

Supporting Statement
1105-0091

1. Pursuant to the Tribal Law and Order Act of 2010 (TLOA), certain Indian tribes may submit a request to the Attorney General for the assumption of concurrent Federal criminal jurisdiction. The submission of such a request necessitates the collection of information from the Indian tribe.

The Tribal Law and Order Act of 2010 (TLOA) was enacted on July 29, 2010 as Title II of Public Law 111-211. Section 221(b) of that law adds a new paragraph on the assumption of concurrent Federal criminal jurisdiction to 18 U.S.C. 1162(a), the section of Public Law 280 (Act of Aug. 15, 1953, Pub. L. No. 83-280, 67 Stat. 588) specifying that certain areas of Indian country will be subject to State criminal jurisdiction. The new paragraph provides, “At the request of an Indian tribe, and after consultation with and consent by the Attorney General, the United States shall accept concurrent jurisdiction to prosecute violations of sections 1152 and 1153 of title 18, United States Code, [the General Crimes, or Indian Country Crimes Act, and the Major Crimes Act] within the Indian country of the Indian tribe.” Assumption of concurrent Federal criminal jurisdiction under section 221 does not require the agreement, consent, or concurrence of any State or local government.

2. Requests for assumption of concurrent Federal criminal jurisdiction will be reviewed by Department of Justice components including the Office of Tribal Justice, the Executive Office for U.S. Attorneys, the Federal Bureau of Investigation, and the Office of the Deputy Attorney General to determine whether the request will be granted. Requests for additional input will also be submitted to the Justice Management Division, the Office of Legislative Affairs, the Office of Intergovernmental and Public Liaison, the Office of Justice Programs, the Office of Community Oriented Policing Services, the Office of Legal Counsel, the Office of Legal Policy, and the Bureau of Indian Affairs at the Department of the Interior. Some or all of the information collected, verbatim or in summary form, may be used in notices published in the Federal Register for comment by the public, other Federal agencies, and State and local governments and agencies.
3. The Office of Tribal Justice has established a dedicated email account to receive requests and to communicate with requesting tribes. The expectation is that most or all requests will be received, reviewed, and circulated electronically. Those requests that do come in paper form will be scanned for electronic distribution.

Notices in the Federal Register and other communications related to request evaluations will be submitted electronically.

4. This is a new requirement regarding very specific circumstances based on recent legislation. There is no similar collection in place.

5. This collection of information does not impact small businesses. The Department has developed a simple automated process in order to minimize the burden on tribes requesting assumption of concurrent Federal criminal jurisdiction.
6. If tribes do not submit a request for the assumption of concurrent Federal criminal jurisdiction there will be no assumption of such jurisdiction. The jurisdictional status quo will be maintained. There are no frequency requirements in place; tribes may submit a request at any time, or not at all.
7. The Department anticipates no circumstances under which a request for the assumption of concurrent Federal criminal jurisdiction would be subject to any of the following conditions:
 - requiring respondents to report information to the agency more often than quarterly;
 - requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
 - requiring respondents to submit more than an original and two copies of any document;
 - requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
 - in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
 - requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
 - that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
 - requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.
8. The Department solicited comments on the information collection in conjunction with the publication of the proposed rule to establish procedures for an Indian tribe whose Indian country is subject to State criminal jurisdiction under Public Law 280 (18 U.S.C. 1162(a)) to request that the United States accept concurrent criminal jurisdiction within the tribe's Indian country, and for the Attorney General to decide whether to consent to such a request. FR Volume 80, pages 23287-23288 (April 27, 2015) and FR Volume 80, pages 38745-38746 (July 7, 2015). The comment period for the proposed rule has closed and the Department received no comments on the information collection.

The Department held numerous consultations with tribal leaders on the Tribal Law and Order Act, which allows tribes to make requests for the assumption of concurrent Federal criminal jurisdiction under Section 221:

- October 12, 2010 in San Diego, California

- October 14, 2010 in Billings, Montana
 - October 20, 2010 in Albuquerque, New Mexico
 - October 21, 2010 in Prior Lake, Minnesota
 - October 26, 2010 in Oklahoma City, Oklahoma
 - October 28, 2010 in Miami, Florida
 - March 23, 2011 in Hayward, Wisconsin
9. The Department has made no decision to provide any payment or gift to respondents.
 10. There is no assurance of confidentiality. Requests for assumption of concurrent Federal criminal jurisdiction will be published in the Federal Register.
 11. The Department does not expect tribes' requests to include information of a personal nature, nor will the Department request such information.
 12. The Department estimates the number of hours necessary to submit a request to be approximately 80 per responder, with approximately 350 possible responders. In order to calculate the public burden, the Department multiplied 80 by 350, which equals 28,000.
 13. The Department is unable to estimate the cost burden to respondents or recordkeepers, because each request will be unique. Each respondent is required to submit, preferably via email, a narrative setting forth the reasons for requesting the assumption of concurrent Federal criminal jurisdiction. The Department is required to consult with the tribe on the request before a decision is made. The Department is unable to estimate the time each respondent will take to develop the narrative, and is unable to estimate the costs tribes will incur for the consultation, which could be minimal or significant, depending on whether the tribe chooses to travel and how many tribal representatives travel. The cost associated with submitting a request is negligent, as it involves submitting an email with an attachment(s). There are no specific recordkeeping requirements imposed on tribes as a result of this information collection.

14.

DOJ Component	CFR cite	Item	Cost Range
OTJ		Staff time to process and document requests, 3-50 cases/year	\$11,350.80-\$189,180.00
		Publication in the Federal Register, 3-50 cases/year	\$28,620.00-\$477,000.00
		Consultation costs, 3-100 cases/year	\$24,000.00-\$120,000.00
		Record maintenance and storage, 3-50 cases/year	\$41.64-\$694.00
USAEO, FBI, JMD, OLA, OIPL, OJP, COPS, OLC, OLP, BIA		Staff time to review and comment, 3-50 cases/year	\$45,403.20-\$756,720.00
ODAG		Staff time to review and comment, 3-50 cases/year	\$11,427.84-\$190,464.00
Grand Total			\$120,843.48-\$1,734,058.00

Methods to estimating costs:

- A range of costs was calculated due to the voluntary nature of this collection of information. The Department is unable to estimate the number of expected cases per year. The total number of possible cases is approximately 350. It is not possible to assume that most, or all, will submit requests, nor is it possible to estimate the timing of these requests; to date, five requests have been received by the Department. Additionally, for Federal Register costs, an average page count of 20 pages was used for the calculation. As with other elements of this process, it is not possible to estimate the number of pages for each submission.
- Office of Tribal Justice (OTJ) staff time to process and document requests: 1 GS-14 (\$56.57/hour) devoting 40 hours to processing/reviewing the request + 1 GS-15 (\$76.04/hour) devoting 20 hours to reviewing/approving the request * 3 or 50 cases.
- Publication in the Federal Register: \$477 per manuscript page * 20 pages * 3 or 50 cases
- Consultation costs: 4 staff members estimated to attend each consultation and to assess law enforcement and public safety claims made by the tribe in the request. Each trip estimated to cost \$2000 per individual, which includes cost of airfare, hotel, car, and per diem. Estimated range of consultations per year: 3 to 15 (\$2000 * 4 * 3 or 15).
- Record maintenance and storage: 1 GS-9 (\$27.76/hour) devoting 1.5 to 25 hours each year (.5 hours per case each year) to creating, maintaining, and disposing of records, and pulling previous records for reference.
- Other component/agency staff time to review and comment: 1 GS-14 (\$56.57/hour) at each staff devoting 16 hours to reviewing/commenting on the request + 1 GS-15 (\$76.04/hour) devoting 8 hours to reviewing/commenting on the request * 3 or 50 cases.
- Office of the Deputy Attorney General staff time to review and comment: 1 GS-15 (\$76.04/hour) devoting 16 hours to reviewing/commenting on the request + 1 SES (\$86.00) devoting 16 hours to reviewing/commenting on the request * 3 or 50 cases.

15-18. N/A