



# Tribal Crime Data Collection Activities, 2017

Enacted in 2010, the Tribal Law and Order Act (TLOA) requires the Bureau of Justice Statistics (BJS) to (1) establish and implement a tribal data collection system, (2) consult with Indian tribes to establish and implement this data collection system, and (3) annually report to Congress the data collected and analyzed in accordance with the act (P.L. 111-211, 124 Stat. 2258, § 251(b)). Indian country includes federally recognized reservations, tribal communities, and identified trust lands. Criminal jurisdiction in Indian country varies by type of crime committed, whether the offender or victim is a tribal member, and the state in which the offense occurred.

An estimated 4.8 million people lived on American Indian reservations or in Alaska Native villages in the United States in 2010.<sup>1</sup> A total of 566 tribal entities in the lower 48 states and in Alaska were eligible for funding and services from the Bureau of Indian Affairs (BIA) in 2017.<sup>2</sup> There were 334 federally and state-recognized American Indian reservations in 2010, the most recent available data.<sup>3</sup>

<sup>1</sup> See *The American Indian and Alaska Native Population: 2010* at <https://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf>.

<sup>2</sup> See Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs at <https://www.federalregister.gov/articles/2016/01/29/2016-01769/indian-entities-recognized-and-eligible-to-receive-services-from-the-united-states-bureau-of-indian-h-4>.

<sup>3</sup> For more information about federally recognized tribes, reservations, and Alaska Native village statistical areas, see *Tribal Crime Data Collection Activities, 2012* at <https://www.bjs.gov/content/pub/pdf/tcdca12.pdf>.

Due to the sovereign status of federally recognized tribes in the United States, crimes committed in Indian country are often subject to concurrent jurisdiction among multiple criminal justice agencies. More than 300 tribes in the United States are under P.L. 83-280 jurisdictions (commonly referred to as P.L. 280),<sup>4</sup> which established a method whereby the federal government could transfer mandatory jurisdiction over crimes in Indian country to states or states could acquire optional jurisdiction in whole or in part over Indian country within their boundaries. Sixteen states have established either mandatory or optional jurisdictions over crimes in Indian country.

Six states have mandatory criminal jurisdictions: Alaska, California, Minnesota (except the Red Lake Reservation), Nebraska, Oregon (except the Warm Springs Reservation), and Wisconsin. Ten states have acquired optional jurisdiction over crimes in Indian country: Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah, and Washington. In states where P.L. 280 does not apply, the federal government retains criminal jurisdiction for major crimes committed in Indian country.<sup>5</sup>

<sup>4</sup> Pub.L. 83-280, August 15, 1953, codified as 18 U.S.C. § 1162, 28 U.S.C. § 1360, and 25 U.S.C. §§ 1321-1326

<sup>5</sup> Federal jurisdiction in Indian country is established under the Indian Country Crimes Act (18 U.S.C. § 1152), the Indian Country Major Crimes Act (18 U.S.C. § 1153), and the Assimilative Crimes Act (18 U.S.C. § 13).

## HIGHLIGHTS

- During fiscal year 2017, the Bureau of Justice Statistics (BJS) held meetings with justice professionals from federal, state, and tribal law enforcement offices to obtain input on the planning and development of the Census of Tribal Law Enforcement Agencies.
- The Survey of State and Local Law Enforcement Agencies Serving Tribal Lands and the Survey of State and Local Prosecutor Offices Serving Tribal Lands are awaiting final approval from the Office of Management and Budget (OMB).
- BJS anticipates releasing findings from the National Survey of Tribal Court Systems by the end of the year.
- An estimated 2,510 inmates were confined in 76 Indian country jails at midyear 2015—a 5.5% increase from the 2,380 inmates confined in 79 facilities at midyear 2014.
- While most of the inmate population in Indian country jails were male, the percentage of female jail inmates increased from 20% of all inmates in 2000 to 25% in 2015.
- During 2014, a total of 2,648 American Indian or Alaska Native (both tribal and nontribal) were arrested by federal law enforcement agencies, 1,417 were sentenced in U.S. district courts, 1,715 entered federal prison, and 1,763 exited federal prison.

This report summarizes efforts related to BJS’s tribal crime data collection system during fiscal year 2017, including—

- tribal data collection activities: the Survey of State and Local Law Enforcement Agencies Serving Tribal Land, the Survey of State and Local Prosecutor Offices Serving Tribal Lands, the Census of Tribal Law Enforcement Agencies (CTLEA), and the National Survey of Tribal Court Systems (NSTCS)
- tribal participation in national records and information systems, including the National Criminal History Improvement Program (NCHIP) and the National Instant Criminal Background Check System (NICS) Act Record Improvement Program (NARIP)
- BJS’s most recent statistical findings on jails in Indian country and the AIAN population in the federal justice system
- how to access tribal information on BJS.gov.

### Tribal data collections during fiscal year 2017

#### Survey of State and Local Law Enforcement Agencies Serving Tribal Lands and Survey of State and Local Prosecutor Offices Serving Tribal Lands

BJS has designed two new data collections: the Survey of State and Local Law Enforcement Agencies Serving Tribal Lands and the Survey of State and Local Prosecutor Offices Serving Tribal Lands. These surveys will document activities and caseloads in the 16 states where jurisdiction has been transferred from the federal government to state governments under P.L. 280. The surveys will provide information on the legal and structural procedures in place to address crime on tribal lands.

The Survey of State and Local Law Enforcement Serving Tribal Lands will collect information on—

- criminal justice services provided to tribal lands
- points of contact between the tribes and law enforcement agencies
- exchange of criminal justice information and outcome of cases between state and local law enforcement agencies
- types of agreements between state and local law enforcement agencies and tribal governments
- ability of state and local law enforcement to track crimes occurring on tribal lands separately from crimes occurring elsewhere in their jurisdiction.

The Survey of State and Local Prosecutor Offices Serving Tribal Lands will gather information on—

- prosecutors’ services provided to tribal lands
- points of contact between tribes and prosecutors’ offices
- exchange of information between state and local prosecutors and tribal governments (especially on protection orders)

- type of courts where crimes occurring on tribal lands are prosecuted (i.e., state courts, tribal courts, or both)
- the ability of state and local prosecutors to track cases occurring on tribal lands separately from crimes occurring elsewhere in their jurisdiction.

BJS has pilot tested initial drafts of the law enforcement and prosecutors’ surveys and following the test, the instruments were revised. They are awaiting final approval from the Office of Management and Budget (OMB).

#### Census of Tribal Law Enforcement Agencies

BJS plans to conduct the Census of Tribal Law Enforcement Agencies (CTLEA) in fiscal year 2017. This is the first BJS data collection targeted solely at tribal law enforcement agencies. The survey is designed to capture information on—

- criminal jurisdiction
- staffing, officer training, budgets, and sources of funding
- workloads and arrests
- access to and participation in regional and national justice database systems
- special topics, such as human trafficking, domestic violence, and juvenile delinquency
- access to domestic violence and protection order registries
- monitoring of sex offenders on tribal lands
- reporting of crime data to the FBI Criminal Justice Information Services database
- special jurisdiction over non-Indian offenders for select domestic violence cases.

A total of 300 agencies will be asked to participate in the census, including tribal police departments, conservation and wildlife offices, tribal university or college police, and BIA police agencies (table 1). The CTLEA will cover information from all known tribally operated law enforcement agencies and police agencies operated by BIA. BJS has developed a customized data collection form for BIA agencies and one for tribal agencies. The forms have a common core of items and a set of items tailored to capture the unique characteristics of BIA and tribal agencies.

**TABLE 1**  
**Universe for the Census of Tribal Law Enforcement Agencies, 2017**

Type of agency	Count	Percent
Total	300	100%
Tribal law enforcement agencies	224	75
Conservation/wildlife enforcement agencies	43	14
Bureau of Indian Affairs’ Office of Justice Services police agencies	27	9
Tribal university/college police agencies	6	2

Source: Bureau of Justice Statistics.

In FY 2016, BJS established a tribal justice and law enforcement panel to ensure that tribal governments and their law enforcement agencies have a central role in the development, design, and implementation of the census. The panel is comprised of tribal leaders and law enforcement representatives from across the country, along with representatives from the Department of Justice's (DOJ) Office of Tribal Justice, the FBI's Indian Country Crimes Unit, and the Department of Interior's (DOI) Office of Justice Services.

The tribal law enforcement agencies, justice organizations, and research institutions that participated on or advised the panel included—

- Hualapai Tribal Police Department
- Navajo Department of Public Safety
- Tulalip Tribal Police Department
- Saint Regis Mohawk tribal Police Department
- Tanana Chiefs Conference
- Aleutian Pribilof Islands Association
- White Earth Reservation Tribal Police Department
- Columbia River Inter-tribal Police Department
- Chickasaw Lighthorse Police Department
- Anadarko Law Enforcement Agency, BIA
- Mescalero Law Enforcement Agency, BIA
- Northern Cheyenne Law Enforcement Agency, BIA
- Association of Village Council Presidents
- American Indian Development Associates, LLC
- Tribal Law and Policy Institute
- International Association of Chiefs of Police, Indian Country Law Enforcement Section
- University of Arizona, American Indian Studies Program.

The federal and state agencies that participated on the panel or provided input on the census included—

- U.S. Attorney's Office for Montana, DOJ
- U.S. Attorney's Office for the Western District, DOJ
- Office of Tribal Justice, DOJ
- Office of Juvenile Justice and Delinquency Prevention, DOJ
- Office on Victims of Crime, DOJ
- National Institute of Justice, DOJ
- Community Oriented Policing Services, DOJ
- Office on Violence against Women, DOJ
- FBI, Indian Crimes Unit, DOJ
- BIA, DOI
- Alaska State Troopers.

In addition, as part of the outreach and collaboration plans for the CTLEA, the BJS acting director sent a letter announcing the census to all federally and state-recognized tribes across the United States. The letter also invited input from tribal nations on the design and development of the survey instrument.

In December 2016, BJS completed a pilot test of the CTLEA forms with seven tribal law enforcement agencies and two BIA law enforcement agencies. The test examined the estimated respondent burden and obtained feedback on the survey design, content, protocols for contacting respondents, and mode of data collection. As a result of the pilot tests, BJS and its data collection agent reduced the number of questions on the draft surveys to minimize the respondent burden and focus on the key core items.

In April 2017, the 60-day notice of the census was posted in the Federal Register.<sup>6</sup> BJS received feedback during the public comment period from several agencies and organizations, including the Bureau of Justice Assistance in the Office of Justice Programs at the DOJ, the Criminal Justice Information Law Unit at the FBI's Office of the General Counsel, and the Umatilla Indian Tribe. The comments included suggested edits to question wording and the addition or revision of response categories. The recommended changes included adding additional agency functions or duties, specific types of available training, budget components, and equipment types. During the summer of 2017, BJS plans to request final approval of the data collection from OMB.

### National Survey of Tribal Court Systems

On December 31, 2015, BJS concluded the data collection for the NSTCS and data processing and analysis of the survey data are ongoing. The NSTCS is BJS's first statistical collection focusing solely on tribal justice systems since the 2002 Census of Tribal Justice Agencies, which gathered limited data on law enforcement, courts, and correction agencies. The NSTCS gathered information on—

- the administrative and operational characteristics of tribal justice systems (including budgets, staffing, the use of juries, and the appellate system)
- indigent defense services
- pretrial and probation programs
- protection orders
- criminal, civil, domestic violence, and juvenile caseloads
- implementation of various enhanced sentencing provisions under the TLOA, 2010
- indigenous or traditional dispute forums operating within Indian country.

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<sup>6</sup>Bureau of Justice Statistics; Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: Census of Tribal Law Enforcement Agencies (CTLEA). See <https://www.federalregister.gov/documents/2017/04/10/2017-07077/bureau-of-justice-statistics-agency-information-collection-activities-proposed-e-collection-e-comments>.

NSTCS used three separate but compatible survey instruments that were customized to the type and location of the tribal courts: tribal courts in the lower 48 states, Alaska Native villages, and the BIA's Code of Federal Regulation (CFR) courts. BJS mailed surveys to 237 tribal courts or judicial forums identified in the lower 48 states, 75 in Alaska Native villages, and 7 BIA CFR courts (that have jurisdiction over 22 separate tribes or service areas). The survey had an overall response rate of 81%, which varied by the respondent type. The response rate was 83% for tribal courts in the lower 48 states, 72% for the judicial forums in Alaska Native villages, and 100% for the 7 CFR courts.

The development and implementation of the NSTCS received invaluable assistance from several organizations and tribes:

- American Indian Development Associates, New Mexico
- American Probation and Parole Association, Kentucky
- Bristol Bay Native Association
- BIA's Office of Justice Services
- Hamline University School of Law, Minnesota
- Kansas University School of Law's Tribal Law and Government Center
- National Judicial College, the National Tribal Judicial Center, Nevada
- National American Indian Court Judges Association
- Standing Rock Sioux Tribe, South Dakota
- Supreme Court of the Navajo Nation, Arizona
- Syracuse University College of Law, the Center for Indigenous Law, Governance, and Citizenship, New York
- Tanana Chiefs Conference
- Tanana Chiefs Conference, Alaska
- Tribal Law and Policy Institute
- Tribal Law and Policy Institute, California
- University of Colorado at Boulder, American Indian Law Clinic
- University of North Dakota School of Law's Tribal Judicial Institute.

## Tribal participation in national records and information systems

Since 2009, BJS has focused on improving tribal participation in national record and information systems through expanding tribal eligibility for funding under the National Criminal History improvement Program (NCHIP) and the National Instant Criminal Background Check System (NICS) Act Record Improvement Program (NARIP). These efforts continued in fiscal year 2017. The NCHIP program, initiated in 1995, provides grants to states, territories, and federally recognized tribes to improve the quality, timeliness, and immediate accessibility of criminal history records and related information. The National Instant Criminal Background Check System (NICS) Improvement Amendments Act of 2007 (Pub. L. No. 110-180 (NIAA)) was enacted in the wake of the April 2007 shooting tragedy at Virginia Tech. The NARIP provides grants to states and tribes to help automate and submit complete records to NICS on persons who are prohibited from purchasing or possessing a firearm under federal or state law.

Under NCHIP, tribes may submit applications individually or as part of a multi-tribe consortium. BJS strongly encourages states and tribes to strive for integrated record improvements regardless of the funding source. Despite tremendous progress made toward criminal record improvements among states, several significant shortcomings or challenges remain among tribal justice agencies. For example, many tribes do not have the capabilities or required technologies to support the transmission of records to national systems, either through their own infrastructure or via the state. Additionally, some tribes have not yet converted their manual records to electronic versions. Some entities are not yet submitting qualifying records to the National Crime Information Center Protection Order File, and the FBI reports continued issues with the appropriate flagging of protection orders regarding the prohibition for firearm purchases.

While federally recognized tribes are eligible to apply for NARIP funding, it may only be used to achieve the goals for complete records directly related to NICS checks. NARIP seeks to address the gaps in information available to NICS on a person's criminal history records, records of felony convictions, warrants, records of protective orders, convictions for misdemeanor involving domestic violence and stalking, drug arrests and convictions, records of mental health adjudications, and others. Filling these information gaps will better enable the NICS to operate as intended—to keep guns out of the hands of persons prohibited by federal or state law from receiving or possessing firearms. It will also reduce delays for law-abiding gun purchasers.

## Jails in Indian country

The Survey of Jails in Indian Country (SJIC) is BJS's only national data collection that provides annual data on Indian country jails and detention facilities. BJS initiated the SJIC in 1998 as a component of the Annual Survey of Jails. The SJIC includes Indian country facilities operated by tribal authorities or BIA. The survey collects data on—

- percentage of capacity occupied based on the average daily population
- midyear population
- peak population
- staffing
- offense types
- conviction status.

The findings of the most recent SJIC data are available in *Jails in Indian Country, 2015* (NCJ 250117, BJS web, November 2016). Highlights are summarized below.

### Inmate population

At midyear 2015, an estimated 2,510 inmates were confined in 76 Indian country jails. This was a 5.5% increase from the 2,380 inmates confined at midyear 2014 in 79 facilities. During June 2015, the number of inmates admitted to an Indian country jail (9,810) was four times the size of the average daily population (ADP) (2,390). Upon admission, an inmate's expected average length of stay was about 7 days, up from 6 days the previous year. More than half (55%) of inmates in custody were convicted.

### Inmate characteristics

Since 2010, about 3 in 10 inmates held in Indian country jails were confined for a violent offense, a decline from a peak of 4 in 10 in 2007. At midyear 2015, roughly 13% of inmates were held for domestic violence and 10% were held for aggravated or simple assault, which was similar to 2013 and 2014. Seven percent of inmates were held for driving while intoxicated or driving while under the influence of drugs or alcohol. Six percent of inmates were held for a drug law violation. About a fifth of offenders at midyear 2015 were held for public intoxication (17%), burglary (2%), and larceny-theft (1%). While most of the inmate population in Indian country jails were male, the percentage of female jail inmates increased from 20% of all inmates in 2000 to 25% in 2015. Less than a tenth (8%) of the population was age 17 or younger.

### Indian country jail operations

At midyear 2015, the jail facilities in Indian country were rated to hold an estimated 3,800 inmates, which was up slightly from 3,720 in 2014. Between June 2000 and June 2015, the overall rated capacity grew at twice the rate (up 83%) of the midyear inmate population (up 41%), which meant that occupied bed space declined. When measured relative to the ADP, the percentage of rated capacity occupied in Indian country jails was 58% in June 2014 and 63% in June 2015.

At midyear 2015, the population of Indian country jails ranged from no inmates in Fort Peck Transitional Living Unit to 228 inmates in the facility for Nisqually Adult Corrections. Overall, 12 facilities accounted for half of the inmate population in Indian country jails. An estimated 93% of inmates were held in 56 facilities rated to hold 25 or more inmates. Of these, more than half (58%) of inmates were held in 20 facilities rated to hold 50 or more inmates, and about a quarter (26%) of inmates were held in 20 facilities with a rated capacity of 24 or fewer inmates.

### Indian country jail employees

Indian country jails employed an estimated 1,690 persons at midyear 2015. About 70% (or 1,200) of employees were jail operations staff, including correctional officers and others who spent more than half of their time supervising inmates. The remaining staff (490) were administrative employees; educational staff; technical or professional staff; clerical, maintenance, or food service staff; or staff performing other functions. There have been about 2 inmates to every 1 jail operations employee since 2010.

### Suicides in Indian country jails

After peaking in 2002, attempted suicides in Indian country jails have declined significantly. During the 12-month period ending June 30, 2015, 68 facilities reported a total of 53 attempted suicides. Two deaths, including one suicide, were reported during this time period.

## Federal justice statistics

The Federal Justice Statistics Program (FJSP) provides annual data on workload, activities, and outcomes associated with federal criminal cases. It acquires information on all aspects of processing in the federal justice system, including arrests, initial prosecution decisions, referrals to courts or magistrates, court dispositions, sentencing outcomes, sentence length, and time served. The FJSP collects data from the U.S. Marshals Service, the Executive Office for U.S. Attorneys, the U.S. Office of Probation and Pretrial Services, the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, and the Federal Bureau of Prisons.

The FJSP captures an offender's race, but it does not provide information on tribal membership. During 2014 (the most recent federal data available), 2,648 AIAN were arrested and booked by federal law enforcement agencies, down from 2,882 in 2013. There were 1,417 AIAN sentenced in U.S. district courts in 2014, down from 1,429 in 2013. In 2014, 1,715 AIAN offenders entered federal prison and 1,763 offenders exited federal prison. At fiscal yearend 2014, 3,717 AIAN were held in federal prison (1.9% of all prisoners).

## **BJS Indian country justice statistics webpage**

The BJS Indian country webpage presents information on and updates to BJS's tribal data collections.<sup>7</sup> It provides links to the latest victimization, law enforcement, courts, corrections, and criminal justice data improvement information. Links to BJS's FBI extract files on violent and property offenses known to tribal law enforcement by state from 2008 to 2015 are also available.

## **Previously released reports**

*Jails in Indian Country, 2015* (NCJ 250117)

*Tribal Crime Data Collection Activities, 2016* (NCJ 249939)

*Tribal Crime Data Collection Activities, 2015* (NCJ 248785)

*Jails in Indian Country, 2014* (NCJ 248974)

*Tribal Crime Data Collection Activities, 2014* (NCJ 246917)

*Jails in Indian Country, 2013* (NCJ 247017)

*Tribal Crime Data Collection Activities, 2013* (NCJ 242584)

*Jails in Indian Country, 2012* (NCJ 242187)

*Tribal Crime Data Collection Activities, 2012* (NCJ 239077)

*Tribal Crime Data Collection Activities, 2011* (NCJ 234518)

*Jails in Indian Country, 2011* (NCJ 238978)

*Jails in Indian Country, 2010* (NCJ 236073)

*Jails in Indian Country, 2009* (NCJ 232223)

*Jails in Indian Country, 2008* (NCJ 228271)

*Tribal Law Enforcement, 2008* (NCJ 234217)

*Summary: Tribal Youth in the Federal Justice System* (NCJ 234218)

*State Prosecutors' Offices with Jurisdiction in Indian Country, 2007* (NCJ 234241)

*Jails in Indian Country, 2007* (NCJ 223760)

*Improving Criminal History Records in Indian Country, 2004–2006* (NCJ 218913)

*Jails in Indian Country, 2004* (NCJ 214257)

*Jails in Indian Country, 2003* (NCJ 208597)

*Census of Tribal Justice Agencies in Indian Country, 2002* (NCJ 205332)

*American Indians and Crime* (NCJ 203097)

*Jails in Indian Country, 2002* (NCJ 198997)

*Jails in Indian Country, 2001* (NCJ 193400)

*Jails in Indian Country, 2000* (NCJ 188156)

*Tribal Law Enforcement, 2000* (NCJ 197936)

*Jails in Indian Country 1998–1999* (NCJ 173410)

*American Indians and Crime* (NCJ 173386)

## **BJS-sponsored research**

*Examining Indian Country Cases in the Federal Justice System* (NCJ 248656), produced by the Urban Institute, February 2015.

*Summary: Tribal Youth in the Federal Justice System, 1999–2008* (NCJ 234218), produced by the Urban Institute, May 2011.

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<sup>7</sup>BJS Indian country justice statistics page is at <http://www.bjs.gov/index.cfm?ty=tp&tid=200000>.



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable and valid statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. Jeri M. Mulrow is acting director.

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