natural causes, an accident or suicide.

IV. EOUSA's TLOA Report

The Department recognizes its trust responsibility to the federally recognized Tribes across the United States and strives to uphold and enhance public safety in Tribal communities. Violent crime is a significant focus for the Federal judicial districts with federally recognized Tribes.

The Attorney General Advisory Committee's (AGAC's) Native American Issues Subcommittee (NAIS) is the oldest subcommittee of the AGAC and is vital to the Department's mission in Indian country to work with Tribal partners in building and sustaining safe and secure communities. NAIS membership is made up of over 25 United States Attorneys that have Indian country in their districts. The focus of the NAIS is exclusively on Indian country issues, both criminal and civil. The NAIS is responsible for making policy recommendations to the AGAC regarding enhancing public safety and addressing legal issues that affect Tribal communities.

Every USAO with Indian country in its district must engage annually, in coordination with its law enforcement partners, and in consultation with the federally recognized Tribes in that district. In addition, every newly confirmed United States Attorney must conduct a consultation with Tribes in his or her district and develop or update the district's operational plan within eight months of assuming office. All USAOs with Indian country responsibilities have implemented district operational plans. The subject matter of each district's plan depends on the jurisdictional status of the Federally recognized Tribes in that district as well as the unique characteristics and challenges confronting those Tribal nations. Operational plans include certain core elements regarding communication between Federal and Tribal partners; coordination of investigations among law enforcement entities; USAO community outreach; law enforcement training; victim advocacy; combating violence against women and children; and Federal accountability regarding Indian country prosecutions.

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

Tribal Liaisons often function in a role similar to that of a local district attorney in a non-Indian country jurisdiction and are accessible to the community in ways that are unique to other Assistant United States Attorneys (AUSAs). The nature and circumstances of the Tribes in their districts often influence the job duties of Tribal Liaisons. Tribal Liaisons have relationships and frequent contact with Tribal governments; including government leaders, law enforcement, courts, prosecutors, and social service agency staff.

Tribal Liaisons continue to play a critical role in USAO implementation of TLOA and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) by fulfilling the need for skilled, committed prosecutors working on the ground in Indian country. In particular, Tribal Liaisons worked with Tribes in organizing multi-disciplinary teams (MDTs) that primarily address child abuse cases, and (Sexual Assault Response Teams) SARTs that coordinate

community response to sexual violence. Both MDTs and SARTs consist of Federal, Tribal, and state subject matter experts. In addition, Tribal Liaisons perform outreach in Tribal communities to educate Tribal members on various issues involving substance abuse and violent offenses in an effort to reduce crime and train Tribal law enforcement on legal issues such as search and seizure. Tribal Liaisons also help foster and cultivate relationships among Federal, state, and Tribal law enforcement officials by convening meetings to discuss jurisdictional issues and developing inter-agency law enforcement taskforces. In addition, Tribal Liaisons work to coordinate and collaborate among Federal, Tribal, and state law enforcement agencies and prosecutors to discuss the merits of the prosecution of offenses committed within Indian country and to help determine the appropriate venue for matters to be prosecuted. These relationships enhance information sharing and assist the coordination of all criminal prosecutions.

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

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Table 8: United States Attorneys’ Offices with Indian Country or Federally Recognized Tribes

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

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

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

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

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

- A crime that was thought to have been committed on Indian lands, which upon further examination, turned out to have been committed on state land. The state—not the Federal Government—would have jurisdiction to prosecute.
- A crime that involves a Native American victim and defendant but that does not violate the Major Crimes Act. The Tribal court would have exclusive jurisdiction to prosecute in this instance.
- A crime committed on Tribal lands that involves two non-Indians. In this case, the state ordinarily would have exclusive jurisdiction to prosecute.

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

Other examples of immediate declinations include the following:¹⁸

Sexual Assault Referral

A 12-year-old Indian male groped another 12-year-old male’s penis, through the victim’s jeans, during a slumber party at a residence in Indian country. The incident was reported to the police. The case was immediately declined because the Indian males were juveniles and the Tribal system had adequate resources to deal with the case in the most effective manner.

Assault Referral

Two males exited a casino located on a reservation. In the parking lot adjacent to the casino and not part of the casino, the two males began to argue. The argument escalated into a physical altercation. Police arrived and discovered that one of the males had a dislocated jaw and his eye was swollen shut. The case was opened, but upon review it was determined that the location of the crime was not in Indian country. The case was declined for lack of jurisdiction.

¹⁸ These examples represent actual matters.

A “later declination” occurs when a USAO opens a file on the referral, conducts a more significant amount of work on the matter, but ultimately does not pursue prosecution of the referral. Here is an example of a later declination:¹⁹

Sexual Assault Referral

The victim reported she was at a friend’s house, located in Indian country, drinking alcohol. The victim eventually lost consciousness and was locked inside a bedroom by her friends. The next morning the victim woke up and did not have any clothes on. She called the police and reported that she may have been sexually assaulted. After weeks of investigation, it was determined that there was no evidence of any type of sexual assault. The case was declined for lack of evidence of a crime.

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

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

Further, JM § 9-27.220 provides:

The attorney for the government should commence or recommend federal prosecution if he/she believes that the person's conduct constitutes a federal offense, and that the admissible evidence will probably be sufficient to obtain and sustain a conviction, unless (1) the prosecution would serve no substantial federal interest; (2) the person is subject to effective prosecution in another jurisdiction; or (3) there exists an adequate non-criminal alternative to prosecution.

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

Current Avenues for Communication: As stated previously, each USAO with Indian country in its district has at least one Tribal Liaison. Declination information is communicated to Tribal law enforcement through the Tribal Liaison or other mechanism put in place by the USAO. Current Federal law provides:

¹⁹ This example represents an actual matter.

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

25 U.S.C. § 2809(a)(3). Subsection (c) of Section 2809 provides that “[n]othing in this section requires any Federal agency or official to transfer or disclose any confidential, privileged, or statutorily protected communication, information, or source to an official of any Indian tribe.”²⁰ However, this statute also provides that reports and information learned during a criminal investigation may be shared with the Tribe.²¹ The Department has taken the position that sharing appropriate information to enable Tribal prosecutors to pursue a criminal matter is in the best interest of justice. Moreover, USAO operational plans frequently address how declination decisions will be communicated to Tribal justice officials and how case evidence will be shared.

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

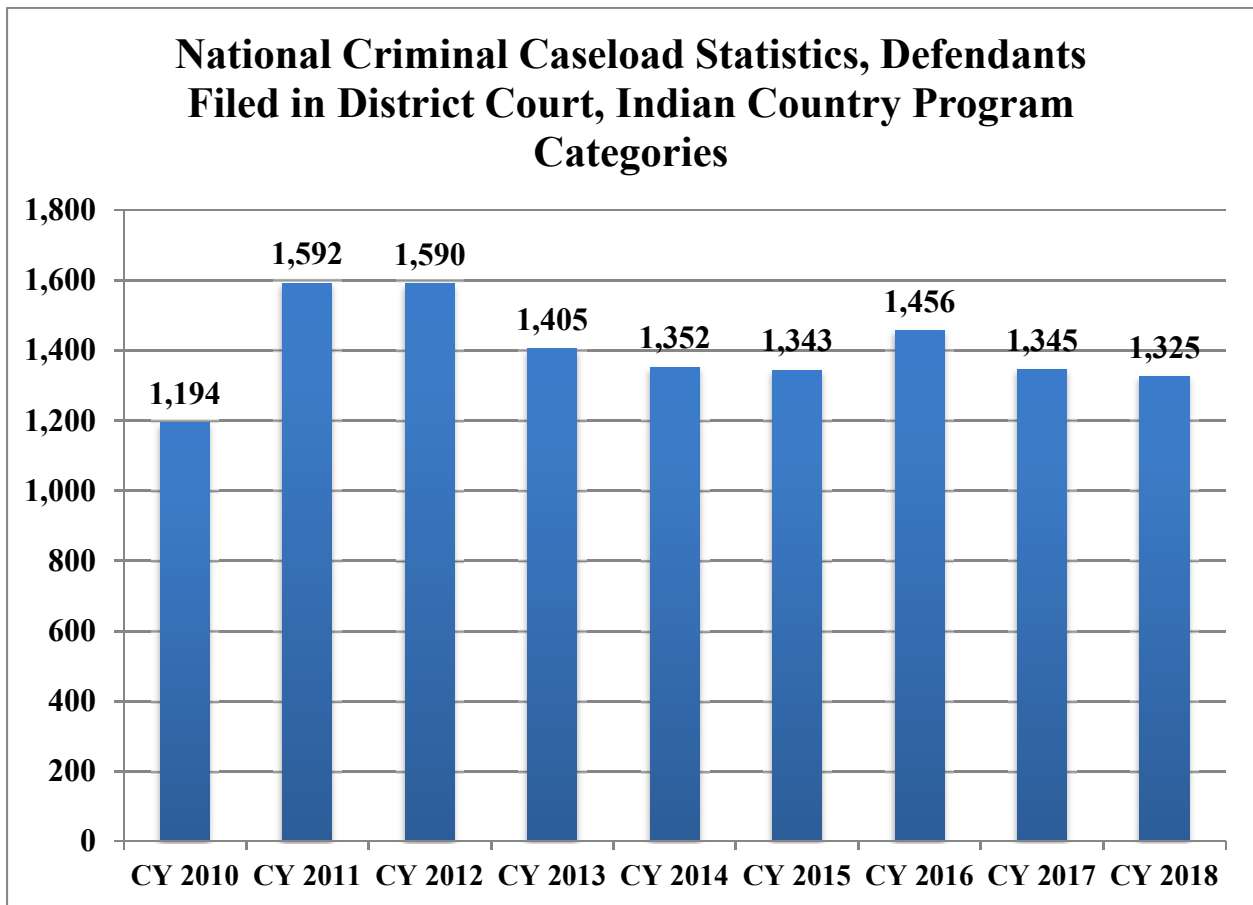
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²⁰ *See* 25 U.S.C. § 2809(c)(1).

²¹ *See* 25 U.S.C. § 2809(a)(1).

Figure 1: Defendants Filed in All Indian Country, CY 2010-CY 2017

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



Federal prosecutors filed cases against 131 more defendants in 2018 than in 2010, when TLOA was enacted.

In 2018, implementation of VAWA 2013 remained an important priority for the Department. Federal prosecutors continued to utilize the Federal assault charges created by VAWA 2013. In CY 2018, Federal prosecutors filed cases against 172 defendants (an increase of 24 percent from CY 2017 (139 defendants)) under VAWA 2013’s enhanced Federal assault

statutes. They obtained 115 convictions (a decrease of 14 percent from CY 2017 (134)). Also in CY 2018, prosecutors filed cases against 51 defendants in Indian country cases using the domestic assault by a habitual offender statute, 18 U.S.C. § 117, and obtained 33 convictions.

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

Sexual Abuse

During a party, the defendant found the victim passed out on a couch. The defendant raped the victim before her boyfriend confronted the defendant. The defendant admitted to engaging in a sexual act while knowing that his victim was incapable of declining to participate in, or communicating an unwillingness to engage in, the sexual act. Upon conviction, the defendant received a sentence of 60 months of imprisonment followed by 60 months of supervised release.

Strangulation

The defendant, who was intoxicated, accused his wife of being attracted to his best friend. She denied the allegation. In response, the defendant grabbed his wife by her hair and dragged her to the bedroom. He then kicked her repeatedly in the stomach before he used his hands to strangle her by squeezing her neck and cutting off her breathing. This resulted in the victim's loss of consciousness. The defendant was sentenced to 18 months of imprisonment.

Assault Resulting in Serious Bodily Injury

Two defendants went to the victim's home on a reservation. Once inside the residence, they punched the victim, knocking him to the floor. After the victim was on the ground, the defendants kicked him. The defendants then used a knife to slit the victim's throat. The laceration to his throat was approximately 2 inches in length. The injury to the victim's nose was a complex laceration from the bridge down to the tip. The wound was down to the bone and required debridement. Due to the severity of his injuries, the victim was airlifted to a regional hospital and survived. The two defendants were sentenced to 6 years in federal prison, followed by 3 years of supervised release.

In addition to Federal prosecution, a key provision of VAWA 2013 recognizes Tribes' inherent power to exercise special domestic violence criminal jurisdiction (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status. 25 U.S.C. § 1304 allows Tribal prosecutors to prosecute domestic violence, dating violence, and violations of orders of protection that occur on Tribal land, regardless of whether the offender is Indian or non-Indian. VAWA 2013 requires implementing Tribes to provide certain rights to defendants in SDVCJ cases. In addition, TLOA amended the Indian Civil Rights Act to allow Tribes, if TLOA's prerequisites are satisfied, to exercise enhanced sentencing authority. This allows Tribes to impose a sentence of no more than three years of imprisonment and a \$15,000 fine for any single offense, but TLOA specifies that a Tribe may not "impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of nine (9) years." Unless a Tribe complies with prerequisites for TLOA's enhanced sentencing, a Tribe may not impose any penalty or punishment greater than imprisonment for a term of one year and a \$5,000 fine for a

conviction of a single offense that falls within SDVCJ. The Department, along with the Department of Interior's Bureau of Indian Affairs, continues to assist Tribes with implementation.

A. Data Collection within the United States Attorneys' Offices

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

CaseView

The USAOs' portion of this report has been prepared using data from CaseView, EOUSA's case management system.²² CaseView is one method used by EOUSA and USAOs to track data related to the work of the 94 USAOs. CaseView is a database with online capabilities that permits the USAOs and EOUSA to compile, maintain, and track case management information relating to defendants, crimes, criminal charges, court events, and witnesses.

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

"Declinations," as discussed above, are matters in which a USAO decides not to pursue a criminal prosecution after referral from a law enforcement agency. All immediate and later declinations must be entered into CaseView. An immediate declination occurs when an investigative agency presents a referral to a 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 CaseView, and a USAO later decides to close the matter without filing charges. This typically follows some investigation or further consultation with the AUSA assigned to the matter.

Data on Indian country is identified in CaseView through its "Program Category Code" designation. Program Category Codes are critical to identifying and characterizing the types of

²² In 2017, EOUSA transitioned from the Legal Information Office Network System (LIONS) to CaseView.

matters handled by the USAOs.²³ As noted earlier, two Program Category Codes are particularly relevant to Indian country cases.²⁴ EOUSA has instructed the USAOs that all cases arising in Indian country must include an Indian country Program Category Code in addition to any other code assigned to the case.

Limitations of the CaseView Data

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

When a matter or case is opened in CaseView, the Program Category Code is selected at the discretion of each USAO, after assessing which category or categories are applicable. The office determines who enters the data, how and when the data are entered, and how cases are designated. During data entry, more than one Program Category Code may be associated with a case, but only one is required.

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

CaseView data represent a snapshot in time. Thus, not all declinations, matters, and cases reported in a given calendar year are necessarily crimes that occurred in that year or law enforcement referrals made to a USAO in that year. For example, a USAO may show two sexual assault declinations in CY 2018, yet not have had any sexual assaults referred for prosecution in CY 2018. Rather, these two declinations may represent referrals received in previous years where the investigation was completed in CY 2018 and where the AUSA concluded that there was insufficient evidence to prosecute the cases. This is further complicated by referrals with multiple suspects. For example, if a murder with four suspects was referred for prosecution but declined, CaseView would show four declinations. Accordingly, certain conclusions cannot be drawn from such data. Five declinations for murder in CY 2018

²³ There are nearly 100 Program Categories Code listed in CaseView. For example, there are designations for corporate fraud, health care fraud, mortgage fraud, domestic terrorism, wildlife protection, drug trafficking, child pornography, firearms offenses, and domestic violence. CaseView can capture more than one program area in a single case through the use of multiple Program Category Codes. For example, if one case involved drug trafficking, money laundering, and immigration offenses, the matter should be coded using all three Program Category Codes. More than one Program Category Code may be selected when entering cases into CaseView, but only one code is required.

²⁴ “Violent Crime in Indian Country” (Program Category Code 092) is used to flag violent offenses that occur in Indian country, such as assaults, homicides, and sexual abuse cases; “Indian Offenses” (Program Category Code 065) is used to identify nonviolent offenses occurring in Indian country, such as fraud and nonviolent drug offenses.

can in fact be two murders that occurred in CY 2016, with one of the murders having four suspects.²⁵

The uniformity of CaseView data and its suitability for statistical analysis are affected by the variances among districts and by the discretion afforded the 93 individual United States Attorneys to use the system to manage their offices to meet local priorities and needs. A change in a CaseView-generated declination rate may be entirely attributable to a change in the office's policy rather than any changes in the crime rate or prosecution practices or capabilities in that district.

Methodology for Generating Declination Data

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

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²⁵ Additionally, the October 1 to December 31, 2018, data appearing in this report is contingent and is subject to change before the close of FY 2019 on September 30, 2019.

B. EOUSA CaseView Information

Table 10: Number of Suspects in Indian Country Declinations by USAOs, by Reason, CY 2018

**Number of Suspects in Declinations in Indian Crime, by Declination Reason
January 1 - December 31, 2018**

	Legally Barred	Insufficient Evidence	Defendant Unavailable	Referred to Diff Jurisdiction	Alt to Federal Prosecution	Prioritization of Fed Interests	Total
AK	0	9	0	1	0	0	10
ALM	0	1	0	0	0	0	1
AZ	10	187	7	62	5	17	288
CAE	0	1	0	0	0	0	1
CAN	0	1	0	0	0	0	1
CO	0	5	0	3	8	0	16
FLM	0	1	0	1	0	0	2
IAN	0	1	0	0	0	0	1
ID	0	7	0	2	3	0	12
LAW	0	0	0	1	0	0	1
ME	0	1	0	0	0	0	1
MIE	3	23	0	10	1	7	44
MIW	0	16	0	1	3	0	20
MN	0	13	0	1	0	0	14
MSN	0	3	0	0	0	0	3
MSS	1	14	0	6	1	0	22
MT	0	49	2	13	4	2	70
NCW	3	0	0	5	0	0	8
ND	10	56	2	29	1	4	102
NE	0	17	0	9	0	0	26
NM	25	112	1	2	5	0	145
NV	0	7	0	2	0	0	9
NYN	0	7	0	2	0	0	9
OKE	1	4	0	0	0	0	5
OKN	2	1	0	0	2	2	7
OKW	0	6	0	2	2	5	15
OR	0	3	0	0	6	0	9
SD	0	63	1	6	10	4	84
UT	0	7	0	0	0	0	7
WAE	0	8	1	2	0	7	18
WAW	2	14	0	17	0	5	38
WIE	0	3	1	1	0	0	5
WIW	0	1	0	0	0	0	1
WY	2	1	0	1	0	0	4
TOTAL	59	642	15	179	51	53	999

Based on the methodology outlined above, aggregate declination data for calendar year 2018 – by reason – is displayed by Federal judicial district in Table 10.²⁶

Variances in reporting are a direct result of the way that data may be collected over a period of one or more years. Cases may be opened in a USAO during one calendar year and may continue to be investigated in a second or even a third year before ultimately being resolved. For example, in 2018, the USAO for the District of Nebraska reported that it had 26 declinations in total, compared to 17 in 2017. Some of the criminal matters that originated in 2017 were not declined until 2018. Hence, the total declination number for 2018 was higher than for 2017.

Explanation of “Referred to Different Jurisdiction”

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

This collaboration and coordination was contemplated by TLOA’s amendment of 25 U.S.C. § 2809(a)(3), the Indian Law Enforcement Reform Act. It also confirms the Department’s January 2010 directive that “tribal governments have the ability to create and institute successful programs when provided with the resources to develop solutions that work best for their communities.”²⁷

Where Federal prosecutors have declined prosecution in favor of Tribal prosecution, the cases are coded in CaseView as declinations—referred to a different jurisdiction. In 2018, approximately 18 percent (179 out of 999) of USAO Indian country declinations were referred to a different jurisdiction.

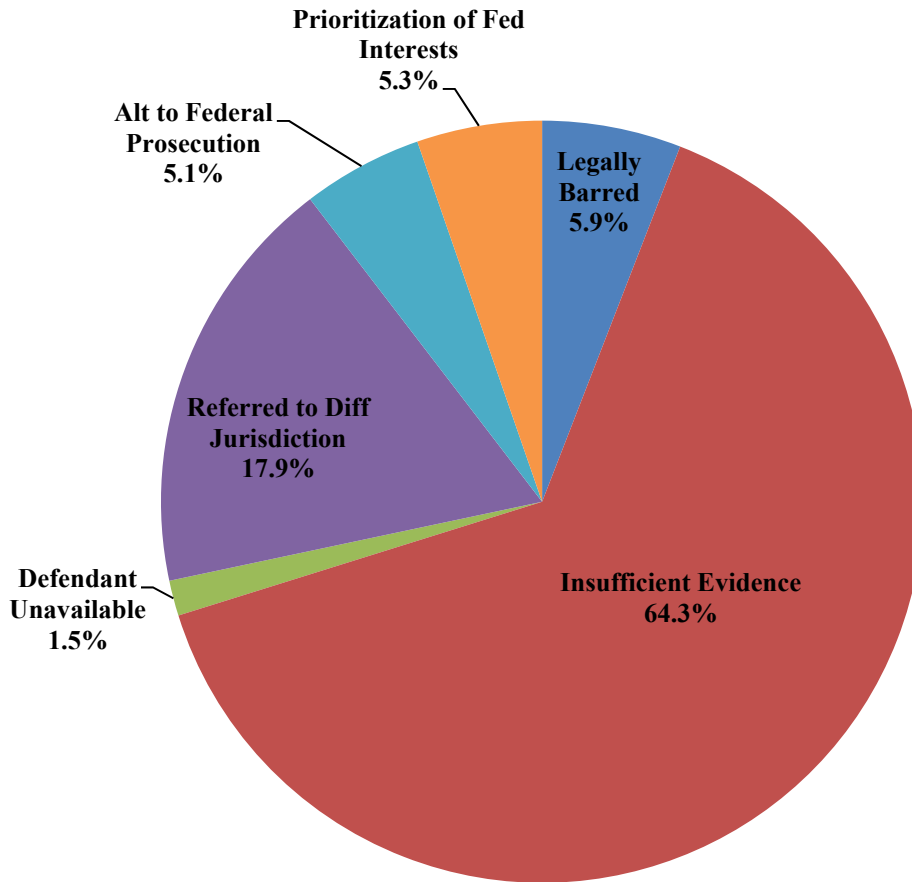
As noted above, the passage of TLOA with its provision of enhanced sentencing authority for qualifying Tribal courts means that more cases will be referred to Tribal courts for prosecution. These referrals are typically done at the request of or with the consent of the Tribe’s law enforcement authorities. While deemed a declination in CaseView, referral of a

²⁶ Prosecutors may only choose one declination reason for Suspects in Later Declinations, as opposed to Suspects in Immediate Declinations, where prosecutors may use up to three declination reasons. In every data point in this report where declination reasoning is being counted, only the first declination entered by the docketer is used for analysis. For example, a suspect in an Immediate Declination may have declination reason #1 = Insufficient Evidence, #2 = Prioritization of Federal Interests, and #3 = Defendant Unavailable. In this situation, EOUSA is only counting the suspect once, as declined due to insufficient evidence.

²⁷ <http://www.justice.gov/dag/dag-memo-indian-country.html>.

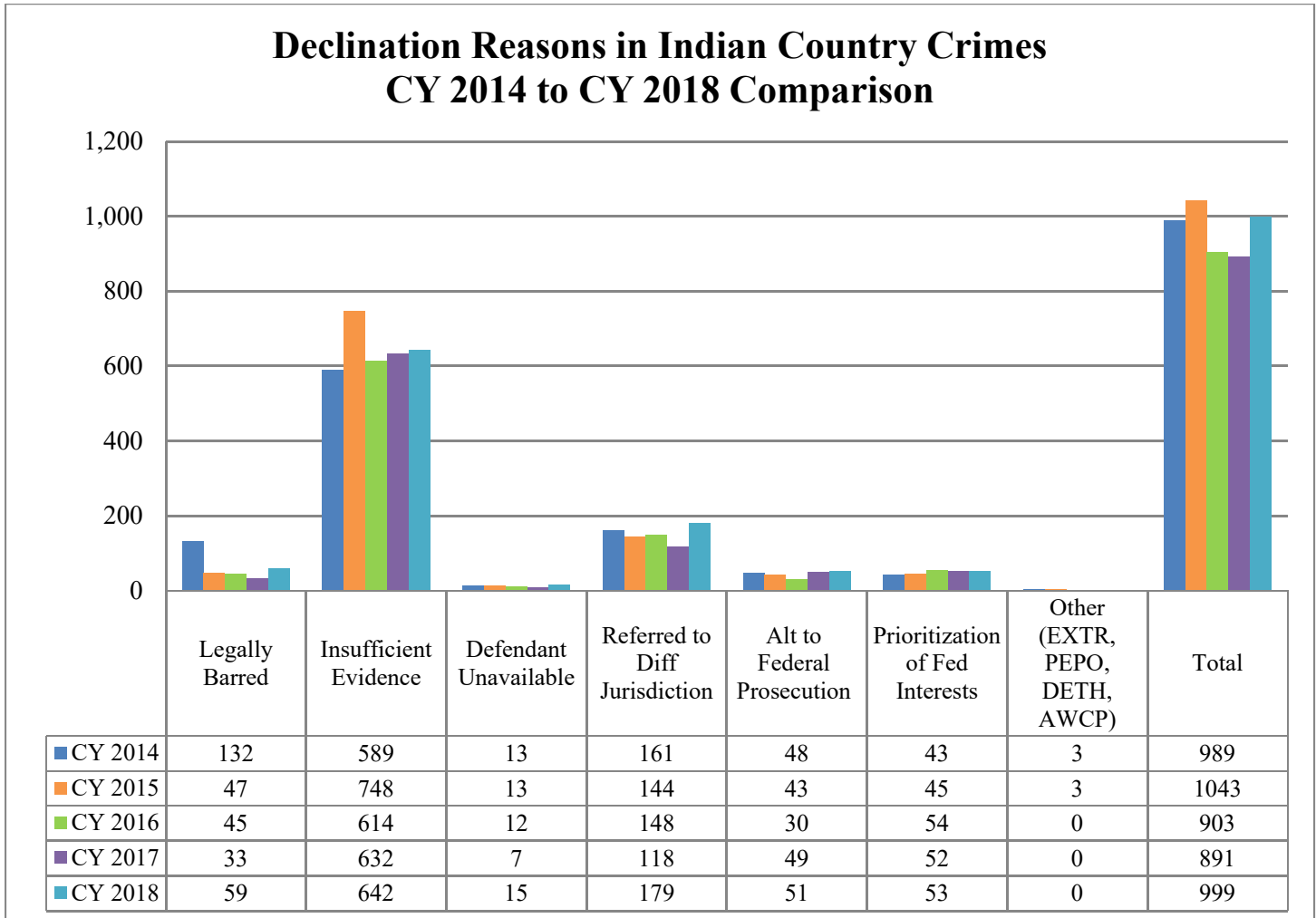
criminal matter for prosecution in Tribal court is, in fact, an acknowledgement of Tribal self-governance.

Figure 2: Declination Reasons for Indian Country Crimes, CY 2018



As demonstrated in Figure 2, the majority of all declined cases for CY 2018 were declined due to insufficient evidence. The insufficient evidence category includes circumstances where there is a lack of evidence of criminal intent, weak or insufficient evidence, or witness issues. Figure 3, on the following page, provides a comparison of declination categories selected for CYs 2014 through 2018 for Indian country cases. In matters where there is insufficient evidence, the government cannot sustain its burden of proof beyond a reasonable doubt, and the prosecutor must decline these matters. If additional evidence is developed later, however, the matter may be reopened and successfully prosecuted.

Figure 3: Declination Reasons in Indian Country Crimes: CY 2014 to CY 2018 Comparison



Methodology for Generating Type of Crime Data

USAOs enter matters within a CaseView Program Category by the lead charge code or type of crime. The CaseView User Manual states the lead charge is the substantive statute that is the primary basis for the referral. Given the number of Federal criminal code sections and the ability to assimilate state law for certain crimes occurring in Indian country (under the Assimilative Crimes Act, 18 U.S.C. § 13), this report assigns the lead charge to broad categories based on case commonality. As noted above, all lead criminal statutes appearing in CY 2017 Indian country cases (those assigned Program Category Code 065 or 092) were reviewed and grouped into six categories: assault (including threats to a Federal officer or public or foreign officials, as well as Violence Against Women Act violations); murder; sexual assault (including

child and adult victims); drug, alcohol, and other offenses; financial crimes, public corruption, and fraud; jurisdictional, penalty, or state statutes.²⁸

Aggregate Declination Data by Type of Crime

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

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²⁸ A complete list of all lead criminal charges used in CY 2018, as assigned to one of the six categories created for purposes of this report, can be found at Appendix B.

Table 11: Indian Country Defendants Declined, by USAO, by Type of Crime, CY 2018²⁹

**Indian Country Defendants Declined by Type of Crime
January 1 - December 31, 2018**

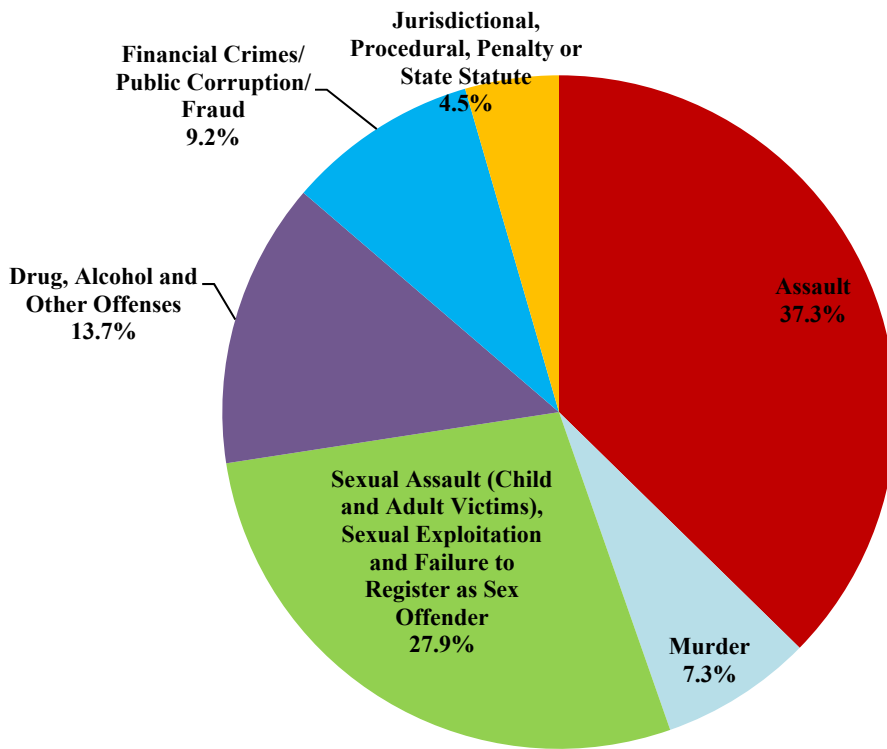
	Assault	Murder	Sexual Assault (Child and Adult Victims), Sexual Exploitation and Failure to Register as Sex Offender	Drug, Alcohol and Other Offenses	Financial Crimes/ Public Corruption/ Fraud	Jurisdictional, Procedural, Penalty or State Statute	Total
AK	0	1	1	0	8	0	10
ALM	0	0	0	0	1	0	1
AZ	121	28	81	37	8	13	288
CAE	0	0	0	0	1	0	1
CAN	0	0	0	1	0	0	1
CO	8	0	3	1	3	1	16
FLM	0	0	0	2	0	0	2
IAN	0	0	0	1	0	0	1
ID	7	3	2	0	0	0	12
LAW	0	0	1	0	0	0	1
ME	0	0	0	0	1	0	1
MIE	22	0	10	3	5	4	44
MIW	13	0	4	3	0	0	20
MN	8	1	4	1	0	0	14
MSN	0	0	1	0	2	0	3
MSS	11	2	2	6	0	1	22
MT	22	10	26	9	2	1	70
NCW	1	0	2	3	0	2	8
ND	35	5	45	9	7	1	102

²⁹ This table excludes USAOs that did not report any declinations for CY 2018.

NE	13	0	3	2	7	1	26
NM	62	12	33	18	15	5	145
NV	4	1	4	0	0	0	9
NYN	0	0	0	6	1	2	9
OKE	0	0	1	0	3	1	5
OKN	1	2	0	0	3	1	7
OKW	2	0	1	4	7	1	15
OR	1	0	2	2	3	1	9
SD	25	4	31	12	7	5	84
UT	1	1	2	1	1	1	7
WAE	5	1	8	1	1	2	18
WAW	7	2	8	14	5	2	38
WIE	3	0	2	0	0	0	5
WIW	0	0	0	0	1	0	1
WY	1	0	2	1	0	0	4
TOTAL	373	73	279	137	92	45	999

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Figure 4: Indian Country Declinations, by Investigative Charge, CY 2018



In 2018, the majority (65.2 percent) of declinations involved the categories of physical assaults and sexual assaults, sexual exploitation, or failure to register as a sex offender. These statistics are consistent with statistics from previous years. While the relatively high declination rate for these types of offenses is troubling, it is also not entirely unexpected given the challenges inherent in prosecuting these types of crimes — challenges that are not unique to the Federal system.

Cooperation among Federal and Tribal law enforcement and victim advocates is key to successfully prosecuting a sexual assault perpetrator in Indian country. Currently, every USAO with Indian country has developed guidelines for handling sexual violence cases designed to improve the Federal response to sexual abuse in Tribal communities.

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Table 12: Indian Country Defendants Declined by Type of Crime and Declination Reason, CY 2018

	Legally Barred	Insufficient Evidence	Defendant Unavailable	Referred to Different Jurisdiction	Alt. to Federal Prosecution	Prioritization of Fed. Resources and Interests	Total
Assault	19	229	2	88	21	14	373
Murder	9	55	2	2	0	5	73
Sexual Assault (Child and Adult victims)	15	213	9	29	7	6	279
Drug, Alcohol, and Other Offenses	5	66	1	35	14	16	137
Financial Crimes/ Public Corruption/ Fraud	4	57	1	13	8	9	92
Jurisdictional, Penalty, or State Statute	7	22	0	12	1	3	45
Total	59	642	15	179	51	53	999

Declinations alone do not provide an accurate accounting of the USAOs’ handling of Indian country criminal cases. To provide context to the declination numbers, Table 13 lists for each Federal judicial district the “total Indian country matters resolved” — that is, the total number of Indian country suspects in immediate declinations, suspects in matters terminated (which includes all later declinations), and defendants filed.³⁰

For example, Table 13 shows that in the District of South Dakota there were 344 Indian country matters resolved in CY 2018. This number includes the 84 declinations previously reported in Tables 10 and 11. It also includes an additional 260 Indian country cases that the District of South Dakota resolved in CY 2018 by means other than a Federal declination.

Similarly, for all districts combined, 2,523 Indian country matters were resolved in CY 2018. This number includes the 999 declinations reported in Tables 10 and 11. It also includes 1,524 matters in Indian country that were resolved in CY 2018 by means other than a Federal declination. In 2017, the USAOs resolved 2,390 matters. In other words, in 2018 the USAOs resolved 133 more matters than in 2017.

³⁰ Please note that CaseView is not self-correcting and that a USAO can, in error, report an Indian country declination.

Table 13: Total Indian Country Matters Resolved by USAO, CY 2018

District	CY 2018 Indian Country Matters Resolved	CY 2018 Indian Country Declinations	CY 2018 Indian Country Matters Resolved Other than by Federal Declination
ALASKA	27	10	17
ALABAMA MIDDLE	5	1	4
ALABAMA SOUTHERN	1	0	1
ARIZONA	746	288	458
CALIFORNIA EASTERN	2	1	1
CALIFORNIA NORTHERN	1	1	0
COLORADO	48	16	32
FLORIDA MIDDLE	3	2	1
FLORIDA SOUTHERN	1	0	1
IOWA NORTHERN	3	1	2
IDAHO	36	12	24
INDIANA NORTHERN	1	0	1
LOUISIANA WESTERN	2	1	1
MAINE	1	1	0
MICHIGAN EASTERN	76	44	32
MICHIGAN WESTERN	56	20	36
MINNESOTA	45	14	31
MISSISSIPPI NORTHERN	6	3	3
MISSISSIPPI SOUTHERN	38	22	16
MONTANA	165	70	95
NORTH CAROLINA WESTERN	17	8	9
NORTH DAKOTA	191	102	89
NEBRASKA	75	26	49
NEW MEXICO	256	145	111
NEVADA	16	9	7
NEW YORK NORTHERN	39	9	30
OKLAHOMA EASTERN	15	5	10
OKLAHOMA NORTHERN	18	7	11
OKLAHOMA WESTERN	84	15	69
OREGON	41	9	32
SOUTH DAKOTA	344	84	260
TEXAS WESTERN	1	0	1
UTAH	23	7	16
WASHINGTON EASTERN	50	18	32
WASHINGTON WESTERN	53	38	15
WISCONSIN EASTERN	12	5	7
WISCONSIN WESTERN	6	1	5
WYOMING	19	4	15
ALL DISTRICTS	2,523	999	1,524

Defendant and Victim Indian/Non-Indian Status

TLOA requires that USAOs record the Indian/non-Indian status of the defendants and victims. Historically, this information was not a required field in CaseView. Starting in 2001, USAO personnel were instructed to enter victim information for all cases, including Indian country cases, only in the Department of Justice's Victim Notification System (VNS), rather than in CaseView.³¹

To comply with TLOA, EOUSA's Director sent a memorandum in September 2011 directing USAOs to record the Indian/non-Indian status of victims and defendants in the "individual participant" section of the data collection system. To capture this information, USAOs must use the "long form" declination method. The historical practice is that the "long form" is not used if a case is going to be immediately declined. USAO personnel entering information into CaseView typically are assigned this task for all criminal cases and not just Indian country cases. Because of this historical practice, there were cases in which the long form was not used and the required Indian or non-Indian status information was not recorded.

To ensure all relevant data is properly captured, EOUSA issued guidance and hosted webinar training sessions on using CaseView and inputting defendant/victim status information for Indian country declinations.

³¹ Where possible, all victim information and notifications in criminal cases that have been accepted for prosecution are made available by VNS. This computer-based system provides Federal crime victims with information on scheduled court events, as well as the outcome of those court events. It also provides victims with information on the offender's custody status and release. These victim notifications are required by the Crime Victims' Rights Act, 18 U.S.C. § 3771. USAO personnel were instructed to include victim information in VNS rather than CaseView to avoid duplicate data entry and to ensure that all statutorily required notifications were made to victims.

Table 14: Indian Status of Suspects and Victims in Declined Indian Country Matters, CY 2018

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

	All suspects in the matter were declined				At least 1 suspect in the matter was declined, but other co-suspects in the same matter are either: still under investigation, or had charges filed against them in court			
	Suspects Declined, Indian	Suspects Declined, Non-Indian	Victims in these Matters, Indian	Victims in these Matters, Non-Indian	Suspects Declined, Indian	Suspects Declined, Non-Indian	Victims in these Matters, Indian	Victims in these Matters, Non-Indian
Financial Crimes/Public Corruption/Fraud	29	56	20	7	0	7	1	0
Drug, Alcohol, and Other Offenses	53	76	14	15	1	7	1	0
Assault	273	96	213	101	3	1	3	0
Murder	39	30	42	11	1	3	6	1
Sexual Assault (Child and Adult Victims), Sexual Exploitation and Failure to Register as Sex Offender	187	90	167	47	0	2	2	0
Jurisdictional, Procedural, Penalty, or State Statute	17	25	12	12	1	2	1	1

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C. Examples of Successful Indian Country Prosecutions

As shown by the data, Indian country prosecutors secured over a thousand convictions in calendar year 2018. Below are additional examples of convictions that provided a significant impact to the affected communities.

U.S. v. Herbet Barr – District of Alaska

Herbert Barr, who resided in a rural Alaska village, was sentenced to serve 10 years in federal prison, followed by a 20-year term of supervised release for the violations of attempted sexual exploitation of a minor – coercion and enticement of a minor. Over the course of about one week, Barr sent numerous text messages to a minor trying to persuade her to allow him to sexually abuse her. After rejecting Barr's offer, the minor promptly notified her parents, who then contacted the Alaska State Troopers at the Nome Post. The Alaska State Troopers began investigating Barr, who continued to send dozens of text messages trying to persuade the minor to allow him to perform illegal sexual acts. Barr went so far as offering money and suggesting she meet him outside his home. Law enforcement officers swiftly prevented Barr from completing the sex abuse. The Alaska State Troopers and the Federal Bureau of Investigation investigated the case.

U.S. v. Johnson – District of Arizona

Latoya Leonardine Johnson, a member of Tohono O'odham, was convicted of Second Degree Murder and sentenced to 35 years in prison followed by five years of supervised release for murdering a six-year-old boy on the Tohono O'odham Indian Reservation. The case stemmed from a missing person report regarding the child. Law enforcement officials located two sets of footprints that led into the desert. After following the footprints, the officers located a wooden object and the child's body. The defendant admitted to walking the child into the desert and beating the child to death with the wooden object. The FBI and Tohono O'odham Tribal Police investigated the case.

U.S. v. Jackson – District of Arizona

Giordano Jackson was convicted at a jury trial of first-degree murder, two counts of assault with a dangerous weapon, assault resulting in serious bodily injury, and kidnapping that occurred on the Navajo Nation. Jackson received life imprisonment for the murder, and ten years of imprisonment for every other count for which he was convicted. The murder took place in the context of a domestic dispute. Jackson, a violent criminal with multiple previous felony assault convictions, had a history of committing domestic violence on the victim. On this occasion, Jackson brutally beat the victim to death outside his home. When officers arrived, Jackson was lying in wait and assaulted two of the officers with a machete. Jackson, the victim, and the officers were all members of the Navajo Nation. The FBI investigated the case.

U.S. v. Ira Alan Arias – District of South Dakota

Ira Alan Arias, of Fort Worth, Texas, and Sisseton, South Dakota, was charged with three counts of Aggravated Sexual Abuse of a Child. On or about May 3, 2015, Arias raped the victim, who was 14 years old at the time of the sexual abuse. The sexual abuse occurred in a hotel room in Codington County. Following a federal jury trial, Arias was convicted on all counts. Arias sentenced to three concurrent terms of 30 years in federal prison and ordered to serve six years of supervised release after his release from prison.

U.S. v. Melvin Russell – District of New Mexico

Melvin Russell, an enrolled member of the Navajo Nation, and a previously convicted sex offender, was sentenced to 235 months for his conviction at trial of aggravated sexual abuse. In addition, Russell will be on supervised release for ten years after completing his prison sentence and will be required to register as a sex offender. Russell's conviction was based on events during which he repeatedly forced the victim to engage in sexual intercourse with him by threatening her with a large samurai sword on the Navajo Nation. The FBI and Navajo Nation Department of Public Safety investigated the case.

U.S. v. Brian Tony – District of New Mexico

Brian Tony, an enrolled member of the Navajo Nation, was sentenced to life imprisonment for his conviction at trial for first-degree murder and witness tampering. The evidence at trial established that Tony drove his girlfriend's Jeep to a home in Gallup where he picked up the victim and the victim's friend. Tony also retrieved a hammer and placed it in his Jeep. Tony drove the group to a remote location on the Navajo Nation where he then ordered the victim out of the Jeep and led him to an area out of sight from the vehicle. Tony then hit the victim in the head with a hammer and left him. The next day, the victim's body was found in a ravine. There was a hammer and large rock with bloodstains nearby. The victim had more than 23 stab wounds and blunt force trauma to his head and neck. The FBI and the Navajo Nation Department of Public Safety investigated the case.

V. Department of Justice Commitment to Indian Country

The Department of Justice is working diligently to improve public safety in Indian country. The Department has reinforced its commitment by prioritizing the reduction of violent crime in rural communities, which includes Indian country. This commitment is evident by Attorney General Barr's declaration of a law enforcement emergency in rural Alaska, which was primarily aimed at addressing the public safety crisis in Native Alaskan villages. The Department's focus on rural communities reflects a recognition that instances of violent crime and substance abuse are unacceptable, particularly in Indian country, which experiences higher rates than anywhere else in the United States.³² The Justice Department fully understands that holding those accountable that commit egregious crimes in Indian country through investigations and prosecutions of those crimes is integral to ensuring the safety and well-being of Tribal communities and their citizens.

The Department recognizes that partnerships with Tribal governments and law enforcement active in Indian country are of paramount importance in the fight against Indian country crime. The only way for the Department to make lasting changes in Indian country is to support solutions identified by the communities themselves. The Department recognizes the importance of working closely with American Indian and Alaskan Native leadership, as well as Congressional and state representatives, to ensure Department solutions are practical and effective. Productive and focused Department initiatives are vital to addressing the law enforcement needs of Tribes. The Department will continue to work with Tribes to enhance their law enforcement capacity, which will also increase public safety.

³² Center for Substance Abuse Treatment. Substance Abuse Treatment: Addressing the Specific Needs of Women. Rockville (MD): Substance Abuse and Mental Health Services Administration (US); 2009. (Treatment Improvement Protocol (TIP) Series, No. 51.) Chapter 6: Substance Abuse Among Specific Population Groups and Settings. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK83240/>

All Department efforts in Indian country are aimed at ensuring safe Tribal communities. This is largely done through efforts to support Federal, Tribal, and local law enforcement in Indian country in their work to protect Tribal communities. The Department acknowledges that significant strides have been made, but the fight is far from over. The Department of Justice is fully committed to its Indian country responsibilities and providing safe communities for all citizens.

“The only way for us to provide effective support is to work in partnership with others. This is true in Alaska and throughout Indian country.”

*—William P. Barr,
Unites States Attorney General*

VI. Appendix A: Glossary of Terms

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

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

Defendants in Matters Received: A count of the suspects associated with each Matter Received.

Defendants in Matters Terminated: A count of the suspects whose matters were terminated. Note that a count is not added to Matters Terminated, above, until proceedings related to all suspects associated with the matter are terminated.

Immediate Declination: Occurs when the USAO does not open a file on a referral and does not pursue prosecution of the referral.

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

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

Suspect: Refers to an individual identified as potential wrongdoer in an open matter.

VII. Appendix B: Lead Charges Entered into CaseView on Indian Country Declinations in CY 2018

Assault

18 USC 111	Assaulting, resisting, impeding certain officers
18 USC 111a	Assaulting, resisting, or impeding certain officers or employees
18 USC 111a1	Forcibly assault/resist/impede/intimidate person engaged official duty
18 USC 113a1	Assault with intent to commit murder
18 USC 113a2	Assault with intent to commit any felony, except murder
18 USC 113a3	Assault with dangerous weapon intent to bodily harm without just cause
18 USC 113a4	Assault by striking, beating, or wounding
18 USC 113a5	Assault within maritime and territorial jurisdiction - Simple Assault
18 USC 113a6	Assault resulting in serious bodily injury
18 USC 113a7	Assault resulting in substantial bodily injury to an individual
18 USC 113a8	Assault of a spouse/partner by strangling/suffocating or attempting
18 USC 117	Domestic assault by an habitual offender
18 USC 2113ad	Assault any person, puts life in jeopardy by use of a dangerous weapon
18 USC 2262	Interstate violation of a protective order
12.1S:12.1-17-04	Terrorizing
14S:14-09-22	Abuse or neglect of child
18S:113a5	Assault
21S:843.5A	Any parent/other person willfully or maliciously engage in child abuse
22D:00404.01	Aggravated Assault
45S:5-201	Assault

Murder

18 USC 1111	Murder
18 USC 1112	Manslaughter
18 USC 1117	Conspiracy to murder
18 USC 924j	Violates Section 924(c) and causes the death of a person
06S:6-2-107	Criminally negligent homicide

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

18 USC 1591	Sex trafficking of children or by force, fraud, or coercion
18 USC 2241	Aggravated sexual abuse
18 USC 2241a	Aggravated sexual abuse by force or threat
18 USC 2241b	Aggravated sexual abuse by other means
18 USC 2241c	Aggravated sexual abuse with children
18 USC 2242	Sexual abuse

18 USC 2242(2)	Engages in a sexual act with another person
18 USC 2243	Sexual abuse of a minor or ward
18 USC 2243a	Sexual abuse of a minor
18 USC 2243a1	Sexual abuse of a minor that has attained age 12 but not age 16
18 USC 2244	Abusive sexual contact
18 USC 2250	Fail to register as sex offender after traveling interstate commerce
18 USC 2250c	Sex Offender/Crime Against Children Failure to Register-Violent Crime
18 USC 2252	Material involving sexual exploitation of minors
18 USC 2422	Transport for sex - Coercion and enticement
18 USC 2252A	Activity relating material constituting/containing child pornography
18 USC 2252Aa3A	Knowingly reproduce child pornography for distribution through mails
18 USC 1169	Indians - Reporting of child abuse
22D:03004	Third Degree Sexual Abuse
14T:01700	Aggravated rape

Drug, Alcohol, and Other Offenses

18 USC 81	Arson in special maritime and territorial jurisdiction
18 USC 242	Deprivation of rights under color of law
18 USC 751a	Escape or attempt to escape from custody of an institution or officer
18 USC 875	Interstate Communications
18 USC 875c	Transmit interstate/foreign commerce communication threat to kidnap
18 USC 922a1A	Unlawfully engaging in the business of firearms
18 USC 922a6	False/Fictitious statements in order to acquire a firearm/ammunition
18 USC 922g1	Unlawful shipment, transfer, receipt, or possession by a felon
18 USC 1154	Intoxicants dispensed in Indian country
18 USC 1156	Indians - Intoxicants possessed unlawfully
18 USC 1170	Illegal trafficking Native American human remains
18 USC 1201	Kidnaping
18 USC 1201a1	Person is willfully transported in interstate or foreign commerce
18 USC 1512	Tampering with a witness, victim, or an informant
18 USC 1513b2	Person causes/threatens bodily injury/property damage in retaliation
18 USC 1841	Protection of unborn children
18 USC 1951	Hobbs Act
18 USC 1951b1	interference w/commerce by threats or violence/definition of "robbery"
18 USC 2111	Robbery/burglary - Special jurisdiction
18 USC 2119	Carjacking
18 USC 2313	Sale or receipt of stolen vehicles
18 USC 2342a	Knowingly transport/possess/sell/purchase contraband tobacco products
18 USC 3665	Firearms possessed by convicted felons
21 USC 841	Drug Abuse Prevention & Control-Prohibited acts A
21 USC 841a1	Manufacture, distribute, dispense, possess a controlled substance

21 USC 841b1Bvii	100 kg/more of mixture contain marijuana or 100/more marijuana plants
21 USC 841b1C	Possession w/Intent to Distribute
21 USC 841c2	Possess/distribute chemical knowing to manufacture control substance
21 USC 843a3	Acquire or obtain possession controlled substance by fraud/deception
21 USC 844	Penalty for simple possession
21 USC 846	Attempt and conspiracy
21 USC 847	Drug Abuse Prevention & Control add. penalties
21 USC 856	Establishment for manufacturing operations
26 USC 5861d	Receive/possess firearm not register in National Firearm Registration
06S:6-2-503	Child abuse
16 USC 668	Bald and golden eagles
16 USC 703	Taking, killing, or possessing migratory birds
30S:30-3-8A	Willfully discharging firearm at dwelling or occupied building
30S:30-6-1D2	Knowingly cause/permit child to be tortured/cruelly confined/punish
66S:66-8-102D2	Aggravated DUI - Causing bodily injury to a human being

Financial Crimes/Public Corruption/Fraud

18 USC 201	Bribery of public officials and witnesses
18 USC 371	Conspiracy to commit offense or to defraud US
18 USC 641	Public money, property or records
18 USC 661	Embezzlement/theft in special jurisdictions
18 USC 666	Theft or bribery in programs receiving Fed funds
18 USC 1001	Fraud/false statements or entries generally
18 USC 1001a2	Makes materially false, fictitious, fraudulent stmt or representation
18 USC 1029	Fraud and related activity - access devices
18 USC 1030(5)A	Intentionally cause damage without authorization to protected computer
18 USC 1038	False Information and Hoaxes
18 USC 1159	Misrepresentation of Indian produced goods/product
18 USC 1163	Embezzlement and theft from Indian Tribal organization
18 USC 1167	Theft from gaming establishments on Indian lands
18 USC 1167a	Takes/carry away intent to steal money/property value \$1,000 or less
18 USC 1168	Insider Theft of gaming establishments Indian land
18 USC 1343	Fraud by wire, radio, or television
18 USC 1344	Bank Fraud
18 USC 1347	Health Care Fraud
18 USC 1956	Laundering of monetary instruments

Jurisdictional, Procedural, Penalty, or State Statute

12.1S:12.1-21-05(1)b	Person guilty offense if willfully damage tangible property of another
13S:13-3506	Furnishing harmful items to minors

13S:13-3623	Child or vulnerable adult abuse
14T:00299	Simple assault and battery
164S:164.135	Unauthorized use of vehicle
18 USC 4	Misprision of Felony
18 USC 7	Special Maritime/Territorial Jurisdiction of US
18 USC 844e	Through mail/telephone/telegraph make threat to kill/injure/intimidate
18 USC 844f1	Maliciously damage/destroy fire/explosive building/vehicle/property
18 USC 1153	Offenses committed within Indian country
18 USC 3146	Penalty for failure to appear
18S:2610.1	Abuse of or cruelty to minor as felony - Defense to charge
18S:2923.12	Carrying concealed weapons; affirmative defenses
30S:30-14-1(B)	Criminal trespass
30S:30-15-1	Criminal damage to property
30S:30-16-1	Larceny
30S:30-22-5	Destroy/change/hide physical evidence intent to prevent apprehension
30S:30-28-1	Attempt to commit a felony
30S:30-6-1D1	Knowingly permit child placed situation endanger child life/health
36R:327.21a	Special event prohibited unless permission granted District Commander
50A:00462	Military Selective Service Act; Offenses and penal
61S:61-8-301(1)a	Reckless Driving-Operates vehicle disregard safety persons/property
750S:750.136b5	Child Abuse - 3rd Degree
8 USC 1324a1AvII	Bringing in and harboring certain aliens/aiding and abetting