

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).
 (where no 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 (18 U.S.C. §1153): 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; assault 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. (Elements: Individual Federal Statute in Title 18, U.S. Code) (assimilated state offense where underlined)	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 (18 U.S.C. §1153): 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; assault 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. (Elements: Major Crimes Act - 18 U.S.C. § 1153) (state offense where underlined)	FEDERAL #
	Other federal crimes (unless the tribe has punished the Indian defendant), including crimes contained in state code (where there is no federal statute for the category of offense) under the Assimilative Crimes Act: (Authority: General Crimes Act - 18 U.S.C. §§ 1152 and 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 IN CRIME

(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])

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 possession/trafficking, firearm possession by prohibited person, mail fraud, embezzlement or theft from tribe or federal government, theft from casino, failure to report child abuse, etc.) (Authority: individual federal statute)

NON-INDIAN OFFENDER:

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

WHO IS THE VICTIM?	WHAT WAS THE CRIME?	JURISDICTION
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)	Indian Country Crimes Act Crimes: All federal crimes which apply to the "special maritime and territorial jurisdiction of the United States under the U.S. Code." (Authority: General Crimes Act - 18 U.S.C. § 1152)	FEDERAL %
	All remaining crimes contained in state code (where there is no federal statute for the category/subject matter of offense) under the Assimilative Crimes Act, 18 U.S.C. § 1152. (Authority: General Crimes Act - 18 U.S.C. § 1152)	FEDERAL %
	Domestic Violence, Dating Violence, or Violation of Protection Order offenses [when defendant: 1) resides in Indian country, 2) is employed in Indian country, or 3) is a spouse, intimate partner or dating partner of a member of a participating tribe or is an Indian residing in Indian country of a participating tribe] (Special Domestic Violence Criminal Jurisdiction- “SDVCJ”) (Authority: tribal code pursuant to authority of 25 U.S.C. § 1304 - VAWA)	TRIBAL *
	All crimes in state code. (Authority: <i>Oklahoma v. Castro-Huerta, No. 21-429 (U.S. Supr. Ct., 2022)</i>)	STATE
NON-INDIAN	All crimes in state code. (Authority: <i>U.S. v. McBratney, 104 U.S. 621 (1881)</i>)	STATE

2. VICTIMLESS CRIMES: NO PERSON OR PERSON’S PROPERTY INVOLVED IN CRIME **STATE ONLY**

(traffic violations w/no injury/damage to a person or their property, disorderly conduct, prostitution, driving under the influence, drug offenses, failure to register as a sex offender, violation of a court order, illegal gun possession, 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])

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

(e.g., drug offenses, firearms offenses, mail fraud, embezzlement or theft from tribal organization, theft from casino, failure to report child abuse, etc.) (Authority: individual federal statute)

* A tribal court may be a tribal court established under tribal law or a “CFR” Court of Indian Offenses established under Title 25, Part 11 of the Code of Federal Regulations for a tribe without it’s own court system

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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