

INDIAN COUNTRY CRIMINAL JURISDICTIONAL CHART

for crimes committed within Indian country as defined by 18 U.S.C. § 1151(a), (b) & (c) -

- (a) **formal** [recognized reservation boundaries] & **informal** [tribal trust lands] **reservations** (including rights-of-way/roads),
 (b) **dependent Indian communities**, & (c) **Indian allotments held in trust or restricted status** (including rights-of-way/roads).
 (applies where no U.S. Congressional grant of jurisdiction to the state/municipal government over the Indian country involved exists)

INDIAN OFFENDER :

1. VICTIM CRIMES: FOR OFFENSES AGAINST A PERSON OR A PERSON’S PROPERTY (not a tribal govt.)

<i>WHO IS THE VICTIM?</i>	<i>WHAT WAS THE CRIME?</i>	<i>JURISDICTION</i>
INDIAN (enrolled or recognized as an Indian by a federally recognized tribe or the federal government <u>and</u> possessing some degree of Indian blood)	Major Crimes Act Crimes: murder; manslaughter; kidnapping; maiming; sexual abuse/assault under Ch. 109-A; <u>incest</u> ; assault with intent to commit murder or in violation of 18 U.S.C. § 2241 or §2242; assault with intent to commit any felony; assault with a dangerous weapon with intent to do bodily harm; assault resulting in serious bodily injury as defined in 18 U.S.C. § 1365; assault resulting in substantial bodily injury of a spouse, intimate partner or dating partner, or on a person under 16 years old; assault of a spouse, intimate partner or dating partner by strangulation; <u>felony child abuse</u> or neglect; arson; <u>burglary</u> ; robbery; felony theft under 18 U.S.C. § 661. (Authority: Major Crimes Act - 18 U.S.C. § 1153) (underlined: assimilated state offense- 18 U.S.C. § 13)	FEDERAL #
	All remaining crimes contained in tribal code: (Authority: tribal code or 25 CFR Pt. 11, if a CFR Court of Indian Offenses)	TRIBAL *
NON-INDIAN	Major Crimes Act Crimes: murder; manslaughter; kidnapping; maiming; sexual abuse/assault under Ch. 109-A; <u>incest</u> ; assault with intent to commit murder or in violation of 18 U.S.C. § 2241 or §2242; assault with intent to commit any felony; assault with a dangerous weapon; assault resulting in serious bodily injury; assault resulting in substantial bodily injury of a spouse, intimate partner or dating partner, or on a person under 16 years old; assault of a spouse, intimate partner or dating partner by strangulation; <u>felony child abuse</u> or neglect; arson; <u>burglary</u> ; robbery; felony theft under 18 U.S.C. § 661. (Authority: Major Crimes Act - 18 U.S.C. § 1153) (underlined: assimilated state offense - 18 U.S.C. § 13)	FEDERAL #
	Federal Territorial Crimes: (unless the tribe has punished the Indian defendant) (Authority: General Crimes Act/Indian Country Crimes Act - 18 U.S.C. § 1152) including crimes contained in state code (where there is no federal statute for the category of offense) under the Assimilative Crimes Act: (18 U.S.C. § 13)	FEDERAL #
	All remaining crimes contained in tribal code: (Authority: tribal code or 25 CFR Pt. 11, if a CFR Court of Indian Offenses)	TRIBAL *

2. VICTIMLESS CRIMES: NO PERSON OR PERSON’S PROPERTY INVOLVED

(e.g., traffic violations w/ no injury/damage to a person or their property, disorderly conduct, prostitution, violation of court order, etc.)

a. Crimes in state code (where there is no federal statute for the category of offense) under the Assimilative Crimes Act. (Authority: 18 U.S.C. §§ 1152 and 13)	FEDERAL #
b. Crimes in tribal code. (Authority: tribal code or 25 CFR Pt. 11, if CFR Court)	TRIBAL *

3. SPECIAL CRIMES APPLICABLE TO INDIAN COUNTRY (Indian or Non-Indian)

FEDERAL #

(Federal prosecution based on crime committed in Indian country)

(e.g., Habitual Domestic Violence, 18 U.S.C. § 117; Failure to Register as Sex Offender, 18 U.S.C. § 2250; Unauthorized Hunting/Fishing, 18 U.S.C. § 1165 [tribal trust land and allotments only]; and other statutes)

4. FEDERAL CRIMES GENERALLY APPLICABLE TO ANY PERSON NATIONWIDE (Indian or Non-Indian) (Crime Affecting Interstate Commerce or a Federal Interest)

FEDERAL #

(Federal prosecution NOT based on territorial jurisdiction over location of crime)

(e.g., drug offenses, Violence Against Women Act (VAWA) offenses, firearm possession by prohibited person, tribal embezzlement, assault on a federal officer, theft from tribal casino, child porn., etc.) (Authority: individual federal statute)

NON-INDIAN OFFENDER:

1. VICTIM CRIMES: FOR OFFENSES AGAINST A PERSON OR PERSON’S PROPERTY (not a tribal govt.)

<i>WHO IS THE VICTIM?</i>	<i>WHAT WAS THE CRIME?</i>	<i>JURISDICTION</i>
INDIAN (enrolled or recognized as an Indian by a federally recognized tribe or the federal government <u>and</u> possessing some degree of Indian blood)	Federal Territorial Crimes: (Authority: General Crimes Act/Indian Country Crimes Act - 18 U.S.C. § 1152) including crimes contained in state code (where there is no federal statute for the category of offense) under the Assimilative Crimes Act: (18 U.S.C. §§13) Assaults of tribal justice personnel, child violence, dating violence, domestic violence, obstruction of justice, sexual violence, sex trafficking, stalking, and violation of a protection order (Special Tribal Criminal Jurisdiction - “STCJ”) (Authority: tribal code under 25 U.S.C. § 1304 – VAWA 2022) eff. 10/1/22 All crimes in state code. (Authority: <i>Oklahoma v. Castro-Huerta, No. 21-429 (U.S. Supr. Ct., 2022)</i>)	FEDERAL % TRIBAL * ▲ STATE
NON-INDIAN	All crimes in state code. (Authority: <i>U.S. v. McBratney, 104 U.S. 621 (1881)</i>) Assaults of tribal justice personnel or obstruction of justice (Special Tribal Criminal Jurisdiction - “STCJ”) (Authority: tribal code under 25 U.S.C. §1304 – VAWA 2022) eff. 10/1/22	STATE TRIBAL * ▲

2. VICTIMLESS CRIMES: NO PERSON OR PERSON’S PROPERTY INVOLVED **STATE**
 (e.g., traffic violations w/ no injury/damage to a person or their property, disorderly conduct, prostitution, violation of court order, etc.)

3. SPECIAL CRIMES APPLICABLE TO INDIAN COUNTRY (Indian or Non-Indian) **FEDERAL #**
 (Federal prosecution based on crime committed in Indian country)
 (e.g., Habitual Domestic Violence, 18 U.S.C. § 117; Failure to Register as Sex Offender, 18 U.S.C. § 2250; Unauthorized Hunting/Fishing, 18 U.S.C. § 1165 [tribal trust land and allotments only]; and other statutes)

4. FEDERAL CRIMES GENERALLY APPLICABLE TO ANY PERSON NATIONWIDE (Indian or Non-Indian) (Crime Affecting Interstate Commerce or a Federal Interest) **FEDERAL #**
 (Federal prosecution NOT based on territorial jurisdiction over location of crime)
 (e.g., drug offenses, Violence Against Women Act (VAWA) offenses, firearm possession by prohibited person, tribal embezzlement, assault on a federal officer, theft from tribal casino, child porn., etc.) (Authority: individual federal statute)

* A tribal court may be: 1) a tribal court established under tribal law; 2) or a “CFR” Court of Indian Offenses established under Title 25, Part 11, Code of Federal Regulations for a tribe without a court system; or 3) An Alaska Native Village Court with jurisdiction over Alaska Village land as defined by Section 812 (7) of VAWA 2022. 25 U.S.C. §1305

▲ Applicable in an Alaska village only if part of a designated U.S. Department of Justice “Pilot Project”

includes juveniles (under 18 YOA at time of the incident) prosecuted as delinquents under 18 U.S.C. § 5032, if the state lacks or refuses to assume jurisdiction or it is a felony crime of violence or specified offense listed in 18 U.S.C. § 5032 and there is a substantial Federal interest

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