



National Institute of Justice Framing Paper on Tribal Study Data Collections: Access, Sharing, and Archiving Considerations

BACKGROUND

Since 1978, NIJ has been accumulating and archiving thousands of data sets. NIJ is required in the accordance with the Open Data Memorandum (OMB M-13-13) and the Foundations for Evidence-Based Policymaking Memorandum (OMB M-19-23) to preserve the deidentified data collected through its funded research and evaluation projects by making the resulting data publicly available for analysis. This practice increases the transparency of NIJ-funded research. Data collected as part of NIJ research are archived and made available to support new research aimed at replicating results and testing new hypotheses.

NIJ-funded data collection efforts in the social and behavioral sciences are currently archived at the [National Archive of Criminal Justice Data \(NACJD\)](#).¹ The archive provides opportunities for researchers to conduct secondary analyses of existing data to enhance understanding of crime and justice systems and inform public health and safety policy and practice. The field benefits when scientists test each other's conclusions—verifying, refining, or refuting original findings. Sharing data also fosters the development and testing of new conclusions, as data collected for one purpose can be used to pursue inquiries not addressed by the original researchers.

NACJD is currently housed at the [Inter-University Consortium for Political and Social Research \(ICPSR\)](#) at the University of Michigan. On the NACJD website, individuals can search, browse, and read descriptions of the data sets maintained at NACJD. Many deidentified data sets are available for public download, while other data sets are restricted from public use and made available through secure mechanisms following an [application process](#). The application includes measures to continue the protection of the restricted data, including a confidentiality security plan, letter indicating IRB approval, an NIJ Privacy Certificate, and a Restricted Data Use Agreement. If the application is approved, the principal investigator (PI) and other research staff included on the application are required to sign ICPSR's confidentiality pledge before the data will be released.

For public-use data, NACJD checks the data to ensure it does not violate respondent and subject data confidentiality prior to making it available to download. [Confidentiality](#) is maintained by removing, masking, blanking, or collapsing directly or indirectly identifying variables. Sometimes the protective measures that NACJD takes to ensure confidentiality

¹ Researchers may choose an alternative repository if NACJD is not the appropriate repository for the dataset.



reduce the analytic utility of the data and the data needs to retain confidential and identifiable information. For these types of data (i.e., restricted use), ICPSR imposes strict data access requirements through its [restricted-use data](#) regulations. However, documentation associated with restricted-use datasets remains available for public use in most instances. Such documentation includes the study metadata (information about the study including the purpose, methodology, instruments, references), codebooks (which includes data definitions and variable names), questionnaires, user guides, or other documentation describing the contents and structure of the data.

This framing paper describes some policies that NIJ is *considering* in a revised data archiving policy specifically for Tribal research projects. NIJ wants to respect Tribal data sovereignty while also adhering to NIJ and NACJD archiving policies, procedures, and requirements. During the Tribal consultation, NIJ would like to hear the concerns of Tribes regarding data collection, access, sharing, and archiving, and gain feedback on how NIJ can better serve Tribes to engage in research, protect Tribal data, and be more inclusive of Tribes when archived Tribal data is being requested and used.

ACCESSING NACJD ARCHIVED TRIBAL DATA

Deidentified data from projects funded by NIJ must be archived (pursuant to the Open Data Memorandum (OMB M-13-13) and the Foundations for Evidence-Based Policymaking Memorandum (OMB M-19-23)). NIJ proposes that Tribal data be automatically archived with a restricted-use status where a user application would be needed to access the deidentified data. When an interested user submits their request to access data from an NIJ-funded Tribal project in NACJD, it would be forwarded to the designated Tribal authority responsible for reviewing data use applications. Data access *will not be* granted until the Tribal authority responds to NACJD with their approval. **Thus, with this process, no one who is not first approved by the designated Tribal authority will be able to access the data.**

If for any reason, the Tribal authority fails to respond in the designated time frame agreed upon in the data archiving plan on file with NACJD, NIJ proposes that data access procedures will go to the designated social science research analyst in charge of NIJ's Tribal portfolio (i.e., the Tribal scientist) for consideration of approval. Alternatively, if the Tribe does not have the capacity or resources to approve data access, they may designate from the start that the requests go to the Tribal scientist for consideration of approval. The Tribal scientist will review the data request(s) and provide documentation to be sent to the Tribe showing the application submission and the request decision (if it is granted or denied). If the request is granted, the Tribal scientist will submit the information to NACJD staff to process the request.



NIJ APPLICANTS PROPOSING TRIBAL DATA COLLECTIONS

Some Tribes may have data sovereignty policies that limit data archiving. Therefore, when working with Tribal partners, applicants should share [NIJ data archiving policies and practices](#) with Tribal partners before applying for funding to ensure Tribal leaders and decisionmakers understand the NIJ policies and data protections already in place. In addition, NIJ encourages the applicant to work with the Tribe to develop a data sharing agreement that includes a designated Tribal authority (e.g., Tribal business council, Tribal IRB) that would review and approve data access requests once the data is archived in a restricted status in NACJD.

QUESTIONS FOR DISCUSSION

1. Are there any other steps in addition to contacting the Tribal authority that the Tribe would like to have in place for archived Tribal data requests?
2. When archived Tribal data is being requested, what would be the best method for notifying the Tribal authority (e.g., email, phone, letter)?
3. If the NIJ Tribal scientist is making the decisions for accessing archived Tribal data, are there certain criteria that Tribes would like to be considered and/or required to approve the application request (e.g., letter of support from the Tribe)?
 - a. If the NIJ Tribal scientist is making the decisions for accessing archived Tribal data, how would the Tribe like to be notified?
4. How involved would the Tribe like to be when archived Tribal data is being used for research? What information would Tribes like to have around data requested?
5. When creating a data sharing agreement between the Tribal community and the NIJ applicant, what kind of information would Tribes like to be considered/included (e.g., type of data being collected, data security, property rights)?
6. Are there specific terms or conditions that the Tribe would want to have in place regarding presentation, publication, or dissemination of findings involving archived Tribal data?
7. What ways would Tribes like to see their data sovereignty recognized (e.g., routinely return deidentified data to the Tribe after the project is completed)?
 - a. What protections would need to be in place to protect the data from misuse and/or disclosure if it is submitted to the Tribe for their own use and/or archiving?
8. In what other ways can NIJ support a mutually respectful relationship with Tribal partners to ensure equitable data use and advance scientific inquiry?



NIJ MISSION

The National Institute of Justice (NIJ) supports and shares evidence-based knowledge and tools from objective and rigorous scientific research to promote safety and advance justice. For over 50 years, NIJ has had a significant federal role in assisting local, Tribal, and state governments. NIJ uses different ways to exchange information among these communities to build connections and solutions and help bridge the gap among different worlds. NIJ's six objectives are (1) research, (2) development, (3) evaluation, (4) testing, (5) assistance, and (6) sharing information. NIJ achieves its mission through the "Listen, Learn, Inform" model — we listen to communities' needs, learn how to meet them by funding research and development projects, and then inform communities about what we learned.

NOTE: This paper is not a statement of official Department policy. It is intended to provide information and suggest questions to be considered by Tribal leaders and representatives as they prepare to participate in the 19th Annual Government-to-Government Violence Against Women Tribal Consultation. The Department welcomes all input from the Tribes on this and other matters of concern to Tribal communities.