

## SUPPORTING STATEMENT

### Survey of Jails in Indian Country

#### **Part A**

The Bureau of Justice Statistics (BJS) requests clearance to conduct the Annual Survey of Jails in Indian Country (SJIC) for a three-year period and also requests a new unique clearance number for the SJIC data collection. The SJIC is currently approved through 1/31/2019 under OMB Control Number 1121-0094 along with the Annual Survey of Jails (ASJ). Considering these data collections are unique in substance, collection period, and respondents, each collection has required enhancements at different periods of time. Consequently, BJS has revised the combined clearance multiple times over the past several years, and in some cases, BJS delayed enhancing a unique survey until all data collections could be addressed with a single revision. This process does not allow BJS to address the critical needs of a single collection in a timely manner. As a solution, BJS proposes to separate these collections and obtained a unique OMB clearance for each. When the ASJ is next fielded in 2020, it will retain the OMB Control Number 1121-0094. The MCI-Jails collection is being combined with the MCI-Prison collection under OMB Control Number 1121-0249. The SJIC will obtain a new OMB Control Number through this application.

BJS started the SJIC in 1998 to track changes in the demographic characteristics of the tribal jail population as well as changes in the size of the jail population, capacity and crowding, and the flow of inmates moving into and out of tribal jails. These statistics are part of BJS's core corrections statistics, as they contribute fundamentally to BJS's mission of describing movements of offenders through the criminal justice system. Indian country jails are administered by tribal authorities or the Bureau of Indian Affairs, while the county and city jails covered by the ASJ are administered by local law enforcement authorities such as a sheriff or jail administrator. Together, the SJIC and ASJ produce national estimates on inmates held in all jails in the U.S.

The SJIC collection obtains aggregated administrative data from approximately 84 confinement facilities, detention centers, and other correctional facilities operated by tribal authorities or the Bureau of Indian Affairs. Facility administrators provide data that meet the definitions provided by BJS for items including—

- the number of inmates confined in jails by sex, adult/juvenile, conviction status, and offense seriousness
- the number of new admissions and final discharges
- the average daily population
- the number of attempted suicides
- the number of deaths
- the jail rated capacity to hold inmates
- the number of staff employed in Indian country jails.

## JUSTIFICATION

### 1. Necessity of Information Collection

Current and prior administrations have prioritized issues surrounding American Indian and Alaska Native (AIAN) involvement in the criminal justice system, and have instructed the Office of Justice Programs to pay special attention to tribal issues. The SJIC is the only national data collection that provides an annual source of data on Indian country jails, and it provides unique information about capacity and inmate population trends in Indian country jails. In 1998, BJS collaborated with the Bureau of Indian Affairs (BIA), the former Corrections Program Office and the American Indian and Alaska Native Desk, both within the Office of Justice Programs, to develop the inaugural SJIC. After the passage of the Tribal Law and Order Act (TLOA) of 2010, BJS was tasked with implementing a tribal data collection system that supported tribal participation in national records and information systems.

Core SJIC items include admissions, releases, confinement counts by inmate demographics and characteristics (i.e., conviction status and most serious offense), and average daily population. It also asks about the operation and staffing of Indian country jails. The SJIC is also the only vehicle for capturing the total number of Indian country jail inmates who died while in custody. The survey asks for total death counts, and respondents are not asked to submit individual-level death forms.

Through the SJIC collection, BJS has been able to describe major trends in the jail population. For example, from June 2000 to June 2016, the overall rated capacity to hold inmates (up 97%) grew at twice the rate as the midyear inmate population (up 43%); Indian country jail authorities reported 13 deaths in custody since midyear 2010; the number of inmates admitted into Indian country jails (9,640) during June 2016 was nearly four times the average daily population (2,480); nearly half of all inmates at midyear 2016 were held for a violent offense (30%) or public intoxication (19%); and the ratio of inmates to jail operations employees was about 2:1 at midyear 2016, remaining stable since 2010.<sup>1</sup>

The SJIC fits into BJS's larger portfolio of administrative data collections on correctional populations in the United States. BJS's Annual Survey of Jails (OMB Control Number 1121-0094), Mortality in Correctional Institutions (OMB Control Number 1121-0249), National Prisoner Statistics Program (OMB Control Number 1121-0102), and National Corrections Reporting Program (OMB control number 1121-005) provide annual data on jail and prison populations, while its Annual Probation Survey and Annual Parole Survey (OMB Control Number 1121-0064) provide data on community corrections populations. Together, the SJIC completes BJS's annual data collection on correctional populations by covering the tribal jail segment.

BJS is authorized to conduct the SJIC under 34 U.S.C. § 10132. Its employees, and its contractors will use the information only for statistical or research purposes pursuant to 34 U.S.C. § 10134, and will protect it to the fullest extent under federal law. For more information

---

<sup>1</sup>Minton, T.D. and Cowhig, M. (2017). *Jails in Indian Country, 2016*. Bureau of Justice Statistics. Washington, DC. Available at <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6146>.

on how BJS will use and protect facility information, go to [https://www.bjs.gov/content/pub/pdf/BJS\\_Data\\_Protection\\_Guidelines.pdf](https://www.bjs.gov/content/pub/pdf/BJS_Data_Protection_Guidelines.pdf).

## 2. Needs and Uses

Through the SJIC, BJS is able to track changes in the number of inmates held in tribal or BIA-operated facilities. The BJS data on Indian country jail inmate population movements meet stakeholder needs for understanding the change in jail populations. Of particular concern to jail administrators is information on the composition of jail populations including the total volume of inmates handled by Indian country jails during a given period of time, and facility crowding.

BJS has adapted the SJIC data collection form several times over the past 20 years to meet other needs and interests of jail administrators, policymakers, and researchers. Through these changes, BJS has been able to address a keen interest by Congress, tribal leaders, and federal agencies to improve the criminal justice system in Indian country by identifying the types of offenders they are holding. The current SJIC form, CJ-5B, is located in Appendix A.

### *Recurring uses of SJIC by BJS*

BJS publishes annual reports (<https://www.bjs.gov/index.cfm?ty=pbse&sid=32>) on Indian country jails that present trend data on inmate counts, characteristics, and offense types; midyear, peak, and average daily populations; admissions and inmate average length of stay; rated capacity, facility crowding, and jail staffing; and deaths in custody.

BJS has used the SJIC to collect and disseminate enhanced information on the most serious offense category in 2002 to include domestic violence, and again in 2004, to include more detailed information on violent offenses (domestic violence, simple and aggravated assault, rape and sexual assault, and other violent offenses). Since 2010, about 3 in 10 inmates held in Indian country jails have been confined for a violent offense, a decline from about 4 in 10 in 2007. At midyear 2016, domestic violence (14%) and aggravated or simple assault (10%) accounted for 24% of all inmates. Inmates held for other violent (5%) and rape or sexual assault (1%) offenses accounted for an additional 6% of the jail population. In 2013, BJS enhanced the SJIC offense category questionnaire item to include burglary, larceny-theft, and public intoxication, which allowed for better classification of previously unspecified offenses. Combined, 23% of inmates at midyear 2016 were charged with public intoxication (19%), burglary (2%), and larceny-theft (2%), up from 20% in 2013.

BJS also includes SJIC data in its annual technical reports on Tribal Crime Data Collection Activities (<https://www.bjs.gov/index.cfm?ty=pbse&sid=77>). These reports describe activities by BJS to collect and improve the quantity and quality of data on crime and justice in Indian country as required by TLOA. Topics covered include the most recent statistical findings on detention facilities in Indian country.

Finally, the SJIC inmate population data is used annually in BJS's Correctional Populations in the United States bulletins. The SJIC data is combined with territorial prisons and military facilities to yield the total number of persons incarcerated in other adult correctional systems for a given year. These reports are available here: <https://www.bjs.gov/index.cfm?ty=pbse&sid=5>.

## *External uses of SJIC*

Other entities rely on the SJIC data for research, planning, and programmatic purposes. The SJIC data and statistical reports are used by the U.S. Department of Justice, U.S. Congress, tribal correctional administrators, students, academic researchers, and advocates. Examples of users and uses of these data include the following:

**U.S. Congress**—Members of Congress have a strong interest in criminal justice issues in Indian country and have used SJIC data to understand trends in corrections in Indian country. The Tribal Law and Order Act of 2010 (P.L. 111–211) requires BJS to submit to Congress a report describing the data collected and analyzed on crimes in Indian country.

**American Jail Association**—The American Jail Association (AJA) has reproduced BJS data in full or in part on several occasions through their weekly electronic newsletter, the “AJA Alert”, and their “American Jails” magazine. Per AJA’s Executive Director Robert Kasabian, a copy of ‘American Jails’ is sent to every jail in the United States. The SJIC report (“Jails in Indian Country, 2014”) was included in an AJA Alert.

**Office of Justice Programs**—Past requests for SJIC data have focused on the utilization rate of jail space and recommending tribes with jails to implement correctional alternative programming to incarceration. The SJIC annual report was cited numerous times in OJP’s August 2011 report, *Tribal Law and Order Act: Long Term Plan to Build and Enhance Tribal Justice Systems* (<https://www.justice.gov/sites/default/files/tribal/legacy/2014/02/06/tloa-tsp-aug2011.pdf>).

Agencies within OJP, such as the Office of Juvenile Justice and Delinquency and Prevention (OJJDP), use SJIC data to measure the number of juveniles held in Indian country jails. In prior requests for proposals on the Correctional Facilities on Tribal Lands Grants, the Bureau of Justice Assistance (BJA) required applicants competing for funding to justify need with data (e.g., arrest data, changes in jail population).

**Office of Tribal Justice (OTJ), DOJ**—OTJ is the primary point of contact for DOJ with federally recognized Native American tribes, and advises the Department on legal and policy matters pertaining to Native Americans. OTJ uses data from the SJIC and annual report as a resource on corrections and detention.

**Bureau of Indian Affairs**—BIA has worked collaboratively with BJS on Indian country issues, and has used SJIC data to develop annual statistics on BIA- and tribally-operated facilities. The SJIC data also provide BIA managers with comparative data with which to assess jail operations and programs.

**Facility Administrators in Indian country**—The jail administrators use SJIC data to assess conditions within their own facilities and jurisdictions relative to others, and to determine needs and budget requirements.

**Researchers and Academics**—The SJIC datasets have been heavily utilized in external publications and by institutes that have downloaded the public use datasets here: <https://pcms.icpsr.umich.edu/pcms/reports/studies/36352/utilization>. Academic and other federal researchers have also used BJS’s tribal jail data in a variety of studies:

- Rolnick, Addie C. (2016). “Locked up: Fear, racism, prison economics, and the incarceration of Native youth,” *American Indian Culture and Research Journal*. 40, (1), 55-92.
- Archambeault, William G (2014). The current state of Indian Country corrections in the United States. *American Indians at Risk*. Santa Barbara, CA: ABC-CLIO, LLC.
- Clark, John (2009) “The state of pretrial release decision-making in tribal jurisdictions: Closing the knowledge gap,” *Journal of Court Innovation*. 2, (2), 297-327.

### 3. Use of Information Technology

Given the relatively small jail universe and potential BJS start-up and maintenance costs to collect data via a web-based platform, the SJIC will continue to be distributed via paper survey as its primary collection mode. However, some jails have utilized the fillable PDF option and emailed their file to BJS’s data collection agent. BJS plans to encourage this collection mode over the next three-year period. See table 1 (below) for the mode of data collection from 2012 to 2017.

<b>Table 1. Data collection mode</b>						
<b>Year</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Fax	72	64	66	62	57	41
E-mail	6	10	8	8	18	29
Mail	1	2	0	0	0	4
Phone	0	1	0	0	0	2
Total	79	77	74	70	75	76

### 4. Efforts to Identify Duplication

The SJIC does not duplicate any other government agency for the purpose of disseminating information on inmate counts, movements, facility operations, and staff. Although the Bureau of Indian Affairs collects monthly data from tribal jails (e.g., ADP, inmate bed capacity), they do not publicly disseminate the information. BJS conducted a search of the National Archives of Criminal Justice Data (NACJD) to identify other data on tribal jails that are archived there, and the search did not reveal any duplication with the SJIC.

#### ***Efforts to Minimize Burden***

Over the next three years, BJS plans to seek feedback from stakeholders to help identify ways to reduce burden on tribal jails. Currently, BJS has no plans to add questions to the SJIC. Given the

recent increase in the number of tribal jails submitting data via email, BJS will encourage this mode of submission.

5. Impact on Small Businesses

Not applicable. The SJIC data collection does not involve small businesses or other small entities. The respondents are Indian country jails.

6. Consequences of Less Frequent Collection

Through the SJIC, BJS is able to provide annual, nationally-representative data on Indian country jail population movements. Without the annual collection, BJS would be reduced to providing infrequent jail findings via its periodic census of jails (every 5-6 years). As a result, BJS would not have been able to report that, since 2010, about 3 in 10 Indian country jail inmates were held for a violent offense, a decline from 4 in 10 in 2007; and that the juvenile population declined from 16% in 2000 to less than 10% in 2013 through 2016.

Turnover among respondents to the collections is common, and would also negatively impact response rates and increase follow-up costs if the collection were fielded less frequently. Through the annual collection, BJS learns about pending turnover at agencies during routine data collection and data validation verification calls. With less frequent collection, each effort to obtain data from the tribal jails would require more BJS and respondent resources.

7. Special Circumstances Influencing Collection

Not applicable. There is no circumstance in which a respondent would respond more than once a year and provide more data than on the survey form. The SJIC collection is consistent with the guidelines in 5 CFR 1320.6.

8. Federal Register Publication and Outside Consultation

The 60 and 30-day notices for public comment were published in the Federal Register on February 4, 2019 and April 11, 2019. BJS received no comments in response to the 60-day notice in the Federal Register.

BJS maintains contact with data providers and data users in an effort to improve data collection, reporting procedures, data analysis, and data presentation.

In reviewing the data collection procedures, BJS recently consulted with various experts to obtain their views on the instruments. BJS consulted the following jail and Indian country officials and experts:

- Patricia Broken Leg-Brill, Deputy Associate Director of Corrections, Bureau of Indian Affairs, Office of Justice Services.

- Julius C. Dupree, Jr., Policy Advisor of the U.S. Department of Justice, Bureau of Justice Assistance.

Through ongoing discussions with the varied stakeholders for SJIC, BJS has found that there is general satisfaction with the current survey instrument. Respondents feel that critical questions cover important topics and the accompanying instructions for completing the survey are clear. While there are interests in expanding the content of the SJIC to cover topics such as the number of transactions (e.g., transfers to and from courts or among other justice agencies, admissions/discharges, direct and indirect supervision of inmates, and American Indian and Alaska Natives sent to detention services in other states due to overcrowding), the general consensus at this time seems to be that providing these data is beyond the information system capacities of most jail administrators in Indian country.

To address the potential for expanding the survey content to meet additional needs, during the next several years BJS will, in conjunction with its data collection agent, participate in a series of conferences and meetings with Indian country officials to discuss their capacity to provide data on a wider range of issues. BJS's data collection agent also has been tasked with implementing a process to assess the SJIC for the purposes of enhancing and expanding it to address significant gaps in the SJIC. The process will include convening meetings of experts in the issues related to Indian country jails (e.g., tribal members, jail professionals, Indian country criminal justice experts, academics who study Indian country issues, and others) for the purpose of reviewing the data collection instrument, identifying gaps in the collection, assessing the costs and challenges associated with obtaining data to fill gaps, and developing methodologies to obtain the data. The assessment will cover all aspects of SJIC, including the content of the survey, modes of administration, communication with the field about the survey, statistical products from the data collection, and dissemination of products.

#### 9. Paying Respondents

Participation in the surveys is voluntary and no gifts or incentives will be given.

#### 10. Assurance of Confidentiality

The Bureau of Justice Statistics is authorized to conduct this data collection under 34 U.S.C. § 10132, its employees, and its contractors will use the information provided only for statistical or research purposes pursuant to 34 U.S.C. § 10134, and will protect it to the fullest extent under federal law. For more information on how BJS will use and protect information, go to [https://www.bjs.gov/content/pub/pdf/BJS\\_Data\\_Protection\\_Guidelines.pdf](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 SJIC. In addition, the data collected and published from the surveys are aggregated counts from which the identity of specific persons cannot reasonably be determined.

## 12. Estimate of Hour Burden

The SJIC will collect data from 84 Indian country jail respondents in tribal communities. Estimates of annual burden on respondents are based on the number of hours required to review the instructions associated with the instruments, search existing data sources, obtain information necessary to complete data collection instruments, and respond to verification calls. Average reporting time is based on unpublished 2017 data. See table 2 (below) for the summary of burden hours associated with the SJIC.

<b>Reporting mode</b>	<b>Purpose of contact</b>	<b>Number of responses</b>	<b>Average reporting time</b>	<b>Estimated total burden hours</b>
Mail, Fax, Email, telephone	Data collection	84	75 min	105 hrs
Email and telephone	Verify facility operational status and point-of-contact	84	2 min	3 hrs
Email and telephone	Data quality follow-up validation	84	7 min	10 hrs
Total		84	84 min	118 hrs

The SJIC questionnaire (form CJ-5B) will be sent to about 84 Indian country correctional facilities operated by tribal authorities or the Bureau of Indian Affairs (BIA). Based on prior years' reporting, we estimate a reporting time of 75 minutes for the SJIC questionnaire. If needed, jail respondents will also be contacted by email or telephone to verify data quality issues. Thus, we expect that in any data collection year 84 SJIC respondents will have an average reporting time of 2 minutes to verify facility operational status and point-of-contact, 75 minutes for the data collection, and an additional 7 minutes for data quality follow-up validation, for a total burden of 84 minutes per facility. Annually, this results in a total burden estimate for SJIC of 118 hours.

## 13. Estimate of Respondent Cost Burden

We do not expect the data collections to incur any capital, startup, or system maintenance costs to respondents. The information requested is of the type and scope jails normally collect as part of their operations and no special hardware or accounting software or system is necessary to provide information for this data collection. Furthermore, purchase of outside accounting or



information collection services, if performed by the respondent, is part of usual and customary business practices, not specifically required for providing information to BJS.

Based on the total burden hours at an average labor cost of about \$23.00 per hour (based on Bureau of Labor Statistics data: <https://www.bls.gov/oes/current/oes333012.htm>), we estimate the annual costs to respondents to total approximately \$2,700.

14. Estimated Cost to the Federal Government

Total annual cost to the federal government for all aspects of the SJIC will be \$156,400. Currently, the division of labor for a data collection cycle of SJIC is as follows: The current data collection agent (Westat Inc.) maintains and updates the respondent contact information database, conducts the survey through mail, fax, or email, conducts follow-up, collects the data, prepares facility level tables, and prepares a dataset for BJS use. BJS staff analyze the data, prepare statistical tables, and write reports based on these data.

Based upon contractual costs, the estimated costs to the government associated with the collection, processing, and publication of reports, and preparation of data tables are projected for 2019 in table 3 (below). A total estimated cost of \$156,400 is divided between Westat for data collection and table creation (\$79,800) and BJS for program management, analysis, and reporting and dissemination (\$76,600). Both BJS and Westat costs include salary, fringe, and overhead.

<b>Table 3. Estimated costs for the Survey of Jails in Indian Country, 2019</b>		
<b>BJS costs</b>		
	Staff salaries	
	GS-14 Statistician (35%)	\$41,000
	GS-15 Supervisory Statistician (1%)	\$1,500
	GS-15 Chief Editor (1%)	\$1,500
	Other Editorial Staff (3%)	\$3,000
	Front-Office Staff (GS-15 & Directors)	\$1,000
	Subtotal salaries	<b>\$48,000</b>
	Fringe benefits (33% of salaries)	\$15,800
	Subtotal: Salary & fringe	<b>\$63,800</b>
	Other administrative costs of salary & fringe (20%)	\$12,800
	Subtotal: BJS costs	<b>\$76,600</b>
<b>Westat Inc., costs (data collection agent)</b>		

Westat Inc., costs (salaries, fringe benefits, mail-out, fax, email and telephone follow-up, programming, table creation, and overhead)	<b>\$79,800</b>
<b>Total estimated costs</b>	<b>\$156,400</b>

15. Changes in Respondent Burden

The increase in burden of 13 hours is due to tracking the time it takes to verify facility operational status and point-of-contact and to conduct data validation. This increase is based on direct observations by BJS’s SJIC data collection agent for recent years.

16. Project Schedules and Publication Plans

The SJIC has a reference date of the last weekday in the month of June. Annually, the BJS data collection agent contacts each facility in June to verify operational status and point of contact (Appendix B). The data collection activities for the SJIC are scheduled to begin the second week in July, with the survey respondents receiving an emailed participation request letter (Appendix C) and questionnaire to be completed by August 15. One week later, non-respondents receive a second email to encourage survey response (Appendix D), and during the last week of August, they may also receive a telephone call from the BJS data collection agent. Active non-response follow-up ends by the third week of January. Active data collection closes in the first week of February, but BJS continues to accept data until delivery of the final dataset by the data collection agent in April.

Between August and February of each collection year, the BJS data collection agent conducts data quality validation and follow-up with respondents. Around late March, the collection agent prepares a preliminary dataset for BJS review. From early March to late-March, the collection agent conducts final validation based on BJS review of the preliminary file. By April 1, the collection agent delivers a final dataset and documentation to BJS, followed by the appendix tables used in the Jails in Indian Country report during the last week in April.

BJS’s plans for six publications from tribal jail data over the next three years. The planned products are as follows (also summarized in table 4):

The **SJIC annual bulletin** (<https://www.bjs.gov/index.cfm?ty=pbse&sid=32>) provides trends in the number of adults and juveniles held in tribal jails, type of offense, number of persons confined on the last weekday in June, peak population, average daily population, admissions during the month of June, and expected average length of stay in jail upon admission. It also publishes data on rated capacity of Indian country facilities, facility crowding, jail staffing, and counts of inmate deaths and suicide attempts.

BJS also releases annual congressional reports on **Tribal Crime Data Collection Activities** found here: <https://www.bjs.gov/index.cfm?ty=pbse&sid=77>. These reports describe activities by

BJS to collect and improve the quantity and quality of data on crime and justice in Indian country as required by the Tribal Law and Order Act (TLOA) of 2010. Topics covered include data collection programs and activities, tribal participation in national records and information systems, and the most recent statistical findings on detention facilities in Indian country (SJIC data).

BJS will continue to archive the SJIC data at NACJD on an annual basis after release of the annual SJIC report.

<b>Table 4. BJS Calendar for SJIC Publications</b>		
<b>Publication type</b>	<b>Title/topic of publication</b>	<b>Estimated publication date</b>
Annual bulletin	<i>Jails in Indian Country, 2019</i>	Summer 2020
Annual bulletin	<i>Jails In Indian Country, 2020</i>	Summer 2021
Annual bulletin	<i>Jails In Indian Country, 2021</i>	Summer 2022
Congressional report	<i>Tribal Crime Data Collection Activities, 2019</i>	Summer 2020
Congressional report	<i>Tribal Crime Data Collection Activities, 2020</i>	Summer 2021
Congressional report	<i>Tribal Crime Data Collection Activities, 2020</i>	Summer 2022

17. Expiration Date Approval

The OMB Control Number and the expiration date will be published on instructions provided to all respondents.

18. Exceptions to the Certification

There are no exceptions to the Certification Statement. The collection is consistent with all the guidelines set forth in 5 CFR 1320.9.