

CRIMINAL JURISDICTION IN INDIAN COUNTRY

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

■ UNDERSTANDING CRIMINAL JURISDICTION IN INDIAN COUNTRY

Criminal jurisdiction in Indian Country is one of the most complex areas of law in the United States. The interplay between tribal, federal, and state authority depends on the offense, the identity of the offender and victim, the location, and the nature of the crime. Every tribal officer must have a working knowledge of this framework to investigate effectively, make lawful arrests, and coordinate appropriately with other agencies.

 Indian Country jurisdiction is governed by a patchwork of treaties, federal statutes, Supreme Court rulings, and tribal codes.

 The Major Crimes Act (18 U.S.C. §1153) grants federal jurisdiction over 15 serious offenses committed by Native Americans in Indian Country.

 Jurisdictional errors can result in case dismissal, civil liability, and failure to hold offenders accountable.

 Effective law enforcement in Indian Country requires proactive coordination with FBI, BIA, U.S. Attorneys, and state agencies.

■ THE THREE-PART JURISDICTIONAL FRAMEWORK

Tribal Jurisdiction

- Tribes retain inherent sovereignty to prosecute tribal member defendants for crimes occurring within their Indian Country.
- Under VAWA 2013 and 2022 reauthorization, tribes have special domestic violence jurisdiction over non-Indian defendants in certain cases.
- Tribal court sentences were historically limited to 1 year/5,000 fine per offense; TLOA expanded this to 3 years/15,000 for enhanced sentencing tribes.
- Tribes cannot prosecute non-Indians for most offenses under *Oliphant v. Suquamish* (1978) except in VAWA-covered offenses.

Federal Jurisdiction

- The Major Crimes Act (18 U.S.C. §1153) provides federal jurisdiction over 15 offenses by Indians in Indian Country including murder, rape, robbery, assault, and child abuse.
- The General Crimes Act (18 U.S.C. §1152) covers offenses by non-Indians against Indians and Indian-on-Indian crimes not covered by tribal law.
- Federal offenses carry significantly higher sentencing ranges than tribal courts and are prosecuted by U.S. Attorneys.
- Always notify the FBI immediately for Major Crimes Act offenses. Preserve the crime scene and do not assume federal prosecutors will decline.

State Jurisdiction

- Public Law 280 (PL-280) granted six mandatory states (CA, MN, NE, OR, WI, AK) criminal jurisdiction over Indian Country.
- In non-PL-280 states, state jurisdiction over Indian Country is generally limited unless the tribe or Congress has authorized it.
- State officers may exercise jurisdiction over non-Indians committing crimes in Indian Country in most circumstances.

■ KEY TIPS FOR TRIBAL OFFICERS

- **Determine the Status of All Parties** – Identify whether the suspect and victim are tribal members, other AI/AN, or non-Indians. This is the first jurisdictional question.
- **Identify the Exact Location** – Confirm whether the incident occurred within Indian Country boundaries including trust land, allotments, and dependent Indian communities.
- **Notify the Correct Agency Immediately** – For Major Crimes Act offenses, contact the FBI field office without delay. Document your notification time and the agent you spoke with.
- **Proceed with Your Own Investigation** – Do not wait for federal agents to arrive before documenting evidence, interviewing witnesses, and securing the scene.
- **Understand Your Cross-Deputization Status** – Know whether your department has cross-deputization agreements with state or federal agencies, and what authority those agreements confer.
- **Document Jurisdictional Decisions** – Record in every report the facts establishing jurisdiction and the agencies notified. Thorough documentation protects cases and officers.

RESOURCES, GRANTS & SUPPORT

Funding, Training, and Support Resources — Tribal Law Enforcement Legal Support | www.nativejustice.us

FEDERAL GRANT RESOURCES

Legal Assistance & Training

- **DOJ Office of Tribal Justice** – Technical assistance and guidance on federal Indian law and criminal jurisdiction. justice.gov/otj
- **U.S. Attorney Tribal Liaison Programs** – Most U.S. Attorney districts have tribal liaisons to facilitate jurisdiction coordination. justice.gov/usao
- **CTAS – Coordinated Tribal Assistance Solicitation** – Supports tribal law enforcement and prosecution capacity. justice.gov/tribal
- **Tribal Law & Policy Institute (TLPI)** – Training and technical assistance on tribal law and jurisdiction. tlpi.org

Law Enforcement Capacity

- **BJA Tribal Justice Programs** – Funds tribal courts, prosecution, and law enforcement. bja.ojp.gov/program/tribal-justice
- **BIA Law Enforcement Services** – Federal coordination and support for tribal police departments. bia.gov/bia/ojs
- **COPS Tribal Resources Grant (TRG)** – Supports tribal law enforcement hiring, training, and capacity. cops.usdoj.gov

STATE & ADDITIONAL RESOURCES

- **State Homeland Security Grants (SHSGP)** – Tribal law enforcement may be eligible for state-administered FEMA homeland security funding.
- **Tribal Law & Order Act (TLOA) Resources** – Expanded tribal criminal authority and DOJ technical assistance for implementation.
- **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 Jurisdiction Reference Card Create a laminated one-page jurisdiction guide for all officers identifying tribal boundaries, PL-280 status, and FBI contact information.	Establish Direct FBI & U.S. Attorney Contacts Every tribal officer should have direct contact information for the FBI field office and tribal assistant U.S. attorney assigned to your area.
Train on Jurisdictional Updates Annually Federal Indian law changes through legislation and court decisions. Annual training keeps officers current and legally protected.	Document All Inter-Agency Notifications Record every notification to FBI, BIA, and state agencies in your reports. These records are critical if jurisdiction is later disputed.

KEY WEBLINKS

National Native Justice Institute	www.nativejustice.us
BJA Tribal Justice Programs	bja.ojp.gov/program/tribal-justice
COPS Tribal Resources	cops.usdoj.gov/tribalresources
BIA Law Enforcement Services	bia.gov/bia/ojs
DOJ Office of Tribal Justice	justice.gov/otj
Tribal Law & Policy Institute	tlpi.org
CTAS – DOJ Tribal Assistance	justice.gov/tribal
Grants.gov (Tribal Search)	grants.gov

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