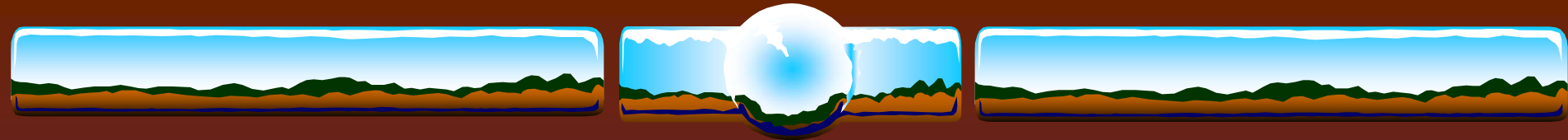




**CRIMINAL JUSTICE ISSUES IN
INDIAN COUNTRY**

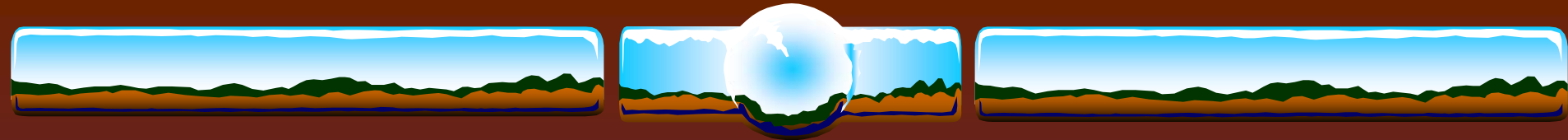
**Eileen Luna-Firebaugh, JD, MPA
University of Arizona**

**Sovereignty Symposium
May 31, 2007**



Tribal law enforcement agencies often lack the necessary resources to effectively respond to crime on the reservation.

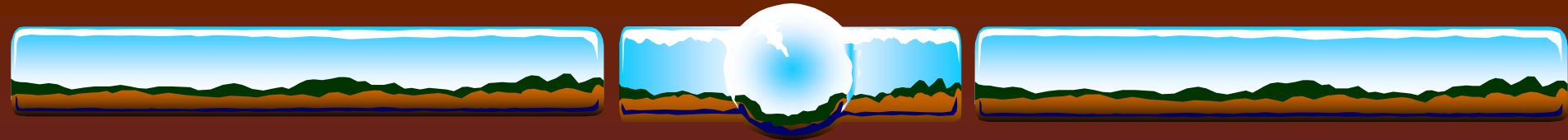
Jurisdictional barriers may prevent state or tribal law enforcement personnel from responding in a timely manner



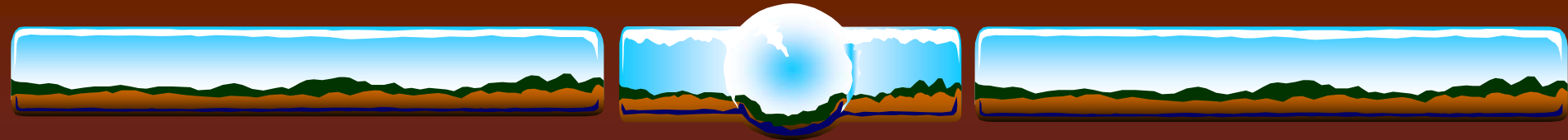
Crime in Indian Country is disproportionately high-

the criminal victimization rate is 101 per 1,000 American Indians,

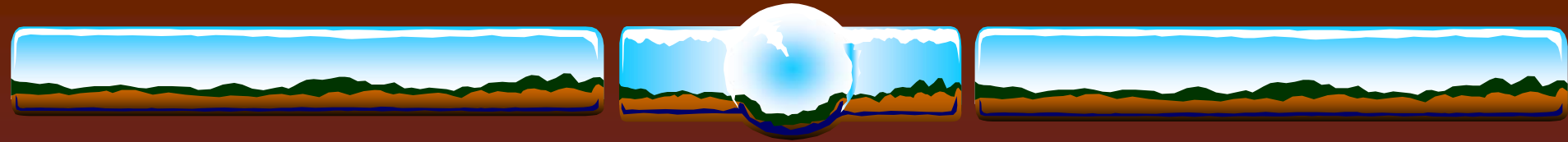
as compared with 41 per 1,000 for non-Indians



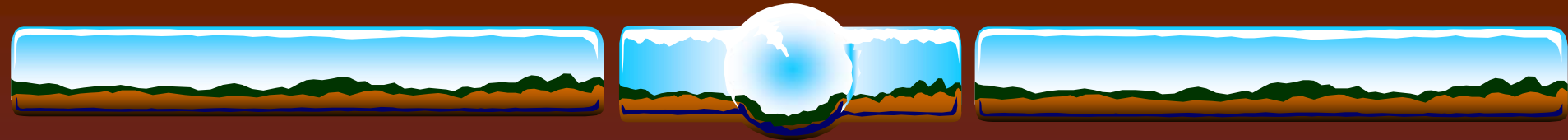
At least 70 percent of violent victimizations of American Indians are committed by those of another race.



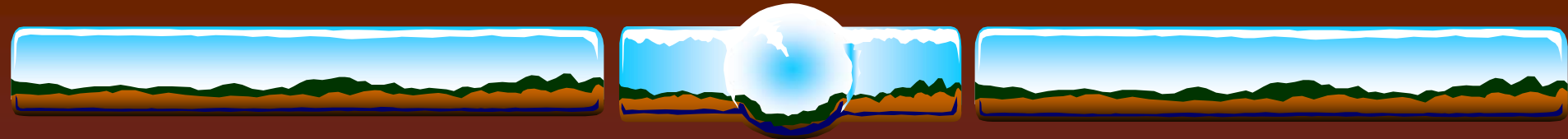
Under *Oliphant v Suquamish*, tribal law enforcement agencies may not have the authority to address criminal conduct committed by non-Indians who enter or reside on the reservation.



State jurisdiction over crimes committed in Indian Country is generally restricted, with the exception of those states subject to Public Law (P.L.) 280.



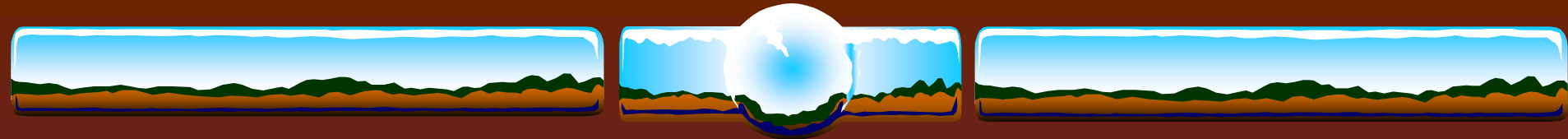
There are a number of possibilities for state-tribal cooperation and intergovernmental policy solutions which respect both tribal and state sovereignty



Problems with information sharing:

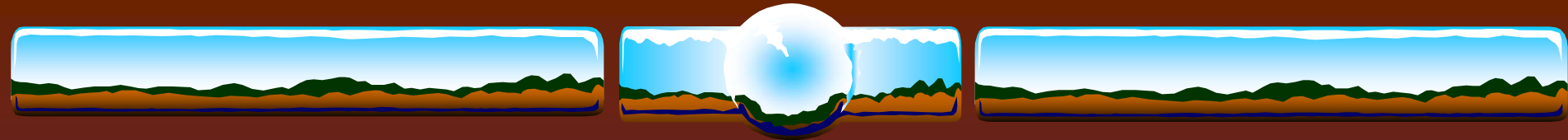
Many Native Nations do not have the computer capacity to do this type of data collection and reporting.

Many Native Nations do not want to enter crime data on tribal members into an external data base where their control of the data may be lost



American Indians are often the subject of state, local and tribal law enforcement.

A system must be in place that allows for the apprehension, adjudication, and incarceration of wrong-doers.



One in twenty-five American Indians Adults is under some form of criminal justice supervision, generally in city or county jails.

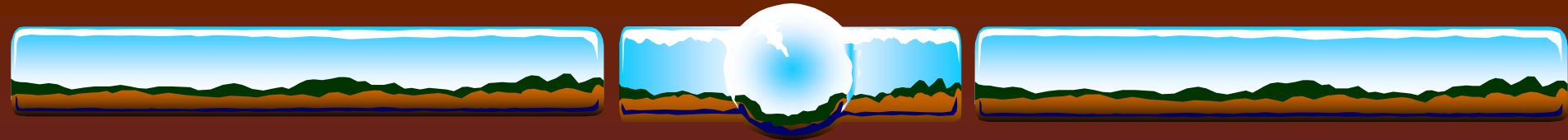
This is 2.4 times the per capita rate for Anglo Americans.



In 1997, 47% of American Indian offenders were confined in prisons or jails- 32% of non-Indians.

7% of American Indian offenders were on parole- 12% of Non-Indians.

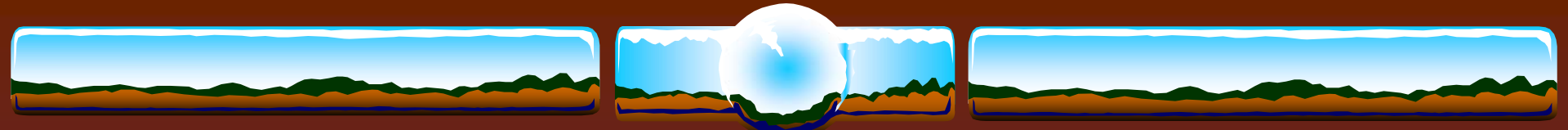
47% of American Indian offenders were on probation-57% of Non-Indians.



American Indians are 1% of the national population, but 2.9% of the local jail population.

26% of all American Indian offenders were in local jails.

Only 10% of Non-Indians were held in local jails.



Many more American Indian juveniles are in local jails and prisons than in juvenile detention facilities:

Local jails/prisons

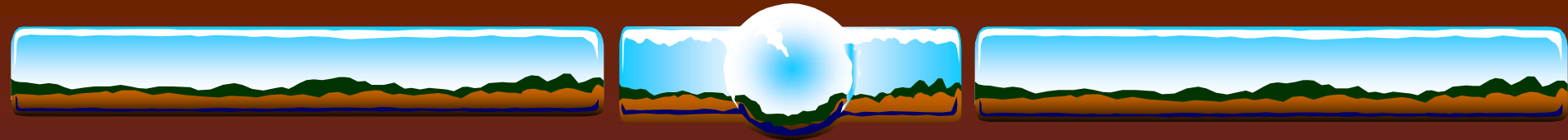
American Indian juv.-496 per 100,000

All Juveniles-307 per 100,000

Juvenile detention facilities

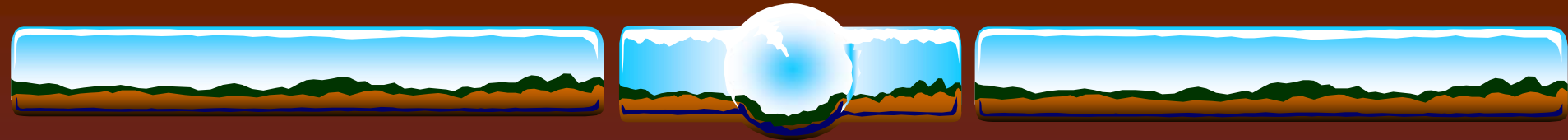
American Indian juv.- 608 per 100,000

All juveniles-336 per 100,000



In 2002, 57 tribal police departments (63%) had mutual aid agreements with surrounding jurisdictions.

Country Sheriffs Departments-52 (58%)
City police-30 tribes (33%);
State Police-19 tribes (21%);
Other tribal police departments-19 (21%)



Cross-deputization of tribal law enforcement is extremely rare for tribal law enforcement.

In 2002, 43 tribal police departments (48%) had at least one officer who was cross-deputized with at least one other agency;

County sheriffs-31 (34%);

State police-9 (10%);

City police-7 (8%);

Other tribal police departments-8 tribes (9%)



The role of Tribal Courts


The Violence Against Women Act of 2005 specifically delineates that the orders of Tribal courts must be afforded Full Faith and Credit.

All that remains is for Tribal courts and the courts of the states to recognize this authority and honor it.

A decorative header at the top of the slide. It features a central globe with a blue and white color scheme, flanked by two rectangular panels. Each panel shows a stylized landscape with green hills, brown earth, and a blue sky. The entire header is set against a dark red background.

Full Faith and Credit

The U. S. Constitution, Art. IV, Sect. 1 states that: “Full Faith and Credit shall be given in each state to the public Acts, Records, and judicial Proceedings of every other state.

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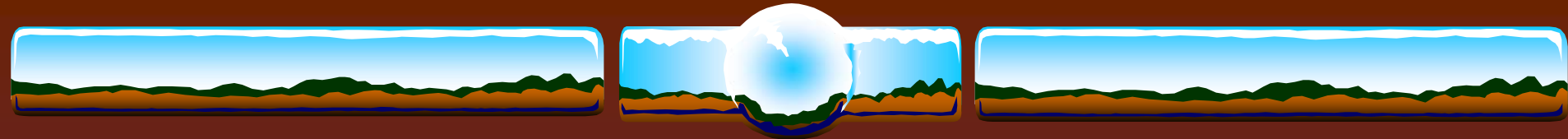
This article has been interpreted by Congress to mean “Acts, records and judicial proceedings*{as} authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such state, Territory or Possession from which they are taken.”**

28 U.S.C. Section 1738



18 U.S.C. 2265 (The Violence Against Women Act I and II)

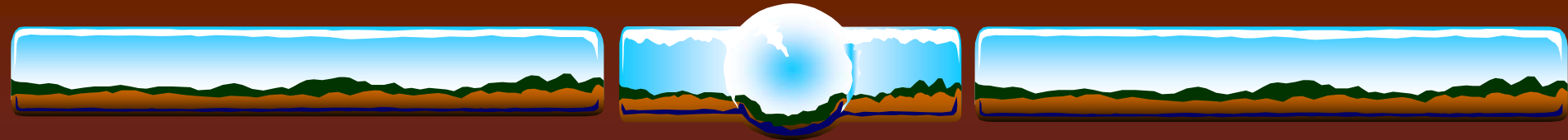
- ❖ **This civil law provides that a civil or criminal domestic protective order issued by a court in one state or Indian tribe shall be accorded FULL FAITH AND CREDIT by the court of another state or tribe, and is to be enforced as if it were the order of the court of the second state or tribe.**



❖ **This law applies to permanent, temporary and ex parte protection orders that comply with the statute's requirements.**

To comply, the protective order must have provided the defendant with

- **reasonable notice and**
- **an opportunity to be heard, and**
- **in a manner consistent with due process.**



Tribal Court Jurisdiction includes full civil jurisdiction over protection orders including:

- **authority to enforce its orders through civil contempt proceedings,**
- **exclusion of violators from Indian lands, and**
- **other appropriate mechanisms in matters arising within the authority of the tribe.**

This civil jurisdiction may extend to NON-INDIANS if their conduct affects the health safety and welfare of the tribe.