



Indian Country Jurisdiction

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Neutral Grounds Meeting

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Dickinson, ND



Major Crimes Act (18 U.S.C. § 1153)

In 1885, the United States Congress passed the Major Crimes Act, which granted federal courts jurisdiction over certain major crimes committed by an Indian against another Indian on a reservation of tribal land.



Major Crimes Act (18 U.S.C. § 1153)

Enumerated Crimes:

- Murder
- Manslaughter
- Kidnapping
- Maiming
- A felony under Chapter 109A (i.e. sexual abuse)
- Incest
- A felony assault under Section 113 (e.g. assault with intent to commit murder or assault with a dangerous weapon)
- Assault against an individual younger than 16 years old
- Felony child abuse or neglect
- Arson
- Burglary
- Robbery
- A felony under Section 661 (i.e. larceny greater than \$1,000)



Major Crimes Act (18 U.S.C. § 1153)

History

- Prior to 1885, Indian on Indian offenses were tried in tribal courts.
 - See *Ex parte Crow Dog*, 109 U.S. 556 (1883)
 - Federal court had no jurisdiction to try an Indian for the murder of another Indian.
- The Major Crimes Act was passed in reaction to the holding of *Crow Dog*.



Major Crimes Act (18 U.S.C. § 1153)

History continued

- Federal courts have jurisdiction exclusive of the states over offenses enumerated in the section when committed by a tribal Indian against the person or property of another tribal Indian or other person in Indian country.
 - Legislative history indicates that the words “or other person” were incorporated in the 1885 Act to make certain the Indians were to be prosecuted in federal court. 48th Cong., 2d Sess., 16 Cong. Rec. 934 (1885).



Crow Dog Case (1883)

The *Ex Parte Crow Dog* case, heard by the U.S. Supreme Court in 1883, illustrates how federal Indian law works in several ways. This case is very interesting, and books have been written about it.

- In brief, the case involved a Brulé Lakota Sioux man named Crow Dog, a traditionalist and a captain of the tribal police force. Crow Dog shot and killed Spotted Tail, who was viewed as an accommodator and great Lakota Sioux peace chief by the Bureau of Indian Affairs (BIA). Spotted Tail was known to have a bad temper and was the uncle to the famous warrior Crazy Horse.



Crow Dog Case (1883)

- There are various explanations of why Crow Dog killed Spotted Tail, but many mention issues over power struggles and a woman named Light in the Lodge. Both men were from the same tribe and the killing took place on reservation land in 1881.
- The tribal council handled the case according to Sioux tradition. Crow Dog had to pay restitution of \$600, eight horses, and one blanket to Spotted Tail's family.
 - This was a significant payment in those days.



Crow Dog Case (1883)

- The Territory of Dakota also heard the case, the first time in the history of the United States that an Indian was prosecuted for the murder of another Indian. The Dakota Court sentenced Crow Dog to hang for the murder.
- The case was appealed to the U.S. Supreme Court which found that unless Congress authorized it, the government did not have jurisdiction over a crime committed by one Indian on a reservation against another. Crow Dog was set free.



Criminal Jurisdiction in Indian Country by Parties & Crimes

CRIMES BY PARTIES

JURISDICTION

STATUTORY AUTHORITY

CRIMES BY INDIANS AGAINST INDIANS:

a. Major crimes	Federal or tribal (concurrent)	18 U.S.C. § 1153
b. Other crimes	Tribal (exclusive)	18 U.S.C. § 1153

CRIMES BY INDIANS AGAINST NON-INDIANS

a. Major crimes	Federal or tribal (concurrent)	18 U.S.C. § 1153
b. Other crimes	Federal or tribal (concurrent)	18 U.S.C. § 1152

CRIMES BY INDIANS WITHOUT VICTIMS:

	Tribal (exclusive)	18 U.S.C. § 1152
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Criminal Jurisdiction in Indian Country by Parties & Crimes Continued

CRIMES BY PARTIES

JURISDICTION

STATUTORY AUTHORITY

CRIMES BY NON-INDIANS AGAINST INDIANS:

Federal (exclusive)

18 U.S.C. § 1152

CRIMES BY NON-INDIANS AGAINST NON-INDIANS

State (exclusive)

18 U.S.C. § 1152

CRIMES BY NON-INDIANS WITHOUT VICTIMS:

State (exclusive)

18 U.S.C. § 1152

Notes:

- This two-slide chart does not reflect federal crimes applicable to all persons in all places, such as theft from the mails or treason.
- This two-slide chart also does not apply to Indian Country over which the state has taken jurisdiction pursuant to Public Law 280, 18 U.S.C. § 1162.



FBI Minneapolis Indian Country

Guidelines

- Generally, the FBI in this Field Office and most others around the country focus on violent crime.
- FBI Minneapolis priorities, in order, are:
 - Homicide
 - Sexual assault (focus on children)
 - Drugs
 - Other violent assaults



FBI Minneapolis Indian Country

Guidelines continued

- Noticeably absent are property crimes and minor physical assaults.
- Staffing concerns prevent most property crime investigations.



Questions?