

# 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 treaty 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 state government over the Indian country involved exists)

## INDIAN OFFENDER:

### 1. VICTIM CRIMES: FOR OFFENSES AGAINST A VICTIM'S PERSON OR PROPERTY

<b>WHO IS THE VICTIM?</b>	<b>WHAT WAS THE CRIME?</b>	<b>JURISDICTION</b>
<b>INDIAN</b> (enrolled or recognized as Indian by a government entity <u>and</u> possessing some degree of Indian blood)	<b>Major Crimes Act crimes:</b> 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. (Authority: Major Crimes Act - 18 U.S.C. § 1153 & state code where underlined)	<b>FEDERAL</b>
	<b>All remaining crimes contained in tribal code:</b> (Authority: tribal code or 25 CFR Pt. 11, if a CFR Court of Indian Offenses)	<b>TRIBAL *</b>
<b>NON-INDIAN</b>	<b>Major Crimes Act crimes:</b> 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. (Authority: Major Crimes Act - 18 U.S.C. § 1153 & state code where underlined)	<b>FEDERAL</b>
	<b>Other federal crimes (unless tribe has punished Indian defendant), including crimes contained in state code (where there is no federal statute for the category of offense) under the Assimilative Crimes Act:</b> (Authority: General Crimes Act - 18 U.S.C. §§ 1152 and 13)	<b>FEDERAL</b>
	<b>All remaining crimes contained in tribal code:</b> (Authority: tribal code or 25 CFR Pt. 11, if a CFR Court of Indian Offenses)	<b>TRIBAL *</b>

### 2. VICTIMLESS CRIMES: NO VICTIM'S PERSON OR PROPERTY INVOLVED IN CRIME

(e.g., traffic offenses, disorderly conduct, prostitution, 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)	<b>FEDERAL</b>
b. Crimes in tribal code. (Authority: tribal code or 25 CFR Pt. 11, if CFR Court)	<b>TRIBAL *</b>

\* limited to 1 year sentence & \$5,000. fine, unless tribe approved under Tribal Law & Order Act for 3 yr. felonies.

### 3. GENERAL FEDERAL CRIMES: OTHER FEDERAL CRIMES OF GENERAL

**APPLICABILITY (Affecting Interstate Commerce or a Federal Interest)**

**FEDERAL**

(Federal prosecution based on federal interest, 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)

**NON-INDIAN OFFENDER:**

**1. VICTIM CRIMES: AN OFFENSE AGAINST A VICTIM'S PERSON OR PROPERTY**

<b>WHO IS THE VICTIM?</b>	<b>WHAT WAS THE CRIME?</b>	<b>JURISDICTION</b>
<b>INDIAN</b> (enrolled or recognized as Indian by a government entity <u>and</u> possessing some degree of Indian blood)	<b>Indian Country Crimes Act Crimes:</b> 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)	<b>FEDERAL</b>
	<b>All remaining crimes contained in state code (where there is no federal statute for the category of offense) under the Assimilative Crimes Act.</b> (Authority: General Crimes Act - 18 U.S.C. §§ 1152 & 13)	<b>FEDERAL</b>
	<b>Domestic Violence, Dating Violence, or Violation of Protection Order offenses [when defendant: 1) resides in Indian country, 2) works in Indian country, or 3) is a spouse or partner of a member of a participating tribe or is an Indian residing in Indian country of a participating tribe]</b> (Authority: tribal code and 25 U.S.C. § 3101)	<b>TRIBAL *</b> **
<b>NON-INDIAN</b>	<b>All crimes contained in state code.</b> (Authority: <i>United States v. McBratney</i> , 104 U.S. 621 (1881))	<b>STATE</b>

\* limited to 1 year sentence & \$5,000. fine, unless tribe approved under Tribal Law & Order Act for 3 yr. felonies.

\*\* effective after 3/7/15 if the tribe provides U.S. Constitutional protections in tribal court.

**2. VICTIMLESS CRIMES: NO VICTIM'S PERSON OR PROPERTY INVOLVED IN CRIME**

**STATE ONLY**

(e.g., traffic offenses, disorderly conduct, prostitution, etc.)

**3. GENERAL FEDERAL CRIMES: OTHER FEDERAL CRIMES OF GENERAL APPLICABILITY (Affecting Interstate Commerce or a Federal Interest)**

**FEDERAL**

(Federal prosecution based on federal interest, 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)

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