



# U.S. DEPARTMENT OF JUSTICE

## Indian Country Investigations and Prosecutions

2015







“The Department of Justice is committed to ensuring the safety, security and sovereignty of American Indian and Alaska Native communities throughout the United States. By partnering with tribal members and tribal leaders from across Indian Country, and with our colleagues in other federal, state and tribal law enforcement agencies, we have worked to protect Indian children exposed to violence and abuse; we have investigated and prosecuted wrongdoers, both Indians and non-Indians, who commit crimes on tribal lands; we have promoted dialogue, innovative leadership, and a spirit of cooperation between federal government and tribal nations; and we have made significant progress in realizing the promises of equal justice and equal opportunity for all American Indians and Alaska Natives. These are some of the Justice Department’s most critical initiatives, and they are among my top priorities as Attorney General. I look forward to working together with tribal governments in the pursuit of the brighter future that every community deserves.”

-Attorney General Loretta E. Lynch

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### *Cover Photographs*

Clockwise starting from the Top of Front Cover:

1. Veterans Memorial, Confederated Salish and Kootenai Tribes of the Flathead Nation
2. Tamaya Resort and Spa, Pueblo of Santa Ana, New Mexico
3. Attorney General Loretta Lynch discusses public safety concerns in Alaskan Native communities during a round table discussion with Alaska Native youth, Anchorage, Alaska.

Second Cover:

1. Attorney General Loretta Lynch addresses Department of Justice representatives, Washington, D.C.

## Executive Summary

The Department of Justice is pleased to present this report to Congress on Indian country<sup>1</sup> investigations and prosecutions during calendar year (CY) 2015, as required by Section 212 of the Tribal Law and Order Act (TLOA), which was signed into law by the President on July 29, 2010. In 2009, then-Attorney General Eric H. Holder, Jr., launched a Department-wide initiative to improve public safety for American Indians and Alaska Natives, to undertake reforms to institutionalize the Federal commitment to public safety for tribal nations, and to bolster the capacity of tribal justice systems to protect their communities and pursue justice.

Domestic violence continues to impact Indian country at an alarming rate. The Department of Justice has made domestic violence in tribal communities a top priority for the Department. In 2013, Congress and this Administration took a historic step forward with the passage of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), which the President signed into law on March 7, 2013. VAWA 2013 improves the ability of Federal and tribal authorities to respond to domestic violence offenders and protect victims in three crucial ways. First, it strengthens the statutory language and penalty provisions in the Federal assault statute for crimes of domestic violence, such as strangulation and stalking. Second, VAWA 2013 recognizes the tribes' inherent authority to exercise "special domestic violence criminal jurisdiction" over those who commit acts of domestic violence or dating violence, or who violate certain protection orders in Indian country, regardless of their Indian or non-Indian status. Finally, VAWA 2013 contributes to tribal self-determination by recognizing that tribes have full civil jurisdiction to issue and enforce protection orders involving any person in matters arising in Indian country or elsewhere within a tribe's authority. These provisions, which help hold perpetrators accountable, were first proposed and championed by the Department of Justice. The Department continued to advance the objectives of VAWA 2013 throughout CY 2015.

One of the most important components of the Department's efforts in Indian country is the Tribal Liaison program. This program was established by the Executive Office for U.S. Attorneys (EOUSA) in 1995 and was codified as part of TLOA in 2010. It 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 operate as the spearhead for the Department in traversing the exceptionally challenging cultural and legal issues in Indian country. They foster and facilitate relationships between Federal and tribal partners that are vital in reducing violence in tribal communities. As part of their duties, Tribal Liaisons develop multi-disciplinary teams to combat domestic and sexual abuse, conduct community outreach in tribal communities, and coordinate the prosecution of Federal crimes that occur in Indian country.

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<sup>1</sup> "Indian country" is the legal term used to describe reservations and other lands set aside for Indian use, such as Indian allotments, and lands held in trust for Indians or Indian tribes. 18 U.S.C. § 1151.

The Department's enhanced Tribal Special Assistant United States Attorney (SAUSA) program remains a contributing tool to improved collaboration with tribes. Tribal SAUSAs are cross-deputized tribal prosecutors, who often work with Tribal Liaisons in their districts. They help coordinate case referrals between the United States Attorney's Office (USAO) and the tribal court systems to facilitate efficient prosecutions that result in just outcomes. Tribal SAUSAs are able to prosecute crimes in either tribal court or Federal court, as appropriate. Tribal SAUSAs enhance collaboration between the USAO and tribal law enforcement and strengthen tribal efforts in reducing crime. The work of Tribal SAUSAs also helps to accelerate a tribal criminal justice system's implementation of TLOA and VAWA 2013.

In 2015, the Department of Justice through the USAOs implemented many reentry initiatives throughout Indian country in an effort to reduce recidivism and enhance public safety in tribal communities. These initiatives work to ensure that formerly incarcerated individuals are given the necessary life skills, support, and services to successfully reintegrate into their native communities.

Section 212 of TLOA requires the Attorney General to submit an annual report to Congress detailing investigative efforts by the Federal Bureau of Investigation (FBI) and dispositions of matters received by 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 many parts of Indian country, tribal law enforcement and tribal courts hold lawbreakers 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 grant dollars.

To satisfy the TLOA Section 212 reporting requirements for CY 2015, 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 to improve public safety in Indian country in future years.

Despite the data limitations, certain basic facts are clear:

- **FBI's CY 2015 statistics show an eight-percent reduction in total closed investigations compared to FBI's CY 2014 statistics.**
- **Approximately 65% of Indian country criminal investigations opened by the FBI were referred for prosecution.**
- **The majority of Indian country criminal matters resolved<sup>2</sup> by the USAOs in CY 2015 were prosecuted (charges filed in either Magistrate or District Court).**
- **Of the 688 cases the FBI Indian country investigations closed administratively without referral for prosecution, the primary reason for closing (approximately 27%) was insufficient evidence to determine that a crime had occurred.** In addition, analysis of CY 2015 data indicates that 16% 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 (13%) was that the deaths under investigations were determined to be the result of natural causes, accident, or suicide (*i.e.*, non-homicides).
- **Seventy-five percent (118 out of 147) of the death investigations that were closed administratively by the FBI in CY 2015 were closed due to causes other than homicide, i.e., accidents, suicide, or death due to natural causes.**
- **In CY 2015, the USAOs resolved 2,655 Indian country matters, which is an eight-percent decrease from CY 2014's Indian country matters resolved (2,866).**
- **The USAO declination rate remained relatively steady.** USAO data shows that, in CY 2015, 39% (1,043) of all (2,655) Indian country matters resolved were declined. USAOs declined cases at similar rates in prior years: approximately 34% (989) of all Indian country matters resolved (2,866) in CY 2014; approximately 34% (853) of all Indian country matters resolved (2,514) in CY 2013; approximately 31% (965) of all Indian country matters resolved (3,097) in CY 2012; and approximately 38% (1042) of all Indian country matters resolved (2,767) in CY 2011.
- **The most common reason for declination by USAOs was insufficient evidence (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 (13.8% in CY 2015, 16.3% in CY 2014, 20.8% in CY 2013, and 24% in CY 2012).

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<sup>2</sup> "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.

The 2009 Senate report accompanying TLOA acknowledged that “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 an effective 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 and a better quality of life for Native Americans. Improved public safety, enhanced reentry opportunities for inmates returning to their tribal communities, and robust tribal courts are far better measures of success. The Department has made great strides in these areas and remains committed to seeing that justice is done throughout Indian country.

#### **I. Tribal Law and Order Act of 2010 Background**

The Tribal Law and Order Act of 2010 was signed into law by President Barack Obama on July 29, 2010. In part, TLOA is intended to establish accountability measures for Federal agencies responsible for investigating and prosecuting violent 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. Most importantly, the FBI is responsible for *investigating* allegations of Federal crimes in Indian country, while the USAOs are responsible for *prosecuting* such crimes. 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. As a result, direct comparisons of FBI and EOUSA numbers are 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, rape, aggravated assault, and child sexual abuse, when they are 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 minor 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 local tribe.

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 application, 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 criminal responsibilities under Sections 1152 and 1153 have been ceded to the states pursuant to Public Law (P.L.) 280 or other Federal laws.<sup>3</sup>

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.<sup>4</sup> In addition to the FBI, the Department of the Interior's Bureau of Indian Affairs (BIA) plays a significant role in enforcing Federal law, including the investigation and presentation for prosecution 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) made between DOI and DOJ in 1993.<sup>5</sup> This MOU also provided that each United States Attorney "whose criminal jurisdiction includes Indian country shall develop

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<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> [http://www.justice.gov/usao/eousa/foia\\_reading\\_room/usam/title9/crm00676.htm](http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/crm00676.htm).



local written guidelines outlining responsibilities of the BIA, the FBI, and the Tribal Criminal Investigators, if applicable.” In short, numerous Federal and tribal law enforcement agencies are necessary for the efficient administration of criminal justice in Indian country. 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, which vary across jurisdictions.

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 counts only crimes reported to law enforcement for those agencies that volunteer to submit. Furthermore, the UCR does not collect the specific information on declinations and administrative closing required by Section 212 of TLOA. It should also be noted that matters and cases from P.L. 280 jurisdictions do not generally appear in Federal Indian country crime statistics because Federal authority to prosecute most cases in those jurisdictions has been transferred to the state. In addition, this report does not cover cases referred to the BIA or other law enforcement agencies if they were not subsequently referred to a USAO for prosecution. 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 one piece 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 single system exists that would permit collection and analysis of aggregate Indian country crime and prosecution data across sovereigns. Even if such a system existed, unreported crime would remain outstanding and uncounted.

### **III. Federal Bureau of Investigation TLOA Report**

#### *FBI Indian Country Investigations*

The FBI has investigative responsibility for Federal crimes committed on approximately 200 Indian reservations. This responsibility is shared concurrently with BIA and other Federal agencies with a law enforcement mission in Indian country.<sup>6</sup> 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 offenses). Currently, there are approximately 127 Special Agents dedicated full-time and 41 FBI Victim Specialists working in support of Indian country investigative matters in more than 20 FBI Field Offices. As of January

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<sup>6</sup> Other Federal law enforcement agencies with a criminal justice mission in Indian country include the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the National Park Service; and the Bureau of Land Management, to name a few.

2016, there were approximately 3,000 open FBI Indian country investigations. Table 1 lists FBI Divisions with Indian country responsibilities.<sup>7</sup>

**Table 1: FBI Divisions with Indian Country Responsibility**

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
Detroit	DE	MI
Denver	DN	WY, CO
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
Oklahoma City	OC	OK
Omaha	OM	NE, IA
Portland	PD	OR
Phoenix	PX	AZ
San Antonio	SA	TX
Sacramento	SC	CA
Seattle	SE	WA
San Diego	SD	CA
San Francisco	SF	CA
Salt Lake City	SU	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 all relevant laws, policies, and regulations, including those designed to protect civil liberties and privacy. Under the DIOG, FBI investigations regarding allegations of Federal

<sup>7</sup> Not all FBI Divisions listed had CY 2015 Indian country investigations to report under TLOA. Also, some states contain multiple Divisions, and some Divisions overlap multiple states.

law violation in Indian country include both “assessments” and “predicated investigations.”<sup>8</sup> Therefore, whenever the FBI engages in any substantive investigative activity (e.g., interviewing a complainant or potential victim of a vague or non-specific allegation), it is considered an “investigation” for the purposes of TLOA reporting.

#### *FBI Indian Country Assessments*

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

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

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 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 investigations 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 accurate and complete reporting under TLOA. Additionally, ongoing FBI investigations do not preclude tribal law enforcement from continuing an investigation and making a referral to 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.

### **A. FBI TLOA Investigation Data Collection**

This section will provide a description of the data used to generate the tables provided in this report. Most importantly, these figures represent only a fraction of the cases investigated

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<sup>8</sup> FBI Domestic Investigations and Operations Guide (DIOG), 2013 version.



annually by the FBI in Indian country. Approximately two-thirds of all Indian country investigations opened by the FBI are referred for prosecution. As required by TLOA, this report contains detailed information only on the roughly one-third of investigations administratively closed or not referred for prosecution.

### *Measurement of FBI TLOA Requirements*

- 1. Types of crimes alleged** generally follow a hierarchy rule, where the case is classified by the most serious offense, and are determined at case initiation. To protect information regarding sensitive investigations, totals for Financial Crime, Public Corruption, and Civil Rights investigations were combined. Both felony and misdemeanor (if a misdemeanor allegation is made against a non-Indian subject) domestic violence investigations are included under the “Assault” category.<sup>9</sup> “Property Crime” includes burglary, larceny, theft, arson, and motor vehicle theft. “Death Investigations” include homicide and vehicular homicide investigations, along with other investigations of suspicious or unattended deaths. The “Other” category includes offenses such as weapon possession by felons, robbery, counterfeit or trafficking of cultural items, and any other investigations that do not fit into the other nine categories.
- 2. The status of the victim and subject** as American Indian or non-American Indian is typically recorded in each case file during the course of the investigation and is generally based on self-reported information provided to the FBI or records obtained from tribal authorities.<sup>10</sup> Tribal enrollment or Native American status is verified as an investigation progresses. No victim or subject status is available to report in the following circumstances: the victim or subject was a business; the case was opened with an unknown/unidentified subject; victim and/or subject information was not documented in the case file; there was no identified victim (*e.g.*, drug investigations, public corruption matters); or various other reasons, including duplicate case openings or other administrative errors. For the purposes of this report, “U” indicates the victim or subject status was unknown at the time the investigation was closed.
- 3. Reasons for non-referral to prosecuting authorities** were developed after narratives for all non-referred FBI Indian country cases were reviewed. Ten categories were created based on patterns observed after examining all individual case circumstances. A list of non-referral categories is provided in Table 2.

### *Data Collection and Verification Process*

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<sup>9</sup> 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).

<sup>10</sup> The FBI does not have direct access to tribal enrollment information.

Because the FBI’s case management system does not automatically collect TLOA-mandated data, a manual review of every closed file was conducted. Since January 2011, FBI Headquarters has been responsible for verifying all Division TLOA data submissions and collating the information on a quarterly basis.

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

<b>Non-Referral Category</b>
<b>Death was not a homicide</b>
<b>Does not meet USAO guidelines or statutory definitions</b>
<b>No remaining leads<sup>11</sup></b>
<b>Victim is unable to identify subject</b>
<b>Unsupported allegation</b>
<b>Victim or witness is unable or unwilling to assist</b>
<b>Interagency cooperation<sup>12</sup></b>
<b>Cannot be addressed with current resources<sup>13</sup></b>
<b>Duplicate or case reopened</b>
<b>Subject died</b>

*Data Limitations*

The data presented in this report are subject to a number of limitations. FBI computer systems were designed for case management purposes, not to serve as statistical databases. The following limitations should be considered when reviewing the data presented below:

- The FBI is only able to track allegations reported to the FBI. Allegations investigated by BIA or tribal law enforcement are not fully represented in the FBI’s data.
- Calculating crime rates using this data is inappropriate due to the wide variation between divisions regarding local guidelines and agreements and the presence of other agencies (e.g., BIA), which may dramatically impact the number of FBI investigations opened. The number of investigations reported by each division depends on the number of cases referred, the number of Indian reservations each division responds to, and the types of investigations the FBI is responsible for in each area.<sup>14</sup>

<sup>11</sup> The FBI exhausted all logical investigation, and was unable to present enough facts for a prosecutive opinion.

<sup>12</sup> The FBI may open an investigation solely for the purpose of assisting another agency that is primarily responsible (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.

<sup>13</sup> Primarily due to the prioritization of violent crimes against persons.

<sup>14</sup> The FBI has a Memorandum of Understanding (MOU) with the Bureau of Indian Affairs (BIA) and local agreements based on available resources with other agencies. For example, in some areas but not others, the FBI may work only child sexual abuse cases for victims under age twelve, while the BIA would be responsible for all other sexual abuse and sexual assault investigations, including adult rape.

- Non-referral is not necessarily a permanent status. It is possible that a case closed and not referred may be reopened and referred for prosecution if new information is received.
- Each FBI division collects TLOA data, which is then submitted to FBI Headquarters for validation. Due to this manual process, a small amount of error may be present in the data.

## B. FBI TLOA Reporting Information

The FBI closed 1,900 Indian country investigations during CY 2015. Each closed investigation was reviewed manually for purposes of this report. Approximately one in three were closed administratively, and thus not referred for prosecution; the other two-thirds were referred to Federal, state, or tribal prosecutors.<sup>15</sup> Table 3 shows by FBI division the total number of closed investigations (*i.e.*, those that were referred for prosecution and those that were administratively closed) in CY 2015. Table 3 also lists the number of investigations administratively closed and thus not referred for prosecution (668 for CY 2015). 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 71% of all FBI Indian country investigation closures during CY 2015.

**Table 3: Number of Indian Country Criminal Investigations Closed, by FBI Division, CY 2015**

Division	Division Name	# Administratively Closed/Not Referred for Prosecution	Total Closed Investigations (Referred and Not Referred)
AL	Albany	0	2
AQ	Albuquerque	54	135
AN	Anchorage	0	2
BO	Boston	0	2
CE	Charlotte	3	6
DN	Denver	75	131
DE	Detroit	4	66
JN	Jackson	2	22
KC	Kansas City	0	1
LV	Las Vegas	3	13
LA	Los Angeles	0	2
ME	Memphis	0	1
MW	Milwaukee	0	31
MP	Minneapolis	130	434
MO	Mobile	0	1
NH	New Haven	0	1
NO	New Orleans	0	4

<sup>15</sup> The omitted category in Table 3, referral for prosecution, can be derived by subtracting administrative closures from total investigation closures. It should be noted that referral for prosecution has two outcomes: a prosecutor may decline a case, or a case may be presented in federal, state, or tribal court.



<b>OC</b>	<b>Oklahoma City</b>	5	49
<b>OM</b>	<b>Omaha</b>	7	35
<b>PX</b>	<b>Phoenix</b>	310	540
<b>PD</b>	<b>Portland</b>	5	44
<b>SC</b>	<b>Sacramento</b>	1	3
<b>SU</b>	<b>Salt Lake City</b>	48	236
<b>SA</b>	<b>San Antonio</b>	0	1
<b>SD</b>	<b>San Diego</b>	0	4
<b>SE</b>	<b>Seattle</b>	21	134
<b>Total</b>		<b>668</b>	<b>1900</b>

Table 4 lists types of Indian country crimes alleged for all administrative closures by FBI Divisions for CY 2015. Approximately 84% of closed Indian country investigations were violent crime related, which is consistent with the proportion found in all currently pending FBI Indian country investigations.

**Table 4: Types of Indian Country Criminal Investigations Administratively Closed, by FBI Division, CY 2015**

Division	Assault	AFO/KFO <sup>16</sup>	Child Physical Abuse	Child Sexual Abuse	Death Investigation	Drug Crime	Financial Crimes/Public Corruption/Civil Rights	Property Crime	Sexual Assault	Other	Total
AQ	12			23	15			2	2		54
CE				1	1				1		3
DN	30	3	3	18	6		5		5	5	75
DE				2		1			1		4
JN				2							2
LV	1						1	1			3
MP	14	1	3	36	44	19	4	1	5	3	130
OC	1				1			1	2		5
OM	1	1	1	1	2				1		7
PX	92	1	16	109	27	17	10	7	18	13	310
PD	2		1	1	1						5
SC								1			1
SU	7	1	4	4	20	3		4	3		48
SE	3	1			1	5	1	1	1	1	21
<b>Total</b>	<b>163</b>	<b>8</b>	<b>28</b>	<b>206</b>	<b>118</b>	<b>45</b>	<b>21</b>	<b>18</b>	<b>39</b>	<b>22</b>	<b>668</b>

Table 5 lists the status of victims and subjects in FBI Indian country investigations administratively closed during CY 2015. These numbers represent a count of all victims and subjects, not a count of investigations. Some investigations may have multiple victims and 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 or public corruption investigations) will not contribute to the totals represented below. Overall,

<sup>16</sup>Assault of Federal Officer/Killing of a Federal Officer.

the majority of victims and subjects in cases administratively closed by the FBI were Native American.

**Table 5: Status of Victim and Subject in Indian Country Investigations Administratively Closed by FBI Division, CY 2015**

Division	American Indian Victim	Non-American Indian Victim	American Indian Subject	Non-American Indian Subject	Business Victim/Subject	Unknown Victim/Subject <sup>17</sup>	Total
AQ	51	1	26	2	2	14	96
CE	3		2	1			6
DN	88	4	63	5	2	17	179
DE	1	2	4			1	8
JN	2		2				4
LV	3		2			1	6
MP	101		52	2	1	22	178
OC	3	1	2	1		2	9
OM	8		3	2			13
PX	259	4	191	10	6	68	538
PD	6		4				10
SC			1		1		2
SU	49	2	30	1	1	8	91
SE	14	1	18	2	1	4	40
<b>Total</b>	<b>588</b>	<b>15</b>	<b>400</b>	<b>26</b>	<b>14</b>	<b>137</b>	<b>1180</b>

Table 6 addresses the reasons for non-referral of CY 2015 investigations for prosecution. Of the 668 cases not referred, 89 or 13% were death investigations where it was determined the victim died due to natural causes, an accident, or suicide. Another 16% were determined to be unsupported allegations, meaning no evidence of criminal activity was uncovered during the investigation. In 2% of investigations, the subject died prior to referral for prosecution.

<sup>17</sup> 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: Reasons Indian Country Investigations Were Administratively Closed, by FBI Division, CY 2015**

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	3	12	4		11	8	14		1	1	54
CE					2		1				3
DN	24	6	4	1	15	19	1	2		3	75
DE	1									3	4
JN					1		1				2
LV	1					2					3
MP	5	32	5	1	36	7	17		24	3	130
OC		1	1			1	1			1	5
OM	1	2			4						7
PX	126	16	49	1	19	62	27		5	5	310
PD	1	1			3						5
SC			1								1
SU	11	19	4	2	5	4	3				48
SE	3		2		10	2	2		2		21
<b>Total</b>	<b>176</b>	<b>89</b>	<b>70</b>	<b>5</b>	<b>106</b>	<b>105</b>	<b>67</b>	<b>2</b>	<b>32</b>	<b>16</b>	<b>668</b>

Table 7 provides additional information on a selection of violent crime investigations for CY 2015 administratively closed by four Indian country FBI divisions with the largest Indian country caseload.<sup>18</sup> The victim/subject status is provided for each investigation. Information is omitted from this table if Indian or non-Indian status were not 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.

<sup>18</sup> Due to low frequencies, only investigations from four Divisions (responsible for approximately 71% 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 or other federal law enforcement agencies.



**Table 7: Violent Crimes Administratively Closed, Victim and Subject Status by FBI Division, CY 2015**

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	9	1		8		
MP	10	1		17		
PX	58			79	2	
SU	3			6		
<b>Total</b>	<b>80</b>	<b>2</b>	<b>0</b>	<b>110</b>	<b>2</b>	<b>0</b>

Death Investigation <sup>19</sup>				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	2					
MP	2			4		
PX	2			12		1
SU				3		
<b>Total</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>19</b>	<b>0</b>	<b>1</b>

**IV. Executive Office for United States Attorneys TLOA Report**

Public safety in Indian country is a major focus of the Department, and the Department recognizes its trust responsibility to the Federally recognized tribes across the United States. Specifically, the Department strives to uphold and enhance public safety in tribal communities, and continually works to improve efforts in this area. Indian country prosecutions, particularly violent crime prosecutions, are a specific district priority for the 50 Federal judicial districts with Indian country responsibility. On January 11, 2010, then-Deputy Attorney General David Ogden issued a memorandum to all United States Attorneys declaring that “public safety in tribal communities is a top priority for the Department of Justice.”

<sup>19</sup> 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.

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 U.S. 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. A district operational plan has been implemented in every USAO with Indian country responsibility. The subject matter of each district's plan will depend on the legal status of the tribes in that district as well as the unique characteristics and challenges confronting those tribal nations. Each operational plan includes 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 majority of United States Attorneys with Indian country responsibility serve on the Attorney General's Advisory Committee's Native American Issues Subcommittee (NAIS). The NAIS is the oldest subcommittee of the Attorney General's Advisory Committee and is vital to the Department's mission in Indian country to build and sustain safe and secure communities for future generations. The NAIS focuses exclusively on Indian country issues, both criminal and civil, and is responsible for making policy recommendations to the Attorney General regarding enhancing public safety and addressing legal issues that impact 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 vital to the USAOs' efforts in Indian country. The Tribal Liaison program was first 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 and train Federal and tribal law enforcement agents investigating violent crime and sexual abuse cases in Indian country.

Tribal Liaisons frequently serve in a role similar to a local district attorney in a non-Indian country jurisdiction; and are accessible to the community in ways not generally required of other Assistant United States Attorneys (AUSAs). The job duties of Tribal Liaisons are often dictated by the unique nature and circumstances of the tribes in their district. They serve as the primary point of contact between the USAO and the Indian tribes located in the district. Tribal Liaisons typically have personal relationships and frequent contact with tribal governments, including tribal law enforcement officers, tribal leaders, tribal courts, tribal prosecutors, and social service agency staff.

VAWA 2013 authorizes tribes to exercise special domestic violence criminal jurisdiction (SDVCJ) over non-Indian perpetrators of crimes of domestic violence. 25 U.S.C. § 1304(a)(6). The statute recognizes tribal criminal jurisdiction over non-Indians only in crimes related to domestic and dating violence, or criminal violations of certain protection orders. VAWA 2013 took effect on March 7, 2015, and specifies the rights that a participating tribe must provide 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 1 year and a \$5,000 fine for a conviction of a single offense that falls within SDVCJ. TLOA also amended the Indian Civil Rights Act to provide that tribes may not "impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of 9 years." If tribes comply with TLOA's prerequisites, they gain enhanced sentencing authority and can impose a sentence of no more than 3 years of imprisonment and a \$15,000 fine for any single offense.

Throughout 2015, Tribal Liaisons demonstrated leadership on behalf of the USAOs to support effective implementation of both TLOA and VAWA 2103 by addressing the need for skilled, committed prosecutors working on the ground in Indian country. In particular, Tribal Liaisons established multi-disciplinary teams consisting of Federal, tribal, and state partners to combat domestic and sexual violence; 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. Also, Tribal Liaisons worked to coordinate and collaborate among tribal, Federal, and state law enforcement agencies and prosecutors to jointly discuss the merits of the prosecution of an offense committed within Indian country and to determine the appropriate venue for the matter to be prosecuted. These relationships enhanced information sharing and assisted the coordination of criminal prosecutions, whether Federal, state, or tribal.

Tribal Liaisons also helped with the implementation of VAWA 2013 tribal jurisdictional expansions by providing critical support, through legal training and prosecutorial partnerships, to tribes<sup>20</sup> that were exercising SDVCJ. Tribal Liaisons also provided assistance to tribes that expressed interest in expanding their capacity to prosecute cases under the SDVCJ framework.

Although Tribal Liaisons are the most experienced 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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<sup>20</sup> The tribes exercising SDVCJ in CY 2015 were Pascua Yaqui Tribe of Arizona; Confederated Tribes of the Umatilla Indian Reservation; Tulalip Tribes of Washington; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Little Traverse Bay Bands of Odawa Indians, Michigan; The Seminole Nation of Oklahoma; and Eastern Band of Cherokee Indians,



**Table 8: U.S. Attorneys’ Offices with Indian Country Responsibility**

**U.S. Attorneys’ Offices with Indian Country Responsibility**

<b>District Name</b>	<b>District Abbreviation</b>	<b>District Name</b>	<b>District Abbreviation</b>
Middle District of Alabama	ALM	District of Nebraska	NE
Southern District of Alabama	ALS	District of Nevada	NV
District of Alaska	AK	District of New Mexico	NM
District of Arizona	AZ	Eastern District of New York	NYE
Central District of California	CAC	Northern District of New York	NYN
Eastern District of California	CAE	Western District of New York	NYW
Northern District of California	CAN	Western District of North Carolina	NCW
Southern District of California	CAS	District of North Dakota	ND
District of Colorado	CO	Eastern District of Oklahoma	OKE
District of Connecticut	CT	Northern District of Oklahoma	OKN
Middle District of Florida	FLM	Western District of Oklahoma	OKW
Southern District of Florida	FLS	District of Oregon	OR
District of Idaho	ID	District of Rhode Island	RI
Northern District of Indiana	INN	District of South Carolina	SC
Northern District of Iowa	IAN	District of South Dakota	SD
District of Kansas	KS	Western District of Tennessee	TNW
Western District of Louisiana	LAW	Eastern District of Texas	TXE
District of Maine	ME	Western District of Texas	TXW
District of Massachusetts	MA	District of Utah	UT
Eastern District of Michigan	MIE	Eastern District of Virginia	VAE
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

Collaboration and coordination between Federal and tribal partners is paramount to enhancing public safety in Indian country. One initiative that has been helpful in cultivating these relationships and lanes of communication is the Tribal SAUSA Program. The goal of the program is twofold: (1) to train tribal prosecutors in Federal law, procedure, and investigative techniques; and (2) to increase the likelihood that every viable criminal offense, especially those involving violence against women, is prosecuted in Federal court, tribal court, or both. Tribal SAUSAs are tribal prosecutors who are cross-deputized and who may prosecute crimes in both tribal court and Federal court as appropriate. Tribal SAUSAs can also help to accelerate implementation of TLOA and VAWA 2013 by fostering improved communication and cultural

awareness, in addition to supporting the efforts of the Tribal Liaisons by helping to identify the appropriate forum for criminal prosecutions.

USAO Indian country reentry efforts have gained significant momentum in 2015. Many USAOs have coordinated with leadership from Federal, state, and tribal law enforcement agencies to create effective and culturally sensitive reentry programs aimed at reintegrating returning citizens into tribal communities. A leading example of these efforts is the Standing Rock Reservation Reentry Program that covers both North and South Dakota, which was established in July of 2015.

The Standing Rock Reservation Reentry Program focuses on reestablishing tribal culture and spirituality into the lives of those returning to the reservation. The hope is to reconnect the community and inmates returning to the tribal community. The United States Attorneys for both North and South Dakota have tasked their Tribal Liaisons to enlist tribal spiritual leaders to participate in this process. Tribal mentors working with the Multidisciplinary Reentry Team have successfully made the transition from defendant or inmate to contributing citizen and credit reconnection with their cultural self as a significant reason why they made that conversion. By providing successful examples of individuals who have successfully reintegrated into their communities, the Reentry Program encourages returning citizens to avoid the common pitfalls that result in so many individuals having their supervised release revoked.

In addition, Tribal Liaisons have compiled resource lists, including housing and employment options, for those returning inmates taking part in this program. This program also aspires to provide wrap-around services to participating individuals, due to the involvement of so many state and Federal agencies in both South and North Dakota. Supporting agencies include the South Dakota U.S. Attorney's Office, North Dakota U.S. Attorney's Office, Standing Rock Sioux Tribe, Bureau of Indian Affairs Office of Justice Services Standing Rock Agency, South Dakota Department of Corrections, North Dakota Department of Corrections and Rehabilitation, South Dakota Unified Judicial System, North Dakota U.S. Probation and Pretrial Services, South Dakota U.S. Probation and Pretrial Services, South Dakota Department of Tribal Relations, North Dakota Indian Affairs Commission, and South Dakota Federal District Court.

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

**Referrals:** A referral is the mechanism by which the law enforcement agency seeks involvement or advice of the 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 the 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 likely 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.

Examples of immediate declinations:<sup>21</sup>

***Sexual Assault Referral***

*A 17-year-old Indian male slapped the buttocks of a 15-year-old female while at school, injuring the victim. The incident happened in Indian country. The case is immediately declined because the Indian male is a juvenile, the injury was minimal, and the tribal system has adequate resources to deal with the case in the most effective manner.*

***Assault Referral***

*Casino security presents a case in which a fight between two individuals broke out on an Indian casino premises, but outside of the casino itself. One person is seriously injured. The case is opened, but upon review it is determined that neither party is an Indian. The case was declined for lack of jurisdiction.*

A “later declination” occurs when the 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:<sup>22</sup>

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<sup>21</sup> These examples represent actual matters.

### ***Sexual Assault Referral***

*Victim reported she had been drinking at the home of an uncle and passed out on the couch. She reported waking up and finding her pants and underwear pulled down below her knees. She reported no knowledge of a sexual assault but that she hurt “down there.” The victim consented to a sexual assault exam and swabs of the victim were collected. All suspects also provided buccal swabs. The forensic evidence was sent to the FBI lab. No semen was found present on the victim’s swabs. No other swabs revealed DNA that matched the victim with the suspects. 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 United States Attorneys’ Manual (USAM) provides guidance as to proper considerations for charging or declining a case. USAM 9-27.200 provides:

If the attorney for the government has 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 initiate or recommend pretrial diversion or other non-criminal disposition; or (5) decline prosecution without taking other action.

Further, USAM 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, in his/her judgment, prosecution should be declined because: (1) no substantial Federal interest would be served by prosecution; (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:** Communication between the Department of Justice and the tribes is extremely important, especially regarding law enforcement concerns and case coordination. The Department is committed to continuing to improve these communications.

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<sup>22</sup> 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 regularly communicated to tribal law enforcement through the Tribal Liaison. 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.”<sup>23</sup> However, this statute also provides that reports and information learned during a criminal investigation may be shared with the tribe.<sup>24</sup> 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 address how declination decisions will be communicated to tribal prosecutors, tribal law enforcement, or both, and how case evidence will be shared.

The decision to charge or decline a case is made carefully. Indictments, complaints, and declination decisions are driven by the evidence, applicable law, ethical considerations, and the circumstances of each case. Federal prosecutors take seriously their obligation to pursue justice in Indian country and work diligently to improve the lives of all who live in Indian country. See Figure 1 below.

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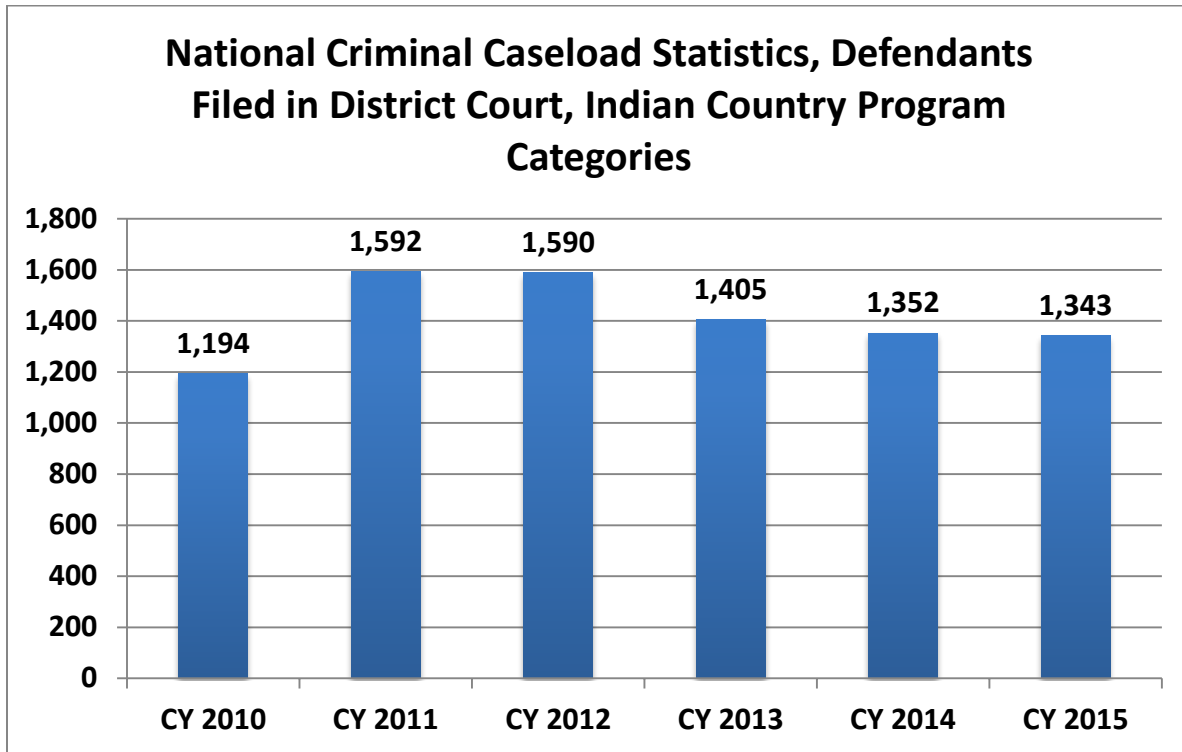
<sup>23</sup> See 25 U.S.C. § 2809(c)(1).

<sup>24</sup> See 25 U.S.C. § 2809(a)(1).



**Figure 1: Defendants Filed in All Indian Country, CY 2010-CY 2015**

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” (known as 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 Code 092 (Violent Crime in Indian Country) and Program Category Code 065 (Nonviolent Indian Offenses).<sup>25</sup>

Total criminal cases filed against defendants in Indian country were slightly less in CY 2015 than for the previous year. Federal prosecutors filed cases against 149 more defendants in 2015 than in 2010, when the Tribal Law and Order Act was enacted.

<sup>25</sup> The Indian Country Investigations and Prosecutions (ICIP) Reports for the years 2011 to 2014 contained computation errors in two data sets. The statistics provided in Figure 1 (“Defendants Filed in District Court”) and Table 13 (“Matters Resolved”) in previous years were incorrect. In order to qualify as an Indian country matter for purposes of these reports, data is collected in the USAO case management database with Program Category Code 092 (Violent Crime in Indian country) or Code 065 (Non-Violent Crime in Indian country). In rare instances, an individual matter in Indian country is categorized as both 092 and 065. Due to this anomaly, matters coded as both 092 and 065 were erroneously counted twice. This error was eliminated in the preparation of this report. Figure 1 has also been corrected to reflect data obtained by Calendar Year, as opposed to Fiscal Year, which is consistent with the other graphs and tables provided throughout the ICIP Report.

In 2015, 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 2015, Federal prosecutors filed cases against 122 defendants (an increase of 70% from CY 2014 (72 defendants)) under VAWA 2013's enhanced Federal assault statutes. They obtained more than 111 convictions (an increase of 46% from CY 2014). Also in CY 2015, prosecutors filed cases against 28 defendants in Indian country cases using the domestic assault by a habitual offender statute, 18 U.S.C. § 117, and obtained more than 20 convictions.

A key provision of VAWA 2013 recognizes tribes' inherent power to exercise 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, 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.

On March 7, 2015, SDVCJ took effect nationwide and permitted qualifying tribes to choose implementation. The Department, along with the Department of Interior's Bureau of Indian Affairs, has worked to help ensure that tribes seeking to exercise SDVCJ have the capacity to do so. VAWA 2013 authorized a Pilot Project whereby designated tribes could commence exercising SDVCJ on an accelerated basis before 2015, so long as the tribe had adequate safeguards to protect defendants' rights. The first three "Pilot" tribes—the Pascua Yaqui Tribe of Arizona, the Confederated Tribes of the Umatilla Indian Reservation, and the Tulalip Tribes of Washington—have successfully prosecuted cases using the newly created SDVCJ that would otherwise have been prosecuted only in the Federal system. The Department continues to assist tribes with implementation.

According to the Department's Office on Violence Against Women (OVW) and the National Congress of American Indians (NCAI), the Pascua Yaqui Tribe of Arizona, Tulalip Tribes of Washington, Confederated Tribes of the Umatilla Indian Reservation, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Little Traverse Bay Bands of Odawa Indians, The Seminole Nation of Oklahoma, and the Eastern Band of Cherokee Indians have all successfully implemented SDVCJ during the Pilot period which ended on March 7, 2015. Beyond the Pilot period, throughout 2015, tribes continued to work towards implementing SDVCJ. The Department and the Bureau of Indian Affairs worked with approximately 45 tribes to ensure that the necessary legal safeguards will be in place at the time of implementation.

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

***Aggravated Sexual Abuse***

*A child between the age of 12 and 16 was forcibly sexually assaulted by the boyfriend of the child's mother. The case was jointly investigated by the FBI and the BIA. During the investigation, several other victims were identified who had been assaulted by the defendant in a similar fashion as the victim. Due to the statute of limitations, the defendant was not charged with the additional assaults. Two of the prior victims testified at trial as propensity witnesses under Rule 414 of the Federal Rules of Evidence. The defendant was convicted at trial of aggravated sexual abuse by force and was sentenced to serve over 11 years of imprisonment.*

***Strangulation***

*Following an argument, the defendant strangled his intimate partner by placing his knee over her throat and his hand over her mouth, causing her to lose consciousness. The defendant fled the scene with the victim's two very young children. The victim suffered a severe stroke as a result of the strangulation which required her to undergo emergency surgery to relieve the bleeding and swelling in her brain. The case was investigated through coordinated efforts between Federal and tribal law enforcement agencies. The case was brought pursuant to the Tribal Special Assistant U.S. Attorney (Tribal SAUSA) Pilot Project in the District of New Mexico, which is funded by a grant from the Justice Department's Office on Violence Against Women. The defendant was convicted of assault by strangulation and attempted murder and was sentenced to 51 months in prison.*

***Assault Resulting in Serious Bodily Injury***

*After consuming a large amount of alcohol during a power outage, the defendant struck his dating partner with a hammer in the lower back as she lay in bed. The defendant continued to assault the victim for over 30 minutes in the bedroom of the residence. Eventually, the victim was able to escape through a window and flee to a neighboring residence. The victim suffered extensive nerve damage to her back that required months of physical therapy. The case was jointly investigated by the FBI and tribal law enforcement. As a result of a guilty plea, the defendant was sentenced to 48 months of imprisonment.*

**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 demonstrate 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 dollars, 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 staffing needs. Although data can never fully represent the time, effort, and skill required to prosecute and defend cases, it provides an objective means to measure caseloads and workflows.

#### *The Legal Information Office Network System*

The USAOs' portion of this report has been prepared using data from EOUSA's Legal Information Office Network System (LIONS), a case management system. LIONS is one method used by EOUSA and USAOs to track data related to the work of the 94 USAOs in developing resource allocation and litigation priorities. The LIONS system 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. Given that all USAOs use LIONS, it was determined that LIONS data would be used to gather the information required by TLOA to be reported to Congress.

"Matters" are referrals from law enforcement that have been opened in LIONS, but where no charges have been filed. Most cases begin as "matters" in LIONS, 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 LIONS is an important step at which critical choices must be made about how the matter will be characterized and recorded.

"Declinations," as discussed above, are matters in which the USAO decides not to pursue a criminal prosecution after referral from a law enforcement agency. All immediate and later declinations must be entered into LIONS. An immediate declination occurs when an investigative agency presents a referral to the USAO that does not warrant Federal prosecution based on the facts and circumstances presented. In such an instance, no further investigation is authorized, no matter is opened, and the referral is declined immediately. A later declination occurs when a matter has been opened in LIONS and the USAO later decides to close the matter without filing charges. This typically follows some investigation or further consultation with the AUSA assigned to the matter.

Data on Indian country is identified in LIONS through its "Program Category" designation. Program Category codes are critical to identifying and characterizing the types of matters handled by the USAOs.<sup>26</sup> As noted earlier, two Program Categories are particularly relevant to

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<sup>26</sup> There are nearly 100 Program Categories listed in LIONS; 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. LIONS 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.

Indian country cases.<sup>27</sup> EOUSA had 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 LIONS Data*

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

At the point of case data entry into LIONS, the identification of a Program Category is determined 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 may be associated with a case, but only one is required. Therefore, TLOA data selected in LIONS may exclude a small number of cases that indeed occurred in Indian country, but were not designated as either Program Category 065 or 092.

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

LIONS data represent a snapshot in time. Thus, all declinations, matters, and cases reported in a given calendar year are not necessarily crimes that occurred in that year or law enforcement referrals made to a USAO in that year. For example, a USAO may show two sexual assault declinations in CY 2015, yet not have had any sexual assaults referred for prosecution in CY 2015. Rather, these two declinations may represent referrals received in previous years where the investigation was completed in CY 2015 and where the prosecutor concluded that there was insufficient evidence to prosecute the cases. This is further complicated by referrals with multiple suspects. For example, if a murder referred for prosecution was declined and had four suspects, four declinations would show in LIONS. Accordingly, no conclusions can be drawn from this report that, for example, five declinations equal five different criminal

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More than one Program Category may be selected when entering cases into LIONS, but only one category designation is required.

<sup>27</sup> “Violent Crime in Indian Country” (Program Category 092) is used to flag 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 fraud and nonviolent drug offenses.

offenses. Eight declinations for murder in CY 2015 can in fact be two murders that occurred in CY 2013, with one of the murders having seven suspects.<sup>28</sup>

The uniformity of LIONS 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 LIONS-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 the LIONS system 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 cross-checking 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 6 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.<sup>29</sup> Table 9 summarizes how the 33 declination codes were consolidated and merged to fall under six newly created declination codes based on legal commonality.

**Table 9: LIONS Declination Merged Categories<sup>30</sup>**

<b>New Category Name</b>	<b>Description</b>
LIONS List Subcategory	
<b>Legally Barred</b>	<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>
<b>JUVP</b>	Jurisdiction or Venue Problems
<b>NFOE</b>	No Federal Offense Evident
<b>NKSU</b>	No Known Suspect
<b>OEOE</b>	Opened in Error/Office Error
<b>STAL</b>	Staleness
<b>STLM</b>	Statute of Limitations

<sup>28</sup> Additionally, the October 1 to December 31, 2015, data appearing in this report is contingent and is subject to change before the close of Fiscal Year 2016 on September 30, 2016.



<b>New Category Name</b>	<b>Description</b>
LIONS List Subcategory	
<b>Insufficient Evidence</b>	<i>Cases where the United States declines a case because of an inability to prove the case in court beyond a reasonable doubt.</i>
<b>LECI</b>	Lack of Evidence of Criminal Intent
<b>WKEV</b>	Weak or Insufficient Admissible Evidence
<b>WTPR</b>	Witness Problems
<b>Defendant Unavailable</b>	<i>Cases where the defendant is physically unavailable or where the prosecutor exercises prosecutorial discretion based on defendant's circumstances.</i>
<b>AHPR</b>	Offender's Age, Health, Prior Record, or Personal Matter
<b>SUDC</b>	Suspect Deceased
<b>SUDP</b>	Suspect Deported
<b>SUFU</b>	Subject a Fugitive
<b>Matter Referred to Another Jurisdiction</b>	<i>Cases where the defendant is not prosecuted by the Federal Government but is subject to the authority of another jurisdiction.</i>
<b>JUVN</b>	Juvenile Suspect
<b>PEPO</b>	Petite Policy <sup>31</sup>
<b>RECU</b>	Recusal
<b>SPOA</b>	Suspect to be Prosecuted by Other Authorities
<b>SRSC</b>	Suspect Referred for Prosecution Decision in State/Local/Military Court
<b>SRTC</b>	Suspect Referred for Prosecution Decision in Tribal Court
<b>SPOC</b>	Suspect Being Prosecuted on Other Charges
<b>Alternative to Federal Prosecution Appropriate</b>	<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>
<b>CADA</b>	Civil, Administrative, or Other Disciplinary Alternative
<b>PTDR</b>	Pretrial Diversion Completed
<b>REST</b>	Restitution/Arrearage Payments Made or Being Made
<b>SUCO</b>	Suspect Cooperation
<b>Prioritization of Federal Resources</b>	<i>Cases where the case is declined because of existing DOJ or USAO policy.</i>

<sup>31</sup> 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). USAM 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.

New Category Name	Description
LIONS List Subcategory	
<b>and Interests</b>	
<b>AGRE</b>	Agency Request
<b>DEPO</b>	Department Policy
<b>GWDA</b>	Declined per Instructions from DOJ
<b>LKIR</b>	Lack of Investigative Resources
<b>LKPR</b>	Lack of Prosecutorial Resources
<b>LOAG</b>	Local Agency Referral Presented by Federal Agency
<b>MFIN</b>	Minimal Federal Interest or No Deterrent Value
<b>OFPO</b>	Office Policy (Fails to Meet Prosecutorial Guidelines)
<b>SSSE</b>	Suspect Serving Sentence

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**B. EOUSA LIONS Information**

Based on the methodology outlined above, aggregate declination data for calendar year 2015– by reason – is displayed by Federal judicial district in Table 10.<sup>32</sup>

**Table 10: Number of Suspects in Indian Country Declinations by USAOs, by Reason, CY 2015**

	Legally Barred	Insufficient Evidence	Defendant Unavailable	Referred to Diff Jurisdiction	Alt to Federal Prosecution	Prioritization of Fed Interests	Other (EXTR, DETH, AWCP)	Total
AK	0	2	0	0	0	0	0	2
AZ	6	174	4	29	4	7	0	224
CAE	0	2	0	0	0	0	0	2
CO	0	10	0	0	1	0	0	11
FLM	0	2	0	0	0	0	0	2
IAN	0	0	0	1	0	0	0	1
ID	1	16	0	5	3	0	1	26
INS	0	1	0	0	0	0	0	1
KS	0	0	0	0	1	0	0	1
MIE	1	43	0	13	2	5	0	64

<sup>32</sup> 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.

MIW	0	30	2	5	3	1	0	41
MN	0	6	0	0	0	0	0	6
MSN	0	3	0	0	0	0	0	3
MSS	2	35	0	9	2	0	0	48
MT	2	71	0	7	8	8	0	96
NCW	0	4	0	4	0	0	0	8
ND	17	38	3	12	1	5	0	76
NE	0	3	0	6	0	0	0	9
NM	5	77	2	10	7	4	0	105
NV	2	7	0	1	0	0	0	10
NYE	0	1	0	0	0	1	0	2
NYN	0	20	1	0	0	0	0	21
NYW	1	0	0	0	0	0	0	1
OKE	1	13	0	3	1	6	0	24
OKN	1	1	0	3	0	0	0	5
OKW	0	7	0	1	1	5	0	14
OR	0	12	0	1	1	1	0	15
RI	0	0	0	1	0	0	0	1
SD	6	99	0	11	3	1	0	120
TXW	0	0	0	2	0	0	0	2

UT	0	5	0	0	1	0	0	6
VAE	0	2	0	0	0	0	0	2
WAE	0	15	0	4	4	0	1	24
WAW	1	13	0	8	0	0	0	22
WIE	1	11	1	2	0	1	0	16
WY	0	25	0	6	0	0	1	32
<b>TOTAL</b>	<b>47</b>	<b>748</b>	<b>13</b>	<b>144</b>	<b>43</b>	<b>45</b>	<b>3</b>	<b>1,043</b>

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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 2015, the USAO for the District of North Dakota reported that it had 76 declinations in total, compared to 51 in 2014. Some of the criminal matters that originated in 2014 were not declined until 2015. Hence, the total declination number for 2015 was higher than for 2014.

*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 staff 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 prosecutor, with input from investigative law enforcement agencies. Therefore, a case opened in LIONS with a subsequent referral to the tribe for prosecution will appear in LIONS as a declination because the case is being prosecuted by the tribe at the tribe’s request, in lieu of Federal prosecution.

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.”<sup>33</sup>

Where Federal prosecutors have declined prosecution in favor of the tribal court process, the cases are coded in the USAO LIONS as declinations—referred to a different jurisdiction.

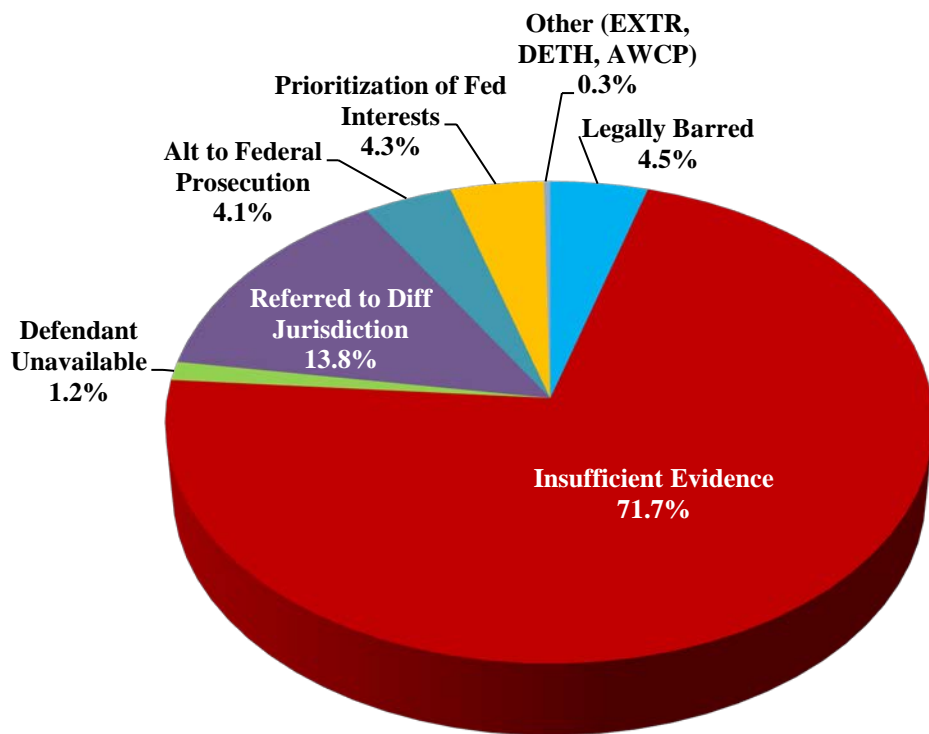
As noted above, the passage of TLOA with its provision of enhanced sentencing authority for qualifying tribal courts means that more cases will be referred to tribal court for prosecution. These referrals are typically done at the request or with the consent of the tribe’s law enforcement authorities. While deemed a declination in LIONS, referral of a criminal matter for prosecution in tribal court is, in fact, a realization of successful tribal self-governance.

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<sup>33</sup> <http://www.justice.gov/dag/dag-memo-indian-country.html>.

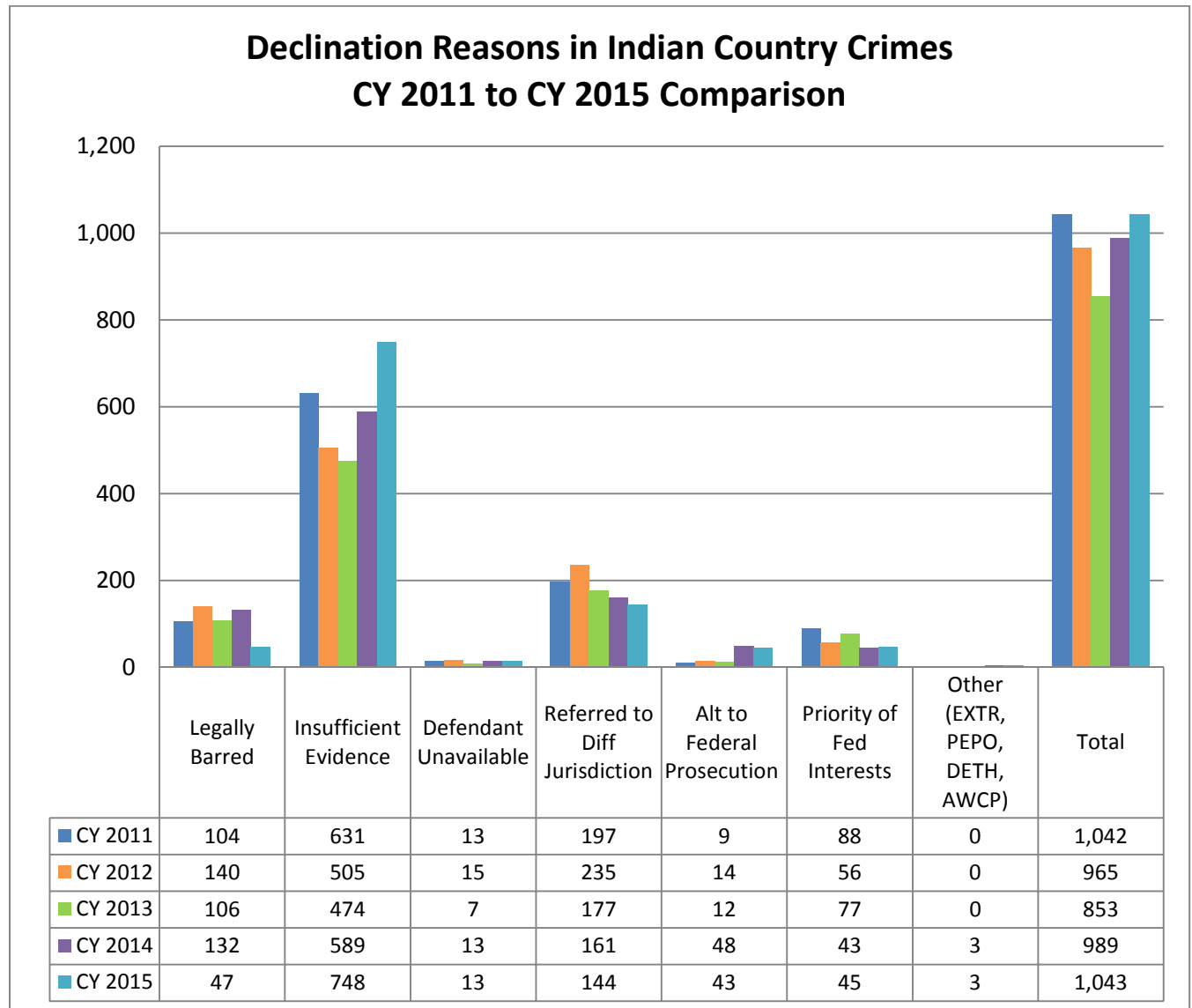


**Figure 2: Declination Reasons for Indian Country Crimes, CY 2015**



As demonstrated in Figure 2, the majority of all declined cases for CY 2015 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 2011 through 2015 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 has no choice but to decline these matters. If additional evidence is developed at a later time, however, the matter may be reopened and successfully prosecuted.

Figure 3: Declination Reasons in Indian Country Crimes: CY 2011 to CY 2015 Comparison



### *Methodology for Generating Type of Crime Data*

USAOs enter matters within a LIONS Program Category by the lead charge code or type of crime. The LIONS 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 2015 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.<sup>34</sup>

### *Aggregate Declination Data by Type of Crime*

Table 11 reports aggregate declinations by type of crime and Federal judicial district.

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<sup>34</sup> A complete list of all lead criminal charges used in CY 2015, as assigned to one of the six categories created for purposes of this report, can be found at Appendix B.

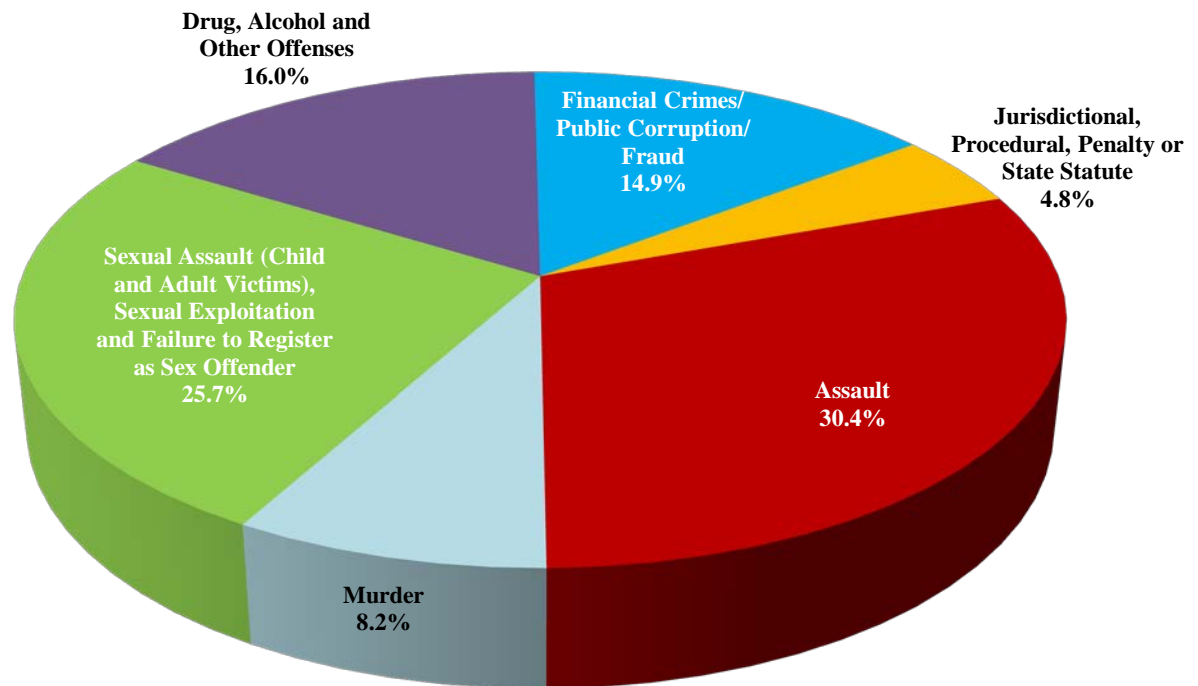
**Table 11: Indian Country Defendants Declined, by USAO, by Type of Crime, CY 2015<sup>35</sup>**

Indian Country Defendants Declined by Type of Crime							
January 1 - December 31, 2015							
	Assault	Murder	Sexual Assault (Child and Adult Victims), Sexual Exploitation and Failure to Register as Sex Offender	Drug, Alcohol and Other Offenses	Financial Crimes/ Public Corruption/ Fraud	Jurisdictional, Procedural, Penalty or State Statute	Total
AK	0	0	0	1	1	0	2
AZ	48	44	58	54	9	11	224
CAE	0	0	0	0	2	0	2
CO	10	0	1	0	0	0	11
FLM	0	0	0	0	0	2	2
IAN	0	0	1	0	0	0	1
ID	13	2	6	2	3	0	26
INS	0	0	0	1	0	0	1
KS	1	0	0	0	0	0	1
MIE	27	3	9	7	16	2	64
MIW	16	0	15	3	7	0	41
MN	2	0	3	1	0	0	6
MSN	0	0	0	3	0	0	3
MSS	9	0	18	10	9	2	48
MT	18	5	28	7	30	8	96
NCW	2	1	2	2	1	0	8
ND	17	5	33	5	12	4	76
NE	7	0	2	0	0	0	9
NM	42	12	19	17	11	4	105
NV	3	1	4	2	0	0	10
NYE	2	0	0	0	0	0	2

<sup>35</sup> This table excludes USAOs that did not report any declinations for CY 2015.

NYN	0	0	0	20	1	0	21
NYW	0	0	0	0	1	0	1
OKE	7	1	5	1	10	0	24
OKN	0	1	0	2	2	0	5
OKW	0	1	1	3	7	2	14
OR	7	0	2	5	0	1	15
RI	1	0	0	0	0	0	1
SD	36	7	32	11	22	12	120
TXW	0	0	0	2	0	0	2
UT	3	1	2	0	0	0	6
VAE	0	0	0	2	0	0	2
WAE	11	1	8	3	1	0	24
WAW	10	0	6	0	5	1	22
WIE	10	0	4	0	2	0	16
WY	15	1	9	3	3	1	32
<b>TOTAL</b>	<b>317</b>	<b>86</b>	<b>268</b>	<b>167</b>	<b>155</b>	<b>50</b>	<b>1,043</b>

**Figure 4: Indian Country Declinations, by Investigative Charge, CY 2015**



In 2015, the majority of declinations involve physical assaults or sexual assaults, sexual exploitation, or failure to register as a sex offender. These statistics are consistent with statistics from previous years.

Sexual assault cases are notoriously difficult to prosecute in part because of the paucity of proof—i.e., the lack of credible evidence and cooperating victims and witnesses—regardless of whether the cases arise in Indian country. The challenges associated with the prosecution of physical assaults and sexual assaults are not unique to the Federal system. Sexual assault crimes usually only have two witnesses to the crime—the victim and the defendant. Also, sexual assaults, including child molestation crimes, frequently lack corroborating physical evidence due to delayed reporting of the offense. As rape deals with a total loss of control over one’s body, many adult and adolescent victims of sexual assault feel ashamed and humiliated and may blame themselves for the crime, which may make them reluctant to report the offense or testify in court. The assailant is, more often than not, a person known to the victim and may be someone the victim loved or trusted. A victim may fear retribution or being ostracized by friends and family if the sexual assault is reported to law enforcement, as is often the case with incestual sexual assault. If the victim was using drugs or alcohol prior to the assault, the victim’s recollection of the assault may be vague, allowing the assailant to argue that the victim consented to sexual intercourse. Also, the victim may fear being evicted from tribal housing because drug or alcohol use may be in violation of the tribal housing rules. Delayed reporting



or insufficient first responder resources in tribal communities may further contribute to prosecutors’ challenges to meeting the requisite burden of proving the case beyond a reasonable doubt and complying with the Principles of Federal Prosecution.

Although none of these difficulties in prosecuting sexual assault and child molestation cases is unique to Indian country, structural barriers in Indian country may compound the challenges. Victims and witnesses may be reluctant to travel long distances outside of their community to the Federal courthouse to testify. In addition, Federal investigators and prosecutors may encounter difficulties developing the rapport and trust needed to encourage a victim to see a case through, because they are often not co-located in the community in the same way a local law enforcement officer is. Cooperation among Federal and tribal law enforcement and victim advocates is key to fostering the necessary relationships and trust with a victim of sexual abuse to successfully prosecute a sexual assault perpetrator in Indian country.

In June 2016, Attorney General Loretta Lynch issued a directive to United States Attorneys with Indian country responsibilities to develop and implement, in collaboration with Federal, state, and tribal law enforcement partners, Federal sexual violence guidelines for their respective districts. This directive was developed in response to recommendations for strengthening and improving the federal response to sexual abuse in tribal communities from the Office for Victims of Crime’s National Coordination Committee on the American Indian and Alaskan Native Sexual Assault Nurse Examiner — Sexual Assault Response Team Initiative.

**Table 12: Indian Country Defendants Declined by Type of Crime and Declination Reason, CY 2015**

	Legally Barred	Insufficient Evidence	Defendant Unavailable	Referred to Different Jurisdiction	Alt. to Federal Prosecution	Prioritization of Fed. Resources and Interests	Other (EXTR, DETH, AWCP)	Total
Assault	11	229	3	54	14	6	0	<b>317</b>
Murder	7	74	1	1	0	2	1	<b>86</b>
Sexual Assault (Child and Adult victims)	14	206	5	31	4	6	2	<b>268</b>
Drug, Alcohol, and Other Offenses	3	122	2	28	4	8	0	<b>167</b>
Financial Crimes/Public Corruption/Fraud	10	85	2	19	19	20	0	<b>155</b>
Jurisdictional, Penalty, or State Statute	2	32	0	11	2	3	0	<b>50</b>
<b>Total</b>	<b>47</b>	<b>748</b>	<b>13</b>	<b>144</b>	<b>43</b>	<b>45</b>	<b>3</b>	<b>1,043</b>

Declinations alone do not provide an accurate accounting of the USAOs’ commitment in 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 of Indian country suspects in immediate declinations, suspects in matters terminated (which includes all later declinations), and defendants filed.<sup>36</sup>

For example, Table 13 shows that in the District of South Dakota there were 375 Indian country matters resolved in CY 2015. This number includes the 120 declinations previously reported in Tables 10 and 11. It also includes an additional 255 Indian country cases that the District of South Dakota resolved in CY 2015 by means other than a Federal declination.

Similarly, for all districts combined, 2,655 Indian country matters were resolved in CY 2015. This number includes the 1043 declinations reported in Tables 10 and 11. It also includes 1,612 matters in Indian country that were resolved in CY 2015 by means other than a Federal declination. In 2014, the USAOs resolved 2,886 matters. In other words, in 2015 the USAOs resolved 231 fewer matters than in 2014.

**Table 13: Total Indian Country Matters Resolved by USAO, CY 2015<sup>37</sup>**

District	CY 2015 Indian Country Matters Resolved	CY 2015 Indian Country Declinations	CY 2015 Indian Country Matters Resolved Other than by Federal Declination
ALASKA	16	2	14
ALABAMA MIDDLE	1	0	1
ARIZONA	848	224	624
CALIFORNIA EASTERN	3	2	1
CALIFORNIA SOUTHERN	1	0	1
COLORADO	21	11	10
FLORIDA MIDDLE	2	2	0
FLORIDA SOUTHERN	2	0	2
IOWA NORTHERN	1	1	0
IDAHO	54	26	28
INDIANA SOUTHERN	1	1	0
KANSAS	1	1	0
KENTUCKY EASTERN	1	0	1
MICHIGAN EASTERN	84	64	20
MICHIGAN WESTERN	66	41	25

<sup>36</sup> Please note that LIONS is not self-correcting and that a USAO can, in error, report an Indian country declination.

<sup>37</sup> In prior ICIP Reports, some districts that resolved Indian country matters were omitted from this table due to a computation error. Also, in 2014’s ICIP Report, Table 13 contained a column that was labeled “Matters Resolved Other Than by Federal Declination,” but the statistics that appeared below the heading included all matters resolved, thereby incorporating declinations. These errors were corrected for this report and the report provides three properly labeled columns.

MINNESOTA	64	6	58
MISSOURI WESTERN	1	0	1
MISSISSIPPI NORTHERN	7	3	4
MISSISSIPPI SOUTHERN	63	48	15
MONTANA	196	96	100
NORTH CAROLINA WESTERN	20	8	12
NORTH DAKOTA	130	76	54
NEBRASKA	42	9	33
NEW MEXICO	216	105	111
NEVADA	21	10	11
NEW YORK EASTERN	2	2	0
NEW YORK NORTHERN	63	21	42
NEW YORK WESTERN	1	1	0
OHIO SOUTHERN	1	0	1
OKLAHOMA EASTERN	36	24	12
OKLAHOMA NORTHERN	31	5	26
OKLAHOMA WESTERN	50	14	36
OREGON	49	15	34
RHODE ISLAND	1	1	0
SOUTH DAKOTA	375	120	255
TENNESSEE WESTERN	1	0	1
TEXAS WESTERN	2	2	0
UTAH	16	6	10
VIRGINIA EASTERN	2	2	0
WASHINGTON EASTERN	32	24	8
WASHINGTON WESTERN	38	22	16
WISCONSIN EASTERN	30	16	14
WYOMING	63	32	31
ALL DISTRICTS	2,655 <sup>38</sup>	1,043	1,612

#### *Defendant and Victim Indian/non-Indian Status*

TLOA requires that USAOs record the Indian/non-Indian status of the defendant(s) and victim(s). Historically, this information was not a required field in LIONS. 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 LIONS.<sup>39</sup>

<sup>38</sup> “Matters Resolved” is the sum of “Declinations” plus “Matters Resolved Other than by Declination.”

<sup>39</sup> 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

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 LIONS. To capture this information, USAOs must use the “long form” in LIONS. 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 LIONS 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 spite of this new reporting requirement, it became evident in preparing this report that the Indian/non-Indian defendant or victim status information included in LIONS declination data was incomplete or in some cases inaccurate. Given the number of cases, it was not practical to review all relevant files to conduct a complete hand count of the information. Accordingly, the Department has not included the Indian or non-Indian status of defendant(s) and victim(s) in the USAO data in the CY 2015 Indian country declination report. The Department continues to implement a new case management system, known as CaseView, that will include this data in the future once all districts transition from LIONS.<sup>40</sup>

### **C. Examples of Successful Indian Country Prosecutions**

The data shows that Indian country prosecutors secure thousands of convictions every year. Below are additional examples of convictions that provided a significant impact to the affected communities.

#### *U.S. v. Avery Gomeyosh* -- Eastern District of Wisconsin

While at a party, the victim went to sleep in the basement on a couch with her boyfriend. Gomeyosh, who had been sleeping in a chair near the victim, awoke and assaulted the victim as she slept. The victim awoke and called for help as the defendant fled the scene. During subsequent investigation of the incident, Gomeyosh admitted that he sexually assaulted the victim as she slept. As a result of a guilty plea to aggravated sexual abuse of an adult female who was at the time incapable of appraising the nature of the conduct and physically incapable of declining participation in that sexual act, Gomeyosh was sentenced to 65 months of imprisonment, followed by a 10-year term of supervised release. The investigation was jointly conducted by the Menominee Tribal Police Department and the FBI.

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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 LIONS to avoid duplicate data entry and to ensure that all statutorily required notifications were made to victims.

<sup>40</sup> EOUSA has sent out a guidance memorandum and hosted a Webinar training on using CaseView and inputting the defendant / victim status information.

*U.S. v. Christopher Preston* -- District of Arizona

The victim, who was 10 years old at the time, was sexually abused by the defendant, a member of the Tohono O'odham Nation in Arizona, in the summer of 1998. At the time of the assault, the defendant was the victim's Little League coach. The investigation was conducted by the Tohono O'odham Police Department and the FBI. After a trial, the defendant was found guilty of two counts of aggravated sexual abuse of a child and was sentenced to 162 months in prison, to be followed by a lifetime term of supervised release.

*U.S. v. Bruce Sanchez* – District of New Mexico

Bruce Sanchez, a former Governor of Santa Ana Pueblo, was convicted on charges arising out of a scheme to embezzle approximately \$3,575,000.00 from the Indian Pueblo Federal Development Corporation (IPFDC), an Indian tribal organization formed by the 19 Pueblos of New Mexico for the purpose of developing land that once had been the site of the Albuquerque Indian School. Sanchez and co-defendant, were indicted and charged with a conspiracy offense and ten substantive embezzlement offenses arising out of the scheme to steal funds belonging to the IPFDC. The 15-count indictment also charged Sanchez with three tax evasion counts alleging an aggregate Federal tax loss of \$655,276.00, and a misdemeanor count of willful failure to file a tax return. Bruce Sanchez, 61, was ordered to serve 51 months in Federal prison to be followed by three years of supervised release. He also was ordered to pay, jointly with his co-defendant, restitution in the amount of \$3,575,000.00 to the IPFDC. The court also ordered Sanchez to pay the IRS \$655,276.00, the Federal taxes owed on the money he embezzled from the IPFDC and failed to report to the IRS, as a special condition of his supervised release. The case was investigated by the IRS Criminal Investigation and the Department of the Interior's OIG.

*U.S. v. Roman Perales* – District of Nebraska

Roman Perales fired a handgun at a house and car on the Winnebago Indian Reservation. The homeowner and his family were inside the residence at the time of the shooting, and one bullet entered the home near where the family was sitting. Perales was sentenced to 41 months' imprisonment following his conviction for assault with intent to commit damage to real or personal property.

*U.S. v. Willard John* – District of Arizona

Willard John, a member of the White Mountain Apache Tribe, brutally stabbed his wife to death on March 19, 2012, on the Fort Apache Indian Reservation, using a pair of household scissors. The investigation was handled by the Federal Bureau of Investigation, with substantial assistance from the Bureau of Indian Affairs. The evidence at trial showed that John had a lengthy history of abusing his wife. John was found guilty by a jury of second degree murder and was sentenced to life imprisonment.

## V. Department of Justice Commitment to Indian Country

As previously noted, in January 2010, the Deputy Attorney General issued a memorandum declaring public safety in tribal communities a top priority for the Department of Justice and outlining the responsibilities of the United States Attorneys' offices to Federally recognized tribes in their districts.<sup>41</sup> This same memorandum, entitled the *Indian Country Law Enforcement Initiative*, also stated that "addressing violence against women and children in Indian country is a Department of Justice priority." Unfortunately, high incidences of violence against women and children, including sexual assault and domestic violence, are reported on many reservations. Vigorous investigation and prosecution of these crimes is essential to the safety of women and children in Indian country and remains a priority of the Department of Justice.

In an effort to bolster public safety and the fair administration of justice in tribal communities, the Department continues to work with Federal, tribal, and state partners to maintain clear lines of communication and collaboration to establish initiatives and enhance investigative practices to combat crime. Successful multi-jurisdictional investigations and prosecutions depend upon these collaborative working relationships. In partnership with tribes, the Department's goal is to find and implement solutions addressing immediate and long-term public safety challenges in Indian country. The Department has worked to strengthen

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*"In this work and in all of the Obama Administration's efforts in Indian Country, we have been proud to work together with sovereign tribal nations to expand opportunity, to promote equal justice and to replace a shameful historical pattern of mistrust, disregard and termination with a strong commitment to partnership, collaboration and respect."*

—Loretta Lynch, U.S. Attorney  
General

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relationships with Federally recognized tribes; improve the coordination of information, statistics, training, and research and development; enhance tribal capacity; and promote Federal law enforcement and prosecution efforts.

Although we have made progress on our efforts to improve public safety in Indian country, we know that there is more work to be done. Working with our Federal, state, local, and tribal partners, the Department will remain steadfast in its commitment to Indian country.

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<sup>41</sup> The Deputy Attorney General's memorandum to USAOs concerning the Indian Country Law Enforcement Initiative can be found online at <http://www.justice.gov/dag/dag-memo-indian-country.html>.

## **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 LIONS. Significant papers include indictments and informations filed in district court. U.S. Magistrate Court and U.S. Appeals Court filings are not included in these counts.

Defendants in Cases Filed – a count of the defendant or 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 suspect(s) associated with each Matter Received.

Defendants in Matters Terminated – a count of the suspect(s) whose matter(s) was/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 LIONS 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 U.S. 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 U.S. Magistrate Court.

Suspect – refers to those individuals identified as potential wrongdoers in an open matter.

**VII. Appendix B: Lead Charges Entered into LIONS on Indian Country Declinations in CY 2015**

<b>Assault</b>	
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 112a	Assault, strike, wound, imprison, offer violence to foreign official
18 USC 113a1	Assault with intent to commit murder
18 USC 113a2	Assault with intent to commit any felony, except murder
18 USC 113a3	Assault with dangerous weapon intent to bodily harm without just cause
18 USC 113a4	Assault by striking, beating, or wounding
18 USC 113a5	Assault within maritime and territorial jurisdiction - Simple Assault
18 USC 113a6	Assault resulting in serious bodily injury
18 USC 113a7	Assault resulting in substantial bodily injury to an individual
18 USC 113a8	Assault of a spouse/partner by strangling/suffocating or attempting
18 USC 114	Maiming in maritime and territorial jurisdictions
18 USC 117	Domestic assault by an habitual offender
18 USC 2261A	Stalking
18 USC 2261a2	Interstate domestic violence: Causing the crossing of a state line
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

<b>Murder</b>	
18 USC 1111	Murder
18 USC 1112	Manslaughter
20T:00504	Negligent homicide by means of motor vehicle

<b>Sexual Assault (Child and Adult Victims), Sexual Exploitation and Failure to Register as Sex Offender</b>	
18 USC 1169	Indians - Reporting of child abuse
18 USC 1462	Importation of transportation of obscene matters
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 2244	Abusive sexual contact
18 USC 2250	Fail to register as sex offender after traveling interstate commerce
18 USC 2250a	Failure to register - In general
18 USC 2251	Sexual exploitation of children
18 USC 2251a	Sexual exploitation of children for purpose producing visual depiction
18 USC 2252	Material involving sexual exploitation of minors
18 USC 2252a2	Receive, distribute visual depiction involving sexual exploit of minor
18 USC 2422a	Interstate/Foreign Travel for Prostitution/Sexual Activity by Coercion
18 USC 2423	Transportation of minors for sexual activity
18 USC 2252A	Activity relating material constituting/containing child pornography
12.1S:12.1-20-07(1)a	Sexual Assault - Person knows contact is offensive to the other person
22D:04801	Rape

### Drug, Alcohol, and Other Offenses

18 USC 81	Arson in special maritime and territorial jurisdiction
18 USC 242	Deprivation of rights under color of law
18 USC 245b2c	Interferes with applying/enjoying employment because of race/religion
18 USC 601	Deprivation employment/other benefit for pol contr
18 USC 875	Interstate Communications
18 USC 875c	Transmit interstate/foreign commerce communication threat to kidnap
18 USC 876	Mailing threatening communications
18 USC 922a1A	Unlawfully engaging in the business of firearms
18 USC 922g1	Unlawful shipment, transfer, receipt, or possession by a felon
18 USC 922g4	Unlawful possession by a person with mental restrictions
18 USC 922k	Unlawful receipt/possession of firearm with obliterated serial number
18 USC 924a1A	False Firearm Records
18 USC 924c1Aii	Brandishing a firearm during commission of a Federal crime of violence
18 USC 924o	Conspiracy to commit a violation of 924(c)
18 USC 1154	Intoxicants dispensed in Indian country
18 USC 1170	Illegal trafficking Native American human remains
18 USC 1201	Kidnapping
18 USC 1503	Influencing or injuring officer or juror generally
18 USC 1512a1A	Kill/attempt kill to prevent attendance/testimony official proceeding
18 USC 1513b2	Person causes/threatens bodily injury/property damage in retaliation
18 USC 1958	Interstate commerce facilities - murder for hire
18 USC 1961	RICO - definitions
18 USC 2111	Robbery/burglary - Special jurisdiction
18 USC 3665	Firearms possessed by convicted felons

21 USC 841	Drug Abuse Prevention & Control-Prohibited acts A
21 USC 841a1	Manufacture, distribute, dispense, possess a controlled substance
21 USC 841b1Biii	5 grams or more of a mixture/substance which contains cocaine base
21 USC 844a	Knowing/intentionally possess mixture and substance containing cocaine
21 USC 846	Attempt and conspiracy
22 USC 2778	Control of arms exports and imports
22D:00301	Arson
36R:2.31a3	Vandalism - destroy/injure/deface/damage property or real property
36R:327.3d	Reckless endangerment
42 :1320d-6a2	Obtain individual identifiable health information relate to individual

### Financial Crimes/Public Corruption/Fraud

18 USC 201	Bribery of public officials and witnesses
18 USC 224	Bribery in sporting contests
18 USC 286	Conspiracy to defraud the Government claims
18 USC 287	False, fictitious or fraudulent claims
18 USC 371	Conspiracy to commit offense or to defraud US
18 USC 641	Public money, property or records
18 USC 661	Embezzlement/theft in special jurisdictions
18 USC 662	Receiving stolen property in special jurisdictions
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 1001a3	Make or use any false writing/document knowing contain false statement
18 USC 1028	Fraud and related activity - id documents
18 USC 1028f	Attempt and conspiracy to commit fraud
18 USC 1031	Making fraud against the United States
18 USC 1035	False claims relating to health care matters
18 USC 1038	False Information and Hoaxes
18 USC 1163	Embezzlement and theft from Indian Tribal organization
18 USC 1167	Theft from gaming establishments on Indian lands
18 USC 1167a	Takes/carry away intent to steal money/property value \$1,000 or less
18 USC 1167b	Takes/carry away intent to steal money/property value excess \$1,000
18 USC 1168	Insider Theft of gaming establishments Indian land
18 USC 1343	Fraud by wire, radio, or television
18 USC 1344	Bank Fraud
18 USC 1028Ac5	Aggravated identity theft/mail, bank and wire fraud
14T:00834	Obtaining money by false pretense
15 USC 1281	Destruction of property
36R:1002.31a3	Vandalism
41 :8702(2)	Solicit, accept, or attempt to accept a kickback

IS:145.05(2)

Damages property of another person in an amount exceeding \$250.00

**Jurisdictional, Procedural, Penalty, or State Statute**

06 :6-3-301a	Person guilty burglary occupy structure intent commit larceny/felony
12.1S:12.1-22-02	Burglary
12S:12.1-31-01	Disorderly conduct
13AS:13A-10-52	Fleeing or attempting to elude law enforcement officer
13S:13-3623	Child or vulnerable adult abuse
13S:13-402A	Commit indecent exposure expose genital/anus/areola person is present
14T:00506	Aggravated child abuse and neglect
18 USC 3	Accessory after the fact
18 USC 7	Special Maritime/Territorial Jurisdiction of US
18 USC 13	Laws of States Adopted in Federal jurisdiction
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 1153	Offenses committed within Indian country
18 USC 1165	Hunting, trapping, or fishing on Indian
18 USC 3146	Penalty for failure to appear
18S:18-1401	Burglary
18S:2232.1	Burglary First Degree
18S:2610.1	Abuse of or cruelty to minor as felony - Defense to charge
21 USC 844	Penalty for simple possession
30S:30-6-1D1	Knowingly permit child placed situation endanger child life/health
45S: 6-204	Burglary
45S:5-212(1)	Offender (18 yr/older) commit offense of assault on minor under 14 yr
66S:66-7-201	Accidents Involving Death or Personal Injuries
750S:750.136b3	Child Abuse - 2nd Degree
750S:750.136b5	Child Abuse - 3rd Degree