



September 2018

NATIVE AMERICAN YOUTH

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

Accessible Version

Why GAO Did This Study

Native American youth face unique challenges when it comes to their contact with justice systems. Research shows that risk factors such as high rates of poverty and substance abuse make them susceptible to being involved with justice systems at the federal, state and local, and tribal levels. GAO was asked to examine the extent of Native American youth involvement in justice systems, and federal grant programs that may help address Native American youth delinquency.

This report examines (1) what available data show about the number and characteristics of Native American youth in federal, state and local, and tribal justice systems; and (2) federal discretionary grant programs that could help prevent or address delinquency among Native American youth, and tribal government and Native American organizations' access to those grants. GAO analyzed federal, state and local, and tribal arrest, adjudication, and confinement data from 2010 through 2016 (the most recent available) from DOJ and the Department of the Interior. GAO 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. GAO 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.

View [GAO-18-591](#). For more information, contact Gretta L. Goodwin, 202-512-8777, GoodwinG@gao.gov.

NATIVE AMERICAN YOUTH

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

What GAO Found

GAO's analysis of available data found that the number of American Indian and Alaska Native (Native American) youth in federal and state and local justice systems declined across all phases of the justice process—arrest, adjudication, and confinement—from 2010 through 2016. During this period, state and local arrests of Native American youth declined by almost 40 percent from 18,295 in 2010 to 11,002 in 2016. The vast majority of Native American youth came into contact with state and local justice systems rather than the federal system.

Number of Native American Youth Arrested by State and Local Agencies and Federal Agencies, 2010–2016

Government	2010-2016	2010	2016
State and local (calendar year)	105,487	18,295	11,002
Federal (fiscal year)	246	60	20

Source: GAO analysis of Federal Bureau of Investigation (state and local) and U.S. Marshals Service data (federal). | GAO-18-591

Note: Both data sources use the race category "American Indian or Alaskan Native" but define it differently. Race information is based on various methods including self-identification and documentation. Federal data include youth in federal custody after a federal arrest and may not capture all arrests by federal law enforcement agencies.

However, more Native American youth were involved in the federal system than their percentage in the nationwide population (1.6 percent). For example, of all youth arrested by federal entities during the period, 18 percent were Native American. According to Department of Justice (DOJ) officials, this is due to federal jurisdiction over certain crimes involving Native Americans. Comprehensive data on Native American youth involvement in tribal justice systems were not available for analysis. GAO's analysis showed several differences between Native American and non-Native American youth in the federal justice system. For example, the majority of Native American youths' involvement was for offenses against a person, such as assault and sex offenses. In contrast, the majority of non-Native American youths' involvement was for public order offenses (e.g., immigration violations) or drug or alcohol offenses. On the other hand, in state and local justice systems, the involvement of Native American and non-Native American youth showed many similarities, such as similar offenses for each group.

DOJ and the Department of Health and Human Services (HHS) offered at least 122 discretionary grants and cooperative agreements (grant programs) from fiscal years 2015 through 2017 that could be used to address juvenile delinquency among Native American youth. DOJ and HHS made approximately \$1.2 billion in first-year awards to grantees during the period, of which the agencies awarded approximately \$207.7 million to tribal governments or Native American organizations. Officials from the agencies, tribal governments, and Native American organizations identified factors they believe affect success in applying for grant programs. For example, some tribal governments and Native American organizations found being able to call or meet with federal officials during the application process helpful but found that short application deadlines are a challenge.

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Abbreviations

BIA	Bureau of Indian Affairs
BJS	Bureau of Justice Statistics
BOP	Federal Bureau of Prisons
CDC	Centers for Disease Control and Prevention
CJRP	Census of Juveniles in Residential Placement
CTAS	Coordinated Tribal Assistance Solicitation
CY	calendar year
DOI	Department of the Interior
DOJ	Department of Justice
EOUSA	Executive Office for United States Attorneys
FBI	Federal Bureau of Investigation
FY	fiscal year
HHS	Department of Health and Human Services
LEA	law enforcement agency
NCJJ	National Center for Juvenile Justice
OJJDP	Office of Juvenile Justice and Delinquency Prevention
OJP	Office of Justice Programs
SAMHSA	Substance Abuse and Mental Health Services Administration
UCR SRS	Uniform Crime Reporting Summary Reporting System
USMS	United States Marshals Service

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September 5, 2018

The Honorable John Hoeven
Chairman
Committee on Indian Affairs
United States Senate

The Honorable John Barrasso
United States Senate

American Indian and Alaska Native (Native American) youth face unique challenges when it comes to their contact with justice systems. According to recent reports and agency research, several risk factors make Native American youth susceptible to becoming involved with justice systems at the federal, state and local, and tribal levels.¹ These 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. Further, these reports and research note that tribal justice systems often lack resources and programming compared with federal and state and local justice systems, which may not have culturally appropriate programming to meet the needs of Native American youth.

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

¹Attorney 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).

funding through grant programs that could be used to help prevent or address juvenile delinquency.

Given the severity of the issues Native American youth face, there are questions about the percent of these youth in the justice systems, particularly at the federal level, and about the sufficiency of resources to address the risk factors that contribute to them becoming involved in the justice systems.

You asked us to review information about Native American youth in the justice systems, including demographic information about these youth; federal grant programs that address Native American juvenile delinquency; and tribal access to these grant programs. This report addresses the following questions:

1. What do available data show about the number and characteristics of Native American youth in the federal, state and local, and tribal justice systems?
2. What discretionary grant programs do federal agencies fund that could help prevent or address delinquency among Native American youth, and to what extent do tribal governments and Native American organizations have access to them?

For the purposes of this review, our discussion of Native American youth in federal, state and local, and tribal justice systems generally includes persons who (a) were under 18 years of age at the time of arrest, adjudication, or confinement; and (b) who were identified as Native American based on descriptions and definitions of the agency data sets we reviewed.² As described in the report, each agency data set we reviewed used a different definition of Native American and agencies used different methods to identify youth as Native American for those data sets. Throughout the report, we use the term “juvenile” when referencing justice systems and “youth” in referring more generally to individuals under the age of 18 at the time of arrest or confinement. In

²Generally, state and local entities include those managed by states, counties, or municipalities. We included in our review individuals who were under the age of 18 at the time of their contact with a justice system regardless of whether they were adjudicated in a juvenile justice system or were prosecuted in an adult criminal court. Our 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.

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.

To address the first objective, we obtained and analyzed record-level and summary data from federal agencies about federal, state and local, and tribal justice systems. Specifically, we obtained and analyzed data from five DOJ agencies and DOI’s Bureau of Indian Affairs (BIA) for youth arrested, adjudicated, or admitted to a facility (confined) during calendar and fiscal years 2010 through 2016.³ The data described characteristics such as race, age, gender, type of offense, and the year the youth came into contact with the justice system. For purposes of our analysis, we included Native American youth as defined by each data source and identified by the agencies providing the data we reviewed. These data included some youth who may have been prosecuted as adults. In regard to type of offense, unless otherwise noted, we obtained and analyzed information about the lead or most serious offense associated with the youth who came into contact with the justice system, which was generally identified in the data we obtained. We then grouped the offenses into five broad categories—drug and alcohol, person, property, public order, and

³Generally, 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. DOJ agencies from which we collected data were the Federal Bureau of Investigation (FBI), United States Marshals Service (USMS), Executive Office for United States Attorneys (EOUSA), Office of Justice Programs (OJP), and the Federal Bureau of Prisons (BOP). We selected 2010 through 2016 for our period of analysis to identify recent characteristics. We initiated our analysis in April 2017, and the last full year of data available at that time was for 2016. In addition, we accessed online state and local data from the National Center for Juvenile Justice’s (NCJJ) Easy Access to Juvenile Court Statistics which is supported through funding from DOJ’s Office of Justice Programs. Our analysis of these data focuses on calendar years 2010 through 2014 because this was the most current data available when we conducted our analysis. Generally, state and local data we used for our analysis were maintained by calendar year, while federal data were maintained by fiscal year; we refer where appropriate to calendar years or fiscal years in presenting the results of our analysis.

other.⁴ We assessed the reliability of the record-level and summary data by electronically testing the data and interviewing knowledgeable DOJ officials and determined that the data included in this report were sufficiently reliable for the purposes of our reporting objectives. We determined that some data related to arrests and sentencing either were not reliable for our purposes, contained information already provided by other data sources, or contained too few Native American youth observations to provide reliable, reportable information. These data are not included in our report.

Additionally, we reviewed summary data in DOJ's Bureau of Justice Statistics (BJS) reports, such as the *Jails in Indian Country* report from 2016, to describe the number of Native American youth confined in tribal facilities.⁵ We assessed the reliability of the data we used from these reports by reviewing related documentation and interviewing knowledgeable BJS officials and determined that the data were sufficiently reliable for the purposes of our reporting objectives.

We also analyzed the representation of Native American youth involved with the federal justice system by comparing federal arrest, adjudication, and confinement data to information provided in response to the 2010 Decennial U.S. Census, and in U.S. Census estimates from 2011 through 2016. Similarly, we analyzed the representation of Native American youth involved with state and local justice systems by comparing state and local arrest and confinement data to U.S. Census information.

⁴For the purpose of this analysis: (1) Drug and alcohol offenses can include unlawful possession or use of drugs or alcohol. (2) Person offenses can include assault, child abuse/neglect, homicide, kidnapping, and sex offenses. (3) Public order offenses can include disorderly conduct; fraud, forgery, and counterfeiting; immigration; obstruction of justice; probation parole; status offenses; traffic violations; and weapons violations. (4) Property offenses can include arson, burglary, larceny/theft, property damage, motor vehicle theft, and robbery. (5) Other offenses can include: blackmail, bail violation, and gambling, among other things. According to DOJ officials, DOJ defines "public order" offenses differently for its purposes. Specifically, DOJ does not categorize technical violations and status offenses as public order offenses. Therefore, the results of our analysis of "public order" offenses may be different from data reported by DOJ in the Office of Juvenile Justice and Delinquency Prevention's *Statistical Briefing Book* or other publications.

⁵The Bureau of Justice Statistics (BJS) issued the *Jails in Indian Country, 2016* report in December 2017. See <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6146>, accessed March 8, 2018. BJS maintains federal, state and local, and tribal criminal justice statistics on its public website, and it collects, analyzes, and publishes information on crimes, offenders, victims, and criminal justice systems at all levels of government.

Because there is no single, centralized data source that contains data for youth involved in all justice systems (federal, state and local, and tribal) and across all phases of the justice process (arrest, adjudication, and confinement), it is not possible to track individuals through all phases of the justice process or identify the number of unique youth who have come into contact with the justice system. In addition, record-level data were not available for all phases of the justice process and for all justice systems. Further, data are not comparable across databases because databases vary in how they define Native American and how they determine whether youth are Native American.

In addition, we collected perspectives from agency officials and officials from five selected Native American organizations regarding factors that might contribute to the data characteristics we observed. We selected these Native American organizations to include organizations whose mission and scope of work focus on Native American juvenile justice issues and that have a national or geographically-specific perspective. The views of these Native American organizations are not generalizable to all Native American organizations, but provide valuable insights.

To address our second objective on federal discretionary grant programs that could help prevent and address delinquency among Native American youth, and tribal governments and Native American organizations' access to those programs, we analyzed relevant programs available for funding from fiscal years 2015 through 2017.⁶ For the purposes of the review, we define "tribal governments" as the governing bodies of federally recognized tribes.⁷ We define "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.⁸ To identify these grant programs, we conducted a

⁶We selected this time period to focus on recent trends in available funding.

⁷According to BIA, a federally recognized tribe is an American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation, and is eligible for funding and services from BIA.

⁸The Indian Health Care Improvement Act defines an "urban Indian organization" as a nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, and is capable of providing health care and referral services for urban Indians residing in urban centers. See 25 U.S.C. § 1603(29).

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.⁹ We focused on discretionary grants and cooperative agreements (collectively referred to as grant programs throughout our report) in this review because federal agencies generally award discretionary grants and cooperative agreements based on a competitive review process, whereas agencies are generally required by statute to award other types of grants to specific entities, typically U.S. state, local, and territorial governments. We did not include other programs or sources of funding that could help prevent and address delinquency among Native American youth in our review.¹⁰

We reviewed the search results of the three agencies with the highest number of grant program matches—DOI, DOJ, and HHS.¹¹ We selected programs whose activities related to the risk or protective factors discussed in the Office of Juvenile Justice and Delinquency Prevention’s

⁹Grants.gov provides information on various types of grants, including block, discretionary, formula, and mandatory grants, as well as cooperative agreements.

¹⁰For example, under the Indian Self Determination and Education Assistance Act of 1975, as amended, federally recognized tribes can enter into self-determination contracts and self-governance compacts with DOI, to take over administration of certain federal programs previously administered on their behalf by the federal government. See Pub. L. No. 93-638, 88 Stat. 2203 (classified as amended at 25 U.S.C. §§ 5301-5423). Bureau of Indian Affairs (BIA) officials told us that DOI entered into self-determination contracts or self-governance compacts that funded 19 tribal juvenile detention centers, as of February 2018 through contract or compact funding to federally recognized tribal governments.

¹¹Within DOI, we considered grant programs from BIA and Bureau of Indian Education for the purposes of our review because we determined by reviewing a random sample that grant programs from other DOI bureaus or offices (e.g., U.S. Fish and Wildlife Service, etc.) generally do not focus on preventing or addressing delinquency among Native American youth. We ultimately removed DOI from the scope of our review because officials from the Bureau of Indian Affairs and Bureau of Indian Education informed us that the bureaus did not have any relevant grant programs from fiscal years 2015 through 2017.

(OJJDP) Tribal Youth in the Juvenile Justice System literature review.¹² We also worked with DOI, DOJ, and HHS officials to identify any additional relevant grant programs and confirmed our final list of grant programs with agency officials. Despite these steps, it is possible that our analysis did not identify all relevant grant programs.

We next reviewed the funding opportunity announcements of our selected grant programs to determine which ones specified tribes or Native Americans as a primary beneficiary and which did not. We also categorized each program into one or more issue areas (e.g., violence or trauma, substance abuse, mentoring) using the risk and protective factors discussed in the OJJDP Tribal Youth in the Juvenile Justice System literature review as the basis for our issue area determinations.

To determine the extent to which tribal governments and Native American organizations had access to the grant programs we identified, we reviewed the eligibility factors and award data. Specifically, we reviewed the grant program funding opportunity announcements to determine whether tribal governments or Native American organizations were eligible to apply. We also analyzed fiscal year 2015 through 2017 award data for every grant program we identified to determine the extent to which tribal governments and Native American organizations received funding. We also reviewed a non-generalizable sample of applications selected to include applications to grant programs that funded a relatively high estimated amount of awards or that specified tribes or Native Americans as a primary beneficiary to determine the extent to which tribal governments or Native American organizations applied for grant programs we identified. We assessed the reliability of the data we used

¹²Department of Justice Office of Juvenile Justice and Delinquency Prevention (OJJDP), OJJDP Literature Review: A Product of the Model Programs Guide—Tribal Youth in the Juvenile Justice System (last updated April 2016), accessed February 27, 2018, <https://www.ojjdp.gov/mpg/litreviews/Tribal-youth-in-the-Juvenile-Justice-System.pdf>. This literature review, among other things, identified certain risk factors for tribal youth, which are characteristics or activities that could contribute to a higher likelihood of tribal youth contact with the criminal justice system. The risk factors in the literature review included historical trauma, violence, suicide, substance use, and lack of cultural instruction. The literature review also stated that these risk factors, in combination with poverty rates in tribal communities and their lack of funding for mental health and other services, make tribal youth more susceptible to becoming involved in the juvenile justice system. The literature review also listed various protective factors—characteristics of the child, family, and wider environment that can increase resiliency and reduce the likelihood of adversity leading to negative child outcomes and behaviors, such as contact with the juvenile justice system. The protective factors in the literature review included family and culture.

by questioning knowledgeable officials and determined that the data were sufficiently reliable for the purposes of our reporting.

To understand factors that affect the ability of tribal governments and Native American organizations to apply successfully for the grant programs we identified, we interviewed DOJ and HHS officials, as well as officials from a nongeneralizable sample of 10 tribal governments and Native American organizations that applied for or received funding from these grant programs and analyzed their responses to identify common themes.¹³ We selected our sample to include tribal governments and Native American organizations that received multiple awards for grant programs we identified, and that applied unsuccessfully multiple times to grant programs we reviewed, among other characteristics. We also analyzed a nongeneralizable sample of peer review statements from unsuccessful applications to understand why tribal governments and Native American organizations were unsuccessful in applying for some of the grant programs we identified. The information we obtained from the officials and peer review statements cannot be generalized more broadly to tribal governments and Native American organizations or the applications they submit unsuccessfully for federal funding. However, the information provides insights into the challenges these entities face in applying for federal funding that could help prevent or address delinquency among Native American youth, as well as some of the common weaknesses identified in unsuccessful applications from these entities. For further information on our scope and methodology, see appendix I.

We conducted this performance audit from November 2016 to September 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹³Specifically, we collected perspectives from officials from 7 federally recognized tribes, 1 of which included input from an affiliated tribal university, and 3 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.

Background

Native American Population and Indian Country

Over 4 million people in the United States identified as Native American based on 2016 United States Census estimates, of which 29 percent were youth. As of June 2018, there were 573 federally recognized Indian tribes.¹⁴ According to BIA, as of June 2018, there were approximately 497 Indian land areas in the United States administered as federal Indian reservations or other tribal lands (e.g., pueblos, villages, and communities). These land areas, which span more than 56 million acres and 37 states, and vary in size, can generally be referred to as Indian country.¹⁵ Indian country is in remote, rural locations, and also near urban areas. Native Americans live both inside and outside of these land areas, and Indian country may have a mixture of Native American and non-Native American residents. Jurisdiction over crime in Indian country differs according to several factors and affects how Native American youth become involved with justice systems, as discussed further below.

Youth in State and Local, Federal, and Tribal Justice Systems

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

¹⁴Federally recognized tribes have a government-to-government relationship with the United States and are eligible to receive certain protections, services, and benefits by virtue of their status as Indian tribes. The Secretary of the Interior is required by law to publish annually in the Federal Register a list of all tribes that the Secretary recognizes as Indian tribes.

¹⁵Federal 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. As an example of size variation, the Navajo Nation spans New Mexico, Arizona, and Utah and consists of approximately 27,000 square miles, whereas certain areas of Indian country in California consist of less than 1 square mile.

State and local. 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 crime.¹⁶ This jurisdiction can be conferred by the state’s laws and exercised by courts at the city, county, or municipal levels, and each state and local entity’s processing of youth is unique. There are more than 2,400 courts across the country with juvenile jurisdiction, and a majority of these are at the city, county, or municipal, i.e., local, level. Generally, a youth is either referred to juvenile court or released. Juvenile courts handle two types of petitions: delinquency or waiver.¹⁷ A delinquency petition is the official charging document filed in juvenile court by the state. A juvenile’s case may be dismissed, handled informally (without filing a petition for adjudication), or handled through adjudication by the court. In some more serious situations, the case can be handled by a criminal court. Juvenile cases that are handled informally or through adjudication can result in various outcomes, including probation, commitment to an institution or other residential facility, another sanction (e.g., community service), or dismissal.

Federal. Unlike state systems, the federal justice system does not have a separate court with jurisdiction over juvenile cases.¹⁸ Youth that are proceeded against in federal court are generally adjudicated in a closed hearing before a U.S. district or magistrate judge and their cases are either declined or they can be adjudicated delinquent. Delinquent adjudications can result in outcomes such as probation, commitment to a correctional facility, or the requirement to pay restitution.¹⁹ Youth under

¹⁶Typically, justice systems refer to unlawful acts committed by youth as acts of juvenile delinquency, and unlawful acts committed by adults as crimes.

¹⁷Once formal processing of a juvenile case begins, the prosecutor can make the decision to either file a petition that requests the adjudication of the case (in juvenile court) or can file a petition in juvenile court asking the juvenile court judge to “waive” juvenile court jurisdiction over the case, a mechanism which allows a prosecutor to transfer a case from juvenile court to criminal, adult court.

¹⁸In general, a juvenile cannot be proceeded against in federal court unless the Attorney General, after investigation, certifies to the appropriate U.S. district court that (1) the state juvenile court does not have jurisdiction, (2) the state does not have available programs or services adequate for the needs of juveniles, or (3) the juvenile is charged with a crime of violence or certain named offenses and there is a substantial federal interest that justifies the exercise of federal jurisdiction. See 18 U.S.C. § 5032.

¹⁹Alternatively, the federal government may bring a motion to transfer a juvenile defendant for prosecution as an adult pursuant to 18 U.S.C. § 5032, after which, if granted, the usual federal criminal process would apply.

the age of 18 who are confined in federal facilities, including Native American youth, are housed in juvenile facilities overseen by the Federal Bureau of Prisons (BOP), which contracts with other entities to manage those facilities.²⁰

Tribal. Tribal justice systems vary. A number of tribes have tribal judicial systems, some with separate juvenile courts, and others rely on state courts or the federal system. As of April 2018, there were approximately 89 adult and juvenile jail facilities and detention centers in Indian country, according to BIA officials. In addition, DOI's BIA directly manages some facilities, called juvenile detention centers, on tribal lands.

Jurisdiction of Federal, State, and Tribal Justice Entities Outside and Inside Indian Country

Outside Indian country. A state generally has jurisdiction to proceed against a youth who has committed a crime or act of juvenile delinquency outside of Indian country. This jurisdiction is generally exercised in each state by local courts (e.g., at the county and city levels). 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.²¹ Since the passage of the Juvenile Justice and Delinquency Prevention Act in 1974, federal law has reflected an intent to support state and local community-level programs for the prevention and treatment of juvenile delinquency, and to avoid referral of juvenile cases out of the state and local systems while balancing against the need to protect the public from violent offenders.²² Consistent with this, the Federal Juvenile Delinquency Code provides that a youth alleged to have committed an act of juvenile delinquency, with certain exceptions, will not fall under federal jurisdiction

²⁰According to BOP officials, juveniles under the age of 18 are placed in secure and non-secure juvenile facilities. Some youth are under the supervision of the United States Probation Office and some youth are in BOP custody. Nationwide, as of April 2018, BOP oversaw eight juvenile facilities, four secure and four non-secure, according to BOP officials.

²¹See 18 U.S.C. § 5032.

²²See Pub. L. No. 93-415, 88 Stat. 1109 (1974); S. Rep. No. 93-1011, at 19 (1974); see also *United States v. Juvenile*, 599 F. Supp. 1126, 1130 (D. Or. 1984) (finding that the federal framework for juvenile jurisdiction “encompasses a recognition of the general policy of federal abstention in juvenile proceedings,” and stating that “it has long been recognized that the federal court system is at best ill equipped to meet the needs of juvenile offenders”).

unless (1) the juvenile court or other appropriate court of a state does not have jurisdiction over the youth, (2) the state does not have available programs and services adequate for the needs of the youth, or (3) the offense charged is a violent felony or an enumerated offense involving controlled substances and there is a substantial federal interest in the case or the offense to warrant the exercise of federal jurisdiction.²³

Inside Indian country. For both youth and adults, the exercise of criminal jurisdiction in Indian country depends on several factors. 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. Additionally, the Federal Juvenile Delinquency Code generally applies to all juveniles alleged to have committed an act of juvenile delinquency, whether inside or outside Indian country.²⁴ As a general principle, the federal government recognizes Indian tribes as “distinct, independent political communities” that possess powers of self-government to regulate their “internal and social relations,” which includes enacting substantive law over internal matters and enforcing that law in their own forums.²⁵ The federal government, however, has authority to regulate or modify the powers of self-government that tribes otherwise possess, and has exercised this authority to establish jurisdiction over certain crimes in Indian country.²⁶ For example, the Major Crimes Act, as amended, provides the federal government with criminal jurisdiction over Indians in

²³18 U.S.C. § 5032; see also 18 U.S.C. §§ 5031-5042 (referred to as the Federal Juvenile Delinquency Code).

²⁴See 18 U.S.C. § 5032 (providing that 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). As discussed later in this section, federal laws have conferred criminal jurisdiction over offenses committed in Indian country to the governments of certain states, including jurisdiction over juvenile crimes. See, e.g., 18 U.S.C. § 1162 (codifying state criminal jurisdiction provisions of Public Law 280, as amended). In those states, pursuant to the Federal Juvenile Delinquency Code, since a state court would generally have jurisdiction over juveniles who have committed acts of juvenile delinquency both inside and outside Indian Country, federal jurisdiction would not be exercised.

²⁵See, e.g., *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 55-56 (1978) (citing *United States v. Wheeler*, 435 U.S. 313 (1978)). See also 25 U.S.C. § 1301(2) (defining an Indian tribe’s power of self-government).

²⁶See *United States v. Lara*, 541 U.S. 193, 200-01 (2004) (referencing the Indian Commerce Clause, U.S. CONST., art. I, § 8, cl. 3, and the Treaty Clause, U.S. CONST. art. II, § 2, cl. 2, as authority for the federal regulation of Indian affairs).

Indian Country charged with serious, felony-level offenses enumerated in the statute, such as murder, manslaughter, kidnapping, burglary, and robbery.²⁷ The General Crimes Act, the Major Crimes Act, and Public Law 280, which are broadly summarized in table 1, are the three federal laws central to the exercise of criminal jurisdiction in Indian country.

Table 1: Summary of Three Major Federal Laws Governing Criminal Jurisdiction in Indian Country

Federal laws ^a	Description
General Crimes Act	Enacted in 1817, the General Crimes Act (also referred to as the Federal Enclaves Act or Indian Country Crimes Act), as amended, extended the criminal laws of the federal government into Indian country and generally established federal criminal jurisdiction where either, but not both, the alleged offender or the victim is Indian.
Major Crimes Act	Enacted in 1885, the Major Crimes Act, as amended, provides the federal government with criminal jurisdiction over Indians charged with felony-level offenses enumerated in the statute, even when the victim is Indian. ^b The tribes retained exclusive jurisdiction over other criminal offenses (generally, misdemeanor-level) where both parties are Indian.
Public Law 280	Enacted in 1953, Public Law 280, as amended, confers criminal jurisdiction over offenses committed in Indian country to the governments of six states—Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin—except as specified in statute, thereby waiving federal jurisdiction in Indian country under the General and Major Crimes Acts and subjecting Indians to prosecution in state court unless an Indian tribe requests, and the Attorney General consents to, concurrent federal jurisdiction.

Source: GAO analysis of General Crimes Act, Major Crimes Act, and Public Law 280. | GAO-18-591

^aSee 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.

^bThe enumerated offenses are murder; manslaughter; kidnapping; maiming; felony provisions of the Sexual Abuse Act of 1986, as amended; incest; assault with intent to commit murder; assault with a dangerous weapon; assault resulting in serious bodily injury; assault against an individual who has not attained the age of 16 years; felony child abuse or neglect; arson; burglary; robbery; and felony larceny, theft, and embezzlement. See 18 U.S.C. § 1153(a).

The exercise of criminal jurisdiction by state governments 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

²⁷See 18 U.S.C. § 1153.

country.²⁸ Otherwise, only the federal and tribal governments have jurisdiction in Indian country. Table 2 summarizes aspects of federal, state, and tribal jurisdiction over crimes committed in Indian country.

Table 2: Criminal Jurisdiction in Indian Country Where Jurisdiction Has Not Been Conferred on a State

Identity of the offender	Identity of the victim	Jurisdiction
Indian	Indian	If the offense is listed in the Major Crimes Act, as amended (18 U.S.C. § 1153), the tribal and federal governments have jurisdiction; the states do not. If the offense is not listed in the Major Crimes Act, tribal jurisdiction is exclusive.
Indian	Non-Indian	If the offense is listed in the Major Crimes Act, the tribal and federal governments have jurisdiction; the states do not. Even if the offense is not listed in the Major Crimes Act, under the General Crimes Act (18 U.S.C. § 1152) the tribal and federal governments still have jurisdiction; the states do not.
Non-Indian	Indian	Federal jurisdiction is exclusive; the tribal and state governments do not have jurisdiction. ^a
Non-Indian	Non-Indian	States have exclusive jurisdiction; tribal and federal governments do not have jurisdiction.

Source: U.S. Attorneys' Manual and GAO analysis of relevant statutory provisions. | GAO-18-591

^aThe Violence Against Women Reauthorization Act of 2013 confers special domestic violence criminal jurisdiction over specified domestic or dating violence offenses or violations of protection orders on participating tribes that elect to exercise such jurisdiction. Such jurisdiction is concurrent with the jurisdiction of the federal government, a state, or both. However, a participating tribe may not exercise this jurisdiction if neither the defendant nor the alleged victim is an Indian, or if the defendant lacks ties to the participating tribe. See Pub. L. No. 90-284, tit. II, § 204, as added by Pub. L. No. 113-4, tit. IX, § 904, 127 Stat. 54, 120-23 (classified at 25 U.S.C. § 1304).

²⁸Public 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)). As a result 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.

Federal Agencies Responsible for Investigation, Prosecution, and Confinement of Youth within the Federal Justice System

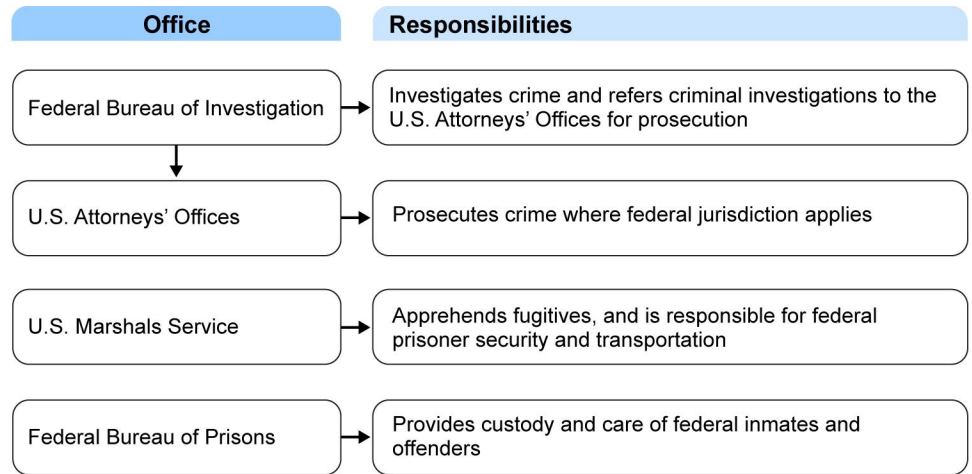
Federal agencies that come into contact with youth alleged to have committed an act of juvenile delinquency are to do so in accordance with the Federal Juvenile Delinquency Code.²⁹ When a youth enters the federal justice system, several components within DOJ and DOI, among others, have responsibility for investigating and prosecuting his or her crimes. DOJ's Federal Bureau of Investigation (FBI) has investigative responsibilities, including in Indian country, where it works with tribes to investigate crime. The FBI refers criminal investigations to a United States Attorney's Office for prosecution. In the course of the federal criminal justice process, a U.S. attorney is involved in the process of investigating, charging, and prosecuting an offender, among other responsibilities. Under the direction of the Attorney General, the United States Attorney's Office may prosecute crimes committed in Indian country where federal jurisdiction exists, as discussed above.

DOJ's U.S. Marshals Service (USMS) also has a role in the federal criminal justice process. Its mission areas include fugitive apprehension and federal prisoner security and transportation, among other responsibilities. USMS has arrest jurisdiction for enforcing the federal process anywhere in the United States, including Indian country.

DOJ's BOP is responsible for the custody and care of federal inmates and offenders, including youth. BOP works in coordination with the federal courts to assist in locating a detention facility within the youth's jurisdiction, where possible. Figure 1 describes the key DOJ entities and their respective responsibilities related to the federal criminal justice process.

²⁹18 U.S.C. §§ 5031-5042. This chapter of the U.S. Code governs juvenile delinquency proceedings in the federal criminal justice system, and includes requirements relating to custody and detention prior to appearance before a magistrate judge, commitment, and the duties of the magistrate judge.

Figure 1: Overview of Department of Justice (DOJ) Responsibilities in the Federal Criminal Justice System



Source: GAO analysis of DOJ documents. | GAO-18-591

Within DOI, BIA is statutorily responsible for enforcing not only federal law in Indian country but also tribal law, with the consent of the tribe.³⁰

However, in certain situations, a tribe may assume this function from DOI pursuant to a self-determination contract or self-governance compact. BIA supports tribes in their efforts to ensure public safety and administer justice within Indian country through, for example, providing uniformed police and criminal investigative services for a number of tribes.

Other agencies and departments with roles in the federal criminal justice process for youth include federal courts, the Administrative Office of the U.S. Courts, and the U.S. Sentencing Commission. Federal courts have the authority to decide cases and sentence offenders, among other things. The Administrative Office of the U.S. Courts provides a broad range of support services to the federal courts, which are responsible for adjudicating the cases of youth in the federal justice system. The U.S. Sentencing Commission is an independent judicial branch agency responsible for, among other things, collection, preparation, and dissemination of information on sentences imposed across federal courts.

³⁰25 U.S.C. § 2802(c)(1).

Data on Youth Involvement in Justice Systems

There is no single, centralized data source that contains data for youth involved in all justice systems and across all phases of the justice process. Rather, there are several disparate data sources at each level (federal, state and local, or tribal) and phase (arrest, prosecution, and confinement). Further, while some agencies, such as USMS and BOP, share a unique identifier for an individual within the federal data sources, there is no unique identifier across all federal and state and local data sources. For purposes of this review, and given privacy concerns related to juvenile data, we were unable to track individuals across all phases of the federal justice system or identify the number of unique youth who came into contact with federal, state and local, or tribal justice systems.

In addition to there being no single database that houses all relevant data on youth in the tribal, state and local, and federal justice systems, each database also varies in how it defines Native American, as well as how it determines whether youth are Native American for purposes of the data source. For example, some agencies define Native American broadly, as an individual having origins in any of the indigenous peoples of North America, including Alaska Natives. In contrast, DOJ's Executive Office for United States Attorneys (EOUSA), in its prosecution data, defines the term Indian based on statute and case law, which generally considers an Indian to have both a significant degree of Indian blood and a connection to a federally recognized tribe.³¹ In addition, BOP determines that a youth is Native American for purposes of its data by reviewing documentation including charging documents, while USMS relies on individuals self-reporting their race upon being taken into custody. See appendix II for additional information and descriptions of these differences.

Federal Grant Programs That May Address Juvenile Delinquency

Federal departments and agencies, including DOJ and HHS, provide funding through several types of mechanisms for Native American populations and tribal lands, including mandatory grant programs,

³¹See *United States v. Antelope*, 430 U.S. 641 (1977); *LaPier v. McCormick*, 986 F.2d 303 (9th Cir. 1993). See also *U.S. Attorneys' Manual, Criminal Resource Manual*, 686 (citing *United States v. Torres*, 733 F.2d 449, 455 (7th Cir. 1984) and noting that enrollment has not been held to be an absolute requirement for federal jurisdiction, but that it is the common evidentiary means of establishing Indian status).

compacts and contracts, discretionary grants, and cooperative agreements.³² As discussed above, our analysis focused on discretionary grants and cooperative agreements.

Discretionary grants are competitive in nature, whereby the granting agency has discretion to choose one applicant over another. DOJ's Office of Justice Programs (OJP) awards discretionary grants to states, tribal organizations, territories, localities, and organizations to address a variety of issues, including to help prevent and reduce juvenile delinquency and victimization and improve their youth justice systems. DOJ also provides grant funding for training and technical assistance to enhance and support tribal governments' efforts to reduce crime and improve the function of criminal justice in Indian country. Cooperative agreements are similar to discretionary grants in that federal agencies generally award them to grantees based on merit and eligibility. However, in contrast to a discretionary grant, 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.³³

Task Force and Commission Reports Related to Native American Youth and Juvenile Justice

Two reports focused on Native American youth exposure to violence and ways to address and mitigate the negative impact of this exposure when it occurs, as well as ways to develop knowledge and spread awareness

³²For example, DOJ OJJDP administers a mandatory grant called the Title II Formula Grants Program whose purpose is to help states develop programs to address delinquency and improve the juvenile justice system. This program also includes minimum funding amounts that states must set aside for eligible federally recognized tribes. From fiscal years 2015 through 2017, the estimated amount of funding set aside for federally recognized tribes through the Title II Formula Program totaled approximately \$857,000.

³³See 31 U.S.C. § 6305; see also 59 Comp. Gen. 758 (1980) (stating that "the only basic distinguishing factor between grants and cooperative agreements under the statute is the degree of Federal participation during performance.")

about children's exposure to violence.³⁴ In addition, both reports discussed factors that indicate Native American youth are uniquely positioned in regards to their contact with the justice systems, and included recommendations specific to Native American youth interaction with justice systems at the federal, state, and tribal levels. Appendix III describes actions agencies reported taking related to selected recommendations from these reports.

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

From 2010 through 2016, the number of Native American youth involved with state and local and federal justice systems declined, according to our analysis of available data.³⁵ This decline occurred across all phases of the justice process: arrest, adjudication, and confinement in facilities. The involvement of these Native American youth in the state and local and federal justice systems was also concentrated in certain geographic areas. Further, the vast majority of these Native American youth came into contact with state and local justice systems, not the federal system. Analysis of available data also indicates that the percent of Native American youth involved in the federal justice system during the period reviewed was greater than their representation in the nationwide youth population. In contrast, the percent of Native American youth involved in most state and local justice systems was similar to their representation in

³⁴See Pub. L. No. 111-211, tit. II, § 235, 124 Stat. at 2282. 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 Attorney 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>.

³⁵We used several data sources, including administrative data maintained by DOJ, summary data reported by law enforcement agencies to DOJ, summary data reported by state and local courts to the NCJJ, survey data reported by state and local residential facilities to DOJ, and data reported by DOJ. Generally, local entities include cities, counties, universities, and colleges. See Appendix I, figure 18 for an illustration of the data sources we used in our analysis.

youth populations in those states. Moreover, the involvement of Native American and non-Native American youth in the federal justice system showed several differences (in types of offenses, for example), while their involvement in state and local justice systems showed several similarities. DOJ officials and representatives of Native American organizations we interviewed attributed the greater percent of Native American youth involved in the federal justice system and the differences shown by our analysis to federal government jurisdiction over crimes in Indian country, as well as the absence of general federal government jurisdiction over non-Native American youth.

Involvement of Native American Youth in the Justice Systems Declined from 2010 through 2016

The number of Native American youth involved with state and local and federal justice systems declined from 2010 through 2016 across all phases of the justice process—arrest, adjudication, and confinement in facilities, according to our analysis of available data. The majority of Native American youth involved with state and local justice systems were located in 11 of the 50 states, and all Native American youth involved with the federal justice system were located in 5 of the 12 federal circuits.³⁶ Further, most Native American youth were involved in state and local justice systems rather than in the federal system. 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 certain insights about the arrest, adjudication, and confinement of Native American youth by tribal justice systems. See appendix IV for a summary of our analysis of data from these sources.

Arrests

State and local and federal. Analysis of available data indicates that from calendar years 2010 through 2016, there were 105,487 arrests of Native American youth by state and local law enforcement agencies (LEAs), and over this period, arrests generally declined by 40 percent. As shown in table 3, arrests declined from 18,295 in 2010 to 11,002 in 2016. During the same period, there were 246 federal custodies of Native

³⁶The U.S. Courts of Appeals are part of the federal court system, and these courts generally hear challenges to lower court decisions from district courts located within their circuits.

American youth due to arrest by federal LEAs; the number of federal custodies also generally declined during the period—from 60 in 2010 to 20 in 2016.

Table 3: Number of Native American Youth Arrested by State and Local Agencies and Federal Agencies, 2010–2016

Government	Period	2010	2011	2012	2013	2014	2015	2016
State and local (CY) ^a	105,487	18,295	17,322	16,362	14,103	12,204	16,199	11,002
Federal (FY) ^b	246	60	43	40	37	20	26	20

Legend: CY = calendar year, FY = fiscal year

Source: GAO analysis of Federal Bureau of Investigation (FBI) Uniform Crime Reporting Summary Reporting System (UCR SRS) data (state and local) and U.S. Marshals Service (USMS) Justice Detainee Information System data (federal). | GAO-18-591

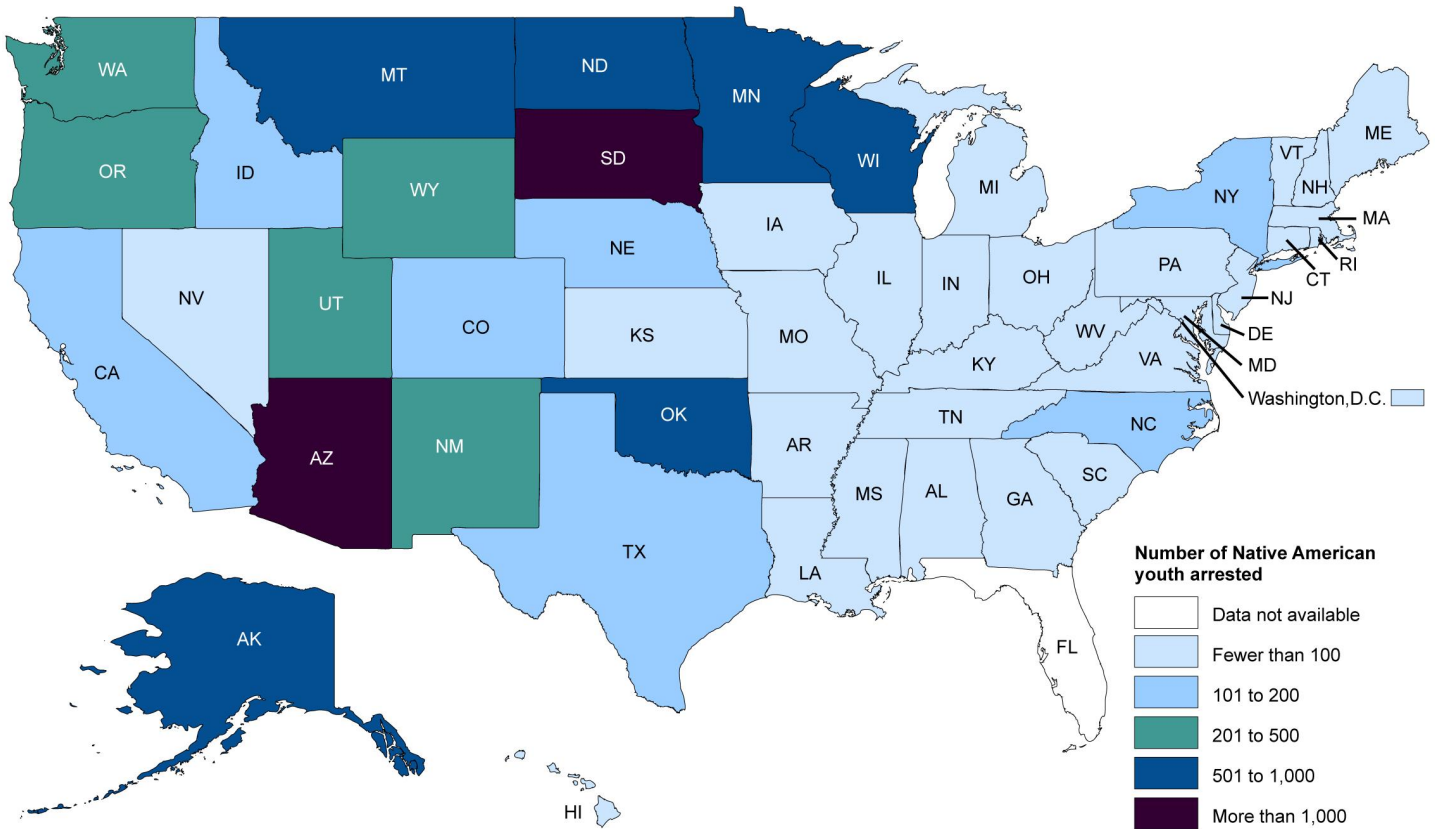
^aAlthough UCR SRS predominantly contains data from state and local law enforcement agencies (LEA), some federal and tribal LEAs report data into it. UCR SRS uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment. According to FBI officials, race information submitted by LEAs is based on a combination of sources such as (a) asking individuals to self-identify race at the time of arrest, (b) relying on information in documents that accompany individuals when arrested, and (c) classifying individuals visually upon arrest.

^bFederal data include youth in USMS custody after a federal arrest but may not capture all arrests by federal LEAs. USMS uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to USMS officials, race is self-reported by the individual at the time of the custody intake.

According to available data, 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. All of these ten states had a higher than average percentage of Native Americans among the states’ overall youth populations, according to 2016 U.S. Census estimates we reviewed.³⁷ For example, of all the states Alaska had the largest percentage of Native Americans among its youth population, at 19 percent in 2016. In contrast, the percent of Native American youth in the youth population in many (26) states was less than 1 percent. In 2016, the largest number of arrests by state and local LEAs occurred in Arizona and South Dakota, as shown in figure 2.

³⁷According 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.

Figure 2: Number of Native American Youth Arrested by State and Local Law Enforcement Agencies, by State, Calendar Year 2016

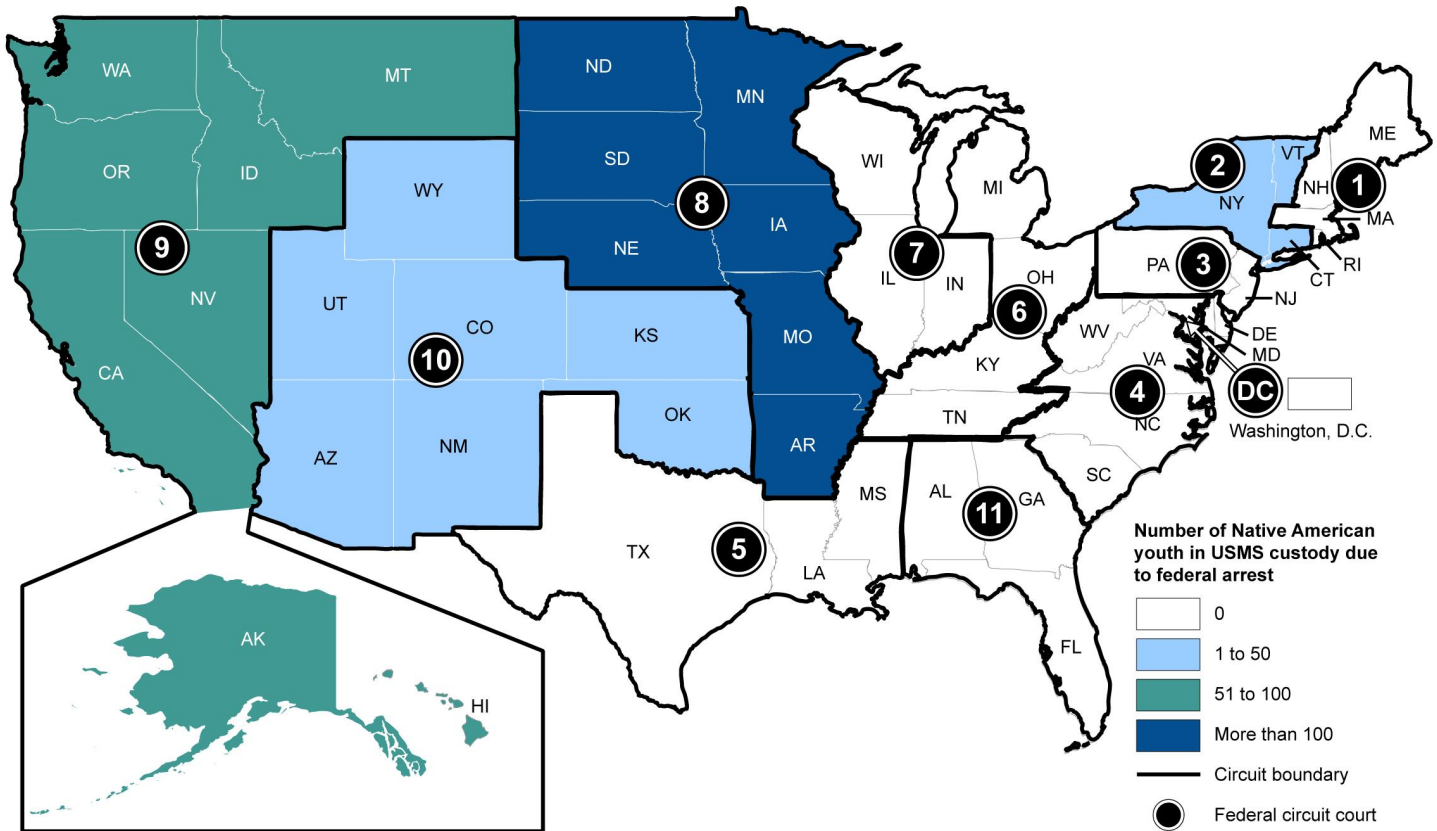


Source: GAO analysis of Federal Bureau of Investigation (FBI) Uniform Crime Reporting Summary Reporting System (UCR SRS) data; MapInfo (map). | GAO-18-591

Note: Although UCR SRS predominantly contains data from state and local law enforcement agencies (LEA), some federal and tribal LEAs report data into it. UCR SRS uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment. According to FBI officials, race information submitted by LEAs is based on a combination of sources such as (a) asking individuals to self-identify race at the time of arrest, (b) relying on information in documents that accompany individuals when arrested, and (c) classifying individuals visually upon arrest. There are no available data for the state of Florida.

All Native American youth in federal custody with USMS due to a federal LEA arrest from fiscal years 2010 through 2016 were located in 4 of the 12 federal circuits—the 2nd, 8th, 9th, and 10th circuits (see figure 3), according to our analysis of available data. These four circuits include 25 states.

Figure 3: Number of Native American Youth in U.S. Marshals Service (USMS) Custody Due to a Federal Arrest, by Circuit, Fiscal Years 2010–2016



Source: GAO analysis of USMS Justice Detainee Information System data; MapInfo (map). | GAO-18-591

Note: USMS data include youth in USMS custody after a federal arrest but may not capture all arrests by federal LEAs. USMS uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to USMS officials, race is self-reported by the individual at the time of the custody intake.

Adjudication

State and local. Available data show that from calendar year 2010 through calendar year 2014, state and local courts processed fewer cases involving Native American youth. For example, during the period, state and local courts received about 86,400 delinquency cases involving Native American youth, and the number of cases declined by about 19 percent from 19,200 in 2010 to 15,600 in 2014, as shown in table 4. The number of cases petitioned, or requested that a court adjudicate, and the number of cases adjudicated delinquent also declined, by about 20 percent and 26 percent, respectively. Among delinquency cases received

during the period, state and local courts petitioned about half (49,000 cases, or 57 percent).³⁸ Among all petitioned cases, about two-thirds (32,900 cases, or 67 percent) were adjudicated delinquent. Among youth found delinquent during the period, more than half—65 percent (21,300)—received probation, 24 percent (7,800) were placed in an institution or other residential facility, and 12 percent (3,800) received some other sanction, such as community service.

Table 4: Number of Native American Youth Cases Received by State and Local Courts and Federal Courts, 2010–2014

Government	Case	Period	2010	2011	2012	2013	2014
State and local (CY)^a	Delinquency cases ^b	86,400	19,200	18,100	17,400	16,100	15,600
	Petitioned ^c	49,000	11,000	10,400	9,900	8,900	8,800
	Adjudicated delinquent ^d	32,900	7,700	7,100	6,600	5,800	5,700
	Placement ^e	7,800	1,800	1,600	1,600	1,400	1,400
	Probation	21,300	5,000	4,700	4,200	3,700	3,700
	Other sanction ^f	3,800	900	800	800	700	600
Federal (FY)^g	Suspects received ^h	349	59	71	94	68	57
	Declined ⁱ	138	14	26	35	34	29
	Adjudicated delinquent/guilty ^j	167	37	39	46	25	20

Legend: CY = calendar year, FY = fiscal year

Source: GAO analysis of National Center for Juvenile Justice (NCJJ) Easy Access to Juvenile Court Statistics data (state and local) and Executive Office for United States Attorneys (EOUSA) Legal Information Office Network System data (federal). | GAO-18-591

^aNCJJ data used the race category “American Indian” and included persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. The source for the race information was operational data systems managed by juvenile courts or other juvenile justice agencies.

^bNCJJ defined “delinquency” as acts or conduct in violation of criminal law.

^cNCJJ defined “petitioned” as cases that appear on the official court calendar in response to the filing of a petition, complaint, or other legal instrument requesting the court to adjudicate a youth as a delinquent, status offender, or dependent child or to waive jurisdiction and transfer a youth to criminal court for processing as a criminal offender.

^dJudicial determination that a juvenile is responsible for the delinquency or status offense charged in a petition.

^eIncludes placements in residential facilities for delinquents or status offenders and cases in which youth were otherwise removed from their homes and placed elsewhere.

³⁸State and local data are our analysis of NCJJ’s juvenile court data. These data do not include cases involving status offenses. DOJ defines a status offense as a noncriminal act that is considered a law violation only because of a youth’s status as a minor. Typical status offenses include truancy, running away from home, violating curfew, underage use of alcohol, and general ungovernability. As of April 2018, the most current data available were for calendar year 2014.

^fOther sanctions include but are not limited to community service, restitution or fines, or referral to an outside agency or treatment program.

^gEOUSA defines the term Indian based on statute and case law, which generally considers an Indian to have both a significant degree of Indian blood and a connection to a federally recognized tribe. According to EOUSA officials, race is identified by the U.S. Attorney when reviewing documentation associated with the individual, such as tribal enrollment certification.

^hSuspects received is defined as individuals referred to a U.S. Attorney by a law enforcement agency, according to EOUSA officials.

ⁱThe United States Attorneys' offices review potential cases. Federal prosecutors may decline cases for a variety of reasons including, but not limited to, situations in which a person is subject to prosecution in another jurisdiction or another adequate alternative to prosecution is available.

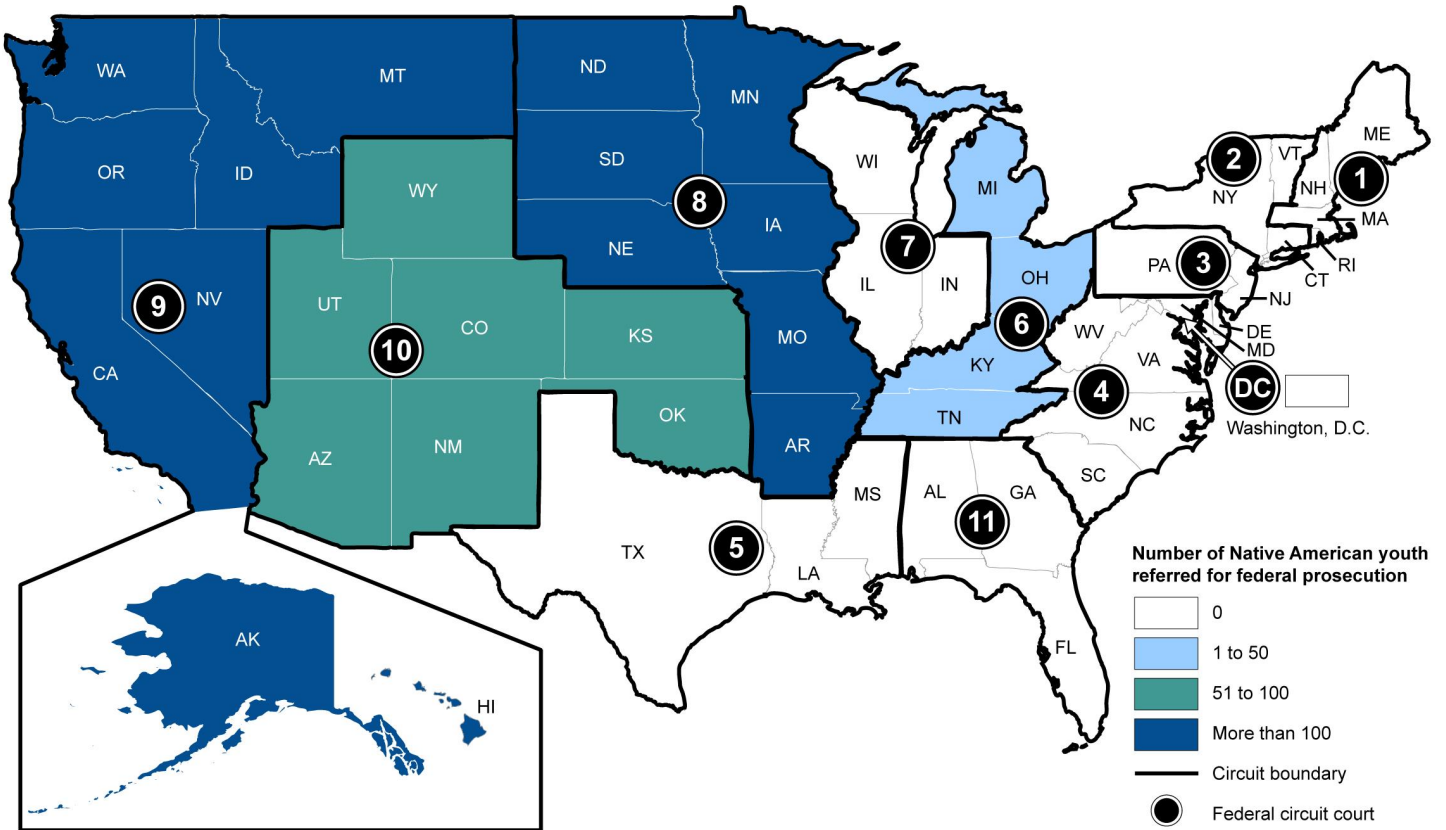
^jThe U.S. Attorneys' Criminal Resource Manual defines "delinquent" as a federal criminal violation committed prior to an individual's eighteenth birthday. Guilty is generally defined as any determination of guilt made by or determined by a court or judge.

Federal. Available data show that federal courts received 349 Native American youth suspects from fiscal years 2010 through 2014 (see table 4, above), and the annual number fluctuated over the period but declined slightly overall (59 in 2010 compared to 57 in 2014). Of the suspects received, federal courts declined to adjudicate 138 and adjudicated 167 youth as delinquent or guilty.³⁹ The number of delinquent or guilty outcomes declined overall from 37 in 2010 to 20 in 2014.

According to analysis of available data, all Native American youth referred to a United States Attorney from fiscal years 2010 through 2014 were located in 4 of the 12 federal circuits—the 6th, 8th, 9th, and 10th circuits, as shown in figure 4. These four circuits include 26 states. Annually, the number of referrals to each circuit was similar throughout the period.

³⁹Of the remaining 44 cases during this period, 18 were dismissed, 16 were pending (as of October 2016), 3 were not delinquent/guilty, and 7 had other outcomes, such as the charge being included in another case.

Figure 4: Number of Native American Youth Referred to a United States Attorney, by Circuit, Fiscal Years 2010–2014



Source: GAO analysis of Executive Office for United States Attorneys (EOUSA) Legal Information Office Network System data; MapInfo (map). | GAO-18-591

Note: EOUSA defines the term Indian based on statute and case law, which generally considers an Indian to have both a significant degree of Indian blood and a connection to a federally recognized tribe. According to EOUSA officials, race is identified by the U.S. Attorney when reviewing documentation associated with the individual, such as tribal enrollment certifications.

Confinement

State and local. The number of Native American youth confined in state and local residential facilities declined by about 37 percent between 2011 and 2015, from at least 861 in 2011 to at least 544 in 2015, according to

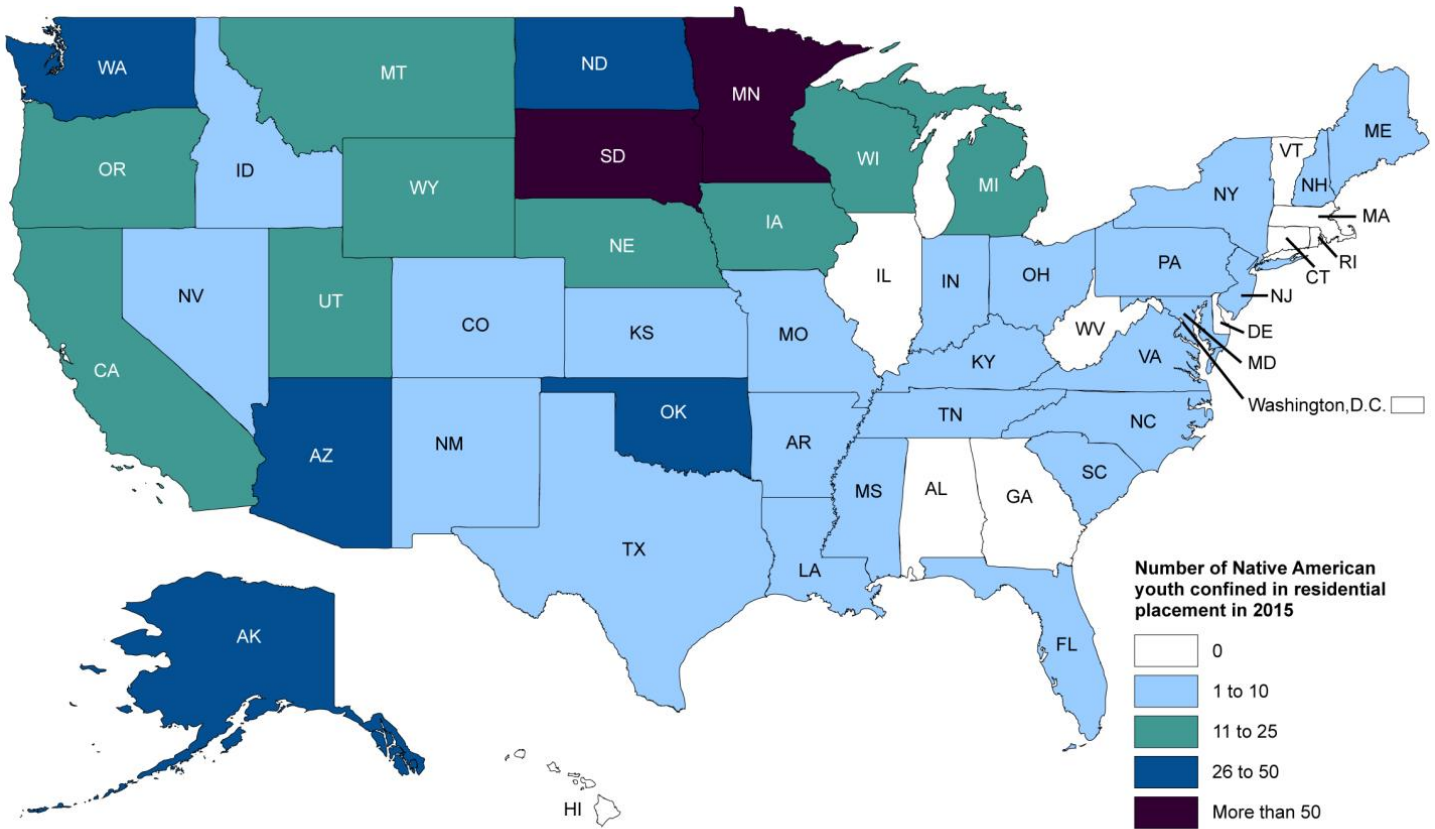
our analysis of data from the biennial Census of Juveniles in Residential Placement survey.⁴⁰

The majority of Native American youth (approximately 65 percent) were confined in 9 states when the biennial survey was taken in 2011, 2013, and 2015. Generally, these states included Alaska, Arizona, Minnesota, Montana, North Dakota, Oklahoma, Oregon, South Dakota, and Washington (see figure 5 for 2015 census results). All of these states had a higher than average percentage of Native Americans among the states' overall youth population in 2015.⁴¹

⁴⁰Information for state and local facilities is based on our analysis of record-level data from the 2011, 2013, and 2015 biennial Census of Juveniles in Residential Placement (CJRP) surveys, administered by the United States Bureau of the Census for DOJ's OJJDP. These data include youths who were in custody on the day of the census. For the purpose of this report, state and local facilities include those managed by state, county, municipal, and tribal governments, as well as private facilities. We limited our analysis to youths who had been adjudicated and placed in a residential facility and did not include youths who were awaiting a trial or whose adjudication was pending. Since our analysis focused on records that met our criteria (e.g., race, and adjudication status), the data presented in this report do not match data in published DOJ statistical bulletins and web-based resources.

⁴¹According to 2015 census estimates, the percent of the youth population who were Native American in the following states was greater than 2 percent: Alaska: 20 percent; South Dakota: 15 percent; New Mexico: 14 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: 2.4 percent; Idaho: 2.2 percent; and Minnesota: 2.01 percent. For the remaining states, the percent of youth who were Native American was less than 2 percent in 2015.

Figure 5: Number of Native American Youth Confined at State and Local Facilities at the Time of the 2015 Census of Juveniles in Residential Placement, by State



Source: GAO analysis of Department of Justice 2015 biennial Census of Juveniles in Residential Placement (CJRP) data; MapInfo (map). | GAO-18-591

Note: These data include youth placed in residential facilities and in custody on the day of the 2015 CJRP. The CJRP includes facilities managed by states, counties, municipalities, and tribal governments, as well as private facilities, among others. We limited our analysis to youth who had been adjudicated and did not include youth who were awaiting a trial or whose adjudication was pending. CJRP uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the original peoples of North America and South America (including Central America) and who maintain tribal affiliations or community attachment. The source for the race information was administrative records maintained by facilities.

Federal. From fiscal years 2010 through 2016, a total of 138 Native American youth who had been sentenced were admitted to juvenile facilities overseen by BOP; this number declined over the period from 37

in 2010 to 6 in 2016, according to our analysis of available data.⁴² Court proceedings for these individuals had been finalized and the individuals were sentenced to a juvenile facility overseen by BOP.

Agency and Organization Perspectives

DOJ officials and representatives from five Native American organizations we interviewed provided various perspectives on the decline and geographic distribution of Native American youth in justice systems that our analysis showed. Specifically, DOJ officials noted that the number of youth involved in state and local, federal, and tribal systems has been declining for several years across all races, not just Native American youth.

However, when asked about this decline, representatives from three of the five Native American organizations we interviewed stated that data on the number of Native American youth in justice systems, especially at the state level, is underreported and often inconsistent. Representatives from two of those organizations noted that when a youth comes into contact with state juvenile justice systems, states are not required to ask about Native American status, which results in inconsistent tracking and underreporting of Native American youth involved with state systems. Representatives from one of these organizations, which provides assistance in national policy areas, noted that states are not required to contact a youth's identified tribe to confirm the youth's tribal affiliation. These representatives also noted that some states may inquire about tribal affiliation when youth come into contact with the state's justice system, but the states do not have a reliable process to identify Native American youth. In addition, these same representatives noted that Native American youth are often unlikely to share their ethnicity with state officials, or anyone outside of their community. Representatives from another organization noted that state court judges are not required to ask about Native American status, which could also potentially result in

⁴²BOP oversees secure and non-secure juvenile facilities which house youth under 18 either sentenced to BOP custody or under the supervision of the U.S. Probation and Pretrial Services office. BOP contracts with private companies or through intergovernmental agreements for the running and maintenance of these facilities, maintaining oversight. As of April 2018, BOP oversaw eight facilities (four secure and four non-secure), according to BOP officials. BOP uses the race category "American Indian" and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to BOP officials, the source for race information was pre-sentence investigation reports and other charging documents.

undercounting of Native American youth in state systems. Representatives from another organization which commented on the decline stated that because state and federal data only capture more serious offenses, lesser crimes handled at the tribal level often go unreported.

Representatives from two of the organizations we interviewed did not question the decline in the number of Native American youth involved in federal and state and local systems, but noted that there has been a movement away from criminalizing youth in general. Rather, these representatives explained that there is more of a focus on restorative justice, diversion, and alternatives to incarceration, as well as a movement toward more trauma-informed care. Representatives from one of these two organizations noted that a number of states have worked out civil diversion agreements with local tribes, which provide opportunities for the tribe to practice restorative justice with delinquent youth instead of confining them.

Regarding the distribution of Native American youth by state, representatives from four of the five organizations we interviewed noted that the number of youth involved with state justice systems is higher in those states with a larger Native American population, and thus were not surprised by the states our analysis showed to have the highest numbers of Native American youth involved in their state and local justice systems. These representatives also provided additional perspectives on why some states might have higher numbers of youth involved with their justice systems. For example, representatives from one organization noted that in certain states, not all tribes have tribal law enforcement, which could potentially lead to higher state involvement in Native American juvenile cases that might otherwise be handled by tribes. Representatives from another organization noted that some states have a reputation for more aggressively adjudicating delinquent Native American youth.

Data Show that Representation of Native American Youth in the Federal Justice System Was Greater Than Their Representation in the Youth Population, but Their Representation in Most State and Local Justice Systems Was Comparable

The percentage of youth who were Native American among those involved with the federal justice system from 2010 through 2016 was

greater than the percent of Native American youth in the nationwide youth population, according to analysis of available data.⁴³ In contrast, state-by-state analysis showed that the percent of youth who were Native American among those involved with state and local justice systems during the period was similar to many states' Native American youth population.⁴⁴

Federal justice system. The percent of youth arrested, referred for adjudication, and confined at the federal level from 2010 through 2016 who were Native American (13 to 19 percent) was greater than the percent of Native Americans in the nationwide youth population during the same period (1.6 percent). For example, the percent of youth in USMS custody and arrested by federal LEAs during the period who were Native American was 18 percent (246 Native American youth out of 1,358 total youth arrested from fiscal years 2010 through 2016), as shown in table 5.

Table 5: Percent of Youth Involved in the Federal Justice System Who Were Native American, Fiscal Years 2010–2016

	Period	2010	2011	2012	2013	2014	2015	2016
Custody due to arrest ^a	18	23	13	20	21	16	20	17
Referred for adjudication ^b	19	15	14	29	21	24	24	16
Confinements ^c	13	19	20	8	10	9	16	5

Source: GAO analysis of U.S. Marshals Service (USMS) data (custody), Executive Office for United States Attorneys (EOUSA) data (adjudication), and Federal Bureau of Prisons (BOP) data (confinement). | GAO-18-591

^aData include youth in USMS custody after a federal arrest but may not capture all arrests by federal law enforcement agencies. USMS uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to USMS officials, race is self-reported by the individual at the time of the custody intake.

^bEOUSA defines the term Indian based on statute and case law, which generally considers an Indian to have both a significant degree of Indian blood and a connection to a federally recognized tribe. According to EOUSA officials, race is identified by the U.S. Attorney when reviewing documentation associated with the individual, such as tribal enrollment certifications.

^cBOP uses the race category “American Indian” and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to BOP officials, the source for race information was pre-sentence investigation reports.

According to DOJ officials, the federal juvenile population of Native Americans has historically been higher than their representation in the nationwide population due to federal government jurisdiction over certain

⁴³Available data include: USMS custody data, EOUSA adjudication data, BOP admission data, and U.S. Census data and estimates.

⁴⁴Available data include: FBI UCR SRS arrest data, CJRP confinement data, and U.S. Census data and estimates.

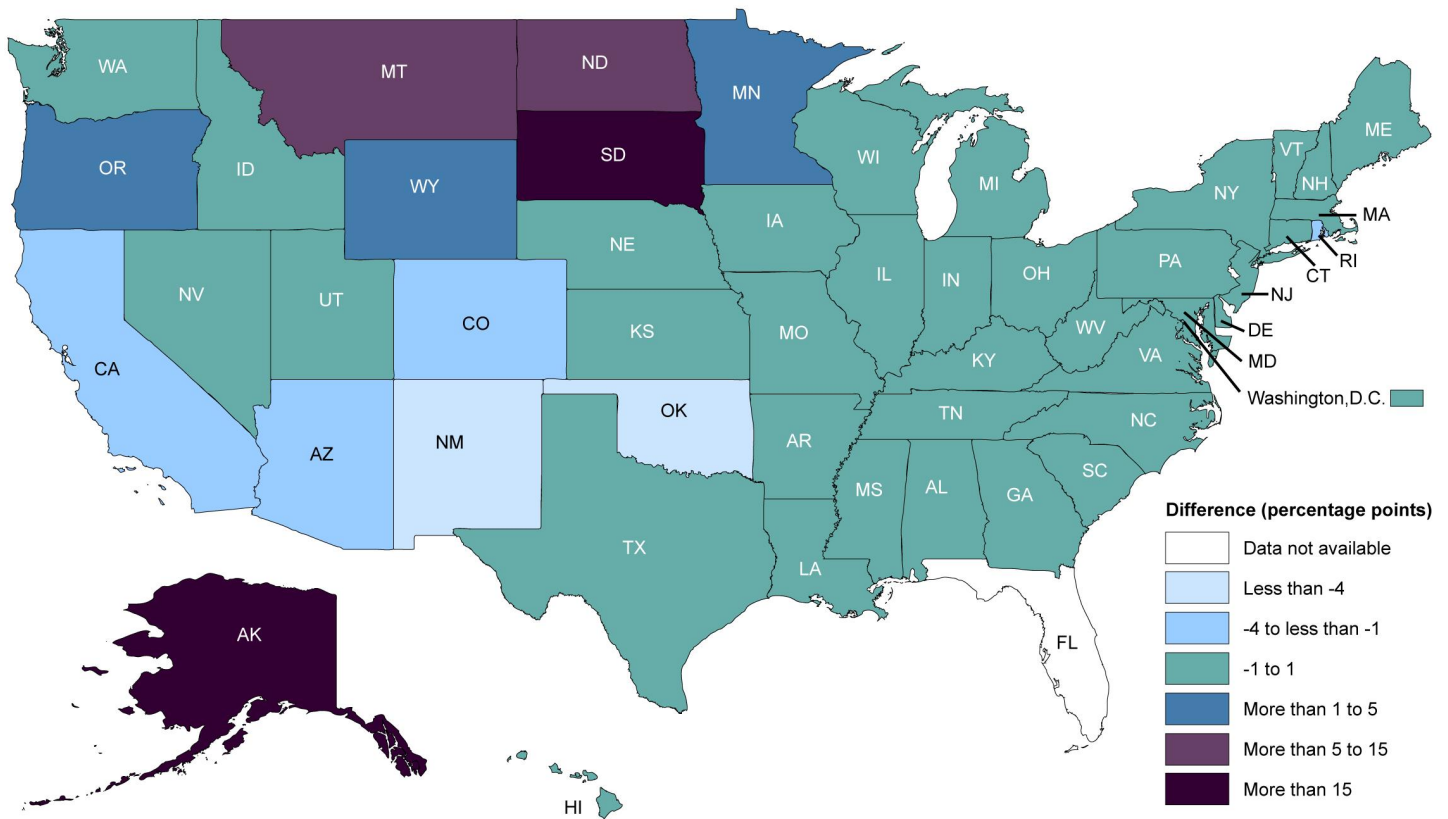
crimes in Indian country, which requires the federal government to prosecute offenses that would commonly be prosecuted by states if committed outside of Indian country. According to DOJ officials, a small handful of federal criminal statutes apply to all juveniles, such as immigration and drug statutes, 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. Further, DOJ officials stated that a significant portion of Indian country is in states where Public Law 280 does not apply, and thus the federal government generally has criminal jurisdiction for major crimes in Indian Country.⁴⁵ Additionally, DOJ officials stated that tribal justice systems are often underfunded and do not have the capacity to handle Native American youths' cases. Therefore, when both federal and tribal justice systems have jurisdiction, they said that the federal system may be the only system in which the youth's case may be adjudicated. For these reasons, the number of Native American youth offenders in the federal justice system is disproportionate to non-Native American juveniles in accordance with population size, according to DOJ officials.

State and local justice systems. State-by-state analysis of arrest data showed some variation in the percentage of Native Americans among youth arrested by state and local LEAs from calendar years 2010 through 2016. For example, as figure 6 illustrates, in most states, the percentage of youth arrested by state and local LEAs in 2016 who were Native American was similar to the percent of Native American youth in the states' population. However, in four states—Alaska, Montana, North Dakota, and South Dakota—the percentage of Native Americans among the youth arrested by state and local LEAs was at least 5 percentage

⁴⁵As previously discussed, Public Law 280 as amended, confers criminal jurisdiction over offenses committed in Indian country to the governments of six states, thereby waiving federal jurisdiction in Indian country under the General and Major Crimes Acts and subjecting Indians to prosecution in state court unless an Indian tribe requests, and the Attorney General consents to, concurrent federal jurisdiction. See 18 U.S.C. § 1162.

points higher.⁴⁶ In two states—New Mexico and Oklahoma—it was at least 4 percentage points lower.⁴⁷

Figure 6: 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; MapInfo (map). | GAO-18-591

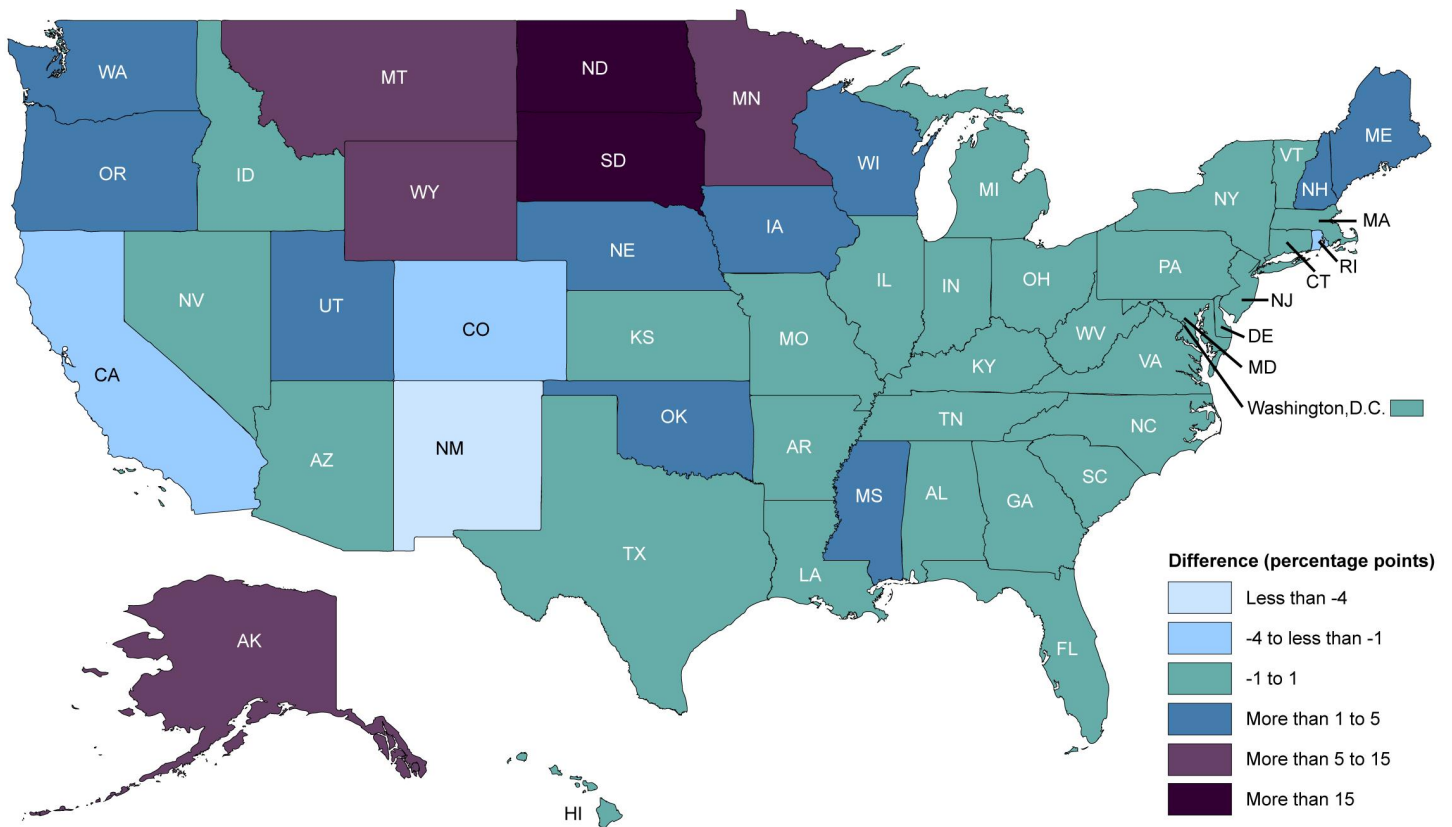
Note: Although UCR SRS predominantly contains data from state and local law enforcement agencies (LEA), some federal and tribal LEAs report data into it. Data are not available for Florida. UCR SRS uses the race category “American Indian or Alaskan Native” and defines it as a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment. According to FBI officials, race information submitted by LEAs is based on a combination of sources such as (a) asking individuals to self-identify race at the time of arrest, (b) relying on information in documents that accompany individuals when arrested, and (c) classifying individuals visually upon arrest.

⁴⁶The difference was at least greater than 8 percentage points and the largest difference was about 22 percentage points.

⁴⁷The difference was at least greater than 4.7 percentage points and the largest difference was 5.5 percentage points.

State-by-state analysis of state and local confinement data for 2015 showed a similar pattern. As figure 7 illustrates, in most states, the percent of youth confined at state and local facilities in 2015 who were Native American was similar to the percent of Native American youth in the states' population. However, six states—Alaska, Minnesota, Montana, North Dakota, South Dakota, and Wyoming—the percentage of Native Americans among the youth confined in state and local facilities was at least 5 percentage points higher.⁴⁸ In one state—New Mexico—it was 11 percentage points lower.

Figure 7: Difference between the Percentage of Native Americans among Youth Confined at State and Local Facilities and the Percentage of Native Americans among the States' Overall Youth Population in 2015, by State



Source: GAO analysis of Department of Justice 2015 biennial Census of Juveniles in Residential Placement (CJRP) data and U.S. Census 2015 estimates; MapInfo (map). | GAO-18-591

⁴⁸Generally, the difference was at least greater than 8 percentage points and the largest difference was 22 percentage points.

Note: CJRP data include youth placed in residential facilities and in custody on the day of the 2015 CJRP. The CJRP includes facilities such as those managed by states, counties, municipalities, and tribal governments as well as private facilities, among others. CJRP has historically achieved response rates near or above 90 percent. However, participation in the CJRP is voluntary and response rates from tribal facilities have been lower. We limited our analysis to youth who had been adjudicated and did not include youth who were awaiting a trial or whose adjudication was pending. CJRP's race category is "American Indian or Alaskan Native" and includes persons having origins in any of the original peoples of North America and South America (including Central America) and who maintain tribal affiliations or community attachment. The source for the race information was administrative records maintained by facilities.

Agency and organization perspectives. According to DOJ officials, as noted above, federal jurisdiction over crimes in Indian country results in a higher percentage of Native American youth (compared to non-Native American youth) involved with the federal justice system. In addition, a DOJ official noted that that certain states may have a higher percentage of Native Americans among youth confined in that state's facilities if those Native American youth reside more in urban or other areas that are not Indian country, and are thus more likely subject to state and local jurisdiction. Conversely, the official said that for those states with lower Native American youth confined in state facilities compared to the Native American youth population in the state overall, the youth may reside more in Indian country, resulting in their contact with the federal judicial system more than the state or local justice systems.

Representatives from four of the five Native American organizations we interviewed noted that federal jurisdiction is a key contributor to the higher percentage of Native American youth involved at the federal justice level.

While Involvement Declined, Available Data Indicate Several Differences between Native American and Non-Native American Youth in the Federal Justice System

Although the involvement of youth in the federal justice systems declined for both Native Americans and non-Native Americans from 2010 through 2016, analysis of available data indicates that there were several differences between the two groups in characteristics such as types of offenses charged. According to DOJ officials, some of these differences were due to federal jurisdiction over Indians for major crimes (such as person offenses) in Indian country as well as the absence of general federal government jurisdiction over non-Native American youth.

Involvement in the Federal Justice System Declined for Both Groups

Available data indicate that the involvement of youth in the different stages of the federal justice system declined for both Native Americans and non-Native Americans from fiscal years 2010 through 2016. For example, federal custodies due to arrests by federal LEAs declined for both groups, as shown in table 6; the number of suspects referred to federal courts declined for both groups (table 7); and BOP confinements declined for both groups (table 8).⁴⁹

Table 6: Number of Federal Custodies of Youth due to Arrests by Federal Law Enforcement Agencies, Fiscal Year 2010 Compared to Fiscal Year 2016

Native/Non-Native	2010	2016
Native American ^a	60	20
Non-Native American ^b	204	97

Source: GAO analysis of U.S. Marshals Service (USMS) Justice Detainee Information System data. | GAO-18-591

Note: Federal data include youth in USMS custody after a federal arrest but may not capture all arrests by federal law enforcement agencies. The vast majority (82 percent) of arrests of Native American youth were carried out by the Department of Justice—in particular, FBI and USMS. The majority (64 percent) of arrests of non-Native American youth were carried out by the Department of Homeland Security, in particular the U.S. Customs and Border Protection.

^aUSMS uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to USMS officials, race is self-reported by the individual at the time of the custody intake.

^bNon-Native American categories in USMS data are Asian, Black, and White.

Table 7: Number of Youth Referred to Federal Courts, Fiscal Year 2010 Compared to Fiscal Year 2016

Native/Non-Native	2010	2016
Native American ^a	59	49
Non-Native American ^b	336	249

Source: GAO analysis of Executive Office for United States Attorneys (EOUSA) Legal Information Office Network System data. | GAO-18-591

^aEOUSA defines the term Indian based on statute and case law, which generally considers an Indian to have both a significant degree of Indian blood and a connection to a federally recognized tribe. According to EOUSA officials, race is identified by the U.S. Attorney when reviewing documentation associated with the individual, such as tribal enrollment certifications.

^bNon-Native American individuals are individuals who are not enrolled in an Indian tribe.

⁴⁹EOUSA defines “suspects received” as individuals referred to a U.S. Attorney by a law enforcement agency.

Table 8: Number of Sentenced Youth Confined by the Federal Bureau of Prisons, Fiscal Year 2010 Compared to Fiscal Year 2016

Native/Non-Native	2010	2016
Native American ^a	37	6
Non-Native American ^b	155	106

Source: GAO analysis of Federal Bureau of Prisons (BOP) data. | GAO-18-591

^aBOP uses the race category “American Indian” and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to BOP officials, the source for race information was pre-sentence investigation reports.

^bNon-Native American categories in the BOP data are Asian, Black, and White.

Offenses Varied among Youth Involved in the Federal Justice System

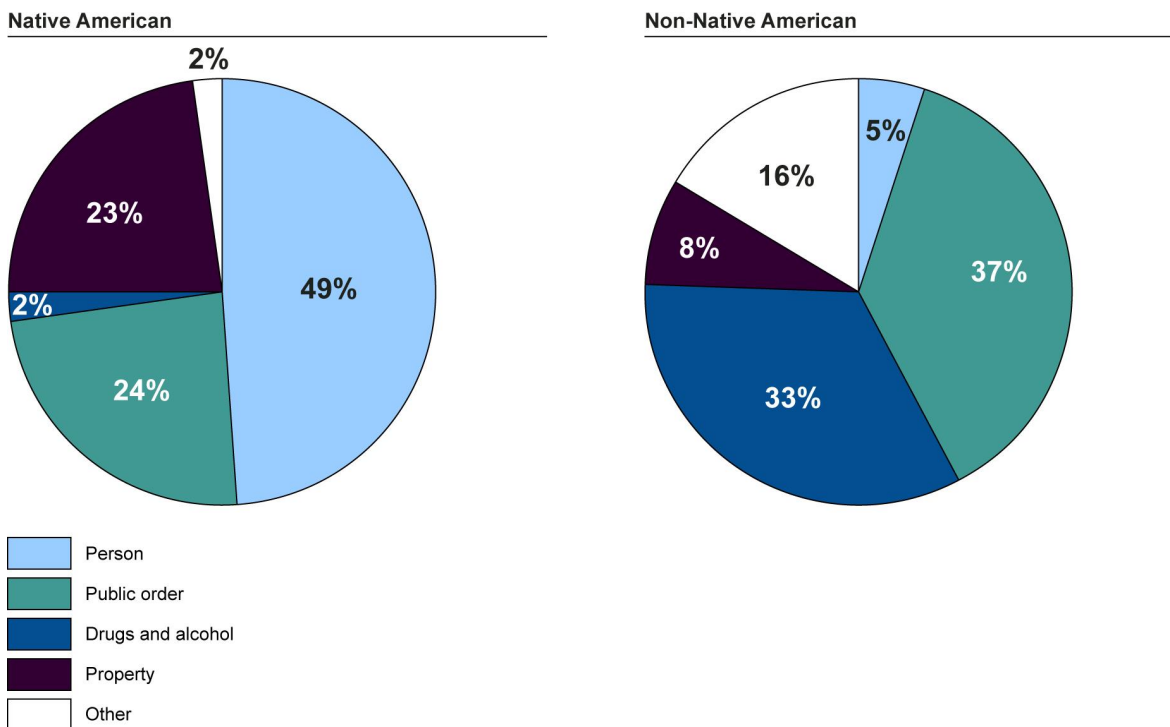
Native American and non-Native American youth were involved with the federal justice system for different offenses from fiscal years 2010 through 2016. We analyzed the types of offenses for all youth and grouped them into five broad categories—drug and alcohol, person, property, public order, and other.⁵⁰ Analysis of available data indicates that the majority of Native American youth were involved with the federal justice system for offenses against a person. In contrast, the majority of involvement of non-Native American youth was due to public order or drug and alcohol offenses.

Arrests. As figure 8 illustrates, out of the broad offense categories, 49 percent of Native American youth were arrested by a federal LEA and in USMS custody due to an offense against a person. In contrast, 5 percent of non-Native American youth were arrested by a federal LEA for person offenses during the period. Instead, most non-Native American youth were arrested by a federal LEA for public order or drug and alcohol

⁵⁰For the purpose of this analysis, offenses are defined as follows: (1) Drug and alcohol offenses can include unlawful possession or use of drugs or alcohol. (2) Person offenses can include assault, child abuse/neglect, homicide, kidnapping, and sex offenses. (3) Property offenses can include arson, burglary, larceny/theft, property damage, motor vehicle theft, and robbery. (4) Public order offenses can include disorderly conduct; fraud, forgery, and counterfeiting; immigration violations; obstruction of justice; probation and parole violations; status offenses; traffic violations; and weapons violations. (5) Other offenses can include blackmail, bail violation, and gambling, among other things. According to DOJ officials, DOJ defines “public order” offenses differently for its purposes. Specifically, DOJ does not categorize technical violations and status offenses as public order offenses. Therefore, the results of our analysis of “public order” offenses may be different from data reported by DOJ in the OJJDP *Statistical Briefing Book* or other publications.

offenses (70 percent total for both). The top two specific offenses among Native American youth were assault and sex offenses; the top two specific offenses among non-Native Americans were drug-related and immigration violations, according to analysis of available data.

Figure 8: Type of Offenses Charged to Native American and Non-Native American Youth in Federal Custody Due to an Arrest by a Federal Law Enforcement Agency, Fiscal Years 2010–2016



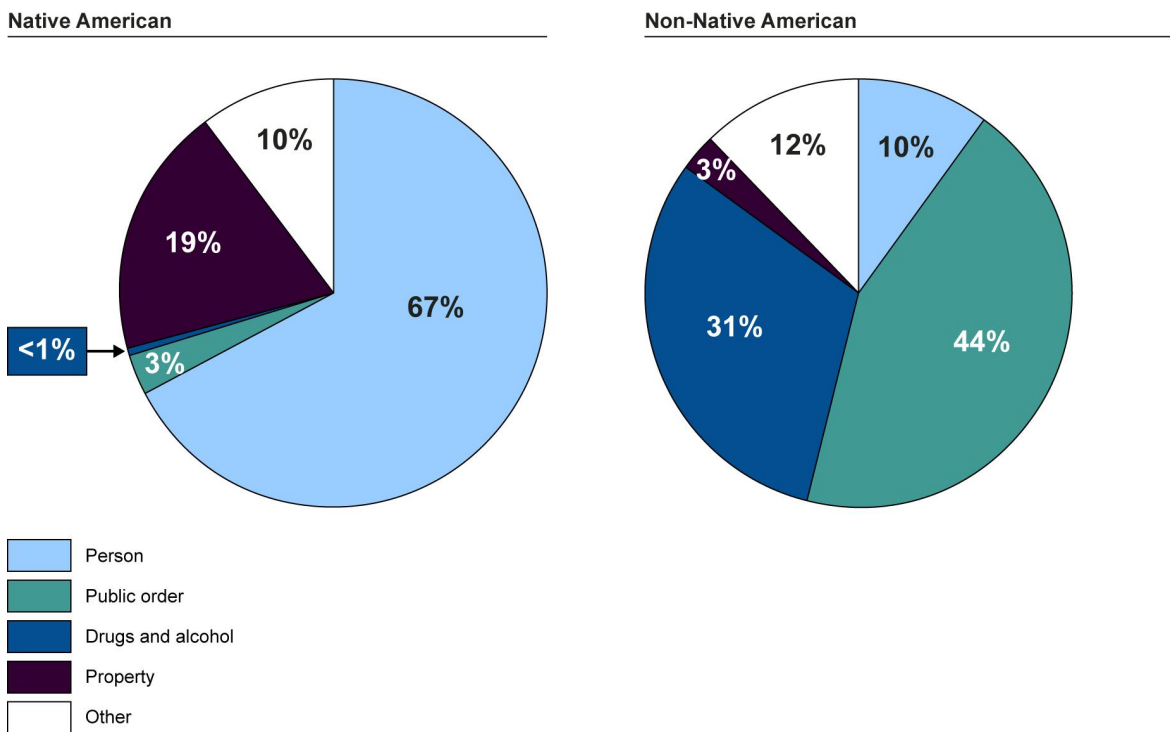
Source: GAO analysis of United States Marshals Service (USMS) Justice Detainee Information System data. | GAO-18-591

Note: Offense types: (1) Person offenses can include assault, child abuse/neglect, homicide, kidnapping, and sex offenses. (2) Public order offenses can include disorderly conduct; fraud, forgery, and counterfeiting; immigration; obstruction of justice; probation and parole violations; status offenses; traffic violations; and weapons violations. (3) Drug and alcohol offenses can include unlawful possession or use of drugs or alcohol. (4) Property offenses can include arson, burglary, larceny/theft, property damage, motor vehicle theft, and robbery. (5) Other offenses can include: blackmail, bail violation, and gambling, among other things.

Federal data include youth in USMS custody after a federal arrest but may not capture all arrests by federal law enforcement agencies. USMS uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to USMS officials, race is self-reported by the individual at the time of the custody intake. Non-Native American categories in USMS data are Asian, Black, and White.

Referrals for adjudication. As figure 9 illustrates, most Native American youth referred to federal courts were referred for the broad category of offenses against a person (67 percent). However, most non-Native American youth were referred to federal courts for the broad categories of public order offenses or drug and alcohol offenses (44 and 31 percent, respectively). Among Native American youth, the top two specific offenses were sex offenses and assault. Among non-Native Americans, the top two specific offenses were drug-related and immigration violations.

Figure 9: Types of Offenses Charged to Native American and Non-Native American Youth Referred to Federal Courts, Fiscal Years 2010–2016



Source: GAO analysis of Executive Office the United States Attorneys (EOUSA) Legal Information Office Network System data. | GAO-18-591

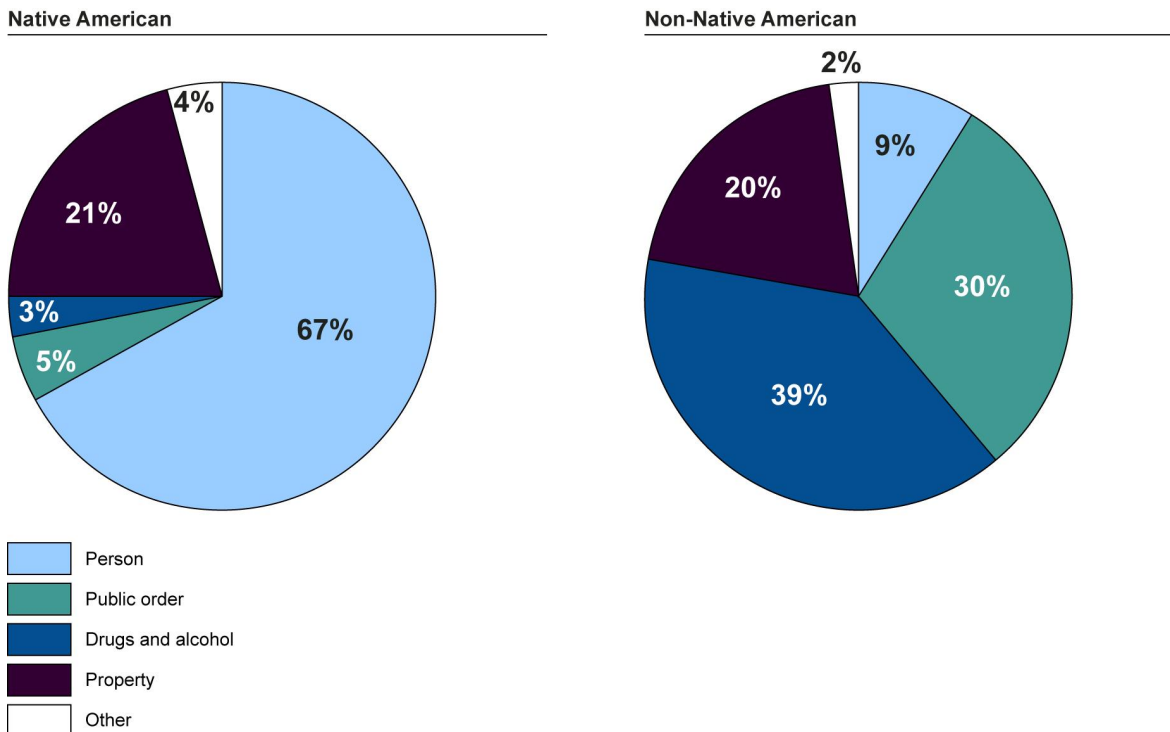
Note: Offense types: (1) Person offenses can include assault, child abuse/neglect, homicide, kidnapping, and sex offenses. (2) Public order offenses can include disorderly conduct; fraud, forgery, and counterfeiting; immigration; obstruction of justice; probation and parole violations; status offenses; traffic violations; and weapons violations. (3) Drug and alcohol offenses can include unlawful possession or use of drugs or alcohol. (4) Property offenses can include arson, burglary, larceny/theft, property damage, motor vehicle theft, and robbery. (5) Other offenses can include: blackmail, bail violation, and gambling, among other things.

EOUSA defines the term Indian based on statute and case law, which generally considers an Indian to have both a significant degree of Indian blood and a connection to a federally recognized tribe. According to

EOUSA officials, race is identified by the U.S. Attorney when reviewing documentation associated with the individual, such as tribal enrollment certifications.

Confinement. As figure 10 illustrates, out of the five broad offense categories, 67 percent of Native American youth were sentenced and confined by the federal justice system from fiscal years 2010 through 2016 for an offense against a person; most non-Native American youth were confined by the federal justice system for drug and alcohol offenses (about 39 percent) or public order offenses (also 30 percent). The top two specific offenses among Native American youth were sex offenses and assault. The top two specific offenses among non-Native American youth were for drug-related and immigration violations.

Figure 10: Offenses among Native American and Non-Native American Youth Sentenced and Admitted to Facilities Overseen by the Federal Bureau of Prisons, Fiscal Years 2010–2016



Source: GAO analysis of Federal Bureau of Prisons (BOP) data. | GAO-18-591

Notes: BOP uses the race category “American Indian” in its data system and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to BOP officials, the source for race information was pre-sentence investigation reports. Non-Native American categories in the BOP data are Asian, Black, and White.

Offense types: (1) Person offenses can include assault, child abuse/neglect, homicide, kidnapping, and sex offenses. (2) Public order offenses can include disorderly conduct; fraud, forgery, and counterfeiting; immigration; obstruction of justice; probation and parole violations; status offenses; traffic violations; and weapons violations. (3) Drug and alcohol offenses can include unlawful possession or use of drugs or alcohol. (4) Property offenses can include arson, burglary, larceny/theft, property damage, motor vehicle theft, and robbery. (5) Other offenses can include: blackmail, bail violation, and gambling, among other things.

Agency and organization perspectives on variations in offenses.

According to DOJ officials, the reason most Native American youth were arrested, adjudicated, and confined for person offenses was due to federal jurisdiction over Indians for major crimes (such as person offenses like burglary and sex offenses) in Indian country. Specifically, officials noted that Native American youth are arrested and confined in the federal system for more serious offenses because the Major Crimes Act confers jurisdiction on the federal government for person offenses. In contrast, agency officials also noted that the federal government does not have jurisdiction over the same types of offenses committed by non-Indian youth and therefore those youth cannot be arrested by federal agencies for person offenses. Rather, according to one DOJ official, the federal government only has general jurisdiction applying to both Native American and non-Native American youth in limited instances, such as for certain immigration and drug offenses. The jurisdictional structure present in Indian country requires the federal government to prosecute offenses that would otherwise be handled in state court outside of Indian country, according to DOJ officials.

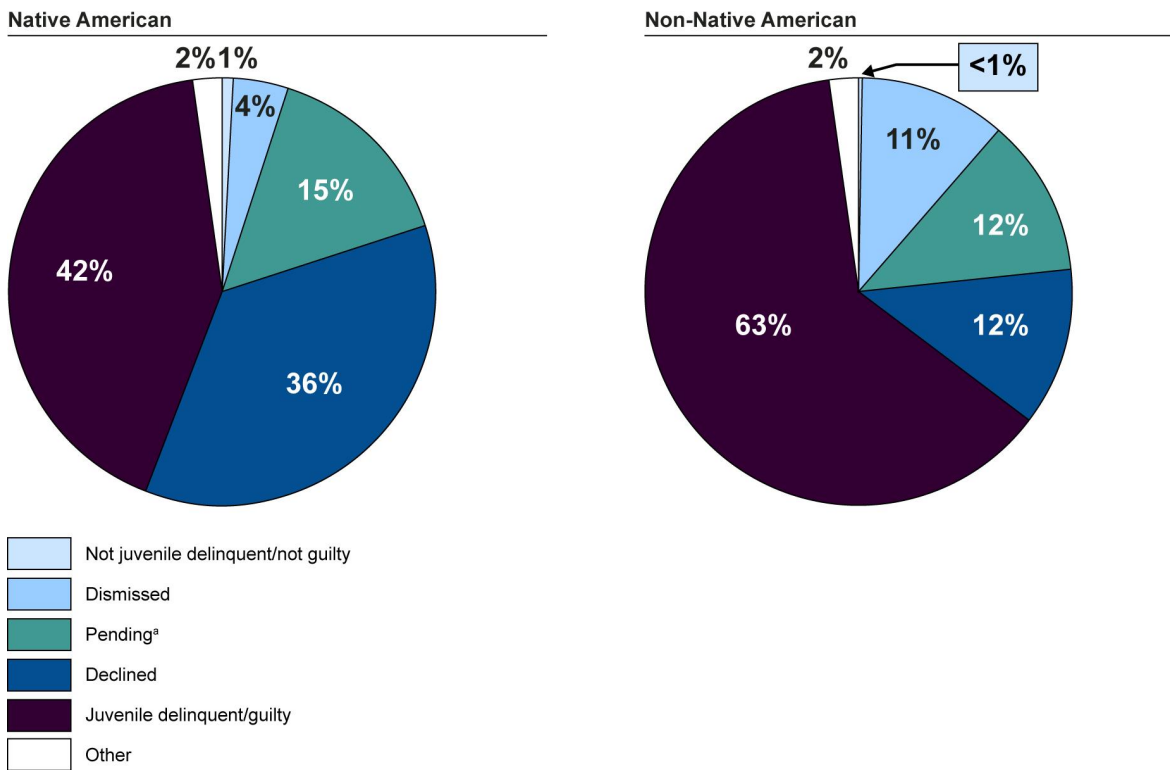
Representatives from all of the five Native American organizations we interviewed noted, similarly to DOJ officials, that federal jurisdiction over crimes in Indian country is typically for more serious offenses (specifically under the Major Crimes Act), such as person offenses. In contrast, as noted by one organization, youth engaged in property and substance abuse offenses are more typically brought into state custody. Two of the organizations' representatives we met with noted in addition that alcohol abuse plays a role in person offenses, often co-occurring with these offenses.

Outcomes Varied among Youth Referred for Federal Adjudication

The distribution of outcomes among youth who were referred to federal prosecutors for adjudication in federal courts between fiscal years 2010 and 2016 was different for Native American and non-Native American youth. For example, as figure 11 shows, a larger percentage of referrals for adjudication involving Native American youth were declined by federal prosecutors compared to non-Native American cases—36 percent among Native American youth compared to 12 percent among non-Native

American.⁵¹ Further, a smaller percentage of Native American than non-Native American referrals resulted in delinquent or guilty outcomes—42 percent among Native American youth compared to 63 percent among non-Native American.

Figure 11: Outcomes of Referrals to Federal Courts for Native American and Non-Native American Youth, Fiscal Years 2010–2016



Source: GAO analysis of Executive Office for United States Attorneys (EOUSA) Legal Information Office Network System data. | GAO-18-591

Note: EOUSA, in its prosecution data, defines the term Indian based on statute and case law, which generally considers an Indian to have both a significant degree of Indian blood and a connection to a federally recognized tribe. According to EOUSA officials, race is identified by the U.S. Attorney when reviewing documentation associated with the individual, such as tribal enrollment certifications. We acknowledge that there are a number of additional variables that may affect outcomes of referrals to federal courts, such as prior delinquent history and the nature and circumstances of the offense. Our analysis focused on the outcome and race variables.

^aThese referrals were pending as of October 2016.

⁵¹The United States Attorneys’ offices review potential cases. Federal prosecutors may decline cases for a variety of reasons including, but not limited to, situations in which a person is subject to prosecution in another jurisdiction or another adequate alternative to prosecution is available.

Confinement Characteristics Varied among Youth in the Federal Justice System

Length of sentence. Native American youth who were sentenced and confined by the federal justice system—in BOP’s custody—had longer sentences compared to non-Native American youth from fiscal years 2010 through 2016, according to analysis of available data.⁵² About half (52 percent) of the Native American youth confined during the period were sentenced for 13 to 36 months.⁵³ Most non-Native American youth (62 percent) had shorter sentences of up to 12 months.⁵⁴ According to DOJ officials, Native American youth had longer sentences due to federal government jurisdiction over major crimes in Indian country. As a result of its jurisdiction, officials said that the federal government arrests and incarcerates Native American youth for more serious crimes, such as sex offenses, which carry longer sentences. In contrast, non-Native American youth served sentences for crimes which carried shorter sentences, such as immigration and drug offenses, as noted above. The difference in sentence length may also be attributed to a number of additional variables that can affect the length of sentence, such as prior delinquent or criminal history and the nature and circumstances of the offense.

Distance from residence. Among youth admitted and confined in the federal justice system from fiscal years 2010 through 2016, data show that Native American youth were in facilities closer to their residences or homes compared to non-Native American youth (see table 9). For example, on average, Native American youth who were under the supervision of the United States Probation Office were 296 miles closer to their residence or home compared to non-Native Americans. In addition, on average, Native American youth who were in BOP’s custody were 175 miles closer to their residence compared to non-Native Americans. Further, among both groups and on average, youth under the supervision

⁵²BOP uses the race category “American Indian” and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to BOP officials, the source for race information was pre-sentence investigation reports, and other charging documents. Non-Native American categories in the BOP data are Asian, Black, and White.

⁵³There were 138 Native American youth sentenced and confined at facilities overseen by BOP from fiscal years 2010 through 2016.

⁵⁴There were 890 non-Native American youth sentenced and confined at facilities overseen by BOP from fiscal years 2010 through 2016.

of the United States Probation Office were closer to their residence or home compared to youth who were in BOP’s custody.⁵⁵

Table 9: Distance in Miles between Youth’s Residence and Facility Overseen by the Federal Bureau of Prisons, by Admission Type, Fiscal Years 2010–2016

	Admission Type	Native American ^b	Non-Native American ^c	Difference
Supervision of United States Probation Office ^a	Maximum distance	1289	1480	-191
	Mean distance	180	476	-296
Custody of the Federal Bureau of Prisons	Maximum distance	1000	2037	-1037
	Mean distance	426	601	-175

Source: GAO analysis of Federal Bureau of Prisons (BOP) admission data. | GAO-18-591

Note: BOP uses the race category “American Indian” and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. According to BOP officials, the source for race information was pre-sentence investigation reports. Non-Native American categories in the BOP data are Asian, Black, and White.

^aJuveniles in this category were housed in a facility overseen by BOP as a condition of supervision and were under the supervision of the United States Probation Office (USPO).

^bThere were 153 Native American youth under USPO supervision, and 111 Native American youth in custody of BOP.

^cThere were 34 non-Native American youth under USPO supervision, and 127 non-Native American youth in custody of BOP.

Age Category and Gender Were Similar Among Youth in the Federal Justice System

Age category and gender of youth involved in the federal justice system from fiscal years 2010 through 2016 were similar among Native American and non-Native American youth. Specifically:

- Most youth arrested by federal LEAs and in USMS custody were male (89 and 91 percent, respectively) and 15 to 17 years old (86 and 92 percent, respectively).
- Most youth who came into contact with federal courts were 15 to 17 years old (80 and 88 percent, respectively).⁵⁶

⁵⁵As previously noted, as of April 2018, BOP oversaw eight juvenile facilities nationwide. These facilities were managed by BOP under either private contracts or through intergovernmental agreements and housed youth sentenced in the federal system.

⁵⁶We were unable to incorporate gender into our analysis of federal adjudication data because complete data were not available.

- Most youth confined at federal facilities were male (89 and 96 percent, respectively) and 15 to 17 years old (93 and 99 percent, respectively).

Available Data Indicate That There Were Several Similarities between Native American and Non-Native American Youth in State and Local Justice Systems

Analysis of available data indicates that there were several similarities between Native American and non-Native American youth involvement with state and local justice systems over the period analyzed.

Involvement in State and Local Justice Systems Declined for Both Groups, but Extent of Decline Varied

The involvement of both Native American and non-Native American youth in state and local justice systems declined for arrests, referrals for adjudication, and confinements in recent years (see tables 10 through 12). However, the extent of the decline varied between the two groups. For example, as the tables show, the declines in arrests and referrals for adjudication were greater for Native American youth, while the decline in confinements was greater for non-Native American youth.

Table 10: Number of Youths Arrested by State and Local Law Enforcement Agencies, Calendar Year 2010 Compared to Calendar Year 2016

Native/Non-Native	2010	2016	Percent Change
Native American	18,295	11,002	-40%
Non-Native American ^a	1,406,568	667,528	-53%

Source: GAO analysis of Federal Bureau of Investigation (FBI) Uniform Crime Reporting Summary Reporting System (UCR SRS) data. | GAO-18-591

Note: Although UCR SRS predominantly contains data from state and local law enforcement agencies (LEA), some federal and tribal LEAs report data into it. UCR SRS uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment. According to FBI officials, race information submitted by LEAs is based on a combination of sources such as (a) asking individuals to self-identify race at the time of arrest, (b) relying on information in documents that accompany individuals when arrested, and (c) classifying individuals visually upon arrest

^aNon-Native American categories in the UCR SRS data are Asian, Black, and White.

Table 11: Number of Native American and Non-Native American Youth Referred to State and Local Courts, Calendar Year 2010 Compared to Calendar Year 2014

Native/Non-Native	2010	2014	Percent Change
Native American	19,200	15,600	-19%
Non-Native American ^a	1,322,700	959,300	-27%

Source: GAO analysis of National Center for Juvenile Justice’s (NCJJ) data. | GAO-18-591

Note: NCJJ Juvenile Court Statistics reports use the race category “American Indian” and include persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. The source for the race information was operational data systems managed by juvenile courts or other juvenile justice agencies.

^aNon-Native American categories in the NCJJ data are Asian, Black, Hispanic, and White.

Table 12: Number of Youth Confined at State and Local Facilities, 2011 Census Compared to 2015 Census

Native/Non-Native	2011	2015	Percent Change
Native American	861	544	-37%
Non-Native American	36,030	27,305	-24%

Source: GAO analysis of Department of Justice 2011 and 2015 biennial Census of Juveniles in Residential Placement (CJRP) data. | GAO-18-591

Note: These data include youth placed in residential facilities and in custody on the day of the census. The census is limited to facilities such as those managed by states, counties, municipalities, and tribal governments as well as private facilities. We limited our analysis to youth who had been adjudicated and did not include youth who were awaiting a trial or whose adjudication was pending. CJRP uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the original peoples of North America and South America (including Central America) and who maintain tribal affiliations or community attachment. Non-Native American categories in the CJRP data are Asian, Black or African American, Hispanic or Latino, Native Hawaiian or other Pacific Islander, and White. The CJRP data also includes a race category of “Two or more races, not of Hispanic origin.” We did not include these records in our analysis because we could not determine if the youth was or was not Native American. The source for the race information was administrative records maintained by facilities.

Offenses Were Similar among Youth Involved in State and Local Justice Systems

The distribution of offenses for youth involved in state and local justice systems in recent years was similar among Native American and non-Native American youth. As noted above, we analyzed the types of offenses for all youth and grouped them into five broad categories—drug and alcohol, person, property, public order, and other.

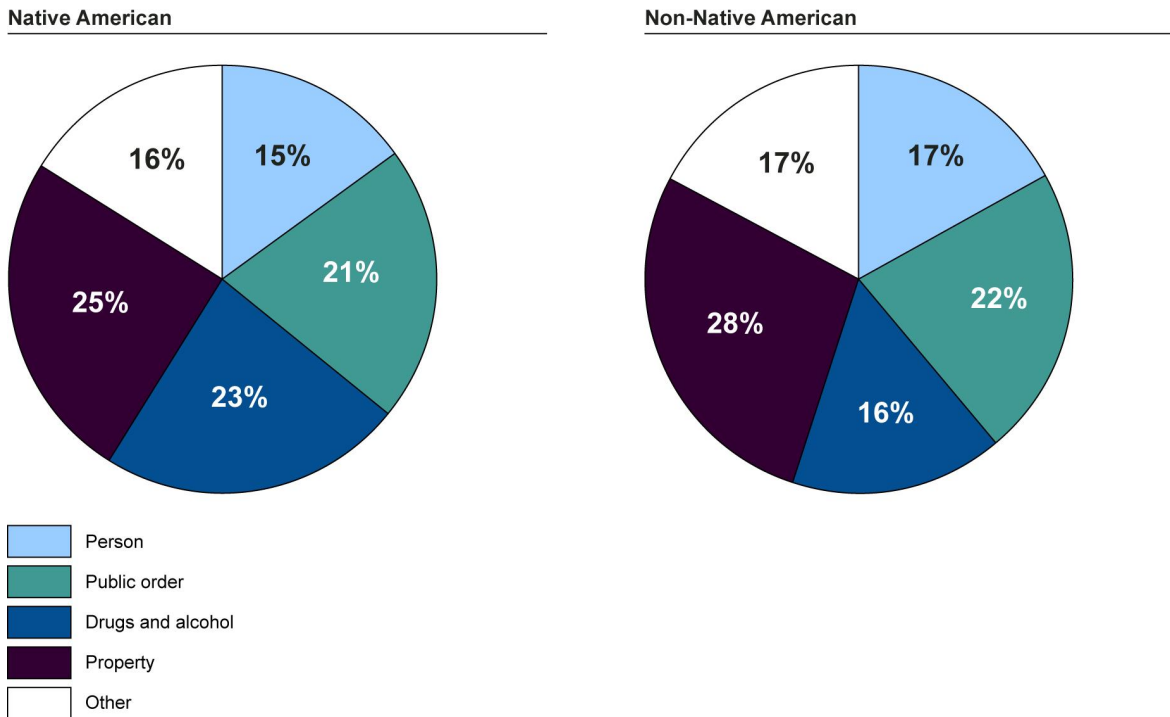
Arrests. Available data show that among youth arrested by state and local LEAs between calendar years 2010 through 2016, a similar percentage of Native American and non-Native American youth were arrested for the five broad offense category types. For example, as figure 12 illustrates, the largest percent of offenses among both groups during

the period were in the broad category of offenses against property—with 25 percent among Native American youth and 28 percent among non-Native American youth.⁵⁷ The next most common broad category of offense for Native Americans arrested by state and local LEAs was drug and alcohol offenses (23 percent); a smaller percent of non-Native Americans were arrested for drug and alcohol offenses (16 percent). The top four specific offenses among Native American youth arrested by state and local LEAs during the period were larceny/theft, alcohol, assault, and status offenses.⁵⁸ Similarly, the top four specific offenses among non-Native American youth during the period were larceny/theft, assault, status offenses, and drugs.

⁵⁷According to our analysis of available data from the three juvenile detention centers managed by BIA, 44 percent of all charges against Native American youth in those detention centers over the 2012 through 2016 period were public order offenses.

⁵⁸For the purposes of this analysis, status offenses can include curfew violation, runaway, and truancy.

Figure 12: Types of Offenses Charged to Native American and Non-Native American Youth Arrested by State and Local Law Enforcement Agencies, Calendar Years 2010–2016



Source: GAO analysis of Federal Bureau of Investigation (FBI) Uniform Crime Reporting Summary Reporting System (UCR SRS) data. | GAO-18-591

Notes: For the purpose of this analysis: (1) Person offenses can include assault, child abuse/neglect, homicide, kidnapping, and sex offenses. (2) Public order offenses can include disorderly conduct; fraud, forgery, and counterfeiting; immigration; obstruction of justice; probation parole; status offenses; traffic violations; and weapons violations. (3) Drug and alcohol offenses can include unlawful possession or use of drugs or alcohol. (4) Property offenses can include arson, burglary, larceny/theft, property damage, motor vehicle theft, and robbery. (5) Other offenses can include blackmail, bail violation, and gambling, among other things.

Although UCR SRS predominantly contains data from state and local law enforcement agencies (LEA), some federal and tribal LEAs report data into SRS. UCR SRS uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment. According to the FBI, race information submitted by LEAs is based on a combination of sources such as (a) asking individuals to self-identify race at the time of arrest, (b) relying on information in documents that accompany individuals when arrested, and (c) classifying individuals visually upon arrest. Non-Native American categories in the UCR SRS data are Asian, Black, and White.

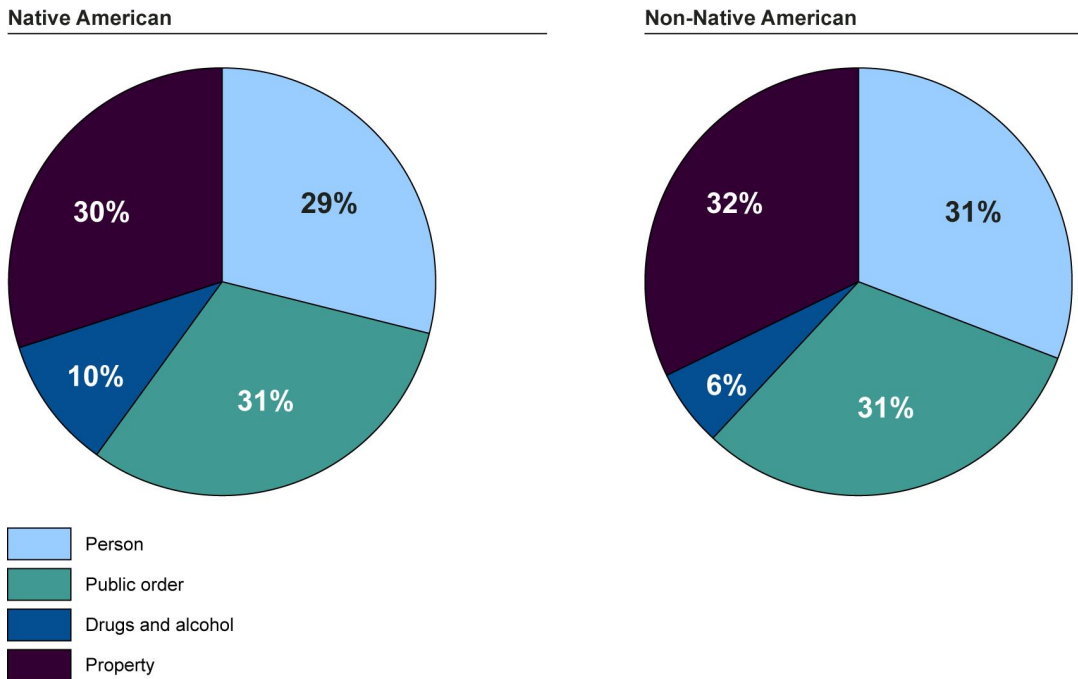
Adjudication. Generally, the offenses associated with delinquency cases received by state and local courts between calendar years 2010 and 2014 were similar for both Native American and non-Native American youth, according to analysis of available data. The largest percentage of offenses among delinquency cases for both groups was for the broad offense category of property offenses (38 and 36 percent).

Confinement. Generally, Native American and non-Native American youth adjudicated and confined at state and local facilities were admitted for similar offenses, according to our analysis of DOJ biennial census data from 2011, 2013, and 2015. As figure 13 illustrates, in 2015, a similar percentage of youth, for both groups, were confined due to three broad categories of offenses—public order, person, and property. At least 29 percent and at most 32 percent of youth were confined for each category of offense. A much smaller percentage of youth, for both groups, were confined for the broad category of drug and alcohol offenses.⁵⁹ Some of the most common specific offenses among both Native American and non-Native American youth in 2015 were assault, probation or parole violation, sex offenses, and burglary.⁶⁰

⁵⁹The distribution of youth in each offense category in the 2011 and 2013 censuses was similar to the distribution in the 2015 census, according to our analysis of CJRP data.

⁶⁰In 2015, 17 percent of Native Americans were confined for assault, 17 percent for a probation or parole violation, 11 percent for sex offenses, and 11 percent for burglary. In comparison, 19 percent of non-Native Americans were confined for assault, 17 percent for a probation or parole violation, 11 percent for sex offenses, and 9 percent for burglary.

Figure 13: Most Serious Offense among Native American and Non-Native American Youth Confined in State and Local Facilities at the Time of the 2015 Biennial Census of Juveniles in Residential Placement



Source: GAO analysis of Department of Justice 2015 Census of Juveniles in Residential Placement (CJRP) data. | GAO-18-591

Notes: For the purpose of this analysis: (1) Person offenses can include assault, child abuse/neglect, homicide, kidnapping, and sex offenses. (2) Public order offenses can include disorderly conduct; fraud, forgery, and counterfeiting; immigration; obstruction of justice; probation and parole violations; status offenses; traffic violations; and weapons violations. (3) Drug and alcohol offenses can include unlawful possession or use of drugs or alcohol. (4) Property offenses can include arson, burglary, larceny/theft, property damage, motor vehicle theft, and robbery. (5) Other offenses can include: blackmail, bail violation, and gambling, among other things.

These data include youth placed in residential facilities and in custody on the day of the census. The census includes facilities such as those managed by states, counties, municipalities, and tribal governments as well as private facilities, among others. CJRP has historically achieved response rates near or above 90 percent. However, participation in the CJRP is voluntary and response rates from tribal facilities have been lower. We limited our analysis to youth who had been adjudicated and did not include youth who were awaiting a trial or whose adjudication was pending. CJRP uses the race category "American Indian or Alaskan Native" and includes persons having origins in any of the original peoples of North America and South America (including Central America) and who maintain tribal affiliations or community attachment. Non-Native American categories in the CJRP data are Asian, Black or African American, Hispanic or Latino, Native Hawaiian or other Pacific Islander, and White. The CJRP data also includes a race category of "Two or more races, not of Hispanic origin." We did not include these records in our analysis because we could not determine if the juvenile was or was not Native American. The source for the race information was administrative records maintained by facilities.

Gender and Age Were Similar Among Youth Involved in State and Local Justice Systems

The majority of Native American and non-Native American youth referred to state and local courts and confined at state and local facilities were male and 15 to 17 years old during the periods for which we obtained data. For example, table 13 illustrates the demographics of youth adjudicated and confined in state and local facilities.

Table 13: Gender and Age of Youth Confined at State and Local and Facilities at the Time of the 2015 Biennial Census of Juveniles in Residential Placement

Gender/Age		Native American ^a (percent)	Non-Native American ^b (percent)
Gender	Male	72	85
	Female	28	15
Age	15-17	86	87
	13-14	13	12
	< 13	2	1

Source: GAO analysis of Department of Justice 2015 biennial Census of Juveniles in Residential Placement (CJRP) data. | GAO-18-591

Note: CJRP data include youth placed in residential facilities and in custody on the day of the census. The census includes facilities such as those managed by states, counties, municipalities, and tribal governments as well as private facilities, among others. We limited our analysis to youth who had been adjudicated and did not include youth who were awaiting a trial or whose adjudication was pending. CJRP used the race category “American Indian or Alaskan Native” and includes persons having origins in any of the original peoples of North America and South America (including Central America) and who maintain tribal affiliations or community attachment. Non-Native American categories in the CJRP data are Asian, Black or African American, Hispanic or Latino, Native Hawaiian or other Pacific Islander, and White. The CJRP data also includes a race category of “Two or more races, not of Hispanic origin.” We did not include these records in our analysis because we could not determine if the juvenile was or was not Native American. The source for the race information was administrative records maintained by facilities.

^aThere were a total of 544 Native American youth confined at state and local facilities during the 2015 biennial census.

^bThere were a total of 27,305 non-Native American youth confined at state and local facilities during the 2015 biennial census.

Outcomes Were Similar Among Youth Referred to State and Local Courts for Adjudication

Outcomes of delinquency cases in state and local courts were generally similar for Native American youth and non-Native American youth between 2010 and 2014, according to analysis of available data. For example, more than half of all cases received by the courts for both groups were petitioned—formally processed—as table 14 illustrates.

Table 14: Dispositions of State and Local Court Cases for Native American and Non-Native American Youth, Calendar Years 2010–2014

	Native American ^a	Non-Native American ^b
Petitioned ^c	57%	54%
Waived ^d	1	0.4
Adjudicated delinquent ^e	38	31
Placement ^f	9	8
Probation	25	19
Other sanction ^g	4	4
Adjudicated not delinquent ^h	18	23
Probation	3	6
Other sanction ^g	2	3
Dismissed	13	14
Not petitioned	43%	46%
Probation	9	10
Other sanction ^g	17	17
Dismissed	17	18

Source: GAO analysis of National Center for Juvenile Justice (NCJJ) Easy Access to Juvenile Court Statistics data. | GAO-18-591

Note: We acknowledge that there are a number of additional variables that may affect dispositions of state and local court cases, such as prior delinquent history and the nature and circumstances of the offense. We focused our analysis on the disposition of the case and race variables.

^aNCJJ Juvenile Court Statistics reports use the race category “American Indian” and includes persons having origins in any of the indigenous peoples of North America, including Alaskan Natives. The source for the race information was operational data systems managed by juvenile courts or other juvenile justice agencies.

^bNon-Native American categories in the NCJJ data are Asian, Black, Hispanic, and White.

^cFormal processing of a case involves the filing of a petition that requests an adjudicatory or waiver hearing.

^dCourt decision to remove cases from a juvenile court to a criminal (adult) court.

^eJudicial determination (judgment) that a juvenile is responsible for the delinquency charged in a petition.

^fIncludes commitment to institutions and other residential facilities.

^gOther sanctions include community service, restitution or fines, and referral to an outside agency, among other things.

^hJudicial determination (judgment) that a juvenile is not responsible for the delinquency charged in a petition.

Confinement Characteristics Were Similar among Youth Involved in State and Local Justice Systems

Facility types. Native American and non-Native American youth confined at state and local facilities were placed in similar types of facilities. As

table 15 illustrates, the majority of youth for both groups were in private facilities at the time of DOJ’s 2015 biennial census.⁶¹

Table 15: Types of State and Local Facilities Where Youth Were Placed at the Time of the 2015 Biennial Census of Juveniles in Residential Placement

Type	Native American ^a (percent)	Non-Native American ^b (percent)
Private	40	40
State	37	33
County	18	25
City	<1	1
Tribal agency	5	<1
Special District	0	<1

Source: GAO analysis of Department of Justice 2015 biennial Census of Juveniles in Residential Placement (CJRP) data. | GAO-18-591

Note: CJRP data include youth placed in residential facilities and in custody on the day of the census. The census includes facilities such as those managed by states, counties, municipalities, and tribal governments as well as private facilities, among others. CJRP has historically achieved response rates near or above 90 percent. However, participation in the CJRP is voluntary and response rates from tribal facilities have been lower. We limited our analysis to youth who had been adjudicated and did not include youth who were awaiting a trial or whose adjudication was pending. CJRP uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the original peoples of North America and South America (including Central America) and who maintain tribal affiliations or community attachment. Non-Native American categories in the CJRP data are Asian, Black or African American, Hispanic or Latino, Native Hawaiian or other Pacific Islander, and White. The CJRP data also includes a race category of “Two or more races, not of Hispanic origin.” We did not include these records in our analysis because we could not determine if the juvenile was or was not Native American. The source for the race information was administrative records maintained by facilities.

^aThere were 544 Native American youth confined at state and local facilities during the 2015 biennial census.

^bThere were 27,305 non-Native American youth confined at state and local facilities during the 2015 biennial census.

Time of confinement. Native American and non-Native American youth at state and local facilities had similar characteristics for the length of time they had been confined at the time of the 2015 biennial census. As table 16 illustrates, the majority of youth, for both groups, had been confined for more than 120 days.⁶²

⁶¹The percentages of youth confined to each facility type in 2011 and 2013 were similar to the percentages in 2015, according to our analysis of CJRP data.

⁶²The distribution of youth in each length of time category in 2011 and 2013 were similar to the distribution in 2015, according to our analysis of CJRP data.

Table 16: Length of Time Youth Had Been Confined at the Time of the 2015 Biennial Census of Juveniles in Residential Placement

Days	Native American ^a (percent)	Non-Native American ^b (percent)
> 120 days	41	39
61–120 days	21	22
31–60 days	14	14
0–30 days	24	24

Source: GAO analysis of Department of Justice 2015 biennial Census of Juveniles in Residential Placement (CJRP) data. | GAO-18-591

Note: CJRP data include youth placed in residential facilities and in custody on the day of the census. The census is limited to facilities such as those managed by states, counties, municipalities, and tribal governments as well as private facilities. We limited our analysis to youth who had been adjudicated and did not include youth who were awaiting a trial or whose adjudication was pending. CJRP uses the race category “American Indian or Alaskan Native” and includes persons having origins in any of the original peoples of North America and South America (including Central America) and who maintain tribal affiliations or community attachment. Non-Native American categories in the CJRP data are Asian, Black or African American, Hispanic or Latino, Native Hawaiian or other Pacific Islander, and White. The CJRP data also includes a race category of “Two or more races, not of Hispanic origin.” We did not include these records in our analysis because we could not determine if the youth was or was not Native American. The source for the race information was administrative records maintained by facilities. We acknowledge that there are a number of additional variables that may affect the length of time a youth is confined, such as prior delinquent history and the nature and circumstances of the offense. We focused our analysis on the length of time confined and race variables.

^aThere were 544 Native American youth confined at state and local facilities during the 2015 biennial census.

^bThere were 27,305 non-Native American youth confined at state and local facilities during the 2015 biennial census.

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

We identified 122 discretionary grant programs across several issue areas such as violence or trauma, justice system reform, and alcohol and substance abuse that DOJ and HHS offered from fiscal years 2015 through 2017 that grantees could use to help prevent or address delinquency among Native American youth. DOJ and HHS awarded approximately \$1.2 billion in first year awards during this period, about \$207.7 million of which they collectively awarded to tribal governments

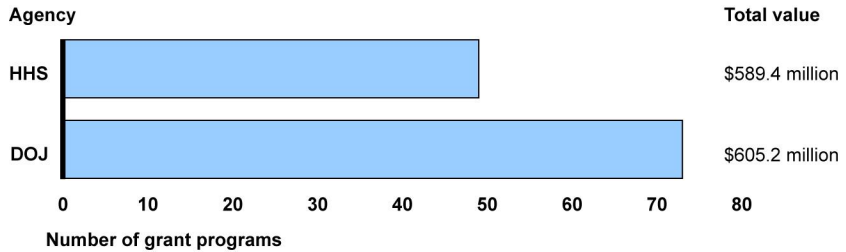
and Native American organizations. Tribal governments and Native American organizations were eligible for almost all of these grant programs, but we found in a sample we reviewed that they primarily applied for those that specified tribes or Native Americans as a primary beneficiary. Additionally, officials from selected tribal governments, Native American organizations, DOJ, and HHS stated that certain factors affect tribal governments and Native American organizations' ability to apply successfully for grant programs that awardees could use to help prevent or address delinquency among Native American youth.

DOJ and HHS Offered at Least 122 Grant Programs That Could Be Used to Help Prevent or Address Delinquency among Native American Youth

We identified 122 discretionary grants and cooperative agreements (grant programs) for which DOJ and HHS offered funding from fiscal years 2015 through 2017 that grantees could use to help prevent or address delinquency among Native American youth. See appendix V for a list of these programs. DOJ and HHS awarded approximately \$1.2 billion in first-year awards to grantees through the 122 programs over the period, as shown in figure 14.⁶³

⁶³This total of \$1.2 billion includes some awards for grant programs that offered funding opportunities in future fiscal years through a competitive process for existing grantees. For example, the total includes awards for the fiscal year 2017 Drug-Free Communities Support Program, an HHS SAMHSA program, which offered funding to both new applicants and former recipients whose funding had lapsed or who were applying for a second funding cycle. The \$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 the Cooperative Agreements for Tribal Behavioral Health program, which HHS SAMHSA manages, estimated that it would provide up to \$200,000 per year for up to 5 years to grantees. However, if a grantee received \$200,000 per year over a 5-year period, the \$1.2 billion total would only include the first year in which the grantee received \$200,000.

Figure 14: Department of Health and Human Services (HHS) and Department of Justice (DOJ) Grant Programs that Could Help Prevent or Address Delinquency among Native American Youth, Fiscal Years 2015–2017



Source: GAO analysis of HHS and DOJ grant program award data. | GAO-18-591

Of the \$1.2 billion, HHS and DOJ collectively awarded \$207.7 million to tribal governments and Native American organizations.⁶⁴ HHS awarded \$106.5 million and DOJ awarded \$101.2 million. As previously discussed, tribal governments and Native American organizations also received other federal funding that could help prevent or address delinquency among Native American youth.⁶⁵

The 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 this but that could include tribes or Native Americans as beneficiaries.⁶⁶ For example, the Cooperative Agreements for Tribal Behavioral Health, which HHS’s Substance Abuse and Mental Health Services Administration (SAMHSA) offered in fiscal years 2016

⁶⁴For this analysis, we define tribal governments as the governing bodies of federally recognized tribes; we define Native American organizations as organizations affiliated with federally recognized tribes, such as tribal colleges and universities, as well as non-tribal organizations that serve Native American populations, such as urban Indian organizations.

⁶⁵For example, Bureau of Indian Affairs (BIA) officials explained that BIA did not have any discretionary grant programs that could prevent or address delinquency among Native American youth from fiscal year 2015 through 2017, but instead administered funding to tribes through contracts and compacts under the Indian Self Determination and Education Assistance Act. See Pub. L. No. 93-638, 88 Stat. 2203 (classified as amended at 25 U.S.C. §§ 5301-10). BIA officials said that their agency funded 19 tribal juvenile detention centers through contract or compact funding to federally recognized tribal governments. In addition, an urban Indian organization in Arizona we interviewed noted that it received state-level behavioral health funding in addition to federal grant programs to implement its programs.

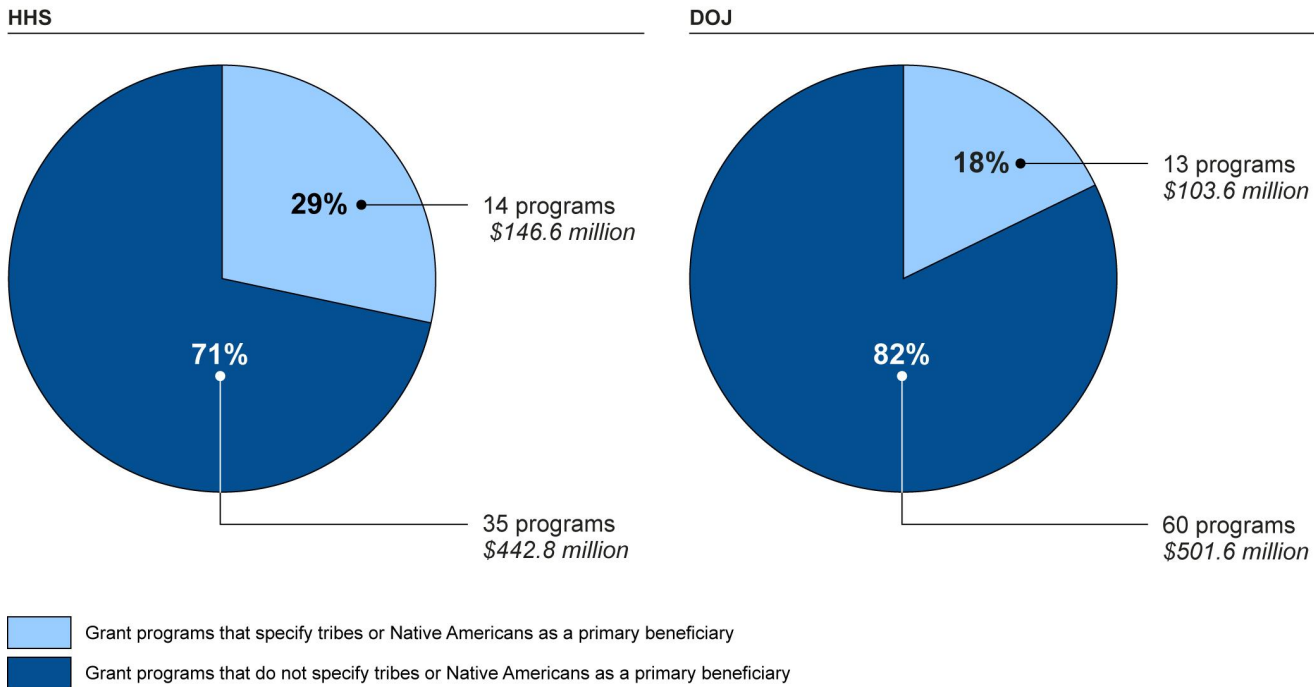
⁶⁶We determined which of the 122 grant programs we identified specified tribes or Native Americans as a primary beneficiary and which did not by reviewing whether the title, executive summary, overview, or purpose of their funding opportunity announcements specifically referenced tribes or Native Americans as the main or one of few beneficiaries of the proposed grant program funding.

and 2017, is a grant program that specified tribes or Native Americans as a primary beneficiary. Its purpose is to prevent and reduce suicidal behavior and substance use, reduce the impact of trauma, and promote mental health among Native American youth. On the other hand, the Sober Truth on Preventing Underage Drinking Act grant program, which SAMHSA offered 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 nonetheless benefit them. As previously discussed, available data indicate that alcohol offenses constitute the second-highest specific offense for which Native American youth were arrested by state and local LEAs from calendar years 2010 through 2016.

Within DOJ's OJP, an example of a grant program that specified tribes or Native Americans as a primary beneficiary is the Defending Childhood American Indian/Alaska Native Policy Initiative: Supporting Trauma-Informed Juvenile Justice Systems for Tribes program. This grant program was offered by OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP) for funding in fiscal year 2016. The goal of the grant program is to increase 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. Another grant program, the Youth with Sexual Behavior Problems Program, which OJJDP offered from fiscal years 2015 through 2017, is an example of a grant program that did not specify tribes or Native Americans as a primary beneficiary but that could nonetheless benefit them. As previously discussed, available data indicate that the second-highest specific offense for which Native American youth were arrested by federal LEAs from 2010 through 2016 was sex offenses. This grant program provided services for youth sexual offenders, their victims, and the parents and caregivers of the offending youth and victims.

The 27 grant programs that specified tribes or Native Americans as a primary beneficiary awarded a total of \$250.2 million over the fiscal year 2015 through 2017 period, while the 95 programs that did not were awarded \$944.4 million (see fig. 15).

Figure 15: Funding Awarded by Department of Health and Human Services (HHS) and Department of Justice (DOJ) Grant Programs That Could Help Prevent or Address Delinquency among Native American Youth, Fiscal Years 2015–2017



Source: GAO analysis of HHS and DOJ grant program award data and funding opportunity announcements. | GAO-18-591

Of the 122 grant programs we identified, tribal governments and Native American organizations received funding primarily from the 27 grant programs that specified tribes or Native Americans as a primary beneficiary. Of the \$250.2 million in awards from these 27 grant programs, tribal governments and Native American organizations received \$193.2 million, or about 77 percent of the total. Alternatively, of the \$944.4 million in awards from the 95 grant programs that did not specify tribes or Native Americans as a primary beneficiary, tribal governments and Native American organizations received \$14.5 million, or 1.5 percent of the total.

The 122 grant programs focused on one or more issue areas in their funding opportunity announcements relevant to helping prevent or address delinquency among Native American youth.⁶⁷ The most common

⁶⁷We categorized each grant program into one or more issue areas using the risk and protective factors discussed in the OJJDP Tribal Youth in the Juvenile Justice System literature review as the basis for our issue area determinations.

issue areas were violence or trauma (34 programs), justice system reform (25 programs), and alcohol and substance abuse (22 programs). Table 17 lists the issue areas and the number of DOJ and HHS grant programs that focus on each issue area.

Table 17: Number of DOJ and HHS Grant Programs That Focus on Issue Areas Related to Preventing or Addressing Delinquency among Native American Youth, Fiscal Years 2015–2017

Issue Area	Number of Grant Programs	
	DOJ	HHS
Violence or trauma	21	13
Justice system reform	25	N/A
Alcohol and substance abuse	6	16
Mental and emotional health	1	15
Reentry and recidivism	12	N/A
Mentoring	9	2
Suicide prevention	1	6
Justice system data and analysis	7	N/A
Runaway and homeless youth	N/A	6
Cultural identity	N/A	4
Other	4	2

Legend: DOJ = Department of Justice; HHS = Department of Health and Human Services; N/A = not applicable

Source: GAO analysis of DOJ and HHS grant program funding opportunity announcements. | GAO-18-591

Note: Some grant programs have more than one issue area.

Violence or trauma. Thirty-four of the 122 grant programs supported activities such as researching, preventing, addressing, or providing services related to youth violence or trauma. For example, the purpose of the Communities Addressing Childhood Trauma grant program, administered by HHS’s Office of Minority Health, is to test the effectiveness of activities that seek to promote healthy behaviors among minority or disadvantaged youth who have experienced childhood trauma and are thus at risk for poor health and life outcomes. Another example is DOJ’s Coordinated Tribal Assistance Solicitation’s (CTAS) Tribal Youth Program. One of the priority areas of this grant program is preventing, intervening, and treating children exposed to violence through the development and implementation of trauma-informed practices in pertinent programs and services. DOJ’s Comprehensive Anti-gang Strategies and Programs grant supports evidence-based strategies in communities trying to reduce and control gang-related crime and violence through coordinating prevention, intervention, enforcement, and reentry

programs. As mentioned earlier in the report, available data indicate the top specific offense for which Native American youth were arrested by federal LEAs from 2010 through 2016 was assault.

Justice system reform. Twenty-five of the 122 grant programs supported activities such as researching and analyzing the effectiveness of efforts to reform the youth justice system and enhancing the capacity of justice system institutions with which youth could come into contact. For example, one goal of the Tribal Civil and Criminal Legal Assistance Grants, Training, and Technical Assistance grant program, administered by DOJ's Bureau of Justice Assistance, is to enhance tribal court systems and improve access to them, as well as to provide training and technical assistance related to tribal justice systems. Another example is DOJ's National Girls Initiative grant program. The goal of this program is to support the engagement of stakeholders such as youth justice specialists, law enforcement officers, advocates, and youth defenders to improve the justice system and its responses to girls and young women.

Alcohol and substance abuse. Twenty-two of the 122 grant programs supported activities such as preventing or reducing youth consumption of alcohol and drugs. For example, the stated purpose of DOJ's CTAS Juvenile Healing to Wellness Courts grant program is to support tribes seeking to establish new courts within their existing judicial institutions to respond to alcohol and substance use issues among youth and young adults. (See text box below for an example of the activities a grantee planned to implement with this grant program.) As previously discussed, one of the top offenses we observed of Native American youth arrested by state and local LEAs is drug and alcohol offenses.

Department of Justice (DOJ) Coordinated Tribal Assistance Solicitation (CTAS) Juvenile Healing to Wellness Court Grantee: Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians

In fiscal year 2015, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, a federally recognized tribe located within the state of Oregon, received funding from the DOJ CTAS Juvenile Healing to Wellness Court grant program. Tribal officials told GAO that they are in the process of growing their healing to wellness court and aim to use this grant program to reduce the criminal penalties for substance abuse in their community. Moreover, they said that the “peace-giving court” would look at solutions such as treatment and restorative justice rather than focus on criminal fines and incarceration. As of October 2017, tribal officials said they had three court employees and were planning to use some of the program funding to hire a liaison between other court systems to refer tribal members to their tribal court.

Source: Analysis of DOJ data; information from Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians officials. | GAO-18-591

Mental and emotional health. Sixteen of the 122 grant programs supported activities such as improving the mental health and wellness of youth. For example, HHS’s Planning and Developing Infrastructure to Improve the Mental Health and Wellness of Children, Youth and Families in American Indian/Alaska Natives Communities grant program focuses on increasing the capacity and effectiveness of mental health systems serving tribal and urban Indian communities by designing a coordinated network of community-based services and supports that address the needs of Native American youth and their families. (See text box below for an example of the activities a grantee planned to implement with this grant program.)

Department of Health and Human Services (HHS) Planning and Developing Infrastructure to Improve the Mental Health and Wellness of Children, Youth and Families in American Indian/Alaska Natives Communities Grantee: Native Health of Phoenix

In fiscal year 2017, Native Health of Phoenix—an urban Indian community health center with a mission to increase the health and well-being of Native American and other residents in the Phoenix, Arizona metropolitan area—received funding from the HHS Planning and Developing Infrastructure to Improve the Mental Health and Wellness of Children, Youth and Families in American Indian/Alaska Natives Communities grant program. Native Health of Phoenix explained that the grant program would allow the organization to work on trauma-informed care, provide counseling services through role models (with a particular interest in using Native American veterans as mentors), and possibly expand the age group served by an existing program, Wellness Warriors, which currently focuses on promoting healthy living for 7- to 12-year-old youth and their families.

Source: Analysis of HHS data; information from Native Health of Phoenix officials. | GAO-18-591

Reentry and recidivism. Twelve of the 122 grant programs supported activities such as facilitating youths’ successful reintegration into their communities and reducing the likelihood of subsequent contact with the criminal justice system. For example, the objective of the Second Chance Act Technology-Based Career Training Program for Incarcerated Adults

and Juveniles, administered by DOJ's Bureau of Justice Assistance, is to provide career training programs for incarcerated adults and youth in the 6 to 36 months before their release and to connect them with follow-up services after their release. Another example is DOJ's Second Chance Act Strengthening Relationships Between Young Fathers, Young Mothers, and Their Children grant program offered funding in fiscal year 2016. The goal of this grant program is to reduce recidivism and support responsible parenting practices of young fathers and mothers who were transitioning from detention, out-of-home placement, or incarceration back to their families and communities.

Mentoring. Eleven of the 122 grant programs supported activities such as providing mentoring services to at-risk or high-risk youth and researching or evaluating the impact of various mentoring programs and practices on youth outcomes. For example, DOJ's Mentoring for Youth: Underserved Populations grant program supports the implementation and delivery of various mentoring services for youth with disabilities, youth in foster care, and lesbian, gay, bisexual, transgender, and questioning youth. Another example is HHS's Native Youth Initiative for Leadership, Empowerment, and Development grant program. One area of interest in the program includes peer role model development where young Native American adults (18 to 24 years old) serve as role models for mid-adolescents (15 to 17 years old), who in turn serve as role models for even younger members (younger than 15 years old) in their communities.

Suicide prevention. Seven of the 122 grant programs supported activities such as preventing or reducing the risk of suicidal thoughts or behavior and self-harm among youth. For example, one purpose of the Substance Abuse and Suicide Prevention Program, formerly known as the Methamphetamine and Suicide Prevention Initiative grant program, administered by HHS's Indian Health Service, is to support early intervention strategies and positive youth development to reduce the risk for suicidal behavior and substance abuse among Native American youth. (See text box below for an example of the activities a grantee planned to implement with this grant program.)

Department of Health and Human Services (HHS) Substance Abuse and Suicide Prevention Program Grantee: Fairbanks Native Association

In fiscal year 2016, the Fairbanks Native Association, whose officials describe it as a Native American non-profit organization that provides social services, education, and behavioral health services to residents of the Fairbanks and North Pole communities as well as other residents of Alaska, received funding from HHS's Indian Health Service's Substance Abuse and Suicide Prevention Program (formerly known as the Methamphetamine and Suicide Prevention Initiative grant program). According to Fairbanks Native Association officials, one of the evidence-based practices they implemented for the Substance Abuse and Suicide Prevention Program was Coping and Support Training (CAST). CAST is a 12-lesson skills training program used by schools, community centers, and other organizations for middle and high school-aged youth whose program features include building self-esteem and creating a crisis response plan for responding to a range of suicide-risk behavior, among other activities.

Source: GAO analysis of HHS data; information from the Fairbanks Native Association. | GAO-18-591

Justice system data and analysis. Seven of the 122 grant programs supported activities such as collecting, improving the collection of, or analyzing data related to the youth or tribal justice systems. For example, DOJ's Annual Survey of Jails in Indian country, 2016-2019 grant program funded the collection of information from all known correctional facilities operated by tribal governments or the Bureau of Indian Affairs. Some of the information the program sought to collect included the number of adults and youth held, the gender of the inmates, and average daily population, among other data.⁶⁸

Runaway and homeless youth. Six of the 122 grant programs supported activities such as providing services to youth who have run away from home or who are experiencing homelessness. For example, the primary goal of HHS's Transitional Living Program and Maternity Group Homes grant program is to help runaway and homeless youth establish sustainable living and well-being for them and, if applicable, their dependent children through the provision of shelter and other services.

Cultural identity. Four of the 122 grant programs supported activities such as promoting and preserving Native American cultural traditions to and for tribal youth.⁶⁹ For example, the purpose of HHS's Native

⁶⁸BJS issued the *Jails in Indian Country, 2016* report in December 2017. See <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6146>, accessed March 8, 2018.

⁶⁹According to the OJJDP Tribal Youth in the Juvenile Justice System literature review, tribal youth attending school outside of the reservation can be a risk factor because these youth feel a loss of language and cultural identity, given limited cultural instruction such as teaching the tribal language.

American Language Preservation and Maintenance grant program is to ensure the survival and vitality of Native American languages.

Other. Six of the 122 grant programs supported activities in other issue areas above such as school safety, tribal justice infrastructure, and social and economic development.

Tribal Governments and Native American Organizations Were Eligible for Almost All Grant Programs We Identified, But in a Sample We Reviewed, Applied Primarily for Those Specifying Native Americans

Tribal Governments or Native American Organizations Were Eligible for Almost All Grant Programs We Identified

Tribal governments or Native American organizations were eligible for almost all of the 122 DOJ and HHS grant programs we identified from fiscal years 2015 through 2017 that grantees could use to prevent or address delinquency among Native American youth: they were eligible for 70 of 73 DOJ programs and 48 of 49 HHS programs.⁷⁰

For the 3 DOJ grant programs for which these entities were not eligible to apply, DOJ officials explained that tribal governments or Native American organizations were not eligible for the Smart on Juvenile Justice: Reducing Out-of-Home Placement grant program because the funding stream that supports the program—unallocated funds from Title II of the Juvenile Justice and Delinquency Prevention Act—can only be awarded to states that are in compliance with the four core requirements of the

⁷⁰The 3 DOJ grant programs we identified for which neither tribal governments nor Native American organizations were eligible to apply were Smart on Juvenile Justice: Reducing Out-of-Home Placement; Second Chance Act: Implementing Statewide Plans to Improve Outcomes for Youth in the Juvenile Justice System; and Second Chance Act: Implementing County and Statewide Plans to Improve Outcomes for Youth in the Juvenile Justice System. In addition, for 2 of the 70 DOJ grant programs for which tribal governments or Native American organizations were eligible to apply, Native American organizations were eligible to apply for one category of the grant programs but eligibility for another category of the grant programs was limited to states, territories, and the District of Columbia. Tribal governments were not eligible to apply for either category.

act.⁷¹ For the other 2 grant programs, DOJ OJP officials explained that because the focus of these programs is statewide or countywide, eligibility under this program was limited to states and local units of government that have developed a statewide or countywide plan to reduce recidivism and improve outcomes for youth in contact with the juvenile justice system. These officials added that tribal governments would not have the capacity to respond to the requirements of these programs as designed since tribal juvenile justice systems operate differently than states and counties.

The one HHS program that neither tribal governments nor Native American organizations were eligible to apply for was the Preventing Teen Dating and Youth Violence by Addressing Shared Risk and Protective Factors program, administered by the Centers for Disease Control and Prevention (CDC). CDC officials explained that this grant program was limited to funding to local, city, and county public health departments with a demonstrated high burden of violence and the highest capacity to prevent teen dating violence and youth violence based on research findings on teen dating violence and youth violence prevention, as well as lessons learned from their previous investments in these areas. These officials also said that CDC encourages local, city, and county public health departments to work with tribal populations in the area.

Tribal Governments and Native American Organizations Generally Applied for Grant Programs that Specified Tribes or Native Americans as a Primary Beneficiary in Sample We Reviewed

Although tribal governments and Native American organizations were eligible for almost all of the DOJ and HHS grant programs we identified, we found in a non-generalizable sample of applications we reviewed that these organizations applied primarily for grant programs that specified tribes or Native Americans as a primary beneficiary. Specifically, for the applications we reviewed for 18 DOJ grant programs, tribal governments and Native American organizations accounted for over 99 percent of the applications for the 5 grant programs within the sample that specified

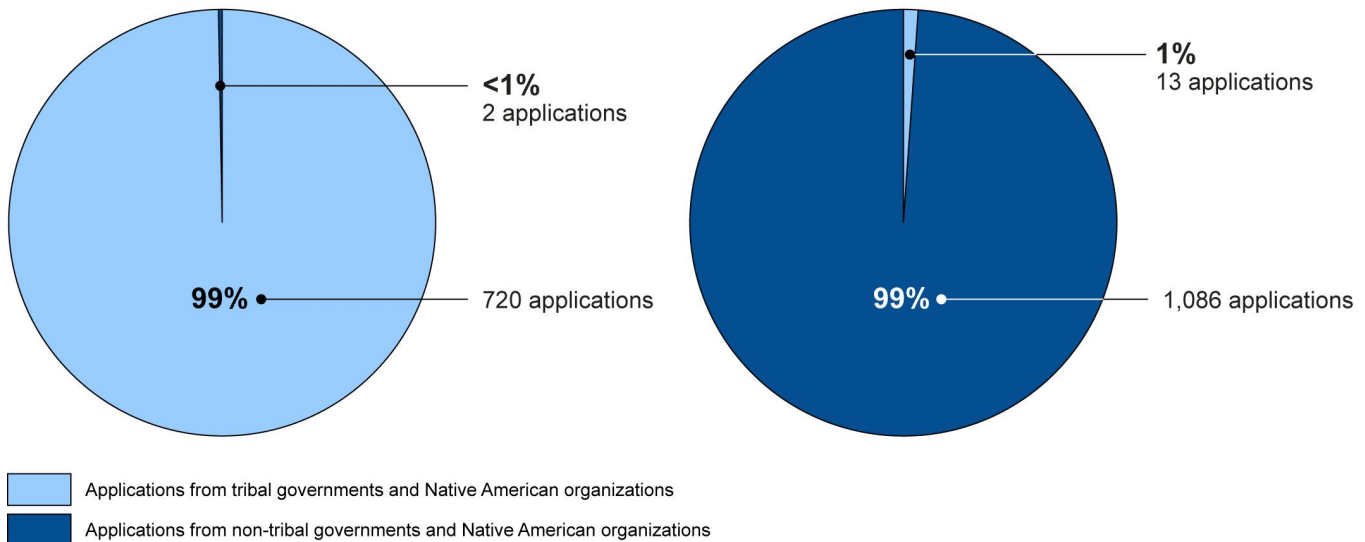
⁷¹See Pub. L. No. 93-415, 88 Stat. 1109 (1974); S. Rep. No. 93-1011, at 19 (1974), as amended. The Act authorizes an annual formula grant allocation to those states that provide an acceptable plan to comply with four federal protections for juveniles, known as the core requirements of the JJDP, which include: deinstitutionalization of status offenders, sight and sound separation of juveniles from adults in secure facilities, removal of juveniles from adult jails and lockups, and reduction of disproportionate minority contact within the juvenile justice system.

tribes or Native Americans as a primary beneficiary and approximately 1 percent of the applications in the 13 DOJ grant programs that did not specify them as a primary beneficiary. See figure 16.

Figure 16: Applications to a Nongeneralizable Sample of Department of Justice (DOJ) Grant Programs That Could Help Prevent or Address Delinquency among Native American Youth, Fiscal Years 2015–2017

Applications for grant programs that specify tribes or Native Americans as a primary beneficiary

Applications for grant programs that do not specify tribes or Native Americans as a primary beneficiary



Source: GAO analysis of select DOJ grant program application data. | GAO-18-591

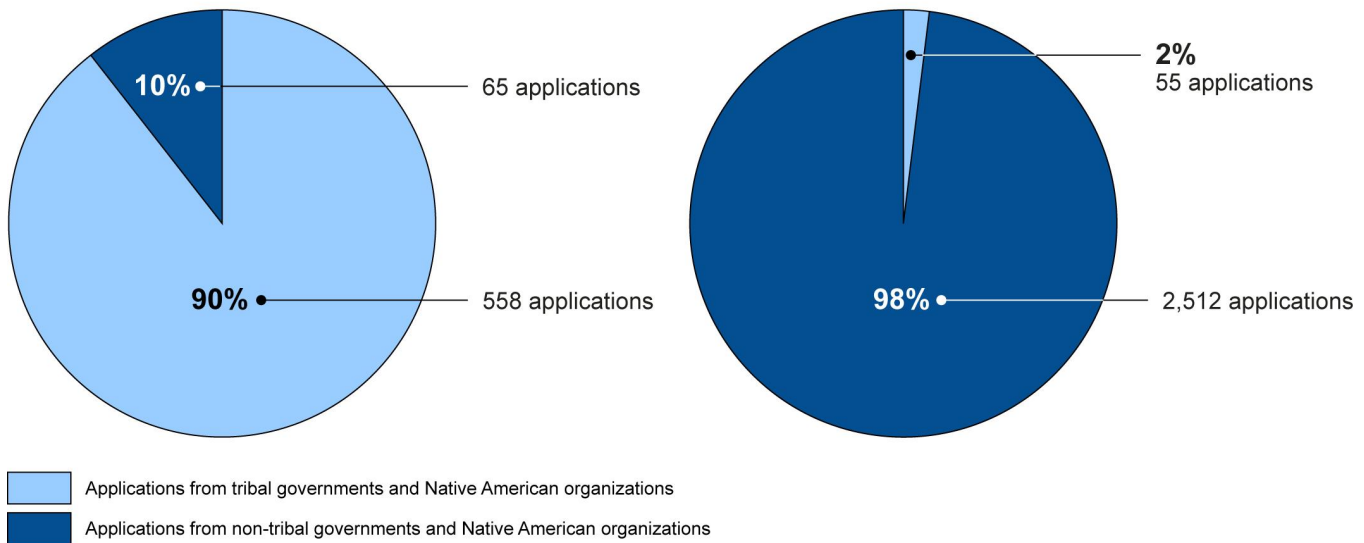
In our review of applications for 19 HHS grant programs, tribal governments and Native American organizations accounted for 90 percent of the applications for the 6 grant programs in the sample that specified tribes or Native Americans as a primary beneficiary.⁷² However, they accounted for only 2 percent of the applications for the 13 HHS grant programs in our sample that did not specify tribes or Native Americans as a primary beneficiary. See figure 17.

⁷²Non-tribal governments and Native American organizations such as U.S. states or territories were eligible to apply for two of the six grant programs in the sample that specified tribes or Native Americans as primary beneficiaries—SAMHSA’s Cooperative Agreements for State-Sponsored Youth Suicide Prevention and Early Intervention and the National Institutes of Health’s Collaborative Hubs to Reduce the Burden of Suicide among American Indian and Alaska Native Youth. In addition, SAMHSA’s Cooperative Agreements for State-Sponsored Youth Suicide Prevention and Early Intervention funding opportunity announcement specified both tribes and U.S. states as the primary beneficiaries.

Figure 17: Applications to a Non-Generalizable Sample of Department of Health and Human Services (HHS) Grant Programs That Could Help Prevent or Address Delinquency among Native American Youth, Fiscal Year 2015-2017

Applications for grant programs that specify tribes or Native Americans as a primary beneficiary

Applications for grant programs that do not specify tribes or Native Americans as a primary beneficiary



Source: GAO analysis of select HHS grant program application data. | GAO-18-591

Agency, Tribal Government, and Native American Organizations’ Perspectives on Applying for Grant Programs that Do or Do Not Specify Tribes or Native Americans as a Primary Beneficiary

DOJ and HHS officials identified various reasons why tribal governments and Native American organizations might not apply for grant programs that do not specify tribes or Native Americans as a primary beneficiary:

- *Tribal governments and Native American organizations might not be aware that they are eligible to apply for certain grant programs.*
- *Tribal governments and Native American organizations might believe that their applications to a grant program that do not specify tribes or Native Americans as a primary beneficiary will not be competitive with other applications.* For example, DOJ OJP officials told us that tribes may have concerns about devoting resources to preparing applications for such grant programs because they may not end up being successful.
- *Tribal governments and Native American organizations might prefer to apply for those grant programs that specify tribes or Native Americans*

as a *primary beneficiary*. For example, DOJ OJP officials stated that tribes might be familiar and comfortable with applying for the CTAS, a single application for the majority of DOJ's tribal grant programs. In addition, HHS CDC officials stated that more tribes apply and successfully compete for grant programs that specify tribes or Native Americans as a primary beneficiary because they are designed specifically for tribal populations, thus allowing for "culturally-appropriate activities," which may include healing and religious practices that promote wellness, language integration that promote cultural sustainability and identity, and traditional storytelling that promotes life lessons and teachings.

Officials from 10 tribal governments and Native American organizations also provided perspectives on whether or not a grant program's focus on tribes or Native Americans as a primary beneficiary affected their decision to apply for the program.⁷³ Officials from 6 of 10 of the tribal governments and Native American organizations indicated that they would consider any grant program that met the needs of their communities, although officials from 3 of these 6 indicated a preference in some instances for grant programs that focused on tribes or Native Americans. Officials from the remaining 4 of 10 tribal governments and Native American organizations indicated that a grant program's focus or lack thereof on tribes or Native Americans could affect their ability to apply for it.

For example, officials from one federally recognized Oregon tribe explained that their tribe does not apply for grant programs that do not specify tribes or Native Americans as a primary beneficiary because their applications are not typically competitive in a state or nationwide applicant pool. Instead, they said that their tribe applies for funding specific to their community because they are more likely to succeed with those applications. These officials also said that a benefit of applying for grant programs that specify tribes or Native Americans as a primary beneficiary is that technical assistance provided to grant recipients is tailored to tribes. Officials from another federally recognized tribe in Oklahoma noted that their tribe prefers to apply for grant programs that specify tribes or Native Americans as primary beneficiaries due to the limited resources

⁷³Specifically, we collected perspectives from officials from 7 federally recognized tribes, 1 of which included input from an affiliated tribal university, and 3 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.

they have available to prepare grant applications, as well as the high level of competition for nationwide federal grant programs. Finally, officials from a tribal nonprofit corporation in Alaska that represents several federally recognized tribes explained that although their decision to apply for any federal grant program depends on the needs of their community, grant programs that specify tribes or Native Americans as a primary beneficiary understand the challenges of tribal communities, particularly living in rural environments and having to travel vast distances to implement grant program funding.

Officials from Tribal Governments, Native American Organizations, and Agencies Noted Factors that Affect Successful Application for Grant Programs

Officials from tribal governments and Native American organizations that applied for federal grant programs that could help prevent or address delinquency among Native American youth, as well as DOJ and HHS officials, identified various factors they believe affect the ability of tribal governments and Native American organizations to successfully apply for federal grant programs. For example, some tribal governments and Native American organizations found being able to call or meet with federal officials during the application process to be helpful but that short application deadlines are a challenge. Additionally, a non-generalizable sample of DOJ and HHS summary statements that provide peer review comments for unsuccessful applications that tribal governments and Native American organizations submitted for these grant programs noted various weaknesses within these unsuccessful applications.

Perspectives from tribal governments and Native American organizations. We collected perspectives from a non-generalizable sample of 10 tribal governments and Native American organizations on what federal practices they find helpful or challenging when applying for grant programs related to preventing or addressing delinquency among Native American youth.⁷⁴ Regarding helpful federal practices during the

⁷⁴In addition to applying for federal grant programs, some of the tribal governments and Native American organizations indicated that 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 that they received grant program funding from their state governments.

application process, the tribal governments and Native American organizations most frequently responded that they found being able to call or meet with federal officials if they had questions about or need help on their application particularly helpful. For example, representatives from one federally recognized tribe in Nevada explained some agencies have help desks that provide a systematic walkthrough of technical issues applicants might encounter when applying for grant programs. In addition, officials from a tribal nonprofit corporation in Alaska that represents several federally recognized tribes stated attending grantee meetings and having face-to-face contact with agency officials to ask questions was very useful when applying for a particular HHS award.

Officials from 9 of the 10 tribal governments and Native American organizations provided the following perspectives on the biggest challenges they have faced when applying to receive federal grant program funding.⁷⁵

- *The window available for applying for federal grant programs is too short.* Six of 9 tribal governments and Native American organizations noted this as a challenge. For example, officials from a federally recognized tribe based in the Southwest said that the tribe's biggest challenge is a short turnaround, usually 4 to 8 weeks, from a grant program's funding opportunity announcement to its deadline. Similarly, officials from a federally recognized tribe in Oklahoma suggested that federal agencies provide longer application periods for grant programs. These officials added that more time would allow the tribes to coordinate amongst themselves better, prepare stronger applications, and obtain the necessary tribal approvals for a grant program.
- *Collecting data for grant program applications is difficult.* Four of 9 tribal governments and Native American organizations we spoke with noted this as a challenge. For example, a representative from a federally recognized tribe in Nevada stated that the tribe needs accurate data for its grant applications to describe the tribe and its needs, yet the tribe does not currently have quality data on issues such as substance abuse or youth employment. In addition, officials from a tribal nonprofit corporation in Alaska that represents several federally recognized tribal governments told us that the biggest challenge in preparing a CTAS application is collecting data specific to

⁷⁵One of the tribal governments and Native American organizations to which we asked this question did not provide a response.

their tribes' region. These officials explained that for reports on juvenile justice, their tribes' region is sometimes grouped with another area, which makes it difficult to extrapolate data specific to their tribes. According to these officials, due to the challenges in obtaining these data, preparing grant applications to address gaps and for services needed is difficult.

- *Scarcity of grant writers and other personnel makes it difficult to complete a quality application.* Four of 9 tribal governments and Native American organizations noted this as a challenge. For example, officials from a federally recognized tribe in Oklahoma said that not having a grant writer is a significant challenge for the tribe when applying for federal grant programs. These officials mentioned that additional training sessions on grant writing and feedback from grant reviewers would help the tribe prepare stronger applications. In addition, representatives from a federally recognized tribe in Oregon stated that they encounter challenges with the research and evaluation requirements of some grant programs because hiring someone to fulfill this role can take 2 to 3 months and the number of qualified individuals in their service area is limited.

Perspectives from DOJ and HHS officials. We also obtained perspectives from officials from DOJ OJP and seven HHS operating divisions on reasons why some tribal governments and Native American organizations might be more successful than others in applying for federal funding, as well as the challenges these entities face when applying for federal funding.⁷⁶ According to DOJ and HHS officials, some of the reasons why some tribal governments and Native American organizations might be more successful than others are in applying for federal funding include the following:

- *Larger and better-resourced tribal governments and Native American organizations are more successful at applying for federal funding.* For example, DOJ OJP officials explained that larger tribes with more resources are more successful at applying successfully for grant programs because they are able to hire grant writers to assist with applications. In addition, officials from HHS's SAMHSA noted that successful applicants are usually larger tribes that have ample resources and experienced staff to write proposals for federal funding.

⁷⁶The seven HHS operating divisions were: 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.

HHS Centers for Disease Control officials stated that larger and better-resourced tribes with sufficient public health infrastructure and capacity tend to apply more and to be more competitive when they do.

- *Tribal governments and Native American organizations that have received federal funding before are more likely to be successful again.* Specifically regarding the CTAS program, DOJ OJP officials explained that once tribes are successful at one CTAS application, they are typically successful on subsequent CTAS submissions because they use the successful application as a template. In addition, officials from the HHS's Indian Health Service explained that tribes that are repeat grantees might be more likely to submit applications to even more grants because they are well-versed in the process. Moreover, officials from SAMHSA explained that tribes that have previously received federal funding might be better equipped to document their experience in a specific area in subsequent grant applications.

According to agency officials, one of the biggest organizational challenges that tribal governments and Native American organizations encounter when applying to receive federal grant program funding is obtaining and retaining staff. For example, officials from HHS's National Institutes of Health stated that the limited scientific and grant writing staff, as well as high staff turnover within tribes pose the biggest challenges they face when applying for federal funding. Officials from HHS's CDC and Administration for Children and Families operating divisions also identified limited grant writing staff as one of the biggest challenges that tribal governments and Native American organizations face when applying to receive federal funding from grant programs. Moreover, officials from HHS's SAMHSA explained that tribes have difficulty finding qualified staff to live and work in the remote areas where many tribes are located. Finally, DOJ OJP officials explained that some tribes might not have sufficient resources more generally to put together a competitive application due to specific tribal government structures and justice systems being relatively new compared to state and local governments.

Review of summary statements on unsuccessful applications. We reviewed a sample of 29 DOJ summary statements from fiscal years 2015 through 2017 that provided peer review comments for unsuccessful applications that tribal governments and Native American organizations

submitted for the grant programs we identified.⁷⁷ These summary statements most frequently cited the following overall weaknesses within the unsuccessful applications from tribal governments and Native American organizations:

- Application contained unclear or insufficient details on how the applicant would implement or achieve outcomes of the proposed program (19 of 29 peer review summary statements);
- Application contained unclear or insufficient details on how the applicant would measure the success or ensure the sustainability of the proposed program (15 of 29 peer review summary statements);
- Application contained unclear or insufficient details on the budget of the proposed program (14 of 29 peer review summary statements);
- Applicant submitted a poorly written or organized application (12 of 29 peer review summary statements);
- Application contained unclear or insufficient data/statistical information to support the proposed program (12 of 29 peer review summary statements); and
- Application contained unclear or insufficient details on the goals and objectives of the proposed program (11 of 29 peer review summary statements).⁷⁸

We also reviewed a sample of 30 HHS peer review summary statements from fiscal years 2015 through 2017 provided to tribal governments and Native American organizations that unsuccessfully submitted applications for the grant programs we identified.⁷⁹ Specifically, all of these statements contained a section that evaluated the strengths and weaknesses of the applicant's proposed approach or plan for implementing the grant

⁷⁷According to the standard letter that OJP sends to unsuccessful applicant organizations, peer review is the technical and programmatic evaluation of grant applications by a group of subject matter experts qualified in a particular area relevant to the specific solicitation. According to the letter, the peer review process provides an objective, independent review of applications.

⁷⁸Some of the DOJ peer review summary statements contained more than one weakness.

⁷⁹We originally obtained a non-generalizable sample of 35 HHS peer review summary statements, but 5 of the statements either contained solely overall comments or did not otherwise contain comments specific to the strengths and weaknesses of the applicant's proposed approach or plan for implementing the grant program funding, which was the subject of analysis. Therefore, we did not include them in our analysis.

program funding. These 30 statements most frequently cited the following weaknesses in that section:⁸⁰

- Insufficient details regarding activities or strategies of proposed approach or plan (24 of 30 peer review summary statements);
- Insufficient details on the goals or objectives of the proposed approach or plan (12 of 30 peer review summary statements);
- Insufficient details on the potential partners or stakeholders involved in the proposed approach or plan (12 of 30 peer review summary statements);
- Insufficient linkages between various elements in proposal or plan (11 of 30 peer review summary statements);
- Insufficient details on the project timeline presented within the proposed approach or plan (9 of 30 peer review summary statements); and
- Insufficient details on how the applicant organization would staff the proposed approach or plan (8 of 30 peer review summary statements).

We asked officials from the tribal governments and Native American organizations from which we collected perspectives how useful they found the feedback federal agencies provided through peer review comments or other means on unsuccessful grant program applications since fiscal year 2015. Some tribal governments and Native American organizations found the feedback useful while others noted that feedback was sometimes not particularly helpful. For example, officials from a tribal university affiliated with a federally recognized tribe based in the Southwest noted that they have received helpful feedback on unsuccessful applications through e-mail correspondence. However, officials from a tribal nonprofit corporation in Alaska that represents several federally recognized tribes noted that the peer review feedback they received was inconsistent year to year. Meanwhile, officials from a federally recognized tribe in Oklahoma noted that they have found the peer review feedback to be helpful overall and that they use the feedback to improve their weaknesses and reinforce their strengths when submitting future applications.

⁸⁰Some HHS peer review summary statements contained more than one weakness.

Agency Comments

We provided a draft of this report to DOJ, HHS, DOI, the Administrative Office of the United States Courts, the U.S. Sentencing Commission, and the Department of Education for review and comment. DOJ, DOI, and the Administrative Office of the United States Courts provided technical comments that we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees and the Attorney General, Secretary of Health and Human Services, Secretary of the Interior, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact Gretta L. Goodwin 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 report. GAO staff who made significant contributions to this report are listed in appendix VI.

A handwritten signature in black ink that reads "Gretta L. Goodwin". The signature is written in a cursive style with a large, looping initial "G".

Gretta L. Goodwin
Director, Homeland Security and Justice

Appendix I: Objectives, Scope, and Methodology

This report addresses (1) what available data show about the number and characteristics of Native American youth in the federal, state and local, and tribal justice systems; and (2) what discretionary grant programs federal agencies fund that could help prevent or address delinquency among Native American youth, and the extent to which tribal governments and Native American organizations have access to them.

To address the first objective, we obtained and analyzed record-level and summary data from federal, state and local, and tribal justice systems from 2010 through 2016.¹ Figure 18 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.

Figure 18: 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 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 the National Center for Juvenile Justice data. | GAO-18-591

^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.

As figure 18 illustrates, we utilized a number of data sources. When analyzing the data, certain characteristics and a number of methodological decisions were applicable to multiple data sources:

- Generally, state and local data we obtained were maintained by calendar year. In contrast, federal data were maintained by fiscal

year. For purposes of this report, we refer where appropriate to calendar years or fiscal years in presenting the results of our analysis.

- Generally, the record-level and summary data we analyzed included information about youth who had come into contact with the justice systems, such as their age, race, gender, type of offense, and the year they came into contact with the justice system.
- For purposes of our analysis, we defined youth to include persons who were under 18 years of age at the time of arrest, adjudication, or confinement, unless otherwise noted.² In many instances, the agencies calculated the youth's age for us and placed the record in one of the following age categories: under 13, 13-14, and 15-17.³
- For purposes of our analysis, we identified Native American youth as defined by each data source and identified by the agencies providing the data. For example, the Department of Justice (DOJ) Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) Summary Reporting System (SRS) data uses the race category "American Indian or Alaska Native" and includes persons having origins in any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment. In comparison, the Executive Office for United States Attorneys (EOUSA), in its prosecution data, defines the term Indian based on statute and case law, which generally considers an Indian to have both a significant degree of Indian blood and a connection to a federally recognized tribe.⁴ If a record did not contain race information we did not include the record in any our analysis.
- In regard to type of offense, unless otherwise noted, we obtained and analyzed information about the lead or most serious offense associated with the youth who came into contact with the federal or state and local justice systems. The data sources contained hundreds

²These data included some youth who may have been prosecuted as adults in either the state and local, or federal justice systems.

³The Executive Office for United States Attorneys (EOUSA) could confirm that all records in the administrative data they provided were for persons who were under 18, but could not specify the age category for all records. When we analyzed the data by age categories, we excluded records with unknown or unreliable age categories. However, we included all EOUSA records when we analyzed other variables contained in the EOUSA data (e.g., offense).

⁴See appendix II for additional information on how Native Americans are defined in, and identified for, each data source.

of specific offenses, such as simple assault, illegal entry, and rape. To assist our analysis of the data, we took the following steps:

1. 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 UCR offense codes.⁵ The placement of specific offenses into offense categories was carried out by an analyst, reviewed by additional analysts, and confirmed by an attorney.
2. We 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 (NCJJ) annual Juvenile Court Statistics reports.⁶ The placement of offense categories into a broad category was carried out by an analyst and confirmed by an attorney.

Table 18 describes the five broad categories and 22 offense categories.

⁵See GAO, *Criminal Alien Statistics: Information on Incarcerations, Arrests, and Costs*, [GAO-11-187](#) (Washington, D.C.: March 24, 2011); and U.S. Department of Justice Federal Bureau of Investigation, *Criminal Justice Information Services Division Uniform Crime Reporting Program, Summary Reporting System (SRS) User Manual*, Version 1.0 (Washington, D.C.: June 20, 2013) at <https://ucr.fbi.gov/>.

⁶Hockenberry, Sarah, and Puzanchera, Charles. April 2018. *Juvenile Court Statistics 2015*. Pittsburgh, PA: National Center for Juvenile Justice.

Table 18: Broad Offense Categories Used by GAO in its Analysis

Broad offense Category	Offense category	Category can include
Drug and alcohol	Drugs	Cocaine, marijuana-possess, possession and delivery of controlled substance, and unlawful possession of drug paraphernalia
	Alcohol	Drunkenness, liquor law violation, underage consumption, and unlawful use of alcohol
Person	Assault	Aggravated assault, battery, domestic violence, and simple assault
	Child abuse/neglect	Abuse of child, child endangerment, and neglect of child
	Homicide	Attempt to commit murder, manslaughter, murder, and willful kill
	Kidnapping	Hostage taking, kidnapping
	Sex offenses	Prostitution, rape, sex assault, sex trafficking, and sexual exploitation
Public order ^a	Disorderly conduct	Criminal mischief, disturbing the peace, and vagrancy
	Fraud, forgery, and counterfeiting	Bank fraud, falsification, fictitious name or address, and racketeering
	Immigration	Illegal entry, improper entry by alien, misuse of passport, and reentry of removed alien
	Obstruction of justice	Eluding police, failure to register, flight to avoid, tampering with a witness, and violation of a court order
	Probation	Probation violation
	Status offenses	Curfew violation, incorrigible, runaway, and truancy
	Traffic violations	Driving under the influence, no driver's license, reckless driving, and unlawful use of a vehicle
	Weapons violations	Carrying concealed weapon, firing a weapon, and possession of a weapon
Property	Arson	Arson, burning, and setting a fire
	Burglary	Breaking and entering, burglary-forced entry, and burglary of a vehicle
	Larceny/theft	Embezzlement, larceny, shoplifting, stolen property, and theft
	Property damage	Destruction to property and vandalism
	Motor vehicle theft	Auto theft, carjacking, and stolen vehicle
	Robbery	Robbery
Other	Other	Bail violation, criminal attempt, intimidation, gambling, and other/unknown offense

Source: GAO analysis of relevant statutory provisions. | GAO-18-591

^aAccording to Department of Justice (DOJ) officials, DOJ defines “public order” offenses differently for its purposes. Specifically, DOJ does not categorize technical violations and status offenses as public order offenses. Therefore, the results of our analysis of “public order” offenses may be different from data reported by DOJ in the Office of Juvenile Justice and Delinquency Prevention’s Statistical Briefing Book and other publications publicly available.

Some data sources contained additional information about youth, such as the youths’ geographic location (i.e., state or U.S. Circuit), outcome of the youths’ involvement with the justice system (e.g., adjudicated delinquent; placed in a facility or on probation), type of facility where the youth was

placed (e.g., private, state, tribal), length of sentence, distance between youth's residence and facility, and time in confinement.

Generally, record-level information contained in these data systems are collected when the youth comes into contact with the justice system. In some instances, youth provide certain information (e.g., gender and race) to justice system officials. In other cases, justice officials obtain information from documentation associated with the youth, such as identification documents (e.g., tribal enrollment certifications) or pre-sentence investigation reports. Several of the record-level data sets we obtained were administrative data maintained by agencies. These data generally included information generated as cases are handled and are used to help the agency manage its operations.

In particular, we obtained and analyzed record-level and summary data from the following federal, state and local, and tribal data sources:

- Record-level data from four DOJ agencies:
 1. The United States Marshals Service's (USMS) Justice Detainee Information System. This data system is USMS's case management system for prisoners in custody, among other things. USMS provided us a data set with 1,589 records for youth admitted into USMS custody after being arrested by a law enforcement agency (LEA). Our analysis focused on the following key variables: fiscal year of custody start date, race, gender, age category, original offense description, arresting agency, and circuit. USMS collects information about individuals admitted into custody. USMS receives youth from various LEAs and collects information on the LEA that arrests the individual. We limited our analysis to youth arrested by federal agencies (e.g. FBI) and did not include youth who had been arrested by non-federal LEAs (e.g., municipalities). USMS custody data may not represent all individuals arrested by federal agencies, but identifies a minimum

number of arrests for a given period.⁷ We used USMS custody data because we did not identify a data source for all federal arrests. The data USMS provided us was limited to individuals who were under 18 when they were admitted to USMS custody and USMS determined the age category for each record.⁸

2. EOUSA's Legal Information Office Network System. This data system was the EOUSA's case management system for tracking declinations and litigation in criminal matters and cases, among other things.⁹ EOUSA provided us a data set with 2,361 records for suspects received. Our analysis of EOUSA data focused on the following key variables: fiscal year suspect was received, Native American status, age category, lead charge, circuit, and disposition.

- EOUSA used multiple variables from its Legal Information Office Network System to confirm that the individual was under 18.¹⁰ However, for 25 percent of the records (583 of 2,361), EOUSA could not provide an age category for the juvenile because the age was either unknown or EOUSA officials questioned the age information. When we analyzed the data by age categories, we excluded records with unknown or unreliable age categories. However, we included all EOUSA records when we analyzed other variables contained in the EOUSA data (e.g., offense).

⁷When analyzing USMS custody data, we determined that the data contained some duplicate records. For example, multiple records contained the same unique ID, custody ID, and fiscal year for custody start date, however, the duplicate records contained different information for offense, disposition, custody length, or arresting agency. A total of 131 observations (out of 1,589) had duplicate identifying information. Specifically, there were 64 pairs of records with the same identifying information (i.e., unique ID, custody ID, and fiscal year), and one group of three records with the same identifying information. To address the duplicates we took steps to exclude duplicate records in our analysis while retaining relevant offense values from the duplicate observation prior to deleting the record.

⁸USMS identified individuals who were under 18 by comparing the individuals' date of birth to the custody start date.

⁹After we obtained these data, EOUSA completed the roll out of a new case management application called CaseView that fully replaced the front end portion of LIONS on August 28, 2017. CaseView uses the same underlying database as LIONS.

¹⁰EOUSA confirmed that all individuals were under 18 by either assessing the individuals' birth date or ensuring all individuals had a "Defendant Role" of "Juvenile Delinquent" or had a value of "Yes" for the "Participant Juvenile" variable.

- To analyze the offense associated with the individual, we used EOUSA’s “lead charge” variable which consists of statutory citations. To identify the offense, we researched each statutory citation.
3. The Office of Justice Programs’ (OJP) Census of Juveniles in Residential Placement (CJRP). This data source contains data collected through a biennial census of state and local (not federal) residential facilities housing youth in 2011, 2013 and 2015 that was administered by the United States Census Bureau on behalf of OJP. OJP provided us a data set with 165,141 records. Our analysis of CJRP data focused on the following key variables: calendar year, age group, race, facility state, gender, most serious offense, agency type (who placed the individual), facility type, and time in placement.¹¹
- State and local facilities include those managed by states, counties, municipalities, and tribal governments as well as private facilities, among others. CJRP has historically achieved response rates near or above 90 percent. However, participation in the CJRP is voluntary and response rates from tribal facilities have been lower. The source for the information collected by the census, such as age, were administrative records maintained by individual residential facilities. These data include youth who were in custody on the day of the census.
 - We limited our analysis of the CJRP data to (1) individuals who were under the age of 18 on the date of the census and (2) youth who had been adjudicated—we did not include youth who were awaiting a trial or whose adjudication was pending.¹² Finally, we excluded youth who were located in the Virgin Islands and Puerto Rico because no other data set appeared to include data for these geographic areas. The data set we analyzed contained 98,830 records.

¹¹The CJRP data includes a race category of “two or more races.” We did not include these records in our analysis because we could not determine if the youth was or was not Native American.

¹²Specifically, we included youth with the following three adjudication statuses: (1) adjudicated, disposed in juvenile court, and placed here; (2) convicted in adult criminal court; and (3) adjudicated, disposed in juvenile court, and awaiting placement. We did not include the following types of adjudication statuses: adjudicated and awaiting disposition by juvenile court; awaiting hearing; agreement not to adjudicate, other, do not know, refusal, and no entry.

4. Federal Bureau of Prisons' (BOP) SENTRY data system. This system is BOP's case management system for tracking information (e.g., admission type and sentencing) about prisoners in BOP's custody. For this review, BOP provided two data sets.
 - One data set was limited to youth who were adjudicated and sentenced to a facility overseen by BOP and contained 1,324 records.¹³ Our analysis of these BOP data was focused on the following key variables: fiscal year sentenced, age category, race, offense, and sentence length. BOP determined the age category for each record and the data were limited to individuals who were under 18.¹⁴
 - The second data set included youth who were admitted into a facility overseen by BOP but were not necessarily adjudicated and contained 925 records.¹⁵ Our analysis of these BOP data was focused on the following key variables: fiscal year admitted, race, distance, and admission assignment. BOP

¹³When analyzing BOP sentencing data, we determined that BOP provided a record for each fiscal year an individual was in BOP custody. To limit the data to only include records for the year the individual was sentenced to BOP custody we removed records with a sentencing start date before the fiscal year of the data set. For example, in the fiscal year 2014 data, we removed any records with a sentence start date before October 1, 2013. We also determined that the data contained some duplicate records. For example, multiple records contained the same inmate ID and fiscal year; however, the duplicate records contained different information for the incarceration counter, aggregate term of sentence, and term of obligation. We took steps to exclude duplicate records in our analysis. First, we created a "NewID" using a combination of Inmate ID, Incarceration Counter, and fiscal year. Second, to identify the "leading" offense, we sorted the records by NewID, aggregate term of sentence (descending), and term of obligation (descending). We retained the observation with the highest aggregate term of sentence and term of obligation and excluded the other observations from the analysis. The data set we analyzed contained 1,028 records.

¹⁴BOP identified individuals who were sentenced and admitted to BOP custody and were under 18 by comparing the individuals' date of birth to the individuals' sentencing date.

¹⁵When analyzing the BOP admission data, we determined that BOP provided a record for each fiscal year an individual was in BOP custody. To limit the data to only include records for the year the individual was admitted to BOP custody we removed records with an admission start date before the fiscal year of the data set. For example, in the fiscal year 2014 data, we removed any records with an admission start date before October 1, 2013. We also determined that some records had an admission type that was outside the scope of our review. These admission types included: material witnesses, individuals who were 18 years or older, and records created to document that another record had been modified. We removed these records. We also determined that the data set contained duplicate records. To exclude duplicate records in our analysis, we averaged the distance information for records that had the same inmate ID, admission assignment, and fiscal year. The data set we analyzed contained 602 records.

ensured the data were limited to individuals who were under 18.¹⁶ BOP provided the distance information by calculating the distance between a juvenile's residence and the facility where a juvenile was placed. To analyze the distance information we created two categories of admission types: juveniles under the supervision of the United States Probation Office and juveniles in custody of BOP.

Our analysis of these four DOJ data sources was limited through 2016 because when we initiated our analysis in April 2017 it was the most current data available.

- Record-level data from the Department of the Interior's (DOI) Bureau of Indian Affairs (BIA) for youth arrested and admitted to three BIA-operated juvenile detention centers. We reviewed juvenile detention documents maintained by the three centers: Northern Cheyenne, Standing Rock, and Ute Mountain Ute. The types of documents included admission sheets and arrestee custody receipts, among others. We created a data set of admissions to the three centers using information contained in the documents provided. Our data set contained 956 records and included the following variables: unique ID, admission date, and charges (offense). Documents contained information about multiple offenses for individual admissions and did not identify the most serious or lead offense. As such, we included all offenses in our analysis of the centers' information. Our analysis of this information was limited to 2012 through 2016 because records prior to 2012 were not available for any center when we initiated our analysis in April 2017. However, our data set does not contain records for 2012 for the Ute Mountain Ute center because that center did not have any of the source documents before 2013. Also, our data set did not contain records for 2012 through 2015 for the Standing Rock Youth Services Center because that center opened in May 2016.
- Summary data from DOJ's FBI UCR SRS. The FBI's primary objective is to generate a reliable set of crime statistics for use in law enforcement administration, operation, and management. FBI provided us with 7 years of data in separate annual files, which initially contained 1,529,736 gender-specific records. To analyze race, we summarized the data across gender. In addition, the records included summary records for drug and gambling offenses as well as records

¹⁶BOP identified individuals who were admitted to BOP custody and were under 18 by comparing the individuals' date of birth to the first day of the fiscal year of the record (e.g., 10/1/2009 for fiscal year 2010). BOP was unable to determine the age at admission because it could not isolate an admission date for the calculation.

for specific drug offenses (e.g., sale, possession) and gambling offenses (e.g., bookmaking, lottery). To prevent over-counting, we excluded records with specific information from our analysis. These steps reduced our data set to 582,089 records with which we performed our analysis of UCR SRS data, which focused on the following key variables: calendar year, race, state, and offense.

The majority of law enforcement agencies submit arrest data to the FBI through the UCR program.¹⁷ In 2016, about 90 percent of city, county, university and college, state, tribal, and federal agencies eligible to participate in the UCR Program submitted data (16,782 of 18,481). Although UCR SRS predominantly contains data from state and local LEAs, some federal and tribal LEAs report data into SRS. Agencies submit data monthly that must meet UCR's data quality guidelines, such as using uniform definitions. There is no available data for the state of Florida because, according to DOJ officials, Florida does not follow UCR guidelines and reports only arrest totals which cannot be housed in the UCR SRS database. Further, a few states reported limited arrest data during the scope of our review (e.g., Illinois). Our analysis of these data was limited through 2016 because when we initiated our analysis in April 2017 it was the most current data available.

- Summary data from the NCJJ Easy Access to Juvenile Court Statistics (NCJJ's juvenile court data) which is supported through funding from DOJ's OJP. NCJJ obtains case-level and court-level data from state and local juvenile courts. This online juvenile court data is an interactive web-based application that allows users to analyze the actual databases that NCJJ uses to produce its annual Juvenile Court Statistics reports. The summary data available represents national estimates of delinquency cases handled by U.S. courts with juvenile jurisdiction. Our analysis of these data was limited to 2010 through 2014 because this was the most current data available when we conducted our analysis. The summary data we downloaded contained 86,400 cases spanning calendar years 2010 through 2014. Our analysis of NCJJ's juvenile court data online

¹⁷In addition to SRS, FBI also collects data for its Uniform Crime Reporting program through the National Incident-Based Reporting System (NIBRS). According to FBI officials, the bureau plans to phase out SRS and make NIBRS the primary system for reporting crime offenses by 2021. We used SRS data for the purpose of our analysis because the majority of law enforcement agencies reporting crime data into the FBI's UCR program submit their data through SRS.

focused on the following key variables: calendar year, race, offense, gender, and age.

- Summary data included in DOJ's Bureau of Justice Statistics reports, such as the *Jails in Indian Country* report from 2016.¹⁸ This report provides information gathered from Bureau of Justice Statistics' annual survey of Indian country jails, and includes all Indian country correctional facilities operated by tribal authorities or BIA. Our analysis of these data was limited to the survey reports covering years 2014, 2015, and 2016, and contained the number of Native American youth confined in tribal operated jails in Indian country as of June each year.

We assessed the reliability of the record-level and some of the summary data by conducting electronic testing of the data and interviewing knowledgeable agency officials about the data systems. We assessed the reliability of the remaining summary data by interviewing knowledgeable agency officials about the summary data. We determined that the record-level and summary data sources included in this report were sufficiently reliable for the purposes of our reporting objectives. We determined that some record-level and summary data sources, such as certain data related to arrests and sentencing information, contained information already provided by other data sources or contained too few Native American youth observations to provide reliable, reportable information. We did not include these data sources in our report. We also determined that some data variables in certain data sources were not reliable for our purposes. For example, two data sources did not contain reliable information for the race of individuals. We did not include these data sources in our report.

For each data source, we calculated the number and percent of Native American and non-Native American youth involved at each phase of the justice process (arrest, referral for adjudication, and confinement) for all three justice systems (federal, state and local, and tribal), where data were available. Generally, non-Native American records included Asian, Black, and White. Some data sources included other race categories—such as Pacific Islander and Hispanic. We then analyzed the characteristics of youth involvement with the justice system, such as the youths' race, age category, gender, type of offense, geographic location,

¹⁸The Bureau of Justice Statistics (BJS) issued the *Jails in Indian Country, 2016* report in December 2017. See <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6146>, accessed March 8, 2018. BJS is the primary federal agency source for criminal justice statistics, and it collects, analyzes and publishes information on crimes, offenders, victims, and criminal justice systems at all levels of government.

outcome of the youths' involvement with the justice system, type of facility where the youth was placed (e.g., private, state, tribal), length of sentence, distance between youth's residence and facility, and time in confinement, where data were available. If a record was missing a value for the characteristic we were analyzing (e.g., race, offense, gender, or age)—for example, the value was either blank or was “unknown”—we did not include the record in the analysis of that characteristic.

We also analyzed the representation of Native American youth involved with the federal and state and local justice systems by comparing justice system data to 2010 U.S. Decennial Census information and U.S. Census estimates from 2011 to 2016. Specifically, for the federal system, we identified the representation of Native American youth in USMS's custody data, EOUSA's adjudication data, and BOP's confinement data for fiscal years 2010 through 2016. We then identified the representation of Native American youth among the total youth population for the United States from the 2010 U.S. Decennial Census (as of April 1, 2010) and its updated estimates from 2011 through 2016 (as of July 1 for each year).¹⁹ Using these data, we compared the representation of Native American youth among each component of the federal justice system (i.e., USMS custody, EOUSA adjudication, and BOP confinement) to the total youth population for the United States.

Similarly, we also compared the representation of Native American youth by individual states. To do this, we identified the representation of Native American youth in FBI's UCR SRS arrest data as well as CJRP's confinement data for individual states. We then identified the representation of Native American youth among the youth population for individual states from the U.S. Census's 2010 decennial data and its updated estimates from 2011 through 2016.²⁰ Using these data, we compared the representation of Native American youth among state and local justice systems (i.e., FBI's UCR SRS arrest and CJRP's confinement data) to the representation of Native Americans among the youth population for individual states.

¹⁹We used the U.S. Census's (a) Annual Estimates of the Resident Population for Selected Age Groups by Sex, for the United States, States and Counties, and Puerto Rico Commonwealth and Municipios (April 2010 to July 2016) and (b) Annual Estimates of the Resident Population by Sex, Single Year of Age, Race, and Hispanic Origin for the United States (April 2010 to July 2016).

²⁰We used the U.S. Census's Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States (April 2010 to July 2016).

Because there is no single, centralized data source that contains data for youth involved in all justice systems (federal, state and local, tribal) and across all phases of the justice process (arrest, adjudication, confinement), it is not possible to track individuals through all phases of the justice system or identify the number of unique youth who have come into contact with the justice systems. Further, data are not comparable across data sources because data sources vary in how they define Native American and how they determine whether youth are Native American. Some federal agencies, such as USMS and BOP, share a unique identifier for an individual within the federal data sources. However, for purposes of this review and given privacy concerns related to juvenile data, we were unable to track individuals across phases of the federal justice system.

We also collected perspectives from agency officials and five Native American organizations regarding factors that might contribute to the data characteristics we observed. We selected the five Native American organizations to include organizations whose mission and scope focuses in whole or in part on Native American juvenile justice issues and that have a national or geographically-specific perspective. The views of these organizations are not generalizable to all Native American organizations but provide valuable insights.

To address our second objective on discretionary grant programs that federal agencies fund that could help prevent or address delinquency among Native American youth, we analyzed discretionary grants and cooperative agreements available for funding from fiscal years 2015 through 2017. To identify the discretionary grants and cooperative agreements, we conducted a keyword search of “youth or juvenile” in Grants.gov—an online repository that houses information on over 1,000 different grants across federal grant-making agencies.²¹ For the purposes of this review, we define “discretionary grant programs” to include both discretionary grants and cooperative agreements. We focused on discretionary grants and cooperative agreements because federal agencies generally award them to an array of entities based on a competitive review process, whereas federal agencies are generally required by statute to limit awards from the other types of grants to

²¹ Grants.gov provides information on various types of grants, including block, discretionary, formula, and mandatory grants as well as cooperative agreements. The Department of Health and Human Services is the managing partner of Grants.gov and provides operational and fiscal oversight over the program.

specific entities, typically U.S. state, local, and territorial governments. We then reviewed the search results of the three agencies with the highest number of grant program matches—DOI, DOJ, and the Department of Health and Human Services (HHS).²² Two analysts independently read the Grants.gov summary descriptions of the programs included in these search results and selected programs for which the description related to

- risk or protective factors discussed in the DOJ Office of Juvenile Justice and Delinquency Prevention (OJJDP) Tribal Youth in the Juvenile Justice System literature review,²³
- risk or protective factors identified in the July 2015 Technical Assistance Network for Children’s Behavioral Health brief on

²²Within DOI, we solely considered grant programs from BIA and Bureau of Indian Education for the purposes of our review because we determined by reviewing a random sample of 100 grant programs that programs from other DOI bureaus or offices (e.g., U.S. Fish and Wildlife Service, etc.) generally do not focus on preventing or addressing delinquency among Native American youth. Because officials from BIA and Bureau of Indian Education informed us that bureaus did not offer any grant programs from fiscal years 2015 through 2017, we subsequently removed DOI from the scope of our review. Although officials from Bureau of Indian Affairs and the Bureau of Indian Education told us that their respective bureaus did not offer any grant programs from fiscal year 2015 through 2017, DOI does administer other modes of funding to the tribes under the Indian Self Determination and Education Assistance Act of 1975, as amended. Specifically, federally recognized tribes can enter into self-determination contracts and self-governance compacts with federal agencies, including DOI, to take over administration of certain federal programs previously administered on their behalf. See Pub. L. No. 93-638, 88 Stat. 2203 (classified as amended at 25 U.S.C. §§ 5301-10).

²³DOJ Office of Juvenile Justice and Delinquency Prevention (OJJDP), Literature Review: A Product of the Model Programs Guide—Tribal Youth in the Juvenile Justice System (last updated April 2016), last accessed February 27, 2018, <https://www.ojjdp.gov/mpg/litreviews/Tribal-youth-in-the-Juvenile-Justice-System.pdf>. This literature review, among other things, identified certain risk factors for tribal youth, which are characteristics or activities that could contribute to a higher likelihood of tribal youth contact with the criminal justice system. The risk factors in the literature review included historical trauma, violence, suicide, substance use, and lack of cultural instruction. The literature review also stated that these risk factors, in combination with poverty rates in tribal communities as well as their lack of funding for mental health and other services, make tribal youth more susceptible to becoming involved in the juvenile justice system. The literature review also listed various protective factors—characteristics of the child, family, and wider environment that can increase resiliency and reduce the likelihood of adversity leading to negative child outcomes and behaviors, such as contact with the juvenile justice system. The protective factors in the literature review included family and culture.

American Indian and Alaska Native Youth in the Juvenile Justice System;²⁴

- juvenile justice system reform principles, findings, or recommendations identified in Chapter 4 of the November 2014 Attorney General’s Advisory Committee on American Indian/Alaska Native Children Exposed to Violence report, *Ending Violence so Children Can Thrive*;²⁵ or
- proposals to reform the juvenile justice system identified in Chapter 6 of the November 2013 Indian Law and Order Commission Report to the President and Congress of the United States, *A Roadmap for Making Native America Safer*.²⁶

We also used the following principles to identify and select relevant grant programs:

²⁴Technical Assistance Network for Children’s Behavioral Health, Brief: American Indian and Alaska Native Youth in the Juvenile Justice System (July 2015), last accessed April 24, 2018, <https://www.ncmhjj.com/wp-content/uploads/2015/07/American-Indian-and-Alaska-Native-Youth.pdf>. Among the risk factors that we identified from the brief are historical trauma, behavioral health disorders (e.g., anxiety, depression, and substance abuse), violent victimization, mental health disorders, abuse (physical or sexual), exposure to domestic and community violence, and out-of-home placement. The protective factors we identified in the brief include tribal cultural and spiritual practices; positive relationships with family, peers, and elders; access to mental health and substance abuse resources; and alternatives to detention.

²⁵Attorney General’s Advisory Committee on American Indian/Alaska Native Children Exposed to Violence (Advisory Committee), *Ending Violence so Children Can Thrive* (November, 2014), last accessed April 24, 2018, <https://www.justice.gov/sites/default/files/defendingchildhood/pages/attachments/2014/11/18/finalaianreport.pdf>. See the Advisory Committee’s principles for a reformed juvenile justice system on page 113 of the report, and the findings and recommendations section from page 114 through 125 of the report.

²⁶Indian Law and Order Commission Report to the President and Congress of the United States, *A Roadmap for Making Native America Safer* (November, 2013), last accessed April 24, 2018 <https://www.aisc.ucla.edu/iloc/report/>. The proposals to reform the tribal juvenile justice system we identified in the Chapter 6 recommendations include the following: community oriented-policing; trauma-informed treatment programs; enhancing data quality of Indian youth’s contact with the federal and state juvenile justice systems; alternatives to detention; and pretrial diversion programs. 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. at 2282.

- We excluded grant programs that focused specifically on victims as opposed to at risk youth or offenders.²⁷
- We included grant programs that specify tribes or Native Americans if the program's funding opportunity announcement mentioned youth explicitly.
- We included grant programs that do not specify tribes or Native Americans as a primary beneficiary if the program's funding opportunity announcement mentioned youth explicitly and if the program focused primarily on serving youth populations.

After two analysts independently completed their initial determinations of which grant programs they considered relevant, they either confirmed their agreement or discussed any differences of opinion until they reached a consensus. If they could not reach agreement on whether a given program was relevant, a third, supervisory analyst made the final determination.

We also reviewed the grant program funding opportunity announcements on HHS and DOJ's websites and worked with officials from these agencies to identify any additional grant programs that could be relevant for the purposes for our review. We provided a list of the grant programs that we identified to DOJ and HHS for confirmation both during and after fiscal year 2017. Our final list of grant programs includes 122 programs. Despite these steps, it is possible that our analysis did not identify all relevant grant programs.

We next determined which of 122 grant programs we identified specified tribes or Native Americans as a primary beneficiary and which did not by reviewing funding opportunity announcements for the programs to determine if the funding opportunity announcement's title, executive summary, overview, or purpose specifically referenced tribes or Native Americans as the main or one of few beneficiaries of the proposed grant program funding.²⁸ After a first analyst completed initial determinations of

²⁷For example, we excluded grant programs such as the Demonstration Grant for Domestic Victims of Human Trafficking, of which HHS's Administration of Children and Families awarded first-year awards in fiscal year 2015 and whose purpose was to develop and strengthen comprehensive victim-centered services for domestic victims of severe forms of human trafficking in the United States.

²⁸In instances where federal agencies issued a funding opportunity announcement for a given grant program in multiple fiscal years, we reviewed the grant program's funding opportunity announcement from the most recent fiscal year between 2015 through 2017.

which of the grant programs specified tribes or Native Americans as a primary beneficiary, a second analyst reviewed those determinations and either confirmed agreement or discussed any differences of opinion until both analysts reached a consensus. We categorized each program into one or more issue areas (e.g., violence or trauma, substance abuse, mentoring, etc.). We used the risk and protective factors discussed in the OJJDP Tribal Youth in the Juvenile Justice System literature review as initial issue areas and added additional areas, as needed, for programs that did not fit within the initial areas.

To determine the extent to which tribal governments or Native American organizations had access to the 122 grant programs, we reviewed both the eligibility of those organizations to apply for the grant programs and their level of success in applying for the grant programs. We defined “tribal governments” as the governing bodies of federally recognized tribes.²⁹ 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 Native American populations, such as urban Indian organizations.³⁰

To determine whether tribal governments or Native American organizations were eligible to apply for the grant programs we identified, an analyst first reviewed the eligibility information within each of the grant program’s funding opportunity announcements. In instances where the analyst could not definitively determine whether tribal government or Native American organizations were eligible to apply for a given grant program, the analyst reviewed the program’s Grants.gov synopsis or followed up with agency officials. After the analyst made an initial determination of eligibility, a second analyst reviewed those determinations and either confirmed agreement or discussed any

²⁹A federally recognized tribe is an American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation, and is eligible for funding and services BIA.

³⁰The Indian Health Care Improvement Act defines an “urban Indian organization” as a “nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, and is capable of providing health care and referral services for urban Indians residing in urban centers. See 25 U.S.C. § 1603(29). 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 this review.

differences of opinion until both analysts reached a consensus. We also consulted with DOJ and HHS officials regarding those grant programs for which tribal governments or Native American organizations were ineligible to apply to determine the reasons why.

To determine tribal governments and Native American organizations' level of success in applying for the grant programs, we analyzed fiscal year 2015 through 2017 award data for the programs to determine the extent to which tribal governments and Native American organizations received funding from them. We also reviewed a non-generalizable sample of applications from 37 grant programs to determine the extent to which tribal governments and Native American organizations applied for these grant programs. Specifically, we requested the sample of applications from each of the five DOJ OJP offices and bureaus and seven HHS operating divisions from which we identified the 122 grant programs that either had a relatively larger estimated total program funding amount on Grants.gov for fiscal years 2015, 2016, or 2017 than other grant programs within the same OJP offices or HHS operating divisions or had specified tribes or Native Americans as a primary beneficiary. We assessed the reliability of the data we used by questioning knowledgeable officials. We determined that the data were sufficiently reliable for the purposes of this report.

To determine some of the factors that affected the ability of tribal governments and Native American organizations to apply successfully for grant programs that could help prevent or address delinquency among Native American youth, we:

- interviewed or received written responses from DOJ and HHS officials to obtain their perspectives,
- interviewed or received written responses from representatives from a non-generalizable sample of 10 tribal governments and Native

American organizations that applied for or received funding from one or more of the 122 grant programs,³¹ and

- reviewed a non-generalizable sample of 29 DOJ and 30 HHS peer review summary statements from unsuccessful applications that tribal governments and Native American organizations submitted for selected grant programs that we identified as relevant for the purposes of this review.³²

We selected our non-generalizable sample of tribal governments and Native American organizations to include those that received multiple awards from relevant grant programs; tribal governments and Native American organizations that applied unsuccessfully for more than one relevant grant program; tribal governments with juvenile detention centers with the highest average daily populations in 2016; and tribal governments located in the states with the largest number of juvenile offenders in residential placement per 100,000 juveniles for American Indians according to the 2015 Easy Access to the Census of Juvenile Residential Placement.³³ We analyzed the results of our interviews with representatives of the tribal governments and Native American organizations as well as with agency officials to discern possible themes regarding factors that affect tribal governments and Native American

³¹Specifically, we collected perspectives from officials from 7 federally recognized tribes, 1 of which included input from an affiliated tribal university, and 3 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. Before we conducted these interviews, we held a series of meetings in April 2017 in South Dakota with officials from three federally recognized tribes, a juvenile detention center, and an organization that provides treatment services for at risk or justice-involved youth to learn about their experiences applying for grant programs that could help prevent or address delinquency among Native American youth.

³²We originally obtained a non-generalizable sample of 35 HHS peer review summary statements, but 5 of the statements either contained solely overall comments or did not otherwise contain comments specific to weaknesses of the applicant's proposed approach for implementing the grant program funding, which was the subject of analysis. Therefore, we did not include them in our analysis.

³³Sickmund, M., Sladky, T.J., Kang, W., and Puzanchera, C. (2017) *Easy Access to the Census of Juveniles in Residential Placement*, <http://www.ojjdp.gov/ojstatbb/ezacjrp/>, last accessed on April 25, 2018. The 10 states with the largest number of juvenile offenders in residential placement rate per 100,000 juveniles for American Indians according to the 2015 Easy Access to the Census of Juvenile Residential Placement were Wyoming, West Virginia, Nebraska, Minnesota, Iowa, New Hampshire, Oregon, South Dakota, North Dakota, and South Carolina.

organizations' ability to apply successfully for the relevant grant programs we identified.

We selected the non-generalizable sample of peer review summary statements from grant programs that had a larger estimated total program funding amount on Grants.gov for fiscal years 2015, 2016, or 2017 than other grant programs within the same OJP offices or HHS operating divisions or had specified tribes or Native Americans as a primary beneficiary. However, if we could not identify an application from a tribal government or Native American organization from a given grant program from which we requested applications, we did not request peer review summary statements from that program. We then conducted a content analysis of the weaknesses noted in the statements submitted by tribal governments or Native American organizations in order to discern common themes.

The information we obtained from the agency officials as well as representatives of the tribal governments and Native American organizations cannot be generalized more broadly to all tribal governments and Native American organizations or the applications they submitted for federal funding from fiscal year 2015 through 2017. However, the information provides important context and insights into the challenges tribal governments and Native American organizations face in applying for federal funding that could help prevent or address delinquency among Native American youth, as well as some of the common weaknesses that DOJ and HHS peer reviewers identified in unsuccessful applications from tribal governments and Native American organizations.

We conducted this performance audit from November 2016 through September 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Definitions and Agency Determinations of Native American Status in Data Sources

Table 19: Definitions and Agency Determinations of Native American Status in Federal, State and Local, and Tribal Data Sources

Phase of justice process: arrest.

Agency source and database/dataset	Definition for Native American	Agency source for determining whether individual is categorized as Native American in database
Department of Justice, Federal Bureau of Investigation – Uniform Crime Reporting Summary Reporting System data	A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment	Race is based on a combination of sources such as (a) asking individuals to self-identify race at the time of arrest, (b) relying on information in documents that accompany individuals when arrested, and (c) classifying individuals visually upon arrest. The Federal Bureau of Investigation has no way of determining exactly how law enforcement agencies identify race, according to Federal Bureau of Investigation officials.
Department of Justice, U.S. Marshals Service custody data system	A person having origins in any of the indigenous peoples of North America, including Alaskan Natives	Race is self-reported by the individual at the time of the custody intake.
Department of the Interior, Bureau of Indian Affairs juvenile detention center records	A person who is enrolled in a federally recognized tribe	Race is self-reported by the juvenile at the time of admission to the facility and then confirmed by facility staff.

Phase of justice process: adjudication

Agency source and database/dataset	Definition for Native American	Agency source for determining whether individual is categorized as Native American in database
Department of Justice, Executive Office for U.S. Attorneys data system	A person who is enrolled in a federally recognized tribe	Race is identified by the U.S. Attorney upon review of documentation associated with the individual to determine tribal affiliation, such as tribal enrollment certifications.
National Juvenile Justice, National Juvenile Court Data Archive (Easy Access to Juvenile Court Statistics)	A person having origins in any of the indigenous peoples of North America, including Alaskan Natives	Case-level data generated by automated client-tracking systems or case-reporting systems managed by juvenile courts or other juvenile justice agencies.

**Appendix II: Definitions and Agency
Determinations of Native American Status in
Data Sources**

Phase of justice process: confinement

Agency source and database/dataset	Definition for Native American	Agency source for determining whether individual is categorized as Native American in database
Department of Justice, Census of Juveniles in Residential Placement data	A person having origins in any of the original peoples of North America and South America (including Central America) and who maintains tribal affiliations or community attachment	Administrative records maintained by facilities.
Department of Justice, Federal Bureau of Prisons data system	A person having origins in any of the indigenous peoples of North America, including Alaskan Natives	Pre-sentence investigation reports.

Source: GAO analysis of agency data and information. | GAO-18-591

Appendix III: Actions Agencies Reported Taking Related to Selected Task Force and Commission Recommendations

The 2014 Attorney General Task Force report, *Ending Violence so Children Can Thrive* and the 2013 Indian Law and Order Commission report, *A Roadmap for Making Native America Safer*, both recommended actions related to Native American youth and youth justice issues.¹ These recommendations included actions federal agencies could take to address some of the challenges noted in the reports, such as exposure to violence, abuse and neglect, and poverty. Table 20 provides examples of actions relevant federal agencies reported taking related to these recommendations.²

¹Attorney 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>; and Indian Law and Order Commission Report to the President and Congress of the United States, *A Roadmap for Making Native America Safer*, November, 2013, available at <https://www.aisc.ucla.edu/iloc/report/>. 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).

²To determine actions taken by relevant federal agencies on these recommendations, we identified where the recommendation specifically noted that a particular agency should take action, and conducted interviews and reviewed documentation from relevant agencies regarding the actions they have taken.

Appendix III: Actions Agencies Reported Taking Related to Selected Task Force and Commission Recommendations

Table 20: Attorney General Task Force and Indian Law and Order Commission Report Recommendations, Examples of Federal Actions Agencies Reported Taking, as of April, 2018

Selected recommendations from the 2014 Attorney General Task Force report, Ending Violence so Children Can Thrive^a

Recommendation	Examples of related actions federal agencies reported taking
<p>4.2 - Federal, state, and private funding and technical assistance should be provided to tribes to develop or revise trauma-informed, culturally specific tribal codes to improve tribal juvenile justice systems.</p>	<p>Department of Justice's Office of Justice Programs (OJP) noted that its Office of Juvenile Justice and Delinquency Prevention (OJJDP) released the fiscal year 2016 Defending Childhood American Indian/Alaska Native Policy Initiative: Supporting Trauma-Informed Juvenile Justice Systems for Tribes solicitation to address this recommendation through providing additional training and technical assistance for tribal sites to enhance their youth justice and related child serving systems, such as child welfare and education, and develop or revise relevant tribal codes.</p> <p>Department of the Interior's Bureau of Indian Affairs (BIA) noted that it released its Model Indian Juvenile Code, 2016 revision, authored and approved by relevant agencies.</p>
<p>4.3 - Federal, tribal, and state justice systems should provide publicly funded legal representation to American Indian/Alaska Native (AI/AN) children in the juvenile justice systems to protect their rights and minimize the harm that the juvenile justice system may cause them. The use of technology such as videoconferencing could make such representation available even in remote areas.</p>	<p>According to the Administrative Office of the United States Courts, providing counsel to juveniles is current practice in the federal courts under 18 U.S.C. § 5034.^b</p>
<p>4.4 - Federal, tribal, and state justice systems should only use detention of AI/AN youth when the youth is a danger to themselves or the community. It should be close to the child's community and provide trauma-informed, culturally appropriate, and individually tailored services, including reentry services. Alternatives to detention such as "safe houses" should be significantly developed in AI/AN urban and rural communities.</p>	<p>The Assistant U.S. Attorney often recommends to the Federal Bureau of Prisons (BOP) that the youth be placed as close to home as possible, according to Executive Office for United States Attorneys (EOUSA) officials.</p> <p>According to BOP, its Juvenile Services Statement of Work Secure with Work Release includes requirements that all juveniles housed in BOP facilities are afforded a formalized Individualized Program Plan addressing their needs. The needs addressed in the Individualized Program Plan may include at a minimum (but are not limited to): education, vocational training, independent living preparation, specialized treatment goals and objectives, counseling and psychological services, substance use structured recreational activities, religious services, cultural services, and financial responsibility.</p> <p>OJP noted that OJJDP released the fiscal year 2016 Defending Childhood American Indian/Alaska Native Policy Initiative: Supporting Trauma-Informed Juvenile Justice Systems for Tribes solicitation to address this recommendation through providing additional training and technical assistance for tribal sites to enhance their youth justice and related child serving systems, such as child welfare and education, and develop or revise relevant tribal codes.</p> <p>According to the Administrative Office of the United States Courts, there is a statutory presumption that the Attorney General will select a foster home or community-based facility near the youth's home community. While in detention, medical care including psychological and other care is provided. 18 U.S.C. § 5034 states a preference for release prior to trial unless detention is required to secure timely appearance or insure the safety of the youth or others.^b</p>

**Appendix III: Actions Agencies Reported
Taking Related to Selected Task Force and
Commission Recommendations**

Recommendation	Examples of related actions federal agencies reported taking
<p>4.5 - Federal, tribal, and state justice systems and service providers should make culturally appropriate trauma-informed screening, assessment, and care the standard in juvenile justice systems. Indian Health Service (IHS) and tribal and urban Indian behavioral health service providers must receive periodic training in culturally adapted trauma-informed interventions and cultural competency to provide appropriate services to AI/AN children and their families.</p>	<p>According to EOUSA, Assistant U.S. Attorneys may require treatment as part of an expected case resolution. Additionally, according to the Administrative Office of the United States Courts, United States Probation and Pretrial Services' officers assess a defendant's risks and needs and then make recommendations to a court that may be relied on in imposing conditions of pretrial or post-conviction community based supervision.</p> <p>According to BOP, its Juvenile Services Statement of Work – Secure with Work Release requires all juveniles housed in BOP facilities to have a formalized Individualized Program Plan addressing their needs. The needs addressed in the Individualized Program Plan may include at a minimum (but are not limited to): education, vocational training, independent living preparation, specialized treatment goals and objectives; counseling and psychological services, substance use structured recreational activities, religious services, cultural services, and financial responsibility.</p> <p>According to OJP, OJJDP released the fiscal year 2016 Defending Childhood American Indian/Alaska Native Policy Initiative: Supporting Trauma-Informed Juvenile Justice Systems for Tribes solicitation, which specifically addresses this recommendation through providing additional training and technical assistance for tribal sites to enhance their youth justice and related child serving systems, such as child welfare and education, and develop or revise relevant tribal codes.</p> <p>According to Department of Health and Human Services (HHS), its Indian Health Service (IHS) Telebehavioral Health Center of Excellence (TBHCE) provides technical assistance to IHS facilities and tribal and urban communities; provides services, training, and evaluation support for remote health care; and serves isolated AI/AN communities with limited or no access to behavioral health services. TBHCE trains service providers about historical trauma and evidence-based intervention practices. Cultural competency training is mandatory for all IHS employees and contractors. IHS is currently working with federal partners to develop a trauma-informed care policy that will be disseminated across all 12 of its service regions.</p>

**Appendix III: Actions Agencies Reported
Taking Related to Selected Task Force and
Commission Recommendations**

Selected recommendations from the 2013 Indian Law and Order Commission report, A Roadmap for Making Native America Safer^a

Recommendation	Examples of related actions federal agencies reported taking
<p>6.5 - Because tribal communities deserve to know where their children are and what is happening to them in state and federal justice systems, and because it is impossible to hold justice systems accountable without data, both federal and state juvenile justice systems must be required to maintain proper records of tribal youth whose actions within Indian country brought them into contact with those systems. All system records at every stage of proceedings in state and federal systems should include a consistently designated field indicating tribal membership and location of the underlying conduct within Indian country and should allow for tracking of individual children. If state and federal systems are uncertain whether a juvenile arrested in Indian country is, in fact, a tribal member, they should be required to make inquiries, just as they are for dependency cases covered by the Indian Child Welfare Act.</p>	<p>EOUSA noted that for federal Indian country crimes, the Assistant U.S. Attorney assigned to a case must initially determine if the youth is a Native American associated with a federally recognized tribe to form the basis of jurisdiction for initial charging. EOUSA's new CaseView system requires EOUSA to keep records of Native status for defendants involved in cases arising from Indian country.</p>
<p>6.7 - Whether they are in federal, state, or tribal juvenile justice systems, children brought before justice authorities for behavior that took place in tribal communities should be provided with trauma-informed screening and care, which may entail close collaboration among youth justice agencies, tribal child welfare, and behavioral health agencies. A legal preference should be established in state and federal juvenile justice systems for community-based treatment of Indian country juveniles rather than detention in distant locations, beginning with the youth's first encounters with juvenile justice. Tribes should be able to redirect federal funding for construction and operation of juvenile detention facilities to the types of assessment, treatment, and other services that attend to juvenile trauma.</p>	<p>According to IHS, it provides funding to five of the tribally operated Youth Residential Treatment Centers (YRTC), providing a range of clinical services that HHS officials identify as rooted in a culturally relevant, holistic model of care. YRTCs can be an alternative to youth detention, provided the youth meets admission criteria.</p> <p>Consistent with 18 U.S.C. §§ 5035 and 5039, a youth shall be detained or committed to a community-based facility in or near his or her home community, whenever possible. In addition, EOUSA officials noted that Assistant U.S. Attorneys participate in extensive consultation and coordination with tribal leaders, law enforcement, social workers, and other service providers in determining how to proceed against a youth delinquent.</p>
<p>6.8 - Where violent juveniles require treatment in some form of secure detention, whether it be through BOP-contracted state facilities, state facilities in P.L. 83-280 or similar jurisdictions, or BIA facilities, that treatment should be provided within a reasonable distance from the juvenile's home and informed by the latest and best trauma research as applied to Indian country.</p>	<p>The Assistant U.S. Attorney often recommends to BOP that the youth be placed as close to home as possible, according to EOUSA officials.</p> <p>According to BOP officials, BOP makes every effort to ensure Indian youth are housed as close to home as possible. The Indian youth in BOP's custody are housed primarily in the secure facilities in Rapid City, South Dakota and Post, Texas. These facilities are centrally located to service areas with high Native American populations, according to BOP officials. In BOP's effort to ensure treatment is informed by the latest and best trauma research as applied to Indian country, it recently revised its secure youth statement of work which guides youth service providers.</p>

Source: GAO analysis of federal agency information. | GAO-18-591

^aWe selected recommendations from each report that specifically target issues of Native American youth and youth justice.

**Appendix III: Actions Agencies Reported
Taking Related to Selected Task Force and
Commission Recommendations**

^bThe Federal Juvenile Delinquency Code, codified at 18 U.S.C. §§ 5031-42, is the federal law that applies to individuals who commit federal criminal violations prior to their eighteenth birthdays. The Code outlines various requirements regarding delinquency proceedings in district court, including when jurisdiction should be exercised, detention of the youth prior to disposition, and requirements regarding the provision of counsel. Specifically, 18 U.S.C. § 5034 requires the magistrate to ensure that the youth is represented by counsel before proceeding with critical stages of the proceeding, and states that counsel shall be assigned when the youth and his parents, guardian, or custodian are financially unable to obtain adequate representation. Further, the Code requires a magistrate to release the youth to his parents, guardian, custodian or other responsible party, if the youth has not been discharged before his initial appearance before the magistrate, upon their promise to bring such youth before the court when requested unless the magistrate determines, after a hearing at which the youth is represented by counsel, that the detention of such youth is required to secure his timely appearance before the appropriate court or to insure his safety or that of others.

Appendix IV: Native American Youth Involvement with Tribal Justice Systems

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 certain insights about the arrest, adjudication, and confinement of Native American youth by tribal justice systems. 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).¹ Based on those records, at least 388 Native American tribal youth were admitted to these three facilities in 2016, as shown in table 21. 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 204.²

¹As 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.

²According to our analysis of available data from the three juvenile detention centers managed by BIA, 44 percent of all charges against Native American youth in those detention centers over the 2012 through 2016 period were public order offenses.

Table 21: 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-18-591

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.

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, they said it 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 are not available, DOJ's Bureau of Justice Statistics (BJS) is currently 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.

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).

Adjudication. Comprehensive data were not available to describe the extent to which tribal courts processed Native American youth, or adjudicated them delinquent 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 juvenile caseloads, and pretrial and probation programs, among other 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 DOJ’s Bureau of Justice Statistics, 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 DOJ BJS in its *Jails in Indian Country* Survey for 2014, 2015, and 2016. The number of Native American youth confined was a midyear 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 V: Selected Grant Programs That Could Help Prevent or Address Delinquency among Native American Youth

Table 22: Departments of Justice and Health and Human Services Grant Programs That Could Help Prevent or Address Delinquency among Native American Youth, Fiscal Years 2015-2017

Grant program	Agency component	Tribal government or Native American organizations eligible to apply (Yes/No)? ^a	Grant program specified tribes or Native Americans as a primary beneficiary (Yes/No)?	Fiscal years for which the agency component issued funding opportunity announcement
Department of Justice (73 grant programs)				
Alaska Native Youth Training and Technical Assistance Project	Office of Juvenile Justice and Delinquency Prevention (OJJDP)	Yes	Yes	2016
Assessing the Impact of Juvenile Justice Reforms Program	OJJDP	Yes	No	2015; 2016
Changing Minds: Professional Development and Public Education To Address Children Exposed to Violence and Childhood Trauma	OJJDP	Yes	No	2017
Bridging Research and Practice Project To Advance Juvenile Justice and Safety	OJJDP	Yes	No	2015
Comprehensive Antigang Strategies and Programs	OJJDP	Yes	No	2016
Coordinated Tribal Assistance Solicitation (CTAS) Purpose Area 8: Juvenile Healing to Wellness Courts	OJJDP	Yes	Yes	2015; 2016; 2017
CTAS Purpose Area 9: Tribal Youth Program	OJJDP	Yes	Yes	2015; 2016; 2017

**Appendix V: Selected Grant Programs That
Could Help Prevent or Address Delinquency
among Native American Youth**

Grant program	Agency component	Tribal government or Native American organizations eligible to apply (Yes/No)?^a	Grant program specified tribes or Native Americans as a primary beneficiary (Yes/No)?	Fiscal years for which the agency component issued funding opportunity announcement
Defending Childhood American Indian/Alaska Native Policy Initiative: Supporting Trauma-Informed Juvenile Justice Systems for Tribes	OJJDP	Yes	Yes	2016
Defending Childhood State Policy Initiative	OJJDP	Yes	No	2016
Design Study of Dual System Youth	OJJDP	Yes	No	2015
Evaluations of Trauma-Informed Care in Juvenile Justice Settings/ Girls' Trauma-Informed Programs	OJJDP	Yes	No	2016
Faith and Community-Based Youth Violence Prevention Training and Technical Assistance	OJJDP	Yes	No	2016
Field-Initiated Research and Evaluation Program	OJJDP	Yes	No	2017
Initiative To Develop Juvenile Reentry Measurement Standards	OJJDP	Yes	No	2015
Juvenile Drug Courts Addressing Systematic Barriers Program	OJJDP	Yes	No	2015
Juvenile Drug Courts Communities of Practice	OJJDP	Yes	No	2015
Juvenile Drug Courts Training and Technical Assistance Program	OJJDP	Yes	No	2016
Juvenile Drug Treatment Court Program	OJJDP	Yes	No	2017
Juvenile Justice Model Data Project	OJJDP	Yes	No	2015
Juvenile Justice Systems Reform Promising Practices	OJJDP	Yes	No	2017
Mentoring for Youth: Underserved Populations	OJJDP	Yes	No	2015
Mentoring Opportunities for Youth Initiative	OJJDP	Yes	No	2015; 2016; 2017
Mentoring Research Partners Program	OJJDP	Yes	No	2017

**Appendix V: Selected Grant Programs That
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among Native American Youth**

Grant program	Agency component	Tribal government or Native American organizations eligible to apply (Yes/No)?^a	Grant program specified tribes or Native Americans as a primary beneficiary (Yes/No)?	Fiscal years for which the agency component issued funding opportunity announcement
National Gang Center	OJJDP; Bureau of Justice Assistance	Yes	No	2017
National Girls Initiative	OJJDP	Yes	No	2016
National Intertribal Youth Leadership Development Initiative ^b	OJJDP	Yes	Yes	2017
National Juvenile Court Data Archive	OJJDP	Yes	No	2015
National Juvenile Justice Data Analysis Program	OJJDP	Yes	No	2016
National Mentoring Resource Center	OJJDP	Yes	No	2016
Nonparticipating State Program: Wyoming	OJJDP	Yes	No	2015
Nonparticipating States: Nebraska and Wisconsin	OJJDP	Yes	No	2017
Police and Youth Engagement: Supporting the Role of Law Enforcement in Juvenile Justice Reform	OJJDP	Yes	No	2015
Practitioner-Researcher Partnership in Cognitive Behavioral Mentoring Program	OJJDP	Yes	No	2016
Reducing Reliance on Confinement and Improving Community-Based Responses for Girls At Risk of Entering the Juvenile Justice System	OJJDP	Yes	No	2016
Safe and Thriving Communities: Planning and Collaboration	OJJDP	Yes	No	2017
Safe and Thriving Communities: Uniting and Enhancing Community-Based Violence Prevention, Defending Childhood, and National Forum Approaches	OJJDP	Yes	No	2016
Second Chance Act Smart on Juvenile Justice: Community Supervision ^c	OJJDP	Yes	No	2015; 2016; 2017

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Grant program	Agency component	Tribal government or Native American organizations eligible to apply (Yes/No)?^a	Grant program specified tribes or Native Americans as a primary beneficiary (Yes/No)?	Fiscal years for which the agency component issued funding opportunity announcement
Second Chance Act Strengthening Families and Children of Incarcerated Parents	OJJDP	Yes	No	2015
Second Chance Act Strengthening Relationships Between Young Fathers and Their Children: A Reentry Mentoring Project	OJJDP	Yes	No	2015
Second Chance Act Strengthening Relationships Between Young Fathers, Young Mothers, and Their Children	OJJDP	Yes	No	2016
Second Chance Act Supporting Latino/a Youth from Out-of-Home Placement to the Community	OJJDP	Yes	No	2015
Second Chance Act: Implementing County and Statewide Plans To Improve Outcomes for Youth in the Juvenile Justice System	OJJDP	No	No	2017
Second Chance Act: Implementing Statewide Plans To Improve Outcomes for Youth in the Juvenile Justice System	OJJDP	No	No	2016
Smart on Juvenile Justice: Community Supervision Training and Technical Assistance Program	OJJDP	Yes	No	2015
Smart on Juvenile Justice: Age of Criminal Responsibility Training and Technical Assistance	OJJDP	Yes	No	2016
Smart on Juvenile Justice: Enhancing Youth Access to Justice Initiative ^d	OJJDP	Yes	No	2015; 2016; 2017
Smart on Juvenile Justice: Statewide Juvenile Justice Reform Planning Grants and Training and Technical Assistance ^e	OJJDP	Yes	No	2016

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Grant program	Agency component	Tribal government or Native American organizations eligible to apply (Yes/No)?^a	Grant program specified tribes or Native Americans as a primary beneficiary (Yes/No)?	Fiscal years for which the agency component issued funding opportunity announcement
Smart on Juvenile Justice: Systemwide Reform and Reinvestment Initiative ^f	OJJDP	Yes	No	2017
Smart on Juvenile Justice: Technical Assistance To End Racial and Ethnic Disparities in the Juvenile Justice System	OJJDP	Yes	No	2017
Smart on Juvenile Justice: Reducing Out-of-Home Placement Program ^g	OJJDP	No	No	2016
Studies Program on At-Risk or System-Involved Girls	OJJDP	Yes	No	2015
Studies Program on Trauma and Justice-Involved Youth	OJJDP	Yes	Yes	2016
Tribal Youth Program Training and Technical Assistance	OJJDP	Yes	Yes	2015
Youth Violence Prevention Coordinated Technical Assistance Program	OJJDP	Yes	No	2015
Youth with Sexual Behavior Problems Program	OJJDP	Yes	No	2015; 2016; 2017
CTAS Purpose Area 3: Justice Systems and Alcohol & Substance Abuse	Bureau of Justice Assistance	Yes	Yes	2015; 2016; 2017
CTAS Purpose Area 4: Corrections and Correctional Alternatives	Bureau of Justice Assistance	Yes	Yes	2015; 2016; 2017
National Adult and Juvenile Reentry Resource Center	Bureau of Justice Assistance	Yes	No	2016
Second Chance Act Technology-Based Career Training Program for Incarcerated Adults and Juveniles	Bureau of Justice Assistance	Yes	No	2015; 2016
Tribal Civil and Criminal Legal Assistance Grants, Training, and Technical Assistance	Bureau of Justice Assistance	Yes	Yes	2015
Tribal Justice System Capacity Building Training and Technical Assistance Program	Bureau of Justice Assistance	Yes	Yes	2016

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Grant program	Agency component	Tribal government or Native American organizations eligible to apply (Yes/No)?^a	Grant program specified tribes or Native Americans as a primary beneficiary (Yes/No)?	Fiscal years for which the agency component issued funding opportunity announcement
Tribal Justice System Infrastructure Program Training and Technical Assistance Initiative	Bureau of Justice Assistance	Yes	Yes	2017
ABCD Social Development Sub-Study	National Institute of Justice	Yes	No	2017
Comprehensive School Safety Initiative	National Institute of Justice	Yes	No	2015; 2016; 2017
Research and Evaluation in Safety, Health, and Wellness in the Criminal Justice System	National Institute of Justice	Yes	No	2017
Research and Evaluation on Children Exposed to Violence	National Institute of Justice	Yes	No	2015
Research and Evaluation on Violence Against Women: Teen Dating Violence, Sexual Violence, and Intimate Partner Violence	National Institute of Justice	Yes	No	2017
Research on Measurement of Teen Dating Violence	National Institute of Justice	Yes	No	2016
Research, Development, and Evaluation of Technologies to Improve School Safety	National Institute of Justice	Yes	No	2017
Annual Survey of Jails in Indian Country, 2016 - 2019	Bureau of Justice Statistics (BJS)	Yes	Yes	2015
Methodological Research to Support the National Survey of Children's Exposure to Violence	BJS; OJJDP	Yes	No	2016
National Survey of Youth in Custody (NSYC-3) 2017-18	BJS	Yes	No	2016
Promoting Evidence Integration in Sex Offender Management: Juvenile Treatment Progress Scale Development and Implementation	Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking	Yes	No	2016
Department of Health and Human Services (49 grant programs)				
Capacity Building Initiative for Substance Abuse and HIV Prevention Services for At-Risk Racial/Ethnic Minority Youth and Young Adults	Substance Abuse and Mental Health Services Administration (SAMHSA)	Yes	No	2015; 2016

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Grant program	Agency component	Tribal government or Native American organizations eligible to apply (Yes/No)?^a	Grant program specified tribes or Native Americans as a primary beneficiary (Yes/No)?	Fiscal years for which the agency component issued funding opportunity announcement
Cooperative Agreements for Adolescent and Transitional Aged Youth Treatment Implementation	SAMHSA	Yes	No	2016; 2017
Cooperative Agreements for Expansion and Sustainability of the Comprehensive Community Mental Health Services for Children with Serious Emotional Disturbances	SAMHSA	Yes	No	2015; 2016; 2017
Cooperative Agreements for State Adolescent and Transitional Aged Youth Treatment Enhancement and Dissemination Implementation	SAMHSA	Yes	No	2015
Cooperative Agreements for State-Sponsored Youth Suicide Prevention and Early Intervention	SAMHSA	Yes	No	2015
Cooperative Agreements for Tribal Behavioral Health	SAMHSA	Yes	Yes	2016; 2017
Drug-Free Communities Mentoring Program	SAMHSA	Yes	No	2015; 2016; 2017
Drug-Free Communities Support Program	SAMHSA	Yes	No	2015; 2016; 2017
Cooperative Agreements for State Adolescent and Transitional Aged Youth Treatment Enhancement and Dissemination Planning	SAMHSA	Yes	No	2015
Grants to Expand Care Coordination Targeted Capacity Expansion through the Use of Technology Assisted Care in Targeted Areas of Need	SAMHSA	Yes	No	2016
Cooperative Agreements for Project LAUNCH (Linking Actions for Unmet Needs in Children's Health) ^h	SAMHSA	Yes	Yes	2015; 2017
National Child Traumatic Stress Initiative – Category III Community Treatment and Services Centers	SAMHSA	Yes	No	2016

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National Child Traumatic Stress Initiative - Category II, Treatment and Service Adaptation Centers	SAMHSA	Yes	No	2016
National Child Traumatic Stress Initiative, National Center for Child Traumatic Stress	SAMHSA	Yes	No	2016
“Now is the Time” Project AWARE-Community Grants	SAMHSA	Yes	No	2015
Planning and Developing Infrastructure to Improve the Mental Health and Wellness of Children, Youth and Families in American Indian/Alaska Natives Communities	SAMHSA	Yes	Yes	2017
Resiliency in Communities After Stress and Trauma	SAMHSA	Yes	No	2016; 2017
Sober Truth on Preventing Underage Drinking Act Grant ¹	SAMHSA	Yes	No	2016
Statewide Consumer Network Program	SAMHSA	Yes	No	2015; 2016
Statewide Family Network Program	SAMHSA	Yes	No	2015; 2016
Statewide Peer Networks for Recovery and Resiliency	SAMHSA	Yes	No	2015; 2016
Strategic Prevention Framework - Partnerships for Success	SAMHSA	Yes	Yes	2015; 2016
Suicide Prevention Resource Center	SAMHSA	Yes	No	2015
The Substance Abuse and HIV Prevention Navigator Program for Racial/Ethnic Minorities Ages 13-24 Cooperative Agreement	SAMHSA	Yes	No	2017
Basic Center Program	Administration for Children and Families	Yes	No	2015; 2016; 2017
National Communication System for Runaway and Homeless Youth Program	Administration for Children and Families	Yes	No	2017
Native American Language Preservation and Maintenance	Administration for Children and Families	Yes	Yes	2015; 2016; 2017

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Grant program	Agency component	Tribal government or Native American organizations eligible to apply (Yes/No)?^a	Grant program specified tribes or Native Americans as a primary beneficiary (Yes/No)?	Fiscal years for which the agency component issued funding opportunity announcement
Native American Language Preservation and Maintenance-Esther Martinez Immersion	Administration for Children and Families	Yes	Yes	2015; 2016; 2017
Native Language Community Coordination Demonstration Project	Administration for Children and Families	Yes	Yes	2016
Native Youth Initiative for Leadership, Empowerment, and Development	Administration for Children and Families	Yes	Yes	2016; 2017
Runaway and Homeless Youth Training and Technical Assistance Center	Administration for Children and Families	Yes	No	2017
Social and Economic Development Strategies for Alaska	Administration for Children and Families	Yes	Yes	2015; 2016; 2017
Social and Economic Development Strategies	Administration for Children and Families	Yes	Yes	2015; 2016; 2017
Street Outreach Program	Administration for Children and Families	Yes	No	2015; 2016; 2017
Transitional Living Program and Maternity Group Homes	Administration for Children and Families	Yes	No	2017
Transitional Living Program Special Population Demonstration Project: LGBTQ Runaway and Homeless Youth and Young Adults Who Have Left Foster Care After Age 18	Administration for Children and Families	Yes	No	2016
American Indian/Alaska Native Health Equity Initiative	Office of Minority Health	Yes	Yes	2017
Communities Addressing Childhood Trauma Program	Office of Minority Health	Yes	No	2016
Empowered Communities for a Healthier Nation Initiative	Office of Minority Health	Yes	No	2017
Minority Youth Violence Prevention II: Integrating Social Determinants of Health and Community Policing Approaches	Office of Minority Health	Yes	No	2017
Preventing Teen Dating and Youth Violence by Addressing Shared Risk and Protective Factors	Centers for Disease Control and Prevention (CDC)	No	No	2016

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Research Grants for Preventing Violence and Violence Related Injury	CDC	Yes	No	2015; 2016; 2017
The CDC National Centers of Excellence in Youth Violence Prevention: Building the Evidence for Community- and Policy-Level Prevention	CDC	Yes	No	2015; 2016
Advanced Laboratories for Accelerating the Reach and Impact of Treatments for Youth and Adults with Mental Illness Research Centers	National Institutes of Health ^l	Yes	No	2016
Collaborative Hubs to Reduce the Burden of Suicide among American Indian and Alaska Native Youth	National Institutes of Health	Yes	Yes	2016
Detecting and Preventing Suicide Behavior, Ideation and Self-Harm in Youth in Contact with the Juvenile Justice System	National Institutes of Health	Yes	No	2016
Behavioral Health Workforce Education and Training for Paraprofessionals and Professionals ^k	Health Resources Services Administration	Yes	No	2016
Children's Safety Network Program	Health Resources Services Administration	Yes	No	2015
Methamphetamine and Suicide Prevention Initiative	Indian Health Service	Yes	Yes	2015; 2016; 2017

Source: GAO analysis of Department of Justice (DOJ) and Department of Health and Human Services grant program funding opportunity announcements for fiscal years 2015 through 2017. | GAO-18-591

^aFor the purposes of the review, we define “tribal governments” as the governing bodies of federally recognized tribes and “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 Native American populations, such as urban Indian organizations.

^bAccording to DOJ officials, the National Intertribal Youth Leadership Development Initiative grant program had no successful applicants in fiscal year 2017.

^cOJJDP also offered the Second Chance Act Smart on Juvenile Justice: Community Supervision Implementation grant program for funding in fiscal year 2016 but limited eligibility to the six award recipients of the Second Chance Act Smart on Juvenile Justice: Community Supervision grant program in fiscal year 2015. Additionally, according to DOJ officials, the grant program had no successful applicants in fiscal year 2017.

^dOJJDP also offered the Smart on Juvenile Justice: Enhancing Youth Access to Justice State Reform Implementation Program for funding in fiscal year 2016 but limited eligibility to the recipients of the fiscal year 2015 Smart on Juvenile Justice: Enhancing Youth Access to Justice Initiative’s Category 1 State Reform Planning Grants.

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^eNative American organizations were eligible to apply for one category of the Smart on Juvenile Justice: Statewide Juvenile Justice Reform Planning Grants and Training and Technical Assistance program but eligibility for another category was limited to states, territories, and the District of Columbia. Tribal governments were not eligible to apply for either category of the program.

^fNative American organizations were eligible to apply for one category of the Smart on Juvenile Justice: Systemwide Reform and Reinvestment Initiative but eligibility for another category was limited to states, territories, and the District of Columbia. Tribal governments were not eligible to apply for either category of the program.

^gAlthough OJJDP issued a funding opportunity announcement for the Smart on Juvenile Justice: Reducing Out-of-Home Placement Program for fiscal year 2017, according to DOJ officials, DOJ cancelled the solicitation due to budget constraints and did not conduct peer review on applications.

^hThe official title of this grant program in its fiscal year 2015 funding opportunity announcement was Cooperative Agreements for Project LAUNCH (Linking Actions for Unmet Needs in Children's Health) State/Tribal Expansion. In its fiscal year 2017 funding opportunity announcement, the official title was Linking Actions for Unmet Needs in Children's Health in American Indian and Alaskan Native Communities, U.S. Territories, and Pacific Jurisdictions Cooperative Agreements.

ⁱEligibility for the Sober Truth on Preventing Underage Drinking Act Grant program is limited to former grantees of this program as well as current or former Drug-Free Communities Support Program grantees. Tribal governments and Native American organizations are eligible to apply for the Drug-Free Communities Support Program, thus making them potentially eligible for the Sober Truth on Preventing Underage Drinking Act Grants program.

^jFor all of the National Institutes of Health grant programs under the scope of our review, National Institutes of Health issued their funding opportunity announcements in fiscal year 2016 but made awards in fiscal year 2017.

^kHealth Resources Services Administration issued a fiscal year 2017 Behavioral Health Workforce Education and Training for Paraprofessionals and Professionals funding opportunity announcement, but according an agency official the fiscal year 2017 funding opportunity announcement does not focus on professionals who provide services to youth, whereas the fiscal year 2016 funding opportunity does.

Appendix VI: GAO Contacts and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the contact name above, Taylor Matheson, Assistant Director; Tonnye' Conner-White, Analyst-in-Charge; Anne Akin; Steven Rucker; and Emily Flores made key contributions to this report. Also contributing were Jessica Ard; Melinda Cordero; Elizabeth Dretsch; Eric Hauswirth; Kristy Love; Grant Mallie; Amanda Miller; Heidi Nielson; and Claire Peachey.

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