

SUPPORTING STATEMENT – PART A

Census of State and Local Law Enforcement Agencies Serving Tribal Lands

Overview

The Bureau of Justice Statistics (BJS) requests clearance to conduct the Census of State and Local Law Enforcement Agencies Serving Tribal Lands (CSLLEASTL). A gap in our understanding of justice systems that serve tribal lands is the work done by state and local law enforcement agencies that have responsibilities to provide such services due to legislation (e.g., Public Law 83-280) or consensual agreements between tribal, state, and local governments. This undertaking will shed light on the complexities state and local police face in providing justice services on tribal lands to individuals of tribal and non-tribal affiliation.

CSLLEASTL is part of a larger effort by BJS to collect information on the capacities and activities of various offices and agencies within the federal, state, local and tribal governments to document the complex justice system that functions on tribal lands. To help document the state and local components, within the next year BJS intends to field the CSLLEASTL and the Census of State and Local Prosecutor Offices Serving Tribal Lands (CSLPOSTL), the two components of the State and Local Justice Agencies Serving Tribal Lands (SLJASTL) project. The joint development of the CSLLEASTL and CSLPOSTL will ensure that overlapping items between law enforcement and prosecution surveys will be worded in a similar manner to allow the resulting data to be combined to form a more detailed understanding of tribal justice for specific geographic areas or tribal entities. However, the functions of and services provided by law enforcement and prosecution are also sufficiently different as to necessitate separate and distinct surveys.

“Tribal lands” covers a range of legal and political arrangements between Native American nations and federal, state, and local governments. For this work, the term tribal lands includes areas also labeled Indian Country, federal or state recognized reservations, trust lands, Alaska Native villages, and tribal communities. To date there are no existing national-level data collections that provide information on the administrative structures and operational capacity of state and local police agencies that serve tribes and the portions of their various workloads that are tied to their efforts on tribal lands.

The CSLLEASTL will solicit information from state and local law enforcement agencies on their administrative and operational procedures and practices, tribal caseloads, provided services and ability to report detailed data on the tribal matters they handle. The administrative portion focuses on the organizational and administrative structure of the agencies as they relate to agency interactions with crimes on tribal lands. The administrative portion aims to identify the types of agreements state and local law enforcement agencies have with tribal law enforcement and tribal governments. The operational portion focuses on such areas as staffing, budgets, training, recruitment, services provided, and the aspects of these that relate to their tribal jurisdictional responsibilities. Operational information will include the capabilities of information systems to report statistics related to crime on, and services delivered to, tribal lands. The caseload component will measure the types and number of tribal-land crime and arrests handled by state and local law enforcement agencies.

The CSLLEASTL will acquire part of its universe of agencies from the 2014 Census of State and Local Law Enforcement Agencies (CSLLEA) that asks all law enforcement agencies in the US whether they served tribal lands and the 2014 National Survey of Tribal Court Systems (NSTCS). To compensate for the agencies that do not respond to the CSLLEA item or agencies not identified as providing services on tribal lands by the NSTCS, the data collector has identified all state and local law enforcement agencies located in those counties that overlap or are adjacent to federally recognized tribal lands in the United States. All of these agencies that do not respond to the CSLLEA or that were not identified by the NSTCS will be sent the survey to ensure that all state and local agencies that may serve tribal lands are included in the CSLLEASTL.

Jurisdictional Complexity

There are a total of 566 federally recognized American Indian and Alaska Native (AIAN) tribes in the contiguous 48 states and Alaska that may reside on the estimated 334 federally and state-recognized American Indian reservations or villages.¹ Jurisdiction over crimes that occur on tribal land is complicated by an array of factors relating to federal and state legislation as well as the identity of the persons involved in crimes. The enactment of Public Law 83-280 (more commonly referenced as PL-280) in 1953 moved jurisdiction over offenses involving Indians in Indian country from federal agencies to state and county criminal justice agencies in six states (Alaska, California, Minnesota, Nebraska, Oregon and Wisconsin). By 1968 federal legislation gave ten additional states (Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Washington and Utah) the option of assuming such jurisdiction which they did to varying degrees. Over the years some tribes have requested and states have agreed to retrocede full or partial jurisdiction of tribal lands to the federal government. Federally recognized tribes have certain immunities and privileges by virtue of their sovereign status. However, in PL-280 states, some of the responsibility of policing tribal lands is to the responsibility of state and local law enforcement agencies.

Justice agencies are faced with an intricate web of statutes and agreements when addressing criminal events that occur on tribal lands. Tribal agencies are authorized by the Indian Self-Determination and Education Assistance Act (25 USCA § 638) to establish and organize governmental offices, including law enforcement agencies. Federal policing can be provided by the Federal Bureau of Investigation (FBI) under the Major Crimes Act (18 USC § 1153) and/or federal agents from BIA under the Indian Law Enforcement Reform Act (25 USC 2801 (1990)). BIA police are also responsible for policing Indian Country where the tribe does not have a tribal law enforcement agency. Tribes maintain concurrent jurisdiction over some crimes with federal law enforcement (Under the General Crimes Act 18 USC § 1152) or state/local law enforcement (in PL-280 states). State and local law enforcement agencies are responsible for non-Indian offender/non-Indian victim crimes occurring on tribal lands in both non-PL-280 and PL-280 states.

¹ Information on federally recognized tribes can be found in the Federal Register, 78 FR 26384, January 14, 2015, entitled Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, Department of the Interior, Bureau of Indian Affairs, issued by the Office of Management and Budget (see <http://www.gpo.gov/fdsys/pkg/FR-2015-01-14/pdf/2015-00509.pdf>)

As a result of the complex web of statutes and depending on many factors, a number of law enforcement agencies can have jurisdiction over a crime, make an arrest or initiate investigations on tribal lands. To determine which law enforcement agency has jurisdiction, several determinations must be made:

- Did the crime occur on Indian country land?
- What agreements/laws govern the jurisdiction for tribal lands?
- What is the race of the victim?
- What is the race of the offender?
- What law is the offender accused of violating (state, federal or tribal)?
- What is the seriousness of the offense (i.e., felony or misdemeanor)?

Knowing these factors, Table 1 summarizes which law enforcement agency (or agencies) has jurisdiction over crimes that occur on tribal lands.

Table 1. Criminal jurisdiction in Indian country

	Crime defined under 18 US § 1153	All other crimes
Jurisdiction for crimes occurring in Indian country, non PL-280 states		
Indian offender, Indian victim	Federal and tribal jurisdiction	Tribal jurisdiction; Federal may adopt state law if the offense is not punishable by federal law
Indian offender, non-Indian victim	Federal and tribal jurisdiction	Federal and tribal jurisdiction; Federal may adopt state law if the offense is not punishable by federal law
Non-Indian offender, Indian victim	Federal jurisdiction	Federal jurisdiction
Non-Indian offender, non-Indian victim	State jurisdiction	State jurisdiction
Jurisdiction for crimes occurring in Indian country, PL-280 states		
Indian offender, Indian victim	State and tribal jurisdiction if mandatory PL-280; State, tribal and federal jurisdiction if optional PL-280	Tribal jurisdiction if mandatory PL-280; State and tribal if optional PL-280
Indian offender, non-Indian victim	State and tribal jurisdiction if mandatory PL-280; State, tribal and federal if optional PL-280	State and tribal jurisdiction if mandatory PL-280; State, tribal and federal if optional PL-280
Non-Indian offender, Indian victim	State jurisdiction if mandatory PL-280; State and federal if optional PL-280	State jurisdiction if mandatory PL-280; State and federal if optional PL-280. No tribal jurisdiction.
Non-Indian offender, non-Indian victim	State jurisdiction	State jurisdiction
Jurisdiction transferred by other statute or mechanism (e.g., gaming compacts)		
Indian offender, Indian victim	State, tribal and federal jurisdiction	State and tribal jurisdiction
Indian offender, non-Indian victim	State, tribal and federal jurisdiction	State, tribal and federal jurisdiction

Non-Indian offender, Indian victim	State and federal jurisdiction	State and federal jurisdiction
Non-Indian offender, non-Indian victim	State jurisdiction	State jurisdiction

*Adapted from the US Attorney’s Manual, Criminal Resource Manual, CRM 500-999, Criminal Resource Manual 601-699, 689. Jurisdictional Summary, <http://www.justice.gov/usam/criminal-resource-manual-689-jurisdictional-summary>

The table shows that state and local law enforcement could be involved in policing many crimes occurring on tribal lands, particularly given the racial composition of the residents on tribal lands. The U.S. Census Bureau reports that out of the approximately 4.6 million individuals residing in American Indian areas and Alaska Native Villages in 2010, only 1.1 million identified as American Indian or Alaska Native, alone or in combination.² This implies that state and local agencies may have jurisdiction over much of the crime that occurs on tribal lands, particularly in PL-280 states. Despite the fact that federal and state governments are allocating more power to tribal law enforcement and courts to prosecute non-Indians for offenses committed on tribal lands, these population figures make it clear that many crimes occurring on tribal lands may necessitate the involvement of state and local police agencies

Optional and mandatory PL-280 states may not equally apply jurisdiction. That is, state and local police agencies may not respond to crimes over which they have jurisdiction for a number of reasons, including proximity to tribal lands, number of available officers, problematic community relations or availability of funding.³ Lastly, the type of law an offender is violating could affect who has the authority to arrest the offender. For example, a tribal law enforcement agent cannot enforce federal laws, without special agreements between the tribe and the federal government.

Because of this complexity, some law enforcement agencies have entered into agreements allowing for cross-deputization of tribal and state/local law enforcement officers.⁴ These agreements allow tribal, state and local law enforcement officials the ability to enforce laws outside of their primary jurisdiction. These agreements vary in terms of the obligations of each agency, the laws which the cross-deputized agents may enforce, the lands covered by the agreement, the incarceration of arrested individuals, the rules of sovereign immunity, and other factors.⁵ However, cross-deputization can have its downsides. An issue that can arise from cross-deputization is a lack of cultural understanding between the tribal agents and state/local agents. Traditional tribal norms are not typically represented by Western police department practices, which can lead to misunderstandings when state/local law enforcement agents are responsible for patrolling tribal lands.

² U.S. Census Bureau, *The American Indian and Alaska Native Population: 2010*, Jan. 2012. Retrieved from: <http://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf>

³ Goldberg, Carol, Duane Champagne and Heather Valdez Singleton, 2007. *Final Report: Law Enforcement and Criminal Justice Under Public Law 280*. http://www.tribal-institute.org/download/pl280_study.pdf

⁴ Eileen Luna-Firebaugh, 2007. *Tribal Policing: Asserting Sovereignty, Seeking Justice*: 46.

⁵ Paul Stenzel, *MOUs and MOAs: A Cooperative Approach to Law Enforcement on the Reservation*, 17th Annual Multi-Jurisdictional Conference, 3 November 2005, <http://www.paulstenzel.com/multi-j-110305.pdf>

Thus, training of law enforcement agents is important. Tribal law enforcement agents are not typically state certified.⁶ Because of this lack of certification, state and local law enforcement agencies may not recognize the legitimacy of tribal law enforcement agents to police lands, especially lands outside of Indian country. Conversely, state and local law enforcement agents may not receive the cultural training that is necessary when working on tribal lands. Consequently, residents living on tribal lands may not trust the state/local officers who police and have arrest powers on those lands.

Other issues affect state and local law enforcement working on tribal lands. PL-280 states do not receive any additional state or federal funding to assume federal jurisdiction on tribal lands. So, budgets that may already be constrained are more strained with the additional requirements of increased jurisdiction in Indian country. Additionally, residents on tribal lands may be less willing or able to report crimes to state or local authorities. Geographic isolation and access to telephone service may preclude reporting, while distrust of state authorities, as well as myriad cultural differences, may lower the likelihood of victims reporting the crime to state and local authorities.

Justification

1. Necessity of the Information Collection

BJS is directed to collect and analyze statistical information concerning the operation of the criminal justice system at the federal, state, and local levels under Title 42, United States Code, Section 3732 (see Attachment 1). This includes state and local law enforcement agencies whose responsibilities include the investigation and arrests for crimes occurring on tribal lands.

In addition, BJS has been mandated to improve data collections regarding crime that occurs on tribal lands. The **Tribal Law and Order Act of 2010 (TLOA)**, which had significant implications for the administration and operational capacity of tribal justice systems, directed BJS to collect improved tribal statistical data at the federal, state, local and tribal levels.⁷ TLOA required BJS to (1) establish and implement a tribal data collection system and (2) support tribal participation in national records and information systems (P.L. 111-211, 124 Stat. 2258, § 251(b)). The act further required BJS to consult with Indian tribes to establish and implement the data collection system and to report to Congress within one year of enactment, and annually thereafter, the data collected and analyzed in accordance with the act.⁸

TLOA authorized expanded sentencing authority for tribal justice systems; clarified jurisdiction in P.L. 280 states; required enhanced information sharing; authorized liaisons within each U.S. Attorney's Office; and encouraged more intergovernmental collaboration between tribal, federal, state, and local governments. In response to TLOA, CSLLEASTL will fill this gap by collecting data on state and local law enforcement's responsibilities regarding crimes occurring on tribal lands; in addition, it will ask agencies about contacts with tribal government and with the federal agencies that may have responsibilities for policing tribal lands.

⁶ Eileen Luna-Firebaugh, 2007. *Tribal Policing: Asserting Sovereignty, Seeking Justice*: 40.

⁷ Full Text of the Tribal Law and Order Act: <http://www.justice.gov/usao/az/IndianCountry/Tribal%20Law%20%20Order%20Act%202010.pdf>

⁸ Ibid: <http://www.justice.gov/usao/az/IndianCountry/Tribal%20Law%20%20Order%20Act%202010.pdf>

The **Violence Against Women Reauthorization Act of 2013** (VAWA) sought to bridge the gaps that occur in Indian country when a non-Indian commits domestic violence against an American Indian or Alaska Native woman.⁹ The previous precedent established by the *Oliphant vs. Suquamish Indian Tribe* case in 1978 ruled that tribal governments had no inherent authority over non-Indians. VAWA 2013 sought to remedy this by allowing tribal courts to prosecute non-Indian offenders alleged to have committed acts of domestic violence, dating violence, or violated protections orders issued in Indian Country.¹⁰ The full enactment of this legislation was in March 2015. To help monitor the changes initiated by VAWA, the CSLLEASTL will collect information on whether and the extent to which state and local law enforcement agencies processed domestic violence cases occurring on tribal lands in 2015, establishing a baseline for their involvement as VAWA begins to take effect.

The FBI tracks and reports on crimes that are reported by tribal law enforcement agencies through the Uniform Crime Reporting (UCR) Program. In 2013, 158 tribal law enforcement agencies submitted 12 months of data to the UCR.¹¹ While many state and local law enforcement agencies receive reports of crimes occurring on tribal lands, the UCR does not ask these agencies to distinguish between the reported crimes that occur on and off tribal lands; thus, the UCR cannot provide a complete count of crime occurring on tribal lands. In fact, it is not even known if state and local law enforcement agencies are able to separate out their tribal from their non-tribal crime counts if they were asked to do so. The CSLLEASTL will document the extent to which such reporting is possible and may provide a basis for requesting more nuanced crime reporting in the future.

In summary, if BJS is to meet its Congressional mandates to document crime and justice in Indian country, it needs a better understanding of the tribal-related activities of state and local law enforcement agencies. Many state and local law enforcement agencies have jurisdiction over a large proportion of the crime that occurs on tribal lands, so collecting crime and justice data from tribal justice systems provides only a partial count of the problem. Currently, BJS lacks adequate counts of how many criminal matters occurring on tribal lands are policed by state and local agencies, and how that varies in PL-280 and non-PL-280 states. BJS does not even know if these state and local law enforcement agencies are technologically capable to provide such counts. This information will be requested by CSLLEASTL.

2. Needs and Uses

⁹ On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act of 2013, or "VAWA 2013." VAWA 2013 recognizes tribes' inherent power to exercise "special domestic violence criminal jurisdiction" (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country. This new law generally takes effect on March 7, 2015. VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013, See: <http://www.gpo.gov/fdsys/pkg/PLAW-113publ4/pdf/PLAW-113publ4.pdf>

¹⁰ Gillette, J., & Galbraith, C. (2013, March 7). *President Signs 2013 VAWA-Empowering tribes to protect native women*. Retrieved from the White House Blog: <http://www.whitehouse.gov/blog/2013/03/07/president-signs-2013-ava-empowering-tribes-protect-native-women>

¹¹ Perry, Steven W. "Tribal Crime Data Collection Activities, 2015." <http://www.bjs.gov/content/pub/pdf/tcdca15.pdf>

CSLLEASTL will provide information on the administration and operation of state and local law enforcement agencies that have jurisdiction on tribal lands or serve tribes in various capacities. This collection will provide the only existing count of state and local law enforcement agencies that work on tribal lands as well as estimates of crimes they handle that occur on tribal lands. The collection will serve as a mechanism for understanding the capabilities and activities of these law enforcement agencies. The survey will also document the relationship between law enforcement agencies and tribes, information that is valuable for establishing policy.

Currently, no data collection exists to document the work of state and local law enforcement agencies on tribal lands. The CSLLEASTL will ask law enforcement agencies to indicate whether they are able to track cases that occur on tribal lands separately from cases that did not occur on tribal lands. The questionnaire further asks the agencies to provide what support would be needed to record crimes occurring on tribal lands separately from crimes not occurring on tribal lands. It is not known the extent to which state agencies in PL-280 states differ from non-PL-280 states in terms of staffing, cross-deputization agreements and expenditures for crimes that occur on tribal lands. There is no understanding of the agreements between tribes and state and local law enforcement agencies to provide services and trainings, nor how those agreements vary within state or between states. Lastly, the nature and frequency of communication between state law enforcement agencies and tribal governments and between state law enforcement agencies and federal agencies regarding crime occurring on tribal lands is largely unknown.

CSLLEASTL will provide a baseline of how crimes occurring on tribal lands are policed by state and local law enforcement agencies, and how this differs in PL-280 and non-PL-280 states. As more tribes adopt the TLOA enhanced sentencing options and/or the VAWA enhanced prosecution options, CSLLEASTL will provide a historical point to reference how those adoptions affected the policing of crimes in Indian country. The collection will capture coordination between state law enforcement agencies and federal agencies regarding crime occurring on tribal lands.

State and local law enforcement agencies are likely unaware of the agreements that other jurisdictions have with tribal governments, and how those agreements can help or hinder law enforcement. CSLLEASTL will allow interested parties to more completely grasp the complex system of agreements regarding crimes occurring on tribal lands. The collection will help inform tribal, state and federal governments as to the training needs of the actors involved in policing crime occurring in Indian Country, and how those needs can vary by jurisdiction. The data collection will enhance the understanding of the policing of crime on tribal lands and how the roles of state and local agencies vary depending on the federal statutes and local agreements.

3. Use of Information Technology

BJS will use a multi-mode collection design – emailed fillable PDF, mailed hard copy, and phone and email follow-up. Agencies will be encouraged to use the fillable PDF as the primary mode of data collection. The fillable PDF will be identically formatted to the hardcopy survey. This will facilitate agencies that complete the hardcopy survey and then input responses into the fillable PDF. There are several advantages to using a fillable PDF, including reduced costs for data entry by the data collection agent. The data collection agent will also use e-mail

functionalities to prompt those agencies that have not completed the survey to respond. While a web-based survey design was initially contemplated, the data collection agent advised against the use of a web-based survey for this collection due to cost constraints. The cost to develop the fillable PDF surveys is approximately \$3,000. The cost to develop and maintain the web survey and database is approximately \$35,000. For an expected universe list of approximately 740 agencies, the cost of setting up and maintaining the web survey is not cost efficient. The fillable PDF can be submitted online or via email. The data collector can then use Microsoft Excel to extract the raw data from the PDF, which should also reduce the cost of data entry. The full process of maintaining data quality from fillable PDF to Excel extraction to conversion and storage in SPSS is described fully in Part B.

4. Efforts to Identify Duplication

BJS conducted an extensive review of prior data collection and projects internally and externally involving tribal courts and/or justice systems to locate any duplication of effort. BJS existing or prior data collection efforts that included information involving Indian country in any regards include:

- **2002 Census of Tribal Justice Agencies** (OMB No 1121-0252 Approval Expired 12/31/2004) was BJS's first data collection that included a series of questions specifically for tribal law enforcement (along with tribal courts and corrections) focusing on staffing, activities and their use of criminal history records and information. The survey of tribal agencies did not capture caseload information; the types of agreements between state, local and tribal law enforcement agencies; training provided to state and local law enforcement before working on tribal lands; or training provided by state and local law enforcement to tribal law enforcement.
- **2014 Census of State and Local Law Enforcement Agencies** (OMB NO. 1121-0346: Approval Expires 05/31/17) is surveying state, local and tribal law enforcement agencies. This survey collected administrative and operational tribal law enforcement data (e.g. staffing, budgets, services rendered, etc.), including whether state and local agencies police crime on tribal lands. For state and local agencies, the survey captured personnel, services provided, and task force participation but did not capture any data on the number of incidents known to the agency that occurred on tribal lands, the service provided on tribal lands, agreements with tribal law enforcement agencies, or training provided by or to tribal law enforcement agencies. The CSLLEA serves as one source for the universe list for the CSLLEASTL.
- **2014 National Survey of Tribal Court Systems** (OMB No. 1121-0350 Approval Expires 12/31/17) is a BJS data collection focusing on Alaska tribal court systems, tribal court systems in the lower 48 States and the Courts of Federal Regulations (CFR). The collection focused on tribal court systems but included questions about law enforcement agencies (tribal, state, federal and BIA) and tribal prosecution. For jurisdiction, the NSTCS asked how the tribe functions under the jurisdiction of PL-280. In terms of law enforcement specifically, the NSTCS asked for the names of state and local law enforcement agencies that provided policing or criminal investigative functions on the tribal lands. The NSTCS did not capture any data on the role of state or local law enforcement agencies on tribal lands. The NSTCS responses will be used to verify and supplement the universe lists generated by the 2014 CSLLEA.

- **2016 Census of Tribal Law Enforcement Agencies** (proposed series, awarded) will contact only tribal law enforcement agencies. The findings of the CSLLEASTL will be compared/combined with information from this proposed collection to develop a more complete picture of the law enforcement agencies that police tribal lands.

Internal to DOJ (and beyond the BJS efforts), CSLLEASTL does not duplicate any other current collection efforts. The CSLLEASTL provides a means of extending the work of the 2014 CSLLEA. The CSLLEA collects basic data on state, local and tribal law enforcement agencies that serve tribal lands, but does not include detailed information on caseload, staff assigned to work on tribal lands, budget assigned to policing tribal lands, training provided to agencies that serve tribal lands, or the agreements between state and local law enforcement and tribal law enforcement in terms of policing and training.

External to DOJ, and after searching, we conclude that very little is known regarding state and local law enforcement's role on tribal lands. For example, in 2005, the National Institute of Justice published a research brief titled *Public Law 280 and Law Enforcement in Indian Country – Research Priorities*,¹² in which it outlined topics to be examined by future research. These recommendations were examined and published in 2007's *Final Report Law Enforcement and Criminal Justice Under Public Law 280*.¹³ The final study gathered data from 17 reservations in 10 states – 12 reservations under PL-280, 4 non-PL-280 and 1 where part of the land is PL-280 and part was non-PL-280. The data included qualitative interviews with reservation resident and law enforcement officers, as well as quantitative data on the number of crimes. Data from this work are both very limited in their coverage and rather dated. No other studies relevant to the CSLLEASTL collection could be found.

5. Efforts to Minimize Burden

In an effort to minimize respondent's burden, the CSLLEASTL questionnaire is formatted to facilitate efficient response with definitions, clear instructions and pilot tested survey questions. The number of items on the questionnaire will be limited to only those that collect the information necessary to meet analytic goals. BJS has also attempted to minimize the complexity of questions. The questionnaire was pilot tested with nine law enforcement agencies from May to October 2015. Eight agencies responded and the feedback from those agencies produced a pilot survey report (Attachment 2). Data and feedback collected were used to ensure that the items retained on the survey are those that are easily answered by law enforcement agencies.

The respondent burden from the pilot test was 30 minutes to 4 hours for completion, depending on the availability and accessibility of required information. The four hour estimate was due to an agency having to provide exact counts rather than estimates, a revision that was made to the questionnaire based on pilot feedback. As a result of the pilot test results several edits were made to the CSLLEASTL questionnaire, including changes to the case counts question, which now provides options for the agency to provide these counts for the most recent year (e.g., fiscal or calendar) for which they are available and enables agencies to provide estimates. A clarification was also added to instruct the agency to answer “Yes” to the questions if the service/function

¹² Retrieved August 18, 2015 from <https://www.ncjrs.gov/pdffiles1/nij/209839.pdf>

¹³ Retrieved August 18, 2015 from <https://www.ncjrs.gov/pdffiles1/nij/grants/222585.pdf>

was provided to at least one of the tribes they serve. Several questions were updated for clarity and modified to include a response option of “Unknown.” After the pilot, it was suggested that questions be added regarding contact with Federal law enforcement agencies responsible for policing tribal lands. With these improvements, we now expect the burden to average 1.0 hour per respondent, with an additional 30 minutes for any follow-up by the data collector to verify problematic responses. The total burden per respondent is 90 minutes.

Additionally, providing the fillable PDF version that can be completed by multiple respondents within a law enforcement agency will further reduce the burden on the respondent. By allowing the PDF version to be submitted online, the data collector will be able to validate information quickly and contact the respondent shortly after completion, which should reduce the burden associated with recalling information already provided.

6. Consequences of Less Frequent Collection

Recognizing the knowledge deficiencies for crime and justice issues in Indian country, Congress and the President have acted to bring about changes and encourage better data collection in Indian country through the passage of the Tribal Law and Order Act of 2010. Following TLOA, the CSLLEASTL will be the first BJS statistical collection gathering any information on state and local law enforcement activity on tribal lands. The benefits for collecting these data now rather than later include –

- BJS does not have any data about the number of crimes handled by or services provided by state and local law enforcement agencies regarding crime occurring on tribal lands, one of the critical deficiencies referenced in TLOA.
- CSLLEASTL will establish the baseline data regarding the role of state and local law enforcement agencies and their responsibilities on tribal lands in PL-280 and non-PL-280 states, as well as the communication and coordination with tribal courts and governments regarding tribal protection orders for domestic violence occurring on tribal lands.
- In the spirit of TLOA, CSLLEASTL’s results will enable DOJ and other funding programs the opportunity to develop and design strategies based on empirical data to improve justice systems response to crime and tribal lands, and to encourage coordination of tribal and state and local law enforcement agencies to respond to crime on tribal lands.

Based on the recommendations from the National Research Council, in *Principles and Practices for a Federal Statistical Agency*, one of BJS goals with this statistical collection is to provide data that are timely and relevant to policy issues in Indian country. The potential negative or inadvertent consequences of not collecting this collection could slow progress in addressing the crime and justice challenges facing Indian country. For example,

- The existing CSLLEA only asks if agencies serve tribal lands. As a result, BJS does not currently have any information regarding the attributes of state and local law enforcement agencies that serve tribal lands (e.g., tribal-related funding, staffing, or provided services).
- The lack of routine and on-going statistical collections on crime and tribal justice systems in Indian country have allowed debates about public safety matters on tribal lands to

continue without empirical guidance on the critical issues faced by tribal justice systems. Policymakers need these data to better address crime on tribal lands.

- Tribes have not yet begun to adopt the necessary changes to implement enhanced sentencing and prosecution authority in the TLOA and VAWA legislative actions. We are at a unique point where we can obtain a baseline of tribal crime caseloads in state and local law enforcement agencies prior to the widespread adoption of the TLOA and VAWA enhancements.

Contingent upon available budget and resources, BJS proposes to conduct a version of the CSLLEASTL about every five years to measure the changes and trends in the administrative and operational characteristics of state and local law enforcement agencies serving tribal lands (e.g., 2015, 2020, and 2025). Subsequent iterations can be reduced to contain core items or to include supplemental items addressing issues that may emerge based on increased adoption of the TLOA enhanced sentencing provisions, which should affect the jurisdictional capabilities of tribal law enforcement.

7. Special Circumstances

No special circumstances have been identified for this project.

8. Adherence to 5 CFR 1320.8(d) and Outside Consultation

The 60 day (Vol 81 p. 6295, February 5, 2016) and 30 day (Vol 81 p. 21395, April 11, 2016) notices were posted in the Federal Register and received no comments.

BJS shared a draft of the CSLLEASTL questionnaire with an expert panel of representatives from state, local and tribal law enforcement agencies on December 15-16, 2014. Attendees included BJS staff, NORC staff, International Association of Chiefs of Police (IACP) staff, and National Sheriffs' Association (NSA) staff, as well as state and local police officers and sheriffs that work on or near tribal lands. The purpose of the event was evaluate early versions of the questionnaire for content validity as well as accuracy of language. The meeting was held at the Bethesda office of NORC at the University of Chicago. The meeting participants are listed below:

BJS Staff	NORC Staff	IACP Staff
Howard Snyder Deputy Director	Beth Fisher Survey Director	Christine Horst Program Manager, Research, Programs and Professional Services Division
Andrew Tiedt Statistician	David Herda Senior Survey Director	Jennifer Styles Program Manager, Smaller Law Enforcement Agency Program
Erica Smith Chief, Law Enforcement Statistics	Pamela Loose Senior Survey Director	
Steven Perry Statistician		
Brian Reaves Statistician		
Tribal, State and Local Police Agency Participants		NSA Staff
Shannon Buhl Commander Cherokee Marshal Service	Mark Rigali Sergeant Riverside Sheriff's Office	Fred Wilson Director of Operations
Bill Denke Police Chief Sycuan Tribal Police Department	Kevin Thom Sheriff Pennington County, SD	
Thomas Kelly Police Chief Apache Junction Police Department	Alan Welsh Captain SD Highway Patrol	
Andrew Merrill Acting Captain Alaska State Troopers		

In order to better inform the development of CSLLEASTL questionnaire, BJS solicited feedback at the 14th Annual Indian Nations Conference in Palm Springs California. In a 90-minute session, the project team reviewed the items on the survey, asked for comments and proposed revisions, as well as new items that might be included. BJS also provided a draft version of the questionnaire for review to Dr. Eileen Luna-Firebaugh, Associate Professor of American Indian Law and Policy at the University of Arizona, who is also a retired law enforcement officer and a tribal judge. Dr. Luna-Firebaugh has extensive knowledge of tribal justice and jurisdictional issues. She provided a detailed review of an early draft of the questionnaire.

9. Paying Respondents

Neither BJS nor its data collection agent NORC (or any of its subcontractors) will reimburse survey respondents in any manner. Participation in the survey will be completely voluntary.

10. Assurance of Confidentiality

According to 42 U.S.C. 3735 Section 304, the information gathered in this data collection shall be used only for statistical or research purposes, and shall be gathered in a manner that precludes their use for law enforcement or any purpose relating to a particular individual other than statistical or research purposes. The data collected through CSLLEASTL represent institutional characteristics of justice agencies serving tribal lands. The fact that participation in this survey is voluntary and that information about individual agency responses will be available to the public is included on the first page of the survey instrument. Respondents will also be informed in written communications sent to them that the information provided about their agency will be in the public domain. However, it will also be made clear to them that BJS will not release the names, phone numbers, or email addresses of the actual persons responsible for completing the CSLLEASTL instrument.

11. Justification for Sensitive Questions

There are no questions of a sensitive nature included in the CSLLEASTL survey.

12. Estimate Respondent Burden

Based on estimates provided by the pilot test and current responses to the CSLLEA, BJS has estimated that a universe of 740 respondents will provide a total of 1,055 hours of burden to complete the 2015 CSLLEASTL questionnaire. This estimated burden includes the time to complete the survey and subsequent time for non-response follow-up or validation. More specifically, the estimated burden hours were calculated as follows:

Number of respondents with 95% response rate (740 agencies * 95%)	703 agencies
Time to complete the survey instrument by each respondent	60 minutes
Time for follow-up per respondent averaged over all respondents	30 minutes
Total average burden per respondent	90 minutes
Total burden for all respondents (75 minutes * 570 respondents)	1,055 hours

13. Estimate of Respondent's Cost Burden

BJS anticipates that the full-time equivalent of one employee person per law enforcement survey will complete the data collection instrument, with pay approximately equivalent to the GS-12 / 01 level (\$77,490 per year). Based on this assumption, the agency cost of employee time would be approximately \$39.39 per hour. The base respondent employee time cost burden is estimated at \$41,556 (based on 1,055 total burden hours). Fringe benefits costs are estimated to average 46% of the base cost at \$19,116, resulting in a total salary and benefits cost of \$60,672. Indirect costs are estimated to average 37% of the salary and benefits total, or \$22,449, for an overall total respondent cost burden of \$83,121.

14. Costs to Federal Government

The total expected cost to the Federal Government for this data collection is \$387,269, to be borne entirely by BJS.¹⁴ This work consists of planning, questionnaire development, mailings, collecting the data, evaluating the data, data imputation, data analysis, and generating reports. A BJS GS-12 statistician will be responsible for overseeing NORC's work on this project. The budget for this project is presented in the table below:

<u>Bureau of Justice Statistics</u>	
Staff salaries	
2015 Fiscal Year	
GS-12 Statistician (30%)	\$23,247
Senior BJS Management (10%)	\$20,667
GS-13 Editor (10%)	\$9,082
Other Editorial Staff	\$5,000
Senior BJS Management	\$3,000
Subtotal salaries	\$60,996
Fringe benefits (28% of salaries)	\$17,079
Subtotal: Salary & fringe	\$78,075
Other administrative costs of salary & fringe (15%)	\$11,711
Subtotal: BJS costs	\$89,786
<u>Data Collection Agent</u>	
Personnel	\$58,415
Fringe Benefits	\$23,366
Travel	\$1,708
Equipment	\$0
Supplies	\$0
Consultants/Contracts	\$128,976
Other	\$15,353
Total Direct Costs	\$227,818
Total Indirect	\$69,665
Subtotal Data Collection Agent	\$297,483
Total estimated costs	\$387,269

15. Reason for Change in Burden

¹⁴ This is based on dividing the total budget for the State and Local Justice Agencies Serving Tribal Lands in half. The data collector proposed a budget for the whole of the project, rather than by survey.

This is the first time CSLLEASTL will be fielded. The total estimated respondent burden time is 1,055 hours for the 2015 CSLLEASTL. The average burden for the current collection is 1.50 hours per respondent.

16. Project Schedule and Publication Plan

Pending OMB approval, the 2015 CSLLEASTL data collection period is slated to being in August 2016 (see Attachment 3 for the CSLLEASTL questionnaire). The data collection period is scheduled to end March 2017. Once all data are collected, processed and cleaned, final analytical work will begin with plans to issue a BJS report: *Census of State and Local Law Enforcement Serving Tribal Lands, 2015* (Fall 2017).

Pending OMB approval, BJS will conduct a two-track approach to contacting the universe. The Census of State and Local Law Enforcement Agencies (CSLLEA), from which the universe members are drawn, concluded with an 80% response rate. The National Survey of Tribal Court Systems (NSTCS) included an item asking tribal courts to identify all law enforcement agencies that are responsible for policing their tribal lands. That list will supplement the CSLLEA, but we will still not have a complete universe. The data collector identified all counties contiguous to tribal lands and identified all law enforcement agencies in those counties, and labeled them as responders to CSLLEA or non-responders to CSLLEA. This work resulted in 1,657 law enforcement agencies that border tribal lands, with 1,105 agencies that did not respond to the CSLLEA.¹⁵ Not all of the 1,657 agencies will ultimately provide services to tribal lands; based on current responses to the CSLLEA, the data collector estimates that approximately 740 agencies will provide services to tribal lands. The non-responding 1,105 agencies represent the “unknown” universe list, in that we do not know if these agencies provide services to tribal lands.

Data collection for the CSLLEASTL will follow two tracks: one for the known universe members and one for the unknown universe members (i.e., law enforcement agencies located geographically contiguous to tribal lands, but did not respond to the CSLLEA or were not identified as providing services to tribal lands in the NSTCS). Eventually, the two tracks will align and similar procedures will be implemented for both tracks. As the unknown universe members respond, they will be marked as out of scope or immediately moved to the known universe track and mailed the survey packet. The two tracks will converge around week 8 of the data collection period.

¹⁵ This number will decrease slightly once we include the law enforcement agencies that were identified by tribal courts in the NSTCS.

Date	Track	Stage	Contact Method
Week 1	Known	Initial contact	Mail, email to all
Week 1	Unknown	Screening postcard	Mail to all
Week 2	Known	Invitation with fillable .PDF (email) or hard copy (mail) packets	Mail, email to all
Week 3	Unknown	Telephone screening	Telephone to all
Week 6	Known	Initial follow-up	Mail to non-responders
Week 6	Unknown	Invitation with fillable .PDF (email) or hardcopy (mail) packets	Mail, email to non-responders
Week 8 – Week 24	Both	Telephone follow-up	Telephone to non-responders
Week 10	Both	Replacement packets	Mail, email to non-responders
Week 12 (Month 3)	Both	Reminder	Mail, email to non-responders
Week 16	Both	Final replacement survey packets	Mail, email to non-responders
Week 20	Both	Critical items survey (if necessary)	Mail, email to non-responders
Week 24 (Month 6)	Both	Last chance postcard	Mail to non-responders
Months 7-10	n/a	n/a	Analysis and data delivery
Months 10-13	n/a	n/a	Reports

17. Display of Expiration Date

The expiration date will be shown on the survey form.

18. Exception to the Certificate Statement

BJS is not requesting an exception to the certification of this information collection.

Contacts for Statistical Aspects and Data Collection

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Attachment 1 Title 42
Attachment 2 CSLLEASTL Pilot Report
Attachment 3 CSLLEASTL Questionnaire