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U.S. Senate

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NATIVE AMERICAN YOUTH

Information on Involvement in Justice Systems and Grant Programs to Help Address Juvenile Delinquency

Statement of Gretta L. Goodwin, Director,
Homeland Security and Justice

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee:

I am pleased to be here today to discuss our recently completed report on American Indian and Alaska Native (Native American) youth involvement in federal, state and local, and tribal justice systems, and federal grant programs available to help address issues of delinquency among Native American youth.¹

In particular, I will highlight our findings pertaining to (1) what available data show on the number and characteristics of Native American youth in federal, state and local, and tribal justice systems; and (2) selected federal discretionary grants and cooperative agreements (grant programs) that could help prevent or address delinquency among Native American youth, and tribal governments and Native American organizations' access to them.²

According to recent reports and agency research,³ several risk factors make some Native American youth susceptible to becoming involved with justice systems at the federal, state and local, and tribal levels.⁴ These

¹GAO, *Native American Youth: Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency*, GAO-18-591 (Washington, D.C.: Sept. 5, 2018).

²Discretionary grants are competitive and the granting agency has discretion to choose one applicant over another. Cooperative agreements are similar to discretionary grants in that federal agencies generally award them based on merit and eligibility; however, federal agencies generally use cooperative agreements when they anticipate that there will be substantial federal, programmatic involvement with the recipient during the performance of the financially-assisted activities, such as agency collaboration or participation in program activities.

³Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence, *Ending Violence so Children Can Thrive*, (November 2014), available at <https://www.justice.gov/sites/default/files/defendingchildhood/pages/attachments/2014/11/18/finalaianreport.pdf>; Indian Law and Order Commission, *A Roadmap for Making Native America Safer: Report to the President and Congress of the United States* (November 2013), available at <https://www.aisc.ucla.edu/iloc/report/>; and Department of Justice Office of Juvenile Justice and Delinquency Prevention, *Literature Review: A Product of the Model Programs Guide—Tribal Youth in the Juvenile Justice System* (Washington, D.C.: Development Services Group, Inc., 2016), available at <https://www.ojjdp.gov/mpg/litreviews/Tribal-youth-in-the-Juvenile-Justice-System.pdf>. The Indian Law and Order Commission was established by the Tribal Law and Order Act of 2010, Pub. L. No. 111-211, tit. II, § 235, 124 Stat. 2258, 2282 (2010).

⁴Our discussion of Native American youth in justice systems (i.e., federal, state and local, and tribal) generally included persons who were (a) under 18 years of age at the time of arrest, adjudication, or confinement; and (b) identified as Native American based on descriptions and definitions of the agencies providing the data we reviewed.

risk factors include exposure to violence; substance abuse; poverty; limited job market skills; and tribal communities' limited funding for mental health, education, housing, and other services.

Native American youth who commit offenses can enter one or more justice systems at the federal, state and local, and tribal levels. Although these justice systems have unique characteristics, youth generally proceed through certain phases, including arrest, prosecution and adjudication, and in some instances, placement and confinement in a detention facility.⁵

When a Native American youth enters the federal criminal justice system, the Department of Justice (DOJ) and Department of the Interior (DOI), among others, have responsibility for investigating and prosecuting his or her act of delinquency or crime. Additionally, federal agencies including DOJ and the Department of Health and Human Services (HHS) provide funding through grant programs that grantees could use to help prevent or address juvenile delinquency.⁶

Outside Indian country, a state generally has jurisdiction to proceed against a youth who has committed a crime or act of juvenile delinquency.⁷ Federal law limits federal jurisdiction over youth if a state has jurisdiction over the youth and has a system of programs and services adequate for their needs.⁸ State and local justice systems have specific courts—often at the county or city level—with jurisdiction over youth alleged to have committed an act of juvenile delinquency or a

⁵Our use of the term “adjudication” refers to youth in both a juvenile justice system and prosecuted in adult criminal court. Our use of the term “confinement” refers to youth committed to facilities such as federally operated prisons; juvenile facilities overseen by the federal government; and state, local, and tribal jails.

⁶In our September 2018 report and this testimony statement, we use the term “juvenile” when referencing justice systems and “youth” when referring more generally to individuals under the age of 18 at the time of arrest or confinement. In addition, we use the term “Native American” to indicate both Alaska Native and American Indian individuals, including the youth in the data we reviewed. However, we use the term “Indian” in reference to definitions established by statute or law.

⁷Federal law defines the term “Indian country” as all land within the limits of any Indian reservation under the jurisdiction of the U.S. government, all dependent Indian communities within U.S. borders, and all existing Indian allotments, including any rights-of-way running through an allotment. See 18 U.S.C. § 1151. With certain exceptions, there is generally not Indian country in Alaska.

⁸See 18 U.S.C. § 5032.

crime.⁹ Inside Indian country, youth (and adults) may fall under federal, state, or tribal jurisdiction depending on several factors.¹⁰ These factors include the nature of the crime, the status of the alleged offender and victim—that is, whether they are Indian or not—and whether jurisdiction has been conferred on a particular entity by statute. The Major Crimes Act, for example, grants the federal government criminal jurisdiction over Indians in Indian country charged with serious, felony-level offenses enumerated in the statute, such as murder, manslaughter, kidnapping, burglary, and robbery.¹¹ State jurisdiction in Indian country is generally limited to two instances: when both the alleged offender and victim are non-Indian, or when a federal statute confers, or authorizes, a state to assume criminal jurisdiction over Indians in Indian country.¹² Otherwise, only the federal and tribal governments have jurisdiction in Indian country.

For our September 2018 report, we analyzed federal, state and local, and tribal arrest, adjudication, and confinement data from 2010 through 2016

⁹Typically, justice systems refer to unlawful acts committed by youth as acts of juvenile delinquency, and unlawful acts committed by adults as crimes.

¹⁰See 18 U.S.C. §§ 1152 (codifying the General Crimes Act, as amended); 1153 (codifying the Major Crimes Act, as amended); and 1162 (codifying state criminal jurisdiction provisions of Public Law 280, as amended). The federal government also has jurisdiction to prosecute crimes of general applicability, such as violations of the Controlled Substances Act of 1970, 21 U.S.C. § 801 et seq., and crimes that relate specifically to Indian tribal organizations and resources without regard for the Indian status of the alleged offender or victim. See generally 18 U.S.C. §§ 1154-70. Additionally, the Federal Juvenile Delinquency Code applies to all juveniles alleged to have committed an act of juvenile delinquency, other than a violation of law committed within the special maritime and territorial jurisdiction of the United States for which the maximum authorized term of imprisonment does not exceed 6 months, and therefore generally applies to juveniles outside and inside of Indian country. See 18 U.S.C. § 5032.

¹¹See 18 U.S.C. § 1153.

¹²Public Law 280 gave certain states—Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin—exclusive criminal jurisdiction over offenses committed by or against Indians in Indian country, except as specified in statute, thereby waiving federal jurisdiction in those states. 18 U.S.C. § 1162. A 2010 amendment to this statute enabled tribes in Public Law 280 states to request concurrent federal jurisdiction. See Pub. L. No. 111-211, tit. II, subtit. B, § 221(b), 124 Stat. 2272 (codified as amended at 18 U.S.C. § 1162(d)). Because of this amendment, federal courts in Public Law 280 states can exercise jurisdiction over certain crimes if the tribe requests concurrent federal jurisdiction and the Attorney General consents to it. Specifically, after the tribal request and consent of the Attorney General, federal and state courts in Public Law 280 states have jurisdiction concurrent with the state for (1) major crimes committed by Indians against Indians and non-Indians under the Major Crimes Act; (2) crimes by non-Indians against Indians under the Indian Country Crimes Act/Assimilative Crimes Act; and (3) crimes committed by Indians against non-Indians under the Indian Country Crimes Act/Assimilative Crimes Act.

(the most recent available) from DOJ and DOI. We also analyzed DOJ and HHS grant program award documentation from fiscal years 2015 through 2017, and application information for a sample of the grant programs chosen based on the amount of funding awarded and other factors. Additionally, we also interviewed officials from DOJ, HHS, and 10 tribal governments or Native American organizations chosen to include successful and unsuccessful applicants to the grant programs, among other things.¹³ Additional information on our scope and methodology can be found in our September 5, 2018 report. For specific information about the different databases from which we gathered our data, see appendix I. Our work was performed in accordance with generally accepted government auditing standards.

Available Data Indicate Native American Youth Involvement in Justice Systems Declined from 2010 through 2016 and Differed in Some Ways from That of Non-Native American Youth

In our September 2018 report, we found that from 2010 through 2016 the number of Native American youth in federal and state and local justice systems declined across all phases of the justice process—arrest, adjudication, and confinement—according to our analysis of available data. At the federal level, arrests by federal agencies dropped from 60 Native American youth in 2010 to 20 in 2016, and at the state and local level, arrests of Native American youth declined by almost 40 percent from 18,295 arrested in 2010 to 11,002 in 2016.

Our analysis also found that the vast majority of these Native American youth came into contact with state and local justice systems, not the federal system. For example, from 2010 through 2016, there were 105,487 total arrests of Native American youth reported by state and local law enforcement agencies (LEAs). In contrast, there were 246 Native American youth held in federal custody by the U.S. Marshals Service due to arrest by federal LEAs during the same period.

We also found a number of similarities between Native American and non-Native American youth in state and local justice systems. For example, the offenses that Native American youth and non-Native

¹³In our September 2018 report, we defined “tribal governments” as the governing bodies of federally recognized tribes. We defined “Native American organizations” as organizations affiliated with federally recognized tribes, such as tribal colleges and universities, as well as non-tribal organizations that focus on serving American Indian and Alaska Native populations, such as urban Indian organizations. In addition, we did not include Native Hawaiian and Pacific Islander governmental entities and organizations in our definition of “tribal governments and Native American organizations” for the purposes of our September 2018 report.

American youth were arrested, adjudicated, and confined for were generally similar.¹⁴ In contrast, our analysis also showed a number of differences between Native American and non-Native American youth in the federal justice system. For example, our analysis showed variation in the types of offenses committed by each group. From fiscal years 2010 through 2016, the majority of Native American youth in the federal justice system were arrested, adjudicated, or confined for offenses against a person, with the top two specific offenses being assault and sex offenses.¹⁵ In contrast, the majority of involvement of non-Native American youth in the federal system during the same period was due to public order or drug and alcohol offenses at all three stages, with the top two specific offenses being drug and immigration related.¹⁶ Our September 2018 report contains additional information on the differences between Native American and non-Native American youth involved with the federal justice system.

Further, we found that the percent of Native American youth involved in most state and local systems was generally similar to their representation in the youth populations in those states. For example, our analysis found that the majority (about 75 percent) of Native American youth arrested by state and local LEAs from calendar years 2010 through 2016 were located in 10 states: Alaska, Arizona, Minnesota, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Washington, and Wisconsin. These 10 states had among the highest percent of Native Americans in

¹⁴Additional discussion on similarities between Native American and non-Native American youth involved with the state and local justice systems can be found in our September 2018 report.

¹⁵The data sources we reviewed for our September 2018 report contained hundreds of specific offenses, such as simple assault, illegal entry, and rape. To analyze the data, we categorized specific offenses for all data sources into 1 of 22 offense categories, such as assault, immigration, and sex offense. To determine the 22 categories, we considered categories used in our prior work and consulted FBI's Uniform Crime Reporting offense codes. The placement of specific offenses into offense categories was carried out by a GAO analyst, reviewed by additional GAO analysts, and confirmed by a GAO attorney. We then grouped the offense categories into five broad categories—drug and alcohol, person, property, public order, and other. To determine the five broad categories, we considered categories presented in National Center for Juvenile Justice's annual Juvenile Court Statistics reports. The placement of offense categories into a broad category was carried out by a GAO analyst and confirmed by a GAO attorney.

¹⁶For the purposes of our analysis in our September 2018 report, public order offenses could include disorderly conduct; fraud, forgery, and counterfeiting; immigration; obstruction of justice; probation parole; status offenses; traffic violations; and weapons violations.

their states' overall youth populations, according to 2016 U.S. Census estimates we reviewed.¹⁷ In 2016, the largest number of arrests by state and local LEAs occurred in Arizona and South Dakota.

In contrast, we found that representation of Native American youth arrested, referred for adjudication, and confined at the federal level during the period reviewed was greater (13 to 19 percent) than their representation in the nationwide youth population (1.6 percent).

DOJ officials told us that the population of Native Americans in the federal justice system has historically been higher than their share in the nationwide population, and they attributed this and other differences shown by our analysis to federal government jurisdiction over certain crimes in Indian country, as well as the absence of general federal government jurisdiction over non-Native American youth. According to DOJ officials, this jurisdiction requires the federal government to prosecute offenses that would commonly be prosecuted by states if committed outside of Indian country. According to DOJ officials, a small handful of federal criminal statutes apply to all juveniles, such as immigration and drug statutes, but the federal government has been granted greater jurisdiction over Native American youth than non-Native American youth by federal laws that apply to crimes committed in Indian Country, such as the Major Crimes Act. For example, one DOJ official noted that the Major Crimes Act gives the federal government exclusive jurisdiction over crimes such as burglary and sex offenses committed in Indian country. This differs from the treatment of non-Native American youth, who are not prosecuted in the federal system for the same types of offenses, because the federal government does not have jurisdiction over those youth for such offenses. Non-Native American youth are instead subject to the general juvenile delinquency jurisdiction of state and local courts.

Additionally, DOJ officials stated that tribal justice systems are often underfunded and do not have the capacity to handle Native American youths' cases. Therefore, they stated that when both federal and tribal

¹⁷According to 2016 census estimates, the following states had the highest percent of Native Americans among the overall youth population: Alaska: 19 percent; South Dakota: 14 percent; New Mexico: 13 percent; Oklahoma: 12 percent; Montana: 11 percent; North Dakota: 9 percent; Arizona: 7 percent; Wyoming: 4 percent; Washington: 2.7 percent; Oregon: 2.4 percent; Nebraska: 2.3 percent; Idaho: 2.1 percent; and Minnesota: 2 percent. For the remaining states, the percent of youth who were Native American was less than 2 percent.

justice systems have jurisdiction, the federal system might be the only system in which the youth's case may be adjudicated. For these reasons, the percentage of Native American youth offenders in the federal justice system is higher than non-Native American juveniles in accordance with population size, according to DOJ officials.

Representatives from four of the five Native American organizations we interviewed, whose mission and scope of work focus on Native American juvenile justice issues and that have a national or geographically specific perspective, noted that federal jurisdiction is a key contributor to the higher percentage of Native American youth involved at the federal justice level. Additionally, representatives from all five organizations noted, similarly to DOJ officials, that federal jurisdiction over crimes in Indian country is typically for more serious offenses (specifically under the Major Crimes Act), such as offenses against a person.¹⁸

Comprehensive data from tribal justice systems on the involvement of Native American youth were not available. However, we identified and reviewed a few data sources that provided insights about the arrest, adjudication, and confinement of Native American youth by tribal justice systems. See appendix II for a summary of our analysis of data from these sources.

¹⁸See our September 2018 report for additional information on perspectives we collected from agency officials and the five Native American organizations regarding factors that might contribute to the data characteristics we observed.

DOJ and HHS Offered at Least 122 Grant Programs; Tribal Governments or Native American Organizations Were Eligible for Almost All but in a Sample of Applications We Reviewed, Applied Primarily for Programs Specifying Native Americans

In our September 2018 report, we identified 122 discretionary grants and cooperative agreements (grant programs) offered by DOJ and HHS from fiscal years 2015 through 2017 that could help prevent or address delinquency among Native American youth.¹⁹ DOJ and HHS made approximately \$1.2 billion in first-year awards through the 122 programs over the period, of which the agencies awarded about \$207.7 million to tribal governments or Native American organizations.²⁰ A list of the 122 programs, which focus on a range of issues such as violence or trauma, justice system reform, alcohol and substance abuse, and reentry and recidivism, can be found in our September 2018 report.

The 122 DOJ and HHS grant programs we identified included 27 programs that specified tribes or Native Americans as a primary beneficiary and 95 programs that did not specify these populations but could include them as beneficiaries.²¹ For example, the Department of Justice's Office of Juvenile Justice and Delinquency Prevention offered the Defending Childhood American Indian/Alaska Native Policy Initiative: Supporting Trauma-Informed Juvenile Justice Systems for Tribes program for funding in fiscal year 2016. The goal of this program—increasing the capacity of federally recognized tribes' juvenile justice and related systems to improve the life outcomes of youth who are at risk or who are involved in the justice system and to reduce youth exposure to violence—explicitly focused on tribal communities. On the other hand, the

¹⁹To identify grant programs for our September 2018 report, we conducted a keyword search of "youth or juvenile" in Grants.gov—an online repository that houses information on over 1,000 different grant programs across federal grant-making agencies. We reviewed the search results of the three departments with the highest number of grant program matches—DOI, DOJ, and HHS. Within DOI, we considered grant programs from the Bureau of Indian Affairs and Bureau of Indian Education; however, we ultimately removed DOI from the scope of our review because DOI officials informed us that the bureaus did not have any relevant grant programs from fiscal years 2015 through 2017.

²⁰The \$1.2 billion does not include noncompetitive supplemental or continuation awards that agency officials sometimes provide grantees on an annual basis subsequent to the first year of funding. For example, the fiscal year 2017 funding opportunity announcement for HHS's Cooperative Agreements for Tribal Behavioral Health program estimated it would provide up to \$200,000 per year for up to 5 years to grantees. If a grantee received \$200,000 per year over a 5-year period, the \$1.2 billion total would include only the first year in which the grantee received \$200,000.

²¹We determined which of the 122 grant programs we identified specified tribes or Native Americans as a primary beneficiary and which did not by reviewing whether the title, executive summary, overview, or purpose of their funding opportunity announcements specifically referenced tribes or Native Americans as the main or one of few beneficiaries of the proposed grant program funding.

Sober Truth on Preventing Underage Drinking Act grant program, which HHS's Substance Abuse and Mental Health Services Administration offered for funding in fiscal year 2016 to prevent and reduce alcohol use among youth and young adults, is an example of a program that did not specify tribes or Native Americans as a primary beneficiary but could include them as beneficiaries.

We found that tribal governments and Native American organizations were eligible for almost all of the grant programs we identified. Specifically, they were eligible to apply for 70 of 73 DOJ programs and 48 of 49 HHS programs. However, although tribal governments and Native American organizations were eligible to apply for almost all of the programs, we found in a non-generalizable sample of applications we reviewed that they applied primarily for the programs that specified tribes or Native Americans as a primary beneficiary. For example, we reviewed applications for 18 DOJ grant programs and found that tribal governments and Native American organizations accounted for over 99 percent of the applications for the 5 grant programs within the sample that specified tribes or Native Americans as a primary beneficiary. However, tribal governments and Native American organizations accounted for about 1 percent of the applications for the 13 programs in the sample that did not specify tribes or Native Americans as a primary beneficiary.

We interviewed officials from DOJ's Office of Justice Programs (OJP) and seven HHS operating divisions to obtain their perspectives on why tribal governments and Native American organizations might not apply for grant programs that do not specify them as a primary beneficiary.²² They identified various reasons, including that tribal governments and Native American organizations might not be aware that they are eligible to apply for certain grant programs; might believe that their applications to grant programs that do not specify tribes or Native Americans as a primary beneficiary will not be competitive with other applications; or might prefer to apply for those grant programs that specify tribes or Native Americans as a primary beneficiary.

We also interviewed representatives from 10 tribal governments and Native American organizations, who provided perspectives on whether or

²²The seven HHS operating divisions were the: Administration for Children and Families; Centers for Disease Control and Prevention; Health Resources and Services Administration; Indian Health Service; National Institutes of Health; Office of Minority Health; and the Substance Abuse and Mental Health Services Administration.

not a grant program's focus on tribes or Native Americans as a primary beneficiary affected their decision to apply for the program.²³ Officials from 6 of 10 tribal governments and Native American organizations indicated that they would consider any grant program that met the needs of their communities, while the remaining 4 indicated that a grant program's focus or lack thereof on tribes or Native Americans could affect their ability to apply for it.²⁴

Officials from the 10 tribal governments and Native American organizations also identified various federal practices they found helpful or challenging when applying for grant programs related to preventing or addressing delinquency among Native American youth.²⁵ When asked what federal practices, if any, were particularly helpful when applying to receive federal funding, they most frequently responded that they found it particularly helpful to be able to call or meet with federal officials if they had questions about or needed help on their applications. Regarding the biggest challenges, they cited short application deadlines, difficulties collecting data for grant program applications, and a scarcity of grant writers and other personnel needed to complete a quality application.

In addition, DOJ OJP and HHS officials provided perspectives on why some tribal governments and Native American organizations might be more successful in applying for federal funding than others. The officials stated, among other things, that larger and better-resourced tribal governments and Native American organizations were more successful at

²³Specifically, we collected perspectives from officials from seven federally recognized tribes, one of which included input from an affiliated tribal university; and three Native American organizations, which included an urban Indian organization; a non-profit that seeks to provide social services, education, and behavioral health services; and a tribal organization that represents and facilitates services for a group of federally recognized tribes.

²⁴Three of the six tribal governments and Native American organizations that indicated that they would consider any grant program that met the needs of their communities also indicated a preference in some instances for grant programs that focused on tribes or Native Americans.

²⁵In addition to applying for federal grant programs, some of the tribal governments and Native American organizations indicated they had also pursued non-federal funding that could help prevent or address delinquency among Native American youth. For example, officials from one federally recognized tribe explained that they applied for funding from the Ford Foundation and the Walmart Foundation. Officials from two other federally recognized tribes stated they received grant program funding from state governments.

applying for federal funding and that previously successful grant program applicants were more likely to be successful again.

More detailed information on the perspectives from tribal governments, Native American organizations, and agency officials regarding the factors they believe affect the ability of tribal governments and Native American organizations to apply successfully for federal grant programs can be found in our September 2018 report.

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, this completes my prepared statement. I would be pleased to respond to any questions you may have at this time.

Appendix I: Data Sources for Federal, State and Local, and Tribal Justice Systems by Phase of the Justice Process

For our September 2018 report, we obtained and analyzed record-level and summary data from federal, state and local, and tribal justice systems from 2010 through 2016.¹ Figure 1 illustrates the data sources we included in our report for each phase of the justice process (arrest, adjudication, and confinement) in each justice system (federal, state and local, and tribal). Generally, state and local entities include those managed by states, counties, or municipalities.

¹Generally, record-level data include information about one individual at one point in time. In contrast, the summary data we obtained generally include information about multiple individuals for a certain period—such as a month. See GAO, *Native American Youth: Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency*, [GAO-18-591](#) (Washington, D.C.: Sept. 5, 2018).

Appendix I: Data Sources for Federal, State and Local, and Tribal Justice Systems by Phase of the Justice Process

Figure 1: Data Sources for Federal, State and Local, and Tribal Justice Systems

Justice system	Phase of the justice process			
	Arrest	Adjudication	Confinement	
Federal	Department of Justice (DOJ), Federal Bureau of Investigation Uniform Crime Reporting Summary Reporting System Summary data <i>Predominantly contains data on arrests (adults and youth) from state and local law enforcement agencies, but also contains some data from federal and tribal law enforcement agencies.</i>	DOJ, U.S. Marshals Service (USMS) Administrative data ^a <i>Contains data on USMS custodies (adults and youth) resulting from arrests.</i>	DOJ, Executive Office for United States Attorneys Administrative data ^a <i>Contains data on referrals for federal prosecution and case processing (adults and youth).</i>	DOJ, Federal Bureau of Prisons Administrative data ^a <i>Contains data on individuals (adults and youth) admitted to a Bureau of Prisons facility or contract facility.</i>
State and local		National Center for Juvenile Justice, National Juvenile Court Data Archive^b Easy Access to Juvenile Court Statistics online tool Summary data <i>Contains case processing data and statistics from state and local courts with jurisdiction over juveniles.</i>	DOJ, Office of Juvenile Justice and Delinquency Prevention Census of Juveniles in Residential Placement Survey data <i>Contains data on youth placed in state and local residential facilities.</i>	
Tribal		Department of the Interior, Bureau of Indian Affairs (BIA) Juvenile Detention Centers Administrative data ^a <i>Admissions files contain data on Native American youth arrested and held in BIA operated facilities in Indian country.</i>	DOJ, Bureau of Justice Statistics Survey of Jails in Indian Country Annual bulletins <i>Contains data and statistics on Native American adults and youth confined in tribal detention facilities in Indian country.</i>	

Source: GAO analysis of DOJ, Department of Interior, and National Center for Juvenile Justice data. | GAO-18-697T

^aAdministrative data generally include information collected by the agency to help manage its operations. For example, these data can include the age and gender of an individual, the offense related to the case, dates related with the case, and outcomes of the case.

^bDOJ's Office of Justice Programs provides funding for the National Center for Juvenile Justice's Easy Access to Juvenile Court Statistics.

Appendix II: GAO Findings Regarding American Indian and Alaska Native Youth Involvement with Tribal Justice Systems

Comprehensive data from tribal justice systems on the involvement of American Indian and Alaska Native (Native American) youth were not available. However, in our September 2018 report, we identified and reviewed a few data sources that can provide certain insights about the arrest, adjudication, and confinement of Native American youth by tribal justice systems.¹ The following is a summary of our analysis of data from these sources.

Arrests. Although comprehensive data on the number of tribal law enforcement agency (LEA) arrests were not available, we obtained and reviewed admission records from three juvenile detention centers in Indian country managed by the Department of the Interior’s Bureau of Indian Affairs (BIA).² Based on those records, at least 388 Native American tribal youth were admitted to these three facilities in 2016, as shown in table 1. In the Northern Cheyenne facility, for which we obtained records for 5 years, the number of youth admitted increased yearly between 2012 and 2016, from 14 to 204.

Table 1: Number of Native American Youth Admitted to Juvenile Detention Centers Operated by the Bureau of Indian Affairs, Calendar Years 2012–2016

Juvenile detention center	2012	2013	2014	2015	2016
Northern Cheyenne	14	92	84	170	204
Standing Rock ^a	Not applicable	Not applicable	Not applicable	Not applicable	131
Ute Mountain Ute ^b	Not available	56	89	63	53

Source: GAO analysis of Bureau of Indian Affairs data. | GAO-18-697T

Notes: Race is self-reported by the juvenile at the time of admission to the facility and then confirmed by facility staff.

Each number represents one detention; it does not necessarily represent a unique individual, as some individuals returned to the juvenile detention center two or more times.

^aThe Standing Rock Youth Services Center opened in May 2016.

^bRecords for 2012 were unavailable for our review.

¹See GAO, *Native American Youth: Involvement in Justice Systems and Information on Grants to Help Address Juvenile Delinquency*, [GAO-18-591](#) (Washington, D.C.: Sept. 5, 2018).

²As of April 2018, there were 205 known tribal LEAs, 20 tribally operated juvenile detention centers, and three BIA-operated juvenile detention centers in Indian country, according to BIA officials. Additionally, there were 89 total detention programs, of which 15 housed Native American youth, as well as adults.

According to BIA officials, this growth in the number of youth admitted to the Northern Cheyenne facility likely reflects an increase in admissions of Native American youth from surrounding tribes. Specifically, because the Northern Cheyenne facility is centrally located, the officials said that the facility admits youth from other tribes, which have grown accustomed to sending their youth to the facility. BIA officials also noted that the Northern Cheyenne facility services an area where there is a high rate of delinquency among youth, and because the facility works well with Native American youth struggling with delinquency issues, many tribes elect to send their delinquent youth to the facility. Further, since 2012, the Northern Cheyenne facility increased its bed space and staff, thus increasing its capacity to admit more youth, according to BIA officials.

Even though comprehensive tribal arrest data were not available, we reported in September 2018 that the Department of Justice's (DOJ) Bureau of Justice Statistics (BJS) was undertaking an effort to increase collection of arrest data from tribal LEAs. Specifically, this data collection activity is the Census of Tribal Law Enforcement Agencies.³ This collection activity, which BJS plans to conduct in 2019, is to capture information including tribal LEA workloads and arrests, tribal LEA access to and participation in regional and national justice database systems, and tribal LEA reporting of crime data into FBI databases.

Adjudication. Comprehensive data were not available to describe the extent to which tribal courts processed Native American youth or found them guilty. However, BJS concluded a tribal court data collection effort—the National Survey of Tribal Court Systems—in 2015. Through this survey, BJS gathered information from more than 300 tribal courts and other tribal judicial entities on their criminal, civil, domestic violence, and youth caseloads, and pretrial and probation programs, among other

³See Department of Justice, Bureau of Justice Statistics, *Tribal Crime Data Collection Activities, 2017* (July 2017); and Department of Justice, Bureau of Justice Statistics, *Tribal Crime Data Collection Activities, 2016* (July 2016).

things.⁴ DOJ officials told us that BJS has analyzed the data, and plans to release results in the future.

Confinement. According to data published by BJS, the number of youth in Indian country jails declined from 190 in 2014 to 170 in 2016 (about an 11 percent decrease).⁵

⁴The National Survey of Tribal Court Systems gathered information on the administrative and operational characteristics of tribal justice systems (including budgets, staffing, the use of juries, and the appellate system); indigent defense services; pretrial and probation programs; protection orders; criminal, civil, domestic violence, and juvenile caseloads; implementation of various enhanced sentencing provisions under the Tribal Law and Order Act of 2010; and indigenous or traditional dispute forums operating within Indian country.

⁵To determine the number of Native American youth confined in tribal operated jails in Indian country, we analyzed data reported by BJS in its Jails in Indian Country Survey for 2014, 2015, and 2016. The number of Native American youth confined was a mid-year count, as of the last weekday in June for each year. According to the 2016 survey report, there were at least 18 Indian country jails included in the survey, which held juveniles ages 17 and younger.

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact Gretta L. Goodwin, Director, Homeland Security and Justice at (202) 512-8777 or goodwing@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Tonnye' Conner-White, Assistant Director; Steven Rocker, Analyst-in-Charge; Haley Dunn; Angelina Torres; Taylor Matheson; Anne Akin; Paul Hobart; Jamarla Edwards; Claire Peachey; Eric Hauswirth; Heidi Neilson; Amanda Miller; and Elizabeth Dretsch. Key contributors to the previous work on which this testimony is based are listed in our September 2018 report.

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