



Bureau of Indian Affairs - Office of Justice Services



**Report to the Congress on  
Law Enforcement Needs of Terminated  
and Restored Tribes, 2018**

# Law Enforcement Needs of Terminated and Restored Tribes, 2018

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## I. INTRODUCTION

This report was prepared in response to the following language contained in the Joint Explanatory Statement to the FY 2018 Omnibus Appropriations Act, Public Law 115-141:

*“The Committees understand that several Tribes whose Federal recognition was terminated and then subsequently restored now face significant challenges in securing law enforcement funding through self-determination contracts. The Bureau is directed to work with affected Tribes to assess their law enforcement needs and submit a report within 120 days of enactment of this Act that details the amounts necessary to provide sufficient law enforcement capacity for them.”*

The language appears to connect the previously terminated status of Tribes with current access to Federal funding for law enforcement. However, nothing discovered in our research or review of BIA past and present policies indicates that the recognition history of a Tribe is or was a determining factor pursuant to accessing Federal funding for law enforcement from the BIA. Rather, it is other Federal legislation enacted during the termination era, establishing State criminal jurisdiction over these Tribes, that has resulted in limited access to BIA law enforcement funding.

The termination era began with a series of laws passed from 1940 through 1950 that gave States criminal or limited-criminal jurisdiction over Tribes and reservations within those States. Public Law 83-280, passed in 1953, gave State governments the power to assume jurisdiction over Indian reservations, which had previously been excluded from State jurisdiction. It immediately granted criminal and civil jurisdiction over Indian populations in five States: California, Nebraska, Minnesota, Oregon, and Wisconsin. These States are referred to as the “original mandatory 280 States.” (Special clauses prevented this law from being invoked on the Red Lake Reservation in Minnesota and the Warm Springs Reservation in Oregon.)

As a fundamental component of the Federal Government’s termination policy and framework, P.L. 83-280 and similar laws were necessary in order to assign responsibilities to States before withdrawing

Federal oversight and financial support from Indian reservations targeted for termination.

In the year following passage of P.L. 83-280, the first round of termination laws were enacted, targeting Tribes in three of the five original mandatory P.L. 280 States (California, Oregon, and Minnesota) as well as Utah and Texas. Between 1953 and 1964, the government terminated recognition of more than 100 Tribes, the overwhelming majority of which were located in the five original mandatory P.L. 280 States. Termination ended Federal recognition of Tribes as sovereign nations and stopped Federal support of most of the health care and education programs, utility services, and police and fire departments available to Indians on reservations.

Under current Federal policy, many of the terminated Tribes have successfully applied for reinstatement as a federally recognized Tribe, and, to date, 45 have had Federal services restored. It is important to understand that the Tribes’ past termination and subsequent reinstatement status was not a determining factor in whether or not to reinstate BIA law enforcement funding. Rather, the Tribes’ jurisdictional status with regard to P.L. 83-280 limits their access to BIA law enforcement funding.

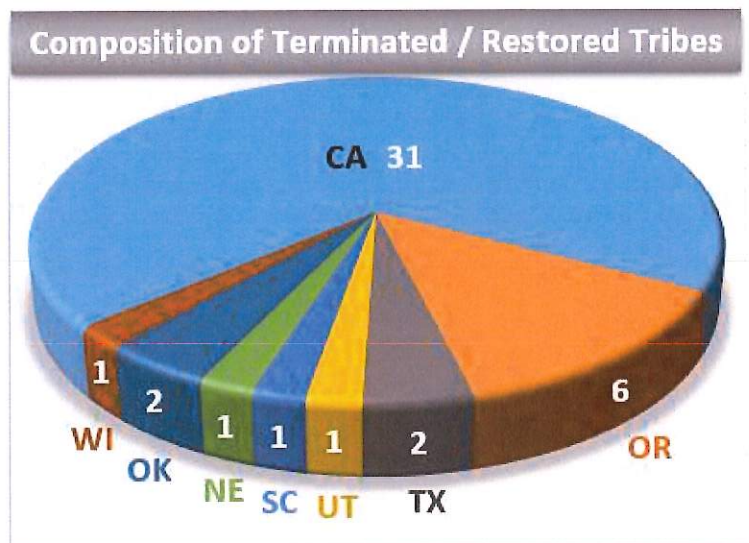


Figure 1. Number of restored Tribes by State

P.L. 83-280 jurisdictions in States like Oregon represent a lower tier priority for BIA law enforcement funding for two reasons: 1) The State is legally required to provide law enforcement services for P.L. 280 Tribes, whereas non-P.L. 280 Tribes would have no law enforcement

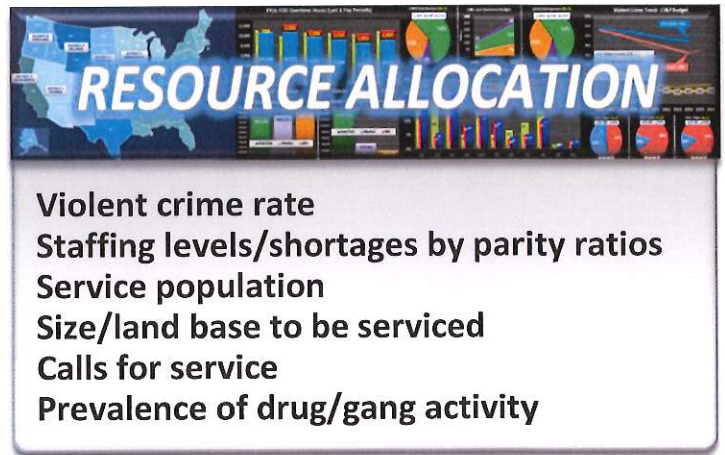
services without BIA resources; and 2) non-P.L. 280 jurisdictions are currently funded at only 36% of calculated costs making it hard to defend spreading resources to include P.L. 280 jurisdictions that receive tribal justice support from State and local organizations.

Pursuant to the Tribal Law and Order Act of 2010, BIA has worked with Tribes to develop cost models for estimating the annual funding needs of public safety programs throughout Indian Country. This annual report includes a separate State breakout of estimated law enforcement program needs for Tribes located in P.L. 83-280 States. As a result, it identifies estimates for “the amounts necessary to provide sufficient law enforcement capacity” for all Tribes relative to their service population, and thus offers supplementary law enforcement and other BIA public safety program funding information.

## II. BIA FUNDING METHODOLOGY

The methodology for disbursing law enforcement funding among the 190 BIA-funded programs is built from historical allocations. Until 1999, funding for the law enforcement program was provided to Tribes as Tribal Priority Allocations (TPA). The TPA designation provides Tribes the discretion to prioritize their annual base funding among all BIA programs with a TPA designation to serve the unique mix of needs present in their communities. In 1999, in order to ensure funding for law enforcement programs was spent on those programs and to strengthen Federal accountability for public safety in Indian Country, the TPA designation for law enforcement programs was eliminated. The amount of TPA funds that Tribes allocated to law enforcement programs in 1999, when the TPA designation was removed, is the basis for the current funding levels distributed to each Tribe today. It is for this reason that a small number of Tribes located in P.L. 83-280 jurisdictions currently receive annual law enforcement funding from the BIA. In other words, despite their P.L. 83-280 status, some Tribes prioritized a portion of their TPA funding in the BIA budget for law enforcement.

The budget increases provided since that time have been distributed on top of the historical base amounts, because, by statute, one Tribe’s base funding under contract or compact cannot be reduced in order to increase the base funding of another Tribe (25 USC 5325 [b]). Within law enforcement, the BIA’s top funding priority is currently to strengthen existing programs in

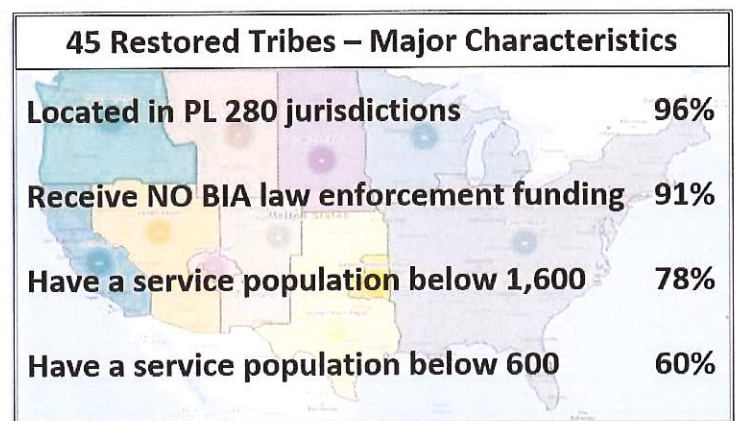


**Figure 2. Factors considered when allocating new law enforcement resources**

non-P.L. 83-280 jurisdictions. As directed in the Conference Committee Report to the Consolidated Appropriations Act, 2008, the BIA evaluates a number of factors (shown above) to ensure budget increases “reach the areas with the greatest need.” State held criminal jurisdiction pursuant to P.L. 83-280 with the corresponding responsibility for law enforcement services on the reservation is considered to determine eligibility for application of the resource allocation criteria; the termination history of a Tribe is not.

## III. TERMINATED / RESTORED TRIBES

Between 1955 and 1968, Congress and the Federal Government terminated the recognition status of more than 100 Tribes. However, in accordance with the language contained in the Joint Explanatory Statement to the 2018 Omnibus Appropriations Act, the scope of this report is limited to the law enforcement needs of the 45 that regained Federal recognition.



**Figure 3. Summary characteristics of restored Tribes**

These Tribes are listed in Appendix I to this report, along with the dates of their termination and restored Federal

recognition. Of the 45 Tribes, 42 are located where the State holds criminal jurisdiction pursuant to P.L. 83-280 and is responsible for providing law enforcement services on the reservation. Due to this fact, 41 of the Tribes do not receive law enforcement funding from the BIA. As stated earlier, the BIA generally does not prioritize law enforcement funding for P.L. 280 Tribes, and instead focuses limited resources in communities where the State has no legal responsibility or authority to enforce the law.

#### IV. ESTIMATED LAW ENFORCEMENT COSTS

In the annual *Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country*, BIA estimates the cost for Law Enforcement programs assuming that all Tribes of a similar size have law enforcement agencies with the same composition. Law enforcement programs are usually sized to meet the needs of a population range. The report grouped Tribes by population size and then applied a scalable model to create State-level cost estimates for operating appropriate-sized, fully staffed law enforcement programs. The cost estimates do not distinguish whether services are provided by Federal, State, local, or tribal entities. The same methodology was applied to estimate law enforcement program costs in this report.

With regard to terminated and restored Tribes, identifying accurate service population figures for each Tribe proved challenging. Some Tribes provide current figures on tribal enrollment but are not able to break out the number of tribal members living on the reservation or within the service area. Other Tribes do not have

current figures to provide, and population figures housed in BIA databases are generally dated. Population figures for some Tribes were available in the 2013 American Indian Population and Labor Force (AIPLF) Report prepared by the Office of the Assistant Secretary – Indian Affairs (consistent with 2010 Census data), but many were not. Due to the inconsistency of source service population data by Tribe, this report, instead, presents the cost model population ranges found to be most consistent with each Tribe’s range of reported population figures.

The cost of a full time “Basic” program that would serve Tribes with service populations ranging from 1,601-6,500 is estimated at \$2.0 million. This is based on a budget for a standard 21-person law enforcement program model that includes police officials, investigators, dispatchers, administrative services, and supplies and equipment. The number of officers budgeted at each level generally follows a ratio of 2.8 officers per 1,000 residents. The table below shows the basic program scaled to various levels based on tribal service population ranges. For example, Tribes with a service population of less than 600 could be served by a law enforcement agency with a lower capacity at a cost of \$666,000, whereas Tribes with a service population ranging from 16,251-19,500 would require a law enforcement presence three times the size at an annual cost of \$5.5 million.

The table in Appendix I summarizes the service population ranges and corresponding annual law enforcement program cost estimates for the 45 terminated and restored Tribes.

Scalable Law Enforcement Budget Model			
Tribal Service Population Range	Law Enforcement Need	Positions	Total Annual Cost (\$000)
< 600	Basic @ ≈ 1/3 capacity	7	\$ 666
600 - 1,600	Basic @ ≈ 2/3 capacity	14	\$ 1,333
1,601 - 6,500	Basic	21	\$ 2,019
6,501 - 9,750	Basic @ ≈ 50% increased capacity	30	\$ 2,994
9,751 - 13,000	Basic @ ≈ 100% increased capacity	38	\$ 3,836
13,001 - 16,250	Basic @ ≈ 150% increased capacity	46	\$ 4,679
16,251 - 19,500	Basic @ ≈ 200% increased capacity	53	\$ 5,501
19,501+	Basic @ ≈ 250% increased capacity	61	\$ 6,344

Figure 4. Budget model used to estimate annual law enforcement cost

**APPENDIX I – Estimated Law Enforcement Costs for Terminated / Restored Tribes**

Tribe Name	State	Years Terminated & Restored		Criminal Jurisdiction Conferred on State	BIA-Funded Law Enforcement Program	Tribal Service Population Range	Estimated Annual Law Enforcement Cost (\$000)
Wiyot Tribe, California	CA	1961	1981	Yes	No	< 600	\$ 666
Buena Vista Rancheria of Me-Wuk Indians of California	CA	1961	1985	Yes	No	< 600	\$ 666
Chicken Ranch Rancheria of Me-Wuk Indians of California	CA	1961	1985	Yes	No	< 600	\$ 666
Mooretown Rancheria of Maidu Indians of California	CA	1961	1985	Yes	No	601 - 1,600	\$ 1,333
Potter Valley Tribe, California	CA	1961	1985	Yes	No	< 600	\$ 666
Redwood Valley Rancheria of Pomo Indians of California	CA	1961	1985	Yes	No	< 600	\$ 666
Lytton Rancheria of California	CA	1961	1991	Yes	No	< 600	\$ 666
Paskenta Band of Nomlaki Indians of California	CA	1961	1994	Yes	No	< 600	\$ 666
Redding Rancheria, California	CA	1962	1985	Yes	No	< 600	\$ 666
Wilton Rancheria, California	CA	1964	2009	Yes	No	< 600	\$ 666
Robinson Rancheria of Pomo Indians of California	CA	1965	1977	Yes	No	< 600	\$ 666
Big Sandy Rancheria of Mono Indians	CA	1965	1985	Yes	No	< 600	\$ 666
Big Valley Band of Pomo Indians of the Big Valley Rancheria, California	CA	1965	1985	Yes	No	< 600	\$ 666
Cloverdale Rancheria of Pomo Indians of California	CA	1965	1985	Yes	No	< 600	\$ 666
Habematolel Pomo of Upper Lake, California	CA	1965	1985	Yes	No	< 600	\$ 666
Hopland Band of Pomo Indians, California	CA	1965	1985	Yes	No	601 - 1,600	\$ 1,333
Table Mountain Rancheria of California	CA	1965	1985	Yes	No	< 600	\$ 666
Guidiville Rancheria of California	CA	1965	1991	Yes	No	< 600	\$ 666
Scotts Valley Band of Pomo Indians of California	CA	1965	1991	Yes	No	< 600	\$ 666
Bear River Band of the Rohnerville Rancheria, California	CA	1966	1985	Yes	No	< 600	\$ 666
Blue Lake Rancheria, California	CA	1966	1985	Yes	No	< 600	\$ 666
Elk Valley Rancheria, California	CA	1966	1985	Yes	No	< 600	\$ 666
Greenville Rancheria of Maidu Indians of California	CA	1966	1985	Yes	No	601 - 1,600	\$ 1,333
Northfork Rancheria of Mono Indians of California	CA	1966	1985	Yes	No	1,601 - 6,500	\$ 2,019
Picayune Rancheria of Chukchansi Indians of California	CA	1966	1985	Yes	No	601 - 1,600	\$ 1,333
Pinoleville Rancheria of Pomo Indians of California	CA	1966	1985	Yes	No	< 600	\$ 666
Federated Indians of Graton Rancheria, California	CA	1966	2000	Yes	No	1,601 - 6,500	\$ 2,019
Quartz Valley Indian Reservation of California	CA	1967	1985	Yes	No	< 600	\$ 666
Smith River Rancheria, California	CA	1967	1985	Yes	No	1,601 - 6,500	\$ 2,019
Mechoopda Indian Tribe of Chico Rancheria, California	CA	1967	1992	Yes	No	< 600	\$ 666
United Auburn Indian Community of the Auburn Rancheria of California	CA	1967	1994	Yes	No	< 600	\$ 666
Ponca Tribe of Nebraska	NE	1966	1990	Yes	No	1,601 - 6,500	\$ 2,019
Confederated Tribes of the Siletz Reservation, Oregon	OR	1956	1977	Yes	Yes	1,601 - 6,500	\$ 2,019
Coquille Indian Tribe	OR	1956	1989	Yes	Yes	601 - 1,600	\$ 1,333
Cow Creek Band of Umpqua Tribe of Indians	OR	1956	1982	Yes	No	601 - 1,600	\$ 1,333
Confederated Tribes of the Grand Ronde Community of Oregon	OR	1956	1983	Yes	No	1,601 - 6,500	\$ 2,019
Confed. Tribes of the Coos, Lower Umpqua, and Siuslaw Indians of Oregon	OR	1956	1984	Yes	No	< 600	\$ 666
Klamath Tribes, Oregon	OR	1961	1986	Yes	No	1,601 - 6,500	\$ 2,019
Catawba Indian Nation (aka Catawba Tribe of South Carolina)	SC	1960	1993	Yes	No	1,601 - 6,500	\$ 2,019
Ysleta del Sur Pueblo	TX	1968	1987	Yes	Yes	601 - 1,600	\$ 1,333
Alabama-Coushatta Tribes of Texas	TX	1955	1987	Yes	No	< 600	\$ 666
Paiute Indian Tribe of Utah	UT	1957	1980	Yes	No	601 - 1,600	\$ 1,333
Ottawa Tribe of Oklahoma	OK	1959	1978	No	Yes	< 600	\$ 666
Peoria Tribe of Indians of Oklahoma	OK	1959	1978	No	Yes	1,601 - 6,500	\$ 2,019
Menominee Indian Tribe of Wisconsin	WI	1961	1973	No	Yes	1,601 - 6,500	\$ 2,019