

ANSWERS TO FREQUENTLY ASKED QUESTIONS ABOUT INDIANS

- **How many Indian tribes are there?**

There are 562 federally recognized Indian tribes, bands, nations, pueblos, rancherias, communities and Native villages in the United States. Approximately 230 of these are located in Alaska; the rest are located in 33 other states. Tribes are ethnically, culturally and linguistically diverse.

- **How many American Indian and Alaska Natives are there in the United States?**

According to the 2000 U.S. Census, approximately 4.1 million Americans self-identify as American Indian or Alaska Native alone or in conjunction with another race.

- **What is federal recognition?**

Federal recognition of an Indian tribe involves official acknowledgement by the United States of the political status of that tribe as a government. Members of a federally recognized tribe are eligible for federal programs designed to fulfill the federal "trust responsibility" to tribes, including those offered for Indian people by the Indian Health Service. The process of attaining federal recognition is long, complex, and extremely stringent.

- **Why does the United States treat Indian tribal members differently from racial minority groups such as African Americans, Latinos, Asian Americans and others?**

American Indians, Alaska Natives, and Native Hawaiians are members of the original indigenous tribes of the United States, which were considered sovereign nations from their first interaction with European settlers. Tribal governments have unique legal and political relationships with the federal government, which provides certain services to citizens of the tribes based on that political relationship, not because these citizens are a particular race or ethnicity. Tribal members are citizens of three sovereigns: their tribe, the state in which they reside, and the United States.

- **What are the requirements for tribal citizenship?**

Like any government, individual tribal governments determine their own criteria for citizenship. Usually there is some blood quantum requirement or a requirement of lineal descendency from a tribal citizen. Individual tribes can answer specific questions about their membership requirements. Some federal agencies also have criteria for determining eligibility for programs and services provided to American Indians and Alaska Natives.

- **How does the Constitution address Indian tribes—what is the "Indian Commerce Clause" and what is the role of the Congress in Indian affairs?**

Article I, section 8, clause 3 of the Constitution says: "The Congress shall have Power to...regulate Commerce...with the Indian Tribes." This clause is the basis for congressional authority to pass laws dealing with tribes and their relationship with the federal government. Both the Senate and the House of Representatives have generally established specific committees to handle Indian legislation. In the Senate, the Committee on Indian Affairs handles most legislation relating to American Indian tribes (the Committee on Energy retains jurisdiction over most issues affecting Alaska Native lands); in the House, the Committee on Resources has authorizing authority over Indian issues.

- **What is the trust responsibility?**

The federal trust responsibility derives from the fiduciary relationship between the United States and Indian tribes, which has been likened in court cases to the relationship between a trustee and a beneficiary. Since the United States holds the vast majority of Indian lands, money, and resources in "trust" status, it is required to manage those lands and resources in a manner most beneficial to the tribes and individual Indian people.

- **What is meant by the terms “trust lands,” “reservations,” and “Indian Country”?**

“Trust lands” and “reservations” are complex terms under federal law that basically define what is and what is not “Indian Country.” Indian Country itself is that area over which the federal government and tribes exercise primary jurisdiction. Land within existing Indian reservations constitutes the majority of Indian Country. Reservations are defined geographic areas with established boundaries recognized by the United States. Some reservations are made up wholly of trust lands (lands held in trust by the United States for the benefit of a tribe or an individual Indian); other reservations include trust lands as well as fee lands owned by tribes, individual Indians, and non-Indians.

After ceding vast tracts of land to the United States in the 1700’s and 1800’s, the tribes were promised in treaties that the “reserved” lands were theirs forever. But the U.S. subsequently broke these treaties and dismantled tribes’ land bases. The General Allotment Act of 1887, also known as the Dawes Act, forced the conversion of communally held tribal lands into small parcels for individual ownership. More than 90 million acres—nearly two-thirds of reservation land—were taken from tribes and given to settlers, most often without compensation to the tribes, frequently leaving tribes with non-arable land that would not sustain the growth of their populations.



A poster advertises Indian lands for sale in the allotment era.

- **What is the government-to-government relationship?**

The government-to-government relationship between Indian tribal governments and the United States government has existed since the formation of the United States and has been reaffirmed by every President since Richard Nixon. The United States government and all of the executive agencies historically dealt and continue to deal with Indian tribes not as special interest groups or individuals, but as they treat the states: as governments.

- **What is tribal sovereignty?**

Prior to the arrival of Europeans, Indian tribes could raise armies and provide currency for commerce. Those powers are no longer enjoyed by tribes. However, all other powers, except those expressly taken away by the Congress, are retained by tribes. Congress may also expressly reaffirm inherent powers of tribes, and has done so in recognizing certain powers of tribes in environmental statutes. This means that tribes can regulate tribal land, taxes, zoning, resources, and the conduct of tribal members. Certain powers, including the tribes’ jurisdiction over non-members, have been blurred by recent federal case law, making lines of jurisdictional authority unclear in some instances.

- **What is tribal sovereign immunity?**

Like the federal government and the states, tribal governments are immune from lawsuits by citizens and other tribal, state, and local governments. Sovereign immunity enables governments to carry out their governmental duties on a day-to-day basis without fear of being brought to court for their governmental decisions and facing potential bankruptcy of critical publicly held assets. Although sovereign immunity is especially important to tribes because of their limited revenue sources, it is a limited legal protection and is not a barrier to most meritorious cases. In addition, immunity may be waived by tribal governments.

- **What is meant by self-determination and self-governance?**

First developed under President Nixon in consultation with Indian tribal leaders, the Indian Self-Determination and Education Assistance Act was signed by President Ford in 1975. This Act promotes the contracting by Indian tribes of federal programs enacted for the benefit of Indian people. As a result, for the past 25 years, tribes have been contracting to operate programs directly at the tribal level. More recently, self-governance policies have been enacted enabling tribes to enter into one agreement with the Department of the Interior to manage and redesign BIA and IHS programs, rather than to enter into separate contracts for each program.

- **How do Indian tribes organize their governments?**

Tribes have the inherent power to govern all matters involving their members and a range of matters in Indian Country. Tribes form their governments either by election of members to a governing council as provided in each tribe's constitution or, in some cases, by elders choosing the tribe's leaders in a traditional process. Each tribe generally has one elected chairperson, president, chief, or governor who is the recognized leader of the tribe and who has authority to act as such when dealing with the federal government. Many tribes have organized their governments under the auspices of the Indian Reorganization Act of 1934 and their constitutions and amendments are approved by the Secretary of the Interior.

- **Do states have jurisdiction over Indian Country or Indian people?**

States do not have any civil or criminal jurisdiction over Indian Country except that which the Congress may delegate or the federal courts determine exists. In the 1950's, Congress enacted several statutes (such as Public Law 83-280) giving states criminal jurisdiction over offenses committed within Indian Country. However the statute did not grant jurisdiction to states over the tribes themselves or over their lands. Some of the states have returned jurisdiction to the federal government. For more than a quarter century, until passage of the Indian Gaming Regulatory Act (IGRA) in 1988, no other statutes gave states any authority in Indian Country. The federal government has jurisdiction over most major crimes committed in Indian Country. Tribes prosecute all criminal misdemeanors committed by Indians on Indian lands that carry sentences of up to one year in jail. Tribal courts also have jurisdiction over most civil matters that arise within Indian Country.

- **Do tribal governments pay federal taxes?**

Like state governments, tribal governments are considered sovereign governments not subject to taxation by the federal government. This is a long-standing federal policy with Constitutional support that prevents interference with the ability to raise revenue for government functions. Like state and local governments, tribal governments use their revenues to provide essential services for their citizens. Unlike state governments, tribal governments are generally not in a position to levy property or income taxes because of the unique nature of land tenure in Indian Country, fragile economies, and jurisdictional restraints. Income from tribal businesses is the only non-federal revenue source for most tribes.

- **Do tribal governments pay state taxes?**

States cannot directly tax a tribal government. The Supreme Court has held that state governments can collect excise taxes on sales to non-members that occur on tribal lands, so long as the incidence of the tax does not fall directly on the tribal government. States and tribes have developed a variety of methods for collecting these taxes where the states choose to do so, including intergovernmental agreements or pre-taxing at the wholesale level.

- **Do Indian people pay taxes?**

Individual American Indians and Alaska Natives and their businesses pay federal income taxes just like every other American. The one exception is when an Indian person receives income directly from a treaty or trust resource such as fish or timber: that income is not federally taxed. States also cannot tax tribal members who live and derive their income on tribal land—just as one state would not seek to impose taxes on an individual who works in another state.

- **What is the economic condition of Indian Nations?**

Despite significant economic improvements in some pockets of Indian Country over recent decades, more than a quarter of Indian people continue to live in poverty, and unemployment rates on reservations are more than double the population at large—13.6% on average by the most conservative estimate, and as high as 80% in some communities. Lack of infrastructure in tribal communities, including roads and bridges, telecommunications connections, and access to training, compound the economic hardship many tribes face. Tribes have also faced difficulty in accessing traditional sources of capital such as lending, banking, and bonding. Strong tribal governance structures have been recognized as key to effective economic development in areas that have consistently struggled for economic stability.

- **Does the federal government provide all the necessary funding for Indian tribes?**

Like state governments, tribal governments receive some federal funding to provide services and operate programs. The federal government has an obligation to tribal governments based on numerous treaties and on the overall trust responsibility. Despite these obligations, federal funding falls far short of fulfilling the need for services and infrastructure on Indian reservations. In 2003, the independent, bipartisan U.S. Commission on Civil Rights issued a report entitled “A Quiet Crisis: Federal Funding and the Unmet Needs in Indian Country,” which documents the federal failure to provide funding for adequate health care, law enforcement, and education for American Indians and Alaska Natives. The report calls for increased federal appropriations to address these needs.

- **Does the federal government pay all expenses—health care, housing, and college tuition—for individual Indians?**

In general, no. The federal government provides basic health care for all Indian people through the Indian Health Service. Unfortunately, these health programs have been inadequately funded for many decades, and Indian people have the worst health status of any group in the country as a result. The Department of Housing and Urban Development provides some housing on Indian reservations, but Indians have the highest rate of homelessness and overcrowding. The federal government provides some educational assistance to tribal colleges, but higher education generally is not provided and remains beyond the reach of most Indian people.

- **Do all tribal members receive money from the federal government?**

Tribal members do not receive money from the federal government. Some tribal members receive distributions of money that derive from land claims settlements or income generated from the sale, development, and/or use of trust lands. Per capita distributions from tribal enterprises represent the tribe’s decision to redistribute tribal wealth (ordinarily generated from a tribal business) with individual payments to every tribal member. However, tribes generally redistribute tribal income to the community through services made available to all, rather than through individual disbursements.

- **Does the federal government pay for Indian education?**

There are approximately 600,000 American Indian and Alaska Native students attending K-12 programs in the United States. 450,000 of these attend public schools, while 50,000 attend BIA funded schools. Within the BIA school system—one of only two federally operated school systems—funding for Indian schools is the sole responsibility of the federal government, while both state and federal resources provide public education funding. Local Education Agencies (LEAs) and their surrounding communities also have the ability to pass bond initiatives in order to build or repair local school buildings. Tribal and BIA schools, on the other hand, must rely on the federal government to ensure their academic and construction needs are being met. A backlog of nearly \$1 billion in school construction and improvement needs as well as shortfalls in classroom and administration dollars speak to the need for increased federal commitment to support the BIA school system.

- **Does the federal government pay for law enforcement in Indian Country?**

The federal government funds most public safety and criminal justice systems in Indian Country. However, as with most Indian programs, federal funding for law enforcement is insufficient. The level of law enforcement services that many Americans take for granted rarely exists on or near Indian lands. There are only 2,380 BIA and tribal uniformed officers available to serve an estimated 1.4 million Indians covering over 56 million acres of tribal lands in the lower 48 states. On tribal lands, 1.3 officers must serve every 1,000 citizens, compared to 2.9 officers per 1,000 citizens in non-Indian communities with populations under 10,000. A total of at least 4,290 sworn officers are needed in Indian Country to provide the minimum level of coverage enjoyed by most communities in the United States.

- **What are sacred sites and why do tribes want to protect them?**

Sacred sites are those that are integral to the practices of Indian religions, the well-being of tribal cultures, and the health of the earth. Examples include sacred mountains, rivers, springs, rocks, petroglyphs, pictographs, burial sites, and ceremonial sites. Since the arrival of Europeans to what is now America, these sites have been subject to intrusion and vandalism by non-Indians. Tribal leaders are pushing for the enforcement of existing laws, expanded executive orders to protect these sites, and for the enactment of more explicit legislation to protect this aspect of American Indian and Alaska Native religious freedom.

- **What laws serve to protect tribal cultures?**

The preservation and protection of tribal history, language, culture, and traditions is a major issue of concern throughout Indian Country. Tribal cultures and traditions provide the foundation and the roots upon which Indian communities will grow in the 21st Century. A number of laws protect native cultures and attempt to correct some of the damages from the past. These include the American Indian Religious Freedom Act, the Native American Graves Protection and Repatriation Act (NAGPRA), the 1992 Tribal Amendments to the National Historic Preservation Act (NHPA), the Native American Languages Act (NALA), as well as Executive Order #13007 on Native American Sacred Sites, and Executive Order #13175 on Consultation and Coordination with Tribal Governments.