America Walks
Pedestrian Safety

Federal Indian Law and
Tribal Land Tenure
Tribal Transportation Planning and Pedestrian Safety.

• Native Americans have a recorded pedestrian death rate almost 5 times the national average.

• America Walks and panelists will explore the reasons behind these statistics, solutions-based case studies and more
What are the challenges for Pedestrian Safety in Indian Country

- What is Indian Country?
- What are the unique land tenure issues?
- Fee & Trust = Checkerboard
- Who is responsible for pedestrian safety?
- Many tribes do not have funding/engineers
Many Indian reservations have state highways. Colville Indian Reservation, WA, Washington state routes 97 (US 97), 17, 21.
Federal Indian Law

• Very Complex area of the law
• What happens to one tribe – affects other tribes across the nation
• Bad facts create bad case law
• Statutory Construction: Facts and Law are suppose to read in favor of tribes because they were at a disadvantage (language and bargaining).
Tribal History

• Every Tribe is different
• Some were established by treaty (bilateral agreement between government and tribe).
• Some established by Executive Order (unilateral agreement from government to tribe).
• Need to know words of treaty and tribe’s history for land use.
18 U.S.C.A. § 1151: Indian Country means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities (Pueblos) within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of the state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.
3 Separate Sovereigns: Layers

- Spokane Tribal Government
  Tribal Laws, Tribal Court, BIA Police
- Federal Laws: Major Crimes Act
  U.S. Dist. Ct. Eastern District of Washington, FBI
- Stevens County:
  State Laws
  Stevens County Court, Sheriff
Property Law: Bundle of Sticks

- Bundle of Rights
- Grant right-of-way
- Right to Transfer Ownership
- Right to Lease
- Right to Sell
Types of Land Holdings

- Fee: Fee Simple Absolute. You have full title with no encumbrance (clear title, no rights-of-way). Taxed by government.
- Trust: Held by the United States Government for Tribe or Individual Indian.
- Checker Boarded Nature of Reservations
- Every land use question the answer will depend on who owns title.
Problems Caused by Checker Board Pattern.

• Jurisdictional Problems
• Criminal Law – Domestic Violence
  No JX over non-Indians
• Civil Law
  Montana Test- Consensual Relations
• Environmental Problems
• Zoning Problems
Jurisdictional Issues
Relationships with State & Local Agencies

Figure 5: Jurisdiction is a complex issue and a source of inherent sovereignty to tribal nations. Each tribal nation's circumstances is in large part unique. When discussing jurisdiction the state of legislation, case law, and the specific circumstances of each offense often creates uncertainties.

Some Tools for Intergovernmental Working Relationships

- Intergovernmental Cooperative Agreements
  (Regulatory, administrative, or judicial clarity)

- Cross-Deputization Agreements
  (Law Enforcement)

- MOU/MOAs
  (ex. EMS/Fire services)

Nested Venn diagram adapted from: Right-of-Ways over Tribal Lands
18th Annual Northwest Tribal Transportation Symposium, Rhonda "Kelly" Myers, Staff Attorney for the National Indian Justice Center, California/Nevada TAP.
Spokane Tribe of Indians
Tribal Transportation Safety Model

The Four E’s of Tribal Traffic Safety

Leadership & Policy
- Tribal Council
- Tribal Member Behavioral Choice
- Identify Leaders for each Component

Engineering (Design, Construction, and Operation of Roads)
- Tribal Transportation

Education
- Tribal Member Behavioral Choice
- Tribal Health & Social Services
- Tribal Court

Enforcement
- Law Enforcement
- Tribal Courts
- Social Services

Emergency Medical Services (EMS)
- EMS
- Tribal Health & Social Services

Spokane Tribal Council
- Funding/Budgeting
- Develop & Administer Tribal Codes
- Tribal Attorney

Spokane Roads and Tribal Transportation
- Engineering & Design
- Operations & Maintenance
- Construction
- Transit

Tribal Member Behavioral Choices
- Speeding
- Impaired Driving
- Pedestrian Habits
- Seatbelts/Child Car Seats
- Vehicle Maintenance

EMS
- Ambulance
- Access to Hospital

Health & Human Services
- Education/Prevention
- Assessment
- Treatment
- Aftercare

Spokane Tribal Court
- Law & Order
- Codes
- Families
- Prosecutor
- Public Defender
- Probation

Spokane Tribal Law Enforcement
- Tribal Police
- Support Staff
- Jail Facilities
- Crash Data

Planning & Economical Development
- Population
- Demographics
- Employment/Income
- Vehicle Ownership
- Households

Relationships State & Public Agencies
HIGHWAY OF TEARS

A True Story of Racism, Indifference, and the Pursuit of Justice for Missing and Murdered Indigenous Women and Girls

JESSICA MCDIARMID

LOUISE ERDRICH

THE ROUND HOUSE

a novel

NEW YORK TIMES BESTSELLER

NEW YORK TIMES BESTSELLER

“[The novel] showcases her extraordinary ability to delineate the ties of love, resentment, need, duty, and sympathy that bind families together... a powerful novel.”

—New York Times