

# Introduction to Indian Country

## American Indian/Native Alaskan/Eskimo\* Population

Based on 1990 US Census unless otherwise stated

### Current Status

- 1.1 million American Indians are enrolled in a federally recognized tribe and have proof of being American Indian.
- 1.96 million persons are self-declared Indians, may be recognized as a state recognized tribe or have determined for themselves they have an identity as an American Indian.
- Native Americans make up eight-tenths of 1% of the total U.S. population (258 million).
- There was an increase of 38% in the American Indian population between the 1980 and 1990 census. This was due to several factors and not just increased birthrate.
- Increased number of American Indians counted on the census is due to higher fertility rates and improved procedures by the Census Bureau to count populations on trust and reservations lands, self-identification, and promoting of census information.
- The Native American population can be described as younger, less educated and poorer than the general population. This has implication for services and the ability of families to respond to crisis.
- Native Americans are the most impoverished ethnic minority population in America, with 31.6% of American Indians living below the poverty level compared with the national poverty rate of 13.1% for the general population.
- The poverty rate for American Indians was 27% in 1979 and has increased to 31% over a ten-year period (1979-1989). The poverty rate for non-Indians was 12% in 1979 and increased only 1% over the same ten-year period.
- In 1994, 11.7% of American Indians were under age 5, 39% of American Indians were under age 20 and 10.7 % were age 54 years and over. In comparison with other races in 1994, 7.7% were under age 5, and 19.6% of all races population was over age 54. This means that almost 40% of the American Indian population are minors and in need of supervision and guidance. This also means that the majority of American Indian children are more likely to live in poverty and have limited resources.



- The median age for American Indian population was 24.2 years compared to a median age for non-Indian populations of 32.9 years. The American Indian population is very young with a limited number of caregivers.
- The 1990 Census indicated that the median family income for American Indian families was \$21,750, compared to \$35,225 median income for the general population. There is a difference for the median household income for American Indians residing in reservation states and American Indians residing elsewhere. For American Indians residing in reservation states the median household income was \$19,897. This family income also compares to other population (non-Native) family income of \$30,056. The overall family income for American Indian families is lower and decreases when American Indian families reside in or near traditional homelands.
- Median income for American Indian families maintained by a female householder with no husband was \$10,742, compared with \$17,414 median income for all other families (non-Native) maintained by a female with no husband. American Indian females are less marketable and unskilled, in addition to living in an area unlikely to have employment opportunities. There is also the consideration that it is increasingly likely that more than half of all Indian children live in a single parent household and less likely to live in a two-parent household. Single parent households have less disposable income.
- Average unemployment rate for reservations is 45%, with some having an unemployment rate of 90%. In the American Indian population, 75% of the employed earn less than \$7,000 per year. Most reservations are in isolated, economically deprived locations making meaningful employment highly unlikely. Most income is derived from federal funding. In more recent times, tribes have had an opportunity to make economic decisions and a limited number of tribes have been successful in establishing revenue generating enterprises, such as gaming, recreational, or developing natural resources. But for most tribes which lack an infrastructure, it has been more difficult to create a stable economic base.
- \*The Native population includes American Indians, Native Alaskans, Aleut, and Eskimos. Other terms used are Native Americans or First Nations. Some federal laws that use the term Native Americans may include Native Hawaiians. Many tribes prefer to be called by their original tribal names and not the European names they were given. Historically, who was considered American Indian according to federal laws held little debate. The inclusion of Aleut, Eskimo and Native Hawaiian creates a broader definition and has implication for funding and eligibility for federal and state programs. It also creates confusion as to terminology. Also, there is a change in what tribal people wish to be called collectively and individually, which has added to the confusion about what is correct terminology. The concern about identity has to do with indigenous people being called a name unknown to them, removed to areas unfamiliar to them, experiencing a history that left the majority of



them dead, and the present need for an accurate telling of their story. Other terms often used are First Nations and First Americans.

- Approximately 50% of the American Indians/Native Alaskans live in urban areas. Native Americans living in urban areas have a better economic base compared to Native Americans living on reservations or trust land. Part of the migration to urban areas has been the result of federal relocation, job seeking, escape of poverty, education programs and the general migration from a rural to an urban environment by all populations.
- The birth rate for Native Americans was 26.6\* compared to 15.9\* for all other populations (\*rate per 1,000 live births). American Indian women are having children younger and are experiencing longer child bearing years compared to their non-Native counterparts. Pre-natal care for the mother and the early developmental stages of the baby is better today and the arrest of diseases that plagued many American Indians in the early 1900's are not as prevalent, i.e., tuberculosis, whooping cough, small pox, measles.
- Infant mortality rates for Native Americans was 8.8 compared with 6.9 for other populations. It has decreased 60% from 22.2 since 1974. This compares with 8.5 for other populations for 1974. It has been in the past ten years that the infant mortality rates for Native Americans has decreased to a level that is similar to the non-Native population. Prior to this date, the rate was almost three times the national average. Native infants were more at risk for early death in 1974, now they are more at risk for accidental deaths after their first year.

### **General Health of American Indians**

- The birth rate for American Indians and Alaskan Natives was 26.6 (rate per 1,000 population) in 1991-1993. This is almost twice the birth rate for all races.
- The general physical health of Native Americans is the poorest of any group in the U.S. The lack of adequate medical facilities, medical professionals, funding sources and limited access have contributed to insufficient medical services.
- In certain communities, Fetal Alcohol Syndrome (FAS) is 33 times higher for Native American children than non-Native children. FAS is a major problem because infants may have more difficulty with normal eating and sleeping patterns as well as developmental delays. They may be at greater risk for child maltreatment because they may be hard to comfort and mothers and/or caregivers may find their lack of response frustrating. As young children and adolescents, these children need structure and may suffer from secondary disabilities. They are less likely to understand consequences associated with inappropriate behavior and may be easily lead into harmful or dangerous situations.



- Tuberculosis is 7.4 times greater for Native Americans (4.2 deaths for Native Americans per 100,000 as compared to .05 for all races). Tuberculosis is on the rise in Native communities and is compounded by other illness such as HIV-AIDS, alcoholism, and diabetes.
- Diabetes is almost 7 times greater for Native Americans (35.8 deaths for Native Americans per 100,000 as compared to 9.8 for all races). In certain tribes, the rate of adult on-set diabetes is almost 90%. Indian Health Service did not initially address the prevention of diabetes. It has been in more recent times that awareness in prevention has prompted more emphasis on nutrition, exercise and other preventive efforts. There has been concern that the kinds of foods that were provided through programs such as the USDA Food Commodity programs contrasted sharply with traditional native foods.
- Suicide has devastated some Indian communities. In some communities, cluster suicides has resulted in several adolescents dying and the ability of the community to decrease the number of at risk individuals has been marginal. Currently, 16% of Native American teenagers have attempted suicide as opposed to 4% of other teens (18 suicides per 100,000 Native American teens). The most at risk age group for suicide is males ages 12-27. They are 7 times more successful at hanging, shooting, or knifing themselves, than other males in this age group.
- Alcohol related deaths are 10 times the rate for Native Americans than for all other groups combined (42.7 deaths for Native Americans per 100,000 as compared to 6.0 for all races). Native Americans have had considerable exposure related to the rate of alcoholism within their communities. There are several theories speculating on biological, sociological, psychological, genetic, or environmental factors that may contribute to the degree of alcoholism. However, the actual reasons are not certain and there continues to be concern about the early drinking patterns and consumption levels of adolescents and the related health problems.

### **Death and Related Injuries**

- American Indian population leads the nation in death caused by:
  - Alcohol-Related Motor Vehicle Fatalities
  - Chronic Liver Disease and Cirrhosis
  - Diabetes
  - Fetal Abnormalities
  - Homicide
- Leading causes of death for the following ages in American Indian populations:
 

Ages 1-4	Accidents (motor vehicle & others)/Homicide
Ages 4-15	Accidents (motor vehicle & others)/Homicide
Ages 15-24	Accidents (motor vehicle & others)/ Suicide/ Homicide
Ages 25-44	Accidents (motor vehicle & others)/Chronic Liver disease & Cirrhosis/Suicide/Homicide



- Of all American Indian and Alaska Native people who died during 1991-1993, 30 percent were under the age of 45 compared to 11 percent for all other races. American Indian and Alaska Native people die at a younger age and from more preventable injuries than non-Native people.
- In twenty years the accident death rate for American Indians and Alaska Natives dropped from 188.0 to 83.4, however this is still nearly triple the general population of 29.4. It would appear that American Indians and Alaska Natives are engaging in more at-risk behavior and as a result, have a higher accident and death rate. In addition, young Native adolescents encounter more severe head and spinal injuries due to high risk behavior.

### Education

- In 1990, 65.3% of American Indians over age 25 were high school graduates or higher, which increased from 56% ten years earlier.
- For the general population 75.2% of people over 25 years of age were high school graduates.
- Approximately 9% of American Indians completed a bachelor's degree or higher compared with 20% for the total population.

### Understanding Tribes, Tribal Enrollment and the Degree of Indian Blood

- A **tribe** was defined by the U.S. Supreme Court in 1901 as, "By a *Tribe* we understand a body of Indians of the same or similar race, united in community under one leadership or government, and inhabiting a particular though sometimes ill-defined territory."
- Before the federal government developed official definitions for an Indian tribe, the term was purely ethnologic. A tribe was a group of indigenous people, bound together by blood ties, who were socially, politically, and religiously organized according to the tenets of their own culture, who lived together, occupying a definite territory, and who spoke a common language or dialect.
- Currently the federal government recognizes over 559 different Indian tribes which by federal law entitles those tribes to declare themselves as Federally Recognized Tribes; of these, 226 are recognized entities in Alaska. There is a distinction between tribes that are federally recognized and tribes that are state recognized. Only federally recognized tribes are eligible for considerations in federal funding or can qualify for federal funding sources, whereas state recognized tribes and other



native groups may not qualify for federal funding. Altogether there are 314 reservations, 278 of which are administered as federal Indian reservations.

<b>Tribal/Ethnic Grouping</b>	<b>Population</b>
Cherokee	308,132
Navajo	219,198
Chippewa	103,826
Sioux	103,255
Choctaw	82,299
Eskimo	57,152
Pueblo	52,939
Apache	50,051
Iroquois	49,038
Creek	43,550

- Currently there are approximately 250 Native languages - each tribe has their own culture and language that is distinct to them. Some tribes may have language programs that are being promoted in their education systems (Head Start, elementary schools, and tribally controlled colleges). Only 250 Native languages are viable due to the limited number of Native speakers. A number of Native languages disappeared due to the systematic elimination within the boarding schools and the transition from Native to the English language.
- Each tribe has formally established enrollment criteria. No single set of criteria exists which establishes tribal membership consistently across tribes. Most criteria requires 1/4 or more degree tribal blood (blood quantum), with some requiring that a parent be enrolled with the tribe plus the 1/4 degree tribal blood quantum. Other tribes may require only that an individual provide proof of dependency from historic roles to be eligible. A tribe may include degree of Indian blood from other tribes for a total of Indian blood, however, to be eligible for tribal enrollment, the individual must meet the requirements for that individual tribe based on the degree of tribal blood. Some tribes may base their enrollment on historical paternal or maternal lines and only enroll children based on the tribal lineage as determined by their particular cultural traditions being either matrilineal or patrilineal.
- American Indians are dual citizens of both the U.S. and a federally recognized tribe. Most tribes will not allow dual tribal enrollment. Thus, individuals cannot be enrolled in more than one tribe should they meet the eligibility requirements for more than one tribe. In the 19th century, the prevalent opinion was that an Indian could not be both a tribal member and a U.S. citizen. In 1924, with the passage of the one-sentence law entitled the Indian Citizenship Act, U.S. citizenship was granted to the Indian population. It read, "All non-citizen Indians born within the territorial limits of the United States...are hereby declared to be citizens of the United States...." At the time the act was passed, perhaps one third of the U.S. Indian population did not have citizenship. Other laws and special considerations had created methods for



certain tribal individuals and groups to be granted U.S. citizenship prior to the passage of the 1924 law.

## **Parameters of Indian Country**

- The federal government set aside certain boundary lines on lands that are designated as Indian reservations. The lands were set aside as a result of treaties, laws, Supreme Court decisions, agreements, Congressional decisions, and Executive Orders. There is a difference between federally recognized reservation lands and state recognized reservation lands. There has been lengthy legal questions regarding boundary lines and what is considered reservation land and who has jurisdiction within those boundaries, as well as what is considered allotments in severalty and is "surplus" or "reserved" lands to be considered Indian land after being sold or taken by the U.S. The allotment system did not dissolve tribal governments or individual tribes.
- The number of federal Indian reservations totals about 300 with the majority located in 19 western states. There are 33 states with reservations nationwide and twenty-one of the 24 states located west of the Mississippi River have at least one Indian reservation within their borders.
- California has the highest number of federal reservations - nearly 95 - but approximately half of these are small rancherias ranging in size from less than one to several hundred acres. The highest concentration of Indian reservation or trust land is in Arizona. Oklahoma was a reservation state but the status was changed when the land was opened for allotments and now the state of Oklahoma is made up of former reservation lands, trust land, and allotment land dealt with by Executive Order and treaty reservations.
- American Indians reside in all states, however the majority of American Indians live in 25 states with the majority of the population residing in the western U.S. (OK, CA, NM, TX, MN, MT, MI, SD, ND, AZ, UT, OR, WA, FL, IL, OH, NV, NY, WI, MO, CO, KS, NC, AL, AK).
- Oklahoma has the highest American Indian population with California having the second highest.
- Tribes range from 2-3 members in several California tribes to the Cherokee Nation having over 300,000 members and Navajo Nation with over 200,000.
- The urban Indian population is younger with the reservation population being older.



As of 1990:

Rank	State	Native American Population	Percent Native American
1	Oklahoma	252,420	8.0
2	California	242,164	0.8
3	Arizona	203,527	5.6
4	New Mexico	134,355	8.9
5	Alaska	85,698	15.6
6	Washington	81,483	1.7
7	North Carolina	80,155	1.2
8	Texas	65,877	0.4
9	New York	62,651	0.3
10	Michigan	55,638	0.6
11	South Dakota	50,575	7.3
12	Minnesota	49,909	1.1
13	Montana	47,679	6.0
14	Wisconsin	39,387	0.8
15	Oregon	38,496	1.4
16	Florida	36,335	0.3
17	Colorado	27,776	0.8
18	North Dakota	25,917	4.1
19	Utah	24,283	1.4
20	Kansas	21,965	0.9
21	Illinois	21,836	0.2
22	Ohio	20,358	0.2
23	Missouri	19,835	0.4
24	Nevada	19,637	1.6
25	Louisiana	18,541	0.4

## Terminology

- **American Indian, Native Alaskan, Eskimo, Native American or First Nations** can be used to designate an individual with historical/Native roots within the continental United States prior to European contact.
- The term “**Indian**” is based on Christopher Columbus’ assumption that he had reached India rather than the fact he stumbled into a civilization that was unknown to most of Western Europeans at that time. Now, the term by definition describes the indigenous people of North and South America.
- Historically, the purpose of defining who is **Indian** is the result of placing tribal people on “government roles” for the purpose of maintaining control and placement



of the tribal population by the federal government. Eventually the status of tribal rolls evolved into the status of tribal enrollment and from there the tribal eligibility requirement was established.

- The current definition of who is **Indian** has considerable more implications due to the eligibility for tribal membership; the benefits derived from membership inclusion, and eligibility for funding.
- Federal policy has made it critical to determine who is or who is not **Indian** for the purpose of funding and/or jurisdiction. For example, the Indian Child Welfare Act of 1978 allowed for tribes to assume jurisdiction for placement of eligible-enrollment children in need of care.
- There are different definitions of Indian. According to the Bureau of Indian Affairs (1987), an **Indian** is *generally* defined as an individual who is a member of an Indian tribe, band, or community that is “recognized” by the federal government; who lives on or near a reservation; and who is 1/4 or more Indian ancestry.
- Others have suggested a definition based on other criteria. Felix S. Cohen (1982), the renowned chronicler and scholar of American Indian Law, suggested that a practical definition of who is Indian be based on two criteria:
  - a) some of the individual’s ancestors lived in what is now the United States before the first Europeans arrived, and,
  - b) the individual is recognized as an Indian by his or her tribe or community.
- Historically, American Indians tended to use a much broader definition of who was Indian. Many times that included being a member of the community, accepted as a member by other members of the tribe, or adopted by an Indian family.
- The term ‘**Indian Country**’ can mean many things, however the legal definition for federal jurisdiction purposes typically means,
  - a) all land within the limits of any reservation under the jurisdiction of the United States government,
  - b) all dependent Indian communities within the borders of the United States, and,
  - c) all Indian allotments, the Indian titles to which have not been extinguished...
- Indian ‘**trust land**’ is Indian owned land; title to which is held in trust by the United States. What this essentially means is that the “ownership” is divided between the federal government, which holds “bare legal title,” and the tribe (or individual Indian) which holds full equitable title (NCAI, 1976). Neither the government nor the Indian owner can sell or otherwise dispose of trust land without consent from the other. Trust status is the result of a legal ruling by the U.S. Supreme Court who determined the federal government has a trust relationship to tribes.



- Trust land is a term developed during the allotment system. The U.S. government is simply the steward and an Indian can legally sell or gift deed their trust land after signing the necessary government papers. Jurisdiction, of course, would fall within federal jurisdiction as it is still in trust with the U.S.
- **Sovereign** is defined as an entity which is independent and where supreme authority is vested (Black's Law Dictionary, 1990). At the most basic level, the term refers to the inherent right or power to govern. Within the Europe of old, this right was vested in monarchs and was considered to be God-given. Under the U.S. constitutional system, the right is inherent in the people and is exercised through their representative local, state, and federal governments. This is somewhat comparable to the inherent sovereignty of Indian people in the tribal context (Canby 1981; Deloria and Lytle 1983).
- So long as sovereign tribal rights are not voluntarily ceded by the tribes in treaties or in other negotiations approved by Congress, or they are not extinguished by Congress, they continue in existence. Rights not specifically ceded in a treaty or agreement are considered to be reserved.
- Tribal governments are considered to be **Sovereign Nations**. A sovereign people could be considered a political body, consisting of the entire number of citizens and qualified electors, who in their collective capacity, possess the powers of sovereignty and exercise them through their chosen representatives (Black's Law Dictionary, 1990). Several issues have surfaced as a result of tribal sovereign status. Gaming and taxation (tribal and state) are two critical points of contention between tribes and state governments.
- "From the earliest years of the Republic the Indian tribes have been recognized as 'distinct, independent, political communities,' and as such, qualified to exercise powers of self-government, not by virtue of any delegation of powers from the federal government, but rather by reason of their original tribal sovereignty" (Felix S. Cohen, Handbook of Federal Indian Law, 1941).
- **Tribal sovereignty** is a core principal in the federal-tribal relationship. However, allotment and the assimilative programs of the late nineteenth century significantly weakened the strength of tribal sovereignty in United States law.
- **Tribal sovereignty is inherent**, and the self-governing powers of Indian tribes still survive unless divested by Congress. Tribal sovereignty includes the power of a tribe to adopt and operate under their own form of government, define conditions of tribal membership, regulate domestic relations of members, prescribe rules of inheritance, levy taxes, regulate property and to create laws and administer justice.
- The "**allotment system**" was established by the government in 1887 and rigorously pursued into the 1930s. The allotment system allowed for tribal lands within legally established reservation boundaries to be divided up and assigned to individual



Indians. The General Allotment Act of 1887 conferred citizenship on Indians born within the U.S. and to whom the government made individual land allotments of 60 to 180 acres, from tribal reservation lands. This system created the opportunity for non-tribal people to gain access and ownership to what was once reservation land. The majority of land within many reservation boundaries is owned by non-tribal/non-Indians as a result of reservation land being opened up. The allotment system also allowed for citizenship if individual Indians excluded him/herself from the tribe.

- The U.S. declared in the Northwest Ordinance of 1787... "The utmost good faith shall always be observed towards the Indians, their land and property shall never be taken from them without their consent." President Washington's address to Indian Nations explaining the Indian Intercourse Act dated July 22, 1790, (I. Stat. 137) with several similar Acts thereafter - "The General Government will never consent to your being defrauded but will protect you in all your just rights" (Report to the Committee on Indian Affairs, 1915).

