

**Reducing Racial and Ethnic Disparities Through Diversion**  
*A Capstone Proposal from*  
*Minnehaha County, South Dakota*

February 2018

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***Project Description***

We are working to achieve our goal of reducing racial and ethnic disparities among low-level juvenile offenders in Minnehaha County. Our projects will focus on three strategies:

- Develop a memorandum of understanding between schools, the courts, law enforcement and local government that establishes agreed-upon institutional responses to behavioral incidents that occur in the school.
- Create a new Diversion Coordinator position that will facilitate pre-arrest diversions and diversions, helping prevent youth from deeper involvement in the juvenile justice system.
- Improve access to culturally-informed programming for youth of color who are at risk of or involved in the juvenile justice system.
- Provide training on implicit bias to local stakeholders.

***Project Participants***

The following individuals participated in the development of this project proposal:

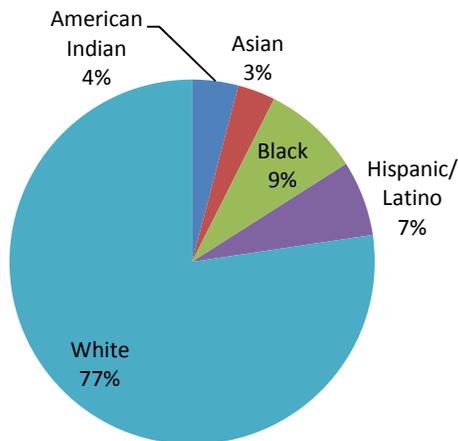
- Judge Joni Cutler
- Deputy State's Attorney Carole James
- Public Defender Andrew Robertson
- Sergeant Jason Leach, Sioux Falls Police Department
- Annie Brokenleg and Rebecca Kiesow-Knudsen, Lutheran Social Services of SD
- Erin Srstka, Minnehaha County Commission

***1. Summary & Background of Problem***

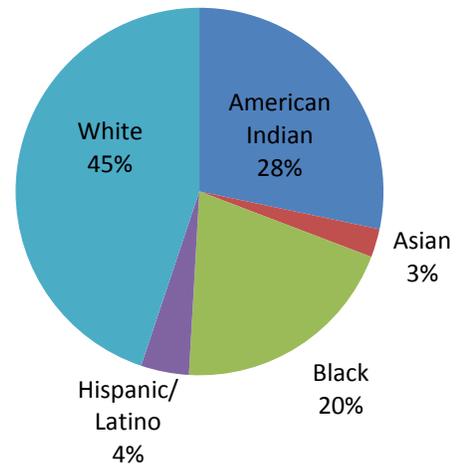
***a. Data Used to Identify This Issue***

As in many jurisdictions, youth of color are over-represented in the juvenile justice system in Minnehaha County. In 2016, youth of color represented 23% of the juvenile population, but they represented 56% of juvenile arrests. The two populations most significantly over-represented include American Indian youth (4% of the population but 28% of juvenile arrests) and Black/African American youth (9% of the population but 20% of juvenile arrests).

## 2016 Juvenile Population



## 2016 Juvenile Arrests



According to 2016 arrest data for Minnehaha County, runaway and disorderly conduct charges compose the majority of arrests, specifically for youth of color.

Furthermore, a significant percentage (16%) of all arrests occurred in the schools. For school-based arrests, 60% of arrests were youth of color.

In our community, we see particularly high disparities among our Native American population for low-level offenses, such as runaway/CHINS (child in need of supervision). In South Dakota, child in need of supervision is defined as: “any child of compulsory school age who is habitually absent from school without legal excuse; any child who has run away from home or is otherwise beyond the control of the child's parent, guardian, or custodian; any child whose behavior or condition endangers the child's own welfare or the welfare of others; any child who has violated any federal, state, or local law or regulation for which there is not a penalty of a criminal nature for an adult.” In 2016, runaway/CHINS arrests comprised 30% of all arrests. 63% of runaway arrests were youth of color and 31% Native American.

### b. Importance of This Problem in Community Context

Beginning in 2011, Minnehaha County began participation in the Juvenile Detention Alternatives Initiative (JDAI) sponsored by the Annie E. Casey Foundation. As a result of this work, there has been a significant reduction in the percentage of youth who are sent to locked detention. Between 2009 and 2015, there was a 49.8% decrease in the number of DOC commitments statewide. Between 2010 and 2014, there was a 54% decrease in the number of admissions to secure detention.

In August 2013, the Burns Institute submitted a 36-page Readiness Assessment Consultation

report, which incorporated two days of Minnehaha County stakeholder interviews and research into county-specific demographic, DMC, and youth issues. At that point, participants in the DMC committee meetings identified a need to target interventions for Native American and African-American youth. Although county statistics on justice-involved refugee youth are not available, there was a general feeling that youth and families who were African refugees and immigrants were a significant part of the disproportionate African-American justice involvement. Support to reduce disparity among these groups comes from county and statewide education administrations, statewide juvenile court officials, social service agencies, counseling practitioners, and other youth advocates. We have worked to involve parents in learning about and supporting DMC reduction efforts.

In addition to the Burns Institute report and JDAI, South Dakota has also undergone significant reforms to its juvenile justice system. In 2014, the state's Juvenile Justice Reinvestment Initiative Work Group analyzed juvenile justice data and considered whether policies could be developed to improve outcomes for juvenile offenders at a lower cost. The work group developed a package of policies that resulted in Senate Bill 73. The goals of these reforms were to strengthen youth outcomes, reduce costs, and expand access to community-based interventions. Incentives were created for expanded diversion programs and a citation process implemented to address low-level violations. The ripple effects of the new legislation are still being worked out at the state and local level.

Despite all of these changes, review of the data indicates that racial and ethnic disparities persist at each decision point in the system, beginning at the point of arrest. The theory behind this project is that use of a pre-arrest diversion program will offer youth an opportunity to avoid involvement in the justice system by addressing underlying issues through targeted programming. While pre-arrest diversion will assist all youth in the justice system, emphasis on expansion of culturally informed programs will help to reduce the disproportionate involvement of youth of color in the system.

## **2. Key Partners**

The first step in our implementation plan includes buy-in from necessary partners. Our primary partners in our project will include:

- Minnehaha County Commission Office
- State's Attorney's Office
- Public Defender's Office
- Sioux Falls School District
- Sioux Falls Police Department
- Lutheran Social Services
- Other local service providers.

In addition, we will have consistent contact with our state and local JDAI Coordinators along with our technical assistance representative through the RED Certificate program.

Minnehaha County has a long history of attention to disparities in the justice system and has wide buy-in and participation from key stakeholders. These partnerships will help to ensure

successful implementation of the project. A Racial and Ethnic Fairness workgroup meets monthly and involves all of the stakeholders listed above.

### **3. Key Deliverables**

#### **a. When, How, by Whom**

#### **Strategy #1: Memorandum of Understanding**

Analysis of the data for juvenile arrests in Minnehaha County indicates that a primary location of arrest is at the school and that youth of color are disproportionately arrested at school. In order to assist with implementation of our project and improve overall educational and community outcomes for our youth, it is critical to work toward development of a memorandum of understanding between schools, the courts, law enforcement and local government that establishes agreed upon institutional responses to behavioral incidents that occur in the school.

The Memorandum of Understanding will be based on the principles of the School-Justice Partnership National Resource Center. Judge Teske and his team visited Minnehaha County during summer of 2017 to introduce the concept of school-justice partnership. Due to conflicting priorities among stakeholders, this work has not advanced significantly since his visit. A more focused and detailed process is required to reach consensus among the group and established detailed responses to behavior incidents.

As part of this project, we will seek funding for a neutral, third party consultant to conduct a series of meetings to work toward a shared vision for how the community can work together to keep kids in school and out of court. Judge Teske and his team have signaled a willingness to return to the state to assist with this work.

#### **Strategy #2: Implement a Diversion Coordinator**

We will hire a Diversion Coordinator position that will work with eligible youth and their families. The Diversion Coordinator will work with all youth who qualify for pre-arrest diversion and also work with those youth who have been diverted.

Implementation of pre-arrest diversion will occur in stages. Initially, all runaway charges will be eligible for pre-arrest diversion. The long-term goal will be to include disorderly conduct and truancy, but in order to do so further discussion with the schools will be required as well as consideration to appropriate interventions into which youth may be referred. Initially, pre-arrest diversion will be offered to first-time offenders, but consideration will be made to including repeat offenders during implementation.

Eligible youth and families will be assessed by the Diversion Coordinator (ideally a Master's-level social worker), who will determine what services, if any, are appropriate. The initial assessment will include an analysis of the risks and needs of the youth to insure appropriate referrals. The Diversion Coordinator will work closely with the State's Attorney and school resource officers. By connecting youth with appropriate resources and/or programs, the

Diversion Coordinator will help to prevent further involvement in the system.

The South Dakota Council of Juvenile Services has signaled an interest in funding any work that results from the Georgetown Capstone program by offering a request for proposals that is due in March 2018. This funding, if successful, in combination with funding from Minnehaha County, will be used to fund the new Diversion Coordinator.

Lutheran Social Services (LSS) currently holds the contract for a middle school diversion program and the Racial and Ethnic Fairness Coordinator. We have agreed that an expansion of this contract to include a Diversion Coordinator FTE will help us advance the work. The grant application will include a request to fund 55% of the personnel costs for the Diversion Coordinator. This reflects the percentage of youth arrested who are youth of color. The grant request will also include funding for university involvement in data tracking and monitoring and the cost of a neutral facilitator for the School-Justice partnership discussions described above. The remaining costs of the Diversion Coordinator will be funded by Minnehaha County based on the financial reimbursement provided to the county for successfully diverting youth, which was part of recent juvenile justice reforms in the state.

### **Strategy #3: Increase access to culturally informed programming for youth of color**

Another important step in the implementation process is to find programming and alternatives that will fill the needs of the youth we are serving. While the community offers many programs, it lacks extensive programming that is sensitive to the cultural needs of youth. Research conducted by the Georgetown team and by the local Racial and Ethnic Fairness workgroup indicates several evidence-based practices and promising programs that are culturally sensitive or culturally informed.

Upon hire, the Diversion Coordinator will complete a resource map of programming available through existing community partners. In recent years the state of South Dakota has increased access to evidence-based community programming for youth at risk of involvement in the juvenile justice system. The Juvenile Justice Reinvestment Initiative opened opportunities for families and youth to access Functional Family Therapy, Aggression Replacement Training, and Moral Reconciliation Therapy. The Department of Social Services Division of Behavioral Health also provides access to mental health and substance use services for youth. A number of community-based organizations offer access to youth development programs. Resource mapping will help to identify whether there may be gaps in the current array of services. In addition to culturally informed programming, there may be opportunities to develop, enhance or improve programming that specifically target runaway youth and/or that are effective in addressing truancy.

Upon completion of the resource mapping, the Diversion Coordinator will work with the Georgetown workgroup and the Racial and Ethnic Fairness workgroup to develop a plan for program development, funding and implementation. The Georgetown team has expressed early interest in restorative justice models that involve talking circles, as an example, for Native American youth. The team has planned a site visit in April to observe similar programs offered in St. Paul, Minnesota that have been shown to be successful.

In order to offer expanded programming, we will need to consider both funding for the pilot stages of implementation and an ongoing source of funding. Private and public sources of funding will be considered to support this work. Representatives from the Racial and Ethnic Fairness workgroup have met with the Bush Foundation, which has a history of offering support to programs that address disparities. We will consider submitting a Bush Foundation Community Innovation grant in 2018 to support the work of the project.

#### **Strategy #4: Provide training on implicit bias to local stakeholders**

Finally, we would like to offer the community expanded access to training on implicit bias. Stakeholders have been offered some training in implicit bias, but the training has not been widespread or in depth. At a day-long Racial and Ethnic Fairness conference offered in August 2017, a brief session on implicit bias was provided by local trainers. Upon return from the November Georgetown training, our Deputy State's Attorney provided a brief training to staff at the juvenile detention center that was well received.

In 2018, the Sioux Falls Police Department will be receiving four hours of training on implicit bias as part of its in-service training schedule. "The Fair & Impartial Policing® (FIP) training program applies the modern science of bias to policing; it trains officers on the effect of implicit bias and gives them the information and skills they need to reduce and manage their biases. The curricula address, not just racial/ethnic bias, but biases based on other factors, such as gender, sexual orientation, religion, and socio-economic status.

Our plan will be to seek grant funding to cover the costs of bringing a professional trainer on implicit bias to the community this year in order to expand the reach of the training. The training will be offered to all stakeholders, but there will be an emphasis on attendance from school resource officers and others directly involved in the project.

#### **Monthly Capstone Meetings**

In order to ensure that the work of the Capstone proposal continues on schedule, we have scheduled a regular monthly meeting of the capstone team. During this meeting we will review the progress toward completion of the action items, prioritize next steps, and review the data from the most recent reporting period to determine whether adjustments to our strategy may need to be made.

**b. Workplan and Timeline**

| <b><i>Goal</i></b>                       | <b><i>Action Plan</i></b>  | <b><i>Target Date</i></b> | <b><i>Responsible parties</i></b>   |
|--|--|---------------------------|---|
| Memorandum of Understanding with schools | Present Georgetown info/Capstone project to necessary stakeholders to obtain buy-in. Present to the Racial and Ethnic Fairness workgroup, the Council on Juvenile Services, the Minnehaha County Commission and the Sioux Falls School Board.  | 4/1/2018                  | Judge Cutler, Jason Leach, Carole James, Andrew Robertson, LSS, Erin Srstka |
|  | Set up a meeting with school leadership to discuss the goals of the project, review MOUs from other locations, and obtain buy-in to the process.   | 4/1/2018                  | Minnehaha County Commission, Judge Cutler, Carole James, Andrew Robertson   |
|  | Seek a champion within each stakeholder group that is both committed to the work of the group and holds sufficient authority to guide the development of the MOU.  | 4/1/2018                  | Judge Cutler, Carole James, Andrew Robertson                                |
|  | Hire a neutral facilitator for school-justice partnership project to help the team make progress toward consensus.   | 4/1/2018                  | LSS   |
|  | Convene a series of workgroup meetings that work toward consensus on responses to youth behaviors.   | 5/1/18-7/31/18            | Georgetown team   |
|  | Invite Judge Teske’s team back for a site visit to help energize and focus the work of the group.  | 8/31/18                   | Georgetown team   |
|  | Finalize Memorandum of Understanding and implement agreement during the 2018-2019 school year.   | 8/31/18                   | All   |
| Diversion Coordinator                    | Establish monthly meeting of Georgetown team to review data and progress on implementation of the plan   | 3/1/2018                  | Georgetown team   |
|  | Obtain funding for new Diversion Coordinator and determine the structure for the position. Submit a grant application to the Department of Corrections Council on Juvenile Services to fund the diversion coordinator position, data analysis. | 3/30/2018                 | Carole James, Erin Srstka, LSS  |
|  | Develop job description and expectations.  | 3/30/2018                 | LSS with consultation from Georgetown team                                  |
|  | Recruit and hire master’s level Social Worker/Counselor for position. Train in juvenile justice concepts and racial equity practices.  | 3/30/2018                 | LSS   |
|  |  |                           |   |

| <b><i>Goal</i></b>                                  | <b><i>Action Plan</i></b>   | <b><i>Target Date</i></b> | <b><i>Responsible parties</i></b>           |
|---|---|---------------------------|---|
|   | Establish relationship with local university for assistance with data tracking and monitoring.  | 6/30/2018                 | LSS with consultation from Georgetown team  |
|   | Complete resource mapping of available community-based programs for youth and families.   | 8/31/2018                 | Diversion Coordinator                       |
| Increase access to culturally-sensitive programming | Visit existing programs targeting Native youth in St. Paul that have seen positive results.   | 4/20/2018                 | Georgetown team                             |
|   | Research restorative justice/talking circle programming and other programs that may be available for the targeted populations.  | 8/01/2018                 | LSS, Erin Srstka, Carole James, Jason Leach |
|   | Leverage funding for culturally responsive programming aimed at youth engaging in aggressive behavior in school/community.  | 8/31/2018                 | LSS with consultation from Georgetown team  |
|   | Identify service provider/staff person to implement program.  | 8/31/2018                 | Georgetown team                             |
| Offer training to stakeholders on implicit bias.    | Research available trainers, costs and potential dates for training and include in grant funding request.   | 3/31/2018                 | Rebecca Kiesow-Knudsen                      |
|   | Offer training to community.  | 10/31/18                  | Georgetown team                             |
|   | Conduct and/or encourage discussions within stakeholder groups regarding the response to the training and any changes that would be recommended locally to as a result of information gained. | 12/31/18                  | Georgetown team                             |

#### **4. Alignment with Other Efforts**

##### **Racial and Ethnic Fairness Workgroup**

Since 2007, a steering committee has existed in our jurisdiction to reduce racial and ethnic disparities. This group was originally called the DMC work group. In the last year, the work group decided to change the name to the Racial and Ethnic Fairness (REF) work group. The name change has succeeded in increasing community involvement with monthly coalition meetings and trainings. Currently, the REF work group is made up of 19 members that are involved with the Juvenile Justice system in some capacity and/or working with youth and families.

The main task of the REF work group is to develop and implement a work plan that is aimed at reducing racial and ethnic disparities in our jurisdiction. The work plan outlines several strategies including holding monthly coalition meetings to engage with families, youth, and service providers to explore programming and resources available to keep youth out of the justice system. In the last year, coalition meetings have been held at a local middle school which has increased involvement with youth. However, it remains a challenge in the community to increase parent involvement at coalition meetings.

The work plan outlines several trainings that aim to increase cultural competence among professionals in the juvenile justice system. This includes onsite training at JDC, a community-based summer training series, and an annual conference. Evaluations for conferences and trainings indicate participants have increased self-awareness in how they interact with others from different backgrounds and an increase in their own cultural competence.

In the REF workgroup, data is used to target and identify the groups that are disproportionately represented, and to analyze at which decision points alternative interventions may help reduce secure detention, reduce deeper system involvement, and avoid recidivism among those disproportionately represented within the system. Review of data has been successful as it helps the work group develop next steps and strategies for the work plan based on analysis.

We will work in collaboration with the Racial and Ethnic Fairness workgroup and keep them informed of progress as implementation continues.

##### **Juvenile Detention Alternatives Initiative**

Work on the Juvenile Detention Alternatives Initiative also continues at the state and local level. We plan to maintain regular communication with the local and state JDAI partners group on our progress and results, coordinating with their efforts where appropriate.

##### **Results-Based Leadership**

Leaders at Lutheran Social Services recently completed the Results-Based Leadership Training with the Annie E. Casey Foundation. LSS interacts with a large percentage of youth and families involved in the justice system through the Reception Center, Shelter Care, Evening Report Center, middle-school diversion, delivery of JJRI services, and coordination of the racial and ethnic fairness activities for the county. LSS has incorporated the results-based leadership

framework into its operations in an effort to improve outcomes for youth of color. This framework will be useful to assist in the advancement of the project.

## **5. Barriers to Implementation and Plans to Overcome Them**

We recognize that there are several barriers to successful implementation of our plan. Some of them include:

### **Stakeholder Engagement**

In order to attain success it will be necessary to engage all stakeholders in the project. The participation in the Georgetown program from the juvenile judge, State's Attorney's office, the Public Defender, and law enforcement reflects the powerful commitment toward reducing disparities and improving outcomes for youth and families. Due to scheduling conflicts, the Georgetown team did not include representation from local schools. Increasing the awareness and engagement of schools in this process will be central to the success of the project.

To improve stakeholder engagement for the schools, we will meet with local School Boards and superintendents to make them aware of the project goals and timeframes. We will ask them to identify a representative to participate in the school-justice partnership work group as well as identify champions at the school level who can be engaged in and aware of the project.

In addition, social service, mental health and substance use organizations will be central to ensuring youth access to appropriate, targeted interventions. Most key organizations are represented within the Racial and Ethnic Fairness workgroup so continued collaboration and communication with that workgroup will be important.

### **Funding**

The SD Council of Juvenile Services has expressed an interest in supporting this project through grant funding. As the project evolves and new targeted interventions for youth of color are identified, we will need to identify potential ongoing sources of funding. These may include private grants during the pilot phase, but we will also need a plan for sustained, ongoing funding.

### **Data Monitoring/Access**

Minnehaha County has provided an annual overview of juvenile justice data to the Racial and Ethnic Fairness Workgroup. In order to increase the effectiveness of efforts, a more regular review of data will be necessary in order to more quickly identify whether changes are having an impact on the results.

As national attention has increased on the disproportional representation of youth of color in the justice system, stakeholders have seen increased scrutiny from the media and the public. This increased political pressure can create barriers to open and transparent review of results.

### **Juvenile Justice Reform**

Because the Juvenile Justice Reinvestment Initiative and associated reforms are still relatively new to the state, adjustments are being made to address unintended consequences of the changes and to develop programming that helps address unmet need. The changes have been difficult for

certain stakeholders. The “noise” that these changes created may further complicate the political environment and therefore negatively impact our efforts.

### **Family Engagement**

The Racial and Ethnic Fairness Coordinator has worked in recent years to improve family and parent engagement this work. Ensuring that youth and parents who are impacted by the juvenile justice system have a voice is central to ensuring appropriate and effective interventions. This requires creative outreach strategies to reach communities of color and create dialogue and discussion. We will need to continue to strategize creative ways to involve youth and families as we continue our work.

## **6. How Success Will Be Measured**

In order to monitor the success of the program, we will track and analyze data to determine outcomes and success of our capstone project. Responsibility for data collection will be primarily that of the Diversion Coordinator, with support from the agency that will host the Diversion Coordinator.

The team is also seeking funding through the State Department of Corrections to support the involvement of Augustana University (Sioux Falls) in data analysis and measurement of programmatic success. Augustana University has an established relationship with Minnehaha County on other projects so incorporating them in this project should not be cost prohibitive.

We anticipate that we will collect the following data elements:

- Number of youth who participate in pre-arrest diversion
- Number of youth who participate in diversion
- Percentage of youth who successfully complete diversion and/or pre-arrest diversion, avoiding re-arrest during the duration of the intervention
- Percentage of participating youth who avoid arrest during the six months following program completion
- Percentage of youth who avoid arrest during the twelve months following program completion.

All data will be disaggregated by race and gender in order to help inform implementation.

In addition to monitoring the success of program participants, the Georgetown workgroup will work with law enforcement to monitor juvenile arrest data at regularly scheduled monthly meetings, including a breakdown of arrests by arrest type and location of arrest. This data will also be disaggregated by gender and race.