Sexual Violence in South Dakota
2020 Data Report

SOUTH DAKOTA DEPARTMENT OF HEALTH

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INTRODUCTION

While the national rape rate has been steadily declining since 1992, the rape rate in South Dakota (SD) has been steadily increasing since the 1960s, and has remained higher than the national rate since 1992.[1,2,4] In 2020, South Dakota had the third highest rape rate in the nation at 67.1 per 100,000 inhabitants, considerably higher than the national rate of 38.4 per 100,000.[1,2] Over half of the 2020 rape victims in SD were under the age of 20 (58.5%), about 9 in ten were female (92.9%), and while over half were White (53.2%), Native Americans were markedly overrepresented among rape victims (31.1% of victims and 9% of population).[2] Over half of the 2020 rape offenders in SD were under the age of 30 (55.8%), more than nine out of ten were male (96.1%), close to half were White (47.1%), and like rape victims, Native Americans were overrepresented among rape offenders (26.3% of offenders and 9% of population).[2]

DATA USE CONSIDERATIONS

This report is a compilation of the available data on rape and other acts of sexual violence in South Dakota (SD). However, the data included in this report have limitations. The number of sexual offenses committed in any given year can vary greatly depending on the source consulted, and even with the best data sources, estimating the actual number of sexual offenses committed is extremely difficult due to low levels of reporting. Given that data limitations vary by source, data from differing sources should not be combined. The limitations of each data source are summarized at the beginning of the section to provide information needed to choose the dataset that best addresses the question. Populations served should be the primary consideration when selecting use of a data sources, with some general considerations presented:

- *South Dakota Office of the Attorney General: Crime in South Dakota*[3] Crime in South Dakota is the annual publication that presents compiled crime data voluntarily reported by SD sheriff offices, police departments, and the Division of Criminal Investigation. This data is submitted to the FBI for inclusion in the national crime data released by the Uniform Crime Reporting Program. However, the data provided in this publication cannot be compared to data released by the FBI, as the FBI uses estimations for non-reported data. The Crime in South Dakota publication is typically used for county comparisons and to monitor trends of violent crime at the county or city level. This publication does *not* include crimes committed on Indian Reservations, as this data is reported directly to the FBI.

Sexual Violence in the United States

Sexual violence is a serious public health concern affecting millions of people in the United States each year, a problem that disproportionately affects women, youth and young adults, and Native Americans. Nearly half of women (43.6%) and about a quarter of men (24.8%) experience some form of contact sexual violence in their lifetime.[5] Contact sexual violence includes rape, being made to penetrate someone else, sexual coercion, and/or unwanted sexual contact.[5] Roughly four out of five rape survivors (80.2%) report the first occurrence taking place prior to age 25.[5] Of these, over half (54.8%) were under the age of 18.[5] Native Americans have the highest lifetime prevalence of sexual violence victimization of any race in the U.S. (excluding those who identify with more than one race).[6] More than one in three (35%) Native American women are raped in her lifetime and over half (56.1%) experience some form of sexual violence.[7]

- *Federal Bureau of Investigation (FBI) Uniform Crime Reporting (UCR) Program* [1,2,4,24]

The FBI UCR Program serves as one of the nation's primary crime reporting systems, and its main objective is to generate reliable information for use in law enforcement administration, operations, and management. City, university/college, county, state, tribal, and federal law enforcement agencies voluntarily submit crime data to the FBI's UCR Program. Data is typically used to compare crime data between states or to monitor trends at the state and national level. The FBI derives state crime totals by estimating for nonreporting and partially reporting agencies within each state. In the absence of available and valid data from tribal agencies, UCR data can also be used to examine sexual violence data by tribe. However, little or no data is available for some SD tribes as the result of certain tribal law enforcement agencies opting not to submit crime data, changes in reporting, or being "covered by" another agency.

- *Campus Safety Reports*[31, 45]

Campus Safety Reports are public annual reports that disclose criminal data occurring on or near individual college or university campuses to comply with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). Any post-secondary education institution that receives federal funding is required to disseminate a public, annual campus safety report. Data is typically used to monitor crime data specific to higher education institutions. The data included in safety reports are obtained through individuals and organizations associated with the institution, such as campus security authorities. A crime is considered reported when brought to the attention of a campus security authority, meaning the reported incident does not have to be investigated. Therefore, alleged criminal incidents are included in the campus safety reports.

- *Youth Risk Behavior Survey (YRBS)*[9]

The YRBS examines individual-level experiences and behaviors of SD students grades nine to 12, including experience of sexual violence. The survey is conducted with a random sample of students and can be used to make comparisons at the state level and monitor trends over time.

- *SD Department of Public Safety*[36]

The SD Department of Public Safety (DPS) provides data upon request regarding individuals who receive services from facilities funded by the SD Victims Assistance Program. The data illustrates the number of individuals accessing services for specific needs, such as shelter, advocacy, crisis counseling, and other victims' services related to sexual assault, domestic violence, stalking, human trafficking, and other violent crimes. Data can be used to monitor state-level trends in the number of individuals seeking out resources, and provide a generalized estimate for occurrences of certain violent crimes in SD.

- *National Human Trafficking Hotline*[37]

The National Human Trafficking Hotline provides annual data regarding national and state-level human trafficking incidents. Data is gathered from the number of contacts (phone calls, texts, online chats, emails, and online tip reports) received by the hotline. State data is collected when SD is referenced in the contact. Data from the hotline can be used to monitor and compare national and state reported human trafficking incidents.

TERMINOLOGY

Sexual Violence, Sexual Assault, or Rape?

Sexual violence is defined as, "a sexual act that is committed or attempted by another person without freely given consent of the victim or against someone who is unable to consent or refuse."[10] The overarching term "sexual violence" is used here as an umbrella term for sexual abuse, sexual assault, sexual harassment, and any other sexual violations. The term **sexual assault** refers to sexual contact or behavior that occurs without explicit consent of the victim and includes attempted rape, fondling/unwanted sexual touching, forcing a victim to perform sexual acts, and rape.[11] Rape is a form of sexual assault, but not all sexual assault is rape. The term **rape** is often used as a legal definition to specifically include sexual penetration without consent and is defined as, "the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim."[12]

Victim or Survivor?

The SD Rape Prevention Education program strives to use terminology which respects the wishes of the individuals concerned. Some people identify as a "victim" of sexual violence, while others prefer the term "survivor." The best way to be respectful is to ask for their preference. For the purposes of this report, the terminology used is consistent with that used by the Rape, Abuse, & Incest National Network (RAINN).[13] The term "**victim**" is used when referring to someone who has recently been affected by sexual violence, when discussing a particular crime, or when referring to aspects of the criminal justice system. Whereas "**survivor**" is used to refer to someone who has gone through the recovery process, or when discussing the short or long-term effects of sexual violence.

For more information on the terminology used in this report, please see the 2019 Sexual Violence in South Dakota Report (https://doh.sd.gov/documents/Prevention/2019_SD_SexualViolenceReport.pdf).

SEXUAL VIOLENCE LAWS AND STRATEGIES

South Dakota Laws

In SD, sexual assault is referred to as "sexual battery" and is defined as, "oral, anal, or vaginal penetration by the sexual organ of another, or the anal or vaginal penetration of another by any object."[17] Sexual battery does not include an act done for a legitimate medical purpose. Rape is an act of sexual battery inflicted upon someone under any of the following circumstances:[17]

1) If the victim is less than 13 years old
2) Through the use of force, coercion, or threats of immediate and great bodily harm against the victim or against another person within the victim's presence, accompanied by the apparent power of execution
3) If the victim is incapable (because of physical or mental incapacity) of consenting to such an act
4) If the victim is incapable of consenting to the act because of an intoxicant, narcotic, anesthetic agent, or hypnosis, or
5) If the victim is at least 13 years old, but is less than 16 years old, and the offender is at least three years older than the victim

As indicated above, an offender can be convicted of statutory rape if the victim is less than 13 years old, or if the victim is 13 to 15 years old and the offender is at least three years older than the victim. The legal age of consent varies slightly between states and is 16 in SD.[17] Therefore, if a 15-year-old voluntarily engages in sexual intercourse with their 19-year-old boy/girlfriend, then the boy/girlfriend can be charged with statutory rape in SD.

FEDERAL LAWS IMPACTING SEXUAL VIOLENCE REPORTING IN INDIAN COUNTRY

> *"Sovereignty exists as a pre-condition among self-governing entities and acts as a legal shield protecting all rights and privileges reserved and implied by nationhood. In fact, treaties were a granting of rights from the tribes to the federal government."*
>
> — Chief Justice Marshall[18]

The governmental status of tribal nations is at the heart of nearly every issue that touches Indian Country.[15] The essence of tribal sovereignty is the ability to govern and to protect and enhance the health, safety, and welfare of tribal citizens within tribal territory.[15] Tribal governments maintain the power to determine their own governance structures and enforce laws. However, the legal relationship between the federal government and tribal governments is complex and can result in sexual assault perpetrators going free.[16] Four laws have had a particularly significant impact on tribal self-governance: The Major Crimes Act (1885), Public Law 280 (1953), the Indian Civil Rights Act (1968), and the case law of *Oliphant v. Suquamish* (1978).[16]

1. In 1885, tribal jurisdiction over criminal cases was diminished through the passing of the **Major Crimes Act** (MCA), which granted federal courts concurrent (or joint) criminal jurisdiction in tribal communities over seven major crimes committed in Indian Country, including rape/sexual assault. For the next 100 years, most federal officials interpreted MCA as giving the federal government exclusive federal jurisdiction for rape/sexual assault cases. Consequently, the Department of Interior (through the Bureau of Indian Affairs) refused to approve tribal rape laws.[19]

2. Most state authorities do not exercise legal authority over Indian Country. However, with the passing of **Public Law 280** (1953), federal criminal and civil jurisdiction was transferred to some state governments over crimes committed in Indian Country (regardless of the race of the offender or victim). These states include California, Minnesota, Nebraska, Oregon, Wisconsin, and Alaska. Public Law 280 also permitted certain additional states to acquire jurisdiction if they wished (i.e., Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, *South Dakota*, Utah, and Washington). South Dakota has enacted Public Law 280 twice in the past (in 1957 and 1961), and in both cases the state acquired jurisdiction over civil and criminal actions on reservation highways only. Currently, only Florida has full Public Law 280 jurisdiction. Where Public Law 280 is applied, both tribal and state authorities have concurrent (running together) criminal jurisdiction on reservations. In many Public Law 280 states, this led to jurisdictional confusion, a decrease in litigation, sentencing disparities (with Native Americans receiving significantly longer sentences than non-Natives prosecuted for the same crime), and reduced federal funding for tribal law enforcement and tribal courts.[20]

3. The **Indian Civil Rights Act** (1968) limits the penalty that can be imposed by tribal courts for any offence, including murder and rape, to a maximum of one year's imprisonment and/or a $5,000 fine per offense. As a result of this limitation, tribal courts were less likely to prosecute serious crimes, such as sexual violence.[16]

4. In 1978, in the case of ***Oliphant v. Suquamish Tribe***, the Supreme Court ruled that tribal courts could not exercise criminal jurisdiction over non-Indians for conduct occurring on Indian lands. This federal ruling prohibits tribal authorities from prosecuting crimes committed by non-Indian perpetrators on tribal land.[16]

Progress has been made in recent years to enhance sentencing and increase tribal court authority. The **Tribal Law and Order Act of 2010**, signed into effect by President Barack Obama, amended the Indian Civil Rights Act of 1968, increasing the maximum prison sentence to three years per offense and a fine of up to $15,000.[19] Within recent years, other U.S. Supreme Court case decisions have positively impacted tribal jurisdiction.[47,48] Promoting tribal jurisdiction can indirectly affect sexual violence reporting with clearer guidelines and processes accepted by state, tribal, and federal entities.

On March 7, 2013, President Obama signed the **Violence Against Women Reauthorization Act of 2013** (VAWA 2013) into law. For the first time since the U.S. Supreme Court stripped tribal governments of their criminal authority over non-Indians in *Oliphant v. Suquamish Tribe* (1978), VAWA 2013 recognized and reaffirmed the inherent sovereign authority of tribes to exercise criminal jurisdiction over non-Indians who commit crimes in Indian Country.[21] However, VAWA 2013 only applied to cases involving domestic violence, dating violence, and criminal violations of protection orders.[21] On April 4, 2019, the House of Representatives passed the **Violence Against Women Reauthorization Act of 2019** (H.R. 1585).[22] The VAWA 2019 added child abuse, sexual assault, stalking, trafficking, obstruction of justice, and assaults against law enforcement officers to the crimes that tribes can prosecute against non-Indians and expanded tribal access to federal criminal databases.[23] On February 9, 2022, the Senate introduced the VAWA Reauthorization Act of 2022 (S. 3623). VAWA 2022 would take effect from 2023-2027, reauthorizing previous programs and activities outlined, and, "…authorizes new programs, makes changes to federal criminal laws, and establishes new protections to promote housing stability and economic security for victims of domestic violence, sexual assault, dating violence, and stalking."[50]

SOUTH DAKOTA ATTORNEY GENERAL DATA

DESCRIPTION OF DATA SOURCE

The SD Office of the Attorney General (AG) compiled crime data reported by sheriff offices, police departments, Highway Patrol, and the Division of Criminal Investigation in SD. This data is made available to the public through an annual *Crime in South Dakota* publication accessible at https://atg.sd.gov/OurOffice/Departments/DCI/SAC/CrimeinSouthDakota.aspx. Crime numbers are provided overall and individually by each reporting office or department. The AG data provided crime estimates at the state and county level from 1983 to the most recent year available (2020), including incidents by crime type, as well as victim and offender demographic data and characteristics of the offense (e.g., use of weapons, multiple linked offenses). The 2020 crime data compiled numbers from 119 reporting agencies, covering 94% of the SD population.

DATA SOURCE LIMITATIONS

The data in this report are collected and submitted using the FBI's Uniform Crime Reporting Program methodology (as outlined earlier in this report) at the state level. The AG data and the *Crime in South Dakota* publication do not include crimes committed on tribal lands, as this data is reported directly to the FBI. Given the small population of many counties in SD and the small number of reported rape incidents in some areas, use of multiple years of data is recommended. Data limitations of the FBI's UCR system (outlined on pages 12-13 of this report) also apply to this data source. Finally, the data in the *Crime in South Dakota* report represented a "snapshot" of the SD repository data as of March 2021, based on statistics that were analyzed for the twelve-month period of January 1, 2020 to December 31, 2020. SD law enforcement agencies update their data as new information becomes available, and the data reported is only as accurate as the data provided by each reporting agency.[3] Finally, the 2019 American Community Survey one-year estimate was used as the most recent population source for SD since the 2020 census data will not be available until later in 2022.

STATE DATA: 2010-2020

The *Crime in South Dakota* report showed 495 rape offenses in 2020 (excludes rape offenses reported on tribal lands) at a rate of 55.9 per 100,000 inhabitants, up by nine total rapes or 1.9% from the previous year.[3] This rate was significantly lower than the official state rate reported by the FBI of 67.1 per 100,000 due to reporting differences outlined previously.[2] Further, rape cases have steadily increased over the past decade (Figure 1). Other class 11 offenses reported in 2020 included 32 incidents of sodomy, 5 incidents of sexual assault with an object, and 432 incidents of fondling.[3]

Figure 1. Rape offenses in SD, 2010-2020[3]
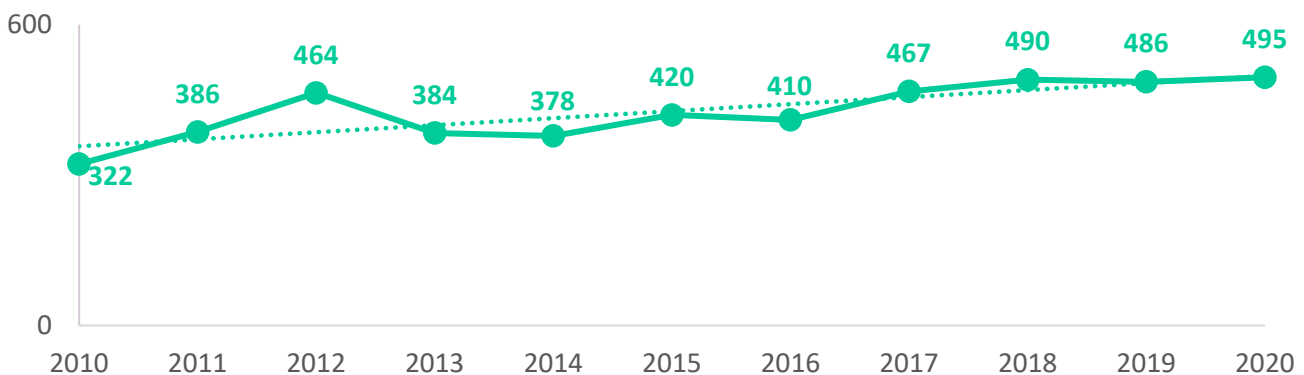
Other sexual offenses included in the *Crime in South Dakota* report relevant to sexual violence and violence prevention work are shown in Table 1.

Table 1. Other sexual offenses in SD[3]

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Incest	15	21	20	19	14	18	15	14	15	15	15
Statutory Rape	109	137	153	147	121	133	120	112	105	150	148
Pornography/ Obscene Material	163	151	130	128	157	185	192	208	195	243	232
Prostitution[a]	33	30	64	79	85	81	79	97	62	62	33
Human Trafficking[b]	—	—	—	0	0	0	0	3	1	2	2
Peeping Tom	3	3	10	5	5	6	2	2	3	5	3

[a]Prostitution also includes assisting or promoting prostitution and purchasing prostitution.
[b]Human trafficking is defined as the inducement of a person to perform a commercial sex act, or labor, or services, through force, fraud, or coercion.

Figure 2 displays the rape rate per 100,000 in SD counties, which does not include data for reservation and off-reservation tribal trust lands. Due to the small population size of many SD counties and the limited number of offenses reported annually, rape rates were calculated for county-level data by aggregating offenses reported over a five-year period from 2016-2020. For 2016-2019, the county-level rape rates were calculated using the populations reported by the county sheriff's office in the *Crime in South Dakota* report. In 2020, the population reported by sheriff offices were reconfigured to only include populations that were not already covered by police departments in the counties. Therefore, rape rates calculated for the county-level in 2020 combined the populations reported by police departments and sheriff offices. Additionally, those counties with two or fewer years of reported data in the five-year period were excluded.

Pennington County had the highest rape rate in SD (142.4 per 100,000).[3] Hughes County had the second highest rape rate (81.6 per 100,000), followed by Brule (80.4 per 100,000) and Davison (79.7 per 100,000).[3]

Figure 2. Rape rate per 100,000 for South Dakota counties: 2016-2020[3]

Rape rate per 100,000

142.4

71.2

0.0

Insufficient or no data reported

More than 50% of county's land area is tribal land

County	Rate
Harding	0.0
Perkins	40.8
Corson	0.0
Campbell	29.3
McPherson	17.3
Brown	70.7
Marshall	28.5
Roberts	9.7
Butte	25.4
Ziebach	0.0
Dewey	0.0
Walwor...	39.8
Edmunds	0.0
Day	
Grant	
Meade	16.0
Potter	27.0
Faulk	0.0
Spink	11.7
Clark	16.3
Codingt...	63.4
Deuel	4.7
	20.1
Lawr...	37.6
Sully	14.2
Hyde	
Hand	12.3
Beadle	42.1
Kingsbury	20.4
Brookings	39.6
Pennington	142.4
Haakon	
Stanley	33.2
Hughes	81.6
	69.1
	10.0
Sanb...	33.4
Miner	0.0
Lake	34.0
Moo...	39.8
Custer	30.1
Jackson	0.0
Jones	0.0
Mellette	0.0
Lyman	17.4
Brule	80.4
Aurora	14.5
Dav...	79.7
Han...	0.0
McCo...	28.8
Minneha...	60.2
Fall River	28.7
Oglala Lakota	
Bennett	70.1
Todd	
Tripp	33.2
Charles Mix	38.4
	0.0
Hutchinson	8.2
Turner	29.4
Linc...	15.2
Gregory	2.9
Yankt...	72.2
Clay	41.3
	20.9

Data Notes: Rapes included from both Sherriff Offices (SO) and Police Departments (PD) reporting in each county. This data source does not include tribal law enforcement data. Population numbers as reported from SO, with the following exceptions: a) Fall River SO did not report, so Hot Springs PD population was used, which covers 57.3% of the county's population; b) Lake SO includes data from 2017-2020 only; c) Lincoln SO used 2019 population estimate.

The *Crime in South Dakota* report also provided information on the location, use of weapons, and characteristics of the victim, offenders (individuals suspected of rape violations), and arrestees (individuals arrested for rape violations). Most rape offenses occurred at a residence (Figure 3). Use of a weapon was identified in 51.8% of the reported rape incidents from 2016-2020. Personal weapons (e.g., hands, fists, feet) were the most common type of weapon used (45.8% of all rape incidents), with other types of weapons less common: firearm (0.7%), knife (0.7%), drugs/narcotics/sleeping pills (0.6%), asphyxiation (0.5%), blunt object (0.3%), poison (0.05%), motor vehicle (0.05%), and other weapons (3.2%). Alcohol use was involved in 20.4% of SD rape incidents in 2016-2020. Drug use was involved in 6.4% of rape incidents and computer use in 0.4%.

Figure 3. Location of rape offense, South Dakota: 2016-2020[3]
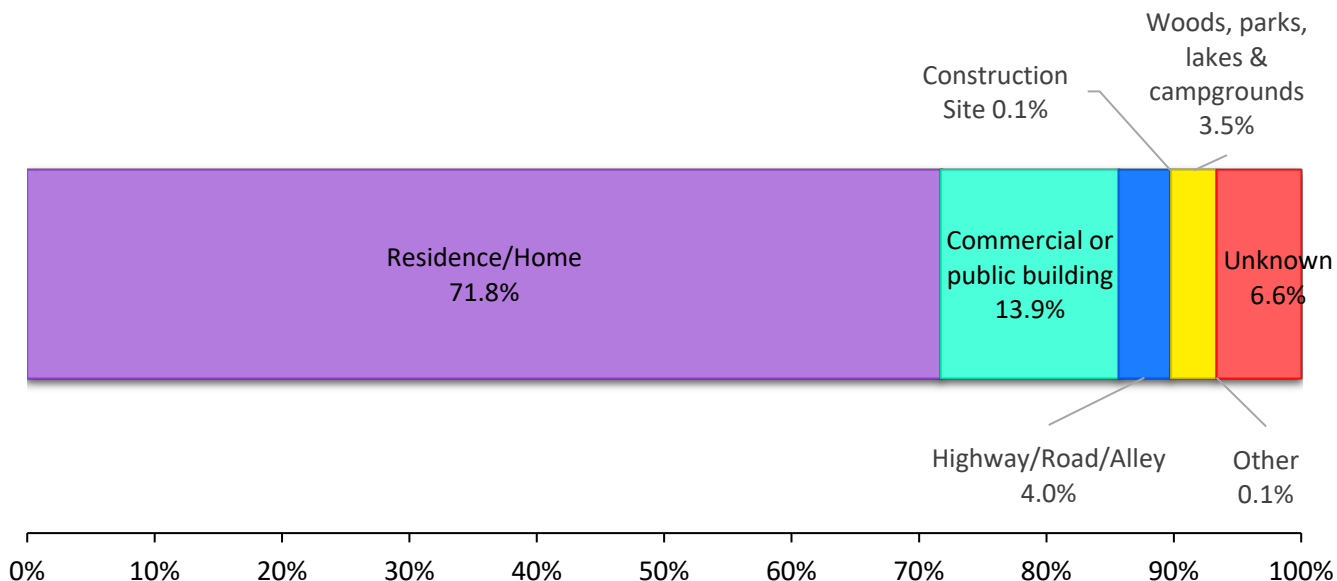
Rape victimization was most common among those under the age of 18, at 43% (Figure 4). Perpetration was more evenly dispersed among the designated age groups, with 43.1% age 24 and younger.

Figure 4. Age distribution of South Dakota rape victims and offenders: 2016-2020[3]
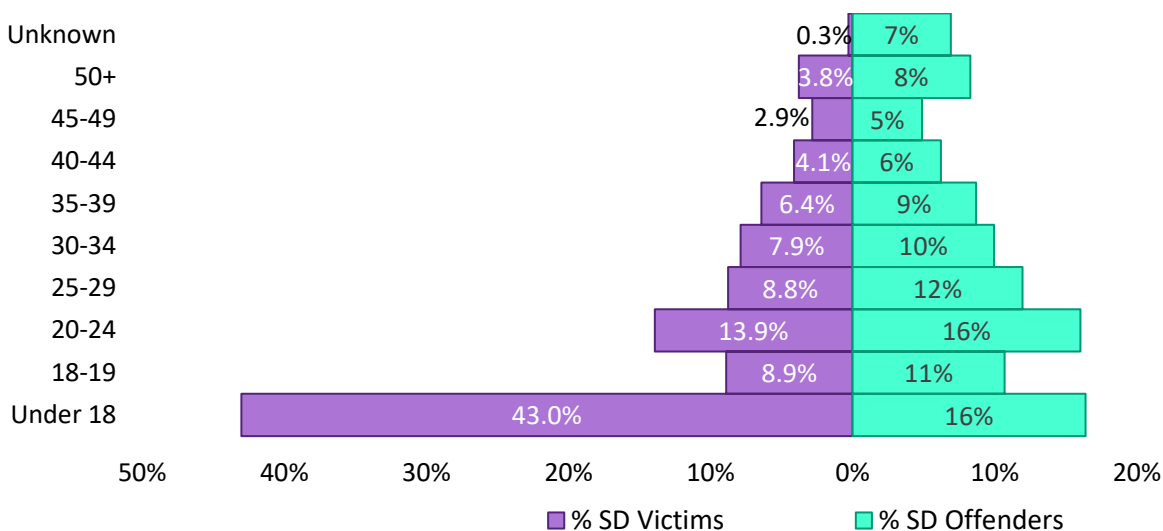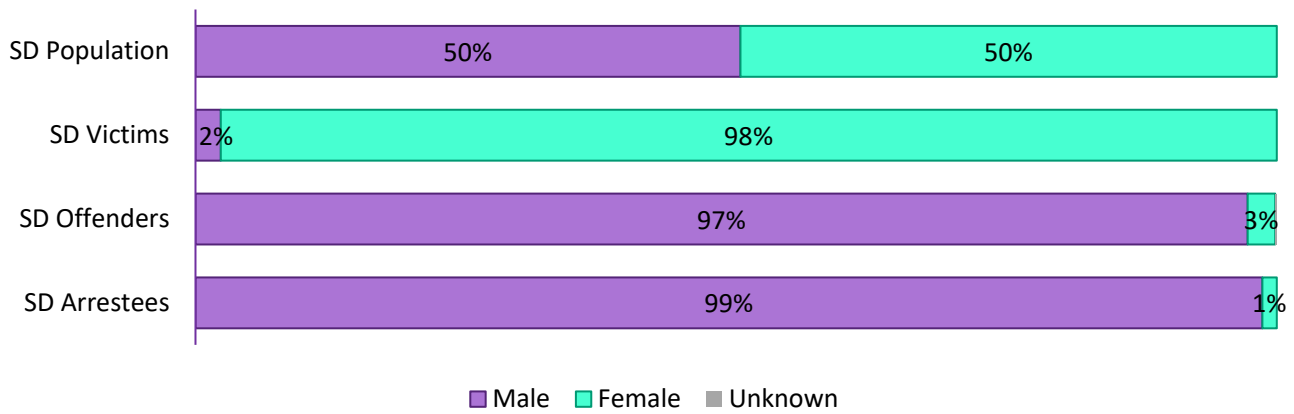
Figure 5 shows the vast majority of rape victims were reported as female and the vast majority of offenders and arrestees were male.

Figure 5. Sex distribution of SD population, rape victims, rape offenders, and rape arrestees: 2016-2020[3]

In SD, minority races were overrepresented among both rape victims, offenders, and arrestees (Figure 6). While Native Americans make up 9% of the SD population,[25] 29% of rape victims, 23% of rape offenders, and 18% of arrestees were Native.[3] African Americans were also overrepresented among rape victims, offenders, and arrestees.[3,28]

Figure 6. Racial distribution of SD population, rape victims, rape offenders, and rape arrestees: 2016-2020[3,25]
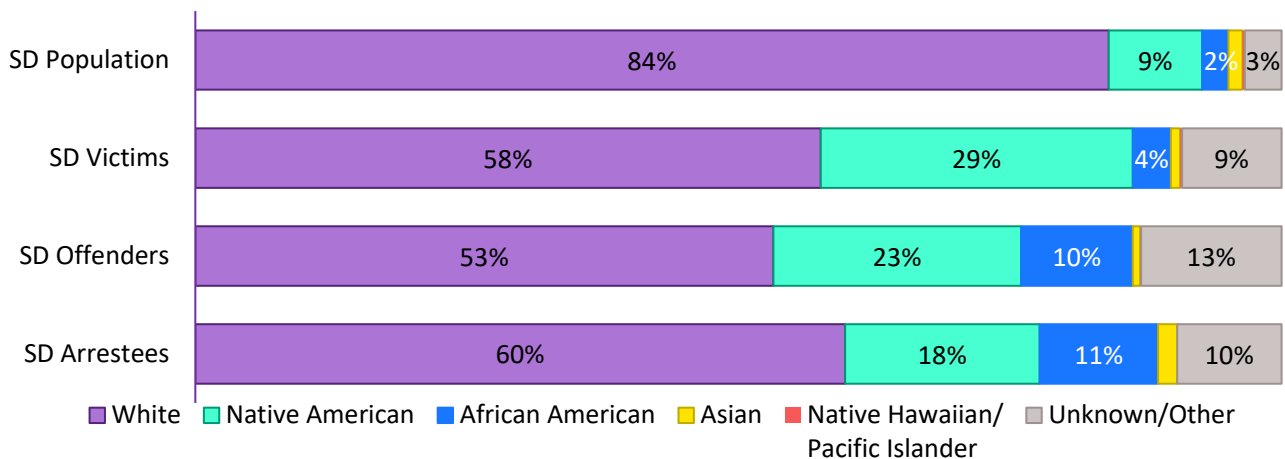
Federal Bureau of Investigation (FBI): Uniform Crime Reporting (UCR) Program Data

DESCRIPTION OF DATA SOURCE

The FBI gathered violent crime statistics, including rape and sexual assault, from law enforcement agencies throughout the United States through the Uniform Crime Reporting (UCR) Program. The UCR Program collected crime data through four reporting systems: The Summary Reporting System (SRS), the National Incident-Based Reporting System (NIBRS), the Law Enforcement Officers Killed and Assaulted (LEOKA), and the Hate Crime Statistics Program.[26] However, starting in January 2021, the UCR discontinued the use of the SRS.[26] For the purposes of this report, data from the SRS and NIBRS data reporting systems were included as the 2020 data included SRS data. This report does not include LEOKA and Hate Crime Statistics Program data.

- *Summary Reporting System (SRS)*

  The SRS is the original reporting system for the FBI and summarized crime trends and arrests reported to law enforcement. SRS data included monthly summarized reports on ten Part I criminal offenses known to law enforcement. These crimes include criminal homicide, rape, robbery, aggravated assault, human trafficking, burglary, motor vehicle theft, larceny-theft, arson, and other assaults. The SRS collected only arrest information (the circumstances of the arrest and limited arrestee data, e.g., age, sex, race, and ethnicity) on an additional 19 offenses known as Part II offenses.

- *National Incident-Based Reporting System (NIBRS)*

  South Dakota was originally NIBRS certified by the FBI in early 2001 and became a NIBRS-only state in 2008. NIBRS is an incident-based crime reporting system designed to collect data on each crime occurrence and on each incident and arrest within each occurrence. NIBRS collected 24 crime categories made up of 52 specific crimes called Group A offenses. In addition to the Group A offenses, there were 10 Group B offense categories for which only arrest data were collected.[26] NIBRS was created to improve the quality and quantity of crime data collected through capturing more detailed information on the crimes reported to law enforcement. Additional information included in the NIBRS includes time and location of the crime; the circumstances of the incident; the characteristics of the victim and offender such as age, sex, race, and ethnicity; the victim's relationship to the offender; involvement of weapons or drugs; property loss; and whether the crime was motivated by bias.[1,2]

Data collected through the NIBRS were compiled for the UCR Program and made available for public use through the FBI's *Crime Data Explorer (CDE)* tool at https://crime-data-explorer.fr.cloud.gov and through an annual summary report, *Crime in the United States*. The CDE is an interactive tool that provides state and national estimates for crime data from the NIBRS.[1,2] Starting in 2020, the *Crime in the United States* report was reformatted as part of the CDE tool, including tables and resource pages available as individual files via the CDE website at https://crime-data-explorer.fr.cloud.gov/pages/downloads. The *Crime in the United States* annual reports provide public access to the data from the UCR Program. Volume and rate of violent and property crime offenses at state and national levels are presented in the report, along with arrests, clearance, trends, and law enforcement employee data.[4,24]

DATA SOURCE LIMITATIONS

As previously mentioned, participation by law enforcement agencies in the UCR Program was voluntary. Although the FBI does its best to ensure the validity of the data received, the accuracy of the statistics depends primarily on the adherence of each contributing law enforcement agency to the established standards of reporting. Each state UCR Program or individual contributing law enforcement agency was responsible to submit accurate monthly statistics or correct existing data that are in error.

The SRS used the hierarchy rule in counting multiple offenses within the system, meaning the single, most serious offense is recorded for an incident even when multiple offenses occur.[43] Rape was listed as number two in priority, behind criminal homicide. The only exceptions to the hierarchy rule under the SRS included justifiable homicide, motor vehicle theft, arson, and human trafficking.[44] Due to the hierarchy rule, SRS data may not reflect all crimes that occurred during an incident. SRS data gives crime rates as trends and totals but lacks supplemental information regarding each incident, hindering research and well-informed public policy guidance.[44] All agencies will transition to the NIBRS system by 2021, which allows reporting of multiple offenses along with the opportunity to provide more detailed records of an incident, addressing these limitations. As the

number of rape incidents differs, data from both the CDE system (119 agencies in South Dakota reporting) and the *Crime in the United States* report were presented in this section of the report.

The UCR Program amended the definition of rape in December 2013 to remove "forcible" from the title, with a revised definition: "Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. Attempts or assaults to commit rape are also included… however, statutory rape and incest are excluded."[4] The new definition of rape is termed the "revised definition," and the former definition of rape, the "legacy definition," was discontinued in reporting documents in 2017. The definition change should be considered when viewing data before and after 2013.

The UCR data guidance cautions against comparing data from year to year due to fluctuations in the number of agencies reporting. Despite this, percent change from year to year is calculated in the national report for estimated crime incident by type and is therefore included in this report. Data guidance also cautions against ranking states and other locales because of the multitude of factors that influence crime, ignoring the uniqueness of each state and locale.[28]

Other methodological considerations to take into account:[29]

- The data used were from all law enforcement agencies in the UCR Program (including those submitting less than 12 months of data).
- Crime statistics include estimated offense totals for agencies submitting less than 12 months of offense reports for each year.
- The FBI derives state totals by estimating for nonreporting and partially reporting agencies within each state. The UCR Program aggregates a state total using the state's individual agency estimates.
- The rape data reported by those agencies using the UCR legacy definition are not included.

STATE AND NATIONAL DATA: 2020

The national rape rate had steadily declined since 1992, until 2013 when the revised definition began, and rates have remained elevated through 2019. However, a slight decrease occurred in 2020. The SD rape rate has been steadily increasing since the 1960s, remaining higher than the national rate since 1992 (see Figure 7).

Figure 7. Rape rate per 100,000 in the U.S. and South Dakota: 1960-2020[1,4,24,30]
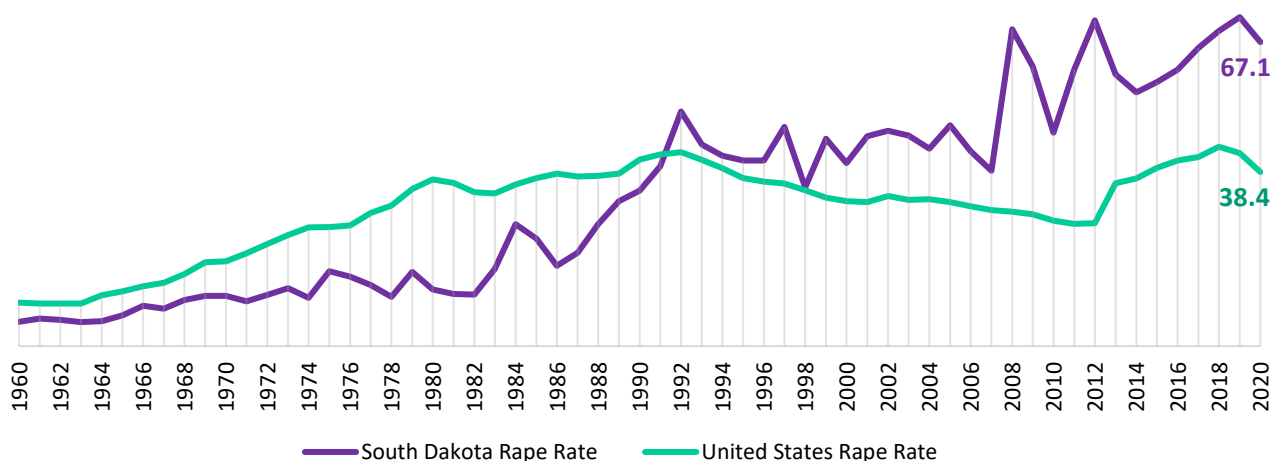
*Note: Data reported from 1960 to 2011 reflects the legacy definition of rape.*

The *Crime in the United States* report shows 599 rape offenses in SD in 2020, a 6.7% decrease from 2019 (642 rape offenses).[4,24] The 2020 rape rate in SD was 67.1 per 100,000, considerably higher than the national rate of 38.4 per 100,000, and **the third highest rate in the nation** (Figure 8).[4,24] There are only two metropolitan areas in SD, Rapid City and Sioux Falls. According to the FBI, Rapid City had a higher rape rate than Sioux Falls (146.6 per 100,000 versus 45.4 per 100,000, respectively).[24] In fact, compared to other metropolitan areas in the U.S., **Rapid City had the second highest rape rate in the nation**. [24]

Figure 8. Rape rate per 100,000 by state: 2020[4]
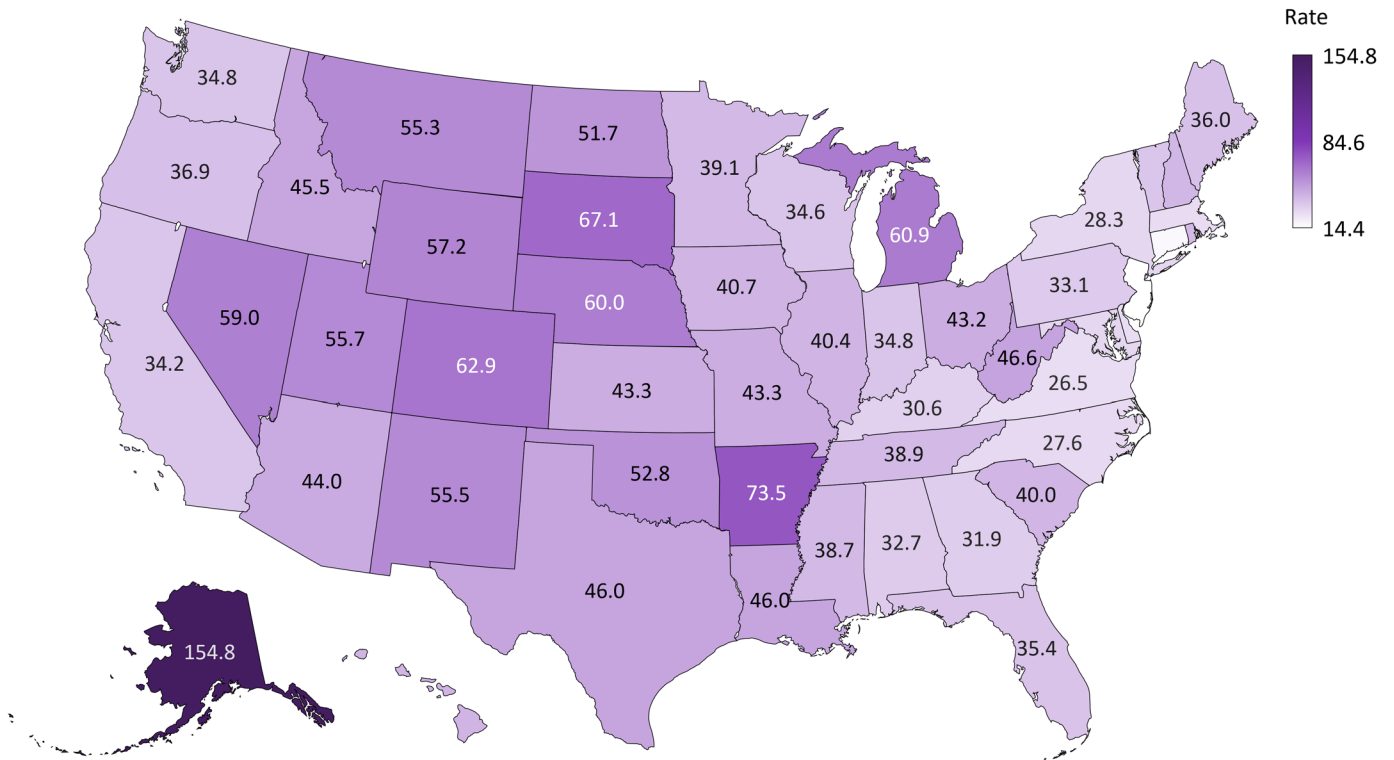
Of the 599 rape offenses (includes estimates for nonreporting and partially reporting agencies)[24] reported in SD, only 35 rape offenders were arrested.[24] The SD rape arrest rate of 4.0 per 100,000 inhabitants[24] was moderately lower than the national arrest rate for rape (6.3 per 100,000).[24] Figure 9 shows the differences in rape and arrest rates between SD and the US. South Dakota had a significantly higher rape rate than the U.S., but a lower arrest rate for rapes when compared to national data.

Figure 9. S.D. and U.S. rape rates and arrest rates
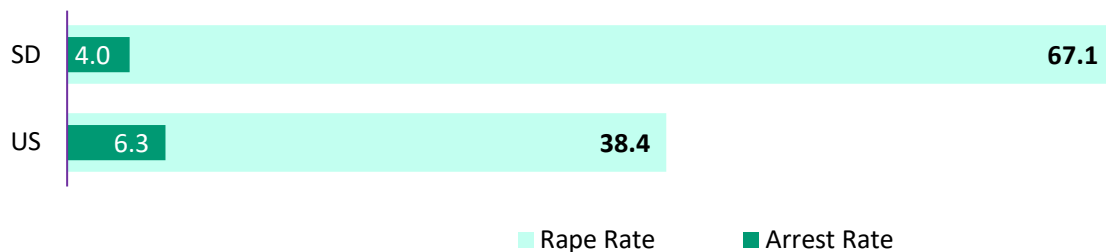
The CDE tool, which does not include estimates for nonreporting or partially reporting agencies, showed 533 rape offenses reported in 2020.[2] In SD, most rape victims and offenders were quite young, with 69% of SD victims and 32% of offenders being under the age of 20 (Figure 10). Similarly, in the U.S., 51% of victims and 21% of offenders were under the age of 20 (Figure 10).[1,2]

Figure 10. Age distribution of U.S. and South Dakota rape victims and offenders: 2020[1,2]
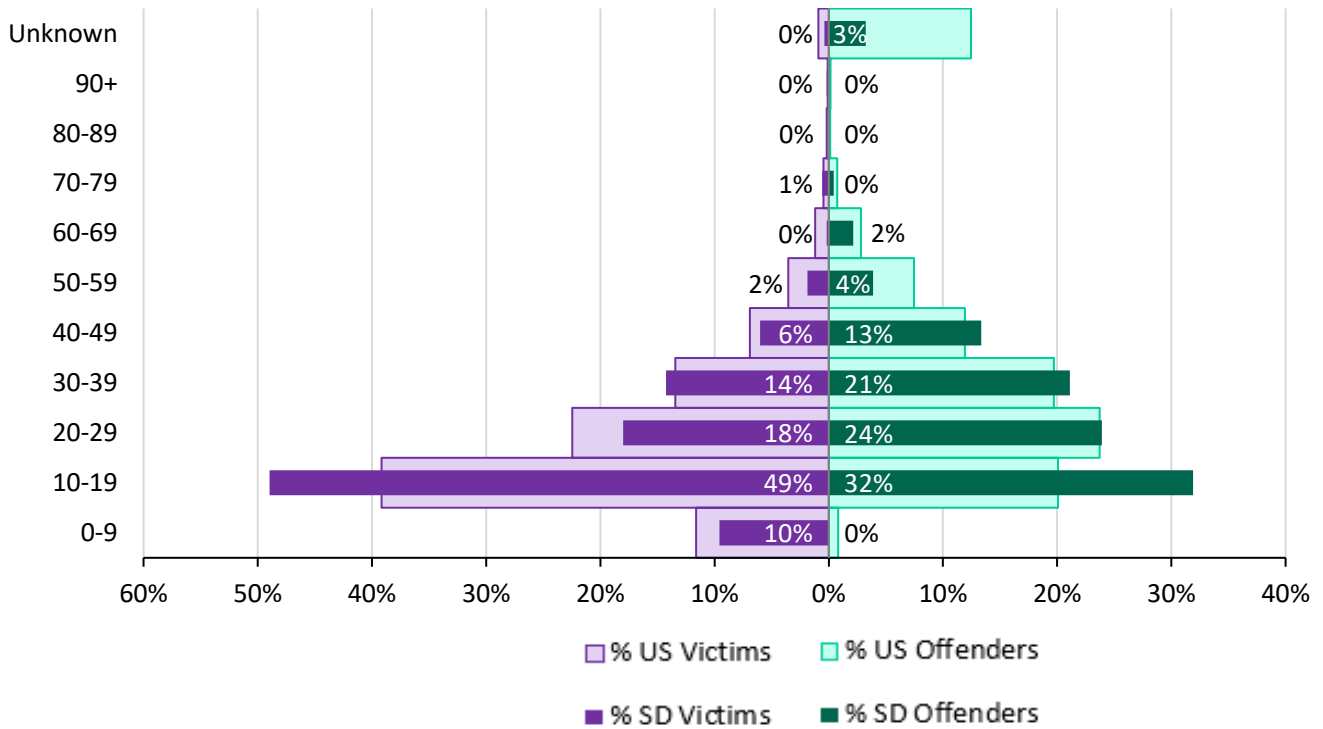
Similar sex characteristics of rape victims and offenders were observed at the national and state level, with the vast majority of victims reported as female and the vast majority of offenders and arrestees reported as male (see Figure 11).[1,2]

Figure 11. Sex of U.S and South Dakota rape offenders, victims, and arrestees: 2020[1,2,25]
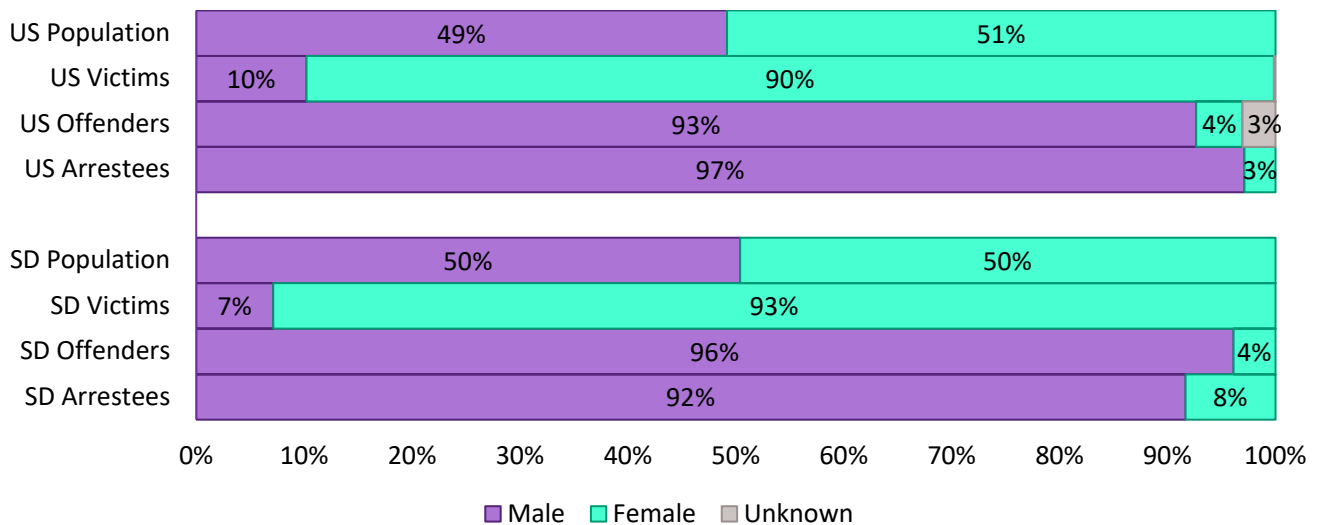
Compared to the racial distribution of the U.S., minority races were overrepresented among rape victims, offenders, and arrestees (see Figure 12).[1] A similar disparity was observed in SD, with minority races overrepresented among rape victims, offenders, and arrestees. While Native Americans make up 9% of the SD popul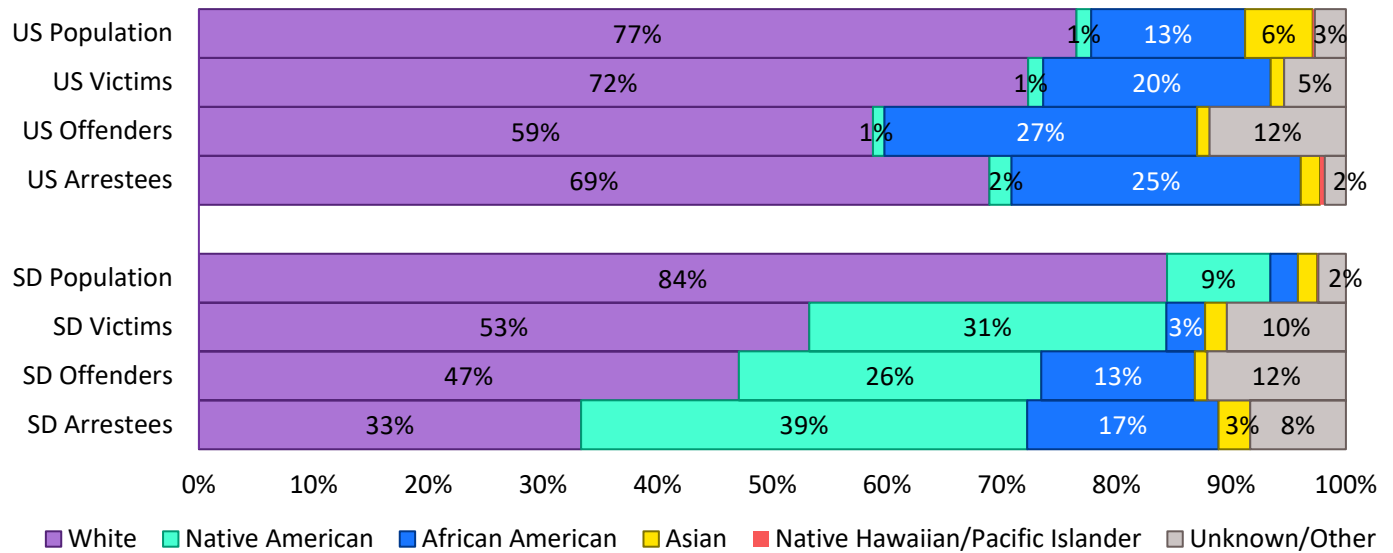ation, 31% of rape victims, 26% of rape offenders, and 39% of arrestees were Native American.[2] African Americans were also overrepresented among rape victims, offenders, and arrestees.[2]

Figure 12. Racial distribution of U.S. and South Dakota population, rape victims, offenders, and arrestees: 2020[1,2,25]

The relationship between victim and perpetrator is shown in Figure 13. Acquaintance was the most common relationship (217 of 482 incidents or 45%) followed by family member, relationship unknown, intimate partner, friend, stranger, and other.

Figure 13. Victim relationship to offender, South Dakota, 2020[2]
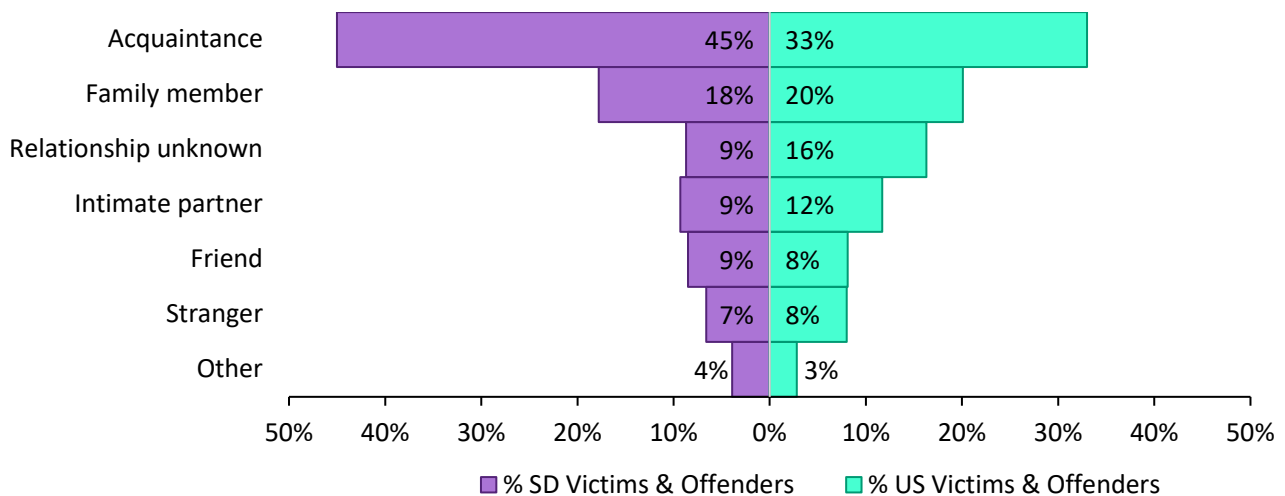
TRIBAL DATA: 2016-2020

Crime incidents reported to tribal law enforcement are available on the CDE tool. However, given the small population size of reservation areas, crime rates are not provided, and no data was available for the Flandreau Santee Sioux Tribe. A lack of data for this tribe may be the result of an agency not participating, reporting zero incidents, changes in reporting, or being "covered by" another agency.[1] In 2020, the Oglala Sioux Tribe and Yankton Sioux Tribe both updated data for 2020 and some previous years, providing the opportunity to calculate the 2016-2020 rape rate.

Rape rates per 100,000 were calculated for each tribe for the 2016-2020 period using population estimates for each year provided by the U.S. Census Bureau's *My Tribal Area* data tool.[32] Four tribes reported a higher rape rate than the 2020 state average of 67.1 per 100,000 (Cheyenne River Sioux Tribe, Crow Creek Sioux Tribe, Lower Brule Sioux Tribe, and Standing Rock Sioux Tribe), with the Crow Creek Sioux Tribe and Lower Brule Sioux Tribe having significantly higher rates than other SD tribes (Table 2).[1] Figure 14 also displays reported rape rates on and off-reservation tribal trust lands for the 2016-2020 time period.

Native American vs. American Indian/Alaska Native

Native American and *American Indian/Alaska Native* are the most common terms used to identify the general population of Indigenous peoples in the U.S. However, these labels have not been without controversy, and no single term is universally accepted or preferred.[14] The terms used throughout this report alternate depending on the context. For example, the terms Indian and Indian Country are often used in U.S. legal discourses and have been retained in this report in sections dealing with federal legislation and court decisions.[16] Whereas, the terms Native American (or Native) and Indigenous peoples (or Indigenous) are used to refer to the general population of Indigenous peoples. These choices in terminology are in no way intended to minimize or ignore the great diversity of Indigenous cultures, languages, and nationalities that exist, nor to generalize their experiences.

Table 2. Rapes reported on and off-reservation tribal trust lands: 2016-2020.[1,2,32]

	2016	2017	2018	2019	2020[a]	2016-2020 Rate per 100,000
Cheyenne River Sioux Tribe	4	7	9	11	4	**83.8**
Crow Creek Sioux Tribe	4	8	3	3	6	**223.6**
Flandreau Santee Sioux Tribe	—	—	—	—	—	—
Lower Brule Sioux Tribe	5	3	4	1	7	**247.7**
Oglala Sioux Tribe	15	16	8	7	4	**50.9**
Rosebud Sioux Tribe	3	6	7	8	6	**53.5**
Sisseton-Wahpeton Oyate	2	2	4	3	5	**28.9**
Standing Rock Sioux Tribe	10	10	5	6	4	**82.9[a]**
Yankton Sioux Tribe	2	—	—	2	4	**23.8[b]**

[a]Rapes reported for Standing Rock Sioux Tribe include rapes reported in North Dakota (ND) and SD as some of the Standing Rock tribal land is located in ND.

[b]Rape rate for Yankton Sioux Tribe was calculated only using three years of data (2016, 2019, 2020).

Figure 14. Rape rate per 100,000 for South Dakota reservations: 2016-2020[1,2,32]

Rape rate per 100,000

247.7

123.9

0.0

Harding 0.0
Perkins 40.8
Standing Rock Sioux Tribe 82.9
Campbell 29.3
McPherson 17.3
Marsha... 28.5
Sisseton-Wahpeton Oyate 28.8
Brown 70.7
Day
Grant
Butte 25.4
Cheyenne River Sioux Tribe 83.8
Walworth 39.8
Edmunds 0.0
Potter 27.0
Faulk 0.0
Spink 11.7
Clark 16.3
Codi...st... 63.4
Deuel 4.7
Hamlin 20.1
Lawre... 37.6
Meade 16.0
Sully 14.2
Hyde
Hand
Flandreau Santee Sioux Tribe (no data)
Haakon
Stanley 33.2
Hughes 81.6
Crow Creek Sioux Tribe 223.6
adle 42.1
Kingsbury 20.4
Brookings 39.6
Pennington 142.4
Lower Brule Sioux Tribe 247.7
Jones 0.0
Lyman 17.4
falo
Jerauld 10.0
Sanbo...
Miner 33.4
Miner 0.0
Lake 34.0
Moo 39.8
Custer 30.1
Jack
Mellette 0.0
Brule 80.4
Aurora 14.5
Davi... 79.7
Han... 0.0
McCo... 28.8
Minneha... 60.2
Fall River 28.7
Oglala Sioux Tribe 50.9
Rosebud Sioux Tribe 53.5
Tripp 33.2
Gregory
0.0
Hutchinson 8.2
Turner 29.4
Linc... 15.2
Yankton Sioux Tribe 23.6
2.9
Yankt... 72.2
Clay 41.3
20.9

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Tribal Data

The tribal rape data provided by the FBI follows suit to other rape data in that the actual number of rape occurrences is likely higher than what is reported. Besides underreporting, additional reasons for lower rape rates from SD tribal lands may occur. Survivors or victims residing in reservations that border other states might travel to other states for healthcare services if that is the closest healthcare facility. Examples of this may include victims from the Rosebud Reservation traveling to the closest health center in Nebraska, or victims from the SD portion of Standing Rock seeking services in North Dakota.

DESCRIPTION OF DATA SOURCE

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (1990), post-secondary institutions receiving federal funding must provide criminal data in an annual safety report. Each institution publishes a report with criminal statistics for the reporting year and two years prior. South Dakota has 23 post-secondary institutions, including six state universities, four technical institutes, six private colleges, four tribal colleges, and three public higher education centers.[41] The three public higher education centers are considered non-campus buildings or properties (see definitions below) for multiple institutions utilizing space at those sites. Therefore, the public higher education centers do not submit individual safety reports. Crime offenses associated at these sites would be included in parent institutions' reports. Additionally, one institution reports their crime statistics as part of a larger, affiliated institution. Due to the exceptions outlined, a total of 19 institutions were identified. Publicly available safety reports were obtained for all 19 institutions and aggregated for this report.

DEFINITIONS

The Handbook for Campus Safety and Security Reporting defines **sexual assault (sex offenses)** as "any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent".[31] Sex offenses are then further classified into two sub-categories, forcible and non-forcible. **Forcible sex offenses** include rape and fondling; **non-forcible sex offenses** include incest and statutory rape. According to the handbook, **on-campus** refers to "any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and … that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor)".[31] **Public property** is defined as "all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus," however private homes and businesses are not included in this definition.[31] **Non-campus buildings or properties** refer to "any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution."[31] **Unfounded** crimes are declared if "sworn or commissioned law enforcement personnel make a formal determination that the report is false or baseless."[31] For the purposes of this report, if an unfounded offense was declared in the reported information under a specific offense type, it was excluded from this report.

DATA SOURCE LIMITATIONS

Various data limitations existed for the post-secondary institution safety reports. First, if multiple offenses occur to one victim, those offenses are counted as one offense.[31] For example, if an individual reports multiple fondling occurrences by the same perpetrator over a period of time, the offense was only counted once in the report. Additionally, inconsistencies in publishing or dissemination of reports (e.g., not easily found on the institution's website or other publicly available sources) prevented the inclusion of every institution's crime statistics in this report. Inconsistencies with data descriptions and explanations between reports also posed a limitation, as some institutions clearly identify and explain data discrepancies, while others do not. For example, an institution states an unfounded crime was included in the data but does not specify the offense type of the unfounded data. Additionally, reports of crime offenses may not be included in the statistics for the year they

occurred. If the year the offense occurred was specified, that data was included in the specified year's total. An example of this might include a rape that occurred in 2018 but was not reported until 2020. The offense would then be included in the 2018 data. However, not all institutions specified if an offense occurred in a different year than was reported. Along with the limitations noted, underreporting and jurisdictional limitations might have prevented accurate crime statistics reporting for higher education institutions, similar to other data sources in this report.

POST-SECONDARY EDUCATION DATA: 2018-2020

Crime statistics for SD post-secondary institutions were collected via institutions' websites and aggregated from 19 institutions (Table 3). However, 2020 data was only found in safety reports from 15 institutions. In 2020, a total of 15 forcible sex offenses were reported by SD higher education institutions. According to the information available, six of those forcible sex offenses were rape, and four were fondling. There was a decrease in reported forcible sex offenses and stalking cases in 2020 compared to previous years. This may be partially due to the shut-down of colleges and universities during the COVID-19 pandemic, as students were remote learning for half of the spring 2020 semester. Overall, the number of non-forcible sex offenses is much lower than forcible sex offenses. Additionally, stalking and dating violence are reported at higher occurrences than domestic violence offenses.

In 2020, the total forcible sex offense rate for SD post-secondary institutions (3.0 per 10,000) [27,49] was lower than the latest (2018) national rate of 8.4 per 10,000.[46] However, considerations should be made when comparing these rates. The 2020 SD rate was calculated using estimated enrollment data from 2021, and the number of total forcible sex offenses included on-campus, non-campus, and public property locations. The publicly released national rate of total sex offenses for post-secondary institutions only included on-campus reported offenses, and the latest available rate is from 2018. Finally, one should note the rate for 2020 likely calculated lower due to the closure of campuses in 2020.

Table 3. SD post-secondary education crime statistics[27]

	On-Campus, Non-Campus, & Public Property		
	2018	**2019**	**2020**
Total Sex Offenses (Forcible)[a]	35	28	15
Rape[b]	24	15	6
Fondling[b]	4	9	4
Total Sex Offenses (Non-Forcible)[c]	0	3	0
Stalking[d]	13	15	6
Domestic Violence[d]	1	4	2
Dating Violence[d]	18	6	2

[a] Total sex offense (forcible) are the combined number of rape and fondling offenses.
[b] Rape and fondling were not reported separately at eight institutions in 2020 but would be included in the total sex offenses (forcible).
[c] Total sex offenses (non-forcible) are the combined number of incest and statutory rape offenses.
[d] One institution did not report Violence Against Women Act offenses in 2019 or 2020, which includes dating violence, domestic violence, and stalking.

YOUTH RISK BEHAVIOR SURVEY

DESCRIPTION OF DATA SOURCE

The Youth Risk Behavior Survey (YRBS) is developed by the CDC in collaboration with state and local health and education departments to monitor six priority health behaviors of high school students in SD. The YRBS is conducted in odd-numbered years by the SD Department of Education (1991-2013) and the SD Department of Health (2015-2019). The 2021 data will likely not be released until Summer 2022, therefore the 2019 YRBS data is the most current available data source. One of the priorities involves behaviors that contribute to unintentional injuries and violence, including questions regarding students' experiences of sexual violence and sexual dating violence. Through monitoring the six priorities, the YRBS assesses how health risk behaviors change over time and progress toward program goals set forth to reduce these behaviors.[9]

DATA SOURCE LIMITATIONS

The YRBS is a self-report survey. Population coverage is limited to students in grades 9-12 who attend a public or tribal school. Each survey cycle will produce either weighted or unweighted results. Weighted results can be generalized to the entire population of 9-12 graders in South Dakota who attend a public or tribal school, while unweighted results are only representative of the students who actually participated in the survey. As such, unweighted results cannot be publicly reported. Unweighted data was obtained in 2017.[33]

STATE AND NATIONAL DATA: 2013-2019

The YRBS had three questions on experiences of sexual violence, with two asked on at least two years of the survey. Figure 15 showed that rates of forced sexual intercourse declined from 2013 to 2015 but increased from 2015 to 2019.

Figure 15. Percentage of SD h igh school students who experienced sexual violence, 2013-2019[9]
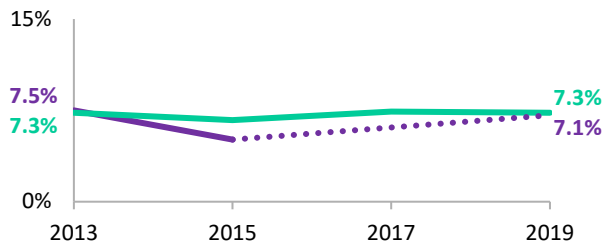

Experienced sexual violence by anyone (in the past 12 months before the survey)
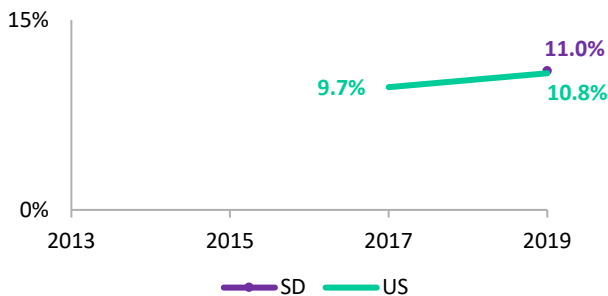
Experienced sexual dating violence (in the past 12 months before the survey)
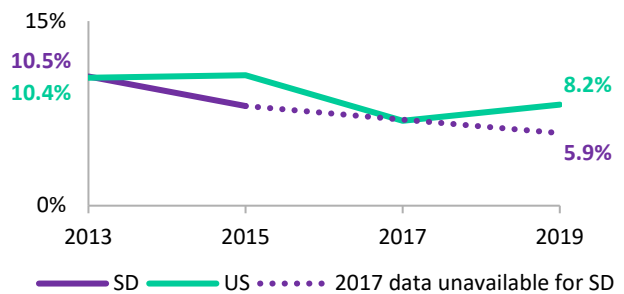
Ever physically forced to have sex

Note: 2017 YRBS data was not available for South Dakota due to a low response rate.

HUMAN TRAFFICKING STATISTICS

Human trafficking involves the use of force, fraud, or coercion to control another individual to engage in commercial sex acts or solicit labor against the person's will.[34] Many human trafficking victims are also victims of sexual assault, physical violence, abuse, and neglect.[35] In addition to the reported number of human trafficking victims in the *Crime in South Dakota* report, the SD Department of Public Safety (DPS) and the National Human Trafficking Hotline provides further insight into human trafficking data.

SOUTH DAKOTA DEPARTMENT OF PUBLIC SAFETY

DESCRIPTION OF DATA SOURCE

The SD Department of Public Safety (DPS) collects data on individuals receiving services from facilities funded by the SD Victims Assistance Program. The SD Victims Assistance Program provides funding from state and federal grants to programs in the state that offer shelter, advocacy, crisis counseling, and other victims' services to sexual assault, domestic violence, stalking, and other violent crime victims.[36] The data collected by the SD DPS is available upon request and not publicly accessible. For this report, the number of individuals receiving services related to human trafficking at these facilities was requested through the Center for the Prevention of Child Maltreatment (CPCM) on September 13, 2021. CPCM obtained the data from the SD DPS on December 13, 2021.

DATA SOURCE LIMITATIONS

The SD DPS data only accounted for individuals who receive services from facilities with SD Victims Assistance Program funding. Excluded from this data are individuals who could potentially be victims of human trafficking incidents but associated with facilities not receiving this funding. Additionally, the human trafficking statistic provided only includes individuals who sought services at supported facilities, excluding individuals who did not seek services but still are victims of human trafficking.

STATE DATA: 2019-2020

SD DPS began tracking individuals receiving services for human trafficking in 2019. In 2019, SD DPS reported only four individuals received human trafficking services at facilities funded by the SD Victims Assistance Program.[42] However, in 2020, this number increased to 189 individuals who received human trafficking services.[42]

NATIONAL HUMAN TRAFFICKING HOTLINE

DESCRIPTION OF DATA SOURCE

The National Human Trafficking Hotline serves to help connect human trafficking victims and survivors to support and services, receive tips on potential incidents of human trafficking, and facilitate reporting tips to the appropriate authorities. While not a government or law enforcement entity, the hotline is funded by the U.S. Department of Health and Human Services and other private donors. National and state-level data collected through the National Human Trafficking Hotline includes human trafficking statistics based on the contacts (phone calls, texts, online chats, emails, and online tip reports) received by the hotline. State specific data is sorted by contacts that reference SD. The data is presented as 'cases', which represents specific situations of trafficking reported to the hotline and is not an indication of law enforcement involvement. A single case may include multiple victims.[37]

DATA SOURCE LIMITATIONS

The data presented does not represent the totality of human trafficking in each geographic area. Data was collected through the contacts made to the hotline, limiting the completeness of information obtained, such as the person not always providing demographic information. When reporting cases, a single case may include multiple victims, male and female victims, and various aged victims.[38] Additionally, state-level data was limited to the contact referencing SD in some capacity to count towards SD statistics.[39]

NATIONAL AND STATE DATA: 2020

SD ranked 40th in the nation for number of contacts made to the National Human Trafficking Hotline in 2020.[40] A total of 58 contacts (phone calls, texts, online chats, emails, and online tip reports) were made to the hotline referencing SD, with 43% of these (25 contacts) being reports of human trafficking cases.[39] At the national level, 51,667 contacts were made in 2020 and 20% of these (10,583 contacts) were reported as human trafficking cases.[38] Besides human trafficking cases, the data source does not clarify the type of case or reason for other contacts to the hotline.

Figure 16 shows the breakdown of requests made to the hotline regarding human trafficking cases for SD and the US. Cases referencing SD included either reports of a trafficking tip or requests for service referrals. Service referrals include requests for services for a potential victim, referrals for anti-trafficking organizations in their area, or contact information for individuals involved with certain anti-trafficking organizations.[38] Nationally, most human trafficking case contacts involved reporting a trafficking tip, followed by accessing service referrals and requests for crisis assistance.

Figure 16. Breakdown of requests on human trafficking cases from National Hotline[38,39]
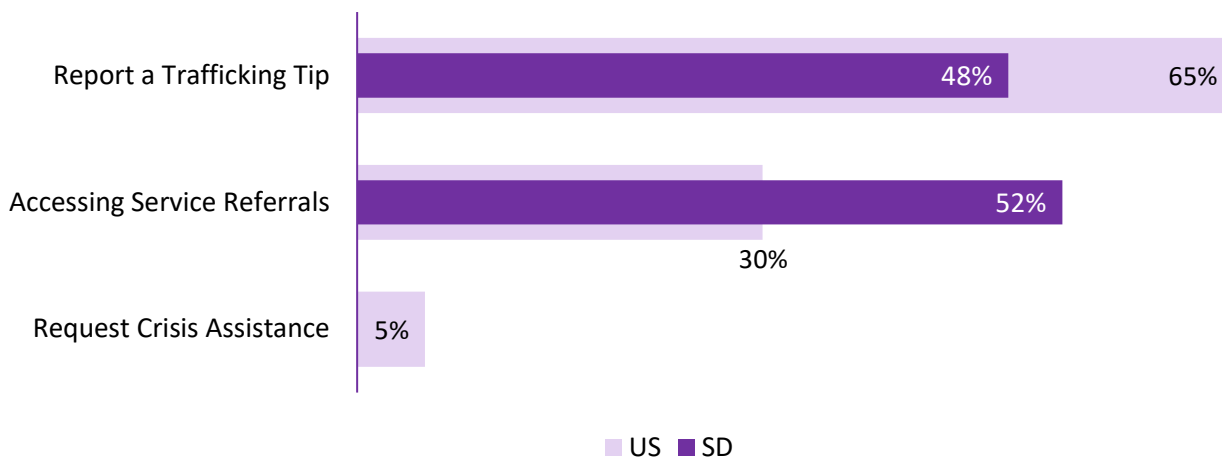
Females made up the majority of human trafficking cases reported to the hotline at the state and national levels (Figure 17). Additionally, most cases reported for both SD and the US involved adults (Figure 18). At the state and national levels, sex trafficking was the highest reported type of trafficking case, followed by no type specified then labor trafficking (Figure 19). The data source did not include a breakdown of contacts' race or ethnicity.

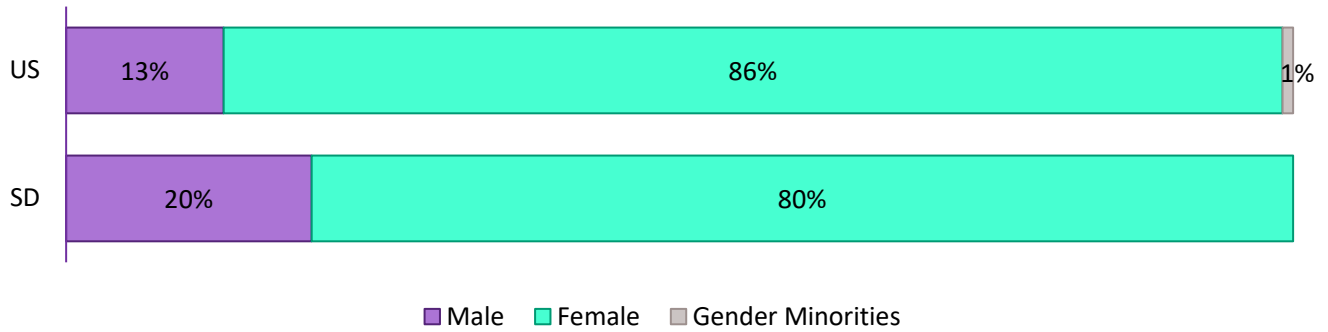**Figure 17.** Sex of U.S. and S.D. human trafficking cases[38,39]

US	13%	86%	1%
SD	20%	80%	

■ Male   ■ Female   ■ Gender Minorities

Figure 18. Age designation of U.S. and S.D. human trafficking cases[38,39]

US	72%	28%
SD	86%	14%

■ Adult   ■ Minor
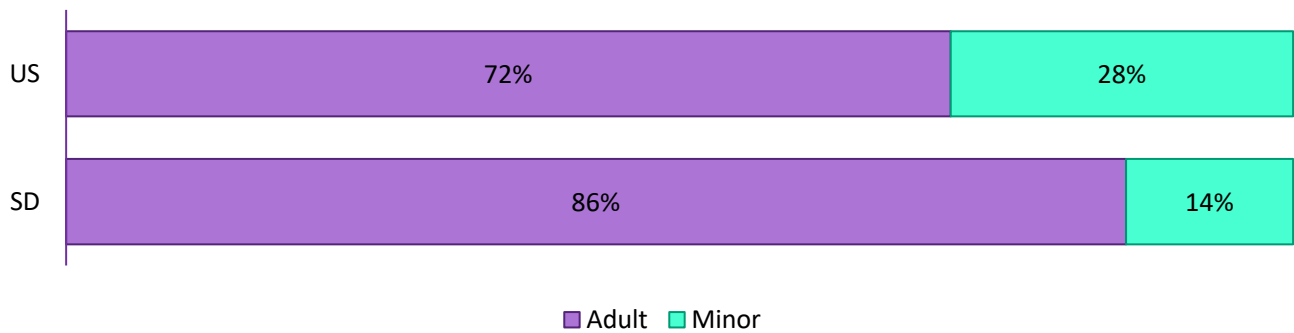
Figure 19. Type of trafficking cases reported, U.S. and S.D.[38,39]

US	72%	10%	3%	15%
SD	76%	4%		20%

■ Sex Trafficking   ■ Labor Trafficking   ■ Sex & Labor   ■ Trafficking Type not Specified
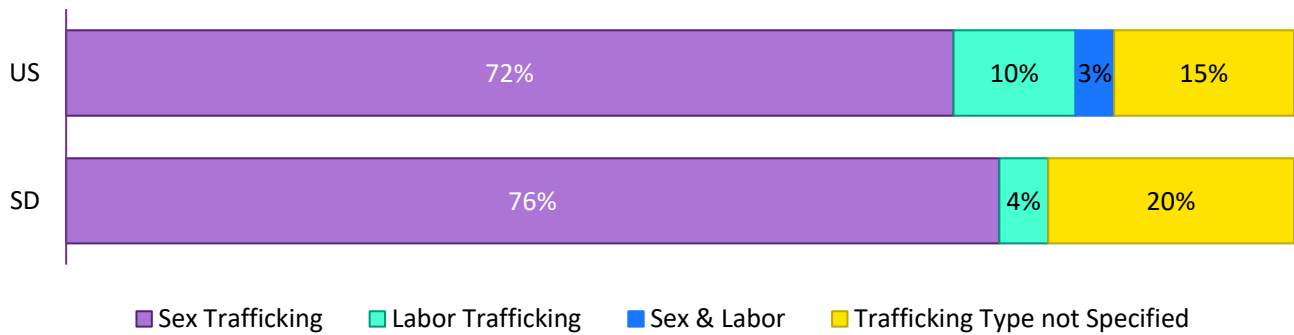
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