



U.S. Department of Justice

Indian Country Investigations and Prosecutions

2017



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Cover Photographs

Starting from the Top of Front Cover:

Arkansas River, Muscogee (Creek) Nation, OK

Second Cover:

Diligwa Village, Cherokee Nation, OK

Executive Summary

The Department of Justice presents to Congress this report on Indian country investigations and prosecutions during calendar year (CY) 2017, as required by Section 212 of the Tribal Law and Order Act (TLOA), which the President signed into law on July 29, 2010. Since TLOA's inception, the Department has worked to improve public safety for American Indians and Alaska Natives through reforms aimed at institutionalizing the Federal commitment to public safety for Tribal nations and at strengthening the capacity of Tribal justice systems to protect their communities and pursue justice.

The Tribal Liaison Program remains one of the most important components of the Department's efforts in Indian country. The Executive Office for United States Attorneys (EOUSA) established the program in 1995 and TLOA codified it in 2010. TLOA requires that the United States Attorney for each district with Indian country appoint at least one Assistant United States Attorney (AUSA) to serve as a Tribal Liaison for that district. Tribal Liaisons serve as the driving force for the Department in navigating the often-complex cultural and legal issues in Indian country. They foster and facilitate relationships between Federal and Tribal partners that are vital to reducing violent crime in Tribal communities. As part of their duties, Tribal Liaisons assist in developing Tribal multi-disciplinary teams to combat child abuse, work with SART teams on sexual abuse response, conduct community outreach in Tribal communities, and coordinate the prosecution of Federal crimes that occur in Indian country.

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 Attorney's 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 opportunities.

To satisfy the TLOA Section 212 reporting requirements for CY 2017, the FBI and 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 2017 statistics show a 12.5 percent increase in total closed investigations (2,210 total) compared to FBI's CY 2016 statistics (1,960 total).**
- **Approximately 79.5 percent (1,511 out of 1,900) of Indian country criminal investigations opened by the FBI were referred for prosecution.**
- **Of the 699 Indian country investigations that the FBI closed administratively without referral for prosecution, the primary reason for closing (approximately 21 percent) was that the case did not meet statutory definitions of a crime or USAO prosecution guidelines.** In addition, analysis of CY 2017 data indicates that 15 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 (20 percent) was that the deaths under investigations were determined to be the result of accident, suicide, or natural causes (*i.e.*, non-homicides).
- **Eighty-four percent (141 out of 167) of the death investigations that were closed administratively by the FBI in CY 2017 were closed because the death was due to causes other than homicide (*i.e.*, accidents, suicide, or natural causes).**
- **In CY 2017, the USAOs resolved 2,390 Indian country matters.**
- **The majority of Indian country criminal matters resolved¹ by the USAOs in CY 2017 (1,499 out of 2,390) were prosecuted (charges filed in either District or Magistrate Court).**
- **The USAO declination rate remained relatively steady.** USAO data shows that in CY 2017, 37% (891) of all (2,390) Indian country matters resolved were declined. USAOs declined cases at a similar rate in prior years: 34% (903) of all Indian country matters resolved (2,666) in CY 2016; 39% (1,043) of all Indian country matters resolved (2,655) in CY 2015; 34% (989) of all Indian country matters resolved (2,886) in CY 2014; 34% (853) of all Indian country matters resolved (2,514) in CY 2013; 31%

¹ "Indian country matters resolved" is the total of Indian country suspects in immediate declinations, suspects in matters terminated (which includes all later declinations), and defendants filed.

(965) of all Indian country matters resolved (3,097) in CY 2012; and 38% (1,042) of all Indian country matters resolved (2,767) in CY 2011.

- **The most common reason for declination by USAOs was insufficient evidence** (70.9% in CY 2017, 68.0% in CY 2016, 71.7% in CY 2015, 59.6% in CY 2014, 55.6% in CY 2013, and 52% in CY 2012). The next most common reason for declination by USAOs was referral to another prosecuting authority (13.2% in CY 2017, 16.4% in CY 2016, 13.8% in CY 2015, 16.3% in CY 2014, 20.8% in CY 2013, and 24% 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 necessarily 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 eventually 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, Section 212 of TLOA 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 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 *prosecuting* such crimes

referred by all Federal 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. Direct comparisons of FBI and EOUSA numbers are thus not possible.

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 all crimes committed by non-Indians against Indian victims in Indian country. 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 the Federal Government may not prosecute an Indian who has been punished by the Tribe for that offense.

To protect Tribal self-governance, Section 1152 specifically excludes minor crimes between Indians, which exclusively fall under Tribal jurisdiction. 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,

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.

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 agencies that choose to submit. Furthermore, the UCR does not collect the specific information on declinations and administrative closing required by Section 212 of TLOA. In addition, matters and cases from Public Law 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 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. Today, no system exists that mandate collection and analysis of aggregate Indian country crime and prosecution data across sovereigns.

III. Federal Bureau of Investigation TLOA Report

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, as noted above. This number generally excludes Tribes in P.L. 280 states, with the exception of crimes of general applicability (*e.g.*, drug offenses, Indian gaming, and violence against women). Currently, there are approximately 139 Special Agents dedicated full-time 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

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

⁵ Not all FBI Divisions listed had CY 2017 Indian country investigations to report under TLOA. In addition, 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
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	NY	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.

⁶ FBI Domestic Investigations and Operations Guide (DIOG), 2013 version.

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 arranges for the child to be forensically interviewed and medically examined. The child discloses no allegation of child sexual abuse, and the medical exam and other preliminary investigation reveal no 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 the circumstances change.)

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 accurately and complete reporting under TLOA. Additionally, ongoing FBI investigations do not preclude Tribal law enforcement from continuing an investigation and making a referral to 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 following information provides a description of the FBI data used to generate the tables in this report.

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.⁷ The “Property Crime” category includes burglary, robbery, larceny, theft, arson, and motor

⁷ 18 U.S.C. § 113 (Assault) applies to both domestic violence and general assault offenses. An exception to this overlap is 18 U.S.C. § 117 (Domestic Violence by a Habitual Offender).

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, trafficking of cultural items, and any other crimes not applicable to the other nine categories.

2. **The status of the victim and subject** as Indian or non-Indian is generally based on self-reported information provided to the FBI or records obtained from Tribal authorities.⁸ 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 the 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 ⁹
Victim is unable to identify subject
Unsupported allegation
Victim or witness is unable or unwilling to assist
Interagency cooperation ¹⁰
Cannot be addressed with current resources ¹¹
Duplicate or case reopened
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 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:

⁸ The FBI does not have direct access to tribal enrollment information.

⁹ The FBI exhausted all logical investigation, and was unable to present enough facts for a prosecutive opinion.

¹⁰ The FBI may open an investigation solely for assisting another agency (such as opening an investigation solely to give a subject a polygraph examination). Because the FBI is not the primary investigator, these investigations are administratively closed and not referred.

¹¹ Primarily due to the prioritization of violent crimes against persons.

- The FBI is only able to track allegations reported to the FBI. Allegations investigated by BIA-OJS 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-OJS).¹²
- 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 2,210 Indian country investigations during CY 2017. For reporting purposes, each closed case was manually reviewed. For CY 2017, 699 investigations or 32% were closed administratively and/or not referred for prosecution. Approximately 68% were referred to Federal, state, or Tribal prosecutors. Both overall and 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 76% of all FBI Indian country investigation closures during CY 2017. Table 3 lists by FBI division the total number of closed investigations for CY 2017 (*i.e.*, investigations that were referred for prosecution and investigations administratively closed and/or not referred for prosecution).

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¹² The FBI has a Memorandum of Understanding (MOU) with the 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 adult aggravated sexual abuse.

Table 3: Number of Indian Country Criminal Investigations Closed, by FBI Division, CY 2017

Division	Division Name	# Administratively Closed/Not Referred for Prosecution	# Cases Referred for Prosecution	Total Cases Closed
AN	Anchorage	0	3	3
AQ	Albuquerque	56	99	155
CE	Charlotte	1	6	7
DE	Detroit	3	57	60
DN	Denver	25	44	69
JN	Jackson	1	31	32
LV	Las Vegas	15	26	41
MM	Miami	4	8	12
MO	Mobile	1	1	2
MP	Minneapolis	153	411	564
MW	Milwaukee	2	27	29
NO	New Orleans	0	1	1
OC	Oklahoma	10	36	46
OM	Omaha	8	60	68
PD	Portland	7	33	40
PH	Philadelphia	1	0	1
PX	Phoenix	297	353	650
SA	San Antonio	0	1	1
SC	Sacramento	0	2	2
SE	Seattle	29	78	107
SU	Salt Lake City	80	234	314
TP	Tampa	6	0	6
Total		699	1,511	2,210

Approximately 80% of all closed Indian country investigations were violent crime related. Table 4 lists types of Indian country crimes alleged for all administrative closures by FBI division for CY 2017.

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Table 4: Types of Indian Country Criminal Investigations Administratively Closed, by FBI Division, CY 2017

Division	Assault	AFO/KFO ¹³	Child Physical Abuse	Child Sexual Abuse	Death Investigation	Drug Crime	Financial Crimes/Public Corruption/Civil Rights	Property Crime	Sexual Assault	Other	Total
AQ	8	2		11	23	2	2	4	3	1	56
CE					1						1
DE		1			1			1			3
DN	8	1		12					4		25
JN									1		1
LV	5			1	3	1		2	1	2	15
MM								3		1	4
MO				1							1
MP	15		6	69	45	10		1	7		153
MW						2					2
OC					1	5			2	2	10
OM	3			1	2				1	1	8
PD				1	2		2	1		1	7
PH								1			1
PX	59	1	12	89	51	9	11	11	37	17	297
SE	5		2	5	7	4			6		29
SU	12		6	17	31	2	1	3	6	2	80
TP								4		2	6
Total	115	5	26	207	167¹⁴	35	16	31	68	29	699

For CY 2017, the majority of victims and subjects in cases administratively closed by the FBI were Indian. Table 5 lists the status of victims and subjects in FBI Indian country investigations administratively closed for CY 2017.¹⁵

¹³Assault of Federal Officer/Killing of a Federal Officer.

¹⁴ In 141 or 84% of administratively closed death investigations, the investigation revealed the death was not a result of homicide.

¹⁵ 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 have not 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 2017

Division	American Indian Victim	Non-American Indian Victim	American Indian Subject	Non-American Indian Subject	Business Victim/Subject	Unknown Victim/Subject ¹⁶
AQ	46	1	21		2	4
CE	1					
DE	1	1		1	1	1
DN	30		23			1
JN	1					1
LV	7		3			17
MM		2		2	2	2
MO	1					1
MP	122		57	4	3	49
MW					1	3
OC	1	2	2	4		9
OM	6		2	1		5
PD	4		1		3	3
PH						1
PX	270	1	182	4	2	27
SE	23	1	13	1		18
SU	76	1	40	1		9
TP					5	7
Total	589	9	344	17	19	158

For CY 2017, of the 699 cases administratively closed and/or not referred for prosecution, 141 or 20% were death investigations where it was determined the victim died due to natural causes, an accident, or suicide. Another 15% were determined to be unsupported allegations, meaning no evidence of criminal activity was uncovered during the investigation. In 22% of investigations, it was determined no Federal crime occurred. Table 6 addresses the reasons for non-referral of CY 2017 investigations for prosecution.

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¹⁶ Unknown victims or 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 disclose the identity of his or her abuser.

Table 6: Investigative Closure Reasons for Administratively Closed Cases, by FBI Division, CY 2017

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	19	4		9	3	13		1	3	56
CE		1									1
DE	1	1	1								3
DN	3				10	7	2		1	2	25
JN						1					1
LV	2	3	2		2	1	5				15
MM	2		2								4
MO					1						1
MP	25	40	5		34	26	15		4	4	153
MW			1				1				2
OC	1		2		3		4				10
OM	1	2	1		1	1	2				8
PD	1	1	1		2		1		1		7
PH					1						1
PX	97	38	22	10	25	66	27	6	3	3	297
SE		6	4		7	8	3			1	29
SU	16	30	8		11	8	5		1	1	80
TP							6				6
Total	153	141	53	10	106	121	84	6	11	14	699

Table 7 provides additional information on a selection of violent crime investigations for CY 2017 administratively closed by four Indian country FBI divisions with the largest Indian country caseload.¹⁷ The victim/subject status is provided for each investigation. Information is omitted from this table if Indian or non-Indian status were documented for either the subject or victim (*i.e.*, the subject or victim does not fit into one of the categories below), no subject was identified, or the subject was a business.

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¹⁷ Due to low frequencies, only investigations from four FBI divisions (responsible for 76% 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-OJS or other federal law enforcement agencies.

Table 7: Violent Crimes Administratively Closed, Victim and Subject Status by FBI Division, CY 2017

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	6			5		
MP	7			29	4	1
PX	39	1		66		
SU	9			16		
Total	61	1	0	116	4	1

Death Investigation ¹⁸				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	3			4		
PX	5			29		
SU	2			4	1	1
Total	14	0	0	38	1	1

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¹⁸ 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. Executive Office for United States Attorneys 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. Indian country prosecutions, particularly violent crime prosecutions, are a significant focus for the 51 Federal judicial districts with federally recognized Tribes. On January 11, 2010, then-Deputy Attorney General David Ogden issued a memorandum to all United States Attorneys declaring, “Public safety in tribal communities is a top priority for the Department of Justice.”

The memorandum directed that: (1) every USAO with Indian country in its district must engage annually, in coordination with its law enforcement partners, in consultation with the Tribes in that district; and (2) 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. District operational plans have been implemented in all USAOs with Indian country responsibilities. The subject matter of each district’s plan depends on the legal status of the 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 accountability.

The Attorney General Advisory Committee’s Native American Issues Subcommittee (NAIS) is the oldest subcommittee of the Attorney General’s Advisory Committee and is vital to the Department’s mission in Indian country to assist Tribes in building and sustaining safe and secure communities. 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 Attorney General regarding enhancing public safety and addressing legal issues that affect Tribal communities.

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 agents investigating violent crime, including sexual abuse cases, 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 not required of other Assistant United States Attorneys (AUSAs). The unique nature and circumstances of the Tribes in their districts often influence the job duties of Tribal Liaisons. They serve as the primary points of contact between the USAO and the Indian Tribes located in their districts. Tribal Liaisons have relationships and frequent contact with Tribal governments, including Tribal law enforcement officers, Tribal leaders, Tribal courts, Tribal prosecutors, and social service agency staff.

Tribal Liaisons continued 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 assisted Tribes in organizing multi-disciplinary teams (MDTs) that primarily address child abuse cases, and SARTs that deal with sexual violence. Both MDTs and SARTs consist of Federal, Tribal, and state partners. In addition, Tribal Liaisons performed outreach in Tribal communities to educate Tribal members on various issues involving substance abuse and violent offenses in an effort to reduce crime and trained Tribal law enforcement on legal issues such as search and seizure. Tribal Liaisons also helped 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 worked 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 determine the appropriate venue for matters to be prosecuted. These relationships enhanced information sharing and assisted 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 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 Responsibility

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 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 thus these examples would likely 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:¹⁹

Sexual Assault Referral

A 14-year-old Indian male unwelcomely touched the breasts of a 13-year-old female, through her clothing, while at school. The incident happened in Indian country. The case was immediately declined because the Indian male was a juvenile and the Tribal system had adequate resources to deal with the case in the most effective manner.

Assault Referral

Two males got into a fistfight outside of a bar that was located on a reservation. One male received a broken nose during the fight. The case was opened, but upon review it was determined that neither party was an Indian. The case was declined for lack of jurisdiction.

¹⁹ 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:²⁰

Sexual Assault Referral

The victim reported she was drinking at a house party and passed out during the evening. She reported waking up at the party in a bedroom and finding that her clothing had been removed. She reported no knowledge of a sexual assault. The victim consented to a sexual assault exam and swabs of the victim were collected. All males at the party provided buccal swabs. The forensic evidence was sent to the FBI lab. No semen was found on the victim’s swabs. The case was declined because the prosecutor lacked sufficient evidence of a Federal 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.

²⁰ This example represents an actual matter.

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:

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.”²¹ However, this statute also provides that reports and information learned during a criminal investigation may be shared with the Tribe.²² 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.

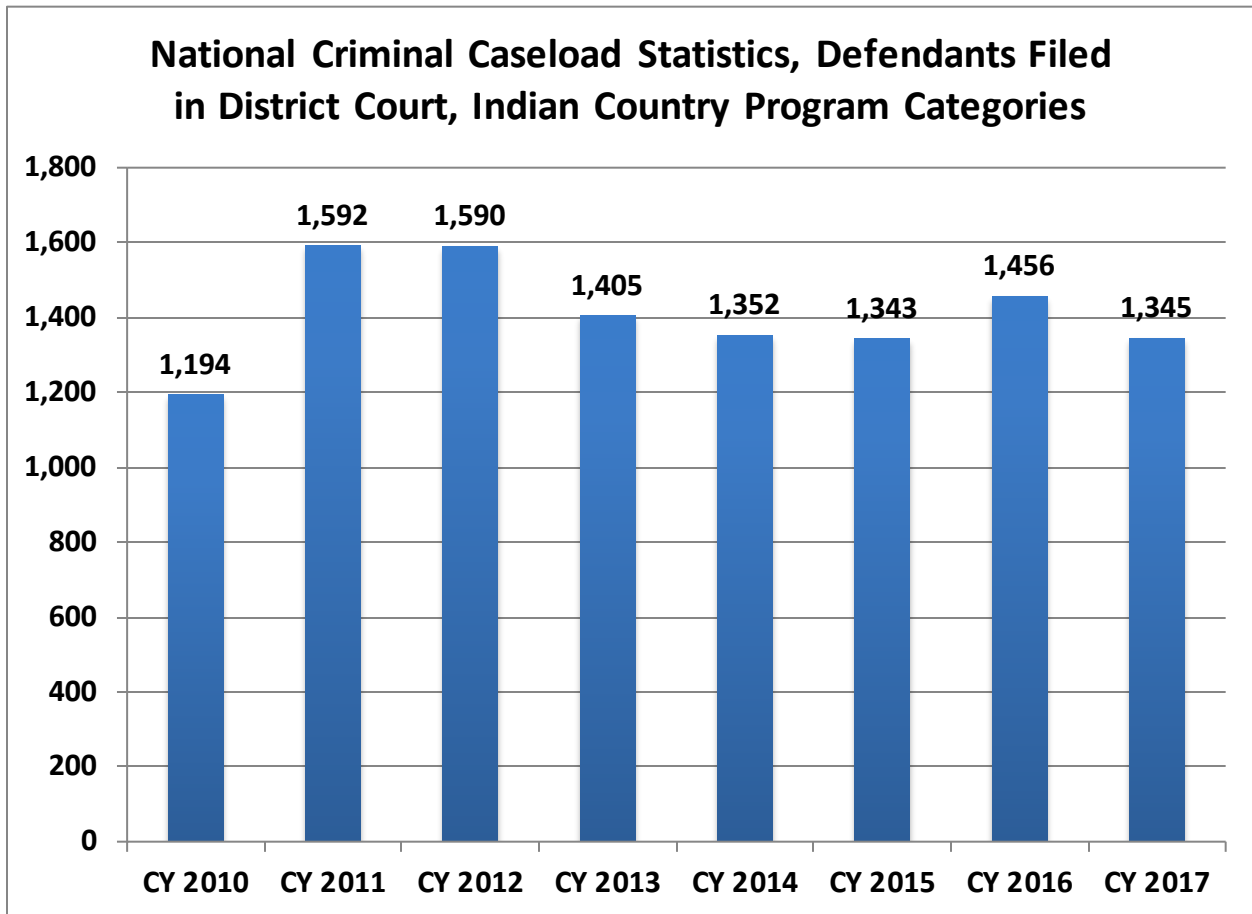
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²¹ See 25 U.S.C. § 2809(c)(1).

²² 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 092) is used to identify violent offenses that occur in Indian country, such as assaults, homicides, and sexual abuse cases. “Indian Offenses” (Program Category 065) is used to identify nonviolent offenses occurring in Indian country, such as immigration, fraud, and nonviolent drug offenses.



This chart includes data for cases classified under Program Category Codes 092 (Violent Crime in Indian Country) and 065 (Nonviolent Indian Offenses).

Federal prosecutors filed cases against 151 more defendants in 2017 than in 2010, when the TLOA was enacted.

In 2017, 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 2017, Federal prosecutors filed cases against 139 defendants (a decrease of 3% from CY 2016 (143 defendants)) under VAWA 2013’s enhanced Federal assault statutes. They obtained 134 convictions (an increase of 30% from CY 2016 (103)). Also in CY 2017, prosecutors filed cases against 43 defendants in Indian country cases using the domestic assault by a habitual offender statute, 18 U.S.C. § 117, and obtained 29 convictions.

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

Aggravated Sexual Abuse

Over a series of months, the defendant sexually abused an eight-year-old relative. The FBI and a Tribal police department jointly investigated the case. After the defendant was apprehended, additional juvenile victims came forward and stated the defendant sexually abused them as well. The defendant admitted to assaulting three minors under the age of 12 years. The defendant was convicted of aggravated sexual abuse of a child and was sentenced to 70 years (840 months) of imprisonment.

Strangulation

The defendant, angry over a text message the victim received from her son, kicked and punched the victim repeatedly in the face and threw her to the ground. The defendant blocked the exit to the room and did not let the victim leave. After some time, the defendant took the victim's phone, broke it, and proceeded to jump on top of the victim, placing both hands around her throat. The defendant used his hands to squeeze the victim's neck, cutting off her breathing, resulting in the victim's loss of consciousness. The defendant was sentenced to 36 months of imprisonment.

Assault Resulting in Serious Bodily Injury

On the way home from a party, the defendant began punching the victim in the face during an argument. Once at their residence, the defendant pulled the victim from their car, and punched and kick him in the driveway. The defendant stabbed the victim with a garden tool and a metal rod. The defendant admitted that her assaults on the victim caused him to suffer broken ribs and an orbital fracture, along with several stab wounds to the back, chest, arms, and legs. The defendant pleaded guilty to assault resulting in serious bodily injury and was sentenced to 60 months of imprisonment.

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. Title 25, United States Code, Section 1304 allows Tribal prosecutors to prosecute domestic violence, dating violence, and violations of certain protection orders that occur on Tribal land, regardless of whether the offender is Indian or non-Indian. This Congressional recognition of Tribal authority to exercise SDVCJ was the result of a Congressional effort to respond to the Supreme Court's 1978 decision in *Oliphant v. Suquamish Indian Tribe*. The *Oliphant* decision had restricted the authority of Tribal courts to try and convict non-Indians who committed crimes on Tribal lands. 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."

On March 7, 2015, SDVCJ took effect nationwide and thus allows Tribes to choose whether they wish to implement. VAWA 2013 requires implementing Tribes to provide certain rights to defendants in SDVCJ cases. These protections are similar to those required for TLOA enhanced sentencing. For example, a Tribe must provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; provide a law-trained judge; provide access to the Tribe's laws; and maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding. 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 general public to make public the tremendous 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.²³ 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.

²³ In 2017, EOUSA transitioned from the Legal Information Office Network System (LIONS) to CaseView.

“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 matters handled by the USAOs.²⁴ As noted earlier, two Program Category Codes are particularly relevant to Indian country cases.²⁵ 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. The Indian country code need not be the primary code.

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. Therefore, TLOA data selected in CaseView may exclude a small number of cases that indeed occurred in Indian country, but were not designated as either Program Category Code 065 or 092.

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

²⁴ 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.

²⁵ “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.

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 Calendar Year (CY) 2016, yet not have had any sexual assaults referred for prosecution in CY 2016. Rather, these two declinations may represent referrals received in previous years where the investigation was completed in CY 2016 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 2016 can in fact be two murders that occurred in CY 2014, with one of the murders having four suspects.²⁶

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.

Prior to March 1, 2014, there were 33 declination codes available. The 33 declination codes were reviewed and consolidated into the six declination codes shown in this report: Legally Barred, Insufficient Evidence, Defendant Unavailable, Matter Referred to Another Jurisdiction, Alternative to Federal Prosecution Appropriate, and Prioritization of Federal Resources and Interests. Table 9 summarizes how the 33 declination codes were consolidated and merged to fall under six newly created declination codes based on legal commonality.

²⁶ Additionally, the October 1 to December 31, 2017, data appearing in this report is contingent and is subject to change before the close of Fiscal Year 2018 on September 30, 2018.

Table 9: CaseView Declination Merged Categories

Category Name CaseView List Subcategory	Description
Legally Barred	<i>Cases where the United States has no choice but to decline a case because legally the United States lacks jurisdiction to file charges.</i>
JUVP	Jurisdiction or Venue Problems
NFOE	No Federal Offense Evident
NKSU	No Known Suspect
OEOE	Opened in Error/Office Error
STAL	Staleness
STLM	Statute of Limitations
Insufficient Evidence	<i>Cases where the United States declines a case because of an inability to prove the case in court beyond a reasonable doubt.</i>
LECI	Lack of Evidence of Criminal Intent
WKEV	Weak or Insufficient Admissible Evidence
WTPR	Witness Problems
Defendant Unavailable	<i>Cases where the defendant is physically unavailable or where the prosecutor exercises prosecutorial discretion based on defendant's circumstances.</i>
AHPR	Offender's Age, Health, Prior Record, or Personal Matter
SUDC	Suspect Deceased
SUDP	Suspect Deported
SUFU	Subject a Fugitive
Matter Referred to Another Jurisdiction	<i>Cases where the defendant is not prosecuted by the Federal government but is subject to the authority of another jurisdiction.</i>
JUVN	Juvenile Suspect
PEPO	Petite Policy ²⁷
RECU	Recusal
SPOA	Suspect to be Prosecuted by Other Authorities
SRSC	Suspect Referred for Prosecution Decision in State/Local/Military Court
SRTC	Suspect Referred for Prosecution Decision in Tribal Court
SPOC	Suspect Being Prosecuted on Other Charges

²⁷ The Department of Justice's *Petite* policy generally precludes the initiation or continuation of a federal prosecution, following a prior state or federal prosecution based on substantially the same act(s) or transaction(s). JM 9-2.031. This policy does not apply to successive tribal/federal prosecutions. However, successive tribal/federal prosecutions should not be undertaken unless there is a compelling federal interest. "In determining whether federal interests have been satisfied, consideration should be given to the limitations on tribal sentencing power measured against the seriousness of the offense." DOJ Criminal Resource Manual § 682.

Category Name	Description
CaseView List	
Subcategory	
Alternative to Federal Prosecution Appropriate	<i>Cases where the defendant could have been prosecuted by the Federal government but an alternative to prosecution was viewed by the United States, within its discretion, as appropriately serving the ends of justice.</i>
CADA	Civil, Administrative, or Other Disciplinary Alternative
PTDR	Pretrial Diversion Completed
REST	Restitution/Arrearage Payments Made or Being Made
SUCO	Suspect Cooperation
Prioritization of Federal Resources and Interests	<i>Cases where the case is declined because of existing DOJ or USAO policy.</i>
AGRE	Agency Request
DEPO	Department Policy
GWDA	Declined per Instructions from DOJ
LKIR	Lack of Investigative Resources
LKPR	Lack of Prosecutorial Resources
LOAG	Local Agency Referral Presented by Federal Agency
MFIN	Minimal Federal Interest or No Deterrent Value
OFPO	Office Policy (Fails to Meet Prosecutorial Guidelines)
SSSE	Suspect Serving Sentence

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B. EOUSA CaseView Information

Based on the methodology outlined above, aggregate declination data for calendar year 2017 – by reason – is displayed by Federal judicial district in Table 10.²⁸

Table 10: Number of Suspects in Indian Country Declinations by USAOs, by Reason, CY 2017

	Legally Barred	Insufficient Evidence	Defendant Unavailable	Referred to Diff Jurisdiction	Alt to Federal Prosecution	Prioritization of Fed Interests	Total
ALS	0	1	0	0	0	0	1
AZ	5	141	0	24	5	18	193
CAN	0	2	0	0	0	0	2
CO	0	8	0	0	0	0	8
ID	0	13	0	1	4	0	18
KS	0	1	0	0	0	0	1
LAW	0	1	0	0	0	0	1
MIE	1	16	0	3	9	2	31
MIW	0	23	0	0	4	7	34
MN	1	41	1	3	15	1	62
MSS	1	20	0	3	0	0	24
MT	0	74	2	17	3	0	96
NCW	1	1	0	0	0	0	2

²⁸ 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.

ND	15	44	2	26	0	2	89
NE	0	15	0	2	0	0	17
NM	3	54	0	3	1	0	61
NV	0	13	0	0	0	1	14
NYN	0	13	0	3	0	0	16
OKE	0	6	1	5	1	8	21
OKN	3	3	0	3	0	3	12
OKW	0	10	0	3	1	3	17
OR	0	4	0	0	3	0	7
SD	1	99	1	7	2	2	112
UT	0	4	0	0	0	0	4
WAE	0	5	0	2	0	2	9
WAW	2	11	0	8	0	1	22
WIE	0	5	0	3	0	1	9
WIW	0	0	0	0	1	0	1
WY	0	4	0	2	0	1	7
TOTAL	33	632	7	118	49	52	891

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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 2017, the USAO for the Western District of Michigan reported that it had 34 declinations, compared to 22 in 2016. Some of the criminal matters that originated in 2016 were not declined until 2017. Hence, the total declination number for 2017 was higher than for 2016.

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.

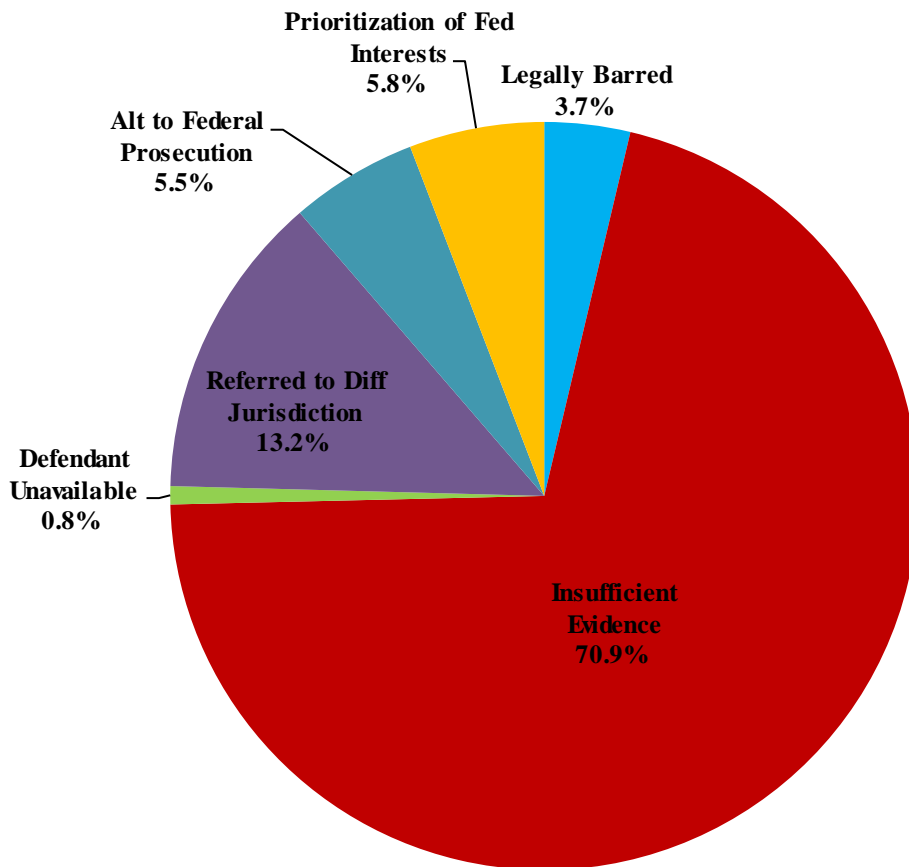
This collaboration and coordination was contemplated by TLOA’s amendment of 25 U.S.C. § 2809(a)(3), the Indian Law Enforcement Reform Act. It also confirms the Department’s January 2010 directive that “tribal governments have the ability to create and institute successful programs when provided with the resources to develop solutions that work best for their communities.”²⁹

Where Federal prosecutors have declined prosecution in favor of the Tribal court process, the cases are coded in CaseView as declinations—referred to a different jurisdiction. In 2017, over 13% (118 out of 891) 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 court 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 criminal matter for prosecution in Tribal court is, in fact, an acknowledgement of Tribal self-governance.

²⁹ <http://www.justice.gov/dag/dag-memo-indian-country.html>.

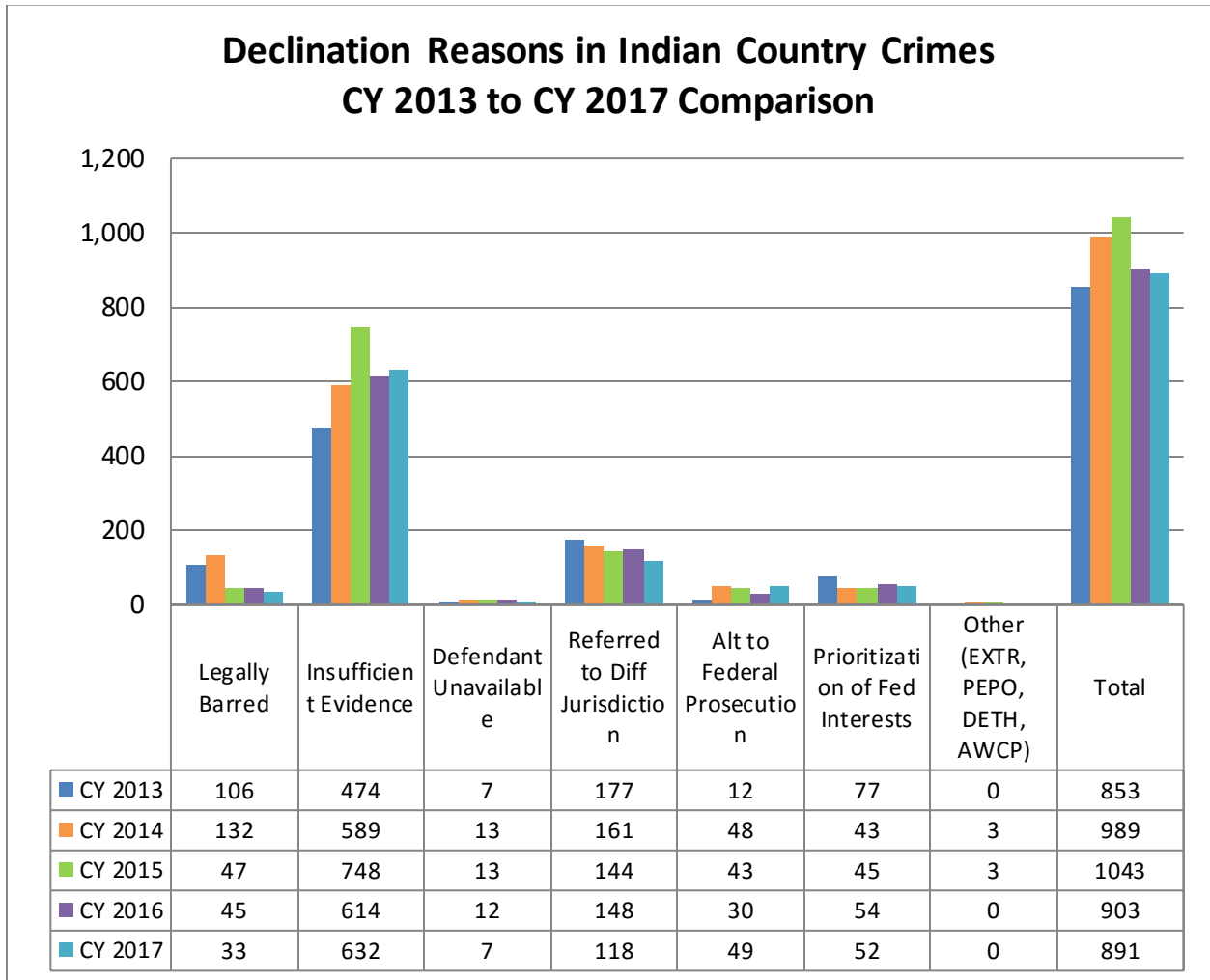
Figure 2: Declination Reasons for Indian Country Crimes, CY 2017



As demonstrated in Figure 2, the majority of all declined cases for CY 2017 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 problems. Figure 3, on the following page, provides a comparison of declination categories selected for CYs 2013 through 2017 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.

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Figure 3: Declination Reasons in Indian Country Crimes: CY 2013 to CY 2017 Comparison



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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.³⁰

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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³⁰ A complete list of all lead criminal charges used in CY 2017, 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 2017³¹

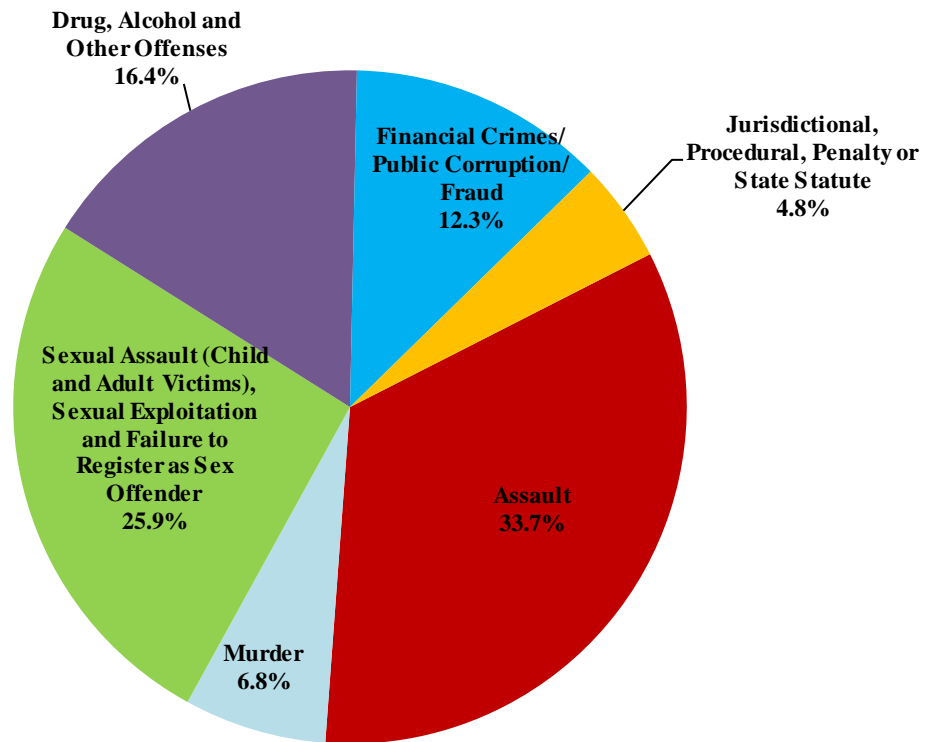
Indian Country Defendants Declined by Type of Crime							
January 1 - December 31, 2017							
	Assault	Murder	Sexual Assault (Child and Adult Victims), Sexual Exploitation and Failure to Register as Sex Offender	Drug, Alcohol and Other Offenses	Financial Crimes/ Public Corruption/ Fraud	Jurisdictional, Procedural, Penalty or State Statute	Total
ALS	0	0	0	0	1	0	1
AZ	64	23	54	23	13	16	193
CAN	0	0	0	1	1	0	2
CO	5	1	2	0	0	0	8
ID	8	0	6	1	3	0	18
KS	0	0	0	0	1	0	1
LAW	0	0	0	0	1	0	1
MIE	20	0	2	5	3	1	31
MIW	18	0	4	5	7	0	34
MN	19	2	16	23	0	2	62
MSS	5	1	6	2	5	5	24
MT	33	4	25	13	15	6	96
NCW	0	0	1	1	0	0	2
ND	35	5	32	7	7	3	89
NE	12	0	3	2	0	0	17
NM	18	13	18	7	3	2	61
NV	6	1	2	4	1	0	14
NYN	0	0	0	15	0	1	16
OKE	4	1	2	0	14	0	21

³¹ This table excludes USAOs that did not report any declinations for CY 2017.

OKN	1	0	1	3	6	1	12
OKW	2	3	0	6	5	1	17
OR	1	0	1	3	2	0	7
SD	35	3	37	16	17	4	112
UT	1	2	0	0	1	0	4
WAE	3	1	3	0	1	1	9
WAW	3	0	12	5	2	0	22
WIE	3	0	4	2	0	0	9
WIW	0	0	0	1	0	0	1
WY	4	1	0	1	1	0	7
TOTAL	300	61	231	146	110	43	891

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Figure 4: Indian Country Declinations, by Investigative Charge, CY 2017



In 2017, the majority of declinations involved the category of physical assaults or 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 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. For instance, sexual assault crimes usually only involve two witnesses—the victim and the defendant. For a number of reasons, physical evidence is often lacking and victims are understandably hesitant to move forward. Delayed reporting and insufficient first responder resources in Tribal communities further contribute to a prosecutor’s challenges in meeting the requisite burden of proving the case beyond a reasonable doubt and complying with the Principles of Federal Prosecution.

Although difficulties in prosecuting physical assault, sexual assault, and child molestation cases are not unique to Indian country, structural barriers in Indian country may compound the challenges. Victims and witnesses must often travel long distances to the Federal courthouse to testify. In addition, Federal investigators and prosecutors may encounter difficulties developing the rapport and trust needed to encourage victims to cooperate with the investigation. This problem stems from the fact that Federal officers are often not co-located in the community in the same way as local law enforcement officers.

Cooperation among Federal and Tribal law enforcement and victim advocates is key to successfully prosecuting a sexual assault perpetrator in Indian country. As of 2017, every USAO with Indian country has developed Federal sexual violence guidelines designed to improve the Federal response to sexual abuse in Tribal communities.

Table 12: Indian Country Defendants Declined by Type of Crime and Declination Reason, CY 2017

	Legally Barred	Insufficient Evidence	Defendant Unavailable	Referred to Different Jurisdiction	Alt. to Federal Prosecution	Prioritization of Fed. Resources and Interests	Total
Assault	11	208	4	46	15	16	300
Murder	3	52	0	2	0	4	61
Sexual Assault (Child and Adult victims)	11	182	3	24	4	7	231
Drug, Alcohol, and Other Offenses	4	85	0	29	22	6	146
Financial Crimes/Public Corruption/Fraud	3	70	0	14	5	18	110
Jurisdictional, Penalty, or State Statute	1	35	0	3	3	1	43
Total	33	632	7	118	49	52	891

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.³²

For example, Table 13 shows 393 Indian country matters were resolved in the District of South Dakota in CY 2017. This number includes the 112 declinations previously reported in Tables 10 and 11. It also includes an additional 281 Indian country cases that the District of South Dakota resolved in CY 2017 by means other than a Federal declination.

Similarly, for all districts combined, 2,390 Indian country matters were resolved in CY 2017. This number includes the 891 declinations reported in Tables 10 and 11. It also includes 1,499 matters in Indian country that were resolved in CY 2017 by means other than a Federal

³² Please note that CaseView is not self-correcting and that a USAO can, in error, report an Indian country declination.

declination. In 2016, the USAOs resolved 2,666 matters. In other words, in 2017 the USAOs resolved 276 fewer matters than in 2016.

Table 13: Total Indian Country Matters Resolved by USAO, CY 2017

District	CY 2017 Indian Country Matters Resolved	CY 2017 Indian Country Declinations	CY 2017 Indian Country Matters Resolved Other than by Federal Declination
ALASKA	9	0	9
ALABAMA MIDDLE	5	0	5
ALABAMA SOUTHERN	4	1	3
ARIZONA	658	193	465
CALIFORNIA EASTERN	3	0	3
CALIFORNIA NORTHERN	2	2	0
COLORADO	27	8	19
FLORIDA MIDDLE	1	0	1
FLORIDA SOUTHERN	1	0	1
IDAHO	36	18	18
KANSAS	1	1	0
LOUISIANA WESTERN	1	1	0
MICHIGAN EASTERN	64	31	33
MICHIGAN WESTERN	61	34	27
MINNESOTA	91	62	29
MISSISSIPPI NORTHERN	2	0	2
MISSISSIPPI SOUTHERN	37	24	13
MONTANA	158	96	62
NORTH CAROLINA WESTERN	37	2	35
NORTH DAKOTA	202	89	113
NEBRASKA	69	17	52
NEW MEXICO	159	61	98
NEVADA	17	14	3
NEW YORK EASTERN	1	0	1
NEW YORK NORTHERN	39	16	23
OKLAHOMA EASTERN	31	21	10
OKLAHOMA NORTHERN	26	12	14
OKLAHOMA WESTERN	73	17	56
OREGON	32	7	25
SOUTH DAKOTA	393	112	281
UTAH	17	4	13
WASHINGTON EASTERN	38	9	29
WASHINGTON WESTERN	46	22	24
WISCONSIN EASTERN	19	9	10
WISCONSIN WESTERN	1	1	0

WYOMING	29	7	22
ALL DISTRICTS	2,390	891	1,499

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.³³

To comply with TLOA, the Director of EOUSA 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.

In 2017, in an effort to ensure that all relevant data is properly captured, EOUSA issued guidance and hosted a Webinar training session on using CaseView and inputting defendant/victim status information for Indian country declinations. Because of these measures, the Indian/non-Indian defendant and victim status information included in USAO declination data has improved significantly. Accordingly, the Department has included the Indian or non-Indian status of defendants and victims in the USAO data in this report.

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³³ 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 2017

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	33	65	15	18	4	8	1	1
Drug, Alcohol, and Other Offenses	70	71	20	10	3	2	0	0
Assault	183	109	133	69	2	6	3	3
Murder	23	37	23	15	1	0	5	0
Sexual Assault (Child and Adult Victims), Sexual Exploitation and Failure to Register as Sex Offender	137	92	89	70	1	1	3	0
Jurisdictional, Procedural, Penalty, or State Statute	20	22	8	5	0	1	0	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 every year. Below are additional examples of convictions that provided a significant impact to the affected communities.

U.S. v. Matthew St. Pierre and U.S. v. Desarae Makes Him First – District of South Dakota

Matthew St. Pierre and Desarae Makes Him First were convicted of Second Degree Murder and sentenced to 40 years and more than 30 years of imprisonment, respectively. The defendants, who were living together on the Standing Rock Indian Reservation at the time of the offense, both admitted to repeatedly beating Makes Him First's five-year-old daughter. Over a series of days, the defendants hit the young child in the head, neck, chest, abdomen, legs, and arms. The young child suffered severe abdominal injuries, which led to internal bleeding and ultimately death. The case was investigated by the FBI, the Bureau of Indian Affairs-Office of Justice Services, and Standing Rock Sioux Tribal Police.

U.S. v. Miguel Rios-Quintero et al. – District of Minnesota

Miguel Rios-Quintero, Hernesro Jesus Montes, Erivan Argenix Gomez, and Hannah Lee Dalton all pleaded guilty to one count of conspiracy to distribute methamphetamine and were sentenced to 108 months, 60 months, 78 months, and 78 months of imprisonment, respectively. The four defendants conspired to distribute methamphetamine throughout the Leech Lake Indian Reservation and surrounding areas. As a result of the investigation, law enforcement officers seized more than 1,852 grams of methamphetamine, approximately three and half pounds of marijuana, and more than \$5,000 in cash from the defendants. The case was the result of a joint investigation conducted by the Red Lake Tribal Police Department, FBI Headwaters Safe Trails Task Force, Paul Bunyan Drug Task Force, Leech Lake Police Department, Minnesota Bureau of Criminal Apprehension, and the Bureau of Indian Affairs-OJS.

U.S. v. DaShown Keys – District of South Dakota

Deshown Keys was convicted by a jury of aggravated sexual abuse of a child and abusive sexual contact of a child, all occurring on the Sisseton-Wahpeton Oyate Lake Traverse Reservation in South Dakota. Keys was sentenced to 45 years of imprisonment after repeatedly sexually abusing two young girls, both under the age of 12 at the time of the assaults, while Keys stayed at the home of one of the victims on the Reservation. While Keys primarily and repeatedly sexually abused the daughter of the family with whom he was staying, he also sexually abused another child when she visited for sleepovers with the first victim. The FBI and the Sisseton-Wahpeton Tribal Police Department investigated this case.

U.S. v. Clarence Steven Arch – Western District of North Carolina

Clarence Steven Arch was sentenced to 210 months of imprisonment for sexual contact with a child who had not attained the age of 12. Arch, an enrolled member of the Eastern Band of Cherokee Indians, admitted to law enforcement that he had used his finger to penetrate the vagina of an eight-year-old child on multiple occasions, including one time when she was sleeping. He also admitted to penetrating the child's mouth on one occasion with his penis. Arch also admitted to penetrating the vaginas of two other children with his finger. All of the victims were enrolled members of the Eastern Band of Cherokee Indians. The FBI and the Cherokee Indian Police Department led the investigation.

U.S. v. Woody Nahquaddy, et al. – Eastern District of Wisconsin

Woody Nahquaddy, Austin A. Kaquatosh, and Mitchell E. Oshkosh were convicted for their involvement in a drug trafficking organization that operated on the Menominee Indian Reservation in Wisconsin and were sentenced to 42 months, 24 months, and 24 months of imprisonment, respectively. The defendants conspired amongst themselves and with others, and distributed a large quantity of synthetic cannabinoids in the Menominee Indian Reservation. The group obtained synthetic drugs from Milwaukee several times a week, purchasing as much as two pounds per trip over a year. Each trip involved spending approximately \$2,000-\$2,500, after which the synthetic drugs were repackaged for distribution from designated residences on the Reservation. The case was investigated by the Menominee Tribal Police Department, the Wisconsin Department of Justice - Division of Criminal Investigation (Native American Drug and Gang Initiative), and FBI.

V. Department of Justice Commitment to Indian Country

The Department of Justice has been committed to safety in Indian country for many years. The Trump Administration has strengthened this commitment by prioritizing the reduction of violent crime throughout the United States—including in Indian country. This reflects a recognition that rates of violent crime and substance abuse are too high, particularly in Indian country, which experiences higher rates than anywhere else in the United States.³⁴ The Justice Department recognizes that investigating crime and prosecuting those responsible is necessary to ensuring the safety and well-being of Tribal communities and their citizens.

The Department's partnerships with Tribes and state law enforcement active in Indian country are an integral part of combating crime in Indian country. These partnerships provide a framework for enhancing support of federal and Tribal law enforcement officials and prosecutors. In recognition that justice is best achieved locally, the Department also works hand-in-hand with Tribal and state partners to assist Tribal communities in strengthening their capacity to fight crime. The Department's work has included sharing data and utilizing the

³⁴ 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/>

expertise and resources of the federal government to develop and implement tactics designed to restore public safety in Tribal communities. Productive and focused Department initiatives are also vital to addressing the law enforcement needs of Tribes.

All of these efforts by the Department are aimed at ensuring Tribal, state, and local law enforcement in Indian country are fully supported in removing the underlying criminal element within Tribal communities. The Department acknowledges that significant progress has been made in recent years. Yet in order to achieve lasting public safety in Indian country, additional work remains.

The Department of Justice remains committed to this work and achieving this goal.

“The Justice Department is committed to a strong government-to-government partnership with tribal nations, including sharing valuable crime data and supporting Native American victims of crime.”

*—Jeff Sessions,
United 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 2017

Appendix B: Lead Charges Entered into CaseView on Indian Country Declinations in CY 2017

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 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 115	Influencing, impeding, or retaliating against a Federal official
18 USC 117	Domestic assault by an habitual offender
18 USC 113ad	Assault any person, puts life in jeopardy by use of a dangerous weapon
18 USC 261a1	Interstate domestic violence: Crossing a state line
18 USC 261a2	Interstate domestic violence: Causing the crossing of a state line
12.1S: 12.1-17-01.1	Assault
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
45S:5-212	Assault on minor
30S:30-3-1B	Assault - threatening conduct
45S:5-201	Assault
Murder	
18 USC 1111	Murder
18 USC 1112	Manslaughter
18 USC 1121	Killing persons aiding federal investigation/State
18 USC 2332b	Attempt or conspiracy with respect to homicide
06S:6-2-107	Criminally negligent homicide
Sexual Assault (Child and Adult Victims), Sexual Exploitation and Failure to Register as Sex Offender	
18 USC 1169	Indians - reporting of child abuse

18 USC 1801	Video voyeurism
18 USC 2241	Aggravated sexual abuse
18 USC 2241a	Aggravated sexual abuse by force or threat
18 USC 2241c	Aggravated sexual abuse with children
18 USC 2242	Sexual abuse
18 USC 2242(1)	Whoever threatens or causes another person to engage in a sexual act
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 2243a2	Sexual act with minor at least 4 years younger than person so engaging
18 USC 2243b	Sexual abuse of a ward
18 USC 2244	Abusive sexual contact
18 USC 2250	Fail to register as sex offender after traveling interstate commerce
18 USC 2251	Sexual exploitation of children
18 USC 2251d1A	Knowingly publish seek visual depiction minor sexual explicit conduct
18 USC 2252	Material involving sexual exploitation of minors
18 USC 2421	Transportation for illegal sexual activity and related crimes
18 USC 2252A	Activity relating material constituting/containing child pornography
37S:707-733	Sexual assault in the fourth degree
12.1S:12.1-20-07(1)a	Sexual Assault - Person knows contact is offensive to the other person

Drug, Alcohol, and Other Offenses

18 USC 48	Depiction of Animal Cruelty
18 USC 81	Arson in special maritime and territorial jurisdiction
18 USC 242	Deprivation of rights under color of law
18 USC 247	Damage to religious prop; obstruct religious exercises
18 USC 922a1A	Unlawfully engaging in the business of firearms
18 USC 922g1	Unlawful shipment, transfer, receipt, or possession by a felon
18 USC 922k	Unlawful receipt/possession of firearm with obliterated serial number
18 USC 1071	Concealing person from arrest
18 USC 1156	Indians - Intoxicants possessed unlawfully
18 USC 1201	Kidnaping
18 USC 1201a1	Person is willfully transported in interstate or foreign commerce
18 USC 1363	Buildings or property within special maritime/territorial jurisdiction
18 USC 1512	Tampering with a witness, victim, or an informant
18 USC 1512a2C	Hinder/delay/prevent communication law enforcement officer/US Judge
18 USC 1512d	Intentionally harass a person thereby hinder, delay, prevent, dissuade
18 USC 2111	Robbery/burglary - Special jurisdiction
18 USC 2113a	Take or attempt to obtain by extortion any property, money, valuables
18 USC 2113ab	Bank robbery and incidental crimes value exceeding \$1,000
18 USC 2261A	Stalking

21 USC 841	Drug Abuse Prevention & Control-prohibited acts
21 USC 841a1	Manufacture, distribute, dispense, possess a controlled substance
21 USC 844	Penalty for simple possession
21 USC 846	Attempt and conspiracy
21S:844A	Drug Possession
12S:23154a	Driving under the influence while on probation for a prior DUI
17S:291-3.1	Consume/possess intoxicating liquor operating motor vehicle/moped
22D:04503	Unlawful Possession Of Pistol
30S:30-6-1D2	Knowingly cause/permit child to be tortured/cruelly confined/punish
813S:813.010	Driving Under the Influence of Intoxicants

Financial Crimes/Public Corruption/Fraud

7 USC 13a1	Any employee/agent thereof to embezzle/steal value in excess of \$100
18 USC 208	Acts affecting a personal financial interest
18 USC 371	Conspiracy to commit offense or to defraud US
18 USC 472	Uttering counterfeit obligations or securities
18 USC 513	Securities of the States and private entities
18 USC 641	Public money, property or records
18 USC 661	Embezzlement/theft in special jurisdictions
18 USC 662	Receiving stolen property in special jurisdictions
18 USC 663	Solicitation or use of gifts
18 USC 664	Theft or embezzlement from employee benefit plan
18 USC 666	Theft or bribery in programs receiving Fed funds
18 USC 666a1	Theft/bribery agent Organization/State Local/Indian Tribal government
18 USC 666a1A	Embezzles/steals/obtain by fraud without authority person property
18 USC 1001	Fraud/false statements or entries generally
18 USC 1163	Embezzlement and theft from Indian Tribal organization
18 USC 1167	Theft from gaming establishments on Indian lands
18 USC 1168	Insider Theft of gaming establishments Indian land
18 USC 1341	Mail Fraud - Frauds and swindles
18 USC 1343	Fraud by wire, radio, or television
18 USC 1347	Health Care Fraud
18 USC 1711	Misappropriation of postal funds
18 USC 1962	RICO - prohibited activities
42 USC 408a4	Social security fraud/payments
IS:145.05(2)	Damages property of another person in an amount exceeding \$250.00

Jurisdictional, Procedural, Penalty, or State Statute

12.1S:12.1-22-02	Burglary
13S:00459	Burglary

13S:13-3623	Child or vulnerable adult abuse
14T:00505	Child abuse
14T:00506	Aggravated child abuse and neglect
14T:01083	Grand larceny
18 USC 13b1	Conviction for operating motor vehicle under influence of drug/alcohol
18 USC 844e	Through mail/telephone/telegraph make threat to kill/injure/intimidate
18 USC 924c1Ai	Use/carry/possess firearm during commission federal crime of violence
18 USC 5032	Delinquency Proceedings in District Court
18S:2232.1	Burglary First Degree
18S:2610.1	Abuse of or cruelty to minor as felony - Defense to charge
30S:30-6-1D1	Knowingly permit child placed situation endanger child life/health
45S: 6-204	Burglary
609S:609.378(1)2b1	Recklessly endangering a child's physical, mental or emotional health
66S:66-7-201	Accidents Involving Death or Personal Injuries
750S:750.540	Interfering with Communications
97S:97-17-23(1)	Burglary; breaking and entering; home invasion
LS:530.060	Endangering welfare of minor
8 USC 1324a1Aii	Transport/moves/attempts to transport illegal aliens within the US