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Research Policy Update

American Indian and Alaska Native Youth in the Juvenile Justice System: A Guide to the Data

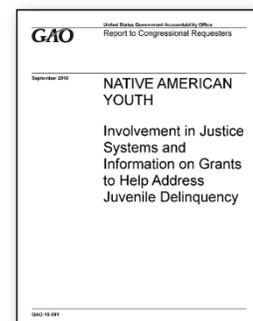
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Key Points:

- The U.S. Government Accountability Office (GAO) released a report in 2018 that revealed an overall decline in American Indian and Alaska Native (AI/AN) youth involvement in justice systems between 2010 and 2016.
- The GAO report also illustrated overrepresentation of AI/AN youth in the justice system in some states and underrepresentation in others.

Background – AI/AN Juvenile Justice Data Issues

In 2018, the GAO released a report on AI/AN youth involvement in the justice system during arrest, prosecution, and confinement.¹ The report is distinct from other analyses of AI/AN juvenile justice data because it collected and analyzed information from a wide range of federal, state, and tribal justice system datasets. This brief describes the methodology and findings of the GAO report, identifies potential research questions, and provides a data guide to sources of AI/AN juvenile justice data.



AI/AN Juvenile Justice Experience and Impact on Data

Data on AI/AN youth in the justice system are difficult to compile and compare because AI/AN youth can be involved in federal, state/local, and/or tribal justice systems. At each of the different stages of the justice process, AI/AN youth can also become involved with one or more justice systems that collect their own distinct data (**Figure 1**).

Figure 1: Stages of the Juvenile Justice Process and Related Justice Systems

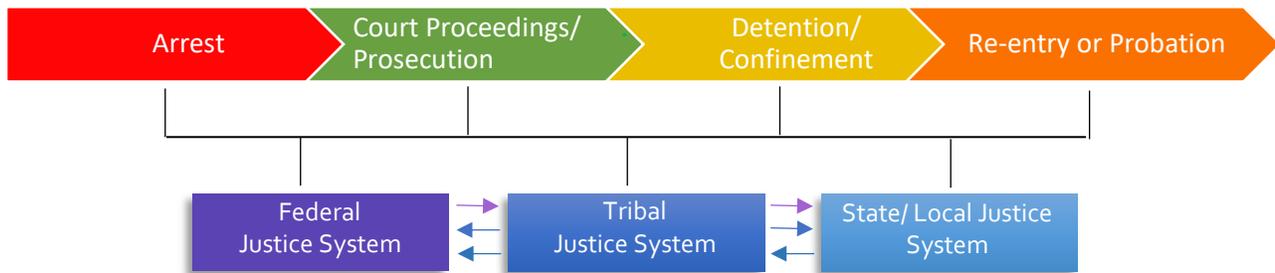


Figure 1 illustrates all the potential justice systems involved and where datasets may be available in the juvenile justice process. There are more stages in the juvenile justice process not represented in Figure 1.

Data availability and tracking of AI/AN youth in the juvenile justice system depends on where the incident occurred, what type of offense was committed, and the severity of the offense. All of these factors impact jurisdiction, or which justice system has the power to address the offense.

Datasets of AI/AN juvenile justice data are difficult to compare because AI/AN youth involved in multiple jurisdictions may be documented in one or more jurisdiction dataset(s) or not at all. The U.S. Marshalls Service (USMS) counts AI/AN arrests only after the youth is arrested and in federal custody. Youth arrested by the USMS but not in federal custody are not counted in their arrest rates. Juvenile justice can include both civil and criminal offenses, which further complicates the jurisdictional authority² and increases the opportunity for AI/AN youth to be miscounted in the justice system.

The ability to compare AI/AN juvenile justice datasets is also impacted by differing definitions and methods to identify individuals as youth and as AI/AN. Unified definitions of “youth” and “AI/AN” do not exist across justice systems and at the different stages in the justice process. Definitions for “youth” can include but are not limited to:

- *an individual age 18 years or younger in the justice system;*
- *an individual under the age of 18 years at time of arrest; and/or*
- *an individual age 21 years or younger.*

Definitions to determine if a youth is AI/AN can include but are not limited to:

- *“an individual enrolled in a federally recognized tribe” (Bureau of Indian Affairs);³ or*
- *“a person having origins in any of the indigenous peoples of North America, including Alaska Natives” (Department of Justice).⁴*

Identification of a youth as AI/AN can include a visual decision by an arresting officer, self-identification, or other methods. Identification based on the visual opinion of an official can lead to

inaccurate classifications.⁵ The differing definitions and methods for how AI/AN youth are identified prevent direct comparisons among datasets.

In summary, many potential reasons exist for inaccuracies in AI/AN juvenile justice data and there are challenges in comparing data from one dataset to another. The 2018 GAO report attempted to overcome these challenges related to comparing datasets and utilized data from federal, state/ local, and tribal justice systems across the different stages of the justice process.

GAO Report Methodology

The 2018 GAO report use data from a wide range of federal sources including but not limited to the Federal Bureau of Investigation (FBI), the Bureau of Indian Affairs (BIA), U.S. Marshalls Service (USMS), Office of Juvenile Justice and Delinquency Prevention (OJJDP), and the Bureau of Justice Statistics. The selection of datasets was limited to focus on measurements between 2010 and 2016.

The FBI Uniform Crime Reporting (FBI UCR) system receives self-reported data from state, local, and tribal law enforcement agencies. Detailed datasets for tribal justice systems were not available for the GAO analysis and tribal data primarily came from tribal data in the FBI UCR system.

To help unify definitions, the GAO report used the following definitions for Native American youth:

- a) *an individual who was "under 18 years of age at the time of arrest, adjudication, or confinement;"⁶ and*
- b) *an individual who was "identified as Native American based on descriptions and definitions of the agency data sets [reviewed]."⁷ The term Native American included both American Indian and Alaska Native although not all datasets included both.*

In addition to using their own definitions, the 2018 GAO report noted datasets that included data outside their definitions. By establishing boundaries on the datasets, the GAO report confined the data to a point where the diverse data collections could be analyzed in the same space.

Key Findings and Trends

Overall Decline in Number of AI/AN Youth in Juvenile Justice Systems

The 2018 GAO report found that the overall number of AI/AN youth in federal, state, and tribal juvenile justice systems declined between 2010 and 2016.⁸ In terms of arrests, the total number of AI/AN youth arrested by state and local law enforcement agencies declined by 40 percent between 2010 and 2016 (**Table 1**). Over those six years, AI/AN youth referred to state and local courts declined by 19 percent and AI/AN youth in state and local detention facilities decreased by 37 percent. Even

though the number of AI/AN youth involved in state and local justice systems between 2010 and 2016 decreased, the decreases in arrests and referrals to court were less than decreases for non-AI/AN youth. However, decreases in detention numbers were greater for AI/AN youth than non-AI/AN youth.

Table 1: Number of Youth Involved in State and Local Justice Systems at Different Stages of the Justice Process - Calendar Year 2010 Compared to Calendar Year 2016 – AI/AN vs. non AI/AN

Arrests ^a	2010	2016	Percent Change
AI/AN	18,295	11,002	-40%
Non-AI/AN	1,406,568	667,528	-53%
Referred to Courts ^b	2010	2016	Percent Change
AI/AN	19,200	15,600	-19%
Non-AI/AN	1,322,700	959,300	-27%
Detention ^c	2010	2016	Percent Change
AI/AN	861	544	-37%
Non-AI/AN	36,030	27,305	-24%

Adapted from: ^a GAO analysis of Federal Bureau of Investigation (FBI) Uniform Crime Reporting Summary Reporting System (UCR SRS) data. ^b GAO analysis of National Center for Juvenile Justice (NCJJ) data. ^c GAO analysis of Department of Justice 2011 and 2015 biennial Census of Juveniles in Residential Placement (CJRP) data. | GAO-18-591

Of note, data collection on detention facilities represents a snapshot of the day that the data was collected and did not include youth awaiting trial or adjudication. Further analyses on the total AI/AN youth at detention facilities throughout the full year could provide additional insight into the trends.

Over-and Under-Representation of AI/AN Youth in State Juvenile Justice Systems

The 2018 GAO report found states with significant overrepresentation and states with significant underrepresentation of AI/AN youth in their justice systems compared to the percent representation of AI/ANs in the state population. **Figure 2** provides an example or illustration of AI/AN underrepresentation, equal representation, and overrepresentation in the justice system.

Equal representation would mean the same percent of AI/ANs in the state population would be in the justice system. In Figure 2, the example has a population total of 1,000 people and 25 percent of those people are AI/AN. An equal representation in the justice system would also be 25 percent. An overrepresentation would show a greater percent of AI/AN in the justice system population compared to the state population percent.

Figure 2: Examples of Under -, Equal, and Over- representation in the Justice System with a State Population of 1000 People and a Justice System Population of 500

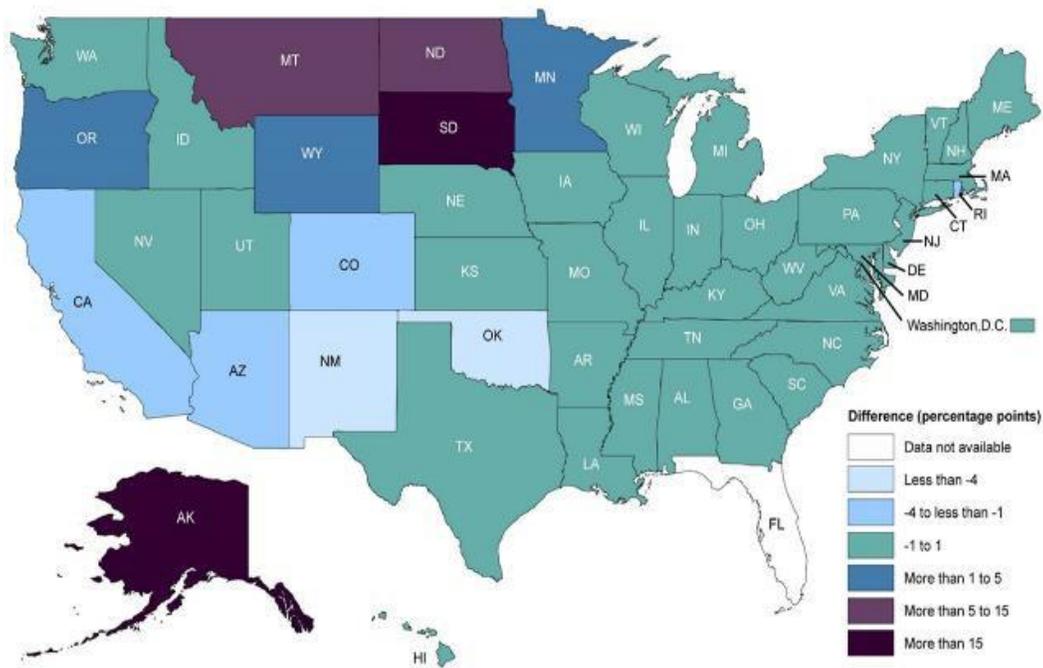
Underrepresentation		Equal representation		Overrepresentation	
State Population	Justice System	State Population	Justice System	State Population	Justice System
					
250 AI/AN 25% of Total Population	25 AI/AN 5% of Justice System Population	250 AI/AN 25% of Total Population	125 AI/AN 25% of Justice System Population	250 AI/AN 25% of Total Population	200 AI/AN 40% of Justice System Population

The example for overrepresentation in Figure 2 shows that 40 percent of the justice system population is AI/AN compared to AI/ANs representing 25 percent of the state population, or an overrepresentation of 15 percent. The underrepresentation example shows the opposite with a smaller percent of AI/AN involved in the justice system compared to the AI/AN percent of the total state population.

NCAI Policy Research Center visualization

The 2018 GAO report found states with underrepresentation and overrepresentation of AI/AN youth in the justice system. States with the highest overrepresentation of arrested AI/AN youth were Alaska, South Dakota, North Dakota, and Montana (**Figure 3**). Montana and North Dakota had a 5 – 15 percent overrepresentation and Alaska and South Dakota had more than a 15 percent overrepresentation of arrested AI/AN youth in the justice system.

Figure 3: Difference between the Percentage of Native Americans among Youth Arrested by State and Local Law Enforcement Agencies and the Percentage of Native Americans among the State’s Overall Youth Population in 2016, by State



Source: GAO analysis of Federal Bureau of Investigation (FBI) Uniform Crime Reporting Summary Reporting System (UCR SRS) data, and U.S. Census 2016 estimates

Oklahoma and New Mexico documented the highest underrepresentation of AI/AN youth arrested. The underrepresentation may or may not indicate fewer AI/AN youth involved in the justice system because identification of AI/AN is often based on a subjective view of the arresting officer⁹ and AI/ANs may have been misidentified and further underrepresented in these states.

Although Oklahoma had underrepresentation in arrest rates, it had overrepresentation for AI/AN youth in detention, as did Wyoming and Minnesota. A deeper analysis could inform why there was an increase of AI/AN youth representation during the detention/confinement stage of the justice process.

The data used to identify state overrepresentation and underrepresentation in AI/AN youth arrests came from the FBI UCR system and contained a mix of self-reported federal, state, local, and tribal data. Additional analyses on the data from justice system organizations in each state that participate in the FBI UCR system could provide additional insight to the over- and under-representation of AI/AN youth in each state.

Future Data Analyses – Possible Research Questions

Data collections range widely for AI/AN youth involved in various justice systems and the key findings from the 2018 GAO report need additional analysis. Below are possible questions for further research on the report findings to increase knowledge and provide guidance for AI/AN juvenile justice policies.

- To what extent do state, local, and tribal justice organizations report to the FBI UCR system? How do varying amounts of reporting by each state impact over-or underrepresentation of AI/AN youth?
- The over- and underrepresentation of AI/AN youth varies at different stages of the justice process in different states. What are the policies or measures that are impacting the finding of overrepresentation in the later stages of the justice process?
- Why does New Mexico have the highest underrepresentation for both arrest rates and detention rates? Is this a result of local policy? Is this an error in identification?
- How long are AI/AN youth involved in the justice system compared to other youth?
- How are detention rates impacted by measuring AI/AN youth residence over a year rather than just on the day of the data collection?
- What is the rate of repeat involvement? How much of the data is impacted by AI/AN youth repeated occurrence in data or impacted by actual repeat offenders?

Juvenile Justice Data Source Guide

The following data sources are available for tribal nations and researchers to gather additional data and conduct further analyses of AI/AN youth involvement in justice systems. Descriptions of these data sources are included on the following page.

Data Source	Location
Crime and Victim Statistics	<ul style="list-style-type: none"> <input type="checkbox"/> Federal Bureau of Investigation <ul style="list-style-type: none"> ○ Uniform Crime Reporting System (FBI-UCR) <input type="checkbox"/> United States Marshals Service <ul style="list-style-type: none"> ○ Arrest Statistics <input type="checkbox"/> Bureau of Indian Affairs <ul style="list-style-type: none"> ○ Juvenile Detention Center Administrative Data <input type="checkbox"/> Office of Juvenile Justice and Delinquency Prevention <ul style="list-style-type: none"> ○ Statistical Briefing Book - Arrests <input type="checkbox"/> Office of Juvenile Justice and Delinquency Prevention <ul style="list-style-type: none"> ○ Easy Access to Juvenile Populations
Court Proceedings	<ul style="list-style-type: none"> <input type="checkbox"/> Executive Office for United States Attorneys <input type="checkbox"/> Office of Juvenile Justice and Delinquency Prevention <ul style="list-style-type: none"> ○ Statistical Briefing Book – Court ○ Easy Access to Juvenile Court Statistics ○ Easy Access to State and County Juvenile Court Case Counts <input type="checkbox"/> Bureau of Justice Statistics, National Institute of Justice, and OJJDP <ul style="list-style-type: none"> ○ National Juvenile Court Data Archive
Detention Statistics	<ul style="list-style-type: none"> <input type="checkbox"/> Bureau of Justice Statistics <ul style="list-style-type: none"> ○ Jails in Indian Country ○ Tribal Crime Data-Collection Activities ○ Census Of Tribal Justice Agencies In American Indian And Alaska Native Tribal Jurisdictions <input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> Office of Juvenile Justice and Delinquency Prevention <ul style="list-style-type: none"> ○ Census of Juveniles in Residential Placement ○ Juvenile Residential Facility Census
Recovery/ Probation	<ul style="list-style-type: none"> <input type="checkbox"/> Office of Juvenile Justice and Delinquency Prevention <ul style="list-style-type: none"> ○ Statistical Briefing Book – Probation ○ Statistical Briefing Book – Reentry and Aftercare ○ Easy Access to the Census of Juveniles in Residential Placement

Federal Bureau of Investigation Uniform Crime Reporting (UCR) System collects data from federal, state/local, and tribal law enforcement agencies. This online data tool provides information on crime statistics taken during arrest or crime report. <<https://www.fbi.gov/services/cjis/ucr>>

U.S. Marshals Service Arrest Statistics publishes arrest statistics by states. The datasets provide information on arrests for certain crimes and total arrests for each crime by month. Information on AI/AN or juvenile specific arrests is not available. <<http://bit.ly/2lvohTo>>

The Bureau of Indian Affairs (BIA) **Juvenile Detention Centers** provided administrative data for the 2018 GAO Native American Youth report. The administrative data is not publically available.

The **Statistical Briefing Book** provides a range of data on juvenile arrest, court, probation, and re-entry rates. Datasets can identify AI/AN specific information and include state or county comparisons. Additional data publications, snapshots, and interactive maps on juveniles can be searched by year and by step in the justice process. <<https://www.ojdp.gov/ojstatbb/>>

The **Easy Access Datasets** are easy to use datasets created by different federal agencies. Downloadable spreadsheets, overviews, snapshots, and publications are available for juvenile justice population, arrests, court cases, and residential placements. <<http://bit.ly/2mm3rWW>>

The **National Juvenile Court Data Archive** collects data on juvenile court statistics, court-generated research data, and multi-record administrative data from juvenile case files. Datasets can be made available by contacting the National Juvenile Court Data Archive. <<http://bit.ly/2mcSh6K>>

The **Executive Office for United States Attorneys** provided administrative data for the 2018 GAO Native American Youth report. The administrative data used is not publically available.

Jails in Indian Country is a data collection by the U.S. Bureau of Justice Statistics on confinement facilities operated by tribal nations or the BIA. <<http://bit.ly/2luUwIB>>

Census of Tribal Justice Agencies in American Indian and Alaska Native Tribal Jurisdictions collects data on law enforcement agencies operating on tribal lands. <<http://bit.ly/2m1wT4D>>

Federal Bureau of Prisons collects data on inmate populations. <<http://bit.ly/2m9PuLJ>>

The Census of Juveniles in Residential Placement and Juvenile Residential Facility Census are surveys that occur on alternating years to measure information on juveniles in detention facilities. <<https://www.ojdp.gov/ojstatbb/ezacjrp/>> and <<https://www.ojdp.gov/ojstatbb/jrfcdb/>>

The U.S. Census Bureau data shows population rates for AI/AN youth. <<http://bit.ly/2mdphfl>>

Citation: NCAI Policy Research Center (2019). *American Indian and Alaska Native Youth in the Juvenile Justice System: A Guide to the Data*. Washington DC: National Congress of American Indians, January 2020.

Questions: NCAI Policy Research Center – email: research@ncai.org; website: <http://www.ncai.org/prc>

Endnotes

¹ "Native American Youth Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency: Appendix II." GAO-18-591. U.S. Government Accountability Office, September 2018.

² *Tribal Juvenile Justice: Background and Recommendations*. National Congress of American Indians, May 2019.

³ "Native American Youth Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency: Appendix II." GAO-18-591. U.S. Government Accountability Office, September 2018.

⁴ "Native American Youth Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency: Appendix II." GAO-18-591. U.S. Government Accountability Office, September 2018.

⁵ "Native American Youth Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency. GAO-18-591. U.S. Government Accountability Office, September 2018.

⁶ "Native American Youth Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency: Appendix II." GAO-18-591. U.S. Government Accountability Office, September 2018.

⁷ "Native American Youth Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency: Appendix II." GAO-18-591. U.S. Government Accountability Office, September 2018.

⁸ "Native American Youth Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency. GAO-18-591. U.S. Government Accountability Office, September 2018.

⁹ "Native American Youth Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency: Appendix II." GAO-18-591. U.S. Government Accountability Office, September 2018.