

FEDERAL CRIMINAL LAW IN INDIAN COUNTRY

A Law Enforcement Legal Reference Toolkit — National Native Justice Institute | www.nativejustice.us

■ FEDERAL CRIMINAL LAW IN INDIAN COUNTRY

Federal criminal law in Indian Country is among the most complex areas of law enforcement practice in the United States. The interplay between tribal sovereignty, congressional authority, and federal jurisdiction creates a legal landscape that every tribal officer, prosecutor, and administrator must understand. Errors in jurisdictional recognition — failing to notify the FBI, failing to preserve a crime scene, or proceeding under the wrong legal framework — can result in serious offenders escaping accountability entirely.

 Federal jurisdiction in Indian Country is triggered by the identity of the parties (Indian/non-Indian), the nature of the offense, and the location of the crime.

 The Major Crimes Act (18 U.S.C. §1153) is the cornerstone of federal criminal jurisdiction over Indians in Indian Country and governs 15 serious offenses.

 Federal prosecution carries significantly higher sentencing ranges than tribal court. Timely notification of the FBI is mandatory and must be documented.

 Tribal officers who understand federal criminal law build stronger cases, coordinate more effectively with federal agents, and protect their investigations from jurisdictional challenge.

■ THE MAJOR CRIMES ACT — 18 U.S.C. §1153

The Major Crimes Act grants federal jurisdiction over 15 enumerated serious offenses committed by Indians within Indian Country. These offenses are investigated by tribal police in coordination with the FBI and prosecuted by the U.S. Attorney.

The 15 Major Crimes Act Offenses

- Murder and manslaughter — including felony murder and first/second degree murder.
- Kidnapping — including custodial interference that meets the federal definition.
- Maiming — permanent disfigurement or serious bodily injury.
- Sexual abuse — including aggravated sexual abuse, sexual abuse of a minor, and sexual abuse by contact.
- Assault with intent to commit rape, murder, or robbery.
- Assault with a dangerous weapon resulting in serious bodily injury.
- Robbery and burglary.
- Incest.
- Child abuse (including child sexual abuse).
- Felony drug offenses — distribution of controlled substances in Indian Country (added by TLOA).

FBI Notification Requirements

- Notify the FBI immediately upon responding to any suspected Major Crimes Act offense. Do not wait for investigation completion.
- Document every notification: exact time, method (phone/radio/email), FBI field office, and name of the agent who received your notification.
- Continue your investigation — scene preservation, witness interviews, evidence collection — in parallel with federal notification.
- Preserve the crime scene as completely as possible pending FBI arrival. For time-sensitive evidence, use your best judgment and document every decision.

■ THE GENERAL CRIMES ACT — 18 U.S.C. §1152

The General Crimes Act extends federal enclave law to Indian Country, covering most crimes not addressed by tribal law or the Major Crimes Act. It applies to offenses by non-Indians against Indians and certain Indian-on-Indian offenses not covered by tribal law.

- Non-Indians who commit crimes against Indians in Indian Country are generally subject to federal prosecution under the General Crimes Act.
- The Act has important exceptions: crimes by one Indian against another Indian where the tribe has jurisdiction, and offenses already punished by the tribe.
- Notify state law enforcement and the FBI for General Crimes Act offenses involving non-Indian defendants. Document all notifications.

■ VAWA SPECIAL DOMESTIC VIOLENCE CRIMINAL JURISDICTION

The Violence Against Women Act (VAWA) 2013 and its 2022 reauthorization granted qualifying tribal courts special domestic violence criminal jurisdiction (SDVCJ) over non-Indian defendants for covered offenses including domestic violence, dating violence, sexual violence, stalking, sex trafficking, and child violence. This is a landmark expansion of tribal sovereignty.

- **SDVCJ Eligibility** — Tribes must enact SDVCJ through their own law and ensure certain due process protections for defendants. Consult your tribal attorney to determine current SDVCJ status.

- **Covered Offenses Under VAWA 2022** – Domestic violence, dating violence, sexual violence, stalking, sex trafficking, assaults against tribal justice personnel, and child violence.
- **Non-SDVCJ Offenses by Non-Indians** – For offenses not covered by SDVCJ, notify the FBI and U.S. Attorney immediately and conduct your investigation in coordination with federal partners.

RESOURCES, GRANTS & SUPPORT

Funding, Training, and Support Resources — Federal Criminal Law & Tribal Law Enforcement | www.nativejustice.us

■ FEDERAL GRANT RESOURCES

Legal Support & Training

- **DOJ Office of Tribal Justice** – Technical assistance on federal Indian law and criminal jurisdiction. justice.gov/otj
- **U.S. Attorney Tribal Liaison Programs** – Coordination and case consultation for tribal law enforcement and federal prosecution. justice.gov/usao
- **Tribal Law & Policy Institute (TLPI)** – Training and technical assistance on federal criminal law in Indian Country. tlpi.org
- **CTAS – Coordinated Tribal Assistance Solicitation** – DOJ consolidated tribal funding supporting law enforcement and prosecution capacity. justice.gov/tribal

Investigative Coordination

- **FBI Indian Country & Major Crimes Division** – Federal investigative authority for MCA, NAGPRA, and other Indian Country offenses. fbi.gov
- **BIA Office of Justice Services** – Federal law enforcement coordination and investigative support for tribal agencies. bia.gov/bia/ojs
- **DEA Tribal Drug Enforcement** – Federal drug trafficking coordination and task force support for Indian Country. dea.gov
- **BJA Tribal Justice Programs** – Supports tribal law enforcement capacity building and prosecution programs. bjaojp.gov/program/tribal-justice

■ STATE & ADDITIONAL RESOURCES

- **State Homeland Security Grants (SHSGP)** – Tribal law enforcement may be eligible for state-administered FEMA homeland security funding. Contact your State Administrative Agency (SAA).
- **Tribal Law & Order Act (TLOA) Resources** – Expanded tribal criminal authority and DOJ technical assistance for enhanced sentencing and prosecution.
- **VAWA SDVCJ Implementation Support** – DOJ OVW provides technical assistance for tribes implementing Special Domestic Violence Criminal Jurisdiction. justice.gov/ovw
- **Grants.gov Tribal Search Tool** – Search all federal grants available to tribal entities. grants.gov (filter: Tribal Government eligibility)

■ HELPFUL TIPS FOR TRIBAL PROGRAMS & LEADERS

Develop a Federal Statute Quick Reference Card Create a laminated one-page reference listing the 15 MCA offenses, notification requirements, FBI contact, and U.S. Attorney tribal liaison — one for every patrol vehicle.	Establish Joint Investigation Protocols with FBI Pre-negotiated joint investigation protocols with your FBI field office define roles, evidence handling, and communication expectations before a Major Crimes Act case arises.
Train Officers on Federal Law Updates Annually Federal statutes, VAWA amendments, TLOA provisions, and U.S. Attorney priorities change. Annual training keeps officers current and prosecutions sustainable.	Document Every Inter-Agency Notification Record the date, time, method, and recipient of every FBI, BIA, and U.S. Attorney notification in your reports. These records are critical if jurisdiction is later disputed.

■ PARTNER WITH NNJI — WE ARE READY TO SUPPORT YOUR COMMUNITY

TAKE ACTION TODAY — Contact NNJI at www.nativejustice.us to schedule training, consultation, or access resources.

Strengthening Tribal Justice — One Community at a Time