

Department of Justice confirms Alaska Tribes' inherent authority to exercise criminal jurisdiction over all Native people within their Villages

The United States Department of Justice (DOJ) recently issued a memorandum confirming that Tribes in Alaska can exercise criminal jurisdiction over all Native people within their Village. The memorandum underscores what Congress made clear in the 2022 reauthorization of the Violence Against Women Act. The Act directly addressed jurisdiction of Tribes in Alaska and stated that “Congress recognizes and affirms the inherent authority of any Indian tribe occupying a Village in the State to exercise criminal and civil jurisdiction over all Indians present in the Village.” 25 U.S.C. § 1305(a).

DOJ's new memorandum makes clear that Alaska Tribes' criminal jurisdiction over Native people is concurrent (shared) with any federal or state jurisdiction. The memo provides an update to a DOJ memorandum issued in 2000, which explained that Public Law 280 did not remove the inherent authority of Tribes of their inherent criminal authority over Native people. The new memorandum reaffirms the U.S. DOJ's position on Alaska Tribe's jurisdiction. It highlights:

- Alaska Tribes' criminal jurisdiction over Native people is not affected by the fact that most Alaska Tribes lack “Indian Country.”
- Tribes have inherent power to prosecute all Native people for violations of Tribal criminal laws. This includes citizens (members) of their Tribe, and non-citizens (non-members).
- This power covers all criminal offenses, including misdemeanors and felonies.
- Tribes have both criminal and civil jurisdiction over all Native people within a Village.
- Tribes have the authority to issue and enforce civil protective orders involving all people within the Village. This applies to Native and non-Native people.
- Public Law 280 did not take away the inherent authority of Alaska Tribes.

If your Tribe has questions or would like further information, please contact the Tribal Justice Support team at the Alaska Native Justice Center. TribalJustice@anjc.net

The memorandum is attached and can also be accessed at: https://www.justice.gov/d9/2023-11/inherent_tribal_authority_in_alaska_memo_10-24-2023_final_word_version.pdf