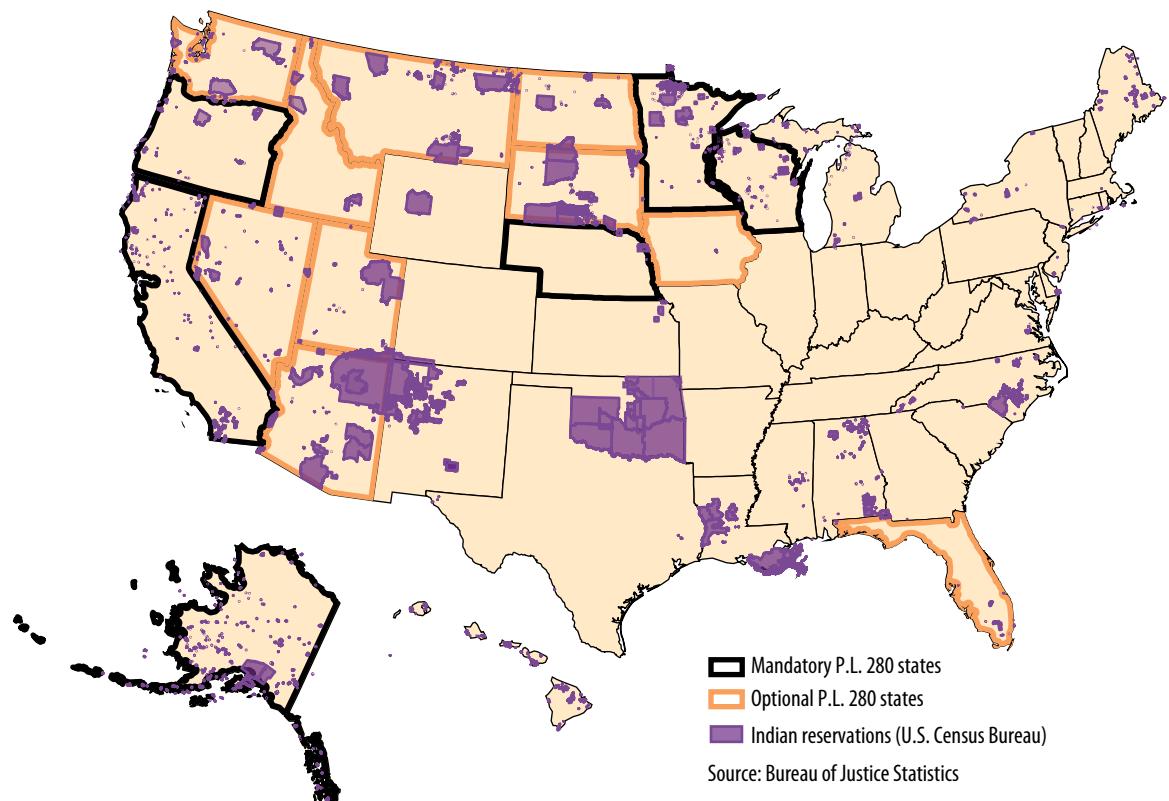




Compendium of Tribal Crime Data, 2011



Overview

Tribal Crime Data Collection Activities

Duren Banks, Steven W. Perry, and Allina Lee

Tribal Law Enforcement, 2008

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Mark Motivans and Howard Snyder

BJS

Bureau of Justice Statistics

James P. Lynch
Director

BJS Website:

www.bjs.gov

For information contact:
BJS Clearinghouse
1-800-732-3277

The Bureau of Justice Statistics
is the statistics agency of the
U.S. Department of Justice.

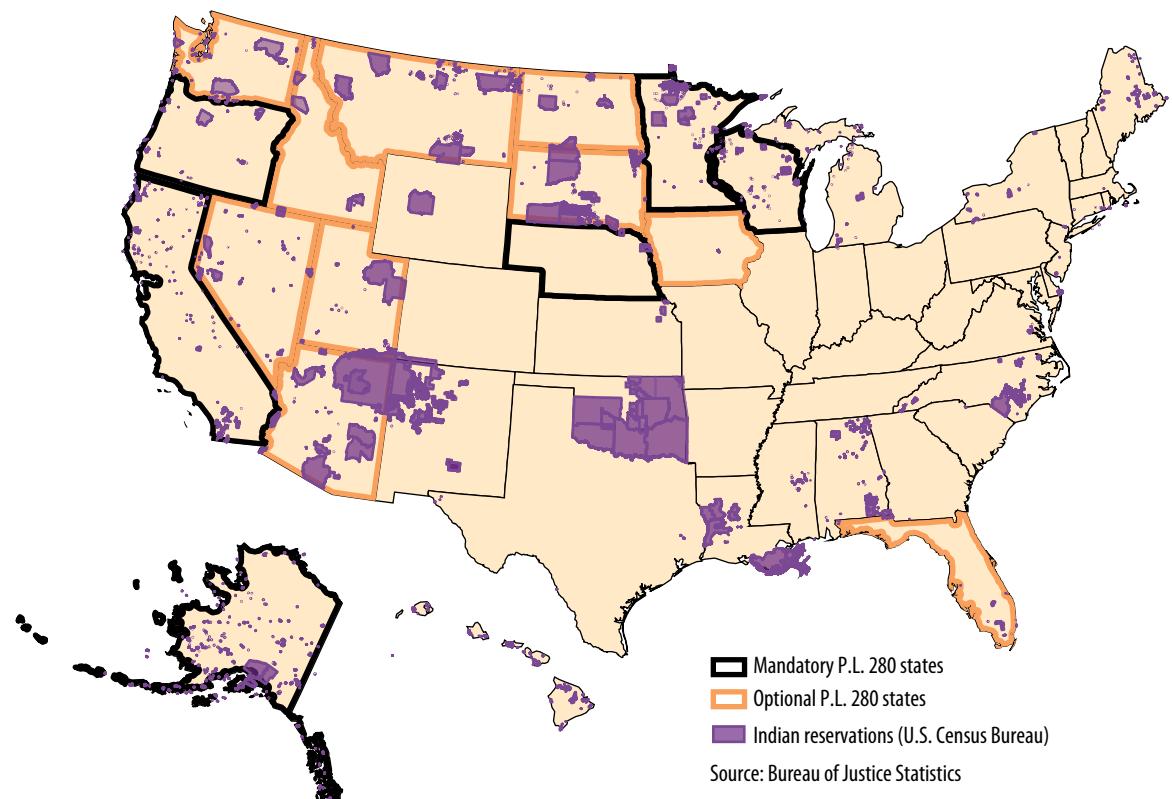
Duren Banks coordinated the
development of this compendium.
Contributing authors include Duren
Banks, Allina Lee, Ron Malega, Todd
Minton, Mark Motivans, Steven W.
Perry, Brian Reaves, and Howard
Snyder.

In addition to the authors, other BJS
staff who contributed to verification
include Paul Guerino, Tracey
Kyckelhahn, and Tracy L. Snell.

Morgan Young and Jill Thomas edited
the report, Barbara Quinn designed
and produced the report, and Jayne
Robinson and Tina Dorsey prepared
the report for final printing under the
supervision of Doris J. James.

June 2011, NCJ 234459

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Contents

Overview	7
Tribal Crime Data Collection Activities	9
The Tribal Law and Order Act, 2010 (TLOA; Pub. L. No. 111-211, 124 Stat. 2258, Section 251(b)) requires the Bureau of Justice Statistics (BJS) to establish and implement a tribal data collection system and to support tribal participation in national records and information systems. This is the first BJS report on the status of tribal data collection activities as required by the act. It describes BJS's activities between July 2010 and June 2011 to improve tribal law enforcement reporting to the FBI's Uniform Crime Reporting Program (UCR) and BJS's direct collaboration with tribal criminal justice systems to collect data about tribal court systems. It summarizes data published by BJS on jails in Indian country, tribal law enforcement agencies, state prosecutors' offices with jurisdiction in Indian country, tribal youth in the federal justice system, and reporting to the UCR. It describes activities and funding opportunities to improve tribal crime data collection through programs such as the National Criminal History Improvement Program (NCHIP), the National Instant Criminal Background Check System (NICS), Byrne/JAG funding, and UCR training.	
Table 1.1. Tribes submitting crime data to the Uniform Crime Reporting Program (UCR) Program and receiving Byrne/Justice Assistance Grant (JAG) awards, FY 2008–2010	10
Table 1.2. Bureau of Justice Statistics planned program activities in response to the Tribal Law and Order Act	13
Tribal Law Enforcement, 2008	15
Presents data on tribal law enforcement agencies from the 2008 Census of State and Local Law Enforcement Agencies. This report defines the number and locations of tribal law enforcement agencies, service populations, and the number of sworn and nonsworn employees. It describes agency participation in traditional law enforcement (routine patrol, criminal investigation, and dispatching calls for service), public safety functions (emergency management, animal control, and fire services), specialized functions (search and rescue, tactical operations, and underwater recovery), and court-related activities (executing arrest warrants, enforcing protection orders, and serving process). The report details participation in multiagency task forces involving drug and human trafficking, gangs, violent crime, and antiterrorism. It presents data on community outreach efforts, such as school resource officers and community policing officers.	
Table 2.1. Tribally operated law enforcement agencies, by type of agency and number of full-time sworn personnel, 2008	16
Table 2.2. The 25 largest tribally operated law enforcement agencies, by the number of full-time sworn personnel, 2008	17
Table 2.3. Use of community policing and school resource officers by tribal police departments, 2000 and 2008	18
Figure 2.1. Location of tribally operated law enforcement agencies, 2008 .	15
Figure 2.2. Selected law enforcement functions performed by tribal police departments, 2008	18
Figure 2.3. Selected court-related functions performed by tribal police departments, 2008	18
Figure 2.4. Selected special functions performed by tribal police departments, 2008	19
Figure 2.5. Task force participation of tribal police departments, 2008 .	19
State Prosecutors' Offices with Jurisdiction in Indian Country, 2007	21
Describes state prosecutors' offices with jurisdiction in Indian country under Public Law 83-280 (P.L. 280). This report examines the activities of prosecutors' offices in states affected by P.L. 280 through either mandatory or optional jurisdiction. Six states have mandatory jurisdiction under P.L. 280 over crimes in Indian country: Alaska, California, Minnesota (except the Red Lake Reservation), Nebraska, Oregon (except the Warm Springs Reservation), and Wisconsin. The report also examines activities of prosecutors' offices in the 10 states that have an option to assume jurisdiction over crimes in Indian country within their borders: Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah, and Washington. Using data from the 2007 National Census of State Court Prosecutors, this report describes the characteristics of state prosecutors' offices with jurisdiction for crimes committed in Indian country, including budgets, staffing, and caseload. It also examines the types of offenses committed in Indian country that were prosecuted in 2007.	
Table 3.1. Number of tribes participating in the Census of Tribal Justice Agencies in Indian Country, by P.L. 280 status, type of court systems, and state, 2002	22
Table 3.2. State prosecutors' offices with jurisdiction for crimes committed in Indian country, by P.L. 280 status, 2007	22
Table 3.3. Type of state prosecutors' offices in Indian country, by P.L. 280 status, 2007	25
Table 3.4. Budget, staffing, and caseload of state prosecutors' offices, by P.L. 280 status, 2007	25
Figure 3.1. State prosecutors' offices reporting jurisdiction in Indian country under P.L. 280, 2007	23
Figure 3.2. State prosecutors' offices reporting prosecution of specific crimes in Indian country, by P.L. 280 status, 2007	24

Contents (continued)

Selected Findings: Jails in Indian Country, 2009

27

Presents selected findings from the bulletin *Jails in Indian Country, 2009*, released in February 2011 (NCJ232223). Data are based on an enumeration of 80 jails, confinement facilities, detention centers, and other facilities operated by tribal authorities or the Bureau of Indian Affairs (BIA) reported to the annual Survey of Jails in Indian Country. The report includes data on the number of adults and juveniles held, type of offense, number of persons confined on the last weekday of each month, average daily population, peak population, and admissions in June 2009. It also summarizes rated capacity, facility crowding, and jail staffing.

Table 4.1. Inmates, rated capacity, and percent of capacity occupied in Indian country jails, 2004 and 2007–2009	28
Table 4.2. Jails in Indian country that held the majority of inmates in 2009 compared to 2008, by facility	28
Table 4.3. Number of Indian country jails, by percent of rated capacity occupied, June 2009.	29

Table 4.4. Admissions and expected length of stay in Indian country jails during June, by facility size, June 2009	30
---	----

Table 4.5. Number of inmates confined in Indian country jails, by demographic characteristics, conviction status, and offense, midyear 2000, 2002, 2004, and 2007–2009	31
---	----

Table 4.6. Number of persons employed in Indian country jails, by job function, June 30, 2009	32
--	----

Figure 4.1. Inmates confined in Indian country jails, at midyear 2000–2004 and 2007–2009.	27
--	----

Figure 4.2. Percent of rated capacity occupied, by type of inmate count, June 2009.	29
--	----

Summary: Tribal Youth in the Federal Justice System

35

Presents findings on tribal youth processed through the federal criminal justice system between 1999 and 2008. Findings are from a recent study conducted by the Urban Institute under the Bureau of Justice Statistics' Federal Justice Statistics Program (FJSP). This report describes the number of tribal youth in the federal system and examines how they are handled through the stages of the federal criminal case process, from arrest to confinement. It describes tribal youth demographic characteristics, offenses, and case outcomes, such as referrals for prosecution, dismissal rates, sentencing, and time served.

Table 5.1. Reason for matters declined for prosecution with tribal youth suspects, 2005–2008	37
Table 5.2. Federally recognized tribes and enrolled members, 2005	38
Table 5.3. Tribal and non-tribal youth admitted to the Federal Bureau of Prisons, by offense type, 1944–2009	41
Figure 5.1. Tribal youth referred to and prosecuted by U.S. attorneys, 2000–2008	35

Figure 5.2. Case-related reasons for declination, 2005–2008	37
--	----

Figure 5.3. Tribal youth admitted to the custody of federal prison authorities, and five federal judicial districts that committed the majority of tribal youth, 2008	38
--	----

Figure 5.4. Maximum time in federal custody of juveniles adjudicated delinquent	39
--	----

Figure 5.5. Tribal youth in the Federal Bureau of Prisons, by status, at admission, 2000–2009	40
--	----

Figure 5.6. Non-tribal youth admitted to the Federal Bureau of Prisons, by status, at admission, 2000–2009	40
---	----

Figure 5.7. Non-tribal youth admitted to the custody of federal prison authorities, and five federal judicial districts that committed the majority of tribal youth, 2008	42
--	----

Highlights

Tribal Crime Data Collection Activities

9

- The Bureau of Justice Statistics (BJS) consulted with tribal leaders through a variety of forums in 2010.
- For the first time, the Bureau of Indian Affairs' (BIA) submissions to the Uniform Crime Reporting Program (UCR) were disaggregated by tribe and reported in *Crime in the U.S., 2009*.
- The number of tribes eligible for Byrne/JAG funding increased from 5 to 22.

- In 2008, 140 tribal law enforcement staff received UCR training.
- BJS provided competitive funding opportunities for jurisdictions to improve criminal records.
- BJS developed a multifaceted data collection system that both established new collections and enhanced current programs.

Highlights (continued)

Tribal Law Enforcement, 2008

15

- Tribally operated law enforcement agencies employed nearly 4,600 full-time personnel, including about 3,000 sworn officers.
- The largest tribal law enforcement agency, the Navajo Police Department, employed 393 full-time sworn personnel in Arizona, New Mexico, and Utah.
- Eleven of the 25 largest tribal law enforcement agencies served jurisdictions covering more than 1,000 square miles.
- Overall, tribal police departments cost about \$257 per resident to operate during fiscal year 2008.

- In addition to law enforcement functions, nearly all tribal police departments performed court-related functions, such as court security and serving process.
- More than half of tribal police departments used community policing officers, and more than a third used school resource officers.
- About 4 in 5 tribal police departments participated in one or more multiagency task forces.

State Prosecutors' Offices with Jurisdiction in Indian Country, 2007

21

- Ninety-three state court prosecutors' offices in the 16 P.L. 280 states reported jurisdiction for felonies committed in Indian country under P.L. 280.
- Seventy-three percent of offices with jurisdiction in Indian country reported prosecuting at least one felony case committed in Indian country.
- Most offices in P.L. 280 states prosecuted at least one offense involving drugs (63%), domestic violence (60%), or aggravated assault (58%).

- Eighteen offices in mandatory P.L. 280 states with jurisdiction for Indian country prosecuted at least one rape, and 12 offices prosecuted a homicide.
- Of state prosecutors' offices that reported jurisdiction for felony cases in Indian country under P.L. 280, 70% served judicial districts with populations of less than 100,000 residents.
- Offices with jurisdiction for felony crimes committed in Indian country had an average operating budget of \$5.2 million in 2007.

Selected Findings: Jails in Indian Country, 2009

27

- The number of inmates confined in Indian country jails increased by 1.9% between midyear 2008 and 2009, reaching 2,176 inmates.
- Between June 2008 and June 2009, the average daily jail population in Indian country increased by 12%, and the percentage of occupied bed space increased from 64.2% to 73.5%.
- Eleven jails (14% of all facilities) held 51% of inmates confined at midyear 2009.
- During June 2009, the number of inmates admitted to Indian country jails (11,357) was about 5 times the size of the average daily population (2,124).
- The expected average length of stay increased by a half day from 5.1 days during June 2008 to 5.6 days during June 2009.

- Indian country jail authorities reported no deaths in custody between July 1, 2008, and June 30, 2009, down from 4 reported deaths during the 12-month period ending June 30, 2008.
- Attempted suicides by inmates declined from 78 in 2008 to 56 in 2009.
- Indian country jails held fewer inmates for domestic violence at midyear 2009 (252), continuing the downward trend in the number held for this offense since 2007 (362).
- The percentage of certified correctional officers working in Indian country jails increased steadily, from 63% at midyear 2007 to 79% at midyear 2009.

Summary: Tribal Youth in the Federal Justice System

35

- In 2008, relatively few juveniles were referred to federal prosecutors (315 out of 178,570 suspects) or admitted to federal prison jurisdiction (156 out 71,663 offenders).
- Tribal youth (70) comprised nearly half of juveniles (152) handled by the federal courts in 2008.
- Federal judicial districts of Arizona, Montana, South Dakota, New Mexico, and North Dakota accounted for 94% of tribal youth investigated, 92% of those prosecuted, and 88% of those admitted to federal prison jurisdiction in 2008.
- In 2008, about 72% of tribal youth were investigated for violent offenses, including sexual abuse (35%), assault (20%), and murder (17%).
- About 40% of matters involving tribal youth were declined by federal prosecutors in 2008.

- A greater share of cases involving tribal youth in U.S. district courts were terminated by conviction (91%) than by dismissal (9%).
- From 1994 to 2008, the lowest number of tribal (72) and non-tribal youth (84) admitted to the jurisdiction of federal prison authorities occurred in 2008.
- Admissions to federal prison jurisdiction among tribal youth declined 10% per year from 1999 to 2008, while non-tribal youth admissions declined 12% per year.
- In 2008, tribal youth served an average of 26 months under federal jurisdiction, which was more than double the tribal justice system maximum sentence of 12 months.

Overview

The Tribal Law and Order Act (TLOA), enacted July 29, 2010, requires the Bureau of Justice Statistics (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 the director of BJS to consult with Indian tribes to establish and implement this data collection system. The BJS director is required to report to Congress within one year of enactment, and annually thereafter, the data collected and analyzed in accordance with the act. This report describes activities in support of BJS's tribal crime data collection system and summarizes findings published from that system between July 2010 and June 2011.

Multifaceted data collection system

Criminal jurisdiction in Indian country—federally recognized reservations, tribal communities, and identified trust lands—varies by the type of crime committed, whether the offender or victim was a tribal member, and the state in which the offense occurred. Due to the sovereign status of federally recognized tribes in the United States, crimes committed in Indian country are often subject to concurrent jurisdiction between multiple criminal justice agencies.

Public Law 83-280 (P.L. 280) gave select states legal jurisdiction over tribal members to prosecute crimes that occur on the reservation under existing state laws. These mandatory P.L. 280 states include California, Minnesota (except the

Red Lake Reservation), Nebraska, Oregon (except the Warm Springs Reservation), Wisconsin, and Alaska.

P.L. 280 permitted other states to acquire jurisdiction over crimes committed in Indian country at their option. These optional P.L. 280 states assume jurisdiction, either in whole or in part, over Indian country within their boundaries, and include Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah, and Washington.

In the remaining states, where P.L. 280 does not apply, federal and tribal governments maintain concurrent jurisdiction for major crimes committed in Indian country (as defined in the Major Crimes Act and subsequent amendments (18 U.S.C. § 1153)). Tribal governments have jurisdiction for all other crimes committed in Indian country that involve both an Indian offender and Indian victim. States retain jurisdiction for non-Indian crimes committed in Indian country—those in which neither the offender nor the victim is a tribal member.

Due in part to these jurisdictional complexities, existing tribal data systems are often limited in scope and applicable only to certain jurisdictions or states. An effective tribal data collection system will include data from federal, state, local, and tribal agencies. The information maintained in this system should further be considered in light of the concurrent jurisdictional roles multiple agencies maintain in Indian country.

Recent findings from the tribal data collection system

178 tribal law enforcement agencies operated in 2008

In September 2008, American Indian tribes operated 178 law enforcement agencies. These 178 agencies employed at least one full-time sworn officer with general arrest powers or the equivalent in part-time officers. The total includes 157 general purpose tribal police departments and 21 special jurisdiction agencies tasked with enforcing natural resources laws that pertain primarily to hunting and fishing on tribal lands.

Tribes operated law enforcement agencies in 28 states and employed about 3,000 full-time sworn personnel. Eleven of the 25 largest tribal law enforcement agencies served jurisdictions of more than 1,000 square miles. (See *Tribal Law Enforcement, 2008*, page 15, for more information.)

83 tribal law enforcement agencies provided data through the Bureau of Indian Affairs (BIA) that met the FBI's guidelines for publication

Offenses known to tribal law enforcement agencies were reported by tribal agencies in the FBI's *Crime in the United States, 2009*. Eighty-three tribal law enforcement agencies met FBI guidelines for data publication in the report.* Nearly 3,800 violent crimes and approximately 11,400 property crimes were known to

*Crimes known to tribal law enforcement agencies are submitted to the UCR through the BIA. UCR data must be submitted by local law enforcement with a valid reporting number, and be complete for all 12 months of the year. Data submitted to the UCR must also meet FBI data quality guidelines for publication in *Crime in the U.S.*

these selected tribal law enforcement agencies in 2009. (See the FBI's *Crime in the United States, 2009*, http://www2.fbi.gov/ucr/cius2009/data/table_11.html, for more information.)

93 state prosecutors' offices in P.L. 280 states reported jurisdiction for felonies committed in Indian country

In 2007, 93 state court prosecutors' offices reported jurisdiction under P.L. 280 for felonies committed in Indian country. Seventy-three percent of these offices reported prosecuting at least one felony case that arose from Indian country in 2007, including at least one offense that involved drugs (63%), domestic violence (60%), or aggravated assault (58%). Most state prosecutors' offices with jurisdiction under P.L. 280 served districts with 100,000 or fewer residents. (See *State Prosecutors' Offices with Jurisdiction in Indian Country, 2007*, page 21, for more information.)

Jails in Indian country housed 2,176 inmates in 2009

The number of inmates confined in Indian country jails increased by 1.9% between midyear 2008 and midyear 2009, from 2,135 to 2,176 inmates. Over the 12 months ending June 2009, the average daily jail population in Indian country increased by 12%, and the percentage of occupied bed space increased from 64.2% to 73.5%. (See *Selected Findings: Jails in Indian Country, 2009*, page 27, for more information.)

Most tribal youth in the federal system were referred for violent offenses

Between 1999 and 2008, 65% of tribal youth in criminal matters received by federal prosecutors were referred for a violent offense. Sexual abuse was the most common violent offense, followed by assault and murder.

In 2008, federal prosecutors received 129 tribal youth suspects in matters opened out of 178,570 total matters investigated. Tribal youth admitted to the legal custody of federal prison authorities were mostly male (90%) and tended to be older teens; more than two-thirds were between the ages 16 and 17. (See Summary: *Tribal Youth in the Federal Justice System*, page 35, for more information.)



Tribal Crime Data Collection Activities, 2011

Duren Banks, Ph.D., and Steven W. Perry, *BJS Statisticians*
Allina Lee, *BJS Policy Analyst*

The Bureau of Justice Statistics (BJS), in collaboration with other federal agencies and American Indian tribes, conducted several activities to develop the tribal data collection system as of June 2011. The data collection system establishes both new data collections and enhances current programs to carry out the requirements of the Tribal Law and Order Act (TLOA), 2010.

BJS focused on improving tribal law enforcement reporting to the FBI's Uniform Crime Reporting Program (UCR) and developed direct data collection from tribal criminal justice systems, such as collecting information about the nature and operation of tribal court systems. Efforts also include activities and funding opportunities to improve tribal crime data collection through programs such as the National Criminal History Improvement Program (NCHIP), the National Instant Criminal Background Check System (NICS), Byrne/JAG funding, and UCR training.

Activities to Support Tribal Crime Data Collection Systems, July 2010 through June 2011

Tribal consultations conducted in 2010

BJS consulted with tribal leaders through a variety of forums in 2010. BJS developed and distributed an initial plan that responded to the TLOA sections that directly referenced tribal crime data collection. This plan was presented to several stakeholder groups to invite feedback and input, including—

- Interdepartmental Tribal Justice Safety and Wellness Consultation, Session 12 (December 2010, Palm Springs, CA)
- Uniform Crime Reporting Program (UCR) trainings for tribal law enforcement (2010) agencies
- National Congress of American Indians, 2011 Executive Council Winter Meeting (March 2011, Washington, DC).

For the first time, the Bureau of Indian Affairs' (BIA) submissions to UCR were disaggregated by tribe and reported in the FBI's *Crime in the U.S., 2009*

Working with the Office of Justice Services in the BIA, and the Office of Tribal Justice and the FBI in the Department of Justice (DOJ), BJS developed a process to support tribal access to, and input in, regional and national criminal justice databases, including the National Crime Information Center (NCIC) and the Uniform Crime Reporting Program (UCR).

As a result of this process, data provided to the FBI from the BIA were able to be disaggregated by tribe. Offenses known to tribal law enforcement agencies were reported by tribal agencies in the FBI's *Crime in the United States, 2009*. Eighty-three tribal law enforcement agencies met FBI guidelines for data to be published in the report.

Highlights

- The Bureau of Justice Statistics (BJS) consulted with tribal leaders through a variety of forums in 2010.
- For the first time, the Bureau of Indian Affairs' (BIA) submissions to the Uniform Crime Reporting Program (UCR) were disaggregated by tribe and reported in *Crime in the U.S., 2009*.
- The number of tribes eligible for Byrne/JAG funding increased from 5 in 2008 to 22 in 2010.
- In 2010, 140 tribal law enforcement staff received UCR training.
- BJS provided competitive funding opportunities for jurisdictions to improve criminal records in fiscal year 2011.
- BJS developed a multifaceted data collection system that both established new collections and enhanced current programs.

BJS, acting jointly with the Office of Justice Services, BIA (DOI), and the FBI (DOJ), will work with tribes and tribal law enforcement to establish and implement tribal data collection systems (P.L. 111-211 § 251(b)).

The number of tribes eligible for Byrne/JAG funding increased from 5 in fiscal year 2008 to 22 in fiscal year 2010

Collaborative efforts between the departments of Justice and Interior have increased the number of tribes reporting monthly crime data to the UCR, thereby increasing the number of tribes eligible to receive Byrne/JAG awards.

Byrne/JAG funds can be used to support a range of activities in seven broad program areas, including law enforcement; prosecution and courts; crime prevention and education; corrections; drug treatment and enforcement; program planning, evaluation, and technology improvement; and crime victim and witness programs.

Most American Indian tribes had been ineligible to receive Byrne/JAG funds because of gaps in Indian country crime statistics and traditional methods for reporting data. Prior to 2009, BIA provided an aggregate number of crimes known to tribal law enforcement to the UCR. Since these data could not be disaggregated by tribe, tribal law enforcement agencies that did not submit information directly to the UCR were not eligible for Byrne/JAG awards. In FY 2008, 25 tribes submitted

crime data directly to the FBI, with 5 of the tribes eligible to receive Byrne/JAG awards totaling \$150,000. In FY 2010, the number of tribes that submitted crime data increased to 144 following collaborative efforts between agencies in the departments of Justice and Interior, with 22 tribes eligible for Byrne/JAG awards totaling \$709,000 ([table 1.1](#)).

More than 140 tribal law enforcement staff received UCR training

Through Recovery Act funds, BJS developed and implemented the Tribal Crime Data project to further support the reporting of tribal crime to the UCR, and thereby establish eligibility for Byrne/JAG funds. The project is also part of BJS's larger effort to collect more reliable information on American Indians in the criminal justice system and crimes committed in Indian country.

Through the Tribal Crime Data project, BJS conducted three training sessions in 2010, with more than 140 tribal members, on the use of the UCR systems. In 2011 the project provided training and technical assistance to tribes that did not meet FBI data quality guidelines or had not previously submitted complete crime data to BIA.

TABLE 1.1
Tribes submitting crime data to the Uniform Crime Reporting Program (UCR) and receiving Justice Assistance Grant (JAG) awards, FY 2008–2010

Fiscal Year	Number of tribes—		
	Reporting to UCR	Eligible for JAG award	Eligible award amount
2008	25	5	\$150,000
2009	106	20	559,000
2010	144	22	709,000

Funding for improving criminal records

To improve criminal records, BJS provided outreach to agencies in tribal jurisdictions through two competitive funding opportunities:

- National Criminal History Improvement Program (NCHIP) solicitation, 2011
- National Instant Criminal Background Check System (NICS) Act Record Improvement Program (NARIP) solicitation, 2011.

The TLOA made federally recognized tribes eligible for awards under BJS's NCHIP. State and tribal entities apply for NCHIP funds to enhance the crime fighting and criminal justice capabilities of governments by improving the accuracy, utility, and interstate accessibility of criminal history records. Jurisdictions also apply for NCHIP funds to enhance records of protective orders that involve domestic violence and stalking, sex offender records, automated identification systems, and other state systems that support national records systems and their use for criminal history background checks.

BJS released the FY 2011 NCHIP solicitation on January 13, 2011, and collaborated with other OJP components to disseminate information about the NCHIP funding announcement as broadly as possible. Tribal contacts were alerted via email to the funding opportunity, and the solicitation was posted to the BJS and DOJ Tribal Safety and Justice websites. Information about the NCHIP funding opportunity was also presented during several meetings and a consultation in the fall and winter of 2010.

Additionally, BJS developed an addendum to the solicitation that identified priority funding areas and eligibility requirements for tribal applicants. The addendum outlined key tribal priority areas activities related to—

- information technology systems to capture and transmit tribal issued domestic violence and stalking records to the FBI NCIC Protection Order File
- automation and transmission of existing qualifying domestic violence and stalking records to the FBI NCIC Protection Order File.

The NARIP implements the provisions of the NICS Improvement Amendments Act of 2007, enacted in the wake of the shooting tragedy at Virginia Tech and includes tribes as eligible entities.

The NARIP funds provide assistance to eligible states and tribes to improve the completeness, automation, and transmittal of records needed by the NICS to identify persons prohibited from receiving or possessing a firearm. These records include prohibited mental health adjudications and commitments, felony convictions, felony indictments, fugitives from justice, drug arrests and convictions, domestic violence protection orders, and misdemeanor crimes of domestic violence.

BJS will award FY 2011 NARIP funds to support efforts to improve the records used by NICS, by providing assistance to states and tribes to improve the completeness, automation, and transmittal of records to state and federal systems. BJS released the FY 2011 NARIP solicitation on March 15, 2011. The same process used to disseminate information about the NCHIP funding opportunity was followed to alert tribes to the NARIP solicitation.

Subject to the availability of appropriated funds and any modifications or additional requirements that may be imposed by law, BJS plans to competitively award NCHIP and NARIP funds in FY 2011. Eligible applications will be evaluated and scored by peer reviewers, and funding will be made based on the selection criteria outlined in the solicitations.

BJS is authorized to provide for improvements in the accuracy, quality, timeliness, immediate accessibility, and integration of state and tribal criminal history and related records (P.L. 111-211 § 251(b)(1)(H)).

The director of BJS will establish and implement a tribal data collection system (P.L. 111-211 § 251(b)).

BJS established new collections and enhanced current programs

In addition to collaborating with other federal agencies to improve tribal law enforcement reporting to the UCR, BJS developed a plan to collect information about tribal criminal justice systems. This multipronged approach both established new collections and enhanced current programs that serve the purposes of the TLOA.

Through its ongoing statistical projects, BJS provided information on (1) suspects and defendants processed in the federal criminal justice system, including federal prosecutions of crimes committed in Indian country, (2) the incidence of crimes known to law enforcement that occur on tribal reservations or were reported by Indian country law enforcement authorities, (3) the characteristics of tribal law enforcement agencies, and (4) the characteristics of jails in Indian country. BJS plans to begin collecting information about the nature and operation of tribal court systems in 2012 ([table 1.2](#)).

Survey of Tribal Court Systems

BJS developed the Survey of Tribal Court Systems to build on BJS's previous Census of Tribal Justice Agencies (See *Census of Tribal Justice Agencies in Indian Country, 2002*, BJS Web, December 2005). The survey will gather administrative and operational information from tribal courts, prosecutors' offices, and indigent defense providers operating in the estimated 190 federally recognized tribal justice systems in the U.S.

Subject to the availability of appropriated funds and any modifications or additional requirements that may be imposed by law, BJS plans to award the Survey of Tribal Court Systems in FY 2011. BJS will work with the awardee and collaborating organizations to develop the data collection instrument and methodology. The instrument will include, at a minimum, measures of

tribal court organization, court caseload, characteristics of prosecutors in tribal courts, and systems to provide indigent defense in tribal courts.

Based on the results of the initial data collection, BJS will devise a strategy for conducting a regular data collection program among Indian country court systems.

Census of State and Local Law Enforcement Agencies

The Census of State and Local Law Enforcement Agencies provides data on staffing, functions, and expenditures. Data collected include the number of sworn and civilian personnel by state and type of agency, and functions performed by each agency. BJS analyzed and published findings from data collected in 2008, from the Census of State and Local Law Enforcement Agencies program, including 178 tribal law enforcement agencies.

Survey of Jails in Indian Country

The Survey of Jails in Indian Country data describe jails, confinement facilities, detention centers, and other facilities operated by tribal authorities or BIA. The annual report from the Survey of Jails in Indian Country includes data on the number of adults and juveniles held, type of offense, number of persons confined on the last weekday of each month, average daily population, peak population, and admissions at midyear. It also summarizes rated capacity, facility crowding, and jail staffing. The most recent report that describes findings from the 2009 survey was released in February 2011.

National Census of State Court Prosecutors

In 2007 BJS conducted the National Census of State Prosecutors, which was the second complete enumeration of all chief prosecutors who tried felony cases in state courts of general jurisdiction. The census collected information about whether district

TABLE 1.2**Bureau of Justice Statistics Planned Program Activities in Response to the Tribal Law and Order Act**

Program	Objective	Timeline
Collaboration with DOJ Components and BIA	To increase the number of tribes eligible to receive Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds, ensure tribal access to regional and national databases, and develop comprehensive tribal crime data systems.	Ongoing.
BJS Recovery Act Program	To support tribes to more accurately and consistently report tribal crime data to the BIA and/or the FBI through technical assistance, training, and information sharing.	Crimes known to some tribal law enforcement agencies published in <i>Crime in the United States, 2009</i> and annually thereafter.
Grants to Support Tribal Participation in Regional and National Databases	To continue to include federally-recognized tribes as eligible entities for the National Instant Criminal Background Check System (NICS) Act Record Improvement Program and add federally-recognized tribes as eligible entities to the National Criminal History Improvement Program (NCHIP) grant awards.	Tribes are eligible for awards as of FY 2009 (NICS) and FY 2011 (NCHIP).
Census of State and Local Law Enforcement Agencies	To collect data from all state, local, and tribal law enforcement agencies on staffing, expenditures and functions. BJS will continue to implement strategies designed to accurately represent the work of tribal law enforcement agencies.	Periodically since 1992. Latest report: 2004 census 2008 census report in 2011.
Survey of Tribal Court Systems	To gather administrative and operational information from tribal courts, prosecutors' offices, and indigent defense providers.	Award: August 2011. Design and Data Collection: 2011-2012. Analysis and Reporting: Early 2013.
Survey of Jails in Indian Country	The survey is an annual enumeration of jails, confinement facilities, detention centers, and other facilities operated by tribal authorities or the BIA. Data are collected intermittently via an addendum to the core survey on the physical conditions and operations of Indian country facilities. The addendum requests information on inmate medical services, mental health services, suicide prevention procedures, substance dependency programs, domestic violence counseling, sex offender treatment, education programs, and inmate work assignments.	Annually since 1998. Latest report: 2009 survey 2010 survey report expected in 2011.
Federal Justice Statistics Program	To compile comprehensive information describing suspects and defendants processed in the federal criminal justice system.	Ongoing since 1998. Annual data through 2009 available on the BJS website.
BJS Native American Crime Information Website	To provide users with easy-to-access and current information from existing and new data collection programs	Design and populate website: 2010-2011. Public release: Late 2011.

attorney offices have jurisdiction for prosecuting felony cases occurring in Indian country under P.L. 280, and what types of crimes the office prosecuted. The findings from this data collection are in *State Prosecutors' Offices with Jurisdiction in Indian Country* on page 21.

Federal Justice Statistics Program

The Federal Justice Statistics Program (FJSP) provides comprehensive and detailed information about the federal justice system's processing of criminal cases. The FJSP provides annual data on workload, activities, and outcomes associated with federal criminal cases. Information is acquired on all aspects of processing in the federal justice system, including arrests, prosecution decisions, referrals to magistrates,

court dispositions, sentencing outcomes, sentence length, and time served. The FJSP receives the source data from the U.S. Marshals Service, Drug Enforcement Administration, Executive Office of U.S. Attorneys, Administrative Office of the U.S. Courts, U.S. Sentencing Commission, and the Federal Bureau of Prisons.

BJS is currently developing research projects that will examine American Indian defendants who are processed in the federal justice system. Findings from the first of these projects, describing characteristics of American Indian youth who are processed in the federal criminal justice system, are in the *Summary: Tribal Youth in the Federal Justice System* on page 35.

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Jails in Indian Country, 2009, NCJ 232223, BJS Web, February 2011.

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Summary: Tribal Youth in the Federal Justice System, NCJ 234218, BJS Web, June 2011.



Tribal Law Enforcement, 2008

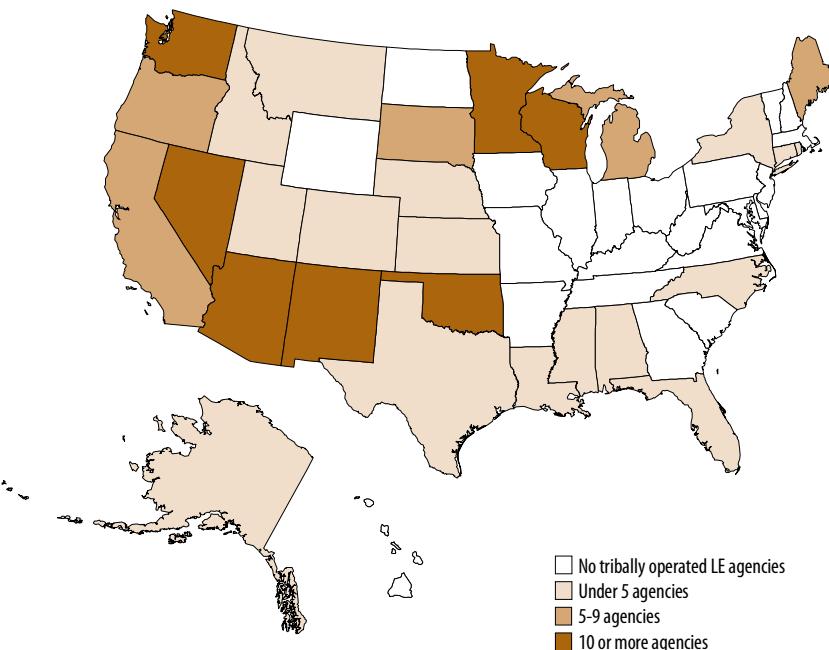
Brian A. Reaves, Ph.D., BJS Statistician

In September 2008, American Indian tribes operated 178 law enforcement agencies that employed at least one full-time sworn officer with general arrest powers or the equivalent in part-time officers. The total includes 157 general purpose tribal police departments and 21 special jurisdiction agencies tasked with enforcing natural resources laws that pertain primarily to hunting and fishing on tribal lands.

Collectively, tribes operated law enforcement agencies in 28 states. Washington (24), Arizona (22), Oklahoma (19), and New Mexico (17) had the largest numbers of tribal law enforcement agencies (figure 2.1). These findings are based on the 2008 Bureau of Justice Statistics' (BJS) Census of State and Local Law Enforcement Agencies.

In addition to tribally operated agencies, the Department of the Interior's (DOI) Bureau of Indian Affairs (BIA) operated 42 agencies that provided law enforcement

FIGURE 2.1
Location of tribally operated law enforcement agencies, 2008



Source: Bureau of Justice Statistics, *Census of State and Local Law Enforcement Agencies, 2008*

Highlights

- Tribally operated law enforcement agencies employed nearly 4,600 full-time personnel, including about 3,000 sworn officers.
- The largest tribal law enforcement agency, the Navajo Police Department, employed 393 full-time sworn personnel in Arizona, New Mexico, and Utah.
- Eleven of the 25 largest tribal law enforcement agencies served jurisdictions covering more than 1,000 square miles.
- Overall, tribal police departments cost about \$257 per resident to operate during FY 2008.
- In addition to law enforcement functions, nearly all tribal police departments performed court-related functions, such as court security and serving process.
- More than half of tribal police departments used community policing officers, and more than a third used school resource officers.
- About 4 in 5 tribal police departments participated in one or more multiagency task forces.

services in Indian country. Nationwide, BIA employed 277 full-time sworn personnel in 2008. Along with direct oversight of its own programs, BIA also provided technical assistance and some oversight to tribally operated agencies.

On the more than 300 federal Indian reservation areas in the U.S., police officers may be tribal, federal, state, county, or municipal employees. Some areas may be served by more than one type of officer.

Commonly, tribal police department funding, administration, and employees are based on the Indian Self-Determination and Education Assistance Act of 1975, (Public Law 93-638 or P.L. 638). This law allowed tribes to assume responsibility for many programs previously administered by the federal government, including law enforcement. P.L. 638 agencies operate with tribal employees under contract and with financial assistance from the BIA.

Tribally operated agencies can also function under a self-governance compact with the BIA. This arrangement provides block grant payments, allowing for more tribal control than the line item funding of P.L. 638 contracts. Full tribal control over law enforcement services exists where such services are entirely funded by the tribal government.

Jurisdiction over offenses in Indian country may lie with federal, state, or tribal agencies, depending on the offense, offender, victim, and offense location. Most tribes have cross-deputization agreements, often with neighboring nontribal agencies. These agreements allow law enforcement personnel from state, local, and tribal entities to cross jurisdictions in criminal cases, and can be used to

enhance law enforcement capabilities in areas where state and tribal lands are contiguous and intermingled. In some instances, the number of agreements is large. For example, the Cherokee Nation Marshal Service is cross-deputized with 50 municipal, county, state, and federal agencies.

Tribal police departments employed 2.3 full-time officers per 1,000 residents

In September 2008, the 178 operating tribal law enforcement agencies employed more than 4,500 full-time personnel, including about 3,000 sworn officers (table 2.1). The 157 general purpose tribal police departments employed 4,294 full-time personnel, including 2,835 sworn officers and 1,459 civilian personnel. These agencies employed an additional 129 part-time personnel, including 80 sworn officers (not shown in table).

The 21 natural resources agencies employed 271 full-time personnel, including 164 sworn officers and 107 civilian employees. These natural resources agencies also employed 11 part-time personnel, including 7 sworn officers (not shown in table).

General purpose tribal police departments had a combined service population of about 1.2 million residents.* This corresponds to about 2.3 full-time sworn officers per 1,000 residents, which was the national average for all local police departments as of 2007. (See *Local Police Departments, 2007*, BJS Web, December 2010.) Collectively, tribal police departments cost \$257 per resident to operate for 2008 (not shown in table). In 2007 the national average for all local police departments was \$260 per resident.

*Based on the American Indian service population counts published in BIA's *American Indian Population and Labor Force Report, 2005*. The service population is the total number of enrolled tribal members and members from other tribes who live on or near the reservation and are eligible to use the BIA-funded tribal services. The service population excludes any non-Indian residents served by a tribally operated law enforcement agency and other persons using roads, stores, casinos, and other public places on tribal land.

TABLE 2.1
Tribally operated law enforcement agencies, by type of agency and number of full-time sworn personnel, 2008

Type of agency and number of full-time sworn personnel	Number of agencies	Number of full-time employees		
		Total	Sworn	Civilian
All agencies	178	4,565	2,999	1,566
General purpose police departments				
Total	157	4,294	2,835	1,459
50 or more	6	1,397	871	526
25-49	19	955	607	348
10-24	61	1,380	955	425
5-9	47	479	332	147
Under 5	24	83	70	13
Natural resources agencies				
Total	21	271	164	107
10-24	8	154	107	47
5-9	4	38	29	9
Under 5	9	79	28	51

11 of the 25 largest tribal law enforcement agencies served jurisdictions of more than 1,000 square miles

The 25 largest tribally operated agencies employed at least 25 full-time sworn personnel. The largest agency, the Navajo Police Department, employed 393 full-time officers to serve tribal lands in Arizona, New Mexico, and Utah (table 2.2). The next largest were the Seminole Police Department (Florida) with 144 officers, and the Salt River Police Department (Arizona) with 125 officers.

The BIA service population for the 25 largest agencies ranged from less than 1,000 to about 200,000 residents. Although not all reservations are open to the public, many tribal law enforcement agencies deal with a significant number of daily visitors in addition to the resident population. The natural resources of tribal lands attract visitors, as do conference facilities and casinos. All of the 25 largest agencies had at least one casino operating within their jurisdictional area.

The amount of land area served by a tribal law enforcement agency can be quite large. For example, the Navajo Police Department has jurisdiction over about 22,000 square miles, a larger land area than any county in the continental United States. Ten other agencies among the 25 largest had jurisdictional areas exceeding 1,000 square miles, a larger land area than any city in the continental United States.

TABLE 2.2
The 25 largest tribally operated law enforcement agencies, by the number of full-time sworn personnel, 2008

Name and location of agency	Number of full-time sworn personnel	BIA service population, 2005	Full-time sworn personnel per 1,000 residents	Reservation land area (square miles)	Full-time sworn personnel per 25 square miles
Navajo Police Department (AZ, NM, UT)	393	192,067	2.0	22,174	0.4
Seminole Police Department (FL)	144	3,165	45.5	141	25.5
Salt River Police Department (AZ)	125	7,313	17.1	81	38.6
Gila River Indian Community Police Department (AZ)	93	14,966	6.2	584	4.0
Tohono O'odham Police Department (AZ)	66	26,673	2.5	4,453	0.4
Choctaw Police Department (MS)	50	8,313	6.0	25	50.0
Oglala Sioux Tribe Department of Public Safety (SD)	49	43,146	1.1	3,159	0.4
Cherokee Indian Police Department (NC)	45	13,562	3.3	83	13.6
Muscogee (Creek) Nation Lighthorse Tribal Police (OK)	39	55,817	0.7	4,648	0.2
Miccosukee Police Department (FL)	36	589	61.1	128	7.0
Poarch Creek Tribal Police Department (AL)	33	1,567	21.1	0.4	--
Cherokee Nation Marshal Service (OK)	32	197,684	0.2	6,702	0.1
Choctaw Nation Tribal Police Department (OK)	32	99,371	0.3	10,613	0.1
Colville Tribal Police Department (WA)	32	5,052	6.3	2,117	0.4
Saginaw Chippewa Tribal Police Department (MI)	30	1,799	16.7	218	3.4
Tulalip Tribal Police Services (WA)	30	2,869	10.5	35	21.4
Warm Springs Tribal Police Department (OR)	30	4,079	7.4	1,011	0.7
White Mountain Apache Police Department (AZ)	30	12,213	2.5	2,628	0.3
Isleta Police Department (NM)	29	3,980	7.3	331	2.2
Yakama Nation Tribal Police Department (WA)	28	16,815	1.7	2,153	0.3
Pascua Yaqui Tribal Police Department (AZ)	27	14,787	1.8	2	--
Puyallup Tribal Police Department (WA)	27	24,016	1.1	29	23.3
Rosebud Sioux Tribal Police Department (SD)	27	22,293	1.2	1,388	0.5
Red Lake Tribal Police Department (MN)	26	10,338	2.5	880	0.7
Oneida Indian Nation Police (NY)	25	650	38.5	0.1	--

Note: Land area data are from the U.S. Census Bureau, and include reservation land only.

--Reservation land area is less than 25 square miles.

Tribal law enforcement agencies were responsible for a broad range of services and functions during 2008

Nearly all general purpose tribal police departments were responsible for traditional law enforcement functions, such as routine patrol (100%), responding to citizen requests for service (100%), special events and crowd control (98%), criminal investigation (96%), and traffic enforcement (96%) (figure 2.2). About 4 in 5 departments were responsible for parking enforcement (80%), and about 2 in 3 departments dispatched calls for service (66%).

About 3 in 5 general purpose tribal police departments had full-time community policing officers

A majority of tribal police departments used a community policing approach in their efforts to prevent crime and maintain partnerships with the communities they serve. About three-fifths (59%) of departments had full-time sworn personnel serving as community policing officers (table 2.3). As of September 2008, about 500 tribal police officers were designated as community policing officers. In 2000, 73% of tribal agencies reported using community policing officers, with about 700 designated as such.

TABLE 2.3
Use of community policing and school resource officers by tribal police departments, 2000 and 2008

	2000	2008
Community policing officers		
Percent of agencies using	73%	59%
Number of officers	714	503
School resource officers		
Percent of agencies using	37%	36%
Number of officers	162	82

For more than a third (36%) of tribal police departments, community policing efforts extended into the schools, with 82 full-time sworn personnel assigned as school resource officers. Although the percentage of departments using school resource officers in 2008 was about the same as in 2000 (37%), the total number of officers was about half of 2000 levels.

Nearly all tribal police departments performed a variety of court-related functions

In addition to law enforcement duties, nearly all tribal police departments were responsible for a variety of court-related functions (figure 2.3). The most common functions were executing arrest warrants (95%), enforcing protection orders (92%), serving process (89%), apprehending fugitives (88%), and providing court security (75%).

FIGURE 2.2
Selected law enforcement functions performed by tribal police departments, 2008

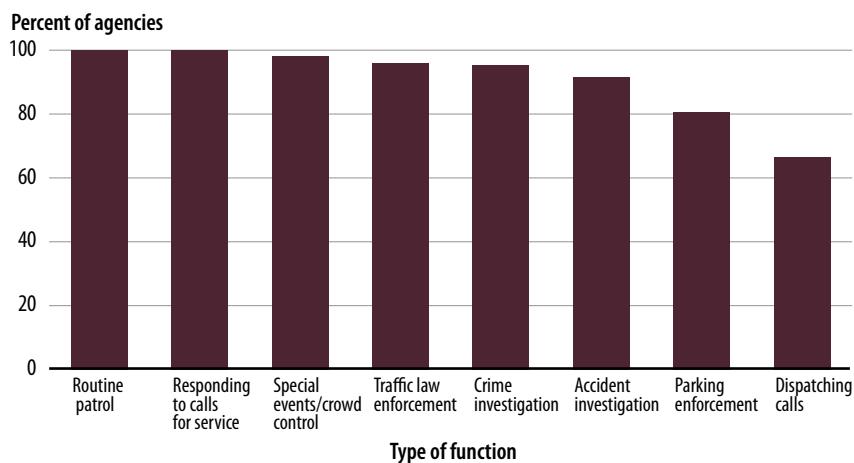
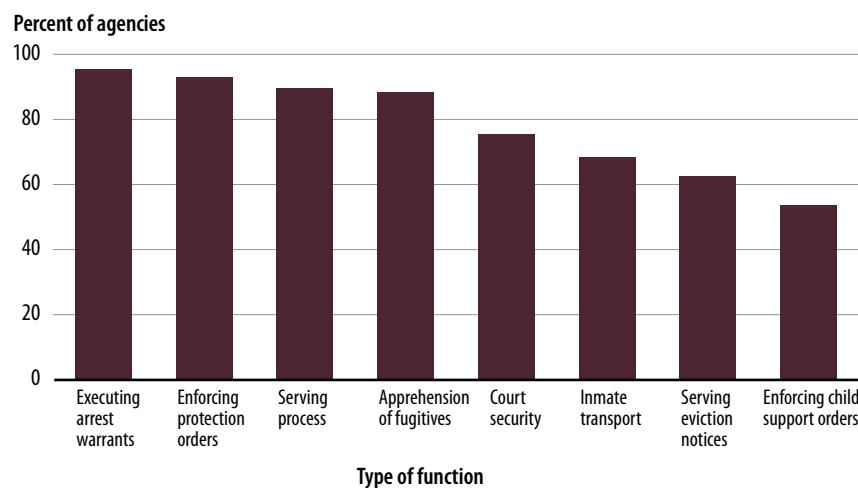


FIGURE 2.3
Selected court-related functions performed by tribal police departments, 2008



Nearly half of tribal police departments were responsible for search and rescue operations

Nearly 9 in 10 tribal police departments performed one or more special public safety functions, the most common being emergency management (65%) and animal control (64%) (figure 2.4). About a third (31%) provided emergency medical services. Nearly a fifth provided fire services (19%) and school crossing services (18%).

More than half (58%) of tribal police departments performed at least one specialized function, such as search and rescue (43%), tactical operations (26%), or underwater recovery (10%). About 1 in 6 agencies operated at least one jail (17%), and about 1 in 10 agencies operated an overnight lockup facility separate from a jail (10%). (For more information, see *Jails in Indian County, 2009*, BJS Web, February 2011.)

The 21 special jurisdiction agencies, whose primary focus was the enforcement of natural resources laws, performed a variety of functions as well. In addition to providing patrol and response services, a majority of these agencies performed the following functions: criminal investigation (82%), search and rescue (71%), apprehension of fugitives (59%), animal control (59%), traffic enforcement (59%), and dispatching calls for service (53%) (not shown in figure).

About two-thirds of general purpose tribal police departments participated in a multiagency drug task force

About 4 in 5 (78%) tribal police departments partnered with federal, state, and local agencies in multiagency task forces to combat crime problems in Indian country during 2008. These task forces allow participating agencies to share in pooled resources, information, and expertise across jurisdictional boundaries.

Tribal police departments were most likely to participate in task forces formed to combat drug trafficking (66% of agencies) (figure 2.5). About 2 in 5 (41%) departments participated in multiagency gang task forces, and about a third (32%) participated in violent crime task forces. Smaller percentages of tribal police departments participated in anti-terrorism (17%) or human trafficking (9%) task forces.

FIGURE 2.4
Selected special functions performed by tribal police departments, 2008

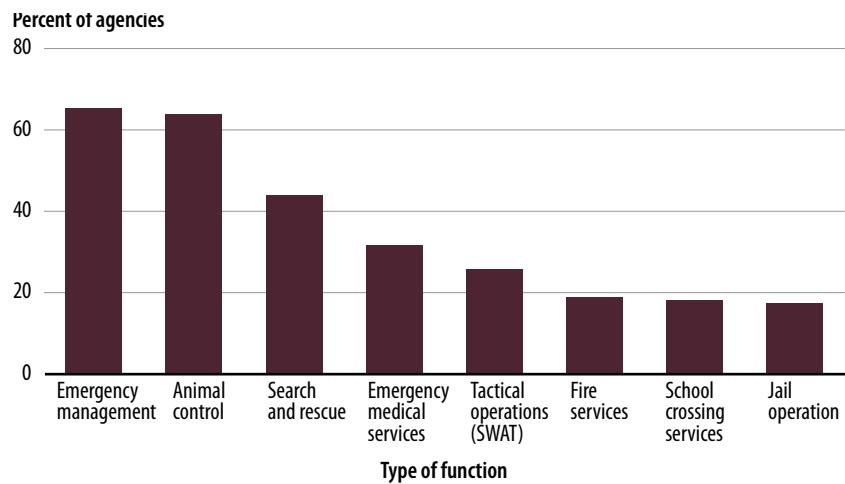
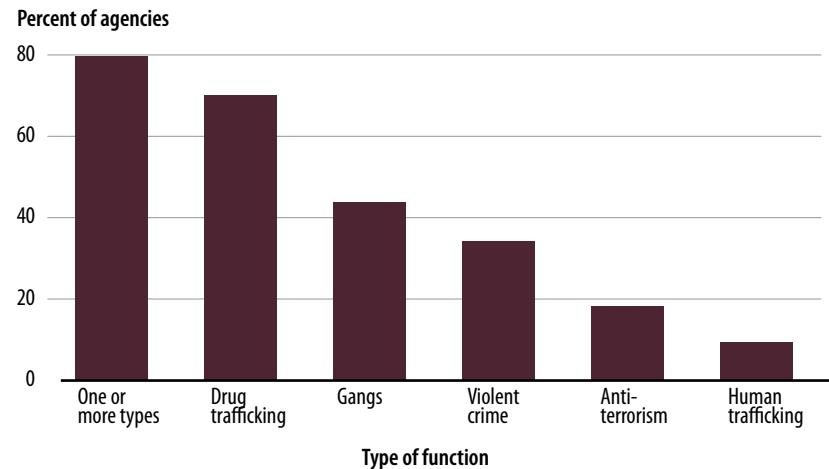


FIGURE 2.5
Task force participation of tribal police departments, 2008



Methodology

The Bureau of Justice Statistics' (BJS) Census of State and Local Law Enforcement Agencies (CSLLEA) is conducted every 4 years to provide a complete enumeration of agencies and their employees. Employment data are reported for sworn and nonsworn personnel and, within these categories, by full-time or part-time status. Agencies also complete a checklist of functions they regularly perform, or for which they have primary responsibility.

The CSLLEA provides national data on the number of state and local law enforcement agencies and employees for general purpose local police departments (including tribal agencies), sheriffs' offices, the primary state law enforcement agencies, and special jurisdiction (e.g., natural resources) agencies. It also serves as the sampling frame for BJS surveys of law enforcement agencies.

The 2008 CSLLEA form was mailed to approximately 20,000 agencies that were determined to potentially be operating on the reference date of September 30, 2008. This master list was created by compiling information from the following sources:

- the 2004 CSLLEA
- lists provided by Peace Officer Standards and Training offices, and other state agencies
- an FBI list of agencies requesting new identifiers since the 2004 CSLLEA.

Responding agencies were screened for eligibility and were excluded if any of the following conditions existed on the CSLLEA reference date of September 30, 2008:

- The agency employed only part-time officers, and the total combined hours worked for these officers averaged less than 35 hours per week.
- The agency contracted or outsourced to another agency for performance of all services.
- The agency was closed, a duplicate listing, or otherwise an invalid entry on the master list.
- The agency did not employ personnel with general arrest powers.
- The agency did not operate with funds from a state, local, special district, or tribal government.
- All sworn officers volunteered their time on an unpaid basis.

Data on number and type of personnel were obtained from all eligible tribal agencies. For general purpose tribal police departments, the item response rates were as follows: community policing and school resource officers, 100%; agency functions, 99%; task force participation, 99%; and operating budget, 87%.

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State Prosecutors' Offices with Jurisdiction in Indian Country, 2007

Steven W. Perry, Ron Malega, Ph.D., and Duren Banks, Ph.D., *BJS Statisticians*

In 2007, 93 state court prosecutors' offices reported jurisdiction under Public Law 83-280 (P.L. 280) for felonies committed in Indian country. Seventy-three percent of these offices prosecuted at least one felony case that arose from Indian country in 2007, including at least one offense that involved drugs (63%), domestic violence (60%), or aggravated assault (58%).

This report presents selected findings from the Bureau of Justice Statistics's (BJS) 2007 National Census of State Prosecutors. Criminal jurisdiction in Indian country is divided among federal, state, and tribal governments. Jurisdiction in a specific incident depends on the nature of the offense, whether the offender or victim was a tribal member, and the state in which the crime occurred.

Crimes committed in Indian country are often subject to concurrent jurisdiction between multiple criminal justice agencies. The Major Crimes Act

(18 U.S.C. § 1153), as amended, grants concurrent federal jurisdiction for 16 major crimes committed by Native Americans occurring in Indian country. State jurisdiction for crimes committed in Indian country is primarily provided for under P.L. 280. Tribal courts maintain concurrent jurisdiction when federal or state jurisdiction is applied.

State prosecutors' offices generally do not have jurisdiction over crimes committed in Indian country due to the sovereign status of federally recognized tribes in the United States. However, state prosecutors' offices in 16 states may exercise jurisdiction over crimes committed on tribal lands under P.L. 280. This law established state jurisdiction over offenses committed by or against American Indians in Indian country, including federally recognized reservations, tribal communities, and identified trust lands. P.L. 280 is mandatory for 6 states and optional for 10 states.

Criminal jurisdiction in Indian country

Tribal jurisdiction

- Crimes committed by Native Americans in Indian country. Sentences are limited to a maximum 3-year sentence of incarceration per count and 9 years per case (124 U.S.C. 2258 § 234 (a) (b)).

Federal jurisdiction

- Pursuant to the Major Crimes Act of 1885, 18 U.S.C. § 1153 and subsequent amendments

State jurisdiction

- All crimes on tribal lands specified under Public Law 83-280, 18 U.S.C. § 1162
- Crimes committed on tribal lands in which neither the victim nor the offender is a tribal member.

Note: Criminal jurisdiction in Indian country depends on several factors, including the identity of the defendant, victim, type of offense, and where the crime was committed.

Highlights

- Ninety-three state court prosecutors' offices in the 16 P.L. 280 states reported jurisdiction for felonies committed in Indian country under P.L. 280.
- Seventy-three percent of offices with jurisdiction in Indian country reported prosecuting at least one felony case committed in Indian country.
- Most offices in P.L. 280 states prosecuted at least one offense involving drugs (63%), domestic violence (60%), or aggravated assault (58%).
- Eighteen offices in mandatory P.L. 280 states with jurisdiction for Indian country prosecuted at least one rape, and 12 offices prosecuted a homicide.
- Of state prosecutors' offices that reported jurisdiction for felony cases in Indian country under P.L. 280, 70% served judicial districts with populations of less than 100,000 residents.
- Offices with jurisdiction for felony crimes committed in Indian country had an average operating budget of \$5.2 million in 2007.

According to the 2002 Census of Tribal Justice Agencies, 94 of the 123 responding tribes in mandatory P.L. 280 states relied on state courts. The 2002 Census was limited to American Indian tribes in the lower 48 states, so tribes in Alaska were excluded. The Census also found that 19 of 90 reporting tribes in optional P.L. 280 states relied on state courts (table 3.1).

The federal government retains criminal jurisdiction for major crimes committed in Indian country in the remaining states where P.L. 280 does not apply. States retain jurisdiction for non-Indian crimes (those in which neither the offender nor the victim is a tribal member) committed in Indian country.* In 2007, 1,548 state court prosecutors' offices were in states not affected by P.L. 280 and were excluded from this report.

The 93 state prosecutors' offices reporting jurisdiction under P.L. 280 in mandatory and optional states represent 14% of all state prosecutors' offices in states affected by P.L. 280. Nearly all of these served districts that overlapped with or were adjacent to tribal lands (figure 3.1).

Approximately a fifth of state prosecutors in mandatory P.L. 280 states reported jurisdiction for crimes committed in Indian country

P.L. 280 gave select states legal jurisdiction over tribal members to prosecute crimes occurring on the reservation under existing state laws. These mandatory P.L. 280 states include California, Minnesota (except the Red Lake Reservation), Nebraska, Oregon (except the Warm Springs Reservation), Wisconsin, and Alaska (table 3.2).

*Some tribes have been affected by states that have received a federal mandate to exercise jurisdiction outside of P.L. 280, e.g., through state-wide enactments, restoration acts, or land claims settlement acts (Tribal Court Clearinghouse, 2010, www.tribal-institute.org/lists/jurisdiction.htm).

TABLE 3.1
Number of tribes participating in the Census of Tribal Justice Agencies in Indian Country, by P.L. 280 status, type of court systems, and state, 2002

	Participating in census	Number of tribes using—				
		Tribal justice systems	Indigenous courts	CFR courts ^a	Tribal courts	Relying on state courts ^b
Mandatory states	123	39	8	9	37	94
California	88	7	2	7	7	74
Minnesota	12	12	3	0	12	4
Nebraska	4	3	0	2	3	2
Oregon	8	8	1	0	8	6
Wisconsin	11	9	2	0	7	8
Optional states	90	80	13	11	74	19
Arizona	17	16	3	0	16	0
Florida	1	0	0	0	0	1
Idaho	4	4	1	0	4	1
Iowa	1	0	0	0	0	1
Montana	6	6	1	0	5	0
Nevada	16	14	1	4	13	6
North Dakota	3	3	0	0	3	0
South Dakota	9	9	0	2	9	0
Utah	4	2	0	2	2	2
Washington	29	26	7	3	22	8

Note: The 2002 Census of Tribal Justice Agencies was limited to American Indian tribes in the lower 48 states.

Source: Table reproduced from *Census of Tribal Justice Agencies in Indian Country, 2002*, NCJ 205332, BJS Web, December 2005.

^aCourt of Federal Regulations (CFR) operated by the Bureau of Indian Affairs (BIA).

^bTribes that rely on state court for judicial services (e.g., felony courts, court-ordered treatment, and child support enforcement).

TABLE 3.2
State prosecutors' offices with jurisdiction for crimes committed in Indian country, by P.L. 280 status and state, 2007

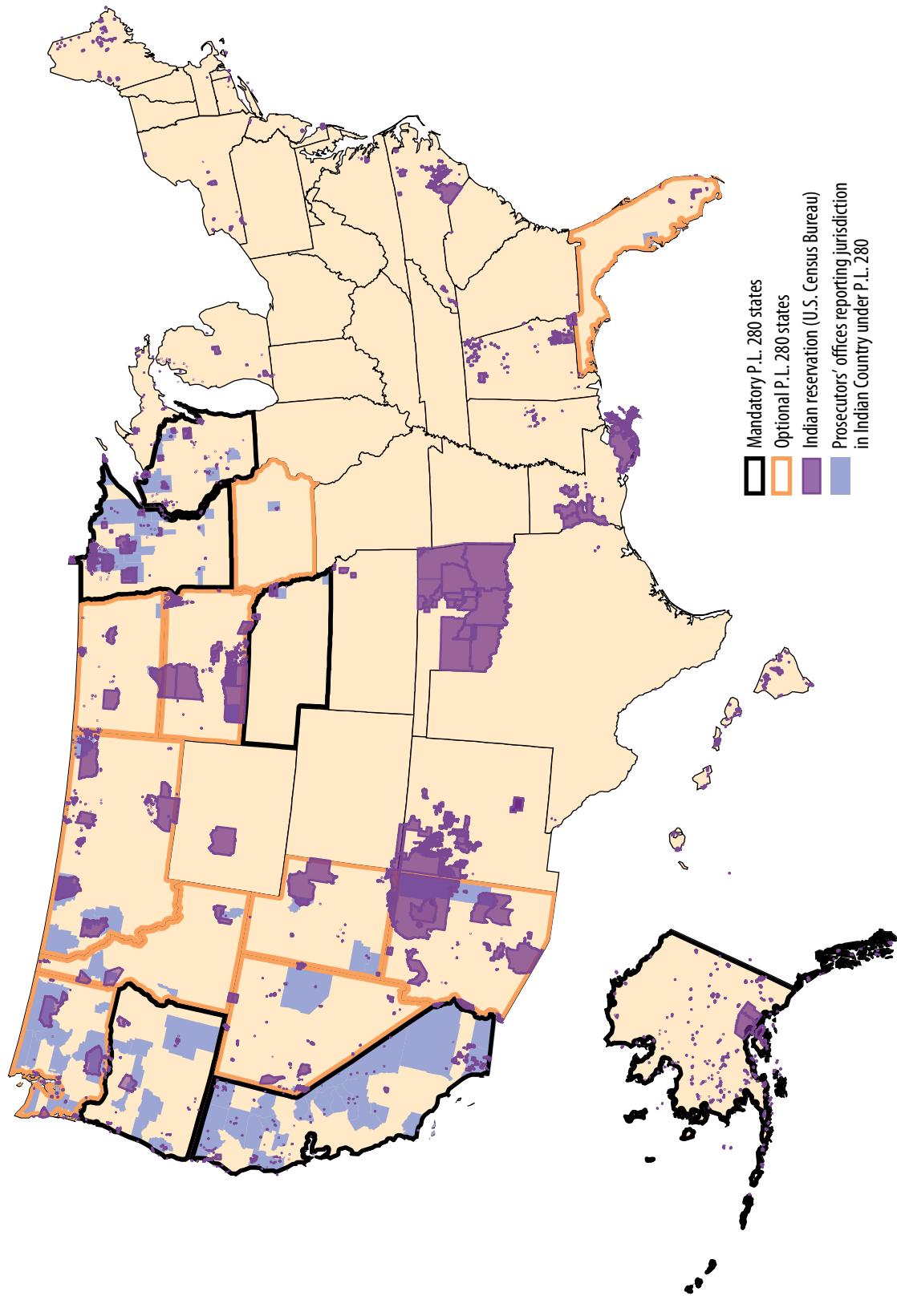
	All prosecutors' offices in P.L. 280 states*	Number of offices—	
		With jurisdiction for felony cases occurring in Indian country under P.L. 280	Prosecuting at least one felony case
All P.L. 280 states	672	93	68
Mandatory states	294	56	47
Alaska	1	1	--
California	48	23	21
Minnesota	76	15	15
Nebraska	81	3	1
Oregon	31	7	4
Wisconsin	57	7	6
Optional states	378	37	21
Arizona	11	1	1
Florida	16	1	1
Idaho	34	6	4
Iowa	93	1	1
Montana	46	5	1
Nevada	15	2	0
North Dakota	43	2	1
South Dakota	58	1	1
Utah	26	3	2
Washington	36	15	9

Note: The 2007 Census of State Court Prosecutors included 2,330 offices, 66% (1,548) of which were located in states not affected by P.L. 280, and therefore were excluded from all analyses.

--No information reported.

*Excludes data missing for 110 offices.

FIGURE 3.1
State prosecutors' offices reporting jurisdiction in Indian country under P.L. 280, 2007



Note: Prosecutors' offices in non-P.L. 280 states are not shown.

Source: Bureau of Justice Statistics

In 2007, 19% of all state prosecutors' offices in mandatory P.L. 280 states reported jurisdiction for felony cases occurring in Indian country.

P.L. 280 permitted other states to acquire either complete or partial jurisdiction over crimes committed in Indian country at their option: Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah, and Washington. Ten percent of all prosecutors' offices in optional P.L. 280 states reported jurisdiction for felony cases in Indian country in 2007.

About three-quarters of offices with P.L. 280 jurisdiction prosecuted a felony case from Indian country in 2007

Sixty-eight of the 93 prosecutors' offices with jurisdiction in Indian country reported prosecuting at least one felony case committed in Indian country in 2007. Forty-seven offices in mandatory P.L. 280 states reported prosecuting at least one offense committed in Indian country, and

21 offices in optional P.L. 280 states reported prosecuting at least one offense committed in Indian country in 2007.

Most offices in mandatory P.L. 280 states with jurisdiction for felony offenses in Indian country also reported prosecuting at least one drug-related crime (42 of 56 offices), domestic violence offense (40), aggravated assault (38), parole or probation violation (31), or a crime involving sexual assault or sexual abuse (30) ([figure 3.2](#)).

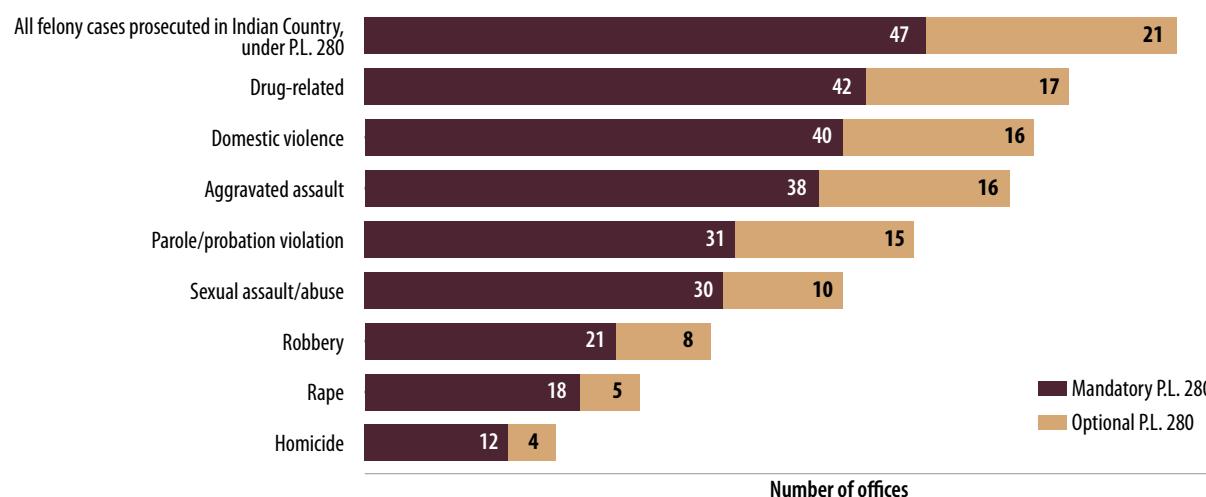
Offices in mandatory P.L. 280 states with jurisdiction for Indian country also reported prosecuting serious felony offenses, including 18 offices that prosecuted at least one rape committed in Indian country and 12 offices that prosecuted a homicide.

Prosecutors' offices with jurisdiction in Indian country had an average of 16 assistant prosecutors on staff

The 2007 National Census of State Prosecutors collected operational and administrative information from state prosecutors' offices, including budgets, staffing, and caseload. Offices reporting jurisdiction for crimes committed under P.L. 280 were not asked to disaggregate office resources or operations by whether they were directed toward crimes committed in Indian country or elsewhere in the judicial district.

The census asked respondents to provide or estimate the total number of felony cases closed in 2007. The survey did not ask respondents to provide information on the number of cases that arose from crimes committed in Indian country. This section describes the entire operations of the state prosecutors' offices reporting jurisdiction under P.L. 280, not operations specific to crimes committed in Indian country.

FIGURE 3.2
State prosecutors' offices reporting prosecution of specific crimes in Indian country, by P.L. 280 status, 2007



Most (71) state prosecutors' offices that reported jurisdiction for felony cases occurring in Indian country under P.L. 280 served judicial districts with populations of less than 100,000 residents or were part-time offices. In mandatory P.L. 280 states, 7 of the 56 offices with jurisdiction in Indian country served districts with 250,000 or more residents (**table 3.3**).

Offices with jurisdiction for felony crimes committed in Indian country had an average 2007 budget of \$5.2 million, or an expenditure of about \$31 per district resident. The median budget was \$722,000. The office staff included an average of 16 assistant prosecutors, 3 victim advocates, 4 legal services staff, and 19 support staff (**table 3.4**).

Offices in mandatory P.L. 280 states reported an average of 61 total staff, including 19 assistant prosecutors, 8 investigators, and 22 support staff. Offices in optional P.L. 280 states reported an average of 38 total staff, 11 assistant prosecutors, 1 investigator, and 14 support staff.

Offices in mandatory P.L. 280 states, reported closing a similar number of felony cases in 2007 compared to optional state offices. State prosecutors' offices in optional P.L. 280 states closed 1,784 felony cases in 2007, while offices in mandatory P.L. 280 states closed 1,699 felony cases.

TABLE 3.3
Type of state prosecutors' offices reporting jurisdiction in Indian country, by P.L. 280 status, 2007

Population served	Total	P.L. 280 Status	
		Mandatory	Optional
All offices	93	56	37
Full-time offices serving a judicial district with—			
1 million or more residents	4	2	2
250,000 to 999,999	5	5	0
100,000 to 249,999	13	8	5
99,999 or fewer	65	37	28
Part-time offices*	6	4	2

*Part-time offices are defined as those that reported a part-time chief prosecutor in 2007.

TABLE 3.4
Budget, staffing, and caseload of state prosecutors' offices, by P.L. 280 status, 2007

	P.L. 280 status					
	Total		Mandatory		Optional	
	Mean	Median	Mean	Median	Mean	Median
Total resident population served	156,495	28,893	177,407	28,965	124,846	28,606
Total operating budget	\$5,173,831	\$722,208	\$6,560,838	\$735,735	\$3,074,577	\$670,000
Budget per resident population served	\$31	\$26	\$35	\$27	\$25	\$24
Total staff ^a	51	12	61	12	38	12
Chief prosecutor	1	1	1	1	1	1
Assistant prosecutors	16	3	19	4	11	3
Civil prosecutors	2	0	1	0	4	1
Supervisors	2	1	2	0	2	1
Managers	1	0	1	0	0	0
Victim advocates	3	1	3	1	2	1
Legal services	4	0	3	0	4	1
Investigators	5	0	8	0	1	0
Support staff	19	3	22	4	14	3
Felony cases closed ^b	1,733	300	1,699	300	1,784	275

Note: Statistics include imputed data for some offices. Data were missing for 3 offices that did not provide total operating budget, 1 office that did not provide staffing information, and 6 offices that did not provide the number of felony cases closed. See *Methodology* for more information.

^aAll staff statistics are presented as full-time equivalent staff, calculated as the number of full-time staff plus 50% of the number of half time staff.

^bIncludes all cases charged as a felony that had a judgment of conviction, acquittal, or dismissal, with or without prejudice, entered by the court. Cases closed include all felony cases closed by the prosecutors' offices and include an unknown number of cases committed in Indian country.

Methodology

The 2007 National Census of State Court Prosecutors (NCSP-07) surveyed 2,330 chief prosecutors in the United States who handled felony cases in state courts of general jurisdiction. The census did not include municipal attorneys or county attorneys who primarily operate in courts of limited jurisdiction. This report describes characteristics of offices that reported jurisdiction for crimes committed in Indian country under P.L. 280 in 2007. Most (66%) state court prosecutors' offices included in the 2007 census were in states not affected by P.L. 280 and are excluded from this report.

The operational and administrative characteristics described in this report represent the functions of the entire office and are not restricted to those functions, staff, budget, or other resources specifically devoted to crimes committed in Indian country, unless otherwise noted.

Data Imputations

BJS relied on previously reported data and valid office characteristics to impute values for critical variables where missing. These critical variables, found in Table 3.4, include

the total operating budget, total staff, full- or part-time status of chief prosecutor, number of assistant prosecutors, and number of felony cases closed. Critical variables that were missing in 2007 were imputed from the same office's response to the 2001 Census of State Prosecutors wherever possible.

For each jurisdiction with valid 2001 and 2007 data, an adjustment ratio was calculated as the ratio of the critical variable's 2001 value to its 2007 value. All ratios greater than the 90th percentile were discarded for imputation purposes. For those offices missing 2007 data, a hot deck imputation procedure was employed to impute the adjustment ratio value from the office's nearest neighbor in terms of state and population size. Where there were no suitable donors in the same state, a donor of similar population size was used. The 2001 data were then adjusted using the imputed adjustment ratio to create the imputed 2007 value for the critical variable where missing. This procedure was followed for 3 offices missing total operating budget, 1 office missing staffing information, and 6 offices missing the number of felony cases closed.

Reference

Census of Tribal Justice Agencies in Indian Country, 2002, NCJ 205332, BJS Web, December 2005.



Selected Findings: Jails in Indian Country, 2009

Todd D. Minton, *BJS Statistician*

At midyear 2009, a total of 2,176 inmates were confined in Indian country jails, a 1.9% increase from the 2,135 inmates confined at midyear 2008 (figure 4.1). This count was based on data from 80 facilities, including jails, confinement facilities, detention centers, and other correctional facilities, that were in operation in Indian country at midyear 2009. For 2008, the number of inmates was based on data for 82 facilities in operation at midyear 2008. The number of inmates held in Indian country jails between 2004 and 2009 increased by 25% from 1,745 inmates to 2,176.

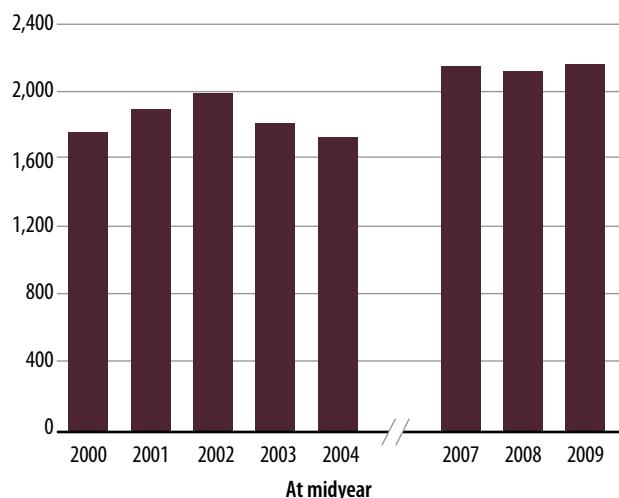
The number of jails in Indian country has increased between 2004 and 2009

The Bureau of Justice Statistics (BJS) collected data from 68 correctional facilities in Indian country in 2004, from 79 in 2007, 82 in 2008, and 80 in 2009. The survey was not conducted in 2005 and 2006. Over the 5-year period, a number of facilities closed and new facilities became operational. Eleven facilities permanently closed between 2004 and 2009, and a total of 21 facilities were newly

FIGURE 4.1

Inmates confined in Indian country jails, midyear 2000-2004 and 2007-2009

Number of inmates



Note: The Survey of Jails in Indian Country was not conducted in 2005 and 2006. Midyear count is the number of inmates held on the last weekday in June.

Highlights

- The number of inmates confined in Indian country jails increased by 1.9% between midyear 2008 and 2009, reaching 2,176 inmates.
- Between June 2008 and June 2009, the average daily jail population in Indian country increased by 12%, and the percentage of occupied bed space increased from 64.2% to 73.5%.
- Eleven jails (14% of all facilities) held 51% of inmates confined at midyear 2009.
- During June 2009, the number of inmates admitted to Indian country jails (11,357) was about 5 times the size of the average daily population (2,124).
- The expected average length of stay increased by a half day from 5.1 days during June 2008 to 5.6 days during June 2009.
- Indian country jail authorities reported no deaths in custody between July 1, 2008, and June 30, 2009, down from 4 reported deaths during the 12-month period ending June 30, 2008.
- Attempted suicides by inmates declined from 78 in 2008 to 56 in 2009.
- Indian country jails held fewer inmates for domestic violence at midyear 2009 (252), continuing the downward trend in the number held for this offense since 2007 (362).
- The percentage of certified correctional officers working in Indian country jails increased steadily, from 63% at midyear 2007 to 79% at midyear 2009.

constructed. BJS estimated inmate population counts for 7 facilities in 2004 and 4 facilities in 2007 that did not respond to the surveys. All known operating facilities responded to the 2008 and 2009 surveys. (See *Methodology* for additional details on facility counts and participation in the surveys.) (See *Methodology in Jails in Indian Country, 2009*, NCJ 232223, BJS Web, February 2010, for additional details on facility counts and participation in the surveys.)

On an average day in June, the percentage of occupied bed space increased from 64.2% to 73.5%

At midyear 2009, the 80 jail facilities in Indian country were rated to hold 2,891 inmates, down from 2,963 in 82 facilities during the same period in 2008

(**table 4.1**). The average daily population (ADP) in June—the population measure used to calculate percent of capacity occupied—increased by nearly 12%, from 1,903 inmates (June 2008) to 2,124 (June 2009), while the capacity to hold inmates decreased by 2%. Consequently, the percentage of rated capacity occupied in Indian country jails increased from 64% to 73% during the period.

On June 30, 2009, the 80 facilities held a total of 2,176 inmates and were operating at 75% of rated capacity, remaining relatively stable since 2007. From June 2004 to June 2009, the overall number of beds (or rated capacity) grew at a faster rate (34%) than the inmate population (25%).

Small number of jails held more than half of the inmate population

Eleven jails held more than half (51%) of the total inmate population at midyear 2009 (**table 4.2**). Between midyear 2008 and midyear 2009, the population in these jails increased by 247 inmates (29%). In 2008, 9 of the 11 facilities held the majority of jail inmates in Indian country.

Over the 365-day period, 6 jails that held the majority of inmates in Indian country in 2008 experienced large declines in their jail populations. The combined decrease in the size of the jail population in these facilities was 33% (90 inmates) from midyear 2008 to midyear 2009.

Among the 11 facilities holding the majority of inmates in 2009, the Gila River Department of Rehabilitation and Supervision - Adult facility reported the largest decline (30 inmates or 17%) in the number of jail inmates. The jail population in this facility has decreased by 92 inmates (38%) from its peak of 241 inmates reported at midyear 2007.

TABLE 4.1
Inmates, rated capacity, and percent of capacity occupied in Indian country jails, 2004 and 2007–2009

	2004	2007	2008	2009
Number of inmates				
Midyear ^a	1,745	2,163	2,135	2,176
ADP ^b	1,622	2,046	1,903	2,124
Rated capacity	2,162	2,900	2,963	2,891
Percent of capacity occupied^c				
Midyear	80.7%	74.6%	72.1%	75.3%
ADP	75.0	70.6	64.2	73.5
Number of operating facilities	68	79	82	80

^aMidyear count is the number of inmates held on the last weekday in June.

^bAverage daily population (ADP) is the sum of the number of inmates held on each day in June, divided by 30.

^cPopulation as a percent of capacity occupied is calculated by dividing the population count of a facility by its rated capacity and multiplying by 100.

TABLE 4.2
Jails in Indian country that held the majority of inmates in 2009 compared to 2008, by facility

Facility	Custody population at midyear*		Change in population	
	2008	2009	Number	Percent
Total, 11 facilities	859	1,106	247	29%
Tohono O'odham Adult Detention Center (AZ)	137	192	55	40%
Gila River Department of Rehabilitation and Supervision - Adult (AZ)	179	149	-30	-17
San Carlos Department of Corrections and Rehabilitation - Adult and Juvenile Detention (AZ)	88	147	59	67
Truxton Canyon Adult Detention Center (AZ)	39	105	66	169
White Mountain Apache Detention Center (AZ)	101	95	-6	-6
Oglala Sioux Tribal Offenders Facility (SD)	52	95	43	83
Standing Rock Law Enforcement and Adult Detention Center (ND)	71	93	22	31
Nisqually Adult Corrections (WA)	59	73	14	24
Menominee Tribal Detention Facility (WI)	54	53	-1	-2
Navajo Department of Corrections - Shiprock Police Department and Adult Detention (NM)	46	52	6	13
Laguna Tribal Police and Detention Center (NM)	33	52	19	58

Note: Based on facilities that held the most inmates on June 30, 2009.

*Midyear count is the number of inmates held on the last weekday in June.

Two facilities, the Truxton Canyon Adult Detention Center and the Laguna Tribal Police and Detention Center, were among the 11 facilities holding the majority of jail inmates in 2009. These 2 facilities were not among the 11 facilities holding the majority of inmates in 2008. (See *Jails in Indian Country, 2008*, BJS Web, December 2008.)

The Truxton Canyon Adult Detention Center reported the largest increase in the inmate population (66 inmates or 169%) between midyear 2008 and midyear 2009. The Laguna Tribal Police and Detention Center increased by 58% (19 inmates) between 2008 and 2009.

Based on the 80 facilities responding to the survey in both 2008 and 2009, the overall change in the inmate population (up 45 inmates) was relatively small. Thirty-three facilities, which were mostly the larger facilities, accounted for this increase (not shown in table).

Change in the size of the jail population in Indian country was varied. More than half of the 80 jails experienced either a decline (40 jails) or no change (7 jails) in the size of their inmate population over the 12-month period ending midyear 2009. Overall, the 50% increase (415 inmates) in the jail population in 33 jails was offset by a 30% decline (370 inmates) in 40 jails.

The use of jail space varied by facility size

Indian country jails rated to hold 25 to 49 inmates were operating at 89% of their rated capacity on June 30, 2009, and at 79% on an average day in June. An average day in June was based on the ADP, or the sum of the numbers held on each day in June divided by 30. In contrast, the lowest percentage of capacity occupied during June 2009 was among the 11 small jails rated

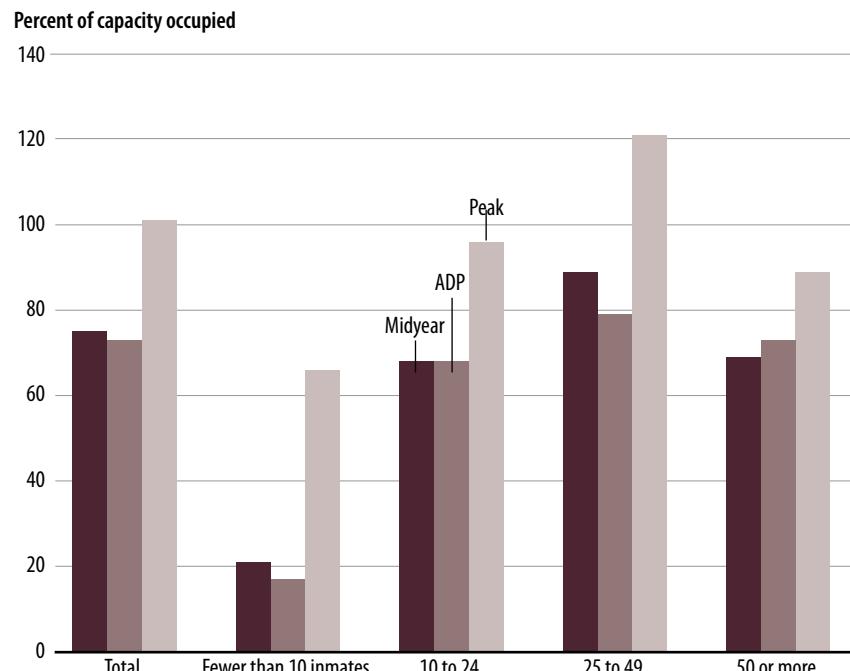
to hold fewer than 10 inmates. These facilities were operating at 21% of rated capacity at midyear and at 17% of capacity on an average day in June 2009 (**figure 4.2**).

Compared to facilities in all other size categories, the large jails with a rated capacity of 50 or more inmates reported the only increase in occupied bed space between 2008 and 2009. The percentage of capacity occupied in these jails

increased from 51% to 69% during the 12 months ending at midyear 2009, and from 49% to 73% on an average day in June 2008 and 2009.

The amount of bed space occupied was also measured based on a facility's most crowded day in June. Nearly half (38 facilities) of the 80 facilities in Indian country were operating above rated capacity on the most crowded day in June (**table 4.3**). Of those

FIGURE 4.2
Rated capacity occupied, by type of inmate count, June 2009



Note: Rated capacity is the maximum number of beds or inmates assigned by a rating official. Midyear count is the number of inmates held on the last weekday in June. Average daily population (ADP) is the sum of the number of inmates held on each day in June divided by 30. Peak population is the population held on the day in June in which the custody population of a facility was the largest.

TABLE 4.3
Number of Indian country jails, by percent of rated capacity occupied, June 2009

Percent of capacity occupied ^a	Number of jails		
	Midyear ^b	ADP ^c	Peak ^d
Less than 25%	17	20	7
25-49%	15	11	8
50-74%	19	21	15
75-100%	11	15	12
More than 100%	18	13	38

^aPopulation as a percent of capacity occupied is calculated by dividing the population count of a facility by its rated capacity and multiplying by 100.

^bMidyear count is the number of inmates held on the last weekday in June.

^cAverage daily population (ADP) is the sum of the number of inmates held on each day in June, divided by 30.

^dPeak population is the population held on the day in June in which the custody population of a facility was the largest.

facilities, 18 were operating above rated capacity on June 30, and 13 were operating above rated capacity on an average day during June 2009.

High volumes of admissions of inmates were processed through Indian country jails

Eighty Indian country jails admitted 11,357 persons during June 2009, up slightly from 11,149 admissions in 81 facilities during June 2008 (**table 4.4**). The number of admissions grew by 1.6% in the 79 facilities that reported data on admissions in both June 2009 (11,323) and June 2008 (11,147) (not shown in table).

Admissions to facilities rated to hold between 25 to 49 inmates accounted for about 48% (5,503) of all admissions in June 2009, down from 59% of all admissions in June 2008. The largest Indian country jails accounted for less than 20% of all facilities and reported a total increase of nearly 75% in the number of jail

admissions during the 12-month period. Admissions to the largest Indian country jails increased from 1,915 inmates to 3,342 from June 2008 to June 2009. The 15 jails rated to hold 50 or more inmates had the highest average number of admissions per month (233), compared to jails in all other size categories (not shown in table).

Inmate deaths and attempted suicides in Indian country jails declined

Indian country jail authorities reported no deaths in custody between July 1, 2008, and June 30,

2009, down from 4 reported deaths during the 12-month period ending June 30, 2008. Attempted suicides by inmates declined from 78 in 2008 to 56 in 2009.

Expected length of stay was 5.6 days for Indian country jail inmates in June 2009

During June 2009, the expected average length of stay for inmates confined in Indian country jails was 5.6 days, up from 5.1 days during June 2008. Length of stay is the time held in custody from admission to release. The expected length of stay for inmates was the highest (9.1 days)

TABLE 4.4
Admissions and expected length of stay in Indian country jails during June, by facility size, June 2009

Facility size ^a	Number of facilities	ADP ^b	Estimated June admissions	Expected average length of stay ^c
Total	80	2,124	11,357	5.6 days
Fewer than 10 inmates	11	9	133	2.1
10 to 24	24	276	2,379	3.5
25 to 49	30	820	5,503	4.5
50 or more	15	1,018	3,342	9.1

Note: Detail may not sum to total due to rounding.

^aBased on the rated capacity, the maximum number of beds or inmates assigned by a rating official.

^bAverage daily population (ADP) is the sum of the number of inmates held on each day in June, divided by 30.

^cExpected length of stay was calculated by dividing the average daily population (ADP) by the number of June admissions, and multiplying by 30. See *Methodology in Jails in Indian Country, 2009* for details on estimating expected length of stay.

in facilities that were rated to hold 50 or more inmates, down from 10.3 days in June 2008. Inmates held in jails rated to hold less than 10 inmates experienced the shortest expected length of stay (2.1 days).

Inmate characteristics remain relatively unchanged; the number held for domestic violence declined

Inmate characteristics by sex, age, and offense have changed in absolute numbers since 2000 ([table 4.5](#)). However, the distribution within most categories remained stable between 2000 and 2008, with a change in the distribution of inmates by sex, conviction status, and offense type at midyear 2009.

Adult males accounted for the largest portion of the inmate population in Indian country jails during the decade. The female jail population had small but steady increases from midyear 2000 to 2008, with a nearly 8% decrease in the size of this population between midyear 2008 and midyear 2009. Except for one juvenile female inmate, the decline was entirely among the adult female jail population.

The percentage of convicted inmates increased from 57% in 2002 to 69% in 2009. Inmates confined for a violent offense made up about 37% of the jail population at midyear 2009, down from 41% at midyear 2008. Most

(75%) of this decline was among the population held for domestic violence. Domestic violence (12%) and simple or aggravated assault (15%) accounted for the largest percentage of violent offenders held in 2009, followed by unspecified violent offenses (8%) and rape or sexual assault (2%).

Since peaking at midyear 2007, the percentage of inmates held for domestic violence has steadily declined, from 20% in 2007 to 12% in 2009. The Gila River Department of Rehabilitation and Supervision - Adult accounted for a large portion of the decline in domestic violence offenders between 2007 and 2009.

TABLE 4.5
Number of inmates confined in Indian country jails, by demographic characteristic, conviction status, and offense, midyear 2002, 2004, and 2007–2009

Characteristic	Number of inmates held at midyear ^a						Percent of inmates held at midyear					
	2000	2002	2004	2007	2008	2009	2000	2002	2004	2007	2008	2009
Total	1,775	2,006	1,745	1,996	2,135	2,176	100%	100%	100%	100%	100%	100%
Sex												
Male	1,421	1,618	1,346	1,582	1,678	1,754	80%	81%	77%	79%	79%	81%
Female	354	388	398	414	457	422	20	19	23	21	21	19
Age group/sex												
Adults	1,498	1,699	1,546	1,743	1,882	1,919	84%	85%	89%	87%	88%	88%
Male	1,214	1,399	1,222	1,415	1,498	1,571	68	70	70	71	70	72
Female	284	300	324	328	384	348	16	15	19	16	18	16
Juveniles	277	307	198	253	253	257	16	15	11	13	12	12
Male	207	219	124	167	180	183	12	11	7	8	8	8
Female	70	88	74	86	73	74	4	4	4	4	3	3
Conviction status												
Convicted	1,072	1,120	966	1,116	1,340	1,496	61%	57%	58%	59%	63%	69%
Unconvicted	689	857	697	763	776	680	39	43	42	41	37	31
Type of offense												
Domestic violence	...	291	257	362	307	252	...%	15%	18%	20%	15%	12%
Assault	190	233	308	299	13	13	15	15
Rape or sexual assault	34	45	42	42	2	2	2	2
Other violence	79	108	177	168	6	6	9	8
DWI/DUI ^b	274	226	195	137	184	229	17	11	14	8	9	11
Drug law violation	133	126	104	132	104	107	8	6	7	7	5	5
Other	569	804	954	955	40	44	46	47
Offense not reported	317	175	59	124	/	/	/	/	/	/

Note: Detailed characteristics may not be equal to the total number of confined inmates because of incomplete data. See appendix tables 1-3 in *Jails in Indian Country, 2009*, NCJ 232223, BJS Web, February 2011, for a list of all facilities and inmate characteristics.

^aMidyear count is the number of inmates held on the last weekday in June.

^bIncludes driving while intoxicated and driving while under the influence of drugs or alcohol.

...Not collected.

/Not reported.

It reported a 38% decrease in the confined inmate population between midyear 2007 (241) and midyear 2009 (149), and a 74% decline in the number of inmates held for a domestic violence (from 180 inmates in 2007 to 46 in 2009).

The number of certified correctional officers and in-service training steadily increased

Seventy-nine Indian country jails employed 1,332 persons at midyear 2009 (**table 4.6**). About 69% (916) of

all personnel were jail operations staff, including correctional officers and other staff who spent more than 50% of their time supervising inmates. The remaining 416 jail personnel included administrative employees, educational staff, technical or professional staff, clerical, maintenance, or food service staff, and other job functions. Overall, the ratio of inmates to jail operations employees was 2.4 inmates to 1 employee at midyear 2009, remaining relatively stable since 2008 (2.3 to 1) and 2004 (2.5 to 1).

Seventy-six facilities reported that 710 (79%) correctional officers received basic detention officer certification, up from 69% in 2008 and 63% in 2007 (not shown). Seventy-four facilities reported that 750 (84%) correctional officers received 40 hours of in-service training, up from 74% in 2008 and 70% in 2007.

TABLE 4.6
Persons employed in Indian country jails, by job function, midyear 2009

Job function	Number	Percent
Total ^a	1,332	100%
Administrative ^b	136	10.2%
Jail operations	916	68.8
Educational staff	29	2.2
Technical/professional	51	3.8
Clerical/maintenance/food service	173	13.0
Number of inmates per jail operations staff	2.4	

^aIncludes 27 other persons with unspecified functions not shown in table.

^bIncludes jail administrators, assistants, and other personnel who work in an administrative capacity more than 50% of the time.

Methodology

The Annual Survey of Jails in Indian Country (SJIC) includes all known Indian country correctional facilities operated by tribal authorities or the Bureau of Indian Affairs (BIA), U.S. Department of the Interior. The survey was conducted in June 2009, and included the number of inmates and percent of capacity occupied based on the ADP, midyear population, and peak population in facilities in June 2009. (See table 10 in *Jails in Indian Country, 2009*, BJS Web, February 2011.)

Through a cooperative agreement with the Bureau of Justice Statistics (BJS), Westat, Inc. conducted the SJIC to describe all adult and juvenile jail facilities and detention centers in Indian country. For this report, Indian country includes reservations, pueblos, rancherias, and other appropriate areas (18 U.S.C. § 1151). The reference date for the survey is June 30, 2009.

Annually, BIA provides BJS a list of Indian country jail facilities, including detention centers, jails, and other correctional facilities operated by tribal authorities or BIA. BJS uses this list to update its existing roster of jails in Indian country. BJS obtains data from administrators of Indian country jails by mailed questionnaires and through follow-up phone calls and facsimiles.

In 2004, BJS contacted administrators in 70 facilities to participate in the survey. BJS received responses from 61 facilities; 7 did not respond, and 2 facilities were non-operational. In 2007, the BJS roster consisted of 86 facilities. Seventy-nine of the facility administrators responded to the survey; 4 did not respond, and BJS found that 3 facilities were non-operational. In 2008, BJS's roster of Indian country jails consisted of 85 facilities. BJS received responses from 82 facility administrators; there were no nonrespondents, and 3 facilities were non-operational. For 2009, the BJS roster consisted of 86 facilities. BJS received responses from 80 facility administrators; there were no nonrespondents, and 6 facilities were non-operational.

For comparison over time, BJS estimated data on inmate populations for the 7 facilities in 2004 and 4 facilities in 2008 that did not respond to the surveys.

Expected length of stay

The stock-flow ratio method was used to measure the expected average length of stay for inmates held during June 2009 in the 80 Indian country jails that responded to stock and flow items in the survey:

Stock—average daily population

Flow—inmate admissions during June 2009

Stock-flow ratio in June 2009
 $(2,124/11,357=0.187)$

Expected length of stay in days (0.187×30)—is the average number of days held in custody from admission to release.

Indian country is a statutory term that includes all lands within an Indian reservation, dependent Indian communities, and Indian trust allotments (18 U.S.C. § 1151). Courts interpret Section 1151 to include all lands held in trust for tribes or their members. (See United States v. Roberts, 185 F.3d 1125 (10th Cir. 1999).) Tribal authority to imprison American Indian offenders is limited to one year per offense by statute (25 U.S.C. § 1302), a \$5,000 fine, or both.

Tribal law enforcement agencies act as first responders to both felony and misdemeanor crimes. For most of Indian country, the federal government provides felony law enforcement concerning crimes by or against Indians. Certain areas of Indian country are under Public Law 83-280, as amended. P.L. 280 conferred jurisdiction on certain states over Indian country and suspended enforcement of the Major Crimes Act (18 U.S.C. § 1153) and the General Crimes Act (18 U.S.C. § 1152) in those areas. Indian tribes retain concurrent jurisdiction to enforce laws in Indian country where P.L. 280 applies.



Summary: Tribal Youth in the Federal Justice System

Mark Motivans, Ph.D., and Howard Snyder, Ph.D., *BJS Statisticians*

The federal criminal justice response to tribal youth varies by the state in which the offense occurred, the nature of the offense, the availability of community- and confinement-based services, and discretionary decisions made by tribal, state, and federal justice agencies. Cases involving tribal youth in the federal system may result in 1) a delinquency adjudication and court-ordered supervision and out-of-home placement, or 2) the youth being transferred to adult status and prosecuted and sentenced as an adult.

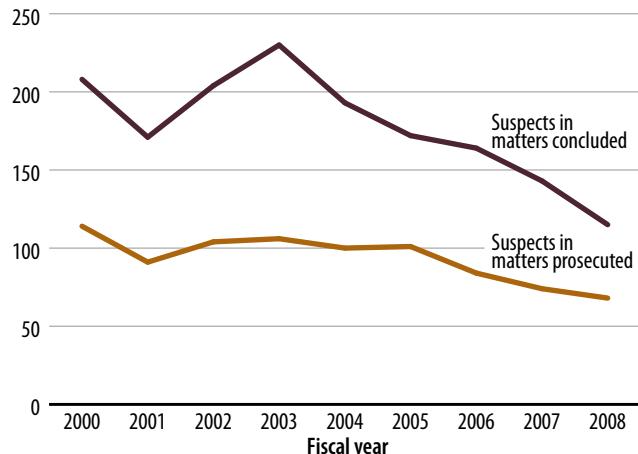
This summary describes the federal response to tribal youth during the case-processing stages from investigation to corrections. In this report, a federal juvenile delinquent is a person who has committed an offense while under age 18, and the federal prosecutor has certified a federal basis for jurisdiction. Juvenile and youth are used interchangeably in this report.

The number of tribal youth in matters concluded by federal prosecutors and the total number of tribal youth prosecuted decreased from 2003 to 2008 (figure 5.1). Tribal youth in matters concluded by federal prosecutors dropped to 115 in 2008, down from 230 in 2003.

FIGURE 5.1

Tribal youth in matters concluded and in matters prosecuted by U.S. attorneys, 2000–2008

Number of tribal youth



Source: Urban Institute analysis. See *Methodology* for more information.

Findings presented in this report are mostly from a recent study conducted by The Urban Institute under a cooperative agreement with the Bureau of Justice Statistics (BJS). The study was also sponsored by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). See page 43 for more information.

Highlights

- In 2008, relatively few juveniles were referred to federal prosecutors (315 out of 178,570 suspects) or admitted to federal prison jurisdiction (156 out 71,663 offenders).
- Tribal youth (70) comprised nearly half of juveniles (152) handled by the federal courts in 2008.
- Federal judicial districts of Arizona, Montana, South Dakota, New Mexico, and North Dakota accounted for 94% of tribal youth investigated, 92% of those prosecuted, and 88% of those admitted to federal prison jurisdiction in 2008.
- In 2008, about 72% of tribal youth were investigated for violent offenses, including sexual abuse (35%), assault (20%), and murder (17%).
- About 40% of matters involving tribal youth were declined by federal prosecutors in 2008.
- A greater share of cases involving tribal youth in U.S. district courts were terminated by conviction (91%) than by dismissal (9%).
- From 1994 to 2008, the lowest number of tribal (72) and non-tribal youth (84) admitted to the jurisdiction of federal prison authorities occurred in 2008.
- Admissions to federal prison jurisdiction among tribal youth declined 10% per year from 1999 to 2008, while non-tribal youth admissions declined 12% per year.
- In 2008, tribal youth served an average of 26 months under federal jurisdiction, which was more than double the tribal justice system maximum sentence of 12 months.

Tracking tribal youth through the stages of the federal criminal case process

The federal criminal justice system is not currently well-equipped to monitor how tribal juvenile offenders are processed across stages. There is a lack of unified, system-wide data standards in reporting how youth—especially tribal youth—are handled in the federal system. Juveniles or offenses committed in Indian country are not systematically tracked across the federal justice agencies. Researchers have to devise analytic methods to identify tribal youth using administrative data from each criminal justice stage (arrest, sentencing, and corrections).

How is federal jurisdiction over tribal juvenile delinquents determined?

The determination of jurisdiction over offenses occurring in Indian country is first subject to whether state courts have jurisdiction based on Public Law 280 (P.L. 280).¹ If a state has P.L. 280 status, jurisdiction over offenses occurring in Indian country lies with the state or tribal courts, not the federal courts. The determination of whether federal jurisdiction applies next depends on the offender and victim in the crime:

- If the offender is a juvenile tribal member and the victim is also a tribal member, and the offense is 1 of 15 crimes covered by the Major Crimes Act then jurisdiction is with both the tribal and federal courts.²
- If the offender is a juvenile tribal member and the victim is a non-tribal member, and the crime is covered by the Major Crimes Act or federal enclave status, then federal and tribal courts have shared jurisdiction. The Assimilative Crimes Act permits state law to be applied in federal court where the Major Crimes Act does not apply but federal interest exists.
- If the crime involves a non-tribal offender and a tribal member victim, then federal courts have exclusive jurisdiction.

Once federal jurisdiction has been established, the Federal Juvenile Delinquency Act (FJDA) provides the procedures to bring the tribal youth to federal court. A federal juvenile delinquent is defined as a person who has committed an offense while less than 18 years old, but has not reached age 21 at sentencing. Juvenile and youth are used interchangeably in this report.

¹Congress passed Public Law 280 in 1953, which relinquishes the federal government of criminal and civil jurisdiction in certain states and places jurisdiction with those states.

²The Major Crimes Act provides federal jurisdiction over certain offenses committed by tribal members. (See Title 18 U.S.C. §§ 1152, 1153.)

How are juveniles handled in the federal justice system?

Most juveniles, or persons under age 18, in the United States are handled in state or local courts, which have a separate juvenile justice system, rather than in the federal courts. Federal law permits handling of juveniles in the federal system only in limited circumstances. Apart from those committing crimes in Indian country or on military bases, juveniles that commit offenses as members of drug trafficking gangs, violent criminal gangs, or other federal offenses may be subject to federal jurisdiction. In these cases, the U.S. attorney for each district must certify to the district court that (1) the juvenile court or court of a state does not have jurisdiction or refuses to assume jurisdiction; 2) the state does not have available programs or services adequate for the needs of juveniles; or 3) the offense charged is a felony crime of violence or specified drug offenses, and there is substantial federal interest in the case.

In what circumstances are tribal and non-tribal juveniles transferred to adult status (for prosecution and sentencing as an adult rather than a juvenile delinquent)?

Once federal jurisdiction has been determined and certification of delinquency established, a transfer hearing establishes the status of juveniles as to whether they will be transferred for prosecution as an adult. Felony crimes of violence or drug or firearm offenses trigger eligibility for adult transfer with certain age restrictions. Age thirteen is the minimum age for transfer to adult status for murder and assault, and for robbery, bank robbery, or aggravated sexual abuse with a firearm. An exception is crimes committed in Indian country where the tribe has opted not to permit prosecution of juveniles age 13 as adults. Age fifteen is the minimum age for transfer to adult status for committing any crime of violence (including physical force against a person or property).

A juvenile can be housed in a Federal Bureau of Prisons (BOP) institution at age 18 if sentenced as an adult. BOP does not operate its own facilities for juveniles; rather, they contract with private entities and state and local governments for both secure and non-secure (community-based) juvenile facilities to house tribal and non-tribal youth under their jurisdiction.

Investigation and Prosecution

Tribal police are often the first to respond to a crime in Indian country. Offenses committed by tribal youth may be investigated by a combination of tribal police and federal law enforcement agencies. The federal Bureau of Investigation (FBI) and the Bureau of Indian Affairs (BIA) are the primary federal law enforcement agencies investigating tribal youth matters.

Tribal youth commonly enter the federal justice system with an arrest for a warrant issued on either a complaint or juvenile information (written accusation made by the prosecutor). For serious offenses that may indicate a federal crime, the U.S. attorney's office in the district is notified as is the juvenile's parent/guardian. The juvenile must be taken before a U.S. magistrate as soon as possible, where charges are read and the juvenile is informed of rights. Federal prosecutors next determine if the matter should be adjudicated in federal courts, disposed by U.S. magistrate, or declined for prosecution.

In 2008, 4 in 10 matters involving a tribal youth were declined by federal prosecutors

During 2008, 40% of tribal youth in matters concluded were declined for further prosecution, which was lower than the 46% declination rate for non-tribal youth in 2008. However, the average declination rate for tribal youth (45%) was higher than for non-tribal youth (37%) from 2004 to 2008.

The most common reason for declination of tribal youth matters in 2008 was case related (50%) (table 5.1). Case-related reasons included weak evidence, stale case, witness problems, and jurisdiction or venue problems (figure 5.2). Some declined matters involved tribal youth that

were subsequently referred to other authorities for prosecution, such as to the tribe or the state where the tribe is located.

The share of declinations for tribal youth that were referred to other authorities or received an alternative resolution increased from 13% of all declinations in 2005 to 20% in 2008. Among non-tribal youth, the most common reason for declination (71%) was that the suspect was a juvenile (not shown in table).

Most tribal youth in matters referred to U.S. attorneys were prosecuted by federal prosecutors

In 2008, 59% of tribal youth who were referred to federal prosecutors were prosecuted, which was higher than the 54% prosecution rate for non-tribal youth in 2008 (including matters disposed by U.S.

magistrates). From 2004 to 2008, the average prosecution rate for tribal youth (55%) was comparable to that of non-tribal youth (53%).

Various factors go into the decision to prosecute a matter, including seriousness of the crime, strength of the evidence, youth's criminal history and drug/alcohol use, tribal capacity to prosecute, and tribal preference. Tribes having concurrent jurisdiction with federal jurisdiction may have limitations on available secure placement options and treatment resources. The potential penalty that could be received if a matter was handled in tribal or state venues may also be considered.³

³The Indian Civil Rights Act (Title 25 U.S.C. § 1302(7)), for example, limited tribes in sentencing persons convicted of serious crimes to a maximum of 1 year in jail and a \$5,000 fine. Recently, the Tribal Law and Order Act extended the maximum sentence that a tribe can impose to three years.

TABLE 5.1
Reason for matters declined for prosecution with tribal youth suspects, 2005–2008

Fiscal year	Matters concluded	Number of declinations	Total	Reasons for declinations				
				Case-related ^a	Suspect-related ^b	No crime	Referred to other authorities ^c	Other
2005	172	69	100%	58%	10%	9%	13%	10%
2006	164	80	100%	61	10	10	13	6
2007	143	68	100%	47	15	10	18	10
2008	115	46	100%	50	7	15	20	8

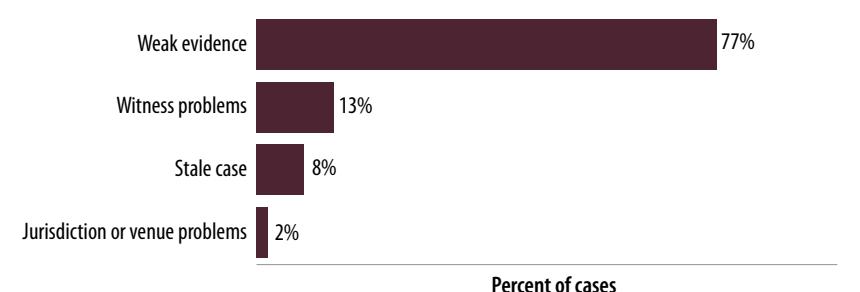
^aIncludes weak evidence, stale case, witness problems, or jurisdiction or venue problems.

^bIncludes age of offender and offender's criminal history and drug/alcohol use.

^cIncludes pretrial alternative resolutions, such as pretrial diversion.

Source: Urban Institute analysis of Executive Office for U.S. Attorneys, National LIONS data base, fiscal years 2005–2008.

FIGURE 5.2
Case-related reasons for matters declined for prosecution with tribal youth suspects, 2005–2008



Source: Urban Institute analysis of Executive Office for U.S. Attorneys, National LIONS data base, fiscal years 2005–2008.

Nearly 9 of 10 tribal youth admitted to Federal Bureau of Prisons jurisdiction from 2006 to 2008 came from five federal judicial districts

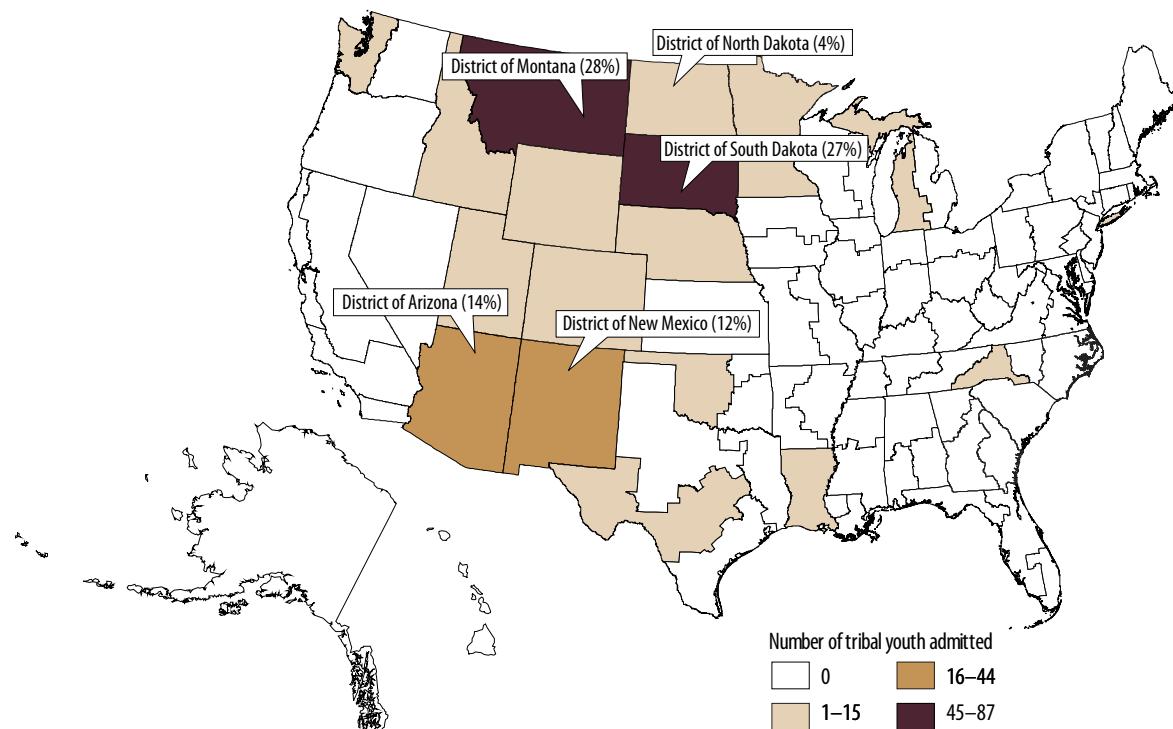
From 2006 to 2008, 85% of tribal youth admitted to the jurisdiction of the Federal Bureau of Prisons (BOP) were from these five federal judicial districts: Arizona, Montana, New Mexico, North Dakota, and South Dakota (**figure 5.3**).

The most recent tribal population data from the Bureau of Indian Affairs (2005) showed that these five districts

contained 12% of the 590 federally recognized tribal entities and 35% of the more than 1.9 million total tribal enrollment population (**table 5.2**). Thirty-four percent of the enrolled tribal population under age 16 resided on or near reservations in these five federal judicial districts.

FIGURE 5.3

Tribal youth admitted to the jurisdiction of the Federal Bureau of Prisons, and five federal judicial districts that committed the majority of tribal youth, 2006–2008



Source: Bureau of Justice Statistics analysis of data from the Federal Bureau of Prisons, SENTRY database, fiscal years 2006–2008.

TABLE 5.2
Federally recognized tribes and enrolled members, 2005

Federal judicial district	Tribal entities		Tribal enrollment			Tribal population under age 16		
	Number	Percent	Number	Percent	District rank	Number	Percent of total enrollment	District rank
Total	590	100%	1,978,099	100%	~	503,958	100%	~
Arizona	22	3.7%	269,778	13.6%	2	70,854	14.1%	2
New Mexico	25	4.2	174,199	8.8	3	43,234	8.6	4
South Dakota	8	1.4	115,513	5.8	5	27,534	5.5	6
Montana	8	1.4	66,962	3.4	6	14,957	3	9
North Dakota	6	1	58,220	2.9	8	13,851	2.7	10
All other districts	521	88.3	1,293,427	65.4	~	333,528	66.2	~

~Not available.

Source: U.S. Department of the Interior, Bureau of Indian Affairs. *American Indian Population and Labor Force Report, 2005*, available at: <http://www.bia.gov/WhatWeDo/Knowledge/Reports/index.htm>, calendar year 2005.

Adjudication and Sentencing

Federal statutes provide for a youth's release pending trial to a parent/guardian, unless it is determined that detention is necessary to ensure a timely appearance or to ensure safety of juveniles or others (Title 18 U.S.C. § 5034). The federal pretrial services agency oversees supervision of the youth on pretrial release. For juveniles detained, a foster home or community-based facility near the youth's home community is sought. Pretrial juveniles are not to be detained in facilities permitting regular contact with adult offenders nor with other juveniles who have been adjudicated.

In 2008, 91% of cases terminated in U.S. district court involving tribal youth resulted in conviction

Most (91%) tribal youth cases terminated ended in conviction in 2008. Most of the convictions were the result of a guilty plea (88%) than a determination of guilt at trial (3%). In comparison, 95% of non-tribal youth were convicted in 2008, with 91% resulting from guilty pleas and 5% following trial. From 2004 to 2008, the average conviction rate for tribal youth (92%) was higher than for non-tribal youth (87%).

In juvenile adjudication proceedings, the judge has the discretion to impose an out-of-home placement, probation and conditions of probation, or

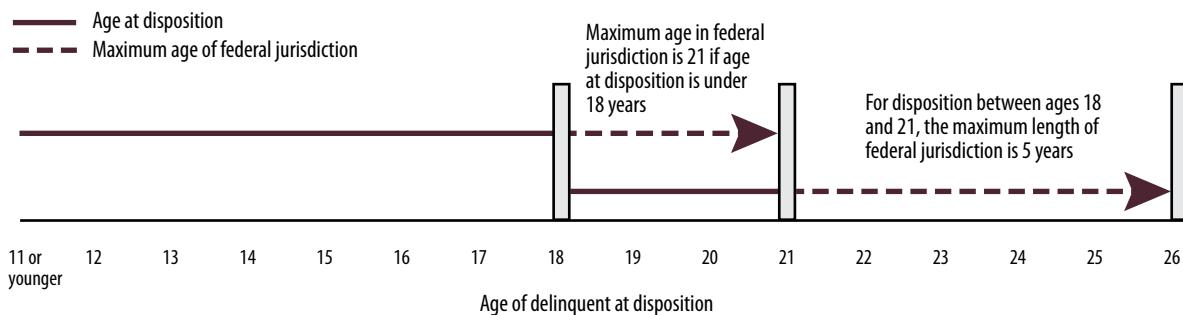
restitution. The youth may also be transferred to adult status and prosecuted and sentenced as an adult.

An adjudicated juvenile can receive up to 3 years of probation. The duration of a sentence for youth adjudicated delinquent to the jurisdiction of federal prison authorities depends on the age of the juvenile at disposition (see text box below). Juveniles under the age of 18 are not allowed to be placed in an institution in which the youth has regular contact with incarcerated adults. A juvenile can be housed in a Federal Bureau of Prisons (BOP) institution at the age of 21 if sentenced as a juvenile.

The maximum time under federal jurisdiction of juveniles adjudicated delinquent depends on the age at disposition

- If a juvenile was under 18 years of age at time of disposition, detention may not extend beyond the juvenile reaching age 21 (**figure 5.4**).
- If a juvenile was between the ages of 18 and 21 at time of disposition, the maximum federal jurisdiction is 5 years.
- Juveniles adjudicated delinquent and under the age of 21 are not to be detained in facilities permitting regular contact with adult convicts. At age 21, however, an adjudicated delinquent can be placed in an adult facility.
- The term that an adjudicated delinquent receives may not exceed the maximum period of imprisonment authorized had the juvenile been an adult. Federal sentencing guidelines do not apply to adjudications of delinquency.

FIGURE 5.4
Maximum time under federal jurisdiction of juveniles adjudicated delinquent, by age at disposition



Corrections

The number of tribal youth admitted to BOP jurisdiction increased from 107 in 1994 to a peak of 252 in 2000—a 136% increase due exclusively to the growth in tribal youth handled as adjudicated delinquents (figure 5.5). The number of tribal youth admitted to the BOP subsequently decreased from 252 in 2000 to 72 in 2008.

In 2008, the number of tribal (72) and non-tribal youth (84) admitted to the jurisdiction of federal prison authorities was the lowest in the period from 1994 to 2008. From 1999 to 2008, the number of tribal youth admissions declined an annual average of 10%, and non-tribal admissions declined at an annual average of 12%. Tribal youth peaked at 252 admissions in 2000, and non-tribal youth peaked at 272 admissions in 1999 (figure 5.6).

Most (88%) of the decline in tribal youth from 1999 to 2008 was due to a decrease in youth who had been adjudicated delinquent. Twelve percent of the decline was due to a decrease in tribal youth who had been transferred to adult status. In comparison, most of the decline for non-tribal youth admitted to the BOP over this period was comprised of juveniles who had been transferred to adult status.

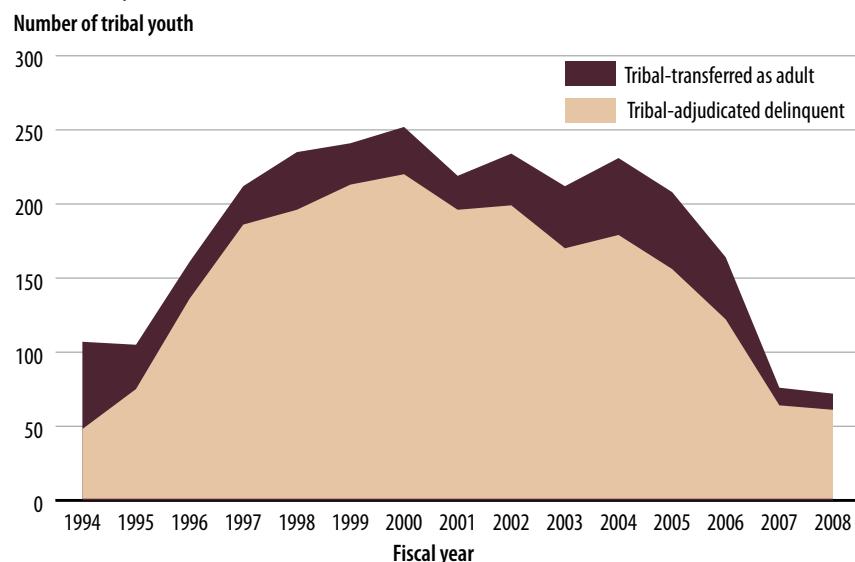
In 2008, 72% of tribal youth were admitted to BOP jurisdiction for a violent offense, including sexual abuse (29%), assault (25%), and murder (15%) (table 5.3). Tribal youth admitted for property offenses (mostly burglary) peaked in 2000

(66) and began to decline in 2001, dropping to 14 admissions in 2008. By 2008, tribal youth admitted to BOP jurisdiction for both property and violent offenses had declined to the lowest levels since 1999. Among non-tribal youth admitted to BOP jurisdiction, violent and drug

offenses comprised the majority of offense types (not shown in table). Most tribal youth admitted to BOP jurisdiction from 1999 to 2008 had been adjudicated delinquent (83%), while most non-tribal youth had been prosecuted as adults (65%).

FIGURE 5.5

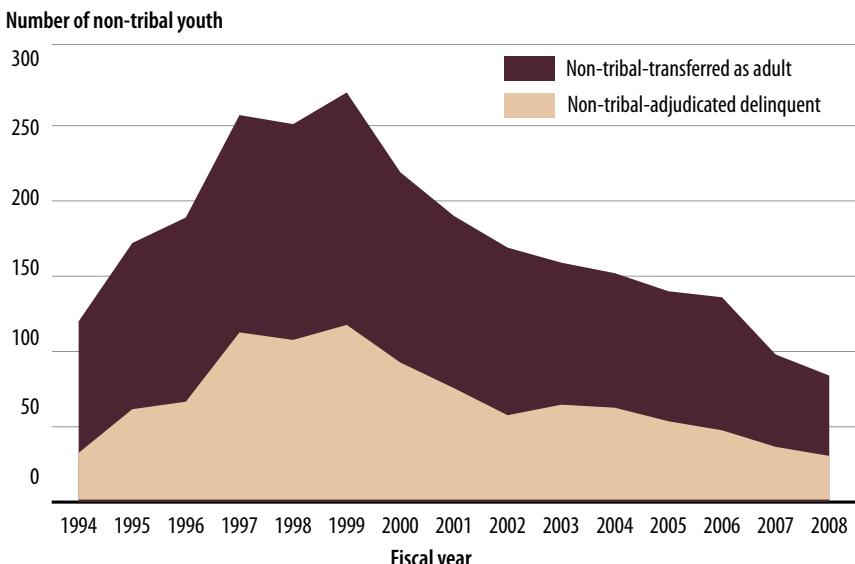
Tribal youth admitted to the jurisdiction of the Federal Bureau of Prisons, by status at admission, 1994–2008



Note: Data for fiscal years 1999–2008 based on Urban Institute analysis of Federal Bureau of Prisons, SENTRY database. Data for fiscal years 1994–1998 based on BJS analysis of SENTRY data.

FIGURE 5.6

Non-tribal youth admitted to the jurisdiction of the Federal Bureau of Prisons, by status at admission, 1994–2008



Note: Data for fiscal years 1999–2008 based on Urban Institute analysis of Federal Bureau of Prisons, SENTRY database. Data for fiscal years 1994–1998 based on BJS analysis of SENTRY data.

At yearend 2003, 298 tribal youth were in BOP facilities, including both juvenile contract and adult facilities

In 2003, 74% of tribal youth were housed under BOP jurisdiction in Minnesota, Arizona, Utah, the Western District of Texas, and Colorado. BOP facilities (including contract facilities) were not located in the states that contained large tribal populations and had committed a large number of Indian country

juveniles (South Dakota, North Dakota, Montana, and New Mexico). For example, tribal youth whose legal residence was South Dakota comprised over half of the juveniles in BOP facilities in Minnesota.

Among tribal youth under BOP jurisdiction in 2003, most were committed for a violent felony offense, including homicide, manslaughter, serious sexual assault

or abuse, and serious physical assault. In comparison, 185 tribal juveniles were in custody in 10 juvenile tribal facilities in 2002. (See *American Indians and Crime*, BJS Web, December 2004.) These tribal youth were confined mostly for misdemeanor (62%) and status offenses (29%); 10% of the youth were confined in tribal juvenile facilities for felony offenses.

TABLE 5.3
Tribal youth admitted to the jurisdiction of the Federal Bureau of Prisons, 1999–2008

Commitment offense	Total	Year of commitment to BOP jurisdiction									
		1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Total	1,909	241	252	219	234	212	231	208	164	76	72
Murder/Negligent manslaughter*	218	31	27	25	18	20	24	26	20	16	11
Assault	491	44	65	70	57	52	64	52	49	20	18
Robbery	51	7	5	9	4	7	9	4	3	1	2
Sexual abuse	441	55	52	33	65	46	55	57	40	17	21
Embezzlement	1	1	0	0	0	0	0	0	0	0	0
Burglary	442	62	66	59	61	53	43	42	30	12	14
Larceny	56	12	7	5	8	4	4	6	6	2	2
Motor vehicle theft	8	2	1	1	0	1	0	1	2	0	0
Arson and explosives	69	2	6	3	5	11	17	9	6	7	3
Other property offenses	38	13	6	6	4	1	3	3	1	1	0
Other drug felonies	3	0	1	0	0	1	0	1	0	0	0
Weapon offenses	9	1	2	0	2	1	2	1	0	0	0
Nonviolent sex offenses	36	4	4	1	4	7	7	3	5	0	1
Traffic offenses	13	2	5	1	1	3	1	0	0	0	0

Note: Total includes juveniles whose offenses were missing or unclassifiable.

*Includes attempted murder.

Source: Urban Institute analysis of Federal Bureau of Prisons, SENTRY data base, fiscal years 1999–2008.

Tribal youth served a sentence in federal facilities that was twice as long as the maximum sentence tribal facilities can impose

From 1999 to 2008, the average time served by tribal youth tended to be longer (about 26 months, on average) than the tribal justice system maximum sentence of 12 months. The Tribal Law and Order Act of 2010 recently extended the maximum a tribal court can sentence to 3 years for those courts meeting conditions placed on the legal process. The average time served by non-tribal youth in BOP facilities more than doubled from 15 months in 1999 to over 38 months by 2008.

Non-tribal youth admitted to the federal prison authorities were somewhat more dispersed than tribal youth with respect to district of commitment

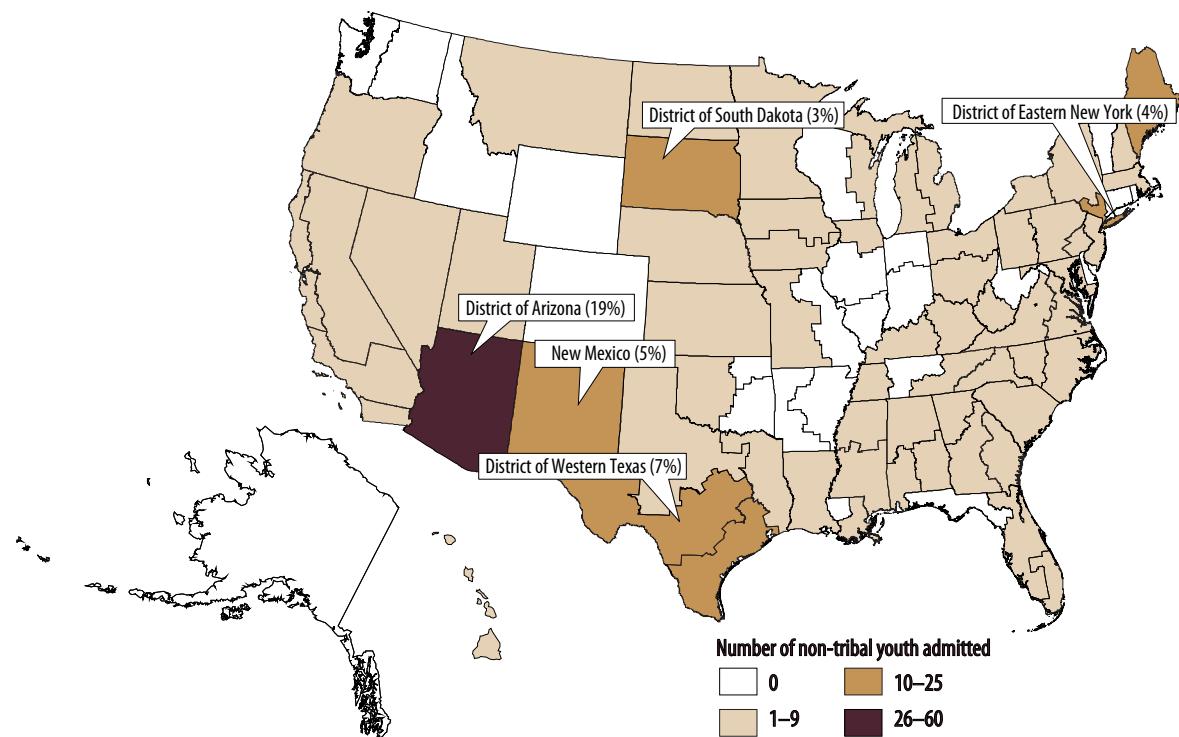
About 32% of non-tribal youth were committed from the five federal districts that committed the most tribal youth. Thirty-six percent of non-tribal youth were committed to the BOP from five federal judicial districts along the U.S.-Mexico border: California-Southern, Arizona, New Mexico, Texas-Western, and Texas-Southern. (**figure 5.7**).

Among juveniles admitted to the jurisdiction of the BOP in 2008, non-tribal youth were slightly older at age of offense than tribal youth

The average of age tribal youth at time of offense was about 15 years compared to 16 years for non-tribal youth. Most tribal youth were male (92%), American Indian (96%), non-Hispanic (99%), and United States citizens (100%). The majority of non-tribal youth were male (93%), white (60%), non-Hispanic (58%), and United States citizens (71%).

FIGURE 5.7

Non-tribal youth admitted to the jurisdiction of the Federal Bureau of Prisons, and five federal judicial districts that committed the majority of non-tribal youth, 2006–2008



Source: Based on BJS analysis of data from the Federal Bureau of Prisons, SENTRY database, fiscal years 2006–2008.

Methodology

The primary source of data presented in this report is from the Federal Justice Statistics Program (FJSP). The methodology to identify tribal youth was developed by the Urban Institute, and primary findings reported here are drawn from their 2011 study, *Tribal Youth in the Federal Justice System* (<http://ncjrs.gov>). This report supplemented findings from the Urban Institute's study with additional analyses based on BJS analysis of FJSP data. Data from the Federal Bureau of Prisons (BOP), SENTRY database, which contains information on all federally sentenced offenders admitted to BOP jurisdiction at fiscal yearend were analyzed for the years 1994 to 1998.

The source of the data in figure 5.1 is The Urban Institute analysis of Executive Office for U.S. Attorneys, National LIONS database, fiscal years 2000 to 2008. Suspects in matters concluded include all matters which were concluded in each respective year. Suspects in matters prosecuted

include matters for which the U.S. attorneys in that district made the decision to prosecute the matter in each fiscal year. The unit of count for figure 5.1 is the suspect matter.

A matter is a referral on which an attorney spends one hour or more investigating, and on which formal papers have not been filed with the Court. If a decision is made not to continue with the investigation, it is disposed of in the LIONS database by declination and closed.

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- 2005 American Indian Population and Labor Force Report*. U.S. Department of the Interior, Bureau of Indian Affairs, 2005.
- The Urban Institute. *Tribal Youth in the Federal Justice System*, NCJ 234549, May 2011. Available at <http://ncjrs.gov>.

Researchers from The Urban Institute investigated how youth from Indian Country were processed by the federal criminal justice system. They used a combination of qualitative and quantitative information, including administrative data from the BJS-sponsored Federal Justice Statistics Program (FJSP) and information drawn from interviews with more than three dozen federal and tribal justice system personnel.

Staff at the Urban Institute who contributed to the study included—

Co-principal Investigators

William Adams and Julie Samuels

Contextual Analysis Team

Janeen Buck Willison

Hannah Dodd

Meredith Dank

Quantitative Analysis Team

Barbara Parthasarathy

Kamala Mallik Kane

Jessica Kelly

Sybil Mendonca

KiDeuk Kim



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