

**JURISDICTION OVER CRIMINAL OFFENSES**

	State Jurisdiction		Yakama Jurisdiction		Federal Jurisdiction	
	Current	Retrocession	Current	Retrocession	Current	Retrocession
<b>Reservation Trust Lands &amp; Allotments</b>						
Indian perpetrator & Indian victim:	Yes <sup>1</sup>	No	Yes	Yes	Yes <sup>2</sup> (MCA only)	Yes (MCA only)
Indian perpetrator & non-Indian victim: MCA)	Yes <sup>1</sup>	No	Yes	Yes	Yes <sup>3</sup> (ICCA & MCA)	Yes (ICCA & MCA)
Non-Indian perpetrator & Indian victim:	Yes	Yes <sup>4</sup>	No	No	Yes (ICCA only)	Yes (ICCA only)
Non-Indian perpetrator & Non-Indian victim:	Yes	Yes	No	No	No <sup>5</sup>	No
<b>Reservation Fee Lands; Off-reservation Trust Lands &amp; Allotments)</b>						
Indian perpetrator & Indian victim:	Yes	No	Yes	Yes	Yes <sup>2</sup> (MCA only)	Yes (MCA only)
Indian perpetrator & non-Indian victim:	Yes	No	Yes	Yes	Yes <sup>3</sup> (ICCA & MCA)	Yes (ICCA & MCA)
Non-Indian perpetrator & Indian victim:	Yes	Yes <sup>4</sup>	No	No	Yes (ICCA only)	Yes (ICCA only)
Non-Indian perpetrator & Non-Indian victim:	Yes	Yes	No	No	No <sup>5</sup>	No

<sup>1</sup> State jurisdiction is limited to crimes relating to the eight subject matter areas listed in RCW 37.12.010: (1) Compulsory school attendance; (2) Public assistance; (3) Domestic relations; (4) Mental illness; (5) Juvenile delinquency; (6) Adoption proceedings; (7) Dependent children; and (8) Operation of motor vehicles upon the public streets, alleys, roads and highways.

<sup>2</sup> "MCA" refers to the Major Crimes Act, 18 U.S.C. § 1153. The 15 enumerated offenses covered by the MCA are murder, manslaughter, kidnapping, maiming, a felony under Chapter 109A (sexual abuse), incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, assault against an individual under the age of 16, arson, burglary, robbery, a felony under 18 U.S.C. §661 (embezzlement and theft).

<sup>3</sup> "ICCA" refers to the Indian Country Crimes Act. ICAC is a federal statute that provides for federal jurisdiction rather than state jurisdiction for certain crimes committed in Indian Country. The ICCA extends the general laws of the United States regarding federal criminal offenses into Indian Country. In order for the ICCA to apply, either the perpetrator or the victim must be Indian. See 18 U.S.C. §§ 13, 1152.

<sup>4</sup> As requested in the Yakama petition, but not under a strict full PL 280 retrocession situation.

<sup>5</sup> Unless it's a federal crime, such as mail fraud.

## JURISDICTION OVER CIVIL CAUSES OF ACTION

	State Jurisdiction		Yakama Jurisdiction		Federal Jurisdiction <sup>6</sup>	
	Current	Retrocession	Current	Retrocession	Current	Retrocession
<b>Reservation Trust Lands &amp; Allotments</b> (subject matter areas <sup>7</sup> other than mental health)						
Indian plaintiff & Indian defendant:	Yes <sup>8</sup>	No	Yes	Yes	No	No
Indian plaintiff & non-Indian defendant:	Yes	Yes	No <sup>9</sup>	No <sup>9</sup>	No	No
Non-Indian plaintiff & Indian defendant:	Yes <sup>8</sup>	No	Yes	Yes	No	No
Non-Indian plaintiff & Non-Indian defendant:	Yes	Yes	No	No	No	No
<b>Reservation Fee Lands;</b> <b>Off-reservation Trust Lands &amp; Allotments</b>						
Indian plaintiff & Indian defendant:	Yes	No	Yes	Yes	No	No
Indian plaintiff & non-Indian defendant:	Yes	Yes	No <sup>9</sup>	No <sup>9</sup>	No	No
Non-Indian plaintiff & Indian defendant:	Yes	No	Yes	Yes	No	No
Non-Indian plaintiff & Non-Indian defendant:	Yes	Yes	No	No	No	No

<sup>6</sup> The answers to the federal court jurisdiction would differ if there was a federal question, such as copyright infringement. *Indian v. Non-Indian or vice versa* does not create diversity jurisdiction.

<sup>7</sup> The eight "subject matter areas" are (1) Compulsory school attendance; (2) Public assistance; (3) Domestic Relations; (4) Mental Illness; (5) Juvenile Delinquency; (6) Adoption proceedings; (7) Dependent children; and (8) Operation of motor vehicles upon the public streets, alleys, roads, and highways. RCW 37.12.010.

<sup>8</sup> State jurisdiction over civil causes of action is limited to six of the eight subject matter areas listed in RCW 37.12.010. State jurisdiction over Yakama adoption proceedings and dependent children within the Yakama Reservation was retroceded under the Indian Child Welfare Act. See 45 Fed. 6479 (1980).

<sup>9</sup> Tribal courts have limited civil jurisdiction over non-Indians as described in *Strate v. A-1, 520 U.S. 438* (1997). Indians who are not members of the Yakama Nation may be treated as non-Indians under this analysis. There is some disagreement about jurisdiction depending on the application of case law; however, the outcome is not affected by P.L. 280. Therefore, in some situations jurisdiction may currently exist and this would continue in the absence of P.L. 280.