



State Prosecutors' Offices with Jurisdiction in Indian Country, 2007

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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.html).

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

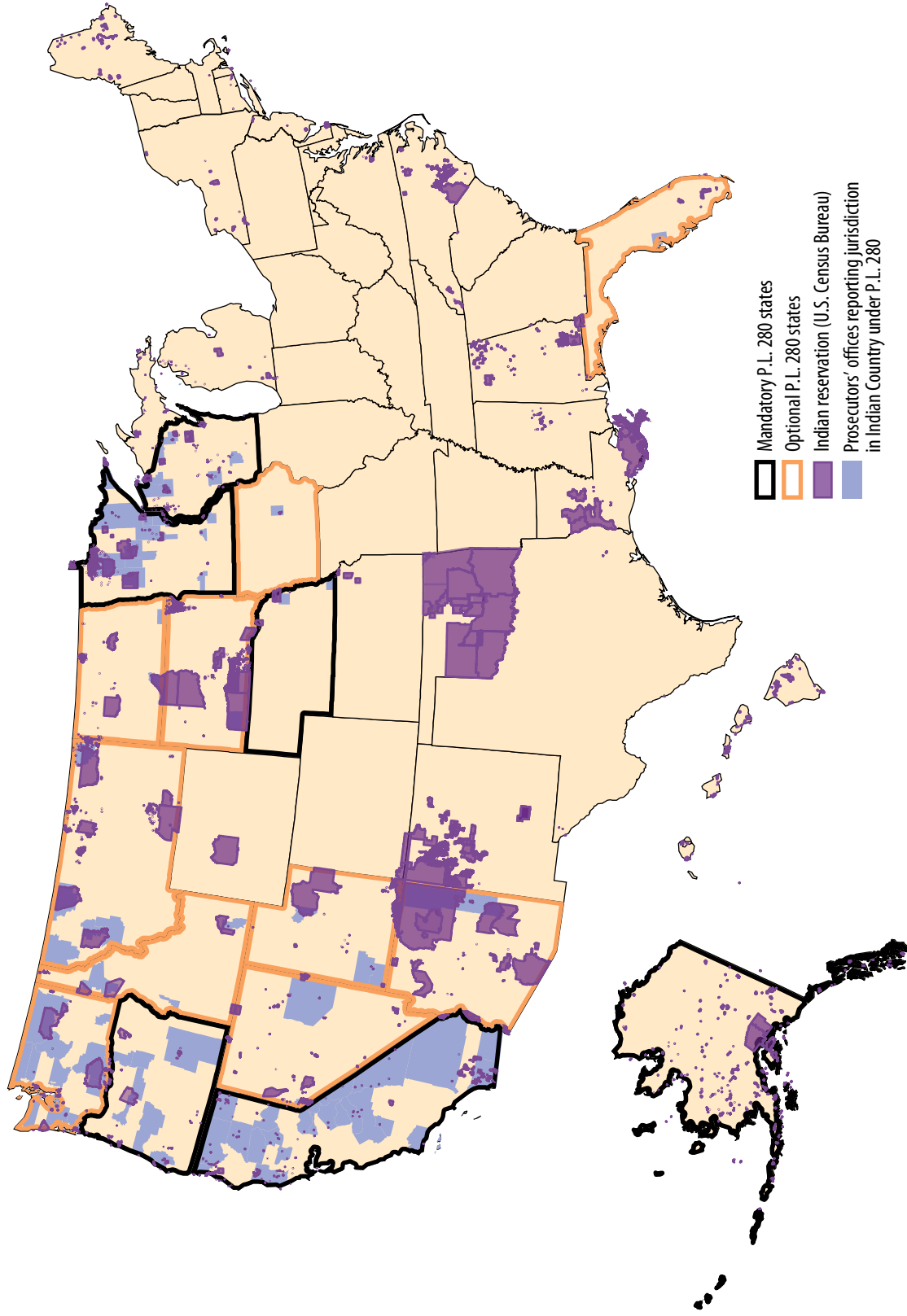
	All prosecutors' offices in P.L. 280 states*	Number of offices—	
		With jurisdiction for felony cases occurring in Indian country under P.L. 280	Prosecuting at least one felony case
All P.L. 280 states	672	93	68
Mandatory states	294	56	47
Alaska	1	1	--
California	48	23	21
Minnesota	76	15	15
Nebraska	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).

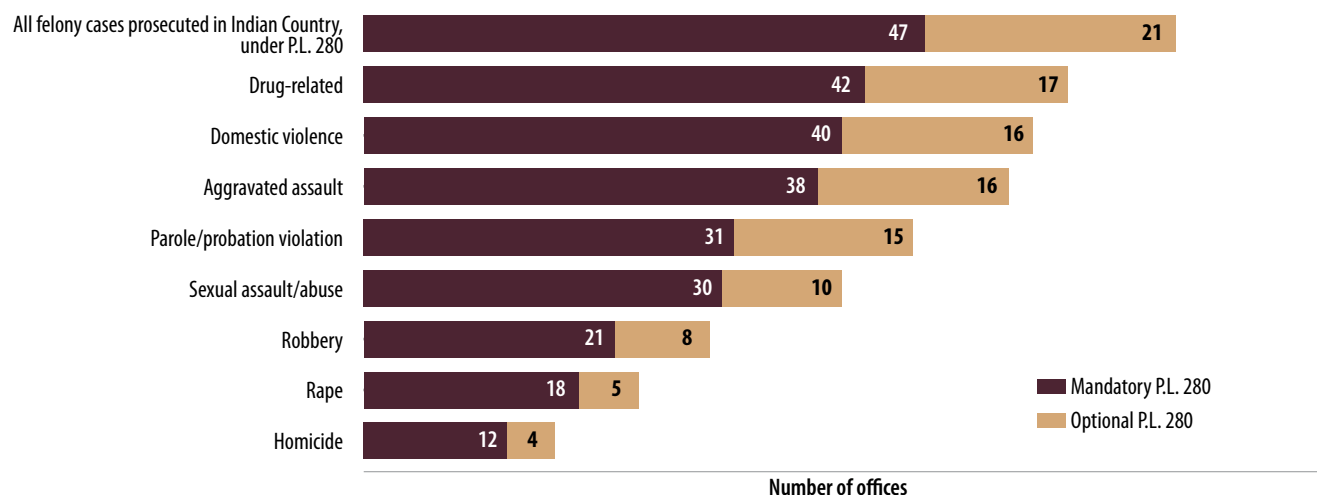
Offices in mandatory P.L. 280 states with jurisdiction for Indian country also reported prosecuting serious felony offenses, including 18 offices that prosecuted at least one rape committed in Indian country and 12 offices that prosecuted a homicide.

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

	Total		P.L. 280 status			
	Mean	Median	Mandatory		Optional	
			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.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. James P. Lynch is the director.

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This report in PDF and in ASCII and its related statistical data and tables are available at the website: <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=1599>.