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District of Idaho**

Indian Country Community Safety Strategy

The federal government's relationship with the tribes of what became the State of Idaho began in the fall of 1805 with Lewis and Clark's Corps of Discovery and the Shoshone and Nez Perce tribes. As is well known, these two tribes played crucial roles in the Corps' success, with Shoshone guiding, interpreting and facilitating peaceful interaction with other tribes. When the early snows of high country came, the Nez Perce provided crucial food, canoes and directions.

Over the next two hundred years, the relationships between the states and the tribes have ebbed and flowed from state to state and tribe to tribe. Likewise, the relationship between the federal government and the tribes have navigated a minefield of federal laws addressing tribes' status, resources and ability to police their own lands. One aspect of the relationship, however, has remained constant. The federal government has treaty and trust obligations to ensure public safety for Native Americans. The United States Attorney's Office for the District of Idaho seeks, through this strategy, to fulfill those public safety obligations in Indian Country in Idaho.

Idaho became the 43rd state in 1890, by which time many of the tribes in the territory had already signed treaties with the federal government. Idaho's enabling legislation and state constitution disclaimed state court criminal jurisdiction for cases arising in Indian Country. Passed in 1953, Public Law 280 (PL 280) gave jurisdiction over criminal offenses involving Indians in Indian Country to certain states and allowed other states to assume jurisdiction. Subsequent legislation allowed states to retrocede jurisdiction, which has occurred in some areas. In 1973, the State of Idaho assumed Public Law 280 jurisdiction for seven subject areas: compulsory school attendance; juvenile delinquency and youth rehabilitation; dependent, neglected, and abused children; insanity and mental illness; public assistance; domestic relations; and the operation and management of motor vehicles upon highways and roads maintained by the county or state. The state did not, however, assume Public Law 280 jurisdiction for general crimes. Thus, under 18 U.S.C. §§ 1152, 1153 and generally applicable federal criminal statutes, the United States Attorney's Office for the District of Idaho has jurisdiction over major crimes committed in Indian Country in Idaho.

The District of Idaho is vast, generally sparsely populated and rural. It encompasses the entire state, a total of 83,574 square miles, making it the 14th largest state geographically. With just 19 people per square mile, Idaho is the 46th least densely populated state. According to the 2010 Census, the population for Idaho is 1,587,582, of which approximately 1.6 percent is Native American.

Overview of Federally Recognized Tribes in Idaho

Five federally recognized tribes are located in Idaho: the Shoshone-Bannock, the Shoshone-Paiute, the Coeur d'Alene, the Kootenai, and the Nez Perce. The vast majority of the Native American population resides on four of five reservations, the Fort Hall Reservation (Shoshone-Bannock Tribes), the Coeur d'Alene Reservation, the Kootenai Reservation and the Nez Perce Reservation. The District shares the Duck Valley Reservation (Shoshone-Paiute Tribes) with Nevada, where most of the Duck Valley population resides. The culture and history of each tribe is as varied as the lands they inhabit.

The Nez Perce Reservation

The Nez Perce Reservation, approximately 770,453 acres, is centered in Lapwai, Idaho, on a rural, mountainous two-lane highway. The reservation is approximately 127 miles south of the United States Attorney's Office's three-attorney branch office in Coeur d'Alene. The tribe or its members own 13 percent of the total acreage. The reservation's population is 17,806; about 1,800 enrolled tribal members live on the reservation. Total tribal membership is 3,347. The reservation's largest community is the city of Orofino, with 3,247 residents. Lapwai, with 1,134 residents, is the seat of tribal government.

The nine-member Nez Perce Tribal Executive Committee (NPTEC) governs the tribe and reservation. The General Council, which includes all voting-age members of the tribe, elects the NPTEC's members. Each NPTEC member serves a three-year term and elections are held annually for three of the nine positions. In addition to the NPTEC, many departments carry out the duties and responsibilities of tribal government. The departments include Education, Administration, Finance, Fisheries, Natural Resources, and Social Services. Legal advice is provided by the in-house Office of Legal Counsel. Criminal matters are handled by the Nez Perce tribal court, police and prosecutors.

The Nez Perce Tribe continues to prioritize the management of land and natural resources. The tribe historically hunted and fished on land that totaled between 13 and 15 million acres. The Treaty of 1855 between the Nez Perce and the United States set aside 7.5 million acres. The reservation was diminished to 750,000 acres as a result of the Treaty of 1863. The Dawes Allotment Act in 1887 further reduced Nez Perce ownership to approximately 250,000 acres while opening the remaining 500,000 acres to white settlement. The tribe continues in its efforts to purchase available real estate within its boundaries to return it to its 1863 status.

The tribe's strong fish program employs nearly 50 full-time and part-time workers. The Fisheries program works throughout the ceded lands with offices in Powell, Red River, Grangeville, Orofino, McCall, Sweetwater, and Lapwai, Idaho, and Joseph, Oregon. The Fisheries Program coordinates and interacts with state, federal and tribal agencies, committees and private entities to assess and implement fish recovery and restoration plans. The Fisheries Department monitors fish populations and provides recommendations and overview on

Endangered Species Act (ESA) issues as well as recommendations for restoration and protection of critical habitat for fish populations. It also protects fish and wildlife resources through conservation actions. The tribe co-manages wildlife and fisheries with the State, and tribal scientists advise regional decision-makers about issues that affect reservation and tribal activities, particularly fish and wildlife management and dam operations on the Columbia, Snake, Tucannon, Grande Ronde, Imnaha, Clearwater and Salmon drainages. Tribal members fish the Clearwater, Columbia, Rapid and Selway rivers.

The Shoshone-Bannock Tribes/Fort Hall Reservation

The Shoshone-Bannock tribes are located on the Fort Hall Reservation in Southeast Idaho. It is eight miles north of the United States Attorney's Office's three-attorney Pocatello branch office. The Fort Hall Reservation was established by the Fort Bridger Treaty of 1868 as a 1.8 million acre homeland for four distinct bands of the Shoshone and one Northern Paiute band, the Bannock, that once inhabited the region. By 1932, the reservation was reduced to its present 544,000 acres, of which the tribes own 96 percent. Fort Hall, Idaho, along Interstate 15, is the reservation's largest population center, with 3,193 of the reservation's 5,762 residents. The majority of Fort Hall residents are tribal members.

The Shoshone-Bannock Tribes adopted a constitutional form of government in 1936 that established the seven-member Fort Hall Business Council. The Business Council is elected by tribal members living on the reservation. It has established a law-and-order code and other ordinances to regulate business and other activities on the reservation.

Tribal members engage in agricultural, construction, retail and service businesses. Many tribal members work for the tribes in the tribal enterprise system and for the tribal government. On the reservation, the tribes operate a grocery store, a clothing store, a museum, a buffalo herd, farms, service stations, a junior and senior high school, and a casino. In February 2010, the tribes dedicated their new Justice Center, a state-of-the art facility that houses the tribal police department, courts, and adult and juvenile corrections.

The Coeur d'Alene Reservation

The Coeur d'Alene Tribe once inhabited more than 3.5 million acres in what is now northern Idaho, northeastern Washington and western Montana. In 1873, President Grant issued an Executive Order setting aside a reservation for the tribe, which presently encompasses approximately 345,000 acres. The reservation runs from farmlands to the south and west to Lake Coeur d'Alene to the north, and the St. Joe River to the east. The tribe's headquarters are located in Plummer, Idaho, near Coeur d'Alene. There are nearly 2,200 enrolled tribal members; approximately 1,500 reside on the reservation.

The tribe employs more than 1,500 people in 18 government departments and tribal enterprises. Tribal enterprises include the Coeur d'Alene Casino Resort/Hotel and Circling Raven Golf Course north of Worley, Idaho, and the Benewah Medical Center and Wellness Center, which provides primary care, holistic healing and preventive care to all members of the

community. Profits from the tribe's gaming enterprise help fund government programs, social and welfare programs, environmental stewardship and economic development activities. A portion of the tribe's gaming proceeds are directly contributed to local schools, educational organizations and community programs throughout the region. The tribe also operates the Benewah Automotive Center, the Benewah Market and Hardware store, the Tribal Farm and Echelon Manufacturing.

The Coeur d'Alene Tribal Council consists of seven members who are elected by the tribal membership. Ballots are cast at tribal headquarters; there are no absentee or mail-in ballots. Each seat is a three-year term and elections are staggered. (Two seats are up for election in 2011, three seats in 2012, and two seats in 2013.) After the general election in May, the elected Tribal Council elects the tribal chair to serve a one-year term. The chairperson does not have veto power over the Council. In addition to the Council, there are 16 tribal departments, which comprise the tribal government. Each department head reports directly to the Tribal Council. The departments include Finance, Education, Enrollment, Gaming, Public Works, Public Affairs and Law Enforcement. The Coeur d'Alene Tribe has its own police department, courts, prosecutor and public defenders services.

The Coeur d'Alene Tribe is an active participant in regional recreational development and environmental protection in the Idaho panhandle. The Tribal Natural Resources Department oversees the work of programs such as fisheries, wildlife and forestry. The Tribal Lake Management Department was created in 2003 and promotes environmental protections of the lake and watershed. The Coeur d'Alene Lake is a beautiful part of Idaho. In 2001, the United States Supreme Court upheld the District Court ruling which quieted title to the United States as trustee, and the tribe as beneficiary, to the bed and banks of the lake and the river within the reservation. In addition to environmental concerns, the Tribal Lake Management Department provides boating, fishing and dock licenses for the portion of Lake Coeur d'Alene within the reservation boundaries. The Trail of the Coeur d'Alenes is a 72-mile non-motorized paved trail used by hikers and bicyclists. The trail follows the path of the old Union Pacific Railroad tracks and the eastern trail head begins on the reservation in Plummer, Idaho. The Coeur d'Alene Tribe and the State of Idaho Department of Parks and Recreation are the recognized managers of the trail. The Recreation Management Program —part of the Lake Management Department —is responsible for the overall management and day- to- day operations and maintenance on approximately 15 miles of this trail.

The Kootenai Reservation

The Kootenai Reservation lies in central Boundary County, Idaho, approximately 25 miles south of the Canadian border, and about two miles west-northwest of the city of Bonners Ferry. It has a land area of 18,922 acres and approximately 176 members.

The Kootenai Tribe of Idaho was once part of a larger Kootenai Tribe in Montana and Canada. However, when the Kootenai Tribe of Montana entered into the Treaty of Hellgate in 1855, the Idaho Kootenai were not represented, even though their land was ceded in the treaty. On September 21, 1974, the Kootenai tribe, headed by Chairwoman Amy Trice, declared war on

the United States government. Its first act was to post soldiers at each end of the highway that runs through Bonners Ferry. These soldiers forced people to pay a toll to drive through the area that had been the tribe's aboriginal land. The money was to be used to house and care for elderly tribal members. Tribes generally are prohibited by treaty to declare war on the U.S. government; however, the Kootenai Tribe never signed a treaty. The dispute resulted in concession by the United States government and a land grant that became the Kootenai Reservation.

The Kootenai Tribe is governed by a nine-member council, each of whom serves a four-year term. The council oversees much of the tribes's daily governance. The Kootenai Tribe contracts with local law enforcement to provide law enforcement services. Criminal tribal matters are heard in tribal court and presented by the tribal prosecutor.

The tribe maintains a health clinic that provides medical attention to tribal members. The tribe also takes great pride in its Fish and Wildlife Program. The tribe has worked with state and federal agencies and the Bonneville Power Administration to recover the Kootenai River White Sturgeon. The program also focuses on conservation aquaculture, as well as the restoration of the Kootenai River ecosystem.

In 1986, the Kootenai Tribe celebrated a major step in economic independence with the establishment of the Kootenai River Inn, now the Kootenai River Inn Casino and Spa.

The Duck Valley Reservation

The Duck Valley (Shoshone and Paiute Tribes) Reservation is home to approximately 1,700 of the just more than 2,000 members of the Western Shoshone and Northern Paiute Tribes. The reservation was established in 1877 by Executive Order. Acreage was added in 1886 and 1910. The reservation is located 96 miles north of Elko, Nevada, on the high desert in northeastern Nevada and southwestern Idaho. The reservation consists of nearly 290,000 acres, with 144,274 acres in Nevada and 145,545 acres in Idaho. There are also 3,982 acres of public land at Wildhorse Reservoir, to the southeast of the main reservation.

The Shoshone and Paiute Tribes formed a constitutional government at Duck Valley in 1936. The Shoshone-Paiute Tribes of Duck Valley are governed by a seven-member Business Council. Members are elected for three-year terms. The Business Council directs the tribal government. The chairman manages the operation of tribal government. Farming and ranching are still mainstays on the reservation. Tribal programs include the Wildlife and Parks Program, the Recreation Program, the Housing Authority, the Stop Violence Against Women program, Cultural Preservation, Economic Development, Behavioral Health and Health Clinic and Hospital.

Overview of the U.S. Attorney's Office

The United States Attorney's Office for the District of Idaho is the lead federal law enforcement entity in Idaho. Its mission is to litigate on behalf of one of the most powerful

clients in the world, the United States of America. Its jurisdiction covers federal crimes committed in whole or in part in Idaho. It also represents federal agencies and employees in civil proceedings in Idaho. The office has 58 attorneys and support staff working at its three locations— the headquarters office in Boise and branch offices in Coeur d’Alene and Pocatello. The Boise office has 19 attorneys; the Coeur d’Alene and Pocatello branch offices have three attorneys each. Many U.S. Attorney’s Office employees have responsibilities in Indian Country. The branch manager of the Coeur d’Alene office serves as tribal liaison to the three tribes covered by that office, the Nez Perce, the Coeur d’Alene and the Kootenai. The branch manager of the Pocatello office serves as tribal liaison to the Shoshone-Bannock tribe. The criminal chief, who is located in Boise, serves as tribal liaison for the Duck Valley reservation.

Overview of Community Safety Strategy

The United States Attorney’s Office for the District of Idaho’s Community Safety Strategy is designed to improve public safety in Idaho’s tribal communities. Idaho’s U.S. Attorney’s Office has a long history of meaningful involvement in Indian Country prosecutions. For example, in *United States v. Matt*, a Coeur d’Alene tribal member was convicted of manslaughter for causing the death of his passenger in a car wreck. Matt was intoxicated at the time of the wreck. In *United States v. Bohlman*, a Coeur d’Alene tribal member was convicted of failing to register as a sex offender. He was previously convicted for sexually abusing a child on the Coeur d’Alene Indian Reservation. In *United States v. Taylor*, a Nez Perce tribal member was convicted of misdemeanor assault for waving a .22 rifle at other kids at his high school.

In *United States v. Morehouse*, the defendant, an Indian, pleaded guilty to knowingly engaging in a sexual act with his five-year-old step-grandson, also an Indian. The crime occurred on the Kootenai Reservation. In *United States v. Anderson, et al.*, two non-Indians, a father and son, were convicted of violating the Archaeological Resources Protection Act of 1979, 16 U.S.C. § 470ee(a). The Andersons dug up arrowheads on BLM land that was within the Nez Perce Reservation and is the oldest Nez Perce site discovered to date. Experts have dated recovered artifacts at over 10,000 years old. The Andersons each received one year probation and were ordered to pay \$1,500 in restitution.

In *United States v. Wahtomy*, a Fort Hall tribal member was convicted of aggravated sexual assault and assault resulting in serious bodily injury for his brutal attack on a woman on the Fort Hall Indian Reservation that left her with serious injuries and involved the use of a dowel. He was sentenced to 172 months imprisonment. In *United States v. Maestas*, a Fort Hall tribal member was convicted of second-degree murder for stabbing a fellow tribal member and stealing his pickup. She was sentenced to 144 months in prison.

In *United States v. Atkins*, a Shoshone-Paiute tribal member and resident of the Duck Valley Reservation, pled guilty to two counts of sexual abuse of a 14-year-old girl who was also a tribal member. He was sentenced to 24 months in prison. In *United States v. Hanks*, a Shoshone-Paiute tribal member was sentenced to 27 months in prison following his guilty plea to assault resulting in serious bodily injury.

This Community Safety Strategy reflects our renewed commitment to aggressively prosecuting violent crimes, ensuring that tribal lands do not become a refuge for non-tribal member criminals and protecting victims—some of whom are among society’s most vulnerable members. This renewed commitment is part of the United States Department of Justice’s broader efforts to bring greater safety to Indian Country. Both this office and the Department of Justice particularly focus on addressing violence against women and children in tribal communities.

Of course, the diverse historical backgrounds, cultural experiences, geographic location, size and political structure of Idaho’s five federally recognized tribes require this Community Safety Strategy to be flexible. The Strategy attempts to match the jurisdictional role that the U.S. Attorney’s Office must play in all of Indian Country to the unique characteristics of each tribe. The strategy is designed to focus on the particular needs of the tribal communities that the U.S. Attorney’s Office serves, and to implement to the fullest extent possible under the law the ideas and suggestions that have come directly from these communities.

The key elements of this Community Safety Strategy are communication and collaboration between the U.S. Attorney’s Office and each tribe. The U.S. Attorney’s Office is part of the executive branch of the federal government. As a component of the Department of Justice, we are law enforcement officers. Accordingly, our most direct communications and collaboration will be with tribal law enforcement representatives—tribal police departments and tribal prosecutors. We will work with our tribal law enforcement counterparts to ensure that criminal conduct on Indian reservations is prosecuted most efficiently and most effectively. However, a key component of the Community Safety Strategy is building strong government-to-government relations with the tribes. Accordingly, the United States Attorney, First Assistant United States Attorney, Criminal Chief, and Assistants United States Attorney (AUSAs) who serve as tribal liaisons will meet and consult with tribal governing bodies on a regular basis, and at least twice a year. Where appropriate, the U.S. Attorney’s Office also will invite tribal law enforcement representatives to participate in cooperative law enforcement projects. For example, tribal resource officers will be invited to participate in the U.S. Attorney’s Office’s environmental crimes task force.

This Community Safety Strategy also emphasizes collaboration on training and other public safety issues. It envisions increased cooperation. With enactment of the Tribal Law and Order Act in July 2010, tribes whose criminal justice systems and detention facilities meet certain requirements can bring charges with penalties of up to three years imprisonment. This Community Safety Strategy is designed to implement the Tribal Law and Order Act to the fullest extent possible in conjunction with the desires of each tribe.

Consultation with Tribal Leaders to Formulate a New Strategy

The United States Attorney’s Office has spent the last eight months engaging in consultations and listening sessions with tribal leaders, tribal law enforcement officers and tribal communities about their law enforcement concerns and ideas. These ongoing consultations

began shortly after United States Attorney Wendy J. Olson was sworn into office. Tribal members have been candid about their concerns—both their public safety concerns and their concerns about how the U.S. Attorney’s Office has performed its duties in Indian Country. Not all of the reviews were favorable. Where this office has fallen short in the past, it is committed to improving.

U.S. Attorney Olson and tribal liaison Traci Whelan met with the governing bodies of the Nez Perce tribe, the Kootenai tribe and the Coeur d’Alene tribe in August and September 2010. Following the meeting with the Nez Perce Tribal Executive Council, U.S. Attorney Olson toured the reservation with Julie Kane, tribal counsel, and Leslie Hendrix, chief of police. U.S. Attorney Olson and tribal liaison Jack Haycock met with the Shoshone-Bannock Business Council in July 2010. Following that meeting, U.S. Attorney Olson and Mr. Haycock met with Pat Teton, chief of police, and toured the new Justice Center. U.S. Attorney Olson also met with Chief Teton in September 2010 to follow up on specific law enforcement issues. U.S. Attorney Olson, First Assistant United States Attorney Rafael Gonzalez, and Criminal Chief Aaron Lucoff, along with Nevada U.S. Attorney Daniel Bogden and some of his staff, are scheduled to meet with the Shoshone-Paiute Business Council at the Duck Valley Reservation on March 1, 2011.

During these initial consultation sessions, each tribal governing body expressed concerns unique to the needs of the tribe they govern. They also expressed common concerns on the following issues: (1) domestic violence against female tribal members; (2) non-tribal members trespassing on reservation lands; (3) non-tribal members committing minor criminal offenses on reservation lands and then failing to respond to tribal citations; (4) criminals, including drug traffickers, hiding on reservation lands, or treating the reservations as a safe haven from arrest and prosecution; and (5) at times inadequate or delayed communication from the U.S. Attorney’s Office regarding the progress of criminal investigations and prosecutions. This Indian Country Community Safety Strategy includes components designed to address these concerns.

In addition, since the initial consultations, both the U.S. Attorney’s Office tribal liaisons and the U.S. Attorney have conducted a variety of follow-up meetings with tribal officials and tribal law enforcement. In October 2010, two Coeur d’Alene AUSAs and FBI representatives met with the Nez Perce tribal prosecutor, police chief, and legal counsel to discuss concerns and cases. In November 2010, tribal liaison Traci Whelan and Don Robinson, head of the FBI’s Coeur d’Alene office, traveled to the Kootenai Reservation to meet with Jennifer Porter, the chair of the tribal council, and the tribe’s legal counsel. They also toured the reservation and met with the local law enforcement officials who provide services to the tribe. AUSA Whelan and FBI representatives have met at least bimonthly with the Coeur d’Alene tribal prosecutor and police chief to discuss cases. On January 5 and 6, 2011, tribal liaison Whelan, AUSA Mike Mitchell and FBI representatives conducted training for tribal and local police for the Nez Perce, Coeur d’Alene and Kootenai tribes. Shoshone-Bannock tribal liaison Haycock, along with another Pocatello branch AUSA, meet monthly with Fort Hall detectives on law enforcement issues and specific cases.

Specific Components of Community Safety Strategy

A. Communication and Cooperation in Indian Country Prosecutions

1. Improving Communications with Each Tribe

The United States Attorney, First Assistant United States Attorney, Criminal Chief and Assistants United States Attorney who serve as tribal liaisons are committed to meet and consult regularly with tribal governing bodies. Regular meetings and consultations regarding the U.S. Attorney's Office's law enforcement responsibilities in Indian Country are essential to public safety. Through these meetings, we will develop effective case referral practices to ensure that crimes committed on the reservations are reported to the appropriate investigative agencies, that investigative reports are referred to and reviewed by the appropriate prosecution entities and that each case is staffed by qualified victim advocates. This Community Safety Strategy recognizes that tribal and federal law enforcement and tribal and federal prosecutors must work together to ensure that criminal conduct is properly investigated and prosecuted.

The primary communications will occur between the assigned tribal liaison AUSAs and tribal law enforcement agencies. In consultation with each tribal law enforcement agency, they will meet on a regular basis, but no less than twice yearly, to review all potential federal criminal matters. The meetings will occur more regularly, as often as monthly, with some tribes. These regular law enforcement meetings will include a review of all ongoing domestic violence and sexual assault investigations.

2. Improving Federal Investigation and Prosecution Review Procedures

Increased community safety requires strengthened communication and collaboration at all levels of investigation and prosecution. In most instances, tribal police will be the first to respond to a crime scene. They will secure the scene; gather available evidence; interview witnesses and/or victims; ensure victims receive appropriate forensic and medical attention; detain subjects when appropriate; and coordinate initially with tribal prosecutors regarding possible tribal charges or search warrants. For any case appearing to meet the elements of a federal crime, the United States Attorney's Office encourages tribal police to immediately notify the FBI. Once notified, the FBI will take appropriate follow-up investigative steps and consult with the U.S. Attorney's Office's tribal liaison assigned to the reservation. The FBI and the tribal liaison may ask the tribal police to assist with the follow-up investigation.

Once the FBI and U.S Attorney's Office are involved in a matter initially investigated by tribal police, tribal police will provide their written reports detailing the initial investigation and will make them available to the FBI and the U.S. Attorney's Office. Tribal officers should anticipate being called as witnesses in pretrial proceedings or at trial in federal cases. Similarly, in any case where federal charges are declined, but tribal charges are still viable, federal investigators should be prepared to make their reports available to the tribal prosecutors and to testify in tribal court when required.

In any case involving potential federal charges, the tribal liaison and investigative officers ordinarily will use federal investigative tools, including federal search warrants, to gather additional evidence. However, where a case initially was investigated solely for tribal law violations and involved tribal search warrants, the FBI and the U.S. Attorney's Office are committed to adopting those warrants. The tribal liaison will confer with all involved law enforcement agencies to determine which additional investigative tools to use.

The assigned tribal liaison AUSA and tribal prosecutors should discuss the appropriate prosecution forum early in the investigation. In cooperatively making a determination with his or her tribal prosecutor partner, the assigned tribal liaison AUSA will consider and discuss the available charging options, the elements of each possible charge, evidence available to prove the elements, the strength of the evidence, the likely sentence, the victim and any other remedy available under law. Where a case is a misdemeanor at the tribal and federal level, prosecution ordinarily will be in tribal court.

AUSA and tribal prosecutor consultation is particularly important where the defendant is an Indian and the victim is non-Indian. Title 18, United States Code, Section 1152 prohibits federal prosecution of an Indian who has already been punished under tribal law. When a defendant who will be prosecuted federally is in tribal custody, and continued detention of the defendant is warranted, the assigned tribal liaison AUSA will ask his/her tribal prosecutor partner to defer dismissing tribal charges until after federal charges are filed.

The U.S. Attorney's Office's review of Indian Country referrals will be completed as expeditiously as possible. In some cases, review will include a U.S. Attorney's Office request to either the FBI or tribal police for follow-up investigation. The U.S. Attorney's Office will make every effort to expedite charging decisions where necessary to ensure that dangerous offenders are arrested and continuously detained. Ordinarily, the decision to charge should be made within 60 days of receiving a completed investigation. Because it is often difficult to determine the viability of a case until follow-up investigation is completed, tribal liaison AUSAs will keep their tribal counterparts apprised of the progress of the investigation.

Once a case is charged, AUSAs will notify the FBI, tribal police and tribal prosecutor of the charges within a reasonable time. In addition, the tribal liaison AUSAs will maintain a list of filed Indian Country cases and will review that list with tribal prosecutors and tribal police chiefs at their regular meetings. Moreover, tribal liaisons, FBI special agents, tribal prosecutors and/or tribal police should periodically review crime data from the reservations to ensure that reported crimes are being prosecuted in the appropriate forum and that the community safety needs of the reservations are being met. The U.S. Attorney's Office will continue to issue press releases relating to the filing of federal charges and the sentencing of any federal defendant for all crimes committed in Indian Country.

3. Declinations

U.S. Attorney's Office declinations of Indian Country matters will be timely made and communicated in writing to tribal prosecutors and law enforcement officers. U.S. Attorney's

Office declinations will set forth a summary of the case and the reasons for declination. Within 60 days of receiving a completed investigation, the U.S. Attorney's Office will charge, decline, or provide the investigating agent or tribal officer with a specific list of additional investigative work which, in the assigned AUSA's judgment, is necessary before a charging decision can be made. All U.S. Attorney's Office Indian Country declinations must be approved by the Criminal Chief.

The U.S. Attorney's Office anticipates that the declination rate for Indian Country cases will be higher than the declination rate for many other cases. The U.S. Attorney's Office is committed to making a searching review of all possible federal crimes in Indian Country. This searching review will involve opening cases where considerable additional investigative work needs to be done. Moreover, some of this additional investigative work may need to be done to determine whether the federal government even has jurisdiction, or whether a federal crime has been committed. In these circumstances, because many more incidents will be examined for possible criminal prosecution, more also will be declined.

B. Tribal/Federal Partnerships in Public Safety

Improving Indian Country public safety requires not only strengthened procedures for federal prosecution and declination but also strengthened tribal law enforcement and prosecution resources. The U.S. Attorney's Office must play an active and collaborative role in strengthening these resources.

1. Cross-deputization of Tribal Law Enforcement

Mutual Assistance Agreements. After consultation with individual tribes, the U.S. Attorney's Office will encourage and facilitate the implementation of mutual assistance agreements among state, local, and tribal law enforcement agencies. The U.S. Attorney's Office also will provide law enforcement training on matters related to jurisdiction of law enforcement agencies involved in these mutual assistance agreements.

The U.S. Attorney's Office, along with the FBI, will arrange and conduct training of tribal officers to assist the cross-deputization process. The U.S. Attorney's Office's goal is to see all tribes achieve cross-deputization. Well trained tribal police with federal law enforcement capabilities is a force multiplier. Under this strategy, the assigned tribal liaison AUSAs will pursue expansion of cross-deputization agreements with county and state law enforcement to make more trained and certified officers available for patrol and operations on those tribal communities who want them. Expanded cross-deputization will increase the pool of well-trained, available investigators of federal offenses. Targeted and frequent training will improve cross-deputized officers' investigative skills. The U.S. Attorney's Office also will encourage sheriff's offices to participate in the cross-deputization program. These steps, coupled with frequent communication and coordination between all participants, will improve public safety throughout Indian Country.

Central Violations Bureau (“CVB”). During the new U.S. Attorney’s initial tribal consultation sessions, some tribal governing bodies expressed concern about non-Indians cited for violating tribal laws on the reservation. They indicated that non-Indians often failed to respond to tribal court or pay fines because tribal authorities had no ability to compel their appearance in tribal court. To ensure uniform compliance with the law by all who violate tribal laws, the U.S. Attorney’s Office will pursue tribal law enforcement participation in the CVB citation program to address minor offenses by non-Indians in Indian Country, such as trespass on tribal government facilities and speeding. The U.S. Attorney’s Office will facilitate any necessary certification for tribal police officers participating in the program.

2. Tribal Special Assistant United States Attorney

The U.S. Attorney’s Office will implement a new tribal Special AUSA program for interested tribes. Tribal prosecutors who are licensed and in good standing with the Idaho State Bar may apply to participate in this program if they receive the support of their tribe’s governing body. All Special AUSAs must undergo a background check. In addition, the participating tribal prosecutor’s tribe must enter into a memorandum of understanding with the U.S. Attorney’s Office. Once a tribal prosecutor is approved as a Special AUSA, the tribal prosecutor will have the opportunity to try cases in federal court with an AUSA. Additional training will be available to tribal prosecutors who become Special AUSAs.

3. U.S. Attorney’s Office Requests for Additional Personnel Resources

Additional staff resources would facilitate implementation of this Community Safety Strategy. The U.S. Attorney’s Office has requested one additional victim-witness position to assist in developing this plan. As of February 18, 2011, no final allocation determination had been made. The District has two AUSA positions allocated in 1995 to address Indian Country issues.¹ The U.S. Attorney’s Office’s request for a third position was denied. Despite the denial of this request and the District’s need for additional Indian Country resources, the U.S. Attorney’s Office is fully committed to increasing the service it provides in Indian Country. The office will leverage resources by aggressively recruiting and training tribal prosecutors as Special AUSAs.

4. Training

The United States Attorney’s Office recognizes that law enforcement and tribal prosecutor training in Indian Country are essential to tribal community safety. Thus, targeted training is an essential component of this community safety strategy.

¹ Until the new Indian Country positions were allocated in the late spring of 2010, neither the U.S. Attorney’s Office for the District of Idaho nor EOUSA apparently understood that the district already had two specially allocated Indian Country positions.

a. Training Needs Assessment

Before the U.S. Attorney's Office can develop an effective training plan, it must first survey its Indian Country law enforcement partners to determine their training needs.² The U.S. Attorney's Office's Law Enforcement Coordinator (LEC), tribal liaisons and FBI will contact each tribal police chief to assess the training needs of tribal law enforcement personnel. The U.S. Attorney's Office anticipates that initial training needs include report writing, questioning of juveniles, understanding addictions and addictive behaviors, and testifying. In addition, U.S. Attorney's Office victim-witness coordinators, in conjunction with FBI victim-witness coordinators, will contact the tribe's victim service providers and assesses their training needs.

b. Training Plan

Following this initial assessment, the LEC, tribal liaisons, other AUSAs involved in Indian Country prosecutions, the FBI, and tribal law enforcement will develop a training plan for tribal law enforcement.

The LEC and Victim-Witness Coordinator (VWC) will host training events and conferences at various venues in Indian Country and, where appropriate, other locations in the state. These training events will include topics relevant to current issues in Indian Country, e.g., domestic abuse, sexual abuse including sexual abuse of children, violence against women, and victim issues. These training events, when appropriate, also will include state and local officers with law enforcement responsibility adjacent to Indian Country. The LEC and the VWC will be responsible for providing notice of these trainings and conferences to the tribal governing bodies, tribal law enforcement chiefs, and tribal service providers. Reasonable efforts will be made to ensure tribal law enforcement personnel have ample opportunity to attend these trainings and conferences. When possible, tuition costs for tribal law enforcement will be reduced or eliminated.

This training strategy emphasizes improving the quality of Indian Country criminal investigations. Improved Indian Country criminal investigations will increase the number of cases charged in federal court. The strategy also will improve coordination, communication and trust between federal and tribal law enforcement agencies. In addition, USAO staff will spend time on reservations learning and communicating not only with law enforcement officers but also with community leaders and members. A training program that blends standardized and customized training of tribal police, delivered by Indian Country AUSAs and federal agents, will maximize community safety in Indian Country.

² The U.S. Attorney's Office and some tribal law enforcement agencies already engage in cooperative training activity. This community safety strategy aims to expand those existing efforts and to reach additional tribal law enforcement agencies.

C. U.S. Attorney's Office Accountability in Indian Country

1. Updated Performance Work Plans

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

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

2. Report to Indian Country

In a further effort to be fully accountable for implementation of the U.S. Attorney's Office's Indian Country Community Safety Strategy, the U.S. Attorney will issue an annual report to Indian Country on the office's efforts. The report will include information on tribal consultation, prosecutions, declinations and any other programs that affect Indian Country.

3. Use of Resources in Indian Country

U.S. Attorney's Office staff with Indian Country responsibility, including management level staff, have been trained on the proper use of the USA-5/5A system and its Indian Country categories. Additionally, the Criminal Chief maintains statistics on each Indian Country AUSA's total number of files opened, number of cases and defendants charged, number of pleas, sentencing, trials, declinations and appeals achieved month-by-month. The Criminal Chief, First Assistant United States Attorney and United States Attorney use these statistics to evaluate performance and as benchmarks to monitor and provide feedback to AUSAs and to themselves on their performance of their special duties in Indian Country.

D. Violence Against Women and Children in Tribal Communities

Addressing violence against women and children in Indian Country is a Department of Justice and U.S. Attorney's Office priority. We recognize our duty to investigate and prosecute

serious crimes in Indian Country, including crimes against women and children. We also recognize that often the federal government alone has authority to prosecute certain violent crimes against Native Americans where the offender is non-Indian. This authority carries with it the responsibility to obtain meaningful punishment for any serious offender. In those circumstances, only U.S. Attorney's Offices can pursue justice for the victim and the community. Accordingly, we will ask the FBI to investigate all reports of sexual assault or domestic violence in Indian Country wherever allegations on their face suggest a violation of federal law. Moreover, AUSAs will continue to pursue cases where credible evidence exists even where the victim is reluctant to support the prosecution, so long as there is a reasonable assessment that the elements can be proven. New procedures are being initiated in our office to ensure that cases involving domestic violence are staffed by multiple prosecutors.

Where federal jurisdiction exists, the responsibility to investigate and prosecute violence against women in Indian Country also extends to misdemeanor assaults committed by non-Indian offenders against Native American women on federally recognized reservations. Because tribal courts have no jurisdiction over non-Indians, federal charges, even if they are misdemeanors, are the only avenue for interrupting cyclical violence and removing the perpetrator from the community and his victim. Effective immediately, the United States Attorney and Criminal Chief will review and prioritize all cases of domestic violence perpetrated by non-Indians upon Indian victims in tribal communities. Additionally, effective immediately, the United States Attorney's Office will accept investigative reports directly from tribal police and BIA law enforcement without the necessity of FBI involvement.

The Idaho Coordinated Response to Domestic and Sexual Violence, of which this office is a member, has developed a one page law enforcement risk assessment form for domestic violence. The U.S. Attorney's Office will provide training on use of this risk assessment form for interested tribal law enforcement agencies. The U.S. Attorney's Office also will encourage adoption of this form by tribal law enforcement agencies and courts.

In addition, in all tribal domestic violence matters of which the U.S. Attorneys' Office becomes aware, the U.S. Attorney's Office will request the perpetrator's prior criminal history to determine whether the subject has a prior domestic violence conviction as that term is defined in 18 U.S.C. § 2265A. If so, the U.S. Attorney's Office will give priority to reviewing the new matter for federal prosecution.

We will work with tribes and tribal law enforcement agencies to review incidents of sexual assault to ensure that all viable criminal cases are pursued. In so doing, we will encourage Indian Health Service administrators to promote programs like SANE, which ensure that emergency room nurses have adequate quantities of rape kits and are trained to use, store and transmit them properly.

We will also be expanding the responsibilities of the AUSA in our office designated as the Violence Against Women Coordinator. This individual will be responsible for training AUSAs on an annual basis regarding the unique aspects of domestic violence cases and will work with domestic violence shelters to ensure that these cases remain a top priority in the office.