

**No Longer Invisible: Understanding and Meeting the Needs of American Indian and
Alaska Native Youth in the Juvenile Justice System**

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Combating crime and caring for youth engaged in delinquent and criminal behaviors are critical issues facing Tribes today. Native youth make up 1% of the population nationwide, but account for 2% of youth arrested for public drunkenness and driving under the influence, and 3% of youth arrested for liquor law violations. Native youth also suffer disproportionately from risk factors known to be common precursors to delinquency including poor health, poverty, low educational attainment, violence, depression, and substance abuse.

The research presented will identify and synthesize the current knowledge of American Indian and Alaska Native youth involved in juvenile justice systems through a review of available statistics, including Federal, State and Tribal level data, and a review of academic and policy literature. The research will present a picture of the needs of American Indian and Alaska Native youth in juvenile justice systems, identify specific areas for further research, and make policy recommendations to support Tribes in the development of Tribal juvenile justice systems or collaborations with Federal and State governments to ensure that Native youth are treated fairly and provided appropriate services to meet their needs.

Summary of Findings

While Tribes traditionally exercised control over juvenile justice – that is, disciplining, controlling, teaching and caring for youth – many Tribes stopped exercising jurisdiction in this area as Tribal jurisdiction and resources were eroded by shifting Federal policies over the last century. As a result, many American Indian and Alaska Native youth are prosecuted in State and Federal justice systems. While we know that Native youth are involved in all three (Federal, State and Tribal) justice systems, it is often difficult or impossible to determine where these youth are being prosecuted or held. American Indian and Alaska Native youth who get into trouble may also come into contact with several different justice systems, making it difficult to gather useful data, design effective programs, or track outcomes for youth. Our findings include:

- Native youth make up 1% of the population nationwide, but account for 2% of youth arrested for public drunkenness and driving under the influence and 3% of youth arrested for liquor law violations. In 2006, the top five crimes that Native youth were arrested for were liquor law violations, larceny-theft, disorderly conduct, running away, and drug

abuse violations. For youth involved in gangs, according to a 2002 survey of youth gangs in Indian country, most offenses were graffiti, vandalism, drug sales, and aggravated assault.

- For youth prosecuted in state juvenile justice systems, there is evidence that racial bias may play a role in how Native youth are treated in state juvenile justice systems. According to a national report by the National Council on Crime and Delinquency (NCCD) in 2008, disproportionality exists at each stage of the juvenile justice system (i.e., referrals, pretrial detention, formal processing, adjudication, waiver to adult court, and residential placement) with the exception of arrests.
- Native youth are more likely to receive to the two most severe punishments in juvenile justice systems: out-of-home placement (i.e., incarceration in a state correctional facility) and waiver to the adult system. Compared to white youth, Native youth are 1.5 times more likely to receive out-of-home placement and are 1.5 times more likely to be waived to the adult criminal system. Nationwide, the average rate of new commitments to adult state prison for Native youth is 1.84 times that of white youth.
- The majority of youth in the federal juvenile justice system are Native youth. Seventy percent of the youth committed to the Federal Bureau of Prisons (BOP) as delinquents are Native American, as are 31% of youth committed to BOP as adults. Compared to youth prosecuted in county/state juvenile justice systems, youth tried in federal court spend more time in detention and face tougher and longer sentences that are often served hundreds of miles from home.

Despite the jurisdictional overlaps, Tribal governments have primary responsibility for addressing juvenile delinquency in Indian communities, particularly low-level or less serious offenses characteristic of adolescent delinquent behaviors. Tribal law enforcement departments may work together with State and Federal agencies, but many are still the primary law enforcement presence in the community. Some Tribes operate their own juvenile systems, which may include juvenile codes, juvenile courts, and juvenile treatment and detention facilities. It is therefore critical that Tribal governments – like States – have access to the resources they need to effectively reduce juvenile crime and the flexibility to design programs that meet the needs of their youth. Unfortunately, current law does not provide a stable source of funding specifically for Tribal juvenile justice systems.

Practical Implications

As Tribes develop and refine their own juvenile justice systems, they need not do so in a vacuum. Tribes can draw on the research and experiences of state juvenile justice systems, the successes and failures of those systems, and the recommendations of non-Indian juvenile justice policymakers. For many Tribes, traditional methods of raising and disciplining children coincide more closely with a community-based system focused on treatment and rehabilitation than with a system based on punitive treatment and incarceration. There are a few initiatives (e.g., the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative) occurring nationwide that have similar goals and are minimizing the use of incarceration through the use of community-based

alternatives. This is not to say that Tribes must necessarily follow recommendations developed in a non-Indian context. Rather, the work of non-Indian juvenile justice researchers and policymakers may offer considerations and options for addressing modern juvenile delinquency problems that some Tribes may wish to adapt in addressing these same problems in their communities.

In addition, the main piece of federal legislation providing funding and protections for youth in the juvenile justice system is the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA) which is scheduled for reauthorization in 2008. The presenters believe that the JJDPA will be reauthorized in 2009 but activities to strengthen the Act are already underway. The presentation will provide options to work with non-Indian juvenile justice stakeholder organizations to influence the reauthorization in 2009.



SEVEN WAYS TO GET INVOLVED IN JUVENILE JUSTICE

1. **Become more informed about the laws affecting youth in your area.** To learn more about your state's juvenile justice system, visit the National Center for Juvenile Justice website at www.ncjj.org/stateprofiles. NCJJ has compiled a comprehensive analysis of each state's juvenile justice system, services providers, laws, policies, and practices, including links to individuals and agencies in each state.
2. **Connect with other groups working on juvenile justice issues in your area.** There are hundreds of people working on juvenile justice reforms across the country. To obtain the contact information for juvenile justice specialists, corrections officials, and child advocates, consult the CFYJ directory available at http://www.c4yj.org/state_contacts2.html.
3. **Host meetings with juvenile justice professionals and state/local policymakers to discuss the findings in the policy brief.** CFYJ can provide multiple copies of the policy brief free of charge or they are available online at http://www.c4yj.org/key_research.html. If you are interested in educating the state or federal legislature, consult our legislator guide for tips and sample materials, available at <http://www.c4yj.org/Downloads/start/LegislativeGuide.pdf>.
4. **Speak to youth directly to learn more about their experiences.** CFYJ has written an interview guide, available at <http://www.c4yj.org/Downloads/start/InterviewGuide.pdf>, for the purpose of interviewing current and formerly incarcerated youth in the adult criminal justice system, their parents and families. The guide can be used for a variety of purposes including: documenting experiences and identifying patterns, establishing a connection with youth and their families, and to engaging, involving, and empowering youth, parents and families in the policy process. This can illustrate concretely to state/local policymakers, the public, and the media the needs of Native youth.
5. **Visit the tribal detention facility or state/local contract facility where youth are held.** Speak to youth to learn about why they are in detention and hear their experiences and consider inspecting the facility. For help in understanding what to look for, consult the Juvenile Detention Alternatives Initiative (JDAI) practice guide on conducting a self-assessment of a detention facility, available at <http://www.idaihelpdesk.org/Pages/PracticeGuides.aspx>.
6. **Engage the media.** The CFYJ Media Guide, available at http://www.c4yj.org/Downloads/start/YJ_MediaGuide.pdf, explains how you can cooperate with news agencies to get your message into the spotlight. Planning media hits, writing media materials, pitching stories, and more are all covered in this comprehensive yet easy to understand manual. If interested in working with the press on issues affecting Native youth in the adult criminal system, please contact CFYJ at (202) 558-3580 for further assistance.
7. **Tell us your story.** CFYJ's Case Profiles Project gathers personal stories from children prosecuted in the adult criminal justice system, as well as their parents and families, in order to understand first hand the experiences of those affected by the current system and support their recommendations for change. If you or a member of your family has been impacted by juvenile and criminal justice polices, please tell us your story. using the Case Profiles Packet, available at <http://www.campaign4youthjustice.org/Downloads/TellUsyourStory.pdf>.

» BECAUSE THE CONSEQUENCES AREN'T MINOR «

Publications Request

Name: _____ Tribal Affiliation: _____

Address: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

- DO NOT send me CFYJ's e-communications (monthly e-newsletter and weekly news roundup) which discuss recent research, events, and news related to the prosecution of youth as adults

Organization and Title (if applicable): _____

Please send me (check all that apply):

- The Tangled Web of Justice: American Indian and Alaska Native Youth in Federal, State, and Tribal Justice Systems.*** Released in June 2008, a policy brief which presents the latest research on Native youth in the juvenile and adult criminal justice systems.
- Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America.*** Released in November 2007, a national report which presents the latest research on the characteristics of youth incarcerated in U.S. jails and the risks they face.
- The Consequences Aren't Minor: The Impact of Trying Youth as Adults and Strategies for Reform.*** Released in March 2007, a national report on the issue of transfer/waiver of youth to the adult criminal court.
- "Childhood Interrupted."** A short DVD and discussion guide about the practice of trying youth in the adult system.
- A Capital Offense: Youth in DC's Adult Criminal Justice System and Strategies for Reform.*** A study of the status of children prosecuted in the adult criminal justice system in the District of Columbia which calls for an end to pre-trial placement of youth in the DC Jail.
- Policy Brief 1: Return Them to Juvenile Court.*** A policy brief that encourages decision-makers, juvenile justice officials, and concerned citizens to embrace the benefits that juvenile courts have long provided in separating youth from adult court.
- Policy Brief 2: Youth Transferred to Adult Court: Racial Disparities.*** A policy brief that examines the extent to which transfer laws disproportionately are applied to youth of color and suggests directions for future research on racial disparities among youth tried as adults.
- Policy Brief 3: Children Tried as Adults.*** A policy brief that summarizes the statutory law and protections provided in each state regarding the pretrial detention of children being tried as adults.
- Policy Brief 4: Perpetual Punishment: The Consequences of Adult Convictions for Youth.*** A policy brief that examines the life-long consequences that adult arrests and/or convictions place on youthful offenders.

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A Tangled Web of Justice

American Indian & Alaska Native Youth
in Federal, State, and Tribal Justice Systems

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Why study Native youth and juvenile justice?

- May be subject to the rules of 3 different governments (tribal, state and federal)
- Culturally distinct
- Racial minority
- Limited information (comprehensive data, long term studies)

What did we do for this report?

- Reviewed available data from other sources (BIA reports, DOJ reports, census data, privately-funded projects)
- Spoke informally with some of the people and organizations involved with Native youth
- Did not conduct original research

Demographics

- Young population (44% under age 25)
- Almost one million American Indian & Alaska Native youth in the U.S.
- Native youth make up 1% of all youth in U.S.
- 36% of Native Americans live on reservations or in Alaska Native villages
- 64% live in cities or town outside of Indian country

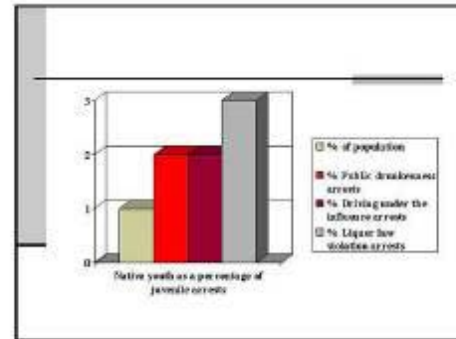
Risk factors related to delinquency

- Less likely to complete high school and get advanced degrees
- Experience high rates of child abuse and violence
- High suicide and substance abuse rates

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Types of offenses

- 1% of youth population
- 2% of youth arrested for public drunkenness, driving under the influence
- 3% of youth arrested for liquor law violations
- Most common offenses are not violent crimes



Top 5 offenses in 2000-2006

1. Liquor law violations
2. Larceny-theft
3. Disorderly conduct
4. Running away
5. Drug abuse violations

Disproportionate Sanctions (National)

- 1.5 times more likely to be waived into the adult criminal system
- 1.5 times more likely to be placed out of home
- 1.84 times more likely to be committed to adult state prison

Disproportionate Sanctions (State)

- AK: 3 times more likely than white youth to be referred to juvenile court in Anchorage. Almost 5 times more likely in Fairbanks.
- WI: More than twice as likely to be arrested as white youth. Arrest twice as likely to be detained. Almost 4 times more likely to be confined in a secure facility.
- MT: Arrested and referred at more than twice the rate of white youth. Less likely to be diverted out of the system. More likely to be placed in secure detention.
- SD: More than twice as likely as white youth to be arrested. 1.3 times as likely to be detained. 3.6 times as likely to be placed in a secure correctional facility.

Disproportionate Sanctions (State)

- MT: Native girls are 6.5% of the population but 37% of all girls in secure custody.
- OK: Native youth are 11% of the state population but 18% of the youth sentenced to an institution and 28% of the youth prosecuted as adults.
- MN: Native youth are 1% of the state population but 16% of the juveniles sent to the Minnesota Correctional Facility at Red Wing.

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Federal System

- Besides Native American youth, the only youth in the federal system are those who have committed federal crimes, like drug trafficking, serious gang crimes, or immigration violations.
- Outside of reservations, most youth go to state court, but federal law does not require U.S. Attorneys to defer to tribal courts.

Federal System

- With high caseloads and scarce resources, many young offenders simply are not prosecuted by U.S. Attorneys.
- When prosecuted, federal law sentences tend to be longer than state law sentences.
- Native youth make up 70% of the youth in BOP custody as juveniles and 31% of the youth committed to BOP as adults.

Tribal Justice Systems

- In 2002, only 25% of Lower 48 tribes reported having a separate juvenile justice system.
- Only 39% reported ordering probation for juveniles.
- Only 7% reported having their own juvenile residential facility.
- Many tribes contract to use state or local facilities or services.

2004 Inspector General Report

- Significant maintenance backlog
- Understaffing and lack of supervision
- Several youth suicides in detention facilities
- Youth held in adult facilities or secure juvenile facilities because of a lack of alternatives

Lack of Detention Alternatives

- BIA does not prioritize non-detention programs
- Insufficient funding available for treatment, diversion, probation
- Lack of supplemental services

Recommendations

- Strengthen tribal juvenile justice systems
- Reduce reliance on secure detention in tribal justice systems
- States should work to reduce disproportionate contact of Native youth
- Greater attention to Native youth in the federal system

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Contact Information

Breakout session at 1:30 pm in Ponderosa A

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