



OMB PACKAGE REQUEST

CENSUS OF TRIBAL LAW ENFORCEMENT AGENCIES, 2019

Bureau of Justice Statistics

SUPPORTING STATEMENT

2019 Census of Tribal Law Enforcement Agencies (CTLEA)

Overview

The Bureau of Justice Statistics (BJS) requests clearance to conduct the *2019 Census of Tribal Law Enforcement Agencies* (CTLEA). The CTLEA is a new statistical collection that will survey all tribal-government-operated law enforcement (LE) agencies in the U.S. Tribal LE agencies have general arrest powers or authority to issue citations established by either tribal governments or the Bureau of Indian Affairs (BIA) within the U.S. Department Interior to enforce the law in Indian country.¹ To better understand the challenges and administration of justice in Indian country, this project will document the administrative and operational characteristics of tribal LE agencies that handle policing functions on tribal lands.

There are a total of 573 federally-recognized American Indian and Alaska Native (AIAN) tribes in the contiguous 48 states and Alaska, with 334 federally- and state-recognized American Indian reservations or villages.² In 2010, about 4.6 million people lived on American Indian reservations or in Alaska Native villages, with 76% (3.5 million) being described as non-Indians.³ So the challenges faced by tribal LE agencies not only impact American Indians and Alaska Natives residents on tribal lands, but the many non-Indian residents, as well. Tribal LE agencies have faced long-standing challenges of overlapping jurisdiction with Federal and State and local governments; limited financial and staffing resources for programs; responsibility for patrolling and responding to crimes over large geographic areas and rough terrains; and suffer disproportionate rates of violence on reservations.⁴

In November 2013, the Tribal Law and Order Commission submitted a report to Congress which found the systems for generating law enforcement and crime data were undeveloped or, in some cases, nonexistent for Indian country.⁵ More recently, in December 2017, the Department of Justice (DOJ) Office of the Inspector General reported that crime data in Indian country remains unreliable and incomplete, limiting the Department's ability to engage in performance-based management of its effort to implement the DOJ Tribal Law and Order Act responsibilities.⁶

The CTLEA is a new survey intended to provide critically important information to federal, state, local, and tribal governments to help understand the capacity and needs of tribal LE agencies in order to more effectively improve public safety in Indian country. The CTLEA builds upon information learned from the *2002 Census of Tribal Justice Agencies* (CTJA), which

¹ See: Title 25 U.S. Code § 2802 - Indian law enforcement responsibilities

² Bureau of Indian Affairs, "Indian Entities Recognized and Eligible to Receive Service from the United States" Federal Register, Vol. 83, No. 141, July 17, 2018.

³ Census Bureau, "The American Indian and Alaska Native Population," 2010 (C2010BR-10), January 2012. (Retrieved from Census.gov website, June 7, 2017).

⁴ Luna-Firebaugh, Eileen. *Tribal Policing: Asserting Sovereignty, Seeking Justice*. The University of Arizona Press: Tucson, (2007).

⁵ Tribal Law and Order Commission, "A Roadmap for Making Native America Safer: Report to the President and Congress of the United States" November 2013. see <http://www.aisc.ucla.edu/iloc/report/index.html>

⁶ Department of Justice, Office of the Inspector General. "Review of the Department's Tribal Law Enforcement Efforts Pursuant to the Tribal Law and Order Act of 2010." December 2017. see <https://oig.justice.gov/reports/2017/e1801.pdf>

was BJS’s first comprehensive collection of statistical information on tribal justice and included information collected about tribal law enforcement, courts, corrections, intermediate sanctions, and criminal history records (see full report link below).⁷ Since the scope of the CTJA was all tribal justice agencies, the survey did not collect in-depth information specific to tribal LE agencies, such as data on operating budgets, training, equipment availability, or the law enforcement handling of juvenile matters or domestic violence.

The CTLEA will also expand upon the limited number of tribal agencies in the previous iterations of the 2004 and 2008 *Census of State and Local Law Enforcement Agencies* (CSLLEA). Prior iterations of the CSLLEA did not include a full enumeration of the tribal LE agencies in the U.S. and excluded federal LE agencies from the respondent frame, such that BIA LE agencies providing policing services for tribes were not included. Those scope restrictions likely contribute to an undercount of tribal LE agencies in the CSLLEA.

The overlapping nature of criminal jurisdiction in Indian country between federal, state, and local LE agencies makes it difficult to estimate the magnitude and nature of crime on tribal lands. Specifically, it is important to know (1) where the crime occurred—on or off tribal land and (2) if the crime involved a tribal member, either as a suspected perpetrator or as a victim. Currently, data from non-tribal agencies do not clearly distinguish tribal-land-specific crime data or if a criminal incident involved a tribal member.

The CTLEA will collect data from the identified LE agencies that provide direct law enforcement services on tribal lands. The CTLEA will be bifurcated into two collection streams, one focused on collecting direct responses from tribal LE agencies and one focused on collecting data from BIA police agencies. Tribal LE agencies for the CTLEA include police departments and other agencies with special authority and/or functions operated by or on behalf of tribal governments in Indian country, including conservation and wildlife agencies and tribal college or university police operating in Indian country. BIA police agencies are operated by the U.S. Department of Interior, and BJS will work directly with the BIA to collect the information requested.

The CTLEA instrument includes questions about tribal law enforcement jurisdiction; staffing and training; funding sources; inter-governmental agreements and coordination with other justice agencies; criminal justice workloads and functions; administration of juvenile and domestic violence matters; and criminal justice information system needs, access, and use. The reference period for the 2019 CTLEA data collection will be January through December 2018, the most recent full calendar year.

A. 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 34 U.S.C. § 10132. The

⁷ Bureau of Justice Statistics, “Census of Tribal Justice Agencies in Indian Country,” 2002 (NCJ 205332), December 2005. (Retrieved from BJS.gov website, June 7, 2017).

authorizing statute includes collecting data from tribal LE agencies whose responsibilities include the investigation of and arrest for crimes occurring on tribal lands.

In addition, the Tribal Law and Order Act of 2010 (TLOA) directed BJS to improve its tribal statistical data collection at the federal, state, local, and tribal levels⁸. TLOA requires 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 requires BJS to consult with Indian tribes to establish and implement a 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.

TLOA also authorized expanded sentencing authority for tribal justice systems; clarified jurisdiction in Public Law 280 states⁹; authorized liaisons within each U.S. Attorney's Office; and encouraged more intergovernmental collaboration between tribal, federal, state, and local governments. Tribal LE and BIA agencies often serve as first responders for investigations, making arrests for crimes occurring on tribal lands, or acting as emergency responders for fires and wildlife matters.

Currently, there is a significant need for relevant, timely and on-going data about the administrative and organizational characteristics of tribal LE and BIA agencies serving tribal communities. Although some tribal LE agencies were included in prior BJS statistical collections, no complete enumeration of the various tribal LE agency types has been conducted. The 573 federally recognized sovereign tribes vary in size based on population and geographic area of their reservations, trust lands or tribal communities. Tribal communities are as small as the Augustine Band of Cahuilla Indians, with just 11 members on a one-square-mile block of land or as large as the Navajo Nation, with a population of more than 330,000 and a land area of more than 27,000 square miles crossing into four states. Some tribes do not operate their own tribal LE agencies, while others have tribal LE agencies that coordinate activities with state or federal LE authorities.

The issues faced by tribal LE agencies, as well as their responsibilities, have expanded in recent decades due to legislative changes, fluctuations in the violent crime rate, and legislative mandates. Currently, there is no consistent data on the operational characteristics of tribal LE agencies to evaluate how these changes in agency responsibility have affected internal agency structure and policy. To address this gap in knowledge, the CTLEA will collect information on five primary topic areas – jurisdiction, administration, operations, agency functions, and information technology.

The TLOA Commission noted that “Indian Tribes and nations throughout the country would benefit if tribal law enforcement agencies were staffed at force levels comparable to similarly situated communities off the reservations.”¹⁰ No current or publicly available data exist about the total number of tribal, federal or state LE officers working on tribal lands. The CTLEA will ask

⁸ Tribal Law and Order Act, Pub.L. 111-211, H.R. 725, 124 Stat. 2258, enacted July 29, 2010.

⁹ In non-PL 280 states, tribes share concurrent jurisdiction with the Federal government having primary authority for felony crimes. In PL 280 jurisdictions, the state has primary authority for felony crimes, but tribes retain concurrent jurisdiction for all offenses occurring on tribal lands.

¹⁰ Tribal Law and Order Commission, “A Roadmap for Making Native America Safer: Report to the President and Congress of the United States” November 2013.

the respondent agencies about total police officers on staff; sources of budgets and funding, employee benefits provided to officers and available training, and cross-deputation arrangements. These data will help stakeholders better understand the staffing and resources of LE agencies operated by tribal governments on tribal lands.

TLOA further required enhanced criminal justice information sharing among tribal LE agencies. In 2002, about 235 of the tribes that participated in the *Census of Tribal Justice Agencies* (CTJA) reported they did not submit criminal history records to a state or federal repository; less than 30 tribes indicated their justice agencies were electronically networked with other justice agencies on the reservations; and only 12 tribes said they routinely reported crime statistics to local agencies, state agencies or the Federal Bureau of Investigation (FBI).¹¹ Those data from the CTJA are dated. The CTLEA will request updated information from respondent agencies, asking if agencies have access to view and share criminal justice information with regional, state, and federal criminal programs; whether they have IT staff and personnel; and what types of mobile or electronic technology are available. This information will insight into the changes and progress made to integrate tribal enforcement agencies with federal, regional, state and local justice information systems, such as the FBI's National Crime Information Center (NCIC) databases.

The level of crime occurring in Indian country is difficult to estimate due to the shared jurisdiction by federal, state, local, and tribal justice agencies. Crime estimates are further complicated by the fact that not all tribal agencies report data to the FBI's Uniform Crime Reporting Program on a consistent and regular basis. The CTLEA will specifically ask tribal LE agencies about the number of calls for services received in 2018, along with the total number of arrests, including juvenile arrests.

The **Violence Against Women Reauthorization Act of 2013** (VAWA) sought to bridge the gap that occurs in Indian country when a non-Indian commits domestic violence against an American Indian or Alaska Native woman.¹² 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, fully enacted in March 2015, sought to remedy this by allowing tribal courts to prosecute non-Indian offenders alleged to have committed acts of domestic violence or dating violence in Indian Country or to have violated a protections order issued in Indian country.¹³ To help understand the impact of the VAWA 2013 legislation, the CTLEA will ask respondents if tribal officers have arrest authority over non-Indians for offenses committed on tribal lands; and whether the tribal LE agencies made arrests for domestic violence, violations of protection orders and sex trafficking in 2018.

¹¹ Bureau of Justice Statistics, "Census of Tribal Justice Agencies in Indian Country, 2002" (NCJ 205332), December, 2005. (Retrieved from BJS.gov website, June 7, 2017).

¹² 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. (See <http://www.gpo.gov/fdsys/pkg/PLAW-113publ4/pdf/PLAW-113publ4.pdf>)

¹³ 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>

The **Sex Offender Registration and Notification Act (SORNA)**, which is Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248), provides a comprehensive set of minimum standards for sex offender registration and notification in the US. Pursuant to §127 of the Adam Walsh Act, all federally recognized Indian tribes are entitled to elect whether to carry out the requirements of this section or delegate the functions to the state(s) in which the tribal land is located.¹⁴ The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) was tasked with providing training and technical assistance to tribes that elected to implement the SORNA requirements. The CTLEA will collect information about SORNA-related responsibilities that tribal law enforcement provide in tribal communities. The CTLEA will specifically ask whether tribal LE officers' duties include SORNA registration.

The National Congress of American Indians' 2010 publication, *Background on Tribal Justice and Law Enforcement*, reports that violent crime on Indian reservations is experienced at 2.5 times the national rate and that some reservations experience more than 20 times the national rate of violent crime.¹⁵ A report in 2016 from the National Institute of Justice found that 4 in 5 American Indian and Alaska Natives—84.3 percent of women and 81.6 percent of men—experienced violence in their lifetime.¹⁶ Likewise, American Indians and Alaska Natives have high rates of alcohol and drug abuse, which contribute to crime. Combined 2003 to 2011 data from the Substance Abuse and Mental Health Service Agency indicate that American Indians or Alaska Natives were more likely than persons from other racial/ethnic groups to have needed treatment for alcohol or illicit drugs in the past year (17.5 percent versus 9.3 percent).¹⁷ The CTLEA will ask whether tribal LE agencies and officers perform emergency medical services; fire and rescue services; and whether duties include providing school resource officers. Because of these high rates of crime and substance abuse, it is critical to collect data about the existing duties and the emerging criminal and social issues that tribal law enforcement faces on a daily basis.

CTLEA is designed to provide a baseline of how tribal LE agencies, and the crimes that occur on tribal lands, differ in PL-280 and non-PL-280 states. The CTLEA will provide data about the pressing questions pertaining to tribal law enforcement, which will help tribes and their state and federal partners to improve safety in Indian country. The CTLEA will help fulfill a portion of BJS tribal crime data collection mandates, provide benchmark information about the implementation of various pieces of legislation, and identify what resources are needed to continue progress in ensuring safety in tribal communities.

2. Needs and Uses

¹⁴ Adam Walsh Child Protection Act of 2006, Public Law 109-248, §127.

<https://www.congress.gov/109/plaws/publ248/PLAW-109publ248.pdf>

¹⁵ National Congress of American Indians, "Background on Tribal Justice and Law Enforcement" (November 2011). http://www.ncai.org/resources/ncai_publications/background-on-tribal-justice-and-law-enforcement

¹⁶ Andre B. Rosay, Ph.D., *Violence Against American Indian and Alaska Native Women and Men 2010 Findings From the National Intimate Partner and Sexual Violence Survey*, National Institute of Justice (NCJ 249736), May 2016). See <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf>

¹⁷ Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. ***The NSDUH Report: Need for and Receipt of Substance Use Treatment among American Indians or Alaska Natives***, November 2012. (Retrieved from samhsa.gov website, June 7, 2017)

Pursuant to TLOA, one of BJS's aims is to improve the availability of justice statistics in Indian country. The CTLEA will provide a first-of-its kind snapshot of the administration and operation of tribal LE agencies; serve as a mechanism for understanding the functions, capacity, and challenges of tribal LE agencies; and will expand upon the first national census of tribal justice agencies conducted over a decade ago.

No comprehensive data collection on tribal law enforcement in Indian country has been conducted since the *2002 Census of Tribal Justice Agencies* (CTJA). In 2001, over half (165) of those that participated in the CTJA employed 1 or more full-time sworn officers with general arrest powers. Almost all of these 165 agencies had some form of cross deputation agreements with another tribal or public LE agency. However, only about 93 or 56% of the respondents to the CTJA with general arrest powers reported their agency was recognized by their State to possess arrest authority at that time and only 14 indicated they routinely shared crime statistics with neighboring local governments, the State or the FBI.¹⁸ These data were startling in 2002, as it revealed significant gaps in the jurisdiction coordination among tribal and state justice agencies, as well as a near absence of criminal history and justice information sharing between tribes and the regional and national criminal justice database systems.

From the 2002 CTJA, BJS learned that a single questionnaire covering law enforcement, courts and corrections does not adequately address the variations in the tribal justice systems across 573 tribes and the complexity of the jurisdictional arrangements established by federal law. The CTJA was also limited in several other key areas:

- In 2002, the current 27 BIA LE agencies, 43 special agencies (e.g., fish and wildlife) and 6 tribal campus police agencies were excluded from the CTJA due to limited understanding of the complexities of the overlap by governmental agencies. The proposed CTLEA will include all known tribal, special, and campus LE agencies. BJS will work directly with the BIA to collect information from their offices.
- The 2002 CTJA captured limited administrative and operational information on tribal LE agencies in the lower 48 States. The 2019 CTLEA will collect more detailed staffing and training information, providing comparison points for future data collections. For example, the CTLEA will ask about the total number of sworn and non-sworn staff who are American Indians; training on crisis response or forensic and DNA evidence collection; and the number of arrests, juvenile arrests, and calls for service.
- Third, the administration and operation of tribal LE agencies may vary depending on the state in which the tribe is located, size of the tribe and the type and magnitude of arrests or calls for service received. In light of these and other complexities, the CTLEA is designed to provide critical information to policy and decision makers and tribal nations about the use and integration of tribal LE agencies into the digital and electronic criminal justice databases to help fight crime in Indian country.

The *CTLEA survey questionnaire* will be sent to the estimated **280** tribal-government-operated LE agencies, with general arrest powers or authority to issue citations granted by tribal governments, including tribal college campus police and special LE agencies, such as fish and

¹⁸ Bureau of Justice Statistics, "Census of Tribal Justice Agencies in Indian Country, 2002" (NCJ 205332), December, 2005. (Retrieved from BJS.gov website, June 7, 2017).

wildlife offices that issue citations. Two tribal LE agencies in Alaska met the criteria as a tribal LE agency and will also be included in the CTLEA, in addition to having Alaska State Troopers completing the survey on behalf of Village Public Safety Officers (VPSO). To reduce respondent burden, the 27 BIA LE agencies will not be contacted directly by BJS' contractor, data collection for these agencies will be coordinated by a central reporter from the BIA Office of Justice Services.

Data on information technology and criminal justice database utility

When DOJ has accurate crime data and tribes have access to regional and national criminal justice databases, we can better assess the effectiveness of tribal law enforcement and other justice agencies at reducing crime in Indian country.¹⁹ In 2001, according to the CTJA, less than 12% of the tribes reported they were electronically networked with justice agencies outside of the reservation.²⁰ With the CTJA data more than a decade old, the CTLEA will provide updated information on technology and criminal justice database utility in Indian country.

Many tribes have remained limited in their ability to complete basic background investigations on persons who will work with vulnerable populations; on persons prevented from having firearms; and on persons who are a threat to women and children.²¹ In November 2015, the U.S. Department of Justice initiated a pilot phase of the Tribal Access Program (TAP) that provides tribes training, equipment, and access to FBI's Criminal Justice Information Service (CJIS) systems for criminal and civil purposes. The TAP pilot started with 10 tribes, and has expanded to 72 tribes by the end of 2019.²²

Section E of the CTLEA will provide important baseline data that will help track growth in tribal access to criminal justice systems and potential barriers tribal law enforcement agencies face in gaining access to and using state, local, and federal criminal justice information systems.

The CTLEA will ask tribal LE agencies if they submit criminal history records or information to CJIS; whether the agencies operate or manage a sex offender registry; about the method in which agencies access or submit background checks or fingerprints; whether the tribe submit information to NCIC, National Instant Criminal Background Check System (NICS), National Data Exchange (N-DEX), or the Next Generation Identification Biometrics Database; whether

¹⁹ Tribal Law and Order Commission, "A Roadmap for Making Native America Safer: Report to the President and Congress of the United States" November 2013.

²⁰ Bureau of Justice Statistics, "Census of Tribal Justice Agencies in Indian Country, 2002" (NCJ 205332), December, 2005. (Retrieved from BJS.gov website, June 7, 2017).

²¹ Department of Justice Press Release, "Department of Justice Announces Program to Enhance Tribal Access to National Crime Information Databases, August 15, 2015. (Retrieved from www.justice.gov website, June 7, 2017)

²² Department of Justice Press Release, "Department of Justice and Department of Justice Team Up for Major Expansion of Tribal Access to National Crime Information Databases," October 22, 2018. (Retrieved from www.justice.gov website, April 15, 2019)

the agency is able to issue AMBER alerts; access to IT staff or personnel; and whether officers have access to technology (e.g., laptops, body worn cameras, etc.)

Coordination and collaboration between Federal, State tribal LE agencies

Complicated jurisdictional issues and the wide geographic areas covered by some tribal and BIA LE agencies warrant increased coordination and collaboration with local, state and federal governments to ensure public safety. For example, sometimes only one governmental unit, state or tribal, is willing to cross deputize officers, and in some instances tribal police are not recognized by the state to have peace officer authority.²³ This gap in jurisdictional coverage often allowed non-tribal persons who commit crimes on tribal lands to flee and prevented tribal police officers from pursuing offenders outside of the reservations.

In their 2013 report, the TLOA Commission noted that stronger coordination among federal, state, local and tribal law enforcement could make tribal communities safer. The public safety gap between neighboring jurisdictions may be addressed by special law enforcement commissions or state and local agreements.²⁴ However, currently, there are no updated data on the agreements that tribal jurisdictions have with other agencies or how those agreements help or hinder the prosecution of crime on tribal lands. The CTLEA will ask whether any state, local, or federal agencies deputize officers from their agency.

Officer staffing, training and employment benefits

Reliable data on tribal law enforcement staffing, training, and employee benefits are needed to assess the depth of disparities between their agencies and state or local police departments. In 2013 the TLOA Commission noted that Indian tribes and nations throughout the country would benefit if locally-based tribal LE offices were staffed at force levels comparable to similarly situated communities off-reservation.²⁵ Even in light of the dangers and challenges faced by tribal LE officers, no comprehensive statistical data have been collected on the current staffing, training and employment benefits available to tribal LE agencies.

The CTLEA will ask tribal LE agencies the total staff by race and Hispanic origin of officers; and the types of training available to officers. The CTLEA will collect information on the types of benefits provided, including medical, dental, vision, life insurance, retirement benefits, annual and sick leave, short and long term disability, and Family and Medical Leave Act compliance.

Technology use and officer safety

The CTLEA will also capture data related to the availability and use of technology for tribal police officer's job performance and safety. Currently no data exist on the availability or types of electronic equipment tribal LE agencies have. The CTLEA will include a series of questions about what types of electronic equipment are available to sworn officers, including computers,

²³ Bureau of Justice Statistics, "Census of Tribal Justice Agencies in Indian Country, 2002" (NCJ 205332), December. 2005. (Retrieved from BJS.gov website, June 7, 2017).

²⁴ Tribal Law and Order Commission, "A Roadmap for Making Native America Safer: Report to the President and Congress of the United States," November 2013.

²⁵ Tribal Law and Order Commission, "A Roadmap for Making Native America Safer: Report to the President and Congress of the United States," November 2013.

cell phones, laptops/tablets, GPS equipment, electronic fingerprint systems and dashboard cameras in vehicles, satellite phones, and body worn cameras. In addition, the CTLEA will gather information whether the tribal LE agency has an IT department, access to an IT specialist, or outside contracted IT services to help with managing networks and data systems.

Sources of tribal LE funding

Adequate funding is a challenge for tribes for various reasons, including overlapping jurisdiction with state and local agencies; lack of crime data to make the case for the need for the funding; competing with state and local jurisdictions for funds; and lack of awareness of the role crime data collection and reporting play in state and federal funding allocation.²⁶ In FY 2008, most American Indian tribes were ineligible to receive Byrne/JAG funds because only 25 tribal LE agencies submitted crime data to the FBI's UCR program, and only 5 of the tribes had sufficient crime counts to receive a total of \$150,000 in JAG funding.

Many tribes sustain their LE operations with funding from different sources of revenue, including tribal governments, the BIA, and federal or state grants. The CTLEA is designed to collect data on the sources of these budgets, including tribal governments, BIA 638 Compact, tribal business enterprise, state and federal grants, and private funding.

Measuring domestic violence, juvenile offending, sex offender tracking and human trafficking on tribal lands

The CTLEA is designed to collect information on domestic violence jurisdiction, juvenile arrests, sex offender monitoring, human trafficking, and the issuance of AMBER alerts. To monitor the impact of VAWA reauthorization, the CTLEA will collect information on domestic violence matters involving American Indians and non-Indians on tribal lands. To better understand which tribal LE agencies have processes in place for managing sex offenders, the CTLEA will collect information about SORNA-related responsibilities tribal law enforcement provide in tribal communities. To understand the problem of human trafficking on tribal lands, the CTLEA will collect information on whether tribal LE agencies made arrests for labor and sex trafficking. Finally, CTLEA will ask about the number of juvenile arrests to understand the relative size of the juvenile crime problem on tribal lands.

3. Use of Information Technology

The CTLEA will be available in paper and in a fillable PDF version. There will not be web-based version of the CTLEA questionnaires. Indian country often includes reservations or tribal lands in remote areas with limited or inconsistent access to computers or internet services. The cost to develop and maintain a web survey exceeds its utility under the current circumstances.

²⁶ Stewart Wakeling, Miriam Jorgense, Susan Michaelson, and Manley Begay, "Policing on Indian Reservations," National Institute of Justice Journal (January 2001): 4

Law enforcement agencies may return or submit their questionnaires using the fillable PDF format by email, fax or US postal mail. NORC, the data collection agent, has developed a project specific email address, fax line and phone number for CTLEA respondents to return their completed questionnaires using paper or PDF. In addition to a hardcopy of the CTLEA being mailed to each LE agency, an electronic fillable PDF will be sent to each respondent in which there is an available email address. The fillable PDF will be made available on the project webpage, so respondents can access it and complete it via a computer, print it and send back using email, fax, or regular mail. The electronic PDF questionnaire enables LE agencies to retain an electronic copy of the form for their records and future reference if needed. Finally, if preferred, agencies may also complete the survey by phone by contacting the project phone number that will be provided in the CTLEA materials mailed at the start of the project.

1. Efforts to Identify Duplication

BJS conducted an extensive review of prior data collections and projects internally and externally involving tribal law enforcement and justice services to identify any duplication of effort. The CTLEA does not duplicate any other study or statistical collection efforts. The 2002 Census of Tribal Justice Agencies and the 2001 Policing on American Indian Reservations studies both pre-date TLOA and are outdated to the point that the information may no longer be relevant.

Existing or prior data collection efforts involving Indian country include BJS studies:

- **2002 Census of Tribal Justice Agencies** (OMB No 1121-0252 Approval Expired 12/31/2004). This data collection 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 justice agencies did not capture caseload information; the types of agreements between tribal LE agencies and their state, local, tribal, and federal partners; or training requirements.
- **Jails in Indian Country** series (OMB No.1121-0094: Approval Expired 1/31/2019) is a survey of administrative and operational data (e.g. budget, staffing, inmates, capacity) for tribal detention facilities, but does not capture any data on the tribal law enforcement functions. BJS has administered the survey nearly every year since 1998.²⁷ The CTLEA will supplement the work of this survey by gathering data about related law enforcement functions related to: prisoner transport; and booking and release of inmates.
- **2018, 2014, 2008, 2004, 2000 Census of State and Local Law Enforcement Agencies (CSLLEA)** (CSLLEA 2014: OMB NO. 1121-0346: Approval Expires 05/31/17). The past four versions of the CSLLEA collected administrative and operational data (e.g. staffing, budgets, and services rendered) from state and local LE agencies, including some tribal LE agencies. The survey did not include items about administrative topics unique to tribal law enforcement, such as a department's source of funding, Indian and non-Indian staffing totals, arrests for domestic violence, sex trafficking, and labor

²⁷ Bureau of Justice Statistics, "Jails in Indian Country, 2015" (NCJ 250117) November 2016. (Retrieved from BJS.gov website, June 7, 2017).

trafficking, violations of protection orders, and types of inter-agency agreements in which tribal law enforcement are engaged.

Other relevant past DOJ studies include

- **2001 Policing on American Indian Reservations** – This NIJ study included a literature review; site visits at several locations, including tribal police departments and the Indian police academy; site visits at four reservations; and summarizes a two-part survey of 66 large police agencies. Survey topics included staffing, budget, caseload, duties, community policing strategies, and policies.²⁸ Although this study included several topic areas similar to the CTLEA like budgets, staffing, and duties or functions, it was a one-time funded project by NIJ, completed in 2001. No other study of this nature has been conducted since that time. The CTLEA is not duplicative of this past work, but expands the universe and improves upon the survey to measure contemporary issues and challenges of law enforcement in Indian country.

While a few small scale studies and articles on special topics in tribal policing have been released in academic journals, no large-scale nationwide surveys have been conducted. These studies and articles include

- **Survey of Tribal Justice Systems and Courts of Indian Offenses** (OMB clearance 1076-0144, Expired September 30, 2001) was conducted in 1999 by the American Indian Law Center, Inc., under contract for the Bureau of Indian Affairs. The actual data are not publicly available, as the purpose of the survey was for the BIA to determine the resources and funding needed to administer justice in Indian country.
- **Crime-Reduction Best Practice Handbook: Making Indian Communities Safe, 2012**, outlines the outcomes of a crime reduction initiative pilot project undertaken by the BIA. The pilot included only four reservations, so it was not inclusive of all BIA direct service LE agencies.²⁹
- **Law Enforcement and Criminal Justice Under Public Law 280**, this study, completed in 2007, was funded by NIJ and released by Carole Goldberg and Duane Champagne, affiliates of the University of California, and Heather Valdez-Singleton, affiliate of the Tribal Law and Policy Center. It captured information on jurisdictional arrangements, crime concerns, crime reporting processes, and PL-280 perceptions. The study collected qualitative and quantitative data from 17 confidential reservation sites, from a mix of PL-280 and non-PL-280 jurisdictions.³⁰
- **State Data on Domestic Violence and Sexual Assault Directed Against Tribal Women** was completed in 2010 by the Justice Research and Statistics Association

²⁸ Stewart Wakeling, Miriam Jorgense, Susan Michaelson, and Manley Begay, "Policing on Indian Reservations," National Institute of Justice Journal (January 2001): 4.

²⁹ Bureau of Indian Affairs, "Crime-Reduction Best Practice Handbook: Making Indian Communities Safe, 2012." (Retrieved from BIA.gov website, June 7, 2017).

³⁰ National Institute of Justice, "Law Enforcement and Criminal Justice Under Public Law 280, 2003-2005" (ICPSR 34557), 2008. (Retrieved from ICPSR.umich.edu website June 7, 2017).

(JRSA) with support from BJS and NIJ. JRSA conducted a small informal survey of state Statistical Analysis Center (SAC) directors and other state and local contacts to collect information about tribal access to information sharing systems, whether the SACs work with tribes, and research projects in which tribes were participating.³¹

- **National Methamphetamine Initiative Survey** was prepared in 2006 for the BIA Office of Justice Service by the New Mexico Investigative Support Center, an Initiative of the New Mexico High Intensity Drug Trafficking Area. The study collected information about the impact of methamphetamine on the communities and agencies and the steps taken or being taken by these agencies to address the meth problem in Indian Country.³²

Eileen Luna Firebaugh's 2007 book *Tribal Law Enforcement: Asserting Sovereignty, Seeking Justice*,³³ analyzes the structure of tribal law enforcement agencies and how they differ from mainstream policing; the role of women, tribal members, and others who comprise tribal law enforcement personnel; tribal jails and corrections; police training; and the legal, political, cultural, and historical issues that affect American Indian tribal policing. The book draws on a variety of existing data sources including BJS's *Jails in Indian Country* data series and 2002 *Census of Tribal Justice Agencies* report, as well as NIJ's 2001 *Policing on American Indian Reservations* report.

5. Efforts to Minimize Burden

During the survey development process, meetings and calls were held early to discuss the project with tribal justice experts and to review the topics of highest importance to tribes and tribal LE agencies. Topics suggested by these experts were collated and reviewed to identify themes for which questions should be included on each survey. Based on these themes and questions suggested, draft surveys were developed. The draft surveys were circulated via e-mail to tribal justice experts and to stakeholder agencies within the federal government for review and comment. The draft surveys were revised based on these comments.

In April 2018, BJS submitted a request to OMB for permission to conduct expanded cognitive testing of the draft CTLEA survey instrument to obtain input and feedback from tribal LE agencies on the survey respondent burden, question clarity, design and content, contacting protocols, and mode of data collection. The request was made under the BJS "Generic Clearance for Cognitive, Pilot and Field Studies for Bureau of Justice Statistics Data Collection Activities" (OMB Control Number 1121-0339). On May 8, 2018, OMB approved this request (ICR Reference Number 201512-1121-004).

In July and August 2018, BJS conducted cognitive testing of the CTLEA instrumentation. Eighteen (18) of the 20 tribal agencies selected for the cognitive testing completed surveys, and

³¹ Orchowksy, Stan, Ph.D. "State Data on Domestic Violence and Sexual Assault Directed Against Tribal Women," January 2010. (Retrieved from jrso.org website June 7, 2017).

³² Bureau of Indian Affairs, "National Methamphetamine Initiative Survey," April 2006. See http://www.fortpecktribes.org/fpmp/news/pdf/BIA_MethSurvey.pdf

³³ Eileen Luna Firebaugh, *Tribal Law Enforcement: Asserting Sovereignty, Seeking Justice*, University of Arizona Press, (February 2007).

16 participated in a debriefing interview. The average estimated time to collect the necessary information and complete the survey was between 20-30 minutes for the tribal LE survey. As a result of the cognitive test, BJS made modifications to the survey, including reducing the overall number of questions on the draft survey, adding additional response options where needed, and clarifying the survey instructions.

To further reduce any potential respondent burden, we are using existing administrative and survey data to obtain tribal population sizes and geographic service data. Additional demographic fields were added to the universe using existing data. By merging this information into the universe file, duplicate questions can be avoided. The merged data include –

- **Tribal Population** – The 2013 American Indian Population and Labor Force Report and 2017 American Community Survey reservation population data from the U.S. Census Bureau. These data sources are the most recent available data on this specific population and geography. Population data were not available for all tribes.
- **Geographic Service Area Size** – The 2014 US Census Bureau TIGER/Line geographic shape file of the current American Indian, Alaska Native and Native Hawaiian Areas was used to gather geographic information about the size of the reservation, trust land, and/or service area covered by each agency on the universe list. Information pulled from this data source includes:
 - Reservation name
 - Square miles of a tribe’s reservation total area
 - Trust land name
 - Square miles of a tribe’s trust total area
 - Land type flag covered by the agency
 - Land status recognition

Tribal Leaders’ address information for each agency was geocoded and matched to their respective Native American Land (NALs) areas using a combination of geographic matching within MapInfo, a GIS mapping software, and manual matching by shared tribal name. Once the Tribal Leaders were correctly matched to their lands, the geographic information (land and water area, NAL type, NAL status recognition), this information was included in the CTLEA data file to enable the information to be mapped to specific tribal lands or reservations. A total of 306 agencies listed on the universe list had NAL geographic information matched and appended on the CTLEA universe file. One separate agency was unable to have any geographic information appended due to the tribe not having any lands or the U.S. Census shapefile not reflecting recent lands granted to tribes. The use of the geographic information will enable BJS to conduct analyses using the CTLEA to examine the LE agency characteristics and jurisdiction land area.

As a result of these changes, it is anticipated that the burden to complete the tribal LE survey will be on average 30 minutes per respondent.

6. Consequences of Not Conducting or less Frequent Collection

Following TLOA in 2010, the CTLEA will be the first BJS statistical collection gathering information on tribal LE operations and services on tribal lands.

Contingent upon available budget and resources, BJS proposes to periodically conduct a version of the CTLEA to measure the changes and trends in the administrative and operational characteristics of tribal LE agencies serving tribal lands. Subsequent iterations will maintain the core CTLEA items to support trending. BJS will seek OMB approval for future collections.

7. Special Circumstances

No special circumstances have been identified for this project.

8. Public Comments and Consultations

Numerous organizations, tribes and federal agencies were consulted on the development, design and review of the CTLEA survey instruments. Most representatives attended and participated in a two-day Expert Panel meeting in Phoenix, AZ in October 2016. The agenda for this meeting included discussion of tribal law enforcement data needs and an in-depth review of the draft surveys. Entities that reviewed the draft CTLEA survey include–

Federal agencies

- U.S. Attorney's Office Montana, Helena, MT
- United States Department of Justice, Office of Tribal Justice, Washington, DC
- U.S. District Attorney's Office Western District of Michigan, Grand Rapids, MI
- Office of Justice Services, BIA, Albuquerque, NM
- Indian Country Crimes Unit, FBI, Phoenix, AZ
- Community Oriented Policing Service (COPS) Office, Washington, DC
- Office of Justice Programs Bureaus and Components: Office of Juvenile Justice and Delinquency Prevention, Bureau of Justice Assistance, National Institute of Justice, and Office on Violence Against Women, Washington, DC

Tribes and affiliates

- Hualapai Tribal Police Department, Peach Springs, AZ
- Navajo Department of Public Safety, Window Rock, AZ
- Tulalip Tribal Police Department, Tulalip, WA
- White Earth Reservation Police, White Earth, MN
- Columbia River Inter-tribal Police, Hood River, OR
- Anadarko BIA Law Enforcement, Anadarko, OK
- Chickasaw Lighthouse Police Department, Ada, OK
- Tribal Law Policy Institute, West Hollywood, CA
- The University of Arizona, American Indian Studies Program

In 2016, BJS received feedback from the Bureau of Justice Assistance (BJA), Office of Justice Programs; the Criminal Justice Information Law Unit, FBI Office of the General Counsel; and the Umatilla Indian Tribe. The comments included edits to question wording and the addition or revision of response categories. The recommended changes included adding additional information employee benefits, agency functions, types of training, budget components, and equipment.

In February 2019, the 60-day notice was posted in the Federal Register for public comment and no public comments were received during that time.³⁴ On May 2, 2019, the 30-day notice was posted in the Federal Register for public comment.³⁵

9. Provision of Payments or Gifts to Respondents

Respondents will not receive payment or gifts of any kind from BJS or from the data collection agent (NORC). Participation in the survey is on a voluntary basis without compensation.

10. Assurance of Confidentiality

All data collected for the CTLEA are considered to be in the public domain. Data are collected from public agencies about agency characteristics, such as agency budgets or functions. No opinion or sensitive questions are asked. Per 34 U.S.C. § 10132, the data may only be used for statistical or research purposes. Respondents will be notified that their agency’s response will be made publicly available. Respondents will also be notified that BJS will not release the name or contact information for the agency’s data responder.

11. Justification for Sensitive Questions

The CTLEA does not ask sensitive questions. Questions request information on agency functions and operations.

Total number of respondents	Time to complete CTLEA		Time to complete Nonresponse follow-up		Total CTLEA respondent burden
a) N= 308	30 minutes		15 minutes		
b) Non-response follow-up estimated at 50% of	X		X		

³⁴ Bureau of Justice Statistics; Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: Census of Tribal Law Enforcement Agencies (CTLEA), See Federal Register /Vol. 84, No. 23 /Monday, February 4, 2019 /Notices

³⁵ Bureau of Justice Statistics; Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: Census of Tribal Law Enforcement Agencies (CTLEA), See Federal Register /Vol. 84, No. 85 /Thursday, May 2, 2019 /Notices

CTLEA universe, n= 154	<u>N = 308</u> 154 hours	+	<u>n = 154</u> 38.5 hours	=	192.5 hours
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12. Estimate of Respondent's Burden

Based on estimates provided by the pilot test and the compiled universe file, BJS has estimated that a universe of 308 respondents will require a total of 192.5 hours of burden to complete the 2019 CTLEA. 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:

Table 1. 2019 CTLEA estimated respondent burden

13. Estimate of Cost Burden

BJS anticipates that the full-time equivalent of one employee person per tribal law enforcement survey will complete the data collection instrument, with pay approximately equivalent to the 2018 GS-12 pay level (\$81,548 per year). Based on the estimated time burden, the agency cost of employee time would be approximately \$39.07 per hour. The base respondent employee time cost burden is estimated at \$7,521 (based on 192.5 total burden hours). Fringe benefits costs are estimated to average 46% of the base cost at \$3,460, resulting in a total salary and benefits cost of \$10,981. Indirect costs are estimated to average 37% of the salary and benefits total, or \$4,063, for an overall total respondent cost burden of \$15,044.

14. Cost to Federal Government

The total expected cost to the Federal Government for this data collection is **\$954,318** to be borne entirely by the BJS over a 5-year period. This work includes planning, developing the questionnaire, preparing materials, collecting data, evaluating the results, and generating reports. A BJS Statistician, GS-Level 14-06, will be responsible for overseeing the work on this project.

The estimated cost to the federal government to administer the CTLEA program is budgeted as follows:

Estimated Government Costs for the 2019 CTLEA Survey

<u>Bureau of Justice Statistics</u>		
GS-14 Senior Statistician (20%) x 3 years		\$80,213
GS-13 Editor (10%)		\$9,697
Other Editorial Staff		\$5,000
Senior BJS Management		\$10,000
Subtotal salaries		\$104,910
Fringe benefits (28% of salaries)		\$29,375
Subtotal: Salary & fringe		\$134,284
Other administrative costs of salary & fringe (15%)		\$20,143
Subtotal: BJS costs		\$154,427
<u>Data Collection Agent</u>		
Personnel		\$193,334
Fringe Benefits		\$79,355
Travel		\$17,504
Equipment		\$0
Supplies		\$905
Consultants/Contracts		\$248,060
Other		\$42,761
Total Direct Costs		\$581,919
Total Indirect		\$217,973
Subtotal Data Collection Agent		799,891
Total estimated costs		\$954,318

15. Reason for Change in Burden

This is a new data collection effort and the first time that the CTLEA data will be collected.

16. Publication Plan and Schedule

Pending OMB approval on or before September 2019, the 2019 CTLEA multi-stage data collection period is projected to begin in September 2019. The data collection period is scheduled to end in December 31, 2019. Once all data are collected, processed, and cleaned, analytic work will begin with a report expected to be published in February 2021.

CTLEA Project Tasks	Start Date	End Date
60 Days' Notice	February 2019	April 2019
30 Days' Notice and OMB Package Submission	April 2019	May, 2019
OMB review period	May 2019	September 2019
Data Collection Period	September 2019	December 31, 2019
<ul style="list-style-type: none"> • CTLEA full data collection 	September 2019	December 31, 2019
<ul style="list-style-type: none"> • Post data collection cleaning, editing, weighting, and imputation 	September 2019	January 2020
<ul style="list-style-type: none"> • Preliminary data file/documentation to BJS 	February 2020	March 2020
<ul style="list-style-type: none"> • Final data and documentation delivery to BJS 	March 2020	April 2020
Data Analyses	April 2020	July 2020
BJS Report Publication		February 2021
CTLEA data archived with NACJD		March 2021

17. Display of Expiration Date

The OMB expiration date for CTLEA will be displayed on the first page of the survey form.

18. Exception to the Certification Statement

An exception to the Certification Statement is not requested for CTLEA