

# Reducing Racial and Ethnic Disparities (R/ED)

## Subgrant Application

### South Dakota Department of Corrections

### APPLICATION DUE: June 6, 2023

Applications with original signatures must be **submitted and received** by the Department of Corrections by the close of business on **June 6, 2023**. Faxed and emailed applications will not be accepted.

Submit complete applications to:

**John Stewart**  
**Department of Corrections**  
**3200 East Highway 34**  
**Pierre, SD 57501-5070**

Funding under this application is non-competitive and not guaranteed to each applicant. The application narrative and budget must be approved by both the SD Department of Corrections and the Council of Juvenile Services. If approved, the application content will be presented to the Office of Juvenile Justice and Delinquency Prevention for their approval of any addition of program purpose areas that may be needed to support the approved plan.

### SECTION 1. APPLICANT INFORMATION

<b>Applicant: Brown County</b>		
Address: 25 Market Street		
City/State/Zip: Aberdeen, SD 57401	Phone: (605) 626-7110	Fax: (605) 626-4010
Email: Lynn.Heupel@browncounty.sd.gov	Federal Employer or Payee Identification Number (FEIN): 46-6000011	
<b>Project Director Name: Kelsi Vinger</b>		<b>Title: Diversion Coordinator</b>
Agency: Brown County State's Attorney Office	Address: 22 Court Street Suite 2	
City/State/Zip: Aberdeen, SD 57401	Phone: (605) 626-7130	Fax: (605) 626-7132
Email: Kelsi.Vinger@browncounty.sd.gov		
Please indicate the name of the service(s) implemented: <b>Creating culturally appropriate solutions for youth that are overrepresented in our juvenile justice system.</b>		
<b>Project Title:</b>	Oyate Court	
<b>Requested Project Period:</b>	July 1, 2023 – June 30, 2024	

## SECTION 2. PROJECT BUDGET

The Council of Juvenile Services will award or not award funding based the extent to which program design addresses a recognized need and whether the proposal is financially responsible and efficient. Funds will be paid through a reimbursement process for items specifically outlined and approved in the application.

**Applicants may apply for up to \$20,000.**

**Non-supplanting Requirements:** Funds or other resources of the applicant normally devoted to programs and activities designed to meet the needs of criminal justice will not be diminished in any way as a result of a grant award of federal funds. The project for which assistance is being requested will be in addition to, and not a substitute for, criminal justice services previously provided without federal assistance.

<b>A. Personnel</b>	<b>TOTAL</b>
Professional Fees	\$2,500
Employee Fringe Benefits	
<b>TOTAL</b>	\$2,500
<b>B. Contracted Services</b>	<b>TOTAL</b>
Wambli Ska Okolakiciye	\$12,000
<b>TOTAL</b>	\$12,000
<b>C. Travel and Per Diem</b>	<b>TOTAL</b>
Lodging	\$4,000
<b>TOTAL</b>	\$4,000
<b>D. Equipment</b>	<b>TOTAL</b>
<b>TOTAL</b>	\$
<b>E. Operating Expenses</b>	<b>TOTAL</b>
Office Supplies	\$1,500
<b>TOTAL</b>	\$1,500
<b>Total Project Budget -- Combined totals for all columns</b>	<b>\$20,000</b>

NOTE: If there is a change in the above budget, programs will need to request an amendment to their budget. All amendments must be requested in writing prior to the expenditure of funds.



### SECTION 3. BUDGET NARRATIVE

In the space provided, explain the relationship between budgeted items listed in Section 2 and project activities. Include information (data and criteria) as to how you arrived at budget estimates. Discuss all items by category and in full.

**Personnel Narrative** - Explain how the compensation and expenses were calculated, duties of the position, and any other information about personnel of the project. If proposed funding covers more than one position, you must identify the duties and estimated percent of time for duties that directly relate to the successful implementation of the program(s).

**Position #1: Professional Fees**

**Justification for the position :**

We would like to partner with the students who are minoring in Native and Indigenous Studies and/or involved in the Cangleska Waste' program at Northern State University. These students could help with tutoring, mentoring, and connecting the students to their culture. In addition, we would like to allow participants to join the Native American Student Association and provide scholarships or activity fees if needed.

If the position is **existing staff**, explain how duties associated with this award are **outside the current scope** of their position and a provide a **plan** explaining how all duties associated with the position will continue to be provided and funded during this award:

Personnel Responsibilities & Duties *(must directly relate to the implementation of the program)*

Estimated % Time

1. Tutor

30

2. Mentor

50

3. Plan Cultural Activities

20

4.

Wage/Salary:

\$2,500

Benefits:

NA

**Position #2:**

**Justification for the position :**

If the position is **existing staff**, explain how duties associated with this award are **outside the current scope** of their position and a provide a **plan** explaining how all duties associated with the position will continue to be provided and funded during this award:

Personnel Responsibilities & Duties *(must directly relate to the implementation of the program)*

Estimated % Time

1.

2.

3.

4.

Wage/Salary:

Benefits:



**Please attach additional sheets for more than 2 positions**  
**SECTION 3. BUDGET NARRATIVE CONTINUED**

<b>Contracted Services Narrative</b> - Explain the consultant fees, consultant expenses, contracted services, the cost per service/per youth being served, how the cost for services was calculated, and the process that would be or has been conducted to select the consultant. <u>Contracted services fees cannot exceed \$650 per day.</u>	
<b>Consultant #1:</b>	Wambli Ska Okolakiciye (Wambli Ska)
Consultant Fees:	<p>Per trip to Aberdeen to lead a mobile version of Oyate Court, Wambli Ska would be requesting: \$600 for per diem and mileage as they intend to bring four (4) Wambli Ska staff to Aberdeen, SD to participate and lead in our Oyate Court. They will be staying overnight in Aberdeen. They are also requesting a stipend of \$150 per person/per trip to help cover their expertise and provide a salary stipend.</p> <p>Per trip to Aberdeen = \$1,200 or \$600 day</p> <p>The number of trips to Aberdeen is yet to be determined as well. The average number of Indigenous youth that have been diverted through the State's Attorney's office annually is 17. It is best practice to address youth behavior immediately so ideally, Wambli Ska would travel to Aberdeen every 4-6 weeks dependent on caseload.</p> <p>\$1,200 x 10 trips = \$12,000</p>
Contracted Service:	<p>Mobile Oyate Court</p> <p>This would be a culturally appropriate diversion program that is rooted in restorative justice, community, and culture. Oyate Court is a peer-based court made up of Indigenous elders and professionals that sit with the offender to determine a plan to keep the youth out of the juvenile justice system. These proceedings include Indigenous values and culture to help the youth feel more connected to their community while still being accountable for their wrong doings.</p>
Selection Process:	<p>Wambli Ska Okolakiciye has partnered with the Pennington County State's Attorneys Office to facilitate Oyate Court. Pennington County has a very similar diversion program to Brown County. The Vice President of Wambli Ska presented at the Emerging Adult Summit earlier this spring and shared the desire to expand Oyate Court. There were no other consultants that were considered for this project as to our knowledge, Wambli Ska is the only non-profit that has partnered with a State's Attorney Office to do this work.</p>
<b>Consultant #2:</b>	
Consultant Fees:	
Contracted Service:	
Selection Process:	
<b>Travel and Per Diem Narrative</b> - Explain the calculation of travel costs for travel <u>outside the home jurisdiction</u> , (travel must be calculated at current state rates (\$0.42 per mile and \$32 per diem)), how the expenses are directly related to the implementation of the project, and if out-of-state travel is anticipated, give particulars (i.e., location, state, dates, purpose, cost).	
<b>Purpose of Travel:</b>	Wambli Ska to stay overnight in Aberdeen
<p><math>\\$100 \times 4 \text{ staff} = \\$400</math></p> <p><math>\\$400 \times 10 \text{ trips} = \\$4,000</math></p>	



<b>Purpose of Travel:</b>	
$[Mileage] \times \$0.42 =$ $[Number\ of\ Travel\ Days\ for\ per\ diem] \times \$32.00 =$	
<b>Equipment and Operating Expenses Narrative</b> – Explain the supplies and equipment costs directly related to the implementation of the program or project. You must be specific regarding the items in which you intend to use federal funding. For example, a budget item of “office expenses” will not be accepted as these items must be detailed. You need to identify what you anticipate for office expenses and list each item and the estimated costs. Items not specifically outlined will not be eligible for reimbursement.	
<b>Equipment</b> – List nonexpendable items that are to be purchased and show how you calculated these costs. Nonexpendable equipment is tangible property having a useful life of more than 2 years.	
<b>Operating Expenses</b> – List items by type (office supplies, postage, training materials, copying paper, and expendable equipment) and show how you calculated these costs. Generally, supplies include any materials that are expendable or consumed during the course of the project.	
\$1,500 for miscellaneous office supplies such as pens, paper, postage, etc., as well as incentives for youth who successfully complete.	

## **SECTION 4. APPLICATION NARRATIVE**

### **A. PROJECT ABSTRACT AND DEMONSTRATION OF NEED**

The Brown County State’s Attorney’s Office in collaboration with Wambli Ska Okolakicite (Wambli Ska) would like to create a culturally appropriate diversion option for Native American youth in our community. Wambli Ska is a non-profit organization based in Rapid City, SD that operates several community programs, one of which is a diversion program that utilizes Restorative Justice, called “Oyate Court.”

Oyate Court is a peer-structured court, involving Native American elders, that utilizes peacemaking circles and Indigenous cultural approaches, rather than punishment. Jonathan Old Horse, Vice President of Wambli Ska, shares that to begin, the offender must be accountable for what they have done. The peer group hears from the parties involved in the crime before determining the solution. Through this process, they can get to the root of the issue and create a plan specific to the needs of the individual. Oyate Court is grounded in the seven Lakota values: Compassion, Generosity, Humility, Sincerity, Courage, Perseverance, and Wisdom.



The Brown County State's Attorney's Office has employed a diversion coordinator since 2019. In the past four years, an average of 17 Native American youth has been diverted annually. According to South Dakota Kids Count, the 2021 population estimate of Native American youth aged 10-17 was 6.6% but made up 17% of the detention population. It is important to note that this down from 28% from the previous fiscal year.

Though Brown County has a diversion option, stakeholders agree that a culturally appropriate option should be the next step in establishing a continuum. Native American youth are overrepresented in our systems and a program that introduces culture and connects our Indigenous youth to their elders will give them a sense of belonging and reduce recidivism.

## **B. STRATEGY FOR IMPLEMENTATION AND SUSTAINABILITY**

- I. Host a meeting to include mobile Oyate Court professionals from Rapid City, SD and interested Brown County stakeholders to develop Oyate Court team as soon as grant funding is obtained.
  - a. Locate a comfortable space for court to be held.
  - b. Identify Oyate Court team members.
  - c. Determine need for any further funding to be requested through the county or if other grants need to be explored.
- II. Obtain approval from 5<sup>th</sup> Circuit Presiding Judge for Oyate Court to be a court approved diversion program as soon as grant funding is obtained.
- III. Discuss options with Northern State University to involve students minoring in Native and Indigenous Studies and/or involved in the Cangleska Waste' Program to be mentors to youth going through Oyate Court.



- IV. Work with local hotels and visitor's bureau to inquire about reduced rate rooms to decrease cost of lodging for the mobile Oyate Court professionals.
- V. Discuss the Oyate Court model with the Indian Education Coordinator to develop pathways to connect participants with local cultural activities as well as the Native American Student Association through the public high school.
- VI. Publish a press release outlining the program in efforts to obtain community buy-in.
- VII. Meet with Native American youth that have previously been system impacted to hear about their experiences.
  - a. Discuss opportunities to also include this population into the Oyate Court decision-making process.
- VIII. Meet with Great Plains Area Urban Indian Health and Bureau of Indian Affairs to discuss partnership opportunities.
- IX. Train local tribal community members to operate Oyate Court to decrease future cost of travel and reimbursement subsidies.
- X. Determine referral process between the State's Attorney Office and Oyate Court.
  - a. This will also determine how often the mobile Oyate Court would need to travel to Aberdeen.
- XI. Track diversion data to submit to Department of Corrections to show the effectiveness of the program.
  - a. This data will also be utilized to identify gaps in services for future years.
  - b. Analyze data trends to determine if Oyate Court has reduced the overrepresentation of Native American youth in our formal court system.
- XII. Submit for reimbursement of Juvenile Justice Reinvestment Initiative Funds for each successful diversion.
  - a. Utilize reimbursement funds to help sustain the Oyate Court program going forward.



## **SECTION 5: CONFLICTS OF INTEREST, SPECIAL CONDITIONS AND ASSURANCES**

### **Council of Juvenile Services Conflict of Interest Identification**

Please identify which Council of Juvenile Services Members, if any, appear to have a conflict of interest with your application and provide a brief narrative explaining the potential conflict of interest.

A council member derives a direct benefit from the contract if one or more of the following is true of the member, the member's spouse, or a person with whom the member lives with and commingles assets:

- 1) Has a five percent ownership or other interest in an entity that is a party to the contract;
- 2) Derives income, compensation or commission directly from the contract or from the entity that is a party to the contract;
- 3) Acquires property under the contract; or
- 4) Serves on the board of directors of an entity (including a nonprofit) that derives income or commission directly from the contract or acquires property under the contract.

"Direct benefit" does not include gain from a contract based solely on the value of a council member's investment in an entity that is a party to the contract, if that investment represents less than a five percent ownership in the entity. It also does not apply to contracts or transactions where the council member only benefits from an act of the Council of Juvenile Services that has general application, such as a decision by the Council of Juvenile Services to increase or decrease a fee that many South Dakotans pay.

#### **List Current Members**

Beth O'Toole, Chair and Professor at the University of Sioux Falls;  
Sara McGregor-Okroi, Vice-Chair and Director of Aliive-Roberts County.  
Dadra Avery, School Counselor at Sturgis Brown High School;  
Pat Bad Hand, Rosebud Sioux Tribe Detention Center;  
Mason Best, Youth Member;  
Judge Tami Bern, First Judicial Circuit Judge;  
Skylir Skipper, Youth Member;  
Kristi Bunkers, Department of Corrections Director of Juvenile Services;  
Kim Cournoyer, Service Provider at Great Plains Psychological Associates;  
Charles Frieberg, Director of Trial Court Services;  
Melanie Boetel, Department of Social Services;  
Daniel Hagggar, Minnehaha County States Attorney;  
Cindy Heiberger, Former Minnehaha County Commissioner;  
Doug Herrmann, Executive Director of The Club for Boys;  
Sheriff Brad Howell, Codington County Sheriff;  
Angela Lisburg, Avera Saint Mary's Hospital;  
Dave McNeil, Aberdeen Police Department Chief;  
Jen Johnson, Southeastern Directions for Life JJRI Coordinator;  
Tierney Scoblic, Youth Member; and  
Cassidy Frederick, Youth Member.



## Special Conditions and Assurances

The following information contains the general conditions and assurances as necessary for recipients of funding awarded under this application. Please note that final assurances and conditions may be different than those stated below based on the composition of the individual program. Signatures under this section indicate that the applying agency understands that a successful subgrant award under this application you will be subject conditions and awards comparable to those as follows and that failure to adhere to outlined conditions and assurances may result in suspension or termination of the award.

### General Award Conditions:

1. The Subgrantee agrees to comply with all Formula Grant program requirements.
2. The Subgrantee agrees to follow the JDAI model and strategies.
3. The Subgrantee agrees to obligate and expend the grant amount within the subgrant award period.
4. The Subgrantee agrees to provide all program reports that are requested by the SD Department of Corrections or the Office of Juvenile Justice and Delinquency Prevention by their due date as requested.
5. The Subgrantee agrees to provide all Performance Measure Data and Program Specific data to the SD Department of Corrections.
6. The Subgrantee agrees to request reimbursement on a monthly basis and for only those expenditures outlined in the application approved by the SD Department of Corrections. Claims sheet and all supporting documentation must be submitted within 30 days of the end of the month that the services were paid.

**Assurances:** The Subgrantee hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars A-21, A-87, A-102, A-110, A-122, A-133; Ex. Order 12372 (intergovernmental review of federal programs); and 28 C.F. R. pts. 66 or 70 (administrative requirements for grants and cooperative agreements). The Subgrantee also specifically assures and certifies that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. The subrecipient's conflict of interest policy is to be provided to the SDDOC upon request for review.
3. It will give the awarding agency or the General Accounting Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.
4. It will comply with all federal, state, and local laws, regulations, ordinances, guidelines, permits, and requirements applicable to providing services pursuant to this Agreement and will be solely responsible for obtaining current information on such requirements. It will comply with all lawful requirements imposed by the awarding agency, specifically including applicable regulations 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 46, 61, and 63, and the award term in 2 C.F.R. § 175.15(b).
5. It will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Ex. Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).
6. It will comply (and will require any subgrantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); The Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disability Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. §§1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).



If a governmental entity -

- a) it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
  - b) it will comply with requirements of 5 U.S.C. §§ 1501-08 and §§ 7324-28, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.
7. It will provide language services for limited English proficiency (LEP) individuals as needed in order to provide services as covered under this award in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d.
  8. Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Acceptance of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying," 2 CFR Part 2867, "DOJ Implementation of OMB Guidance of Nonprocurement Debarment and Suspension," and 28 CFR Part 83, "Government-wide Debarment and Suspension," and Government-wide Requirements for Drug-Free Workplace (Grants)."
  9. Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," subrecipients are encouraged to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.
  10. Any website that is funded in whole or in part under this award must include the following statement on the home page, on all major entry pages, and on any pages from which the visitor may access or use a web-based services "This web site is funded through a grant from the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control, are responsible for, or necessarily endorse, the web site."

**Equal Employment Opportunity Plan (EEOP):** Pursuant to 28 C.F.R. §§ 42.301-.301, applicant must take one of the following actions: either submit an EEOP to the SDDOC for submission to the Office for Civil Rights (OCR) for review, maintain an EEOP on file, or submit an EEOP Certification form to the SDDOC for submission to the OCR in order to monitor the subrecipients compliance with the EEOP requirement.

**Non-supplanting Requirements:** Funds or other resources of the applicant normally devoted to programs and activities designed to meet the needs of criminal justice will not be diminished in any way as a result of a grant award of federal funds. The project for which assistance is being requested will be in addition to, and not a substitute for, criminal justice services previously provided without federal assistance.

**Audit Requirement:** Acceptance of this grant award requires the subgrantee organization or governmental entity to include this subgrant in the scope of their regularly scheduled annual or biennial audit. The audit must be conducted in accordance with the appropriate OMB Circular (A-128, A-133, A-102/Common Rule). If applicable, the subrecipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the subrecipient's website

**Termination Provision:** This Agreement may be terminated by the SDDOC hereto upon thirty-(30) days written notice. In the event the applicant/subgrantee breaches any of the terms or conditions hereof, the SDDOC may terminate this Agreement at any time with or without notice. If termination for such default impacts the SDDOC, any payments due to the applicant/subgrantee at the time of termination may be adjusted to cover any additional costs to the SDDOC because of the applicant/subgrantee's default. Upon termination, the SDDOC may assume the responsibility for the project or may award another party funds to complete the work under this Agreement. If after termination for default by the applicant/subgrantee it is determined that the applicant/subgrantee was not at fault, then the applicant/subgrantee shall be paid for eligible services rendered and expenses incurred up to the date of termination.



**Insurance Provision:** The Subgrantee, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

- o Commercial General Liability Insurance: The Subgrantee shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than **\$1 million** for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.
- o Professional Liability Insurance or Miscellaneous Professional Liability Insurance: The Subgrantee agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than **\$1 million**.
- o Business Automobile Liability Insurance: The Subgrantee shall maintain business automobile liability insurance or equivalent form with a limit not less than **\$1 million** for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.
- o Worker's Compensation Insurance: The Subgrantee shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, the Subgrantee shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days prior written notice to the State. The Subgrantee shall furnish copies of insurance policies if requested by the State. Such insurance shall contain no special limitations or exclusions as they may relate to this agreement.

**Default Provision:** This Agreement depends upon the continued availability of federal funds awarded to the SDDOC and appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds rejections, this Agreement will be terminated by the State. Termination for any of these reasons is not default by the State nor does it give rise to a claim against the State. Failing to provide monthly reimbursement and quarterly progress reports may result in termination of the subgrant award.

**Amendment Provision:** This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof and be signed by an authorized representative of each of the parties hereto.

**Venue Clause:** This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

**Subcontractors Provision:** The Subgrantee may only use subcontractors to perform the services as outlined in their approved grant proposal. Any additional subcontracts or awards may only be granted with the express prior written consent of the State. The Subgrantee will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Subgrantee will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

**Subgrantee Agreement:** It is understood and agreed by the Subgrantee that any grant received as a result of this application shall be subject to the Special Assurances and Conditions and other policies, regulations, and rules issued by the Department of Justice for the administration of grant projects under (P.L. 100-690) including, but not limited to, the following:

1. Competitive bids must be obtained for all equipment, construction and contracted services applications, as required by applicable local, state, or federal law or regulations.
2. If any agency other than the applicant is to contribute supporting or local funds, the Applicant must document the contribution.



3. Any funds awarded under one subgrant cannot be used in another.
4. Expenses or expenditures for items not listed in the original budget will not be reimbursed. Variances from the approved budget will require a budget amendment approved in advance by SD Department of Corrections.
5. All applicants are subject to federal, state, and local laws and regulations.
6. The Subgrantee shall not obligate any funds until the SD Department of Corrections formally awards subgrant.
7. The Subgrantee agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
8. Reimbursement of expenses is contingent upon submission of monthly financial reports.
9. The Subgrantee understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of SD Department of Corrections and OJP.
10. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money, all grantees receiving federal funds shall clearly state: 1) the percentage of the total cost of the program or project which will be financed with federal money, and 2) the dollar amount of federal funds for the project or program.
11. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, disability, or age against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs and to the SD Department of Corrections.
12. The Subgrantee agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as a result of performing services hereunder. This section does not require the Subgrantee to be responsible for or defend against claims of damages arising solely from acts or omissions of the State, its officers or employees. Nothing in this Agreement shall be construed as a waiver of sovereign immunity or consent to jurisdiction in any court other than the courts of the Unified Judicial System of the State of South Dakota.

**State of South Dakota Grant Subrecipient Attestation:**

If awarded, the subgrantee will attest to meeting the following requirements per SDCL 1-56-10:

1. A conflict of interest policy is enforced within the subrecipient's organization;
2. The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the subrecipient's website;
3. An effective internal control system is employed by the subrecipient's organization; and
4. If applicable, the subrecipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the subrecipient's website.




## SECTION 6. SIGNATURES


The officials who certify this document agree to adhere to all terms and conditions relating to this application. Duplication of responsibilities by one individual for any position listed below is NOT acceptable.

### Original Signatures are Required


#### County Commission Chair

Name	Duane Sutton	Title	Commission Chair
Address	25 Market St	City/State/Zip	Aberdeen, SD 57401
E-mail	duane.sutton@browncounty.sd.gov	Phone	605-626-7110
		Fax	605-626-4010
Signature		Date	5.30.23


#### B. Project Director

Name	Kelsi Vinger	Title	Diversion Coordinator
Address	22 Court Street Suite 2	City/State/Zip	Aberdeen, SD 57401
E-mail	Kelsi.Vinger@browncounty.sd.gov	Phone	605-626-7130
		Fax	605-626-7132
Signature		Date	5/24/2023

#### C. Financial Officer

Name	Lynn Heupel	Title	County Auditor
Address	25 Market St., Ste. 1	City/State/Zip	Aberdeen, SD 57401
E-mail	Lynn.Heupel@browncounty.sd.gov	Phone	605-626-7110 x 100
		Fax	605-626-4010
Signature		Date	5/24/2023

#### D. Other Official

Name	Patty VanMeter	Title	Treasurer
Address	25 Market St Ste 2	City/State/Zip	Aberdeen SD 57401
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## **SECTION 7. ATTACHMENTS**

**Description of Attachments** – Identify and describe the significance of all additional materials you include as attachments. Please limit additional materials to items such as program effectiveness documentation; pertinent letters of support or commitment; research documentation; resource documentation; and any other materials. Attach all additional documents following this page.

<b>Attachment 1</b>
News Article from SDPB
<b>Attachment 2</b>
2022 Detention Admissions by Race for Brown County
<b>Attachment 3</b>
News Article from The Guardian
<b>Attachment 4</b>
<b>Attachment 5</b>
<b>Attachment 6</b>

**ENCLOSE RELEVANT ATTACHMENTS AFTER THIS PAGE**

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# Oyate Court program to expand reach

SDPB Radio | By C.J. Keene

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South Dakota Unified Judicial System /

Oyate Court, a criminal justice partnership between state prosecutors and tribal representatives, is expanding. After beginning in Pennington County, efforts are underway to create a similar program in Tripp County.

Oyate Court offers a path for those in the criminal justice system that goes beyond locking up an offender.

Under the program, certain state cases are handed over to the Oyate Court. A circle of Lakota elders hears from all parties involved and comes up with a solution. Organizers say this follows an ancient procedure called "Peacemaking Circles."

Pennington County States Attorney Mark Vargo helped develop the program. He said

South Dakota Public Broadcasting  
Morning Edition



"Our relationship with Wambli Ska and Woyatan Lutheran Church, who are two of the centerpieces and the main people who are putting the time and effort into creating the Oyate Court, did not start because we had the idea to create an Oyate Court," Vargo said. "It started because we were doing diversion programming to try to get kids into a better situation."

Vargo said the program is steeped in Native culture.

"Wambli Ska and Woyatan (Lutheran Church) sponsored and ran come-as-you-are powwows, just very casual powwows where young native men and women could come and learn to dance, learn to make regalia, learn to drum sing," Vargo said. "We would literally youngsters coming through our diversion programming, either juvenile or adult, and we would tell them that the condition of their diversion is that they go attend five or six of these."

Johnathan Old Horse has been named an advisor for the upcoming Tripp County project. He said the future looks bright for the program.

"Actually we've had interest in the States Attorney Association, which is a nationwide association," Old Horse said. "We've had eight states attorneys that are very, very interested in what the Oyate Court is doing and how it can be implemented into cities. Using those tools of restorative justice."

Old Horse said Oyate Court is an effort to address challenges at the root level as opposed to incarceration.

## Tags

[Crime & Courts](#)[Tripp County, South Dakota](#)[Mark Vargo](#)[Native Affairs](#)

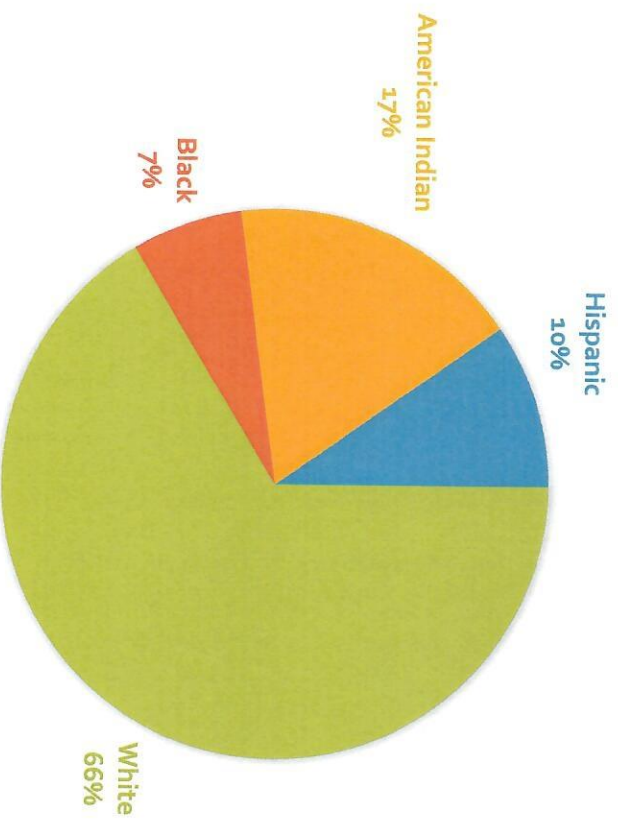
## C.J. Keene

C.J. Keene is a Rapid City-based journalist covering education, healthcare, arts and culture.

[See stories by C.J. Keene](#)



# DETENTION ADMISSION BY RACE



According to SD Kids Count, the 2021 population estimate was

- White – 84.2%
- American Indian – 6.6%
- Black – 1.8%
- Multiracial – 5%

11% decrease in American Indian youth  
8% increase in Hispanic youth





## Native Americans

# 'We look deeper': the Native court settling cases outside the justice system

In South Dakota, the Oyate Court - made up of Lakota elders - uses traditional peacemaking principles to stress healing over punishment

### *Stewart Huntington in Rapid City*

Sat 6 Aug 2022 03.00 EDT

Robert Jones was on edge, a Native American teen in a reservation border town courtroom.

He faced felony assault charges in Rapid City, South Dakota, home to a criminal justice system stubbornly plagued by racial disparities. Nearly all of the police, prosecutors, judges and jailers are white and more than half of the accused and incarcerated are Native American - despite comprising a fraction of the city's population.

"When you're in the western courts, you feel like you are alone, that you don't have anyone with you," said Jones, a citizen of the Oglala Lakota Nation. "That's why people get so scared - feeling that something bad is going to happen."



But Jones, 19, was lucky. His file landed with Pennington county prosecutors as they were cementing a groundbreaking partnership with a group of Lakota elders to divert some cases into the new Oyate court, or people's court, which employs a process based on Native culture and aboriginal peacemaking principles that stress healing over punishment.

The effort is part of a wave of initiatives across the nation in Indigenous communities seeking to reclaim Native heritage and craft homegrown, culturally based solutions to the problems of poverty - and the host of traumas it nurtures - that have defined life for American Indians since they were forced to abandon their ancestral lands and lifeways for urban or reservation life. In Rapid City, those efforts include a new elementary school Lakota immersion language program and a grassroots volunteer effort to build an urban Indian center.

Jones's case was turned over to the elders.

"When people get in trouble, just locking them up won't help," said Chris White Eagle, a Cheyenne River citizen who sits on the circle of elders. "With Oyate court we look deeper into trying to heal them. We get to ask the questions the courts don't ask. Get to the root of the problem."



Chris White Eagle, left, gestures while speaking with Pennington county state's attorney Mark Vargo at a Lakota cultural celebration sponsored by White Eagle's youth empowerment program. Photograph: Stewart



Huntington

Officially launched last spring with twice-monthly meetings, the Oyate court now hears cases every week. The remarkable collaboration with the Pennington county state's attorney's office is modelled on "diversion" programs found in many jurisdictions across the country, in which some offenders avoid formal court processing and adjudication.

In the case of the Oyate court, a defense attorney or prosecutor can recommend a case file to the elders. All parties must agree to the change in venue - prosecutors, defense, defendant and the elders - and then the Oyate court proceedings begin, bringing Lakota values and culture into healing discussions and proscriptions.

"Some tools used in peacemaking are accountability, forgiveness and sincere apologies," said Dr Polly Hyslop, an Upper Tanana River Athabaskan and advisory committee member for the Native American Rights Fund Indigenous Peacemaking Initiative. "It really works to create healthier and safer communities."

Rapid City is the nearly all-white 75,000-person economic hub for western South Dakota and three nearby Indian reservations - Pine Ridge, Cheyenne River and Rosebud. Simmering racial tensions periodically surface, as they did last month when a hotel owner tweeted that Native Americans would no longer be welcome in the establishment, prompting large-scale protests and a federal civil rights violation lawsuit.

The territory's Native American citizens face some of the nation's statistically stiffest headwinds, including low life expectancy and graduation rates and high unemployment, incarceration and addiction rates. Increasingly the Native American community sees cultural renaissance as the path to renewal.

**■ ■ We stress the seven Lakota values: compassion, generosity, humility, sincerity, courage, perseverance, wisdom**  
**Jonathan Old Horse**

"It took me well into my 30s before I found my spirituality and started going to sweat and Sundance," said White Eagle, referring to *inipi*, or sweat, purification ceremonies and the sacred multi-day Sundance rituals, the once outlawed community gatherings involving gestures of personal sacrifice for the people. "Giving these kids a taste of that early on in life - I think that is key," he said.



The Oyate court elders infuse Lakota values and culture into their healing discussions and proscriptions. "We stress the seven Lakota values: compassion, generosity, humility, sincerity, courage, perseverance, wisdom," said Jonathan Old Horse, one of the nine elders who sit on the court and an Oglala Lakota citizen who is pastor of Rapid City's Woyatan Lutheran church, where the court meets.

"Those are the traits that seem to be lacking in the community and the country today," he said. "If we can get that teaching to these younger adults, it will click in their mind that this way of life that was enforced upon us is not the only way. It's living the Red Road" - according to traditional Indian moral and ethical standards - "that teaches us personal responsibility and responsibility to our community".

**T**he state's attorney involved in the Oyate court, Mark Vargo, had previously expanded his juvenile diversion program - a version of which is employed by most jurisdictions in the country - first to include young adults and then all ages. Not every case is eligible for such programs: they are generally limited to non-violent crimes and to participants who don't have long police records. Participants must take responsibility - in writing - for the actions that resulted in their arrest and agree to follow a custom course of action that might include classes, apologies or paying restitution. Full compliance with diversion programs can lead to dropped charges and expunged records. Failure can result in cases popping right back up on the state docket.

"Early intervention with an active participation of a defendant can be more effective at keeping them out of the system than simply putting them in jail," said Vargo in 2018, when he extended diversion opportunities to adult offenders. His growing diversion database shows lower recidivism rates for participants compared with the office's averages and - after expanding his diversion efforts to all age groups - a next logical step was to breach the cultural gap and form partnerships with the Lakota community.

"We recognize huge racial disparities in our community with our Native American population," said Lara Roetzel, the deputy state's attorney for Pennington county. "They make up only - depending on what study you look at - 9 or 11% of our population but they are incarcerated at 60 or 70% of our jail population. That's just wrong."





📷 Lara Roetzel, a deputy prosecutor in Rapid City. Photograph: Stewart Huntington

Roetzel said the territory needed some new ideas.

“What are we doing with this population that is not working?” she asked. “What can we do to connect with this unique Native American population? And now we have the best idea yet and that is Oyate court. The elders hear that case and they ask questions of the participant and get at the real heart of the matter. And then they come up with a plan to address whatever the real issue is.”

When the Oyate court began, it served only adult cases. By February the court’s initial successes prompted the elders and prosecutors to add young adult and juvenile cases and expand to weekly sessions. Now it is hearing all manner of cases up to, though not including, capital felony cases. And Oyate court could be ripe for growth beyond Rapid City.

“Other tribes have come to see what we’re doing,” said Old Horse. “And see how they might implement it in their territory.”

And it has caught the attention of other prosecutors. “Pennington county is a leader in implementing creative solutions,” said David LaBahn, the president of the Association of Prosecuting Attorneys, who invited Roetzel to present at his organization’s national convention in December. “This could be a model for other jurisdictions.”



## **■ The way we solve problems as prosecutors is by allowing communities that are impacted by crime to right those wrongs**

**Lara Roetzel**

Roetzel agreed. "I think that's how we move forward with criminal justice in the 21st century," she said. "We're not going to solve problems by incarcerating people, we know that. We're not going to solve problems with probation and parole. The statistics have proven that. I think the way we solve problems as prosecutors is by allowing communities that are impacted by crime to right those wrongs."

Which doesn't make it easy. Just ask Robert Jones, who was scared standing before a Pennington county circuit court judge and scared *again* when he faced the Oyate court elders' circle.

"What made me nervous was these are my Native people, these are your elders and in Native culture you have to respect your elders," he said. "It's really nerve-racking because they're judging you and saying things that make you think, 'Like, dang, I really need to do better. I really need to get my life together.'"

Half a year after his arrest for his role in a fight that he says he joined to protect his brother, he is steadily employed and takes care of his infant son. He says that before he got arrested he was on a different, less healthy path and attributes the turnaround to the words of his elders. "They give you that extra push, that extra motivation," he said. "And sometimes that extra push is what you need. I guess that's what made me nervous, because I didn't know if I had it in me."