



SAFETY AND JUSTICE CHALLENGE CASE STUDY

# Strategies for Safely Reducing the Jail Population

**Implementation Lessons from Pennington County, South Dakota**

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# Executive Summary

Pennington County, South Dakota, has roughly 113,000 residents and is home to Rapid City, the second-largest city in the state.<sup>1</sup> The county is the place of origin for many Indigenous peoples and home to over 50 peoples who reside on reservations and in Rapid City. Rapid City is surrounded by five neighboring reservations, the closest one being Pine Ridge Reservation (an Oglala Lakota reservation), which is the second-poorest reservation in the United States<sup>2</sup>—nearly 50 percent of families with children under 18 there are living below the poverty level.<sup>3</sup> In addition, Rapid City is an urban hub for Indigenous people, who it is estimated constitute about 25 percent of the city's population on any given day, including those who reside there permanently and those who travel there for work, shopping, recreation, and other personal and community activities (Vantage Point Historical Services 2020, 4).

Indigenous communities and white people in Pennington County have a long and rocky history of distrust and tension. Over the past 20 years, Indigenous people have been significantly overrepresented in jail and throughout the continuum of the criminal legal system. As of 2018, the incarceration rate of Indigenous people there was *six times higher* than that of white people.<sup>4</sup> This disparity is three times higher than the national average as of 2019.<sup>5</sup>

Addressing the disparities among Indigenous American people in the criminal legal system was one of the key drivers behind Pennington County's pursuit of Safety and Justice Challenge (SJC) funding in 2015. Pennington County focused on safely reducing its overall jail population by improving its case processing practices and creating appropriate alternatives to incarceration in the community prior to and during the SJC. After five years implementing different strategies from 2015 to 2020, the county's average daily population (ADP) had not decreased, mainly because a steep increase in drug-related offenses counteracted the county's modest progress reducing the rest of the jail population. Moreover, the rate at which Indigenous people were overrepresented was still significantly higher compared with every other racial/ethnic group. In 2016, Indigenous people were 12.9 times more likely than white people to be booked into the jail and 4.2 times more likely than Black people. In 2022, Indigenous people were 18.8 times more likely than white people to be booked into the jail and 4.8 times more likely than Black people.

The county's SJC efforts had mixed results and it made little progress reducing the jail population for multiple reasons, the nuances of which we present in this case study. Based on the Urban Institute research team's interviews and review of available data, our key findings are as follows:

- Since Pennington County received SJC funding, members of its Indigenous community have been more actively included as thought leaders to advance criminal legal system reform and build trust between Indigenous American communities and the criminal legal system.
- The Pennington County Sheriff's Office and the Seventh Judicial Circuit began conducting tribal outreach by identifying the drivers of racial and ethnic disparities in arrests and bookings into the county's jail and the associated challenges with government-issued identification, barriers to court appearance, and community members' behavioral health and substance use needs. In addition to identifying these disparities, the county hosted monthly informal discussions and community forums to provide opportunities to discuss the historical trauma experienced by members of the Indigenous American communities.
- The county created and formalized in the county budget new positions, such as a liaison and jail release coordinator in the state's attorney's office (SAO), that would focus on reducing incarceration of Indigenous people by creating paths to expedite their cases.
- In 2017, the county set a goal of reducing the overall ADP by 20 to 24 percent. It did not set a similar goal for reducing the number of Indigenous people incarcerated. In interviews, we learned that county stakeholders wanted to consult external experts about best practices for developing a realistic goal for that number. To that end, county stakeholders began working with an independent local consulting agency in 2020 to quantify disparities throughout the criminal legal system.
- To address the increase in drug-related charges that occurred during the SJC implementation period, the county created a major initiative called Care Campus, which provides alternative behavioral health treatment solutions to divert people with substance use disorders. The majority of interviewed stakeholders cited Care Campus as a major success for their county. With funding from the state and the philanthropic community, the county hopes to expand the campus's services and support.
- The county started using the Public Safety Assessment (PSA), a pretrial risk assessment tool, which the majority of interviewed stakeholders considered a success. The PSA expedited pretrial processing at intake booking and ahead of people's initial hearings. The adoption of the tool was critical in reducing the number of people held in jail for minor offenses.
- The county created additional diversion programs for young people and adults which have not served enough people to significantly impact the ADP. According to several interviewed

stakeholders, however, the programs have made community members perceive the system as fairer and made them more inclined to give people second chances.

- Stakeholders we interviewed shared that not enough time has passed to see the results of some SJC strategies the county started shortly after the COVID-19 pandemic began. We also learned in interviews that the pandemic created some barriers for, and disrupted, some existing efforts. For example, South Dakota runs the [24/7 Sobriety Program](#), a mandatory program for people who have been arrested for offenses involving alcohol or drugs, where participants must be periodically screened for substances and pay fees for each screening. One interviewee reported that use of and referrals to the 24/7 program have decreased during the pandemic, but it is unclear whether these reductions will persist once pandemic protocols are lifted. Another stakeholder said they had to change case management to completely remote during COVID-19 to keep clients and staff safe.



# Strategies for Safely Reducing the Jail Population

Local jails are a big driver of the mass incarceration crisis in the United States, confining more than 730,000 people on any given day (Sawyer and Wagner 2020). Moreover, it is well documented that people of color, including Indigenous people, are overrepresented in jails (although the quality and comprehensiveness of the data vary, particularly for Indigenous Americans) (Eaglin and Solomon 2015).<sup>6</sup> The most recent estimates show that in 2020, American Indian and Alaska Native people\* were incarcerated in jails at a rate of 274 per 100,000, second to non-Hispanic Black Americans (465 per 100,000) (Zeng 2021).

Many of those Indigenous Americans are in jails that are located near tribal communities and that have unique contexts. Relationships between residents of those communities and legal system agencies are complex, often tense, and reflect hundreds of years of harm, and researchers and practitioners working to reduce incarceration in those jails and legal system involvement more broadly must pay attention to those contexts.<sup>7</sup>

Pennington County is one jurisdiction that has been working to reduce its overall jail population and racial and ethnic disparities in that population. This case study, part of a series highlighting work supported by the Safety and Justice Challenge (SJC) (box 1), examines the county's experience implementing three core strategies to achieve those goals. Those strategies were to (1) improve tribal outreach activities and strengthen tribal relationships, (2) create alternatives to incarceration, and (3) optimize case processing and operations.

To develop this case study, the Urban Institute conducted semistructured interviews with Pennington County stakeholders who worked on the SJC strategies, analyzed program materials and SJC applications and progress reports, and reviewed jail population trends in the county, the data for which were cleaned and analyzed by the CUNY Institute for State and Local Governance (ISLG).

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\* We use "American Indian and Alaska Native" when discussing data sources that use that term. Otherwise, we use "Indigenous American" to refer to people who are indigenous to what is now known as the continental United States, and more specifically to those who live on the three reservations (Pine Ridge Reservation, Rosebud Indian Reservation, and Cheyenne River Reservation) surrounding Pennington County, South Dakota. Indigenous people we interviewed for this case study prefer this term.

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**BOX 1****The Safety and Justice Challenge Implementation Case Studies**

The John D. and Catherine T. MacArthur Foundation launched the Safety and Justice Challenge (SJC) in 2015 to address the misuse and overuse of jails, a main driver of incarceration in America. The network of cities, counties, and states participating in the SJC are working to rethink local justice systems with strategies that are intended to be data-driven, equity-focused, and community-informed, and that safely reduce jail populations, eliminate ineffective and unfair practices, and reduce racial disparities. This case study is part of a series that examines how SJC network jurisdictions that received significant, sustained grant investment in comprehensive system reform worked to change the way that they use jails, in order to provide practical insights to other localities seeking to realize similar reform ambitions.

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Between May and October 2021, the Urban research team conducted one-hour virtual interviews with 11 Pennington County stakeholders representing different county justice agencies (including the public defender's office, the state's attorney's office (SAO), courts, the sheriff's office, local government, and community-based service providers). In December 2021, we conducted 30-minute interviews with four tribal community members who had been incarcerated in Pennington County Jail. During interviews, we collected information on the local landscape of criminal legal reform in Pennington County; the county's three core SJC-funded strategies and corresponding substrategies; the design and implementation of those strategies; efforts to address racial and ethnic disparities in the county jail, and more specifically, the disproportionate representation of Indigenous people there; community engagement work; challenges and successes; key partnerships; outcomes; and sustainability.

Pennington County has a complex criminal legal reform landscape and a robust history of iterating SJC reduction goals and strategy priorities. Pennington's SJC work went through many iterations, which often meant reconsidering ineffective strategies and replacing them with new ones or significantly restructuring strategies to accommodate moving targets. For example, as the county was determining goals and priorities for justice reform for its latest round of funding, it began to see an influx of new and persistent challenges. The majority of interviewees noted drug-related charges among people in the jail had increased, a major challenge which altered the county's course and in some cases impeded jail reduction progress. In many ways, Pennington's story is about adapting to challenges in real time to identify effective strategies. Ultimately, the county leveraged early successes, such as formalizing and strengthening partnerships and implementing drug treatment solutions, to sustain the strategies stakeholders deemed effective and relationship building with Indigenous American communities.

We begin this case study with an overview of Pennington County's local criminal legal reform context. Next, we describe the impetus for reducing its jail population. Then, we describe the three core strategies and corresponding substrategies Pennington implemented. Lastly, we discuss the impacts of those strategies that interviewed stakeholders perceived, data ISLG provided, and lessons learned.

## The Criminal Legal System Landscape in Pennington County

Pennington County has about 113,000 residents and is home to Rapid City, the second-largest city in South Dakota.<sup>8</sup> When the county joined the SJC, its local jail's baseline average daily population (ADP) was 374 (excluding contracted beds and people detained by Immigration and Customs Enforcement),<sup>9</sup> a jail incarceration rate of 449 people per 100,000 adults (ISLG 2021). In 2016, shortly after the county joined the SJC, 82 percent of people in the jail were held pretrial/awaiting action, a trend that has continued, according to analysis conducted by ISLG in 2019. The average length of stay at release was 13 days (ISLG 2021, 68). Whereas Indigenous Americans made up only 10 percent of Pennington County's population,<sup>10</sup> they made up 66 percent of the daily jail population as of April 2016.<sup>11</sup> This pronounced disparity exists in a context where distrust between tribal reservation communities and the county has persisted for many years.<sup>12</sup> The county is surrounded by five neighboring reservations, the closest one being Pine Ridge, an Oglala Lakota reservation. Pine Ridge is the second-poorest reservation in the United States: nearly 50 percent of families with children younger than 18 there are living below the poverty level.<sup>13</sup>

Pennington County only has jurisdiction over crimes occurring within county borders, not those occurring in reservations (box 2 provides more information about tribal governance). Moreover, several interviewees explained that many people from the surrounding tribal communities travel to Rapid City for jobs and services or live in the city, indicating that the actual number of tribal community members in the county on a given day could be closer to 25 percent or more, rather than the 10 percent estimated by the Census Bureau (Vantage Point Historical Services 2020, 4). Stakeholders explained that Pine Ridge residents and tribal members encounter law enforcement when traveling into the city and many of these encounters lead to the arrest and incarceration of Indigenous Americans in Pennington, exacerbating their disproportionate representation in the criminal legal system. According to six stakeholders, the tensions that exist between the Indigenous communities and white people in Pennington County make any efforts to advance criminal legal reform particularly challenging. Those

tensions and the persistent overrepresentation of Indigenous Americans in the county jail are reminders that more work needs to be done.

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#### BOX 2

#### A Note about Sovereign Nations

Sovereignty means the autonomy to self-govern. Tribal sovereignty is the natural right of Indigenous American people to govern themselves, which means they operate independently of the United States government. Sovereign nations have the right to develop their own governments, create and enforce laws, regulate trade within their borders, and form alliances with other nations. The US federal government does not “grant” sovereignty; tribal nations have always been sovereign. The United States recognizes 574 sovereign tribal nations. South Dakota has nine federally recognized sovereign nations and Pennington County has three neighboring tribal nations. The Rapid City Police Department does not have jurisdiction to enforce laws or address crimes that happen on sovereign reservation lands.

**Sources:** “Federally Recognized Indian Tribes and Resources for Native Americans,” usa.gov, last updated January 7, 2022, <https://www.usa.gov/tribes#:~:text=The%20U.S.%20government%20officially%20recognizes,contracts%2C%20grants%2C%20or%20compacts>; “Tribal Nations & the United States: An Introduction,” National Congress of American Indians, accessed August 22, 2022, <https://www.ncai.org/about-tribes>; “Tribal History/Shared History (TH/SH),” oregon.gov, accessed September 20, 2022, <https://www.oregon.gov/ode/students-and-family/equity/NativeAmericanEducation/Pages/Senate-Bill-13-Tribal-HistoryShared-History.aspx>.

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To reduce its jail population and mitigate some of the biggest challenges in its criminal legal system, Pennington County proposed a multifaceted plan with three core strategies.<sup>14</sup> Those strategies were to: (1) improve tribal outreach activities and strengthen tribal relationships, (2) create alternatives to incarceration, and (3) optimize case processing and operations. Later in this report, we provided detailed descriptions of the three strategies and their multiple substrategies and initiatives,<sup>15</sup> which were as follows:

1. Improve tribal outreach activities and strengthen tribal relationships.
  - a. Hire a tribal community outreach coordinator and partner with [I. Am. Legacy](#), an Indigenous American-led nonprofit organization that would be the main liaison to Indigenous American communities.
  - b. Initiate expedited warrant resolutions to process low-level offense incidents more quickly, focusing on cases of Indigenous American people.
  - c. Issue state and/or tribal identification for people with improper or invalid identification.
  - d. Create unilateral extradition.

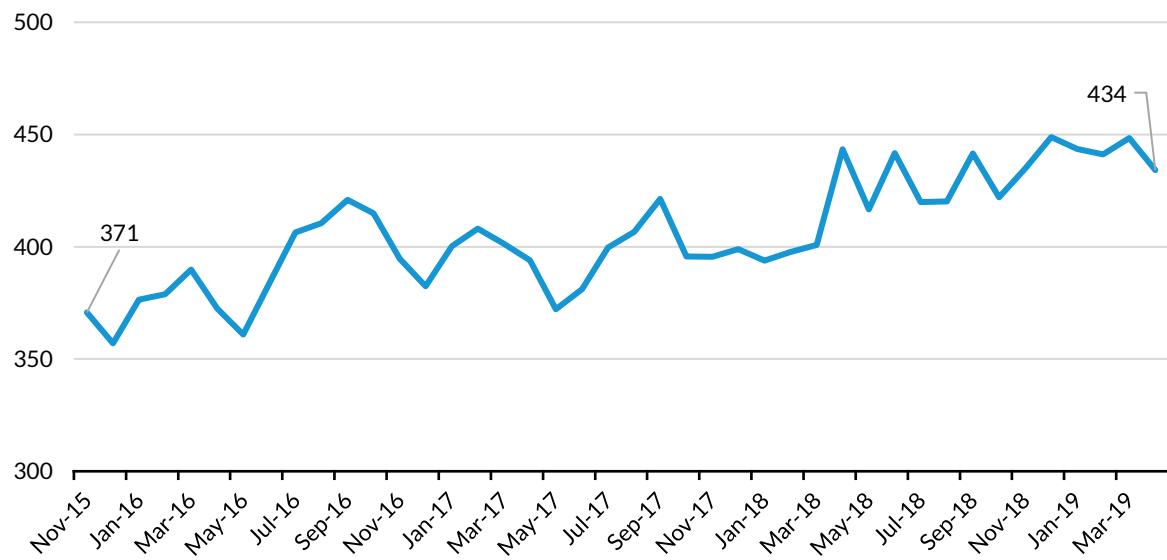
- e. Design and implement community service and jail service opportunities
2. Create alternatives to incarceration.
  - a. Launch a new facility called Care Campus that provides alternative options for people who are intoxicated in public or who commit minor crimes or cause dysfunction in the community related to behavioral, mental health, and substance use needs.
  - b. Establish a 24/7 pretrial electronic monitoring program.
  - c. Launch a young adult diversion program.
  - d. Launch an adult diversion program.
3. Optimize case processing and operations.
  - a. Establish a jail population review team.
  - b. Implement a risk assessment tool and manage the jail population based on risk level.
  - c. Pilot a cite-and-release initiative led by the Rapid City Police Department.

## Trends in Average Daily Population

When Pennington County joined the SJC, the baseline ADP in its jail (the average from November 2015 through April 2016) was 374 people (ISLG 2021). By April 2019, the ADP had risen 18 percent (figure 1) (ISLG 2021, 70). In March 2020, when the COVID-19 pandemic started and many jails began releasing people incarcerated for nonviolent offenses, the ADP dropped to approximately 330 people, but it started rising again through early 2021.<sup>16</sup>

**FIGURE 1**

**Pennington County Jail's Average Daily Population Increased 18 Percent between November 2015 and April 2019**



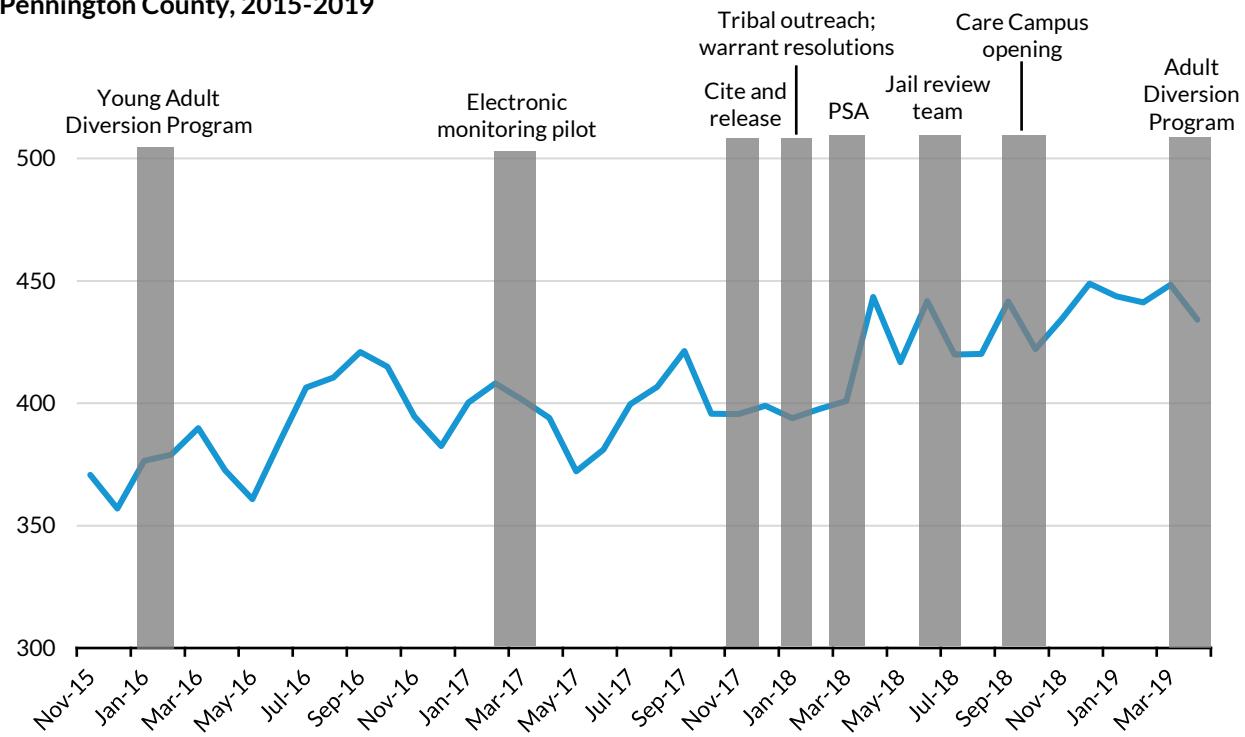
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Source: Analysis conducted by the CUNY Institute for State and Local Governance, 2021.

Because ADP reductions in 2020 and 2021 happened during the pandemic, it is difficult to establish correlation between the county's SJC strategies and trends in ADP. As is the case with many SJC sites across the country, Pennington County focused on moving as many people out of its jail as possible to prevent a public health crisis. Therefore, Urban's researchers relied on data analysis from ISLG, which for this case study compared trends from baseline in 2015 to trends in April 2018, or in some cases April 2019, as comparison years to understand the correlation between the SJC strategies and ADP trends. Figure 2 shows the timeline of when the SJC initiatives were launched and the trends in ADP over three years.

FIGURE 2

Average Daily Population and Timeline of Launching Safety and Justice Challenge Strategies in Pennington County, 2015-2019



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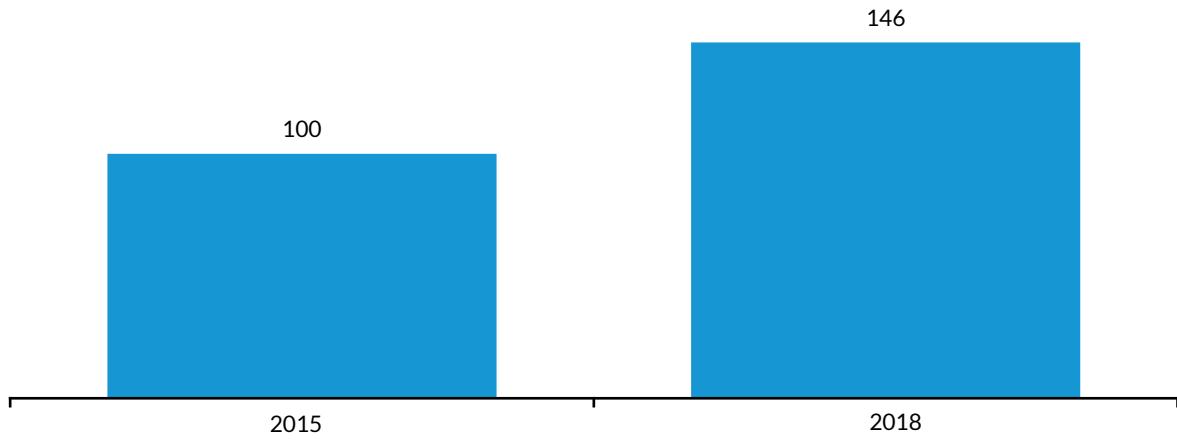
**Source:** Interviews with Pennington County stakeholders and analysis conducted by the CUNY Institute for State and Local Governance, 2021.

**Note:** PSA = Public Safety Assessment.

According to stakeholders Urban interviewed and ISLG analysis, drug-related charges were the main driver of the increasing ADP. The ADP of people in the jail whose top charge was a drug-related charge grew from approximately 100 at baseline (November 2015 through April 2016) to 146 by Year 2 (April 2018), a 45 percent increase (figure 3). In contrast, the non-drug-related ADP fell by about 5 percent between 2015 and 2018 (figure 4).

**FIGURE 3**

**The Average Daily Population for Drug-Related Top Charges in Pennington County Jail Increased 45 Percent from 2015 to 2018**

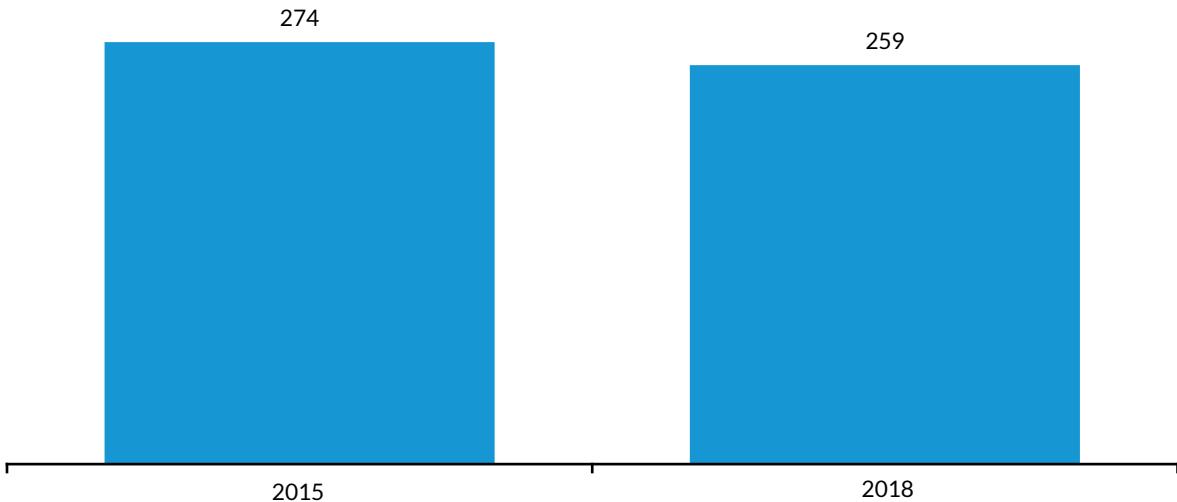


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Source: Analysis conducted by the CUNY Institute for State and Local Governance, 2021.

**FIGURE 4**

**The Average Daily Population for Non-Drug-Related Top Charges in Pennington County Jail Decreased 5 Percent from 2015 to 2018**



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Source: Analysis conducted by the CUNY Institute for State and Local Governance, 2021.

The majority of stakeholders we interviewed reported that the wide availability and use of methamphetamine is an increasing challenge for the county. ISLG's internal analysis confirms this: it found a notable rise in possession of controlled schedule II drugs/substances, including methamphetamines, from 2015 to 2019 (ISLG 2021).<sup>17</sup> In response to this and other challenges, Pennington County pursued several strategies under the SJC to create better treatment and diversion options for people with substance use disorders.

## The Impetus for Change

In Pennington County, there has long been distrust between county government and neighboring tribal communities stemming from hundreds of years of tensions. This has perpetuated inequities for Indigenous Americans. Pennington stakeholders have reported many chronic issues with homelessness, poverty, substance use, and mental and behavioral health in their community. Indigenous American people are more likely to be arrested and incarcerated in the county's jail than white people (Pennington County Sheriff's Office 2020).<sup>18</sup> Although they make up 10 to 20 percent of the county population, Indigenous American people make up around 60 percent of arrests and regularly trend around 50 to 60 percent of the total jail population (Pennington County Sheriff's Office 2020). Additionally, the majority of Pennington's jail population consists of people detained pretrial for nonfelony arrests, which are a major driver of the jail's ADP: in 2017, the vast majority (approximately 70 percent) of people in the jail had been arrested for nonfelonies.<sup>19</sup>

Moreover, until it launched its Pretrial Monitoring Program in July 2020, Pennington County did not have an established pretrial department to supervise people released pretrial, which significantly limited release options for judicial officers. In response to an increasing number of people referred to the jail pretrial and interest in identifying alternatives to incarceration during the pandemic, the county launched the program to create opportunities for more people to be released with conditions.

As mentioned above, charges related to drug and substance use have been a major driver of Pennington's jail ADP. Through interviews, we learned that arrests for substance use, including methamphetamine, began to surge around 2014 and 2015. Indigenous American and white people are booked most for drug- and substance-use-related charges. According to ISLG analysis, between 2015 and 2018 drug-related bookings rose across all racial and ethnic groups, and rose by 66 percent among Indigenous Americans and 72 percent among white people (ISLG 2021). Year 3 (2019) data analyzed by ISLG showed a 45 percent rise in drug-related bookings, contributing to the increase in ADP.

Because of these challenges, Pennington's jail was reaching capacity and rapidly becoming overpopulated.<sup>20</sup> We learned that Pennington stakeholders wanted to find innovative ways to address and mitigate this burden on the system and to strengthen their community. As one stakeholder pointed out, one of the most efficient ways to reduce the jail population is to limit who goes in in the first place: "Cutting who goes in will impact your jail population." Achieving this type of reform requires collaboration between legal system stakeholders, and in Pennington County, there had been great collaboration among non-Indigenous legal system stakeholders because of the county's participation in the national Juvenile Detention Alternatives Initiative; there had also been informal partnerships where stakeholders met regularly to discuss problems. Interviewed stakeholders said this long-term collaboration enabled partners to work together to develop their SJC strategies.

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*Our jail is reaching capacity. The last time Pennington County faced jail overpopulation we built a larger one [facility]. We are committed to a different approach this time. The stakeholders recognize that jail is costly to taxpayers, inmates, and society and so should be used as sparingly as possible, without compromising public safety. We want to be smart, safe and just.*

*—Pennington County's 2015 SJC application*

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In addition, many stakeholders said the county applied for SJC funding to mend and build relationships with Indigenous American communities. The SJC provided the county a unique opportunity to build those relationships and collaborate with neighboring communities in new ways. Three Pennington stakeholders also elevated the importance of having funding to be able to experiment with strategies that had not been tried or evaluated. MacArthur SJC funding would help reduce the financial burden on the county while enabling stakeholders to tackle some of their persistent legal system challenges.

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*MacArthur created an opportunity to bring a lot of bright minded people, who are at the forefront of thinking about these issues and get some ideas and cut through inertia of public policy here, which is doing things like we've always done them. It's good to have experts, help other people to make decisions.*

*—Pennington County stakeholder*

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## ADP and Goals

To determine whether and how Pennington should apply to the SJC, county stakeholders convened a roundtable discussion with government stakeholders to gauge interest. This included judicial court members and representatives from the sheriff's office, the SAO, the public defender's office, the Rapid City Police Department, the county department of health and human services, and the Pennington County Board of Commissioners. Together they decided on a leadership structure and an approach to their application.

In 2017, Pennington received an initial investment of \$1.75 million as an SJC implementation site to implement the three core strategies detailed below. With these strategies, Pennington aimed to decrease its ADP by 20 to 24 percent by removing an estimated 80 people a day from its jail,<sup>21</sup> and to reduce racial and ethnic disparities at different decision points in its legal system.

In its initial application to MacArthur, Pennington County did not set a target for reducing the number of Indigenous people entering its jail and the criminal legal system more broadly. According to our interviews, county stakeholders wanted to consult external experts about best practices to develop a realistic target. In 2020, county stakeholders engaged with a local consulting firm, [Benchmark Data Labs](#), that conducted a decision point analysis to identify where disparities existed in the county's criminal legal system. By the end of 2022, county stakeholders anticipate receiving a report and recommendations for stakeholders from the criminal legal system to identify specific areas of focus and a realistic target for reductions.

# Core Strategies

Pennington County implemented three core strategies: (1) strengthen tribal outreach, (2) create alternatives to incarceration, and (3) improve case processing. The details of each strategy are covered below, along with their respective substrategies.

## Strategy I. Strengthen Tribal Outreach

Tribal outreach encompassed many activities intended to develop and sustain relationships, build trust, and enhance communication between Pennington County government and three neighboring tribal communities: Pine Ridge, Rosebud, and Cheyenne River. The county and those communities have a long history of conflict and distrust. As part of their SJC strategy, stakeholders aimed to begin to mend some of the harm caused to Indigenous communities and to intentionally engage and uplift community voices.

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*We are unique [one of the very few sites] in SJC that has over disproportionate representation of Native Americans. Native Americans constitute 10 percent of the general population, but 50 percent in the jail population, 60 percent in juvenile, and 80 percent at Care Campus.*

*—Pennington County stakeholder*

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Seven stakeholders described tribal outreach as imperative to their SJC efforts. Pennington is one of the only SJC sites where Indigenous people are vastly overrepresented in jail, a unique context that necessitated an intentional strategy to address. This strategy demonstrates Pennington's acknowledgement of its disproportionate incarceration and unequal treatment of Indigenous people. Again, though, the county did not target a specific reduction in the number of Indigenous people in the jail; one stakeholder described the tribal outreach as more "qualitative" in nature, focusing more on Pennington's reach and the breadth of community engagement.

Pennington stakeholders reported that they began their outreach efforts right away in January 2017. To develop their tribal outreach initiative, they identified several drivers of racial and ethnic disparities in arrests and bookings into the county's jail, including challenges with government-issued identification, barriers to court appearance, and mental and behavioral health needs, in addition to substance use. To address these challenges, Pennington stakeholders determined five substrategies: (1)

create a tribal outreach team, (2) issue state and/or tribal identification, (3) create community service and jail service opportunities in reservations, (4) create unilateral extradition, and (5) implement warrant resolution. A small group of stakeholders met with tribal leaders from all three neighboring reservations to discuss the five substrategies, which the leaders reportedly strongly supported. Urban researchers learned, however, that only two of the proposed substrategies were under way at the time of the interviews, those being (1) having created an outreach team and (5) warrant resolution. Below we provide an overview of the five substrategies and discuss each one's implementation in more depth.

### **CREATING A TRIBAL OUTREACH TEAM**

Pennington developed partnerships with local culturally based community organizations and social services to execute its tribal outreach and community engagement goals. It also created the Tribal Outreach Team, a small team consisting of a community outreach coordinator and an attorney liaison/legal advocate who were both Lakota community members. This team traveled to the three neighboring tribal communities (Pine Ridge, Rosebud, and Cheyenne River) to share more about SJC efforts and how community members could assist with promoting positive outcomes for their relatives. They also partnered with two culturally based programming providers that were pillars in the community, one of which was I. Am. Legacy, a local Indigenous American-led nonprofit organization that served as the main liaison to tribal communities. I. Am. Legacy offers culturally relevant programming for Indigenous American people who have been impacted by the criminal legal system. It facilitates groups for people with behavioral and substance use needs and hosts events in the community. As of winter 2019, the outreach team had attended 45 events, 33 of which were located in the surrounding tribal communities.

In addition, Pennington has an SJC committee that community members can participate in, provide suggestions to, and raise challenges to. Also, from May 2019 through October 2020, the Criminal Justice Community Engagement Workgroup met to build on its achievements and help develop additional community allies to assist with achieving equity. The Criminal Justice Community Engagement Workgroup comprised community members and criminal legal system stakeholders who planned community engagement activities (e.g., focus groups, listening sessions, criminal legal system information sessions, and community meetings); reviewed content and material related to public education campaigns, information sessions, and community meetings related to the criminal legal system; and developed strategies to improve communication between the community and the criminal legal system in Pennington.

## ISSUING STATE AND/OR TRIBAL IDENTIFICATION

In its 2017 MacArthur renewal application, Pennington stated that a lack of proper tribal or state-issued identification was driving disproportionate arrests and jail bookings among Indigenous people. Pennington's procedure when arresting people who did not have law enforcement-recognized identification was to take them to the jail for booking and then identify them. To mitigate this challenge, Pennington proposed to develop a strong identification program in which people without a valid ID could have the opportunity to receive one and avoid arrest. Increasing the number of valid IDs would enable officers to cite and release more people instead of booking them into the jail. To implement this initiative, Pennington stakeholders proposed to meet with reservation communities to develop an action plan to establish a pilot program and eventually expand into other surrounding reservations. After more investigation, Pennington determined this strategy was not as useful as it thought because there was already a state ID program for people to obtain an ID. As such, the county discontinued it. It also revised its law enforcement policy, allowing people to use tribal or military identification when receiving citations.

## UNILATERAL EXTRADITION

Tribal and federal law does not mandate extradition of people facing criminal charges (defendants) between Pennington County and the three neighboring tribal reservations. The sheriff's office and the police department proposed to pursue extradition from Pennington County to the reservations as a first step toward developing extradition agreements to increase cooperation and trust between tribal and county law enforcement. In our stakeholder interviews, we learned that they discontinued this because other similar statewide efforts were under way, making this strategy obsolete.

## WARRANT RESOLUTION

Warrant resolution was launched in January 2019 after a brief planning stage. The strategy was intended to resolve outstanding warrants, including for Indigenous people who lived on reservations but who traveled frequently to Rapid City for shopping, jobs, services, visiting family and friends, or medical care and who may have been unaware of their warrants or may not have known how to resolve their cases. The SAO, public defender's office, and courts created a program to resolve cases and warrants on the reservations, thereby reducing arrests in Rapid City and jail bookings. The stakeholders also created a free 1-800 number to enable people with active warrants to call in and speak to the SAO about opportunities to resolve their cases. Other goals of the warrant resolution strategy were to strengthen the relationship between Pennington County and the reservations and to promote trust and accountability. Information about the warrant resolution efforts and other SJC strategies is shared

through events and meetings attended by the Tribal Outreach Team and other Pennington County stakeholders. Examples include community events held in the three neighboring reservations and the Lakota Nation Invitational held every December.

## **Strategy II. Create Alternatives to Incarceration**

After joining the SJC, Pennington County implemented three substrategies to safely divert people from the jail. Below we summarize these substrategies and discuss their implementation.

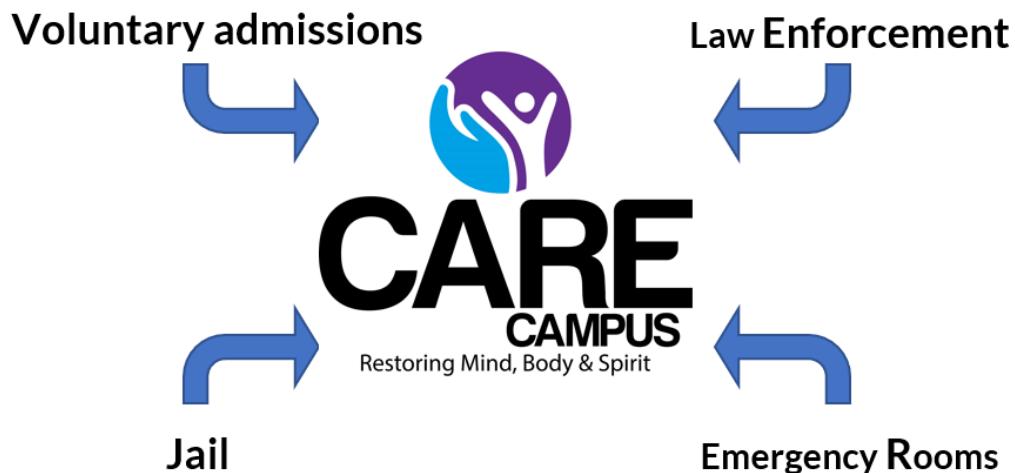
### **LAUNCHING A NEW DIVERSION FACILITY CALLED CARE CAMPUS**

Building on existing partnerships and years of planning, on September 26, 2018, a new diversion facility called Care Campus opened its doors to the public. Pennington County stakeholders worked closely with their peers from San Antonio, Texas, who run a similar facility called [Haven for Hope](#), to create a vision for Care Campus. The vision for Care Campus was that it would be **a single point of entry to multiple programs and provide treatment and supports for substance use disorders and mental health** for people in crisis, people experiencing chronic housing instability, and people experiencing ongoing challenges associated with substance use disorders. According to our interviews, legal system stakeholders and community members, including representatives from the Indigenous communities, participated in designing and creating the vision for the facility.

People can be introduced to Care Campus through voluntary admissions, by law enforcement, via the jail, and via emergency rooms (figure 5). According to stakeholders we interviewed, after the facility had operated for several years, people had become more aware of the services and started going voluntarily, making that the most prevalent entry pathway.

FIGURE 5

Entry Pathways to Care Campus in Pennington County, South Dakota



Source: Pennington County's Sheriff's Office, 2021.

Care Campus is a partnership between the Pennington County Sheriff's Office, Pennington County Health and Human Services, and Behavior Management Systems, with the sheriff and the director of health and human services jointly coleading it and providing oversight to all in-house and contracted services. Although there are many similar centers across the country where system-involved people are diverted, the type of jointly run operation Pennington County created is not widespread, but it enables the sheriff's office and the department of health and human services to coordinate more effectively and efficiently. Several interviewed stakeholders mentioned that opening Care Campus has been one of the county's most successful SJC strategies.

People who come to Care Campus have access to **four types of co-located services**, with several options available based on people's needs.

**First, substance use disorder services** are provided by contracted providers and overseen by the sheriff's office. Those services are as follows:

- *Safe Solutions* is a harm reduction model geared toward people who are intoxicated in public and need a safe place to spend a night. People can come in voluntarily or, if they cause disruptions in the community, police can take them in lieu of arrest. People spend the night on a mattress and can get a sandwich in the morning. They also receive a general overview of the variety of services available to those who would like to continue with treatment.

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*[Safe Solutions] is a good way to get people off the street and keep them safe.*

*—Pennington County stakeholder*

*It's a powerful signal that we [system partners] are here to help.*

*—Pennington County stakeholder*

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- *Detoxification services* are provided to people who go voluntarily and those committed involuntarily by law enforcement or a family member for a 24-hour protective custody hold, according to state law.<sup>22</sup> People can also be referred by hospitals for a 24-hour emergency hold.
- *Residential and outpatient treatment* is provided by Behavior Management Systems, the largest behavioral health treatment provider in South Dakota. Through Care Campus people have access to five modalities of residential and outpatient treatment. The first is Intensive Outpatient Treatment, which consists of a minimum of nine hours a week of group and individual programming. The second is Moral Recantation Therapy, a group intervention that meets once a week for one and a half hours. Individual sessions can be added as needed. The third is Cognitive Behavioral Interventions for Substance Abuse, a group intervention that meets three times a week for one and a half hours. The fourth is Intensive Methamphetamine Treatment, which is for clients who have a severe stimulant use disorder. It consists of 12 to 19 hours of group and individual programming a week and has a residential component which almost every client referred to it requires. The fifth, Aftercare Treatment, is a continuum of care that follows the other treatment programs. It is a group intervention that meets once a week for one hour. Individual sessions can be added as needed.

Second, **case management and social services** are provided and overseen by Pennington County Health and Human Services. Case managers work with people who come to the facility and help them access programs in the community once they leave. According to interviewed stakeholders, case management can go beyond linking people to services and can include assisting people with warrant resolution at court, but assistance with court cases was disrupted during the pandemic. Economic assistance, transitional housing, and other social services are also available and have been in particularly high demand during the pandemic.

Third, **Crisis Care Center** can connect people to qualified mental health professionals 24 hours a day. According to interviewed stakeholders and materials we reviewed, people are typically connected to crisis services through case management. People who use the center's crisis services can stay overnight (i.e., 23 hours and 59 minutes), and anyone interested in or referred to Care Campus can be admitted 24/7. Moreover, this year, the county and local philanthropy funded a crisis stabilization unit, which will be part of the Care Campus property but will be located separately. The unit will significantly expand the mental health component of the center's treatment, allow clients to stay up to five days, offer medications and individual and group therapy, and provide support for people transitioning to community-based services.

Fourth, the Rapid City Police Department has a unit at Care Campus called the **Quality of Life Unit**, which is staffed with two full-time officers and three volunteers assigned to do street-level outreach. Stakeholders said the officers typically reach out to people who come into frequent contact with the criminal legal system or experience chronic homelessness. Before Care Campus, when police responded to disorderly conduct incidents, they did not have much choice other than to bring people to jail. Now, the Quality of Life Unit officers can bring them to Care Campus, where people can be screened and assessed for substance use disorders and mental health issues by trained professionals.

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*Care Campus gave law enforcement an option to keep people out of jail, which they did not have before. Police officers can bring people to the facility where a trained professional can make an assessment to determine the need for substance use and/or mental health treatment.*

*—Pennington County stakeholder*

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## COMMUNITY SERVICE AND JAIL SERVICE OPPORTUNITIES

To reduce the number of people in custody, Pennington proposed a program called the Community Work Program through which eligible people could do community service as an alternative to jail time. The county initially proposed in its SJC application to hire a community service specialist to assist with implementing and overseeing the community service program on reservations. In addition to overseeing the program, the specialist's role would involve helping people navigate the criminal legal system. In our stakeholder interviews, we learned that the county decided not to create the community service specialist position because few people from reservations were sentenced in Pennington County.

However, the Community Work Program may still be offered to eligible people as an alternative to incarceration.

## IMPLEMENTING DIVERSION PROGRAMS AND IDENTIFYING ELIGIBLE INDIVIDUALS

To decrease the number of people admitted to jail, the state's attorney's office started and expanded diversion programs for eligible people. As part of the county's SJC efforts, the SAO created a new liaison position to lead the diversion and warrant resolution programs and coordinate with other offices and community members. Since 2015, the SAO has expanded or started four diversion programs. The core component of all diversion programs is connecting people to community programs and tribal service providers to help them address the issues that led to their cases in the criminal legal system.

Below we describe the three programs the SAO led that served the most people,<sup>23</sup> one of which the SAO created for people with drug-related top offenses (the biggest driver of the rise in the county's ADP, as described above).

The **young adult diversion program** launched in January 2016 and expanded from 2015 through 2021. Eligible young adults are people ages 18 to 25 alleged to have committed nonviolent or violent offenses, including misdemeanors and lower-level felonies. Young adults accused of driving under the influence are excluded. In addition to linking participants with social services, the program expanded to help participants access paid internships and jobs. The SAO coordinator works with participants individually and ensures each one is linked with services in the community where they live to minimize disruptions in their lives. Through spring 2021, 1,069 young adults had participated in the program.

The **adult diversion program** launched in May 2019 and built on the success of the young adult diversion program. The SAO defined eligible adults as people 18 years or older with violent or nonviolent low-level alleged offenses. People whose cases involved methamphetamine or driving under the influence were excluded. Once participants have completed all program requirements, such as community service, assessments identified during intake based on needs related to behavioral health and substance use, and maintaining or obtaining employment, they enter the Obey All Laws period, a one-year period after which participants' records can be expunged. Through spring 2021, 163 people had participated in the program.

The **drug diversion program** was launched in spring 2019, shortly after the adult diversion program. It has two levels: one for people with three or more prior felony convictions, whose cases are reduced to misdemeanor convictions if they complete the program, and one for people with low-level offenses whose cases can be dismissed or expunged if they complete the program. All participants are

required to do a treatment needs assessment and follow the assessment's recommendations. Through spring 2021, 537 people had participated in the program.

### **Strategy III. Improve Case Processing**

Pennington County initially focused on several practices to improve case processing. Below we describe three substrategies discussed by more than half of the stakeholders we interviewed: initiating cite and release, implementing the Public Safety Assessment, and starting the Jail Review Team. Several stakeholders commented that improving case processing was a difficult strategy because it required changing day-to-day practices in many offices, an undertaking particularly difficult during the COVID-19 pandemic. We also learned from interviews that creating court-related dashboards for the judges was initially one of the stakeholders' substrategies. It took nearly three years to develop the dashboards, but they did not turn out to be user-friendly, so stakeholders stopped that work.

#### **INITIATING CITE AND RELEASE**

The cite-and-release substrategy was led by the Rapid City Police Department. Several interviewees mentioned that the department changed its policies to cite and release people who engaged in nonviolent misdemeanors such as shoplifting, but this policy change affected very few people and only targeted a few shopping supercenters, such as Walmart, where many theft cases stemmed from. The policy did not change how police officers patrolled the streets at large. Additionally, this strategy was impacted by the opening of the Care Campus, which provided an opportunity for people with alleged nonviolent offenses to self-refer for services before having contact with law enforcement, thereby reducing the need for cite and release. And law enforcement could also bring people to the Care Campus instead of issuing a citation or arresting them.

#### **INTRODUCING A RISK ASSESSMENT TOOL AND A PRETRIAL RELEASE PILOT PROGRAM**

In June 2018, Pennington County adopted a pretrial risk assessment tool called the Public Safety Assessment (box 3) alongside another South Dakota site, Minnehaha County. The discussions about the tool's implementation and launch were completed through a PSA workgroup that included people from all areas of the criminal legal system. Pennington County stakeholders who were part of that workgroup held a series of consultations with peers from Milwaukee, Wisconsin, to learn how they implemented the PSA and what types of data they reviewed to prepare the assessment and to decide which types of data they would use. After two years of implementation, 5,400 people had a completed PSA report. More than half of those PSAs were prepared at intake during booking, and 43 percent were prepared

ahead of people's initial hearings, no later than 48 hours after arrest for those in custody and no later than two weeks after release from the jail for those not in custody.

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#### BOX 3

#### About the Public Safety Assessment

The Public Safety Assessment (PSA) is an actuarial assessment developed with support from Arnold Ventures (formerly the Laura and John Arnold Foundation) to guide courts in pretrial release decisionmaking by providing information about a person's risk of missing a court date, being arrested for a new crime during pretrial release, and being arrested for a new *violent* crime during pretrial release. Hundreds of localities across the United States now use the PSA, including many in the SJC network. The tool was piloted in a select group of jurisdictions before being made broadly available for anyone to use, as Pennington County began doing in 2018.

Source: [AdvancingPretrial.org](https://AdvancingPretrial.org).

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After it implemented the PSA, Pennington County wanted to offer it at the point of booking as a "release or hold" decisionmaking tool. The county's PSA policy stated that people booked into the jail who scored as "low risk" could be released on personal recognizance without waiting in jail to see the judicial officer the next day. It also eliminated monetary bond schedules at booking, but those were still set during later court hearings—that is, judges could still set bond after a judicial officer had reviewed a case. This could occur during weekend reviews (for people held in jail because of PSA scores), during initial appearance, and/or at any subsequent hearing.

The PSA report is prepared by one staff member at the Pennington County Jail. The PSA score and report are shared with the SAO first thing the morning after a person has been booked into the jail to assist with hearing recommendations. The report is also shared with the public defender's office and the judge ahead of the hearing, so all parties have the same information. The PSA outcome is added as a document to a person's case file so the outcome is available to judges at subsequent hearings. The PSA score and report are not public records; they are only accessible to the court parties.

To add options other than detaining or releasing people, Pennington County created a pilot pretrial program with one judge in July 2020 and connected decisionmaking about pretrial release to the risk scores people receive on the PSA. The program is still in early stages of implementation. As of this writing, only 30 people had been referred to the program.

Two staff members are designated to monitor people who are released. The county instituted a pretrial monitoring schedule connected to PSA risk levels: the schedule begins at monitoring level 1 (least restrictive level), where people receive resource assistance *only* from the pretrial department, to monitoring level 4, where people receive phone and in-person check-ins after each hearing (see the appendix for more details about the monitoring schedule and other elements of the decisionmaking framework). People released pretrial also receive court date reminders and resources to ensure they attend court and prevent further contact with law enforcement.

Pennington County also used electronic monitoring for some people released pretrial on a discretionary basis, although it is not a requirement of the program. Stakeholders we interviewed indicated that because of several challenges implementing inclusionary and exclusionary zones, especially in cases involving victims, Pennington County is trying to limit the use of electronic monitoring.

#### LAUNCHING THE JAIL POPULATION REVIEW TEAM

Pennington County's Jail Review Team was established in 2018 to review the cases of people held in jail pretrial and to identify candidates who could be safely released or whose cases could be expedited. The sheriff's office created a new position, the jail release coordinator, to spearhead this process. Four offices are represented on the Jail Review Team: the sheriff's office, the public defender's office, the SAO, and the probation office. The team meets every week to review cases and decide which ones to recommend for release to judges or expedite. Recommendations for release are made only when all members reach consensus. If one member opposes release, the team moves on to the next candidate.

In addition, the county established a committee to oversee and reassess the Jail Review Team's progress once a year (or more if needed) and recommend changes or additions. It includes the members from the Jail Review Team and a judicial representative. The members discuss recommendations and concerns that have been raised by staff at their respective agencies and propose changes to the process. In preparation for each meeting, the jail release coordinator gathers the necessary information and shares it with the members in advance. To gather comprehensive information about everyone whose cases will be reviewed, the coordinator reviews the PSA reports and checks multiple criminal record systems. We learned through interviews that these candidate reviews are thorough and labor intensive. Each case may include unique details, but certain data are reviewed for each case; these include the charges that led to people's current incarceration, the duration of incarceration, jail reports about people's misconduct there, bond amounts set, prior arrests and convictions, prior failures to appear in court, warrants, and prior failures to comply with release conditions.

The inclusion criteria for cases are rather broad. According to stakeholders, anyone in the Pennington County Jail, whether for a misdemeanor or felony, can be a candidate for review, although less serious misdemeanors are prioritized. Stakeholders said that when the team started meeting, it reviewed 35 to 40 cases a week. This number recently decreased to an average of 20 cases a week, which some stakeholders said could owe to the fact that people with less serious charges are more frequently released at booking since the county began using the PSA.

## Sustaining the Strategies

Pennington County took four key steps to ensure its SJC strategies were sustainable.

**First, the county government absorbed key personnel, including SAO diversion staff, the sheriff's office's jail release coordinator and pretrial release specialist, and the Health and Human Services case manager, positions that were all originally funded by the MacArthur Foundation.** MacArthur required that funding for SJC strategies be incorporated into the county budget to ensure key services critical to jail reduction efforts in Pennington County are sustainable. Further, the success of the strategies implemented through the SJC increased the county's buy-in and its willingness to sustain this work through its own budget.

**Second, the county made use of the Public Safety Assessment a regular practice.** The PSA, which informs pretrial release decisionmaking in Pennington, facilitated expedited pretrial processing at intake during booking and ahead of initial hearings. The PSA has been critical in keeping people out of jail for minor offenses and has helped the county reduce the average daily jail population.

**Third, the state's attorney's office institutionalized a successful diversion program (though it has had few participants).** Through the SAO, Pennington County also made strides expanding diversion programs for eligible people. Creating a new liaison/legal advocate position allowed for smoother coordination between the diversion and warrant resolution programs. The liaison/legal advocate's role reviewing cases and identifying eligible people facilitated smooth connection to community programs and tribal service providers with the goal of helping people address the issues that led to their cases and ultimately avoid jail time and criminal convictions upon successful completion of services. The coordinator position for diversion was absorbed by the county budget.

**Fourth, the Jail Review Team was continued to help identify people being held in jail pretrial who could be safely and successfully released or whose cases could be expedited.** The jail release coordinator reviews candidates' PSA reports, criminal reports, and other databases. People in the jail

with misdemeanor or felony charges are candidates for release. This strategy helped the county formalize a process for releasing people who do not need to be in jail and identify patterns across the system that need to be changed to improve case processing for people with less serious offenses. Pennington County plans to sustain this strategy in the future.

## Impacts of the Efforts and Related Initiatives

When Pennington County joined the SJC, its goal was to reduce its ADP by 20 to 24 percent, but as of April 2019 it had not achieved that goal: by then, the ADP had risen 18 percent, which more than half of stakeholders attributed mainly to the increase in drug-related charges. The ADP was reduced significantly in early 2020, though we exclude data from 2020 through 2021 in this report because of the widespread jail population declines that occurred across all SJC sites during the pandemic, declines which cannot be attributed to sites' specific SJC strategies. Below, we present some findings that shed light on the increases in ADP and the impacts some of Pennington County's strategies may have achieved.

**I. Am. Legacy, the Indigenous American-led organization, played a significant role in building relationships with legal system agencies.** Almost everyone we interviewed mentioned that establishing better connections and a formal partnership with I. Am. Legacy leadership and members was a significant achievement. Stakeholders representing county government commented that it was incumbent upon them to step up and reach out to tribal communities rather than expect them to come to the criminal legal system stakeholders. Between January 2020 and March 2021, I. Am. Legacy leadership held 32 events with people from surrounding tribal communities and legal system actors. This also was extraordinarily helpful when the pandemic hit. Having these relationships established made the transition to virtual meetings and services easier to navigate.

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*The tribal outreach, particularly in Pine Ridge [and] in Rosebud developed great relationships. [I] never thought the relationships that exist now would back then.*

*—Pennington County stakeholder*

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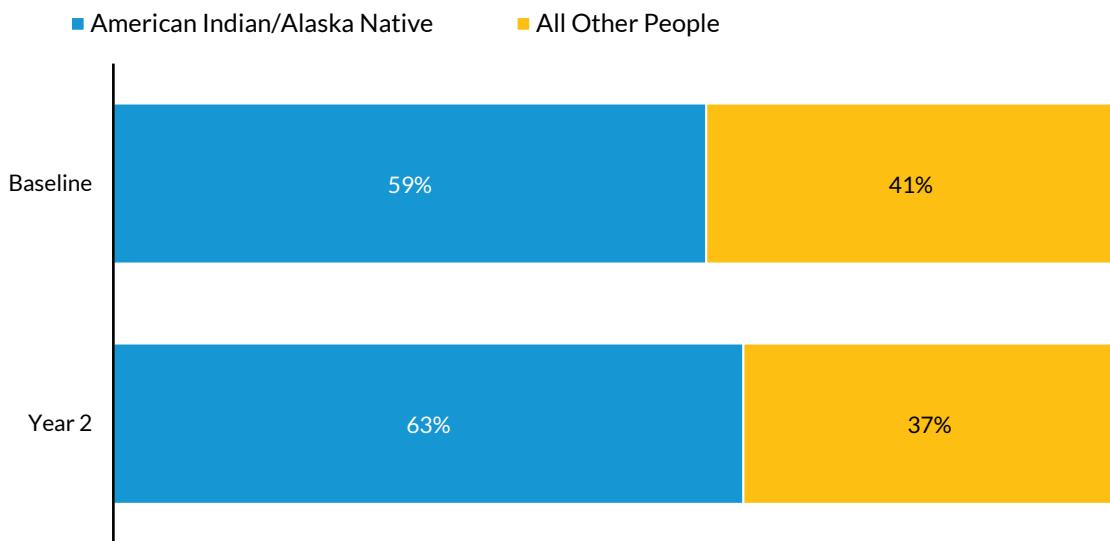
**Tribal outreach strategies have had mixed results: people of color (including Indigenous people) are still significantly more likely to be booked than white people, a trend that worsened throughout the county's SJC participation, though they are not held in jail much longer than white people.** When Pennington County joined the SJC in early 2016, people of color were more than 8 times as likely as white people to be booked into jail (ISLG 2021, 33).<sup>24</sup> By the end of 2019, that disparity had increased: people of color were more than 10 times as likely as white people to be booked into jail. Those disparities are not evident in average length of stay, which for people of color was 1.27 times higher than for white people in 2016 and 1.28 times higher in 2019 (ISLG 2021, 37). According to our interviews, mending relationships with Indigenous Americans takes time and effort. Some strategies were not implemented fully or may not have had enough time to have an impact. It is important to note that in its initial SJC application and its stated goals and objectives, Pennington County did not target specific reductions in disparities for Indigenous people in the jail, nor did it target a population reduction with respect to its tribal outreach activities.

**The warrant resolution strategy meant to expedite cases of Indigenous people has had mixed results and may need to be refined for its reach to be expanded.** From 2016 to 2017, around 20 percent of people with active warrants had addresses on reservations. As of July 2019, 1,072 warrants had been resolved, reducing active warrants by 4 percent.<sup>25</sup> As of March 2021, Pennington's warrant resolution program had resulted in 1,287 resolved warrants for 1,114 people. Those warrants were resolved through different mechanisms: 296 were resolved through a warrant resolution hotline, 64 through outreach, 13 through system referrals, and 914 through reviews of old warrants.

According to ISLG analysis, warrant-related bookings for all people varied significantly month to month between November 2015 (baseline) and March 2018 (year 2). In addition, ISLG analyzed warrant-related bookings involving Indigenous people and did not find improvements for this population as of March 2019. Specifically, bookings modestly declined for Indigenous people to four fewer individuals on average. Moreover, the share of all warrant-related bookings experienced by Indigenous people increased from 59 to 63 percent between 2016 and 2018 (figure 6). To provide context for this analysis, it's important to clarify that the warrant resolution strategy focuses on resolving old outstanding warrants rather than the existing active warrants, such that people with outstanding warrants are not at risk of being arrested for those warrants while in Pennington County.

**FIGURE 6**

**The Share of Warrant-Related Bookings Experienced by Indigenous People in Pennington County Increased from November 2015 to April 2018**



URBAN INSTITUTE

**Source:** Analysis conducted by the CUNY Institute for State and Local Governance, 2021.

**Note:** Baseline = November 2015–April 2016. Year 2 = November 2017–April 2018.

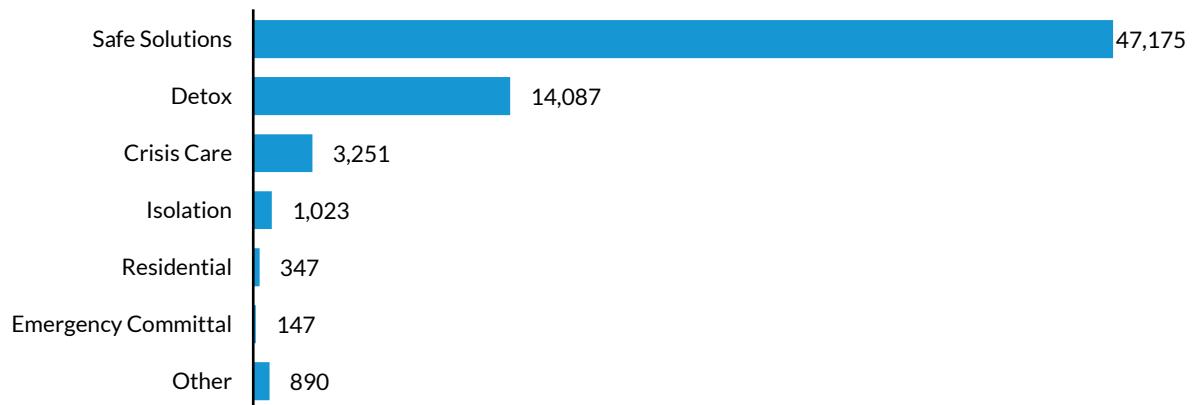
**Increases in drug-related bookings and in the ADP of people with drug-related top charges impeded Pennington County’s progress reducing the jail population.** Again, drug-related top charges were the main reason the county’s jail population increased during its SJC participation. According to internal ISLG analysis, bookings with a drug-related top charge increased 210 percent between November 2015 and March 2018, and the ADP of people with drug-related top charges increased 45 percent during that period.<sup>26</sup>

**Safe Solutions, the program that provides overnight beds for people intoxicated in public, is the most used Care Campus program.** According to materials provided by Pennington County, between September 2018 and May 2021, there were nearly 70,000 admissions to Care Campus, and Safe Solutions represented approximately 70 percent of those admissions (figure 7 breaks down admissions by program type). But this large number of admissions does not mean that many people were served. Stakeholders we interviewed shared that approximately 120 to 150 people are frequently admitted to Safe Solutions. The majority of admissions to Safe Solutions (68 percent) are voluntary, and 29 percent are law enforcement admissions (3 percent are referrals from medical facilities; figure 8). Many stakeholders commented that Care Campus is the county’s most significant achievement providing safe, previously unavailable alternatives to people with substance use disorders. It is worth noting that

the Care Campus detox program is the second-most-used program there, and some research shows that simple detox without a treatment program is ineffective and can even be dangerous for people and increase their risk of overdose upon release.<sup>27</sup>

**FIGURE 7**

**Most People Admitted to Care Campus between September 2018 and May 221 Were Admitted to the Safe Solutions Program**



URBAN INSTITUTE

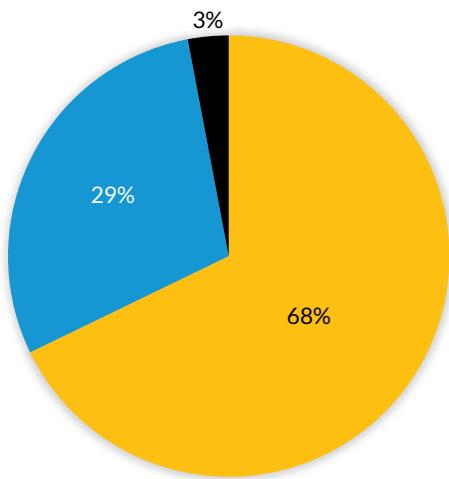
Source: Pennington County Sheriff's Office, 2021.

**FIGURE 8**

**Care Campus Admissions by Referral Source, September 2018–March 2021**

*Most people were admitted via self-referrals*

■ Self-referral ■ Law enforcement ■ Medical facility



URBAN INSTITUTE

Source: Pennington County Sheriff's Office, 2021.

Notes: Self-referral  $n = 42,031$ . Law enforcement  $n = 18,099$ . Medical facility  $n = 1,845$ .

**The statewide 24/7 Sobriety Program has widened the net of drug-related criminal charges in Pennington County and receives mixed reviews from local stakeholders.** In Pennington County, participants are required to show up for breath and/or urine screenings within rather short windows that interviewees said range from 10 to 90 minutes. Being 10 minutes late to these screenings can lead to a violation and potential incarceration, and according to five interviewees, the strict requirements for urine screenings do not meet participants where they are or put them on a path to success.

Some stakeholders in Pennington County view the 24/7 program favorably, whereas others are skeptical toward it. Some interviewees cited the worsening issue with substance use disorders and said that 24/7 allows for timely screening of substance use and may prevent crime. Others are concerned that the evidence of success is limited to DUI rearrests and that there is a lack of evidence of success for the other substance-related charges the 24/7 program addresses. For instance, one study found the program led to a 12 percent reduction in repeat DUI arrests, but it did not examine the program's impact on people's use of other substances that Pennington County screens for (Kilmer et al. 2013). More research would be needed to examine the link between the 24/7 program and the increase in drug-related charges in Pennington County.

**Stakeholders largely consider the Young Adult Diversion Program a success.** Based on the data provided by Pennington County stakeholders, as of December 2018, because of the program, 1,845 days in jail were suspended for 58 young adults 18 to 25 years old. The program's results are also promising based on internal ISLG analysis estimating that an average YADP participant might have spent an average of 11 days in jail had they not been diverted.<sup>28</sup> Additionally, according to program records, most accepted YADP clients spent no time in jail, with those who did generally spending 1 day. We cannot describe the impact of the Adult Diversion Program or Drug Diversion Program as they were recently launched. Not enough time has passed for the programs to mature and show results.

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*[Young adult and adult diversion programs] give another chance to people who get that first conviction (felony or misdemeanor) instead of jail time. [Programs] give them a chance to improve their earning ability, housing, get into certain schools. It's fairer. You don't have a good justice system that feels unfair.*

*—Pennington County stakeholder*

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The majority of stakeholders we interviewed considered implementation of the Public Safety Assessment a notable achievement for the county. The PSA expedited pretrial processing at intake booking and ahead of initial hearings. Adopting the tool also expedited case reviews over weekends and was critical in reducing the ADP and the number of people held in jail for minor offenses. Moreover, one stakeholder noted that starting in 2018, people were released on personal recognizance at increasing rates and the county relied less on monetary bond. The decision point analysis found that in January 2016, 23 percent of cases were awarded release, compared with 84 percent of cases in December 2020. Furthermore, 71 percent of cases in the six months before the pandemic were awarded release.

**Pennington County estimated that 5,465 jail bed days were saved because of the Jail Population Review Team's work.** Several stakeholders said during interviews that the jail population reviews are time consuming and can be resource intensive but are effective for releasing people who do not need to be in jail and identifying system-level challenges with case processing.

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*As practitioners, we get pretty entrenched in our cases but [jail population] reviews help us ask broader questions such as "Is this the right person to be detained?"*

*—Pennington County stakeholder*

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## Implementation Lessons and Insights from Pennington County

Based on the stakeholder interviews, after more than five years of implementation, Pennington County has had early successes and continuing challenges that can inform other jurisdictions interested in adopting similar strategies.

### Successes

**The Pennington County Sheriff's Office, Pennington County Health and Human Services, and Behavior Management Systems created a strong partnership and assumed coleadership of the newly launched Care Campus.** One of the county's strengths was that law enforcement, judicial actors, and treatment providers had a strong history of collaboration before the SJC. Stakeholders we spoke with explained that law enforcement, judges, prosecutors, defense attorneys, parole, probation, corrections,

and health and human services are not siloed like they might be in other localities and have not experienced significant tensions. Pennington County used its SJC participation to build on these strengths to enhance existing collaboration among the state's attorney's office, the sheriff's office, Health and Human Services, and Behavior Management Systems. This collaboration increased system actors' recognition of the importance of improving service provision for people experiencing substance use disorders, rather than defaulting to punitive solutions. For example, the state's attorney's office worked closely with treatment providers who were delivering services for system-impacted people experiencing substance use disorder. In addition, owing to the strong partnership between Pennington County Health and Human Services and the sheriff's office, law enforcement began using Care Campus and Safe Solutions for people in crisis and those experiencing substance use disorder instead of relying on arrest and incarceration as means of detoxification or treatment. As a result of this relationship and coordination, Care Campus is regarded as one of the most successful SJC strategies.

**Formal partnerships were established as a result of the county joining the SJC.** The SJC offered ample opportunities for Pennington County stakeholders to formalize existing efforts to build relationships and collaborate with neighboring communities to reduce the jail population. For example, the sheriff and the presiding judge initiated a monthly informal gathering called "lunch bunch" to convene criminal legal system stakeholders (i.e., law enforcement and prosecutors) interested in discussing strategies for reducing the jail population. One stakeholder reported that the SJC "created an opportunity to bring a lot of bright-minded people, who are at the forefront of thinking about these issues and get some ideas and cut through inertia of public policy here, which is doing things like we've always done them. It's good to have experts, help other people to make decisions." These monthly meetings provided a foundation for Pennington County to apply to the SJC and use the informal partnerships to repurpose and refocus its SJC efforts. After the county joined the SJC, an SJC steering committee was created, and new stakeholders including tribal leaders and social services stakeholders began regularly attending the meetings. Those monthly gatherings, combined with the efforts of the steering committee, now provide stakeholders opportunities to share which strategies they consider successful, increasing buy-in for the strategies, especially when data do not necessarily reflect the full spectrum of successes.

**The launch of Care Campus was largely viewed as a success and many stakeholders highlighted that it created viable treatment options for substance use disorders in the community.** Care Campus provides a critical single point of connection to behavioral health and short-term treatment services and programs for people in crisis, people experiencing chronic housing instability, and people with substance use disorders. Some stakeholders described Care Campus as a diversion program at its core

that provides an immediate and safe detoxification option as well as long-term services to people who commit minor crimes because of their substance use disorders. Before Care Campus, people with substance use disorders who committed a crime were incarcerated until their first court appearance, which increased Pennington County's jail population. Now, law enforcement can bring people with substance use disorders to the facility for Safe Solutions, a program where they are assessed by trained professionals for behavioral health and substance use disorders and provided intensive case management and social services, crisis care, substance use disorder services, and chronic homelessness services. In addition to receiving residential treatment and outpatient behavioral health services, people at Care Campus are referred to other social services for additional recovery needs, such as economic assistance and help obtaining a driver's license.

**Care Campus also facilitated opportunities to build relationships with Indigenous people and incorporate their insights into the facility's design.** When Care Campus opened, Indigenous American people in Pennington were invited to walk the facility with sage to bless it and its critical services. Inviting them to create the vision for the center increased buy-in from the community, and most people now enter Care Campus voluntarily rather than through law enforcement, jail, or the emergency room.

**The implementation of SJC strategies centered the voices of Indigenous people.** The SJC enabled more community voices to be represented because it provided opportunities to mend and build relationships with Indigenous American people. Pennington County initially began increasing community participation through monthly informal discussions and community forums to discuss the historical trauma Indigenous American people have experienced. Furthermore, stakeholders emphasized the importance of regularly revisiting, reflecting on, and reprioritizing the perspectives and needs of community members. The community outreach coordinator's main role was to build trust by prioritizing the community's goals and to garner buy-in from system actors to reach a mutual understanding that they had the same goal: for Pennington County to be a safe community. This helped system actors recognize that thoughtful collaboration was essential to adequately addressing the community's complex needs.

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*The tribal community achieved a seat at the table. We could be a part of the meaningful conversation about some of the policies that we traditionally had no say in.*  
*—Pennington County stakeholder*

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### **Tribal outreach efforts became more intentional and formal after the county joined the SJC.**

Before the county joined the SJC, relationships between law enforcement and Indigenous Americans were nonexistent because of historical harm, necessitating an intentional effort to repair negative relationships, create new relationships, and improve communication. Through the SJC, Pennington County hired key staff to drive tribal outreach and provide key legal services and advocacy. First, a community outreach coordinator was hired to help build relationships between system actors and Indigenous Americans and share information with community members about the goals of the county's SJC strategies. Second, to increase diversion, the state's attorney's office in Pennington County hired an attorney liaison/legal advocate to be a resource for people with questions about their cases and provide information about community resources to help people address the underlying issues that led to their charges. Third, the tribal outreach team, which comprised the community outreach coordinator and attorney liaison/legal advocate, was assembled to facilitate active outreach with tribal partners, tribal government, tribal law enforcement, and tribal elders. The county also created a warrant resolution program for Indigenous people overseen by the attorney liaison/legal advocate to ensure cases involving less serious offenses are processed in a timely manner. This program solicited input from tribal leaders to develop an implementation plan that incorporated partnerships with local culturally based community organizations and social services to expand community engagement in the SJC strategies and identify how tribal community member could play a critical role ensuring positive outcomes for their relatives. Overall, the tribal outreach initiative created a firm foundation when the pandemic began, enabling a smoother transition to virtual meetings and services.

**Criminal legal system agencies' partnership with I. Am. Legacy was vital to building trust with Indigenous Americans in Pennington County.** I. Am. Legacy brought cultural-based programming into the jail and was a liaison to Indigenous American communities. I. Am. Legacy staff visited the reservations to share information about the organization's mission, its jail programming, and the warrant resolution program. In addition, the organization prompted system stakeholders to do more direct outreach to tribal communities, furthering community engagement through SJC efforts.

## **Challenges**

Three main challenges arose in Pennington County while SJC strategies were implemented.

### **First, some stakeholders and community members were hesitant to adopt the strategies.**

Stakeholders in Pennington County felt that SJC funding would reduce strain on the county's budget, and members of the county board of commissioners had concerns over absorbing personnel and service

costs into already tight county budgets. Though SJC funding facilitated new strategies for reducing the county's jail population, stakeholders found it difficult to justify funding personnel positions for strategies they were unsure would work. As such, proponents of the strategies had to convince the board of commissioners that reducing incarceration has financial benefits—for instance, that tax revenue increases when more people are employed and fewer are incarcerated for less serious offenses. Ultimately, the board of commissioners in Pennington saw the value in funding innovative strategies that would enable them to address issues in the community and reduce the jail population.

The county experienced initial pushback from local businesses and the community when implementing its SJC strategies. There was a perception among local business owners and other community members that system actors were not holding people accountable for crimes because of a decreased reliance on punitive consequences. Overall, members of the local business community expressed ongoing skepticism of the SJC and the strategies' intended outcomes.

**Second, burnout and retention issues among staff, including members of the tribal governance body, created challenges sustaining some strategies.** The implementation of the SJC strategies highlighted three ongoing challenges among service providers. First, treatment providers reported experiencing significant burnout, which derailed efforts to improve services for system-impacted people. Relatedly, high turnover among staff required frequently training new employees, which often disrupted service provision. Third, securing adequate and sustainable funding for I. Am. Legacy was an initial challenge that Pennington needed to overcome to continue offering culturally responsive programming in the jail. It was also challenging to retain the same tribal governance members and community members to participate in direct outreach to tribal communities, which disrupted continuity of community building and required I. Am. Legacy to retrain members regularly.

**Third, Pennington County did not specify a target for reducing the overrepresentation of Indigenous people in the jail.** Although the county has worked to reduce this overrepresentation, there has been little improvement. The SJC strategies intended to address this issue—tribal outreach and warrant resolution—depend heavily on repairing relationships with tribal communities, which requires immense effort and time. It is possible that because the strategies were not fully implemented there was not enough time to observe improvements in racial disparities in the jail population. Disparities also persist because of increases in the share of jail bookings experienced by Indigenous people, particularly drug-related bookings. County stakeholders anticipate receiving a report by the end of 2022 from Benchmark Data Labs recommending how the county can focus efforts to reduce disparities. As the SJC strategies become more prominent in the county's efforts to reduce the jail population, stakeholders can set goals for reducing racial disparities.

## Conclusion

Despite the challenges described above, stakeholders in and outside Pennington County created strong partnerships to collaborate on jail population reduction. For the first time, criminal legal system leaders strived to center the voices of Indigenous people and include their perspectives through regular and intentional engagement. Tribal leaders and legal system leaders codeveloped Care Campus, which provides viable treatment options for people with substance use disorders. Though the county's SJC efforts have not yet reduced the average daily jail population, the impacts of those efforts (including Care Campus) show promise for reducing that population with time.

# Appendix. Pretrial Release Decisionmaking Matrix

The images in this appendix depict elements of a decisionmaking framework Pennington County has used in its pretrial release work. It includes a monitoring schedule and other elements that can be relevant in pretrial release decisionmaking.

**Seventh Judicial Circuit Pretrial Release Bench Card**

**Who is Eligible for Pretrial Release?** State statute provides a presumption of pretrial release on **personal recognizance (PR) or unsecured appearance bond to everyone** except for a defendant charged with an offense punishable by death or currently released on PR bond (§ 23A-43-2 and 3)

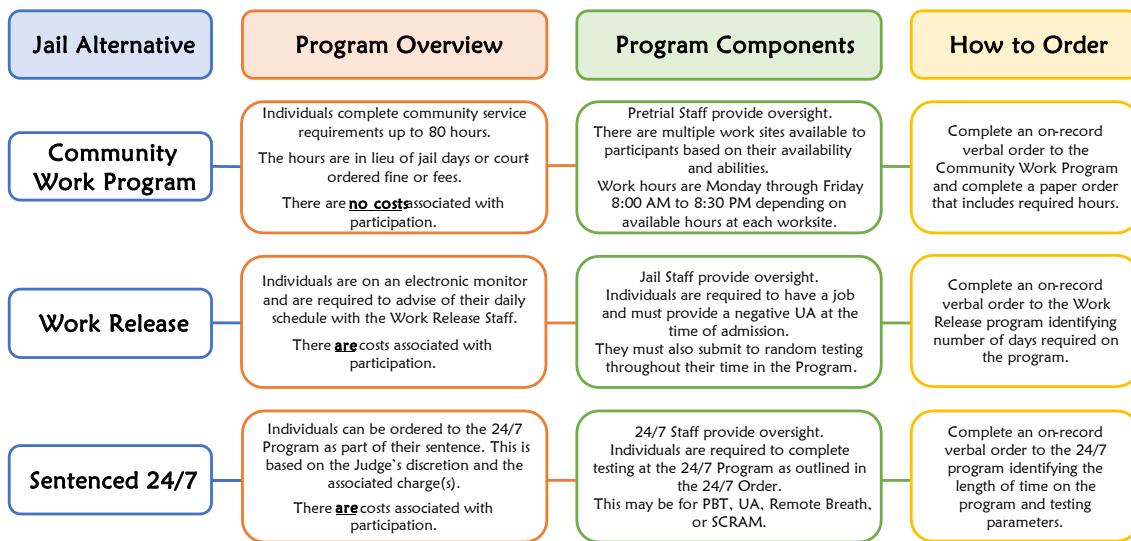
Pretrial Programming Overview				Referral and Contact Information
<b>Court Reminders</b> Provided to every individual with a misdemeanor or felony file				<b>Court Reminders</b> Reminders are sent out automatically for upcoming court hearings either via text message or on the message board at The Hope Center. <b>No order is required.</b> Any questions, contact the Pretrial Department <b>Eva</b> : ext. 1346 <a href="mailto:Eva.Twiss@pennco.org">Eva.Twiss@pennco.org</a> or <b>Mark</b> : ext. 1347 <a href="mailto:Mark.Hirsch@pennco.org">Mark.Hirsch@pennco.org</a>
<b>Pretrial Monitoring Program (PMP) Reporting Levels</b> (See reverse for supervision level guidance)				<b>Pretrial Monitoring Program (PMP)</b> Complete an on-record verbal order <b>and</b> a paper order. The Monitoring Level will be based on the PSA's Release Conditions Matrix (RCM) if not otherwise directed. Any questions, contact the Pretrial Department <b>Eva</b> : ext. 1346 <a href="mailto:Eva.Twiss@pennco.org">Eva.Twiss@pennco.org</a> or <b>Mark</b> : ext. 1347 <a href="mailto:Mark.Hirsch@pennco.org">Mark.Hirsch@pennco.org</a>
<b>Monitoring Level 1 (ML1)</b> Resource Assistance from Pretrial Department Only	<b>Monitoring Level 2 (ML2)</b> Phone Reporting Only	<b>Monitoring Level 3 (ML3)</b> Phone <b>AND</b> In-Person After <b>each</b> hearing	<b>Monitoring Level 4 (ML4)</b> Phone <b>AND</b> In-Person After <b>each</b> hearing	<b>Adult Diversion</b> Provide the defendant with the Adult Diversion handout and have them contact the Adult Diversion Program at the State's Attorney's Office. Any questions, contact the Adult Diversion Program (394-2191)
<b>Adult Diversion</b>	Individuals 18 or older with non-violent, low-level alleged offense(s). <b>Does not</b> include meth or DUI cases.			<b>24/7 Program</b> Complete an on-record verbal order to 24/7 <b>and</b> a paper order that includes specific reporting requirements. Any questions, contact the 24/7 Program <a href="mailto:luca.oyler@pennco.org">luca.oyler@pennco.org</a> or <a href="mailto:robertae@pennco.org">robertae@pennco.org</a>
<b>24/7 Program</b>	Limited to individuals with a 3 <sup>rd</sup> DUI or higher charge or for extenuating circumstances with a DUI 2 <sup>nd</sup> . Individuals with three or more PCS/UICCS charges or for distribution.			<b>Pretrial Electronic Monitoring (Pretrial EM)</b> Complete an on-record verbal order <b>and</b> a paper order that includes specific reporting requirements and inclusion/exclusion zone information. Any questions, contact the Pretrial EM Program at the Jail ( <a href="mailto:pretrial@pennco.org">pretrial@pennco.org</a> )
<b>Pretrial EM</b>	Individuals with a class one misdemeanor or higher with a victim involved and/or who require an exclusion/inclusion zone.			

## Release Conditions Matrix (RCM)Court

Updated 1/21/2021

	NCA 1	NCA 2	NCA 3	NCA 4	NCA 5	NCA 6
FTA 1	Misd = ML1 Fel = ML2	Misd = ML1 Fel = ML2				
FTA 2	Misd = ML1 Fel = ML2	Misd = ML1 Fel = ML2	Misd = ML1 Fel = ML2	Misd = ML2 Fel = ML3	Misd = ML2 Fel = ML3	
FTA 3		Misd = ML1 Fel = ML2	Misd = ML1 Fel = ML2	Misd = ML2 Fel = ML3	Misd = ML2 Fel = ML3	Misd = ML3 Fel = ML4
FTA 4			Misd = ML1 Fel = ML2	Misd = ML2 Fel = ML3	Misd = ML2 Fel = ML3	Misd = ML3 Fel = ML4
FTA 5			Misd = ML2 Fel = ML3	Misd = ML2 Fel = ML3	Misd = ML2 Fel = ML3	Misd = ML3 Fel = ML4
FTA 6				Misd = ML3 Fel = ML4	Misd = ML3 Fel = ML4	Misd = ML3 Fel = ML4

## Seventh Judicial Circuit Sentencing Bench Card



# Notes

- <sup>1</sup> "QuickFacts: Pennington County, South Dakota," US Census Bureau, accessed August 8, 2022, <https://www.census.gov/quickfacts/penningtoncountysouthdakota>.
- <sup>2</sup> "Half the Top 20 Poorest Counties in America are included in Indian reservations," AAA Native Arts, accessed August 8, 2022, <https://www.aaanativearts.com/half-the-top-20-poorest-counties-in-america-are-included-in-indian-reservations>.
- <sup>3</sup> "2019 American Community Survey S1702: Poverty Status in the Past 12 Months of Families," US Census Bureau, accessed August 8, 2022, <https://data.census.gov/cedsci/table?q=Pine%20Ridge%20Reservation,%20SD-NE%20Income%20and%20Poverty&tid=ACSST5Y2019.S1702>.
- <sup>4</sup> "Pennington County, SD," Vera Institute of Justice, last updated March 24, 2022, [https://trends.vera.org/state/SD/county/pennington\\_county](https://trends.vera.org/state/SD/county/pennington_county).
- <sup>5</sup> Leah Wang, "The U.S. criminal justice system disproportionately hurts Native people: the data, visualized," Prison Policy Initiative, October 8, 2021, <https://www.prisonpolicy.org/blog/2021/10/08/indigenous-peoplesday/>.
- <sup>6</sup> Roxanne Daniel, "Since you asked: What data exists about Native American people in the criminal justice system?" Prison Policy Initiative, April 22, 2020, <https://www.prisonpolicy.org/blog/2020/04/22/native/>; Wang, "The U.S. criminal justice system disproportionately hurts Native people: the data, visualized."
- <sup>7</sup> Nick Estes, "Racist City, S.D.: Life is Violent, and Often Deadly in Rapid City," Indian Country Today, September 13, 2018, <https://indiancountrytoday.com/archive/racist-city-sd-life-is-violent-and-often-deadly-in-rapid-city>.
- <sup>8</sup> "QuickFacts: Pennington County, South Dakota," US Census Bureau.
- <sup>9</sup> ADP as calculated by the Institute for State and Local Governance had several types of cases excluded, notably beds that are contracted out by the jail to ICE or other correctional facilities.
- <sup>10</sup> "QuickFacts: Pennington County, South Dakota," US Census Bureau.
- <sup>11</sup> Internal ISLG 2019 analysis.
- <sup>12</sup> "Pennington County, SD," Safety and Justice Challenge, last updated June 14, 2022, <https://safetyandjusticechallenge.org/our-network/pennington-county-sd/>.
- <sup>13</sup> "Half the Top 20 Poorest Counties in America are included in Indian reservations," AAA Native Arts; "QuickFacts: Pennington County, South Dakota," US Census Bureau.
- <sup>14</sup> The county initially proposed to implement four core strategies: (1) tribal outreach, (2) case processing, (3) community supervision, and (4) pretrial diversion. Stakeholders refined and restructured their plan ad hoc to better align it with their implementation experiences and goals. Community supervision and pretrial diversion were incorporated into the broader alternatives to incarceration strategy.
- <sup>15</sup> Urban Institute categorized all strategies that Pennington County into three core strategies. The list of sub-strategies and initiatives within each core strategy excludes certain sub-strategies, which may have started but were not fully implemented during the time of preparing this case study.
- <sup>16</sup> Data reported by Pennington County to ISLG.
- <sup>17</sup> It is unclear whether the rise in methamphetamine reflects the true rise of incidents involving possession of methamphetamine because internal stakeholders shared with ISLG that they changed some practices in recording methamphetamine charges. However, this rise in administrative data reported by ISLG was also confirmed in the majority of Urban's interviews with stakeholders.

<sup>18</sup> "Pennington County, SD," Safety and Justice Challenge.

<sup>19</sup> Per Pennington County's 2017 SJC application.

<sup>20</sup> Similar to other jails across the country, the use of contracted beds with Immigration and Customs Enforcement and other correctional authorities might complicate efforts to estimate Pennington County's jail population. But contracted beds were not a focus of this study, so we did not obtain the data that would enable us to estimate the extent to which contracted beds are driving the jail population. Contracted beds were excluded from the analysis and trends in ADP.

<sup>21</sup> Per the county's 2017 renewal application.

<sup>22</sup> South Dakota legislature, codified law 34-20A-63.

<sup>23</sup> SAO also launched a domestic violence diversion program geared towards people with the charges related to domestic violence. We were not able to collect any information about the program's operations or stakeholders' perceptions during the interviews.

<sup>24</sup> ISLG's 2021 report presents disparities for people of color generally, not Indigenous people specifically. We present these rising disparities for people of color in the tribal section but caution readers that the number includes Black people and others who do not identify as white.

<sup>25</sup> Per internal analyses and Pennington County's 2020–21 renewal application.

<sup>26</sup> To conduct this analysis, ISLG extracted the word "drug" from charge descriptions as provided by Pennington County. This likely undercounts the total number of drug-related charges.

<sup>27</sup> For example, see Christine Vestal, "This State Has Figured Out How to Treat Drug-Addicted Inmates," Pew, February 26, 2020, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/02/26/this-state-has-figured-out-how-to-treat-drug-addicted-inmates>.

<sup>28</sup> ISLG constructed a comparison group among people booked between age 18 and 25 with a top charge no higher than Felony 4. ISLG analysts did not have criminal history information or other data points that could influence YADP eligibility, so the comparison group is imperfect and should be treated with caution.

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