

SUPPORTING STATEMENT – PART A

Survey of State and Local Law Enforcement Agencies Serving Tribal Lands (SSLLEASTL)

Overview

The Bureau of Justice Statistics (BJS) requests clearance to conduct the Survey of State and Local Law Enforcement Agencies Serving Tribal Lands (SSLLEASTL) in Public Law 83-280 (PL-280) states. 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.

SSLLEASTL 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, BJS intends to field the SSLLEASTL and the Survey of State and Local Prosecutor Offices Serving Tribal Lands (SSLPOSTL), the two components of the State and Local Justice Agencies Serving Tribal Lands (SLJASTL) project. The joint development of the SSLLEASTL and SSLPOSTL 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.

Thirty-five states have federally recognized tribal lands (table 1). The SLJASTL project was initially designed to be a census of all law enforcement and prosecutor offices that served tribal lands. The law enforcement universe was to be derived from screener questions on the 2013 Census of State and Local Law Enforcement (CSLLEA) survey. Due to unforeseen problems with the CSLLEA, BJS redesigned the SSLLEASTL as a survey, rather than a census. The universe was further limited by budgetary constraints to include only the 16 states governed under PL-280 (Alaska, Arizona, California, Florida, Idaho, Iowa, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wisconsin). State agencies in PL-280 states have jurisdiction over more types of crime than in non-PL 280 states. Thus, law enforcement agencies in PL-280 states likely provide more services to tribal lands.

“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* will include the sixteen states governed under Public Law 280, whether mandatory or optional. Further, tribal lands include areas labeled Indian Country, federally recognized reservations, Alaska Native villages, and trust lands. It excludes state recognized reservations, non-federally recognized tribal communities, as well as all tribal lands located in non-PL-280 states.

Table 1. Size of tribal land population, by PL-280 jurisdiction and state

State	Federal tribal land	Tribal land pop Census, 2010	Total state population, 2010	Tribal lands pop / total state pop
States governed by Public Law 83-280				
Alaska	Yes	244,023	710,231	34.36
Arizona	Yes	136,015	6,392,017	2.13
California	Yes	65,676	37,253,956	0.18
Florida	Yes	3,764	18,801,310	0.02
Idaho	Yes	31,701	1,567,582	2.02
Iowa	Yes	4,781	3,046,355	0.16
Minnesota	Yes	36,783	5,303,925	0.69
Montana	Yes	67,094	989,415	6.78
Nebraska	Yes	14,207	1,826,341	0.78
Nevada	Yes	10,274	2,700,551	0.38
North Dakota	Yes	23,039	672,591	3.43
Oregon	Yes	8,852	3,831,074	0.23
South Dakota	Yes	53,629	814,180	6.59
Utah	Yes	83,207	2,763,885	3.01
Washington	Yes	163,032	6,724,540	2.42
Wisconsin	Yes	39,991	5,686,986	0.70
States not governed by Public Law 83-280				
Alabama	Yes	144	4,779,736	0.00
Colorado	Yes	12,734	5,029,196	0.25
Connecticut	Yes	347	3,574,097	0.01
Kansas	Yes	5,773	2,853,118	0.20
Louisiana	Yes	764	4,533,372	0.02
Maine	Yes	2,508	1,328,361	0.08
Massachusetts	Yes	76	6,547,629	0.00
Michigan	Yes	34,195	9,883,640	0.08
Mississippi	Yes	7,436	2,967,297	0.25
New Mexico	Yes	127,540	2,059,179	6.19
New York	Yes	16,781	19,378,102	0.04
North Carolina	Yes	9,018	9,535,483	0.09
Oklahoma	Yes	2,557,388	3,751,351	68.17
Rhode Island	Yes	Not reported	1,052,567	0.00
South Carolina	Yes	841	4,625,364	0.02
Tennessee	Yes	Not reported	6,346,105	0.00
Texas	Yes	1,778	25,145,561	0.01
Vermont	Yes	Not reported	625,741	0.00
Wyoming	Yes	26,490	563,626	4.70
Total	35	3,789,881		

Sixty-eight percent of the U.S. tribal lands population resides in Oklahoma; however, Oklahoma is not governed by PL-280. For states not governed by PL-280, the state and local law

enforcement agencies only have jurisdiction for crimes occurring on tribal lands where both the victim and offender were non-Indians. Otherwise, jurisdiction is shared by the federal government and the tribal government. As discussed further in the jurisdictional complexity section, in PL-280 states, the state shares jurisdiction with the tribes over most crimes. Thus, while the population coverage in PL-280 states is smaller, the jurisdiction of the state and local law enforcement agencies in PL-280 states is wider than in non-PL-280 states. PL-280 states cover 26% of the total tribal lands population (table 2).

Table 2. Proposed universe for SLJASTL				
State	PL-280	Tribal Lands Population	% of total tribal lands population (3,789,881)	Max general purpose law enforcement agencies
Alaska	Yes	244,023	6.4	44
Arizona	Yes	136,015	3.6	112
California	Yes	65,676	1.7	399
Florida	Yes	3,764	0.1	337
Idaho	Yes	31,701	0.8	117
Iowa	Yes	4,781	0.1	386
Minnesota	Yes	36,783	1.0	434
Montana	Yes	67,094	1.8	110
Nebraska	Yes	14,207	0.4	215
Nevada	Yes	10,274	0.3	54
North Dakota	Yes	23,039	0.6	108
Oregon	Yes	8,852	0.2	167
South Dakota	Yes	53,629	1.4	144
Utah	Yes	83,207	2.2	126
Washington	Yes	163,032	4.3	242
Wisconsin	Yes	39,991	1.1	507
Total		986,068	26.0	3,936

Alaska Native villages are different from tribal lands in the lower 48 states. BJS discussed the criminal justice structure in Alaska with representatives of the Alaska State Police and regional village public safety officers (VPSO). The Alaskan representatives explained that there is one trust land with a population of approximately 800 individuals linked to three tribes. The remaining Alaskan Native villages are not similar to federally recognized tribal lands in the lower 48 States. In contrast, the many Alaskan villages may have some residents who are tribal but they are not viewed as reservations, but more like small towns with some residents who may be members of one or many different tribes. Consequently, for SSLPOSTL, the Alaskan villages are not comparable to *tribal lands* in the lower 48 States. For instance, the Alaskan villages do not have distinct tribal governments. The villages are essentially private land with some tribal residents. Many of our survey’s questions would not make sense for Alaskan villages (e.g. there are no tribal governments with which to make agreements). To address these differences, we prepared two SSLLEASTL surveys: one for law enforcement agencies in Alaska, and one for law enforcement agencies in the remaining PL-280 states.

The SSLLEASTL will solicit information from state and local general purpose 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 ask state and local law enforcement agencies about the ability to report crime occurring on tribal lands separately from crime occurring outside of tribal lands.

As briefly discussed earlier, SLLEASTL was originally designed as a census of all law enforcement agencies that had jurisdiction on (i.e., served) tribal lands. The original design relied on a screener question on the recent Census of State and Local Law Enforcement Agencies (CSLLEA). That survey achieved an 80% response rate, leaving the tribal involvement of 20% of all law enforcement agencies (or nearly 3,600 agencies) unknown. BJS and the data collector worked to develop a geographic-based algorithm to predict an agency’s tribal involvement that, if successful, could be used to target the survey to those unscreened agencies most likely serving tribal lands. After extensive testing, this approach failed to ensure that SLLEASTL could identify a complete census of all law enforcement agencies in the U.S. that serve tribal lands. After considering the remaining budget and determining the most critical information needs of the field, BJS decided to change this data collection effort from a national census of law enforcement agencies to a sample of state and local law enforcement agencies in those states, i.e., the PL-280 states, where these agencies had more substantial involvement with the criminal activity that occurs on tribal lands due to increased jurisdiction over crimes occurring on tribal lands.

The SSLLEASTL will be a stratified sample of general purpose law enforcement agencies in the sixteen PL-280 states. General purpose law enforcement agencies include state police, sheriffs, and local county police departments. It does not include any special jurisdiction law enforcement agencies (e.g., campus law enforcement, fishing and gaming agencies). The first stratum includes all state police agencies and all will be sampled with certainty. In other words, it will be a census of all sixteen PL-280 state police agencies. The second stratum includes the 10 village public safety officer (VPSO) coordinating agencies in Alaska and all will be sampled with certainty. These nonprofit agencies coordinate the VPSO response to crime in Alaska villages. The third stratum includes all local police agencies in counties where tribal lands reside, and all of these agencies will be sampled with certainty.

The final stratum is the 2,151 law enforcement agencies in counties that do not contain tribal lands. The data collector conducted a power analysis to determine how large a sample would be needed to generate meaningful statistics from the 2,151 law enforcement agencies in stratum 4. Based on provided estimates of proportions, the power analysis tested sample sizes of 50, 100, 200, 300, 400, 500, 1,000, and 1,500 and concluded that 400 agencies are needed to generate meaningful estimates with a 95% significance level and 0.80 power coefficient. BJS expects an 80% response rate, so the sample size for stratum 4 is 500 law enforcement agencies. These agencies will be sampled probabilistically by counties (see table 3). The total sample for the SSLLEASTL will be 1,741 agencies.

	Description	Total LEA	Sampled LEA
Stratum 1	Census of all state police	16	16

	agencies in PL-280 states		
Stratum 2	Census of all Alaska VPSO coordinating agencies	10	10
Stratum 3	Census of all general purpose agencies in counties that contain tribal lands in PL-280 states only	1,215	1,215
Stratum 4	Sample of all general purpose agencies in counties that do not contain tribal lands	2,151	500

Jurisdictional Complexity

Jurisdiction over crimes that occur on tribal land in PL-280 states 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 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. 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.

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 4 summarizes which law enforcement agency (or agencies) has jurisdiction over crimes that occur on tribal lands.

Table 4. Criminal jurisdiction in Indian country

	Crime defined under 18 US § 1153 (Major Crimes Act)	All other crimes
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>

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 funding¹. 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 officers². 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

¹ 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

² Eileen Luna-Firebaugh, 2007. *Tribal Policing: Asserting Sovereignty, Seeking Justice*: 46.

agreement, the incarceration of arrested individuals, the rules of sovereign immunity, and other factors³. 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.

Thus, training of law enforcement agents is important. Tribal law enforcement agents are not typically state certified⁴. 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. Thus, residents living on tribal lands may not trust the state/local officers who police and have arrest powers on those lands.

The role of the village public safety officers (VPSO) in Alaska is also important. VPSO are typically funded by the state and coordinated by a non-profit agency, which manages the individual VPSO officers in different jurisdictions. In Alaska, there are 10 VPSO coordinating agencies, which will all be surveyed through this effort to determine the role of the VPSO in policing crime in Alaska.

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. Thus, 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 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.⁵ TLOA

³ 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>

⁴ Eileen Luna-Firebaugh, 2007. *Tribal Policing: Asserting Sovereignty, Seeking Justice*: 40.

⁵ Full Text of the Tribal Law and Order Act: <http://www.justice.gov/usao/az/IndianCountry/Tribal%20Law%20%20Order%20Act%202010.pdf>

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.⁶

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, SSLLEASTL will fill a 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.

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.⁷ 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.⁸ The full enactment of this legislation was in March 2015. To help monitor the changes initiated by VAWA, the SSLLEASTL will collect information on whether and to what extent state and local law enforcement agencies in PL-280 states processed domestic violence cases occurring on tribal lands in 2016, 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.⁹ 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 crime counts from their non-tribal crime counts if they were asked to do so. The SSLLEASTL will document the extent to which such reporting is possible and may provide a basis for requesting more nuanced crime reporting in the future.

⁶ Ibid: <http://www.justice.gov/usao/az/IndianCountry/Tribal%20Law%20%20Order%20Act%202010.pdf>

⁷ 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>

⁸ 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-va-wa-empowering-tribes-protect-native-women>

⁹ Perry, Steven W. "Tribal Crime Data Collection Activities, 2015." <http://www.bjs.gov/content/pub/pdf/tcdca15.pdf>

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. It is likely that state and local law enforcement agencies have jurisdiction over a large proportion of the crime that occurs on tribal lands in PL-280 states, 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 mandatory or optional 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 SSLLEASTL.

2. Needs and Uses

SSLLEASTL 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. 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 state and local law enforcement agencies and tribes, and between state and local law enforcement agencies and federal law enforcement agencies, 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 SSLLEASTL 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 questionnaires further ask the agencies to provide what support would be needed to record crimes occurring on tribal lands separately from crimes not occurring 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.

SSLLEASTL will provide a baseline of how crimes occurring on tribal lands are policed by state and local law enforcement agencies. As more tribes adopt the TLOA enhanced sentencing options and/or the VAWA enhanced prosecution options, SSLLEASTL 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. SSLLEASTL 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 about the training needs of the actors involved in policing crime occurring in Indian Country and in Alaskan trust land and villages, 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 utilize 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 utilize 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 1,605 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 SPSS to extract the raw data from the PDF, which should also reduce the cost of data entry.

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.
- **2014 National Survey of Tribal Court Systems** (OMB No. 1121-0350 Approval Expires December 31, 2017) 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.

- **2016 Census of Tribal Law Enforcement Agencies** (proposed series, contract awarded) will contact only tribal law enforcement agencies after BJS receives OMB approval. The findings of the SSLLEASTL 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), SSLLEASTL does not duplicate any other current collection efforts. The SSLLEASTL 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 reporting capabilities, 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*,¹⁰ in which it outlined topics to be examined in future research. These recommendations were examined and published in 2007's *Final Report Law Enforcement and Criminal Justice Under Public Law 280*.¹¹ 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 SSLLEASTL collection could be found.

5. Efforts to Minimize Burden

In an effort to minimize respondent's burden, the SSLLEASTL 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

¹⁰ Retrieved August 18, 2015 from <https://www.ncjrs.gov/pdffiles1/nij/209839.pdf>

¹¹ Retrieved August 18, 2015 from <https://www.ncjrs.gov/pdffiles1/nij/grants/222585.pdf>

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, several edits were made to the SSLLEASTL 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. Budgets are typically tracked by fiscal year, and questions regarding the agency's budgets will reflect this. The rest of the data will ask the respondent to report for calendar year 2016. These distinctions will be made clear in the data and the report. A clarification was also added to instruct the agency to answer "Yes" to the questions if the service/function 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. Also, after the pilot and in coordination with Alaskan representatives, it became clear that certain questions would not make sense in Alaska. BJS worked with the data collector and Captain Andrew Merrill to determine modifications to the SSLLEASTL and prepared an Alaska-only version of the questionnaire. With these improvements, we now expect the burden to average 1.0 hour per respondent, with an additional 30 minutes for nonresponse follow-up and any follow-up for 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 SSLLEASTL 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.
- SSLLEASTL will establish the baseline data regarding the role of state and local law enforcement agencies and their responsibilities on tribal lands in 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, SSLLEASTL’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.
- Some tribes have just 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 SSLLEASTL 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., 2016, 2021, and 2026). Subsequent iterations hopefully will include states not governed by PL-280, as well as 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

BJS shared a draft of the SSLLEASTL 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 SSLLEASTL 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 survey instrument 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.

The standard 60 and 30 day notices were posted in the Federal Register, no comments were received.

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

The Bureau of Justice Statistics (BJS) is authorized to conduct this data collection under 42 U.S.C. § 3732(c). BJS, BJS employees, and BJS data collection agents will use the information provided only for statistical or research purposes pursuant to 42 U.S.C. § 3735 (section 304 of the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. No. 90-351), as amended), and will protect it to the fullest extent under federal law. For more information on the federal statutes, regulations, and other authorities that govern how BJS, BJS employees, and BJS data collection agents collect, handle, store, disseminate, and protect your information, see the BJS Data Protection Guidelines - (https://www.bjs.gov/content/pub/pdf/BJS_Data_Protection_Guidelines.pdf).

11. Justification for Sensitive Questions

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

12. Estimate Respondent Burden

Based on estimates provided by the pilot test, BJS has estimated that a universe of 1,393 respondents will incur a total of 2,090 hours of burden to complete the 2016 SSLLEASTL questionnaire. This estimated burden includes the time to complete the survey and subsequent time for non-response follow-up or validation, though not all respondents will require follow-up. More specifically, the estimated burden hours were calculated as follows:

Number of respondents with 95% response rate (1,741 agencies * 80%)	1,393 agencies
Time to complete the survey instrument by each respondent	60 minutes
Time for follow-up per respondent (including nonresponse follow-up)	30 minutes
Total average burden per respondent	90 minutes
Total burden for all respondents (90 minutes * 1,393 respondents)	2,090 hours

13. Estimate of Cost Burden

BJS anticipates that a 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 \$82,325 (based on 2,090 total burden hours). Fringe benefits costs are estimated to average 46% of the base cost at \$37,870, resulting in a total salary and benefits cost of \$120,195. Indirect costs are estimated to average 37% of the salary and benefits total, or \$44,472, for an overall total respondent cost burden of \$164,667.

14. Estimates of Costs to the Federal Government

The total expected cost to the Federal Government for this data collection is \$358,622, to be borne entirely by BJS.^[1] This work consists of planning, questionnaire development, sampling, mailings, collecting the data, evaluating the data, data imputation, data analysis, and generating reports. A BJS GS-Level 13 statistician will be responsible for overseeing NORC’s work on this project. The budget for this project is presented in the table below:

Estimated Costs for the 2016 SSLLEASTL Survey

<u>Bureau of Justice Statistics</u>		
Staff salaries		
2017 Fiscal Year		
GS-13 Statistician (25%)		\$23,699
Senior BJS Management (5%)		\$8,095
GS-13 Editor (5%)		\$4,740
Other Editorial Staff		\$5,000
Subtotal salaries		\$41,534
Fringe benefits (28% of salaries)		\$11,630
Subtotal: Salary & fringe		\$53,164
Other administrative costs of salary & fringe (15%)		\$7,975
Subtotal: BJS costs		\$61,139
<u>Data Collection Agent</u>		
Personnel		\$58,415

^[1] 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 budget also includes all work done to date and to complete the data collection.

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	\$358,622

15. Reasons for Change in Burden

This is the first time SSLLEASTL will be fielded, so there is no change to the respondent burden.

16. Project Schedule and Publication Plan

Pending OMB approval, the 2016 SSLLEASTL data collection period is slated to being in June 2017 (see Attachments 3 and 4 for the SSLLEASTL questionnaires). The data collection period is scheduled to end December 2017. Once all data are collected, processed and cleaned, final analytical work will begin with plans to issue a BJS report: *Survey of State and Local Law Enforcement Agencies Serving Tribal Lands, 2016* (Winter/Spring 2018).

The SSLLEASTL will involve multiple modes of contact. Respondents will be contacted via email, standard mail, telephone, fax, and priority mail. Agencies will be contacted approximately every two-four weeks during the 6 month data collection period. Table 5 illustrates the proposed methods of contact. All mail contacts are standard mail, unless otherwise noted.

Date	Stage	Contact Method
Week 1	Initial contact	Mail, email to all
Week 2	Invitation with fillable .PDF (email) or hard copy (mail) packets	Mail, email to all
Week 6	Initial follow-up	Mail to non-responders
Week 8 – Week 24	Telephone follow-up	Telephone to non-responders
Week 10	Replacement packets	Mail, email to non-responders
Week 12	Reminder	Fax, email to non-responders

(Month 3)		
Week 16	Final replacement survey packets	Priority mail to non-responders
Week 20	Critical items survey (if necessary)	Mail, email to non-responders
Week 24 (Month 6)	Last chance postcard	Mail to non-responders
Months 7-10	n/a	Analysis and data delivery
Months 10-13	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.

19. Contacts for Statistical Aspects and Data Collection

a. BJS contacts include:

Suzanne Strong, Statistician
(202) 616-3666
Suzanne.M.Strong@usdoj.gov

Howard Snyder, Deputy Director
(202) 616-8305
Howard.Snyder@usdoj.gov

b. NORC contacts include

David Herda
HERDA-DAVID@NORC.org

Pamela Loose
LOOSE-PAMELA@NORC.org

Attachment 1 Title 42

Attachment 2 SSLLEASTL Pilot Report

Attachment 3 SSLLEASTL questionnaire for Alaska

Attachment 4 SSLLEASTL questionnaire for remaining PL-280 states