



Key Facts: Native American Youth in Federal, State, and Tribal Justice Systems

The policy brief from the Campaign for Youth Justice, *A Tangled Web of Justice: American Indian and Alaska Native Youth in Federal, State, and Tribal Justice Systems* examines the status of Native youth involved in the juvenile and criminal justice systems. The brief is available online at: <http://www.c4yj.org/policybriefs.html>.

Key findings of the brief 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.
- Native American youth are regularly prosecuted in three distinct justice systems: federal, state, and tribal. Criminal jurisdiction depends on the location of the crime (whether or not it occurred in “Indian country”), the type of crime (misdemeanor or felony), the perpetrator’s identity (Indian or non-Indian), and the victim’s identity (Indian, non-Indian, or victimless crime).
- Tribal jurisdiction is often concurrent with state or federal jurisdiction. This means that both governments may have jurisdiction at the same time (i.e., the tribal justice system can prosecute a youth under tribal law and the federal or state system can prosecute the case as well).
- According to a 2002 Bureau of Justice Statistics (BJS) study, 25% of responding tribes had a juvenile court, delinquency docket, or juvenile code.
- According to the 2002 BJS study, only 7% of responding tribes had their own juvenile residential facility available and over two-thirds (68%) of responding tribes placed juveniles in neighboring non-Indian detention facilities. In a 2004 survey of Jails in Indian Country, juveniles accounted for 11% of the total custody population. A one-day count in June 2004 indicated that 198 youth were being held—three of these as adults.
- In 2004, an Inspector General report found that many detention facilities on tribal lands are understaffed, overcrowded, and underfunded. The report documented a high number of youth suicides and problems separating juveniles from adults. In attempts by the Bureau of Indian Affairs (BIA) to remove juveniles from adult jails, some youth have been moved hundreds of miles away from home.
- 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 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.