



## The Juvenile Justice System & Disproportionate Minority Contact

### Introduction

*This issue of Facts on KIDS continues with the topic of the Juvenile Justice system. The South Dakota juvenile justice systems and disproportionate minority contact (DMC) will be discussed.*

### South Dakota’s Juvenile Justice System<sup>1</sup>

The responsibility for the juvenile justice system in South Dakota is shared among county governments, the state court, and state executive branches. Counties are responsible for the prosecution of juvenile offenses and detention in the preadjudicatory period. In addition, one dispositional option open to judges is sentencing for up to 90 days in a county juvenile detention facility. The Unified Judicial System’s Court Services Department provides predisposition investigation and probation supervision services through seven judicial districts. The Department of Corrections administers the state’s juvenile correctional services in the post-adjudicatory phase. What follows is a brief description of the system.

### Detention

County executive agencies administer South Dakota’s seven secure detention facilities. A youth may be detained if he or she is:

- (1) a fugitive from another jurisdiction;
- (2) charged with certain offenses;
- (3) already held in detention or on conditional release in connection with another delinquency proceeding; and
- (4) failing to appear for juvenile court proceedings, violent conduct, or adjudications for serious property offenses.

### Delinquency & Diversion

By statute, a state’s attorney must conduct a preliminary investigation to determine whether further action should be taken after receiving a delinquency referral. The state’s attorney has the option to decide to refer the matter to a court-approved juvenile diversion program for any informal action outside the court system. Informal adjustment may last no longer than three months. The state’s attorney may also file a petition to bring the child before the court.

### Predisposition Investigation & Probation Supervision

Court Services Officers within the Unified Judicial System’s Court Services Department prepares a “prehearing social case study”. Court Services Officers may give recommendations and prepare social case histories when court-ordered. The court sets the terms and conditions of probation. An individualized Supervision Plan, in addition to the Conditions of Probation as set forth by the court, is required.

### Juvenile Corrections Continuum

If the youth is to be placed out of the home, the juvenile is committed to the Department of Corrections (DOC), which administers juvenile institutions. The South Dakota DOC operates programs such as the Patrick Henry

Brady Academy, Youth Challenge Center or the Living Center for boys and the QUEST or EXCEL programs for girls. Youth can also be placed with the Department of Human Services, in foster care or in private care. Juvenile Corrections Agents, working in 17 offices



across the state, interview juveniles to make placement recommendations.

### Direct Placement

The court can place a juvenile directly in a local or private placement only for chemical dependency placements and into short-term detention facilities. Direct placements to detention centers may not last longer than 90 days. The court may place the juvenile at the Human Services Center for examination and treatment. A Court Services Officer supervises the juvenile while he or she is in direct placement.

### Release

The Secretary of Corrections may order the release of a juvenile from the Department of Corrections (DOC) as a reward for good conduct upon satisfactory evidence of reformation. Also, the court may order a youth's release from the DOC after a hearing to determine if release will promote the youth's best interests.

Within 30 days after a juvenile is committed to the DOC and every 90 days thereafter while the juvenile remains in a correctional placement, the DOC must file with the court that committed the youth a report that contains: the results of any assessments of the youth concerning the youth's emotional, mental, educational, psychological, psychiatric, medical, physical, or health status and needs; information regarding the placement of the youth within particular programs administered by the DOC; and progress of the youth in programs administered by the DOC.

### Aftercare/Re-entry

The Department of Corrections Juvenile Corrections Agents (JCA) provides aftercare services. JCAs maintain case management supervision and begin aftercare planning once a youth is placed in a DOC facility. The Department of Human Services operates one transitional living program for young men who are unable to return home.

### Victim Rights & Services

South Dakota extends rights to victims of juvenile offenders. The Department of Social Services administers the crime victim compensation program.

### Juvenile Justice Core Requirements for States

In 2003, the South Dakota legislature enacted legislation to assure South Dakota's compliance with the core protections for youth required in the JJDP Act. As a result, the state became for more than half a million dollars in federal grants from the Juvenile Justice and Delinquency Prevention Act. The guidelines to receive federal funds stated:

- Juveniles cannot be held in adult jails or prisons
- If, as allowed under certain conditions within the first 48 hours after apprehension, a juvenile is held in jail or prison, they must be separated both in sight and sound from imprisoned adults.
- CHINS – Children in Need of Supervision cannot be detained in secure facilities
- Disproportionate minority contact must be addressed by the state.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) also required all States participating in the Formula Grants Program (Title II, Part B, of the Act) to address disproportionate minority confinement (DMC) in their State plans. In 2002, the JJDP Act broadened the DMC initiative from disproportionate minority "confinement" to disproportionate

"representation" of minority youth at all decision points along the juvenile justice system continuum.

### DMC Core Requirements of JJDP Act

States must address specific delinquency prevention and system improvement efforts to reduce the rate of contact with the juvenile justice system of a specific minority group, if that rate is significantly greater than the rate of contact for whites or for other minority groups. The purpose of this core requirement is to ensure equal and fair treatment for every youth (regardless of membership in a minority or majority population group) involved in the juvenile justice system. *Minority populations* are defined as non-white and grouped as: American Indian or Alaska Native; Asian; Black or African-American; Hispanic or Latino; Native Hawaiian or Other Pacific Islander.

*Contact* refers to the initial legal encounters through law enforcement (arrest) and to ongoing contact through actions within the juvenile justice system such as diversion, detention, referral to juvenile court, issuance of petitions, adjudication as delinquent, placement on probation, placement in secure juvenile corrections, transfer to adult court, and other such processes.



States undertake efforts to reduce DMC by moving through phases: Identification, Assessment, Intervention, Evaluation, and Monitoring.

Each State must report on its progress and describe its DMC reduction plan for the coming 3 years and the next year. OJJDP reviews the plan and its updates annually.

Failure to show progress in its DMC reduction plan under review could result in a state losing 20 percent of its Formula Grants allocation for the year.

### South Dakota's Approach to Addressing DMC

The Council of Juvenile Services (CJS) was established by the state legislature in 2003. The CJS works with the South Dakota Department of Corrections (SD-DOC) to implement the JJDP formula grants within the state.

South Dakota addressed the question of overrepresentation of minorities in secure confinement in the juvenile justice system. In December 2005, the South Dakota Department of Corrections and the Council of Juvenile Services released the report "*Juvenile Justice and Delinquency Prevention Program. Disproportionate Minority Contact Report.*"

(The Report is on-line at:

<http://www.state.sd.us/corrections/DMCReport2005Final.pdf>)

## Highlights of South Dakota's DMC Report

In Fiscal Year 2005, South Dakota completed the identification phase of the DMC process. Based on data collected, "DMC was found to exist in South Dakota's juvenile justice system. The arrest stage was found to exhibit the most evidence of minority overrepresentation within the juvenile system."<sup>2</sup>

The report found 17.5% of children and youth under age 18 in South Dakota were minority youth. The largest minority population was Native American youth (15%).

For several of the stages in the juvenile justice process data showed the following:

- The **arrest**<sup>3</sup> rate for Native American youth was 2.40 times higher than the arrest rate for Caucasian youth.
- The **detention** rate for Native American youth was 1.62 times higher than the detention rate for Caucasian youth.
- Petitions** filed for Caucasian youth was 1.19 times higher than the rate filed for Native American youth.
- The **adjudication** rate for Caucasian youth was 1.11 times higher than the adjudication rate for Native American youth.
- The **probation** rate for Native American youth was 1.20 times higher than the probation rate for Caucasian youth.
- The **detention as a disposition** rate for Native American youth was 1.20 times higher than the rate for Caucasian youth.
- The **commitment** rate for Native American youth was 2.33 times higher than the commitment rate for Caucasian youth.
- The **secure placement** rate for Native American youth was 1.59 times higher than for Caucasian youth.

## Assessment

The South Dakota Department of Corrections (DOC) concluded that it needed to understand why such overrepresentation exists. Mountain Plains Research conducted both a quantitative and a qualitative study assessment of DMC to help in identifying interventions that could reduce the occurrence of DMC. Twelve focus groups were held across the state with 92 total participants. Focus group respondents cited bias in the system from law enforcement, state's attorney, and judges. Reasons cited by focus group respondents were different laws, mores and cultural values between Reservation and Non-Reservation areas; inconsistent family life/structure; truancy and dropout rates; substance abuse; and environment-loss of culture/identity; to name a few.

Focus groups also identified solutions to reduce delinquency and DMC. Responses were cultural sensitivity/diversity training, holding adults accountable, including spiritual aspects as a part of the solution, breaking the cycle of negativity, and mentoring programs, to name a few.

More information on these issues can be found in "Assessment of Disproportionate Minority Contact in South Dakota," by Gary R. Leonardson and Roland Loudenberg, is available from the South Dakota Department of Corrections. (The report can be accessed at: <http://www.state.sd.us/CORRECTIONS/FullDMCReportFinal.pdf>).

## Intervention

The Council of Juvenile Services, responsible for juvenile justice system planning and oversight of South Dakota's compliance with the JJDP Act, created the Disproportionate Minority Contact Committee to examine DMC statewide and also recommend interventions workgroups in Sioux Falls, Rapid City and Sisseton. Statewide DMC intervention strategies were developed:

- Funded DMC interventions in Sioux Falls, Rapid City and Sisseton.
- Increase collaboration with Indian tribes and the state juvenile justice system.
- Assess the cultural competency of state agencies and departments.
- Offer cultural competency training for each agency/department/system.
- Improve quantity and quality of data for the study of DMC.
- Create legal education program for parents.
- Continue to support three local DMC workgroups.
- Research impact on raising compulsory school attendance from 16 to 18.
- Disseminate DMC information.

The remaining phases, evaluation (to evaluate the effectiveness of the chosen intervention strategies) and monitoring (to note changes in DMC trends and to adjust intervention strategies as needed) will be completed when the intervention strategies have been implemented and results compiled.



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#### Notes:

<sup>1</sup>Information for this section is used with permission from: National Center for Juvenile Justice. 2006. "South Dakota." State Juvenile Justice Profiles. Pittsburgh, PA: NCJJ. Online. <http://www.ncjj.org/stateprofiles/>.

<sup>2</sup>South Dakota Department of Corrections and Council of Juvenile Services (2005) Juvenile Justice and Delinquency Prevention Program. Disproportionate Minority Contact Report. (Page 9).

<sup>3</sup>If the youth is a juvenile, the youth is apprehended and not "arrested."

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The South Dakota KIDS COUNT Project ([www.sdkidscount.org](http://www.sdkidscount.org)) is a national and state-by-state effort, sponsored by the Annie E. Casey Foundation, to track the status of children in the United States. By providing policymakers and citizens with benchmarks of child well-being, KIDS COUNT seeks to enrich local, state, and national discussions concerning ways to secure better futures for children and families. Additional funding for the state project comes from the South Dakota Departments of: Education, Human Services, and Social Services.

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#### Resources:

- OJJDP's DMC website at <http://www.ojjdp.ncirs.org/dmc>.
- South Dakota Department of Correction website: <http://www.state.sd.us/DOC>
- South Dakota Voices for Children. The South Dakota Juvenile Justice System Guidebook for Youth and Parents. <http://www.sdvoicesforchildren.org/JJGuidBk.pdf>
- Kids, Crimes, Choices: What Can We Do? by Susan M. Randall, Ph.D., Jeanmarie Heriba, and Ruth Yellow Hawk. Available from The Chiesman Foundation for Democracy: <http://www.chiesman.org/publications.php#6>
- The Juvenile Court* The Future of Children,. (Vol. 6, No 3, Winter 1996). Accessible online at: <http://www.futureofchildren.org/homepage2824/archive.htm>

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