



A ROADMAP FOR MAKING NATIVE AMERICA SAFER: Chapter 6: Juvenile Justice



Indian Law & Order
COMMISSION

JUVENILE JUSTICE: Failing the Next Generation.

- The Commission's report, released in 2013, is one of the first comprehensive policy assessments of juvenile justice in Native America:

“Indian country juvenile justice exposes the worst consequences of our broken Indian country justice system.... Federal and State juvenile justice systems take Indian children, who are the least well, and make them the most incarcerated.”



Commission Findings and Conclusions

- Native American and Alaska Native juveniles have the highest per-capita rate of violent victimization.
- Among juveniles, Native juveniles suffer Post-Traumatic Stress Disorder (PTSD) at a rate of 22% - triple the general population and exceeding or matching PTSD rates in military personnel who served in Afghanistan and Iraq.



Findings and Conclusions

- Disproportionately high rates of Native juveniles dying from alcohol abuse, suicide, and violent crime contribute to an average life expectancy for Native American males in the United States of just 56 years – a rate that averages in the early 40s in many of the Native communities the Commission visited.
- Federal criminal law and judicial proceedings result in systematically longer and more severe sentences of incarceration for Native juveniles for offenses on Tribal lands as compared to the same or similar crimes off-Reservation.



Findings and Conclusions

- Disproportionately high levels of Native Youth are in federal custody (sometimes over half of youth in federal custody are Indian children).
- Parole is unavailable to juveniles in Federal detention; secondary education is not provided; opportunities for incentivized rehabilitation – wellness and diversion programs, for instance – are practically non-existent.
- Tribal Youth are statistically lost in a federal, state, tribal complex maze of jurisdiction.



REFORMING JUVENILE JUSTICE: Commission Recommendations

- Instead of automatically placing Native juveniles in Federal custody in cases involving felonies The Federal Delinquency Act should foster coordination with Tribes as well as States and Territories.
- Tribes that choose to exit P.L. 83-280 State criminal jurisdiction should have this same freedom to develop and enforce their own juvenile justice laws, institutions and programs, just as State and local governments do elsewhere in our country.



RECOMMENDATIONS:

- The Commission recommends requiring Tribal consent to Federal prosecutions of juveniles, including whether to charge younger Native offenders as adults.
- Federal funding should support and encourage development of tribal solutions to youth involved in delinquencies on parity with state and federal funding.
- Federal courts hearing Indian country juvenile matters ought to be required to establish pretrial diversion programs for such cases that allow sentencing and supervision in Tribal courts.



Recommendations:

- The Federal government and States should notify Tribes at all key stages of juvenile justice proceedings involving Tribal citizens, and data/information systems should be configured accordingly.
- Indian Child Welfare Act should be amended to provide that when a State court initiates any delinquency proceeding involving an Indian child for acts that took place on the reservation, all the notice, intervention and transfer provisions of ICWA will apply. For all other Native children in State delinquency proceedings, ICWA should be expanded to require notice to the Tribe and a right to intervene.



Why Tribal Control of Delinquencies is important

- Better coordinated and more effectively directed resources get amazing results.
- Best practices for youth involved in delinquencies is trauma informed screening and care with culturally appropriate services in community based programs.
- Tribal youth when properly identified get needed services and community support.



Community Based Culturally Appropriate Services get results

- The Commission highlighted Wind Rivers Tribal Youth Program where participants successfully participated and went on to further their education.
- Tribal Communities successfully use Elders' Panels as diversion to connect tribal youth to their customs and traditions with most successfully completing program instead of delinquency.
- Tribally operated detention facilities incorporated education, cultural practices, and changed outcomes for youth.



CONCLUSION

“Given the prevailing system of injustice toward Native young people, all U.S. citizens, no matter where they live or work, have a stake in ensuring that meaningful change happens soon. After all, we’re talking about our children. No one and nothing on this earth is more important.”

