

Report Conclusion

The *Tribal Youth in the Federal Justice System* project yielded findings about juveniles and tribal youth in the federal system, FJSP's ability to describe and analyze juvenile data, and suggestions for future research.

Summary of Key Findings

Two primary types of findings emerged from the study—data findings and contextual findings. Key findings from the data analysis may be summarized as follows:

- There are relatively few juvenile cases in the federal system, representing less than 1% of the caseload at every stage, each year from 1999 to 2008.

- Tribal youth (defined either as juveniles who committed offenses in IC or as American Indian youth) represent about 40-55% of all juveniles in the federal system, depending on the stage in the system.

ILOC Discussion: This finding may seem to speak for itself. However, many factors contribute to system involvement. A traditional analysis of the decision points of the system may provide reasons besides jurisdictions for these numbers.

- From 1999 to 2008, the number of juveniles, as well as tribal youth, in the federal system decreased substantially. These decreases held across most stages of the justice system. Reasons for these decreases are unclear.

- Most juvenile cases are concentrated in a small number of federal judicial districts, including South Dakota, Arizona, Montana, New Mexico, North Dakota, California- Southern, and Texas-Western.

ILOC Discussion: This presents the opportunity to focus on these districts in a specific effective approach. Can resources be shifted and or leveraged to provide community based services? Can joint case management serve a youth, his/her family and that community without increasing costs effectively? Can resources be shifted to the Tribal court system for supervision? Can technology improve public

safety in frontier settings as opposed to detention?

Pilot projects in small areas may serve as models for other cross jurisdictional collaborations in Indian Country. These pilots may include best practices including detention reform/alternatives to detention, risk and need assessment, data driven decision making and effective intervention and supervision programming.

- The non-tribal juvenile population includes numerous defendants from the Southwest border accused of drug and immigration violations.

- U.S. Attorneys decline a substantial portion of juvenile matters referred for prosecution. On average for the 10-year period, about 42% of the concluded juvenile matters were declined (about 45% of the concluded IC juvenile matters were declined and 40% of concluded non-IC juvenile matters were declined).

ILOC Discussion: What happens to youth whose cases are declined?

- Most juveniles entering BOP custody (about 62%) have been adjudicated delinquent and have not been transferred to adult status. Most adjudicated juveniles were committed to the custody of the BOP by probation with confinement conditions, while the majority of juveniles with adult status were committed for the first time by a U.S. district court or were supervision violators.

ILOC Discussion: Probation with Confinement defined. Committed likely means that BOP makes the call but what are their options?

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ILOC Discussion:

- The average time served for those juveniles released from BOP custody increased from 1999 to 2008. The average time served for juveniles overall increased from 14 months to 32 months. The average time served by IC juveniles in BOP facilities doubled from 12 months in 1999 to more than 25 months by 2008. For non-IC juveniles, the average time served in BOP facilities also increased significantly, from 15 to 38 months.

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ILOC Discussion: Excessive and expensive stays. Institutional socializations, loss of resiliencies, prosocial ties to the community.

When considering average time served for U.S. district court commitments (for a new offense) only, the rate of increases were similar, but average sentences were higher. The average time served in BOP facilities for all juveniles committed for new U.S. district court commitments increased from 28 to 46 months. For IC juveniles, the average time served for new U.S. district court commitments increased from 28 to 38 months, and for non-IC juveniles from 28 to 53 months. In addition to these data findings, the study identified a number of themes and patterns relating to the processing of tribal youth cases through site visits, interviews with experts, and document review. These key contextual findings include the following:

- Case processing patterns differ across tribes and districts. This variability is influenced by a number of factors, including U.S. Attorney priorities, federal law enforcement resources and priorities, tribal priorities and resources, the structure of tribal law enforcement, the degree of federal involvement, and the underlying crime problem.

- The decision of whether to prosecute a juvenile case at the tribal or the federal level is complex and dependent upon several considerations, including the seriousness of the crime, the youth's criminal history, age of the offender, strength of the evidence, and the tribe's capacity to prosecute and appropriately sentence the offender. While the final decision to prosecute a case federally rests with the U.S. Attorney, tribal preference is also often taken into account. In

general, tribal youth cases processed in the federal system tend to be egregious crimes committed by older offenders and as noted by officials consulted for this study, reportedly with more extensive criminal histories.

ILOC Discussion: This is a critical decision point. What other options exist?

- Similarly, a number of factors influence whether a juvenile is processed as a juvenile delinquent or transferred. Federal law specifies the factors that must be considered in determining whether to transfer a case (including offender's age, criminal history, and maturity and the nature of the offense), and cases meeting certain criteria must be transferred. District practices vary, and the prevalence of transfer varies across districts.

- Tribal youth cases may be processed in both tribal and federal court. The tribal case is often initiated first and may be dropped once the federal case begins.

- Federal cases face many processing challenges. These challenges, some of which apply to IC cases generally, include the physical and cultural distances between many reservations and federal actors, as well as the lack of federal detention facilities for juveniles.

- The federal justice system is not designed for juveniles, yet it may sometimes be the best option available despite its limitations (e.g., federal judges and prosecutors often lack the specialized training of state juvenile justice counterparts; juvenile-specific programming is limited, and juveniles may be placed in facilities far from home). This view was expressed consistently by those we interviewed.

ILOC Discussion: Why is this best?