



# Sexual Violence in South Dakota 2019 Data Report



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## INTRODUCTION

While the national rape rate has been steadily declining since 1992, the rape rate in South Dakota (SD) has been steadily increasing since the 1960s, and has remained higher than the national rate since 1992.<sup>1,2</sup> In 2019, South Dakota had the third highest rape rate in the nation at 72.6 per 100,000 inhabitants, an all-time high for the state and considerably higher than the national rate of 42.6 per 100,000.<sup>1,2</sup> Nearly half of the 2019 rape victims in SD were under the age of 20 (49.8%), about 9 in ten were female (89.6%), and while over half were White (57.1%), Native Americans were markedly overrepresented among rape victims (32.5% of victims and 9% of population).<sup>2</sup> Over half of the 2019 rape offenders in SD were under the age of 30 (53.7%), more than 9 out of ten were male (96%), and like rape victims, although over half were White (57.1%), Native Americans were overrepresented among rape offenders (32.5% of offenders and 9% of population).<sup>2</sup>

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## DATA USE CONSIDERATIONS

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

- *South Dakota Office of the Attorney General: Crime in South Dakota*<sup>3</sup>  
Crime in South Dakota is the annual publication that presents compiled crime data voluntarily reported by SD sheriff offices, police departments, and the Division of Criminal Investigation. This data is submitted to the FBI for inclusion in the national crime data released by the Uniform Crime Reporting Program. However, the data provided in this publication cannot be compared to data released by the FBI, as the FBI uses estimations for non-reported data. The Crime in South Dakota publication is typically used for between county comparisons and to monitor trends of violent crime at the county or city level. This publication does *not* include crimes committed on Indian Reservations, as this data is reported directly to the FBI.
- *Federal Bureau of Investigation (FBI) Uniform Crime Reporting (UCR) Program*<sup>1,2,4</sup>  
The FBI UCR Program serves as one of the nation's primary crime reporting systems, and its primary objective is to generate reliable

## Sexual Violence in the United States

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

## Crime Data

Various data sources present differing, sometimes even conflicting crime statistics due to differences in crime definitions and jurisdictional coverage areas. Underreporting of violent crimes is a serious concern, with the U.S. Department of Justice estimating that just 33.9% of rapes or sexual assaults are reported through the justice system.<sup>8</sup> Therefore, the rates included in this report are likely the minimum rates of violence, with the true number of incidents much higher than those provided in this report.

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

- *Youth Risk Behavior Survey (YRBS)*<sup>9</sup>

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

## TERMINOLOGY

### Sexual Violence, Sexual Assault, or Rape?

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

### Victim or Survivor?

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

## American Indian/Alaska Native, Indian, Native American, or Indigenous?

American Indian/Alaska Native, Indian, and Native American are the most common terms used to identify the general population of Indigenous peoples in the U.S. However, these labels have not been without controversy, and no single term is universally accepted or preferred.<sup>14</sup> There are 574 federally recognized tribes in the U.S. (also referred to as tribal/Indian nations, bands, pueblos, communities, and native villages),<sup>15</sup> as well as 66 state recognized tribes.<sup>16</sup> Many Indigenous peoples prefer to use the specific name of their tribe as opposed to more generic terms; however, the maintenance of community confidentiality is as important as that of individual confidentiality. Therefore, general terms are sometimes preferred, particularly when the identification of the tribe might lead to community stigma. The terms used throughout this report alternate depending on the context. For example, the terms Indian and Indian Country are often used in U.S. legal discourses and have been retained in this report in sections dealing with federal legislation and court decisions.<sup>17</sup> Whereas, the terms Native American or Native and Indigenous peoples or Indigenous are used to refer to the general population of Indigenous peoples. These choices are in no way intended to minimize or ignore the great diversity of Indigenous cultures, languages, and nationalities that exist, nor to generalize their experiences.

## Sex, Gender, and Sexual Orientation

A significant barrier to creating a fully inclusive environment is the presumption that sex, gender, and sexual orientation fit neatly into a binary model of male/female, feminine/masculine, and straight/gay. However, the social and biological sciences have shown that this binary model is inaccurate and fails to encompass the spectrum of human diversity.

**Sex** refers to a person's anatomy, physical attributes such as external sex organs, sex chromosomes, and internal reproductive structures.<sup>18</sup> The anatomical indicators of sex include not only male and female, but also intersex conditions, which occur naturally in all species, including humans.<sup>18</sup> Intersex refers to a variety of conditions in which an individual is born with reproductive or sexual anatomy that doesn't fit the typical understanding of female or male bodies. In the past three decades, more than 25 genes have been identified that were once believed to be associated solely with male or female biology, but in fact exhibit more complex, nonbinary variations.<sup>18</sup> With the advent of new scientific knowledge, it is increasingly evident that biological sex does not fit a binary model.

**Gender** is the personal conception of oneself as male, female, a blend of both, or neither.<sup>19</sup> People whose gender identity and biological sex align are referred to as cisgender.<sup>18</sup> Gender expression is the way a person conveys their gender to others, which may or may not conform to societal expectations or characteristics typically associated with a person's biological sex.

**Sexual orientation** is our physical, emotional, and/or romantic attraction to others. Like gender identity, sexual orientation is internally held knowledge which may or may not overlap with a person's sex or gender identity. Gender identity, gender expression, and sexual orientation are not necessarily fixed, and a person can flow between various points on the gender and sexual orientation spectrum throughout their life. Most population data still reflect binary assumptions of sex and gender. Therefore, the statistics presented in this report are limited to the categorization of individuals as either male or female.

## SEXUAL VIOLENCE LAWS

### South Dakota Laws

In SD, sexual assault is referred to as "sexual battery" and is defined as, "oral, anal, or vaginal penetration by the sexual organ of another, or the anal or vaginal penetration of another by any object."<sup>20</sup> Sexual battery does not include an act done for a legitimate medical purpose. Rape is an act of sexual battery inflicted upon someone under any of the following circumstances:<sup>20</sup>

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

As indicated above, an offender can be convicted of statutory rape if the victim is less than 13 years old, or if the victim is 13 to 15 years old and the offender is at least three years older than the victim. The legal age of consent varies slightly between states and is 16 in SD.<sup>20</sup> Therefore, if a 15-year-old voluntarily engages in sexual intercourse with their 19-year-old boy/girlfriend, then the boy/girlfriend can be charged with statutory rape in SD.

### FEDERAL LAWS IMPACTING SEXUAL VIOLENCE IN INDIAN COUNTRY

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

— Chief Justice Marshall<sup>21</sup>

The governmental status of tribal nations is at the heart of nearly every issue that touches Indian Country.<sup>15</sup> The essence of tribal sovereignty is the ability to govern and to protect and enhance the health, safety, and welfare of tribal citizens within tribal territory.<sup>15</sup> Tribal governments maintain the power to determine their own governance structures and enforce laws. However, the legal relationship between the federal government and tribal governments is complex and can result in sexual assault perpetrators going free.<sup>17</sup> Four laws have had a particularly significant impact on tribal self-governance: The Major Crimes Act (1885), Public Law 280 (1953), the Indian Civil Rights Act (1968), and the case law of *Oliphant v. Suquamish* (1978).<sup>17</sup>

1. In 1885, tribal jurisdiction over criminal cases was diminished through the passing of the **Major Crimes Act** (MCA), which granted federal courts concurrent (or joint) criminal jurisdiction in tribal communities over seven major crimes committed in Indian Country, including rape/sexual assault. For the next 100 years, most federal officials interpreted MCA as giving the federal government exclusive federal jurisdiction for rape/sexual assault cases. Consequently, the Department of Interior (through the Bureau of Indian Affairs) refused to approve tribal rape laws.<sup>22</sup>
2. Most state authorities do not exercise legal authority over Indian Country. However, with the passing of **Public Law 280** (1953), federal criminal and civil jurisdiction was transferred to some state governments

over crimes committed in Indian Country (regardless of the race of the offender or victim). These states include California, Minnesota, Nebraska, Oregon, Wisconsin, and Alaska. Public Law 280 also permitted certain additional states to acquire jurisdiction if they wished (i.e., Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, *South Dakota*, Utah, and Washington). South Dakota has enacted Public Law 280 twice in the past (in 1957 and 1961), and in both cases the state acquired jurisdiction over civil and criminal actions on reservation highways only. Currently, only Florida has full Public Law 280 jurisdiction. Where Public Law 280 is applied, both tribal and state authorities have concurrent (running together) criminal jurisdiction on reservations. In many Public Law 280 states, this led to jurisdictional confusion, a decrease in litigation, sentencing disparities (with Native Americans receiving significantly longer sentences than non-Natives prosecuted for the same crime), and reduced federal funding for tribal law enforcement and tribal courts.<sup>23</sup>

3. The **Indian Civil Rights Act** (1968) limits the penalty that can be imposed by tribal courts for any offence, including murder and rape, to a maximum of one year's imprisonment and/or a \$5,000 fine per offense. As a result of this limitation, tribal courts were less likely to prosecute serious crimes, such as sexual violence.<sup>17</sup>
4. In 1978, in the case of ***Oliphant v. Suquamish Tribe***, the Supreme Court ruled that tribal courts could not exercise criminal jurisdiction over non-Indians for conduct occurring on Indian lands. This federal ruling prohibits tribal authorities from prosecuting crimes committed by non-Indian perpetrators on tribal land.<sup>17</sup>

Progress has been made in recent years to enhance sentencing and increase tribal court authority. The **Tribal Law and Order Act of 2010**, signed into effect by President Barack Obama, amended the Indian Civil Rights Act of 1968, increasing the maximum prison sentence to three years per offense and a fine of up to \$15,000.<sup>22</sup> On March 7, 2013, President Obama signed the **Violence Against Women Reauthorization Act of 2013** (VAWA 2013) into law. For the first time since the U.S. Supreme Court stripped tribal governments of their criminal authority over non-Indians in *Oliphant v. Suquamish Tribe* (1978), VAWA 2013 recognized and reaffirmed the inherent sovereign authority of tribes to exercise criminal jurisdiction over non-Indians who commit crimes in Indian Country.<sup>24</sup> However, VAWA 2013 only applied to cases involving domestic violence, dating violence, and criminal violations of protection orders.<sup>24</sup> On April 4, 2019, the House of Representatives passed the **Violence Against Women Reauthorization Act of 2019** (H.R. 1585).<sup>25</sup> The VAWA 2019 added child abuse, sexual assault, stalking, trafficking, obstruction of justice, and assaults against law enforcement officers to the crimes that tribes can prosecute against non-Indians and expanded tribal access to federal criminal databases.<sup>26</sup>

## SEXUAL VIOLENCE STATISTICS

### SOUTH DAKOTA ATTORNEY GENERAL DATA

#### DESCRIPTION OF DATA SOURCE

The SD Office of the Attorney General (AG) compiles crime data reported by sheriff offices, police departments, Highway Patrol, and the Division of Criminal Investigation in SD. This data is made available to the public through an annual *Crime in South Dakota* publication accessible at <https://atg.sd.gov/OurOffice/Departments/DCI/SAC/CrimeinSouthDakota.aspx>. Crime numbers are provided overall and individually by each reporting office or department. The AG data provides crime estimates at the state and county level from 1983 to the most recent year available (2019), including incidents by crime type, as



well as victim and offender demographic data and characteristics of the offense (e.g., use of weapons, multiple linked offenses). The 2019 crime data compiles numbers from 121 reporting agencies, covering 96% of the SD population.

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### DATA SOURCE LIMITATIONS

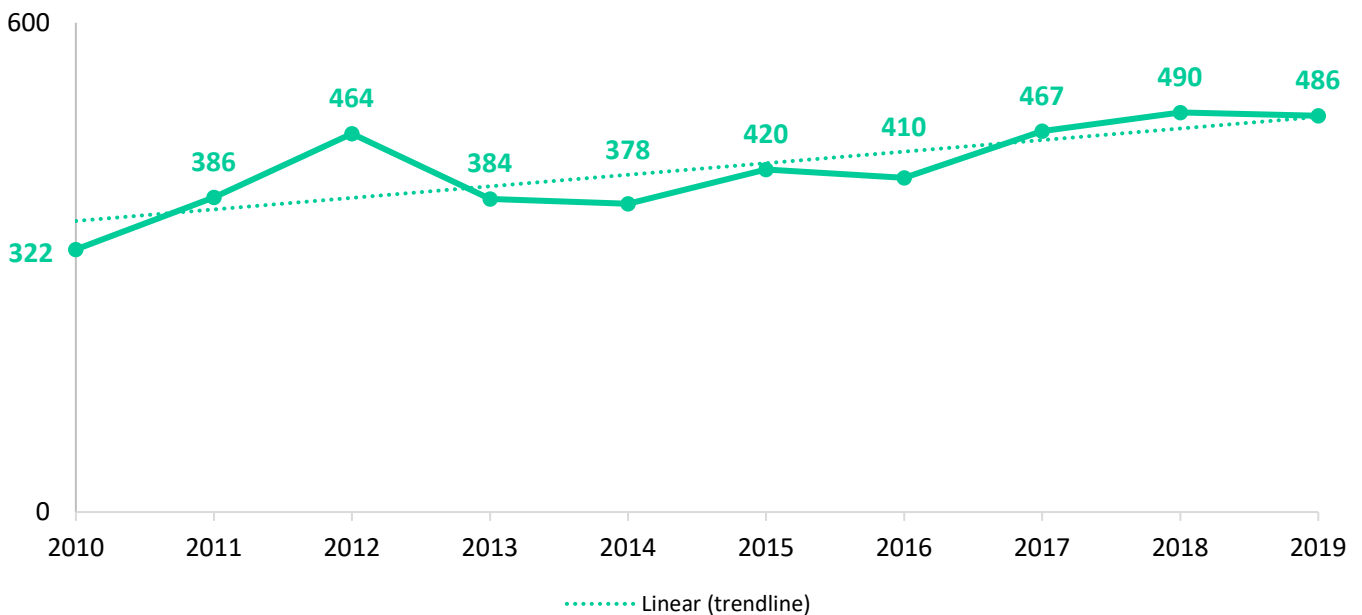
The data in this report are collected and submitted using the FBI’s Uniform Crime Reporting Program methodology (as outlined earlier in this report) at the state level. The AG data and the *Crime in South Dakota* publication do not include crimes committed on tribal lands, as this data is reported directly to the FBI. Given the small population of many counties in SD and the small number of reported rape incidents in some areas, use of multiple years of data is recommended. Data limitations of the FBI’s UCR system (outlined on page 8 and 9 of this report) also apply to this data source. Finally, the data in the *Crime in South Dakota* report represents a “snapshot” of the SD repository data as of March 5, 2020, based on statistics that were analyzed for the twelve-month period of January 1, 2019 to December 31, 2019. SD law enforcement agencies update their data as new information becomes available, and the data reported is only as accurate as the data provided by each reporting agency.<sup>3</sup>

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### STATE DATA: 2010-2019

The *Crime in South Dakota* report shows 486 rape offenses in 2019 (excludes rape offenses reported on tribal lands) at a rate of 54.9 per 100,000 inhabitants, down by 4 or 0.82% from the previous year.<sup>3</sup> This rate is significantly lower than the official state rate reported by the FBI of 72.6 per 100,000. Rape cases have steadily increased over the past decade (Figure 1). Other class 11 offenses reported in 2019 included 39 incidents of sodomy, 10 incidents of sex assault with an object, and 446 incidents of fondling.

**Figure 1.** Rape incidents in SD, 2010-2019<sup>3</sup>





Other violent crime offenses included in the *Crime in South Dakota* report relevant to sexual violence and violence prevention work are shown in Table 1.

**Table 1.** Other violent crime incidents in SD<sup>3</sup>

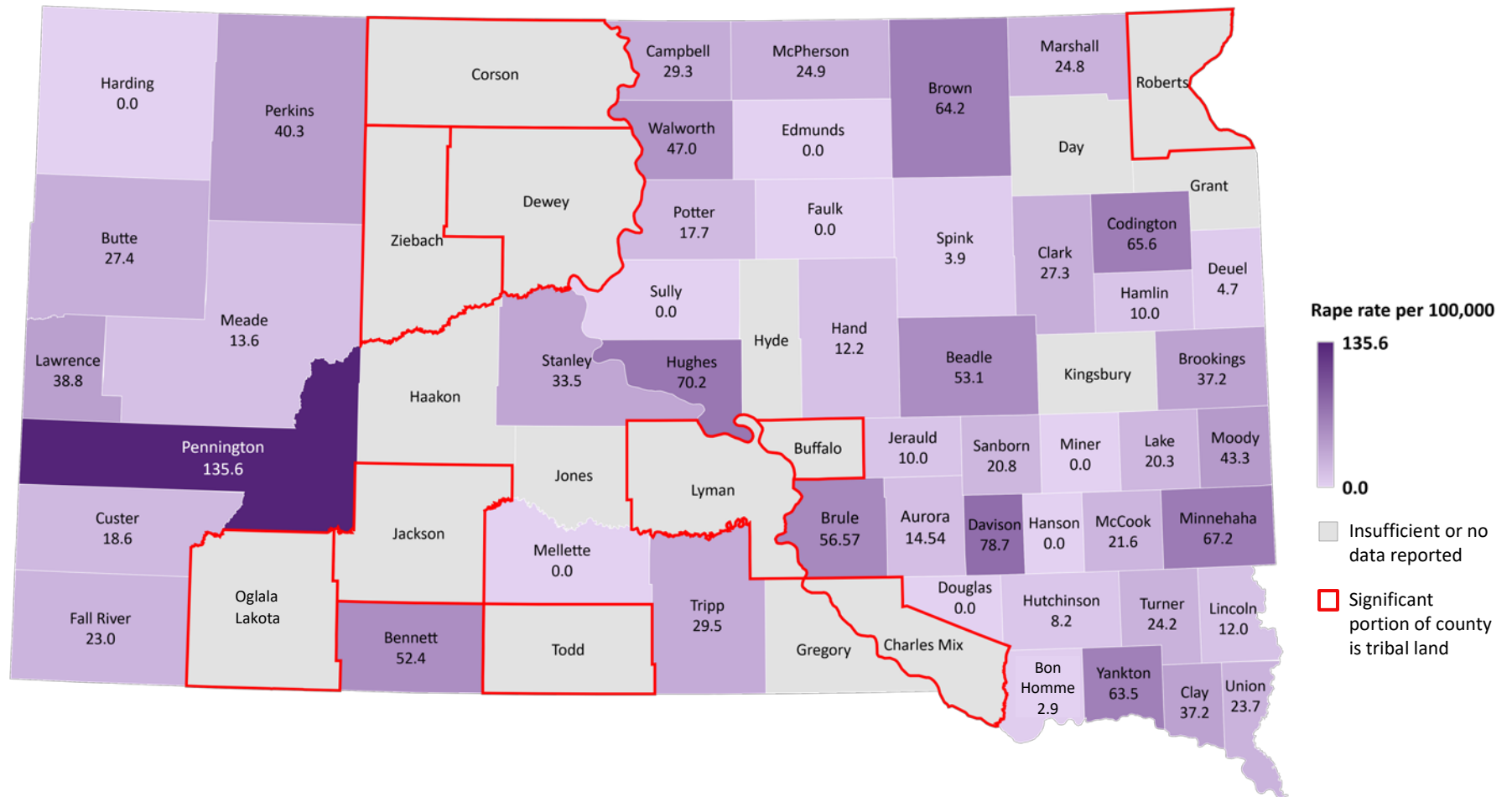
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>Incest</b>	15	21	20	19	14	18	15	14	15	15
<b>Statutory Rape</b>	109	137	153	147	121	133	120	112	105	150
<b>Pornography/ Obscene Material</b>	163	151	130	128	157	185	192	208	195	243
<b>Prostitution<sup>a</sup></b>	33	30	64	79	85	81	79	97	62	62
<b>Human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

<sup>a</sup>Prostitution also includes assisting or promoting prostitution and purchasing prostitution.

<sup>b</sup>Human trafficking is defined as the inducement of a person to perform a commercial sex act, or labor, or services, through force, fraud, or coercion.

Figure 2 displays the rape rate per 100,000 in SD counties, which does not include data for reservation and off-reservation tribal trust lands. Due to the small population size of many SD counties and the limited number of offenses reported annually, rape rates were calculated for county-level data by aggregating offenses reported over a five-year period from 2015-2019. Additionally, those counties with two or fewer years of reported data in the five-year period were excluded. Pennington County had the highest rape rate in SD (135.6 per 100,000).<sup>3</sup> Davison County had the second highest rape rate (78.7 per 100,000), followed by Hughes (70.2 per 100,000) and Minnehaha (67.2 per 100,000).<sup>3</sup> There are only two metropolitan areas in SD, Rapid City and Sioux Falls. Although rape statistics for metropolitan statistical areas in not included in the *Crime in South Dakota* report, this data is reported in the FBI's *2019 Crimes in the United States* report. According to the FBI report, Rapid City had a higher rape rate than Sioux Falls (130.9 per 100,000 versus 56.2 per 100,000, respectively).<sup>27</sup> In fact, compared to other metropolitan areas in the U.S., Rapid City had the second highest rape rate in the nation.<sup>27</sup>

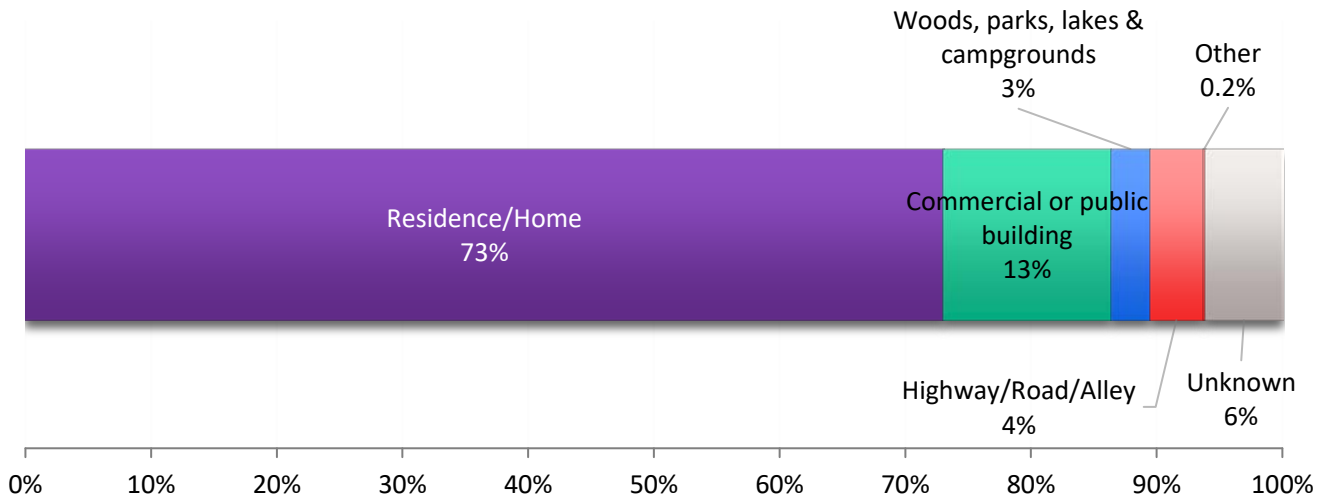
**Figure 2.** Rape rate per 100,000 for South Dakota counties: 2015-2019<sup>3</sup>



**Data Notes:** Rapes included from both Sherriff Offices (SO) and Police Departments (PD) reporting in each county. This data source does not include tribal law enforcement data. Population numbers as reported from SO, with the following exceptions: a) Fall River SO did not report, so Hot Springs PD population was used, which covers 52.3% of the county's population; b) Lake SO includes data from 2017-2019 only; and c) Sanborn SO includes data from 2016-2019 only.

The *Crime in South Dakota* report also provides information on the location, use of weapons, and characteristics of the victim, offenders (individuals suspected of rape violations), and arrestees (individuals arrested for rape violations). Most rape offenses occurred at a residence (Figure 3). Use of a weapon was identified in 46.6% of the reported rape incidents from 2015-2019. Personal weapons (a person’s bodily parts, such as hands, fists, feet, etc.) were the most common type of weapon used (41.1% of all rape incidents), with other types of weapons less common: firearm (0.7%), knife (0.6%), drugs/narcotics/sleeping pills (0.5%), asphyxiation (0.4%), blunt object (0.4%), poison (0.06%), motor vehicle (0.06%), and other weapons (2.8%). Alcohol use was involved in 22.1% of SD rape incidents in 2015-2019. Drug use was involved in 6.1% of rape incidents and computer use in 0.4%.

**Figure 3.** Location of rape offense, South Dakota: 2015-2019<sup>3</sup>



Rape victimization was most common among those under the age of 18, at 42.2% (Figure 4). Perpetration was more evenly dispersed among the designated age groups, with 42.1% age 24 and younger.

**Figure 4.** Age distribution of South Dakota rape victims and offenders: 2015-2019<sup>3</sup>

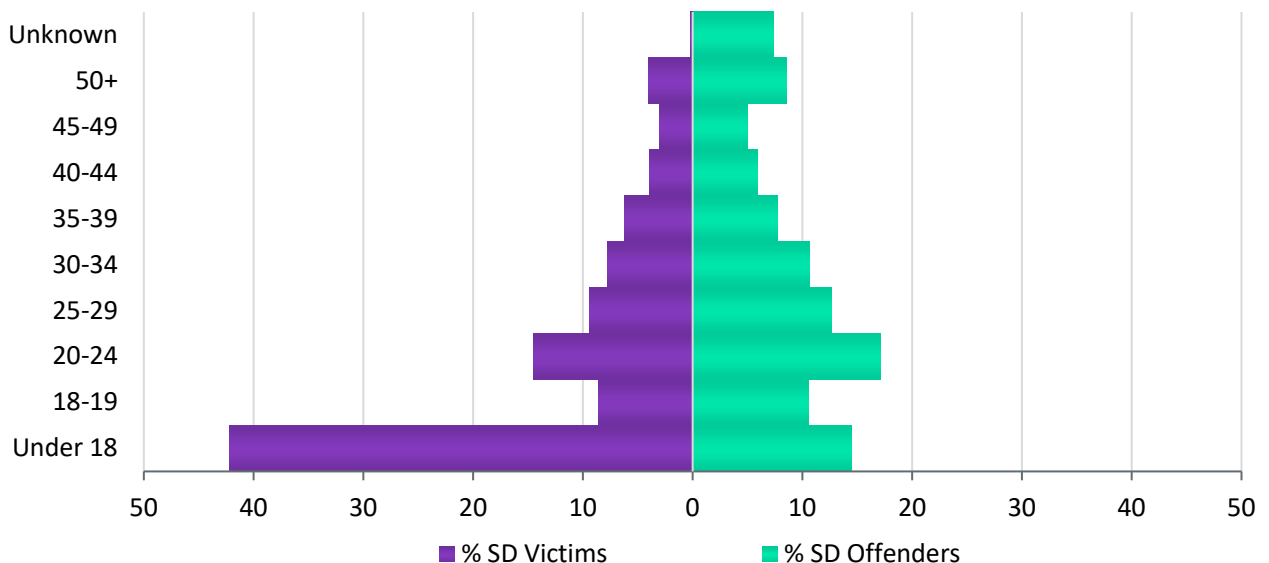
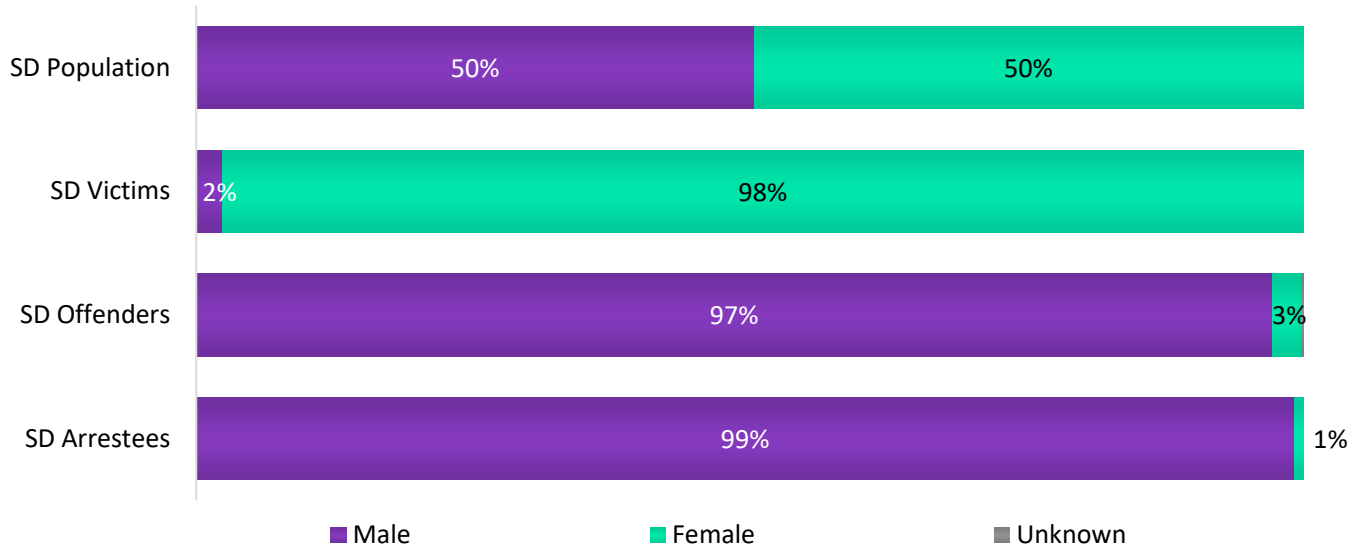


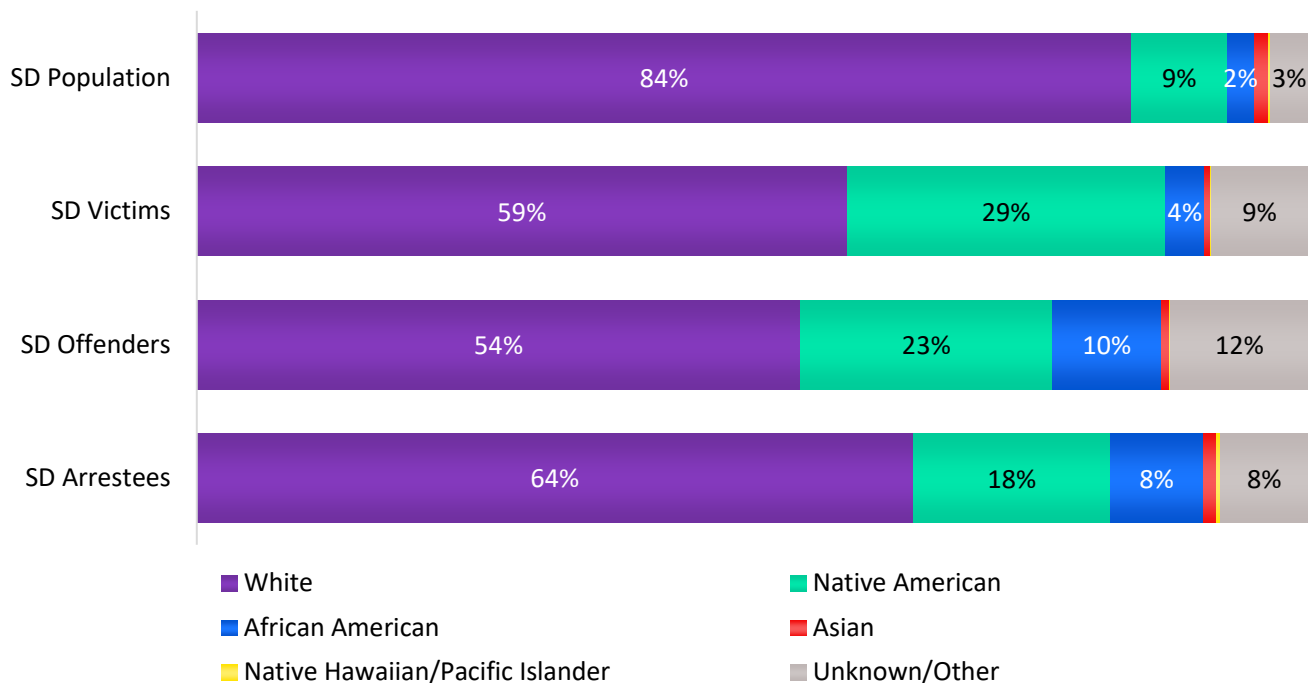
Figure 5 shows that the vast majority of rape victims were reported as female and the vast majority of offenders and arrestees were male.

**Figure 5.** Sex of distribution of South Dakota population, rape victims, rape offenders, and rape arrestees: 2015-2019<sup>3</sup>



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

**Figure 6.** Racial distribution of South Dakota population, rape victims, rape offenders, and rape arrestees: 2015-2019<sup>3,28</sup>



## Federal Bureau of Investigation (FBI): Uniform Crime Reporting (UCR) Program Data

### DESCRIPTION OF DATA SOURCE

The FBI gathers violent crime statistics, including rape and sexual assault, from law enforcement agencies throughout the United States through the Uniform Crime Reporting (UCR) Program. The UCR Program collects crime data through four reporting systems: The Summary Reporting System (SRS), the National Incident-Based Reporting System (NIBRS), the Law Enforcement Officers Killed and Assaulted (LEOKA), and the Hate Crime Statistics Program.<sup>29</sup> However, starting in January 2021, the UCR will become a NIBRS-only data collection system, becoming the standard reporting system for all participating law enforcement agencies.<sup>29</sup> For the purposes of this report, only data from the SRS and NIBRS data reporting systems are included.

- *Summary Reporting System (SRS)*  
The SRS is the original reporting system for the FBI and summarizes crime trends and arrests reported to law enforcement. SRS data includes data from monthly summarized reports on ten Part I criminal offenses known to law enforcement. These crimes include criminal homicide, rape, robbery, aggravated assault, human trafficking, burglary, motor vehicle theft, larceny-theft, arson, and other assaults. The SRS collects only arrest information (the circumstances of the arrest and limited arrestee data, e.g., age, sex, race, and ethnicity) on an additional 19 offenses known as Part II offenses. As previously mentioned, the SRS is currently being phased out of use and will be replaced by NIBRS.
- *National Incident-Based Reporting System (NIBRS)*  
South Dakota was originally NIBRS certified by the FBI in early 2001 and became a NIBRS-only state in 2008. NIBRS is an incident-based crime reporting system designed to collect data on each crime occurrence and on each incident and arrest within each occurrence. NIBRS collects 24 crime categories made up of 52 specific crimes called Group A offenses. In addition to the Group A offenses, there are 10 Group B offense categories for which only arrest data are collected.<sup>29</sup> NIBRS was created to improve the quality and quantity of crime data collected through capturing more detailed information on the crimes reported to law enforcement. Additional information included in the NIBRS includes time and location of the crime; the circumstances of the incident; the characteristics of the victim and offender such as age, sex, race, and ethnicity; the victim's relationship to the offender; involvement of weapons or drugs; property loss; and whether the crime was motivated by bias.<sup>1,2</sup> To manage the transition between SRS and NIBRS reporting, "The FBI converts incident-based data to the traditional SRS format for the purpose of publishing national and state-level crime trends."<sup>1,2</sup>

Data collected through the SRS and NIBRS are compiled for the UCR Program and made available for public use through the FBI's *Crime Data Explorer (CDE)* tool at <https://crime-data-explorer.fr.cloud.gov> and through an annual summary report, *Crime in the United States*, via the FBI website at [www.fbi.gov](http://www.fbi.gov). The CDE is an interactive tool that provides state and national estimates for crime data, currently representing some data from both the SRS and NIBRS.<sup>1,2</sup> The *Crime in the United States* publications are annual reports also compiled to provide public access to the data from the UCR Program. Volume and rate of violent and property crime offenses at state and national levels are presented in the report, along with arrests, clearance, trends, and law enforcement employee data.<sup>4</sup>

### DATA SOURCE LIMITATIONS

The UCR Program exhibits limitations with the included data sources. As previously mentioned, participation by law enforcement agencies in the UCR Program is voluntary. Although the FBI does its best to ensure the validity of the data it receives, the accuracy of the statistics depends primarily on the adherence of each contributing

law enforcement agency to the established standards of reporting. Each state UCR Program or individual contributing law enforcement agency is responsible to submit accurate monthly statistics or correct existing data that are in error.

The SRS uses the hierarchy rule in counting multiple offenses within the system, meaning the single, most serious offense is recorded for an incident even when multiple offenses occur.<sup>30</sup> Rape is listed as number two in priority, behind criminal homicide. The only exceptions to the hierarchy rule under the SRS include justifiable homicide, motor vehicle theft, arson, and human trafficking.<sup>31</sup> Due to the hierarchy rule, SRS data may not reflect all crimes that occurred during an incident. A major the SRS collects about an incident besides the original crime committed. SRS data gives crime rates as trends and totals but lacks supplemental information regarding each incident, hindering research and well-informed public policy guidance.<sup>31</sup> All agencies will transition to the NIBRS system by 2021, which allows reporting of multiple offenses along with the opportunity to provide more detailed records of an incident, addressing these limitations. As the number of rape incidents differs, data from both the CDE system (121 agencies in South Dakota reporting) and the *Crime in the United States* report are presented in this section of the report.

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

The UCR data guidance cautions against comparing data from year to year due to fluctuations in the number of agencies reporting. Despite this, percent change from year to year is calculated in the national report for estimated crime incident by type and is therefore included in this report. Data guidance also cautions against ranking states and other locales because of the multitude of factors that influence crime, ignoring the uniqueness of each state and locale.<sup>32</sup>

Other methodological considerations to take into account:<sup>33</sup>

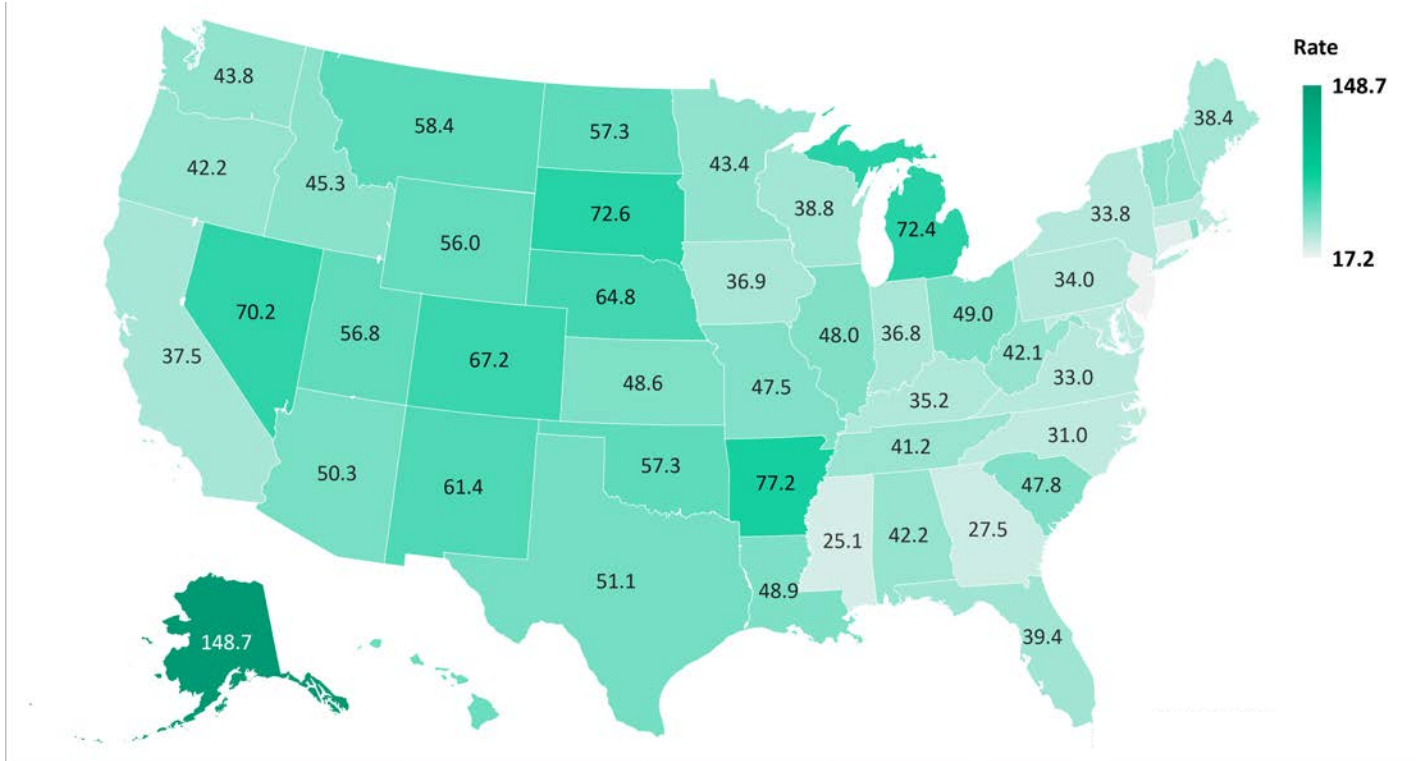
- The data used were from all law enforcement agencies in the UCR Program (including those submitting less than 12 months of data).
- Crime statistics include estimated offense totals for agencies submitting less than 12 months of offense reports for each year.
- The FBI derives state totals by estimating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

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## STATE AND NATIONAL DATA: 2019

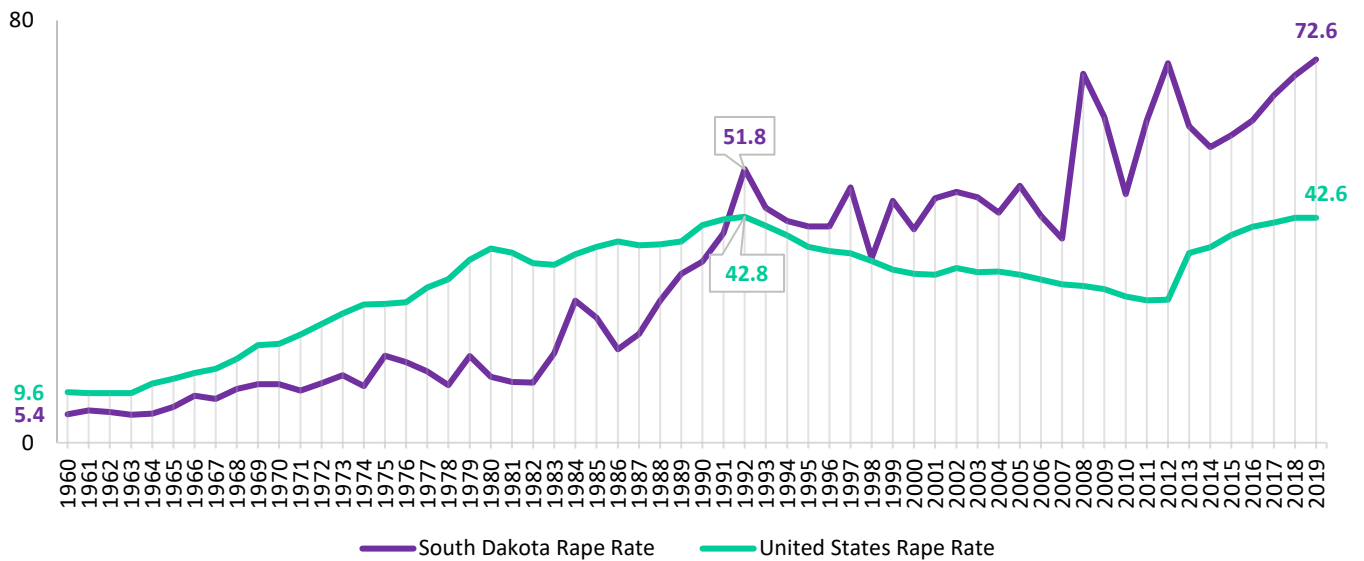
The *Crime in the United States* report shows 642 rape offenses in SD in 2019, a 4.1% increase from 2018 (617 rape offenses). The 2019 rape rate in SD was 72.6 per 100,000, considerably higher than the national rate of 42.6 per 100,000, and the third highest rate in the nation (Figure 7).<sup>4</sup>

**Figure 7.** Rape rate per 100,000 by state: 2019<sup>4</sup>



The national rape rate had steadily declined since 1992, until 2013 when the revised definition began, and rates have remained elevated through 2019. The SD rape rate has been steadily increasing since the 1960s, remaining higher than the national rate since 1992 (see Figure 8). In fact, the current (2019) rate is the highest in recorded history at 72.6 per 100,000.<sup>1,2</sup>

**Figure 8.** Rape rate per 100,000 in the U.S. and South Dakota: 1960-2019<sup>1,4,34</sup>



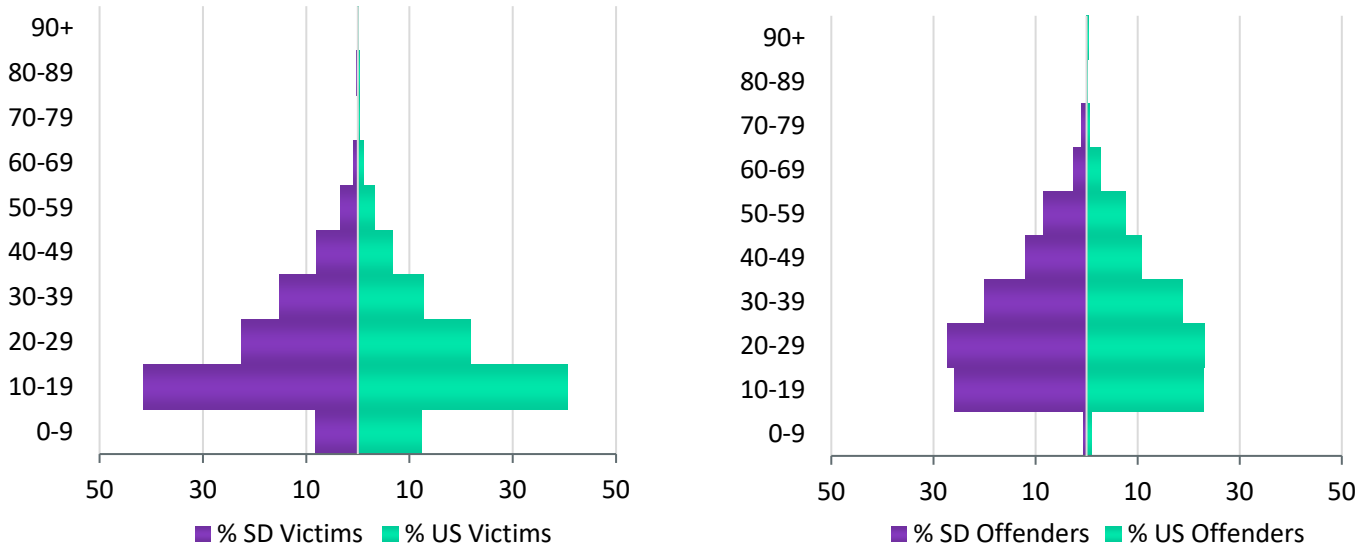
**Note:** Data reported from 1960 to 2011 reflects the legacy definition of rape.

In the 2019 *Crimes in the United States* report, only 56 rape offenders were arrested. The SD rape arrest rate of 6.9 per 100,000 inhabitants<sup>4</sup> was moderately lower than the national arrest rate for rape (7.4 per 100,000).<sup>4</sup>



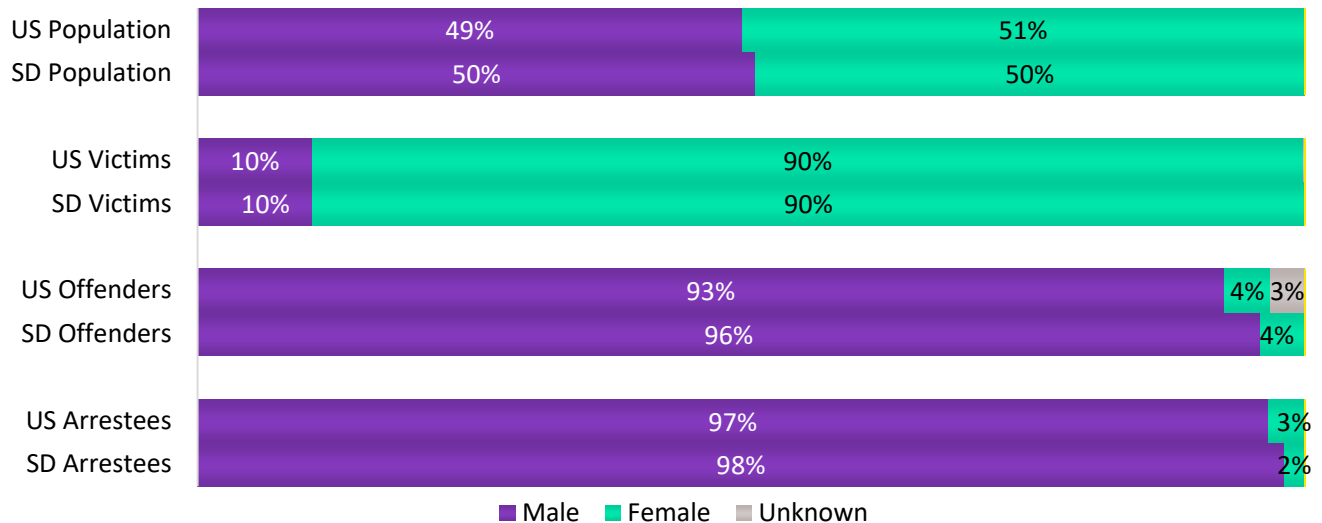
The CDE tool, which does not include estimates for nonreporting or partially reporting agencies, shows 539 rape offenses reported in 2019.<sup>2</sup> In both the U.S. and SD, rape victims tend to be younger than rape offenders, with most victims being ages 10-19 and most offenders being ages 20-29 (see Figure 9).<sup>1,2</sup>

**Figure 9.** Age distribution of U.S. and South Dakota rape victims and offenders: 2019<sup>1,2</sup>



Similar sex characteristics of rape victims and offenders were observed at the national and state level, with the vast majority of victims being female and the vast majority of offenders and arrestees being male (see Figure 10).<sup>1,2,35</sup>

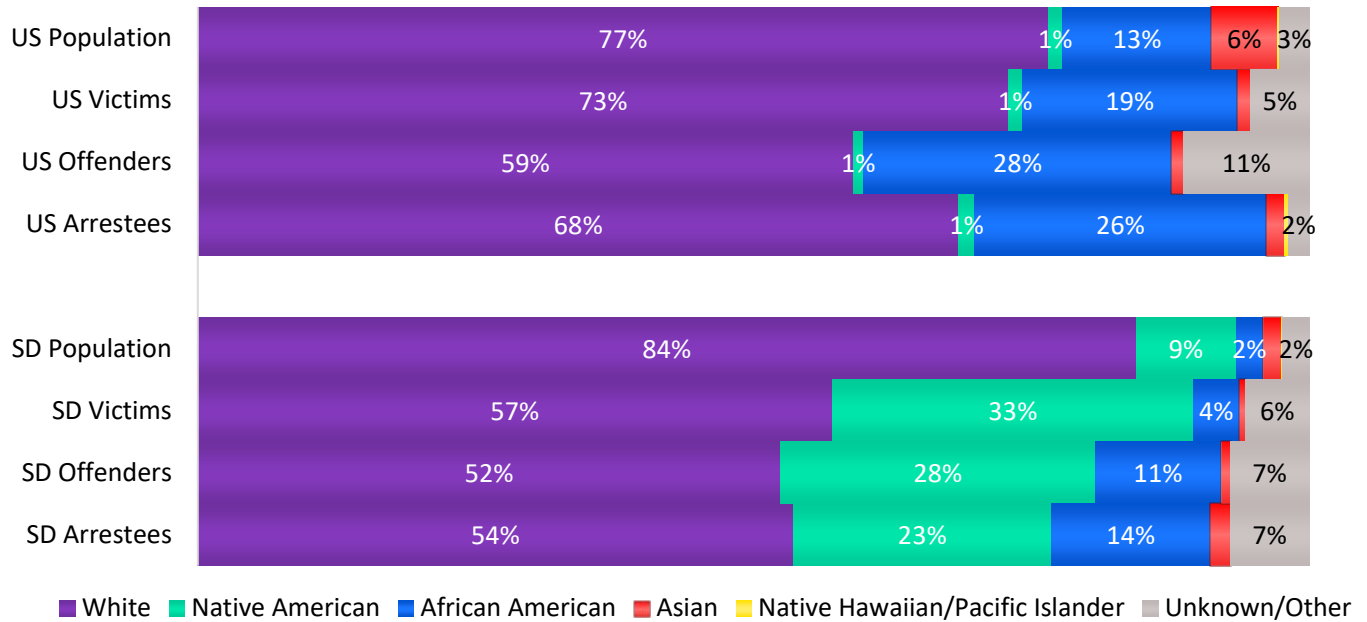
**Figure 10.** Sex of U.S and South Dakota rape offenders, victims, and arrestees: 2019<sup>1,2,28,35</sup>



Compared to the racial distribution of the U.S., minority races were overrepresented among rape victims, offenders, and arrestees (see Figure 11).<sup>1</sup> A similar disparity was observed in SD, with minority races being overrepresented among rape victims, offenders, and arrestees. While Native Americans make up 9% of the SD

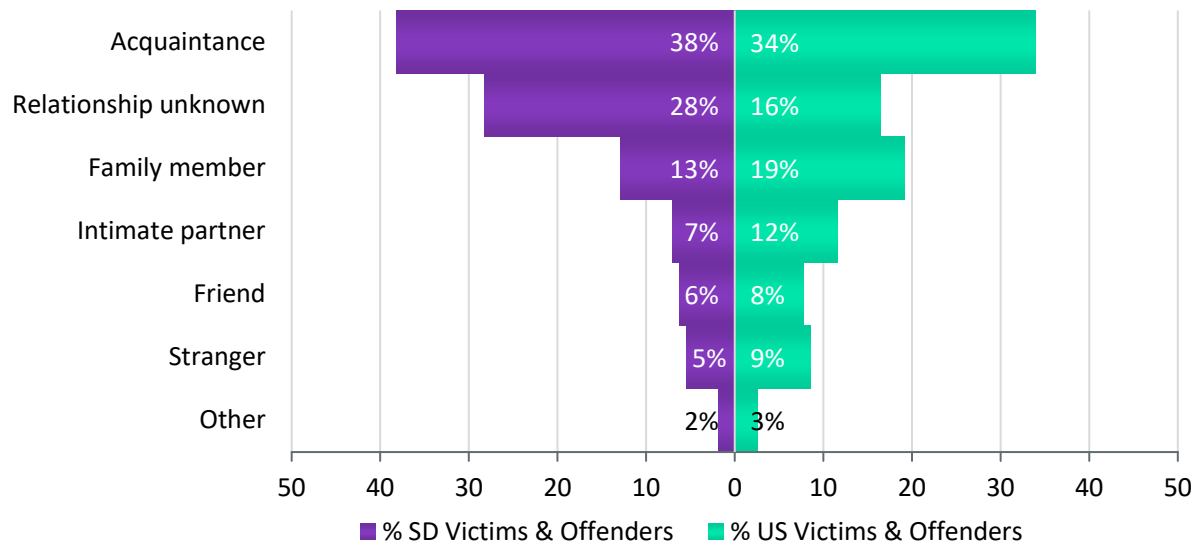
population, 33% of rape victims, 28% of rape offenders, and 23% of arrestees were Native American.<sup>2</sup> African Americans were also overrepresented among rape victims, offenders, and arrestees.<sup>2</sup>

**Figure 11.** Racial distribution of U.S. and South Dakota population, rape victims, offenders, and arrestees: 2019<sup>1,2,28,35</sup>



The relationship between victim and perpetrator is shown in Figure 12. Acquaintance was the most common relationship (189 of 495 incidents or 38.2%) followed by relationship unknown, family member, intimate partner, friend, stranger, and other.

**Figure 12.** Victim relationship to offender, South Dakota, 2019<sup>2</sup>



## TRIBAL DATA: 2015-2019

Crimes reported to tribal law enforcement are also available on the CDE tool. However, given the small population size of reservation areas, crime rates are not provided, and no data was available for the Flandreau Santee Sioux Tribe, Oglala Sioux Tribe, and Yankton Sioux Tribe. A lack of data for these tribes may be the result of an agency not participating, reporting zero incidents, changes in reporting, or being “covered by” another agency.<sup>2</sup>

Rape rates per 100,000 were calculated for each tribe for the 2015-2019 period using population estimates for each year provided by the U.S. Census Bureau’s *My Tribal Area* data tool.<sup>36</sup> Four tribes reported a higher rape rate than the state average of 72.6 per 100,000 (Cheyenne River Sioux Tribe, Crow Creek Sioux Tribe, Lower Brule Sioux Tribe, and Standing Rock Sioux Tribe), with Crow Creek Sioux Tribe and Lower Brule Sioux Tribe having significantly higher rates than other SD tribes (Table 2).<sup>2</sup>

**Table 2.** Rapes reported on and off-reservation tribal trust lands: 2015-2019.<sup>2,36</sup>

	2015 <sup>a</sup>	2016	2017	2018	2019 <sup>a</sup>	2015-2019 Rate per 100,000
<b>Cheyenne River Sioux Tribe</b>	11	4	7	9	11	<b>98.7</b>
<b>Crow Creek Sioux Tribe</b>	9	4	8	3	3	<b>248.6</b>
<b>Flandreau Santee Sioux Tribe</b>	—	—	—	—	—	---
<b>Lower Brule Sioux Tribe</b>	3	5	3	4	1	<b>202.1</b>
<b>Oglala Sioux Tribe</b>	—	—	—	—	—	—
<b>Rosebud Sioux Tribe</b>	8	3	6	7	8	<b>56.3</b>
<b>Sisseton Wahpeton Oyate</b>	4	2	2	4	1	<b>23.4</b>
<b>Standing Rock Sioux Tribe</b>	7	10	10	5	—	<b>92.9<sup>b</sup></b>
<b>Yankton Sioux Tribe</b>	—	—	—	—	—	—

<sup>a</sup>The 2016 population estimates were applied to 2015, and the 2018 population estimates were applied to 2019, as estimates for reservation and off reservation tribal trust lands populations were unavailable under the U.S. Census Bureau’s *My Tribal Area* data tool (<https://www.census.gov/tribal/>).

<sup>b</sup>Rape rate for Standing Rock Sioux Tribe was calculated using only four years of data (2015-2018).

## YOUTH RISK BEHAVIOR SURVEY

### DESCRIPTION OF DATA SOURCE

The Youth Risk Behavior Survey (YRBS) is developed by the CDC in collaboration with state and local health and education departments to monitor six priority health behaviors of high school students in SD. The YRBS is conducted in odd-numbered years by the SD Department of Education (1991-2013) and the SD DOH (2015-2019). One of the priorities involves behaviors that contribute to unintentional injuries and violence, including questions regarding students’ experiences of sexual violence and sexual dating violence. Through monitoring the six priorities, the YRBS assesses how health risk behaviors change over time and progress toward program goals set forth to reduce these behaviors.<sup>9</sup>

## DATA SOURCE LIMITATIONS

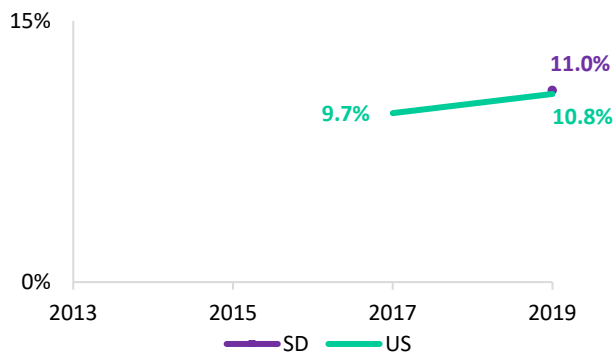
The YRBS is a self-report survey. Population coverage is limited to students in grades 9-12 who attend a public or tribal school. Each survey cycle will produce either weighted or unweighted results. Weighted results can be generalized to the entire population of 9-12 graders in South Dakota who attend a public or tribal school, while unweighted results are only representative of the students who actually participated in the survey. As such, unweighted results cannot be publicly reported. Unweighted data was obtained in 2017.<sup>37</sup>

## STATE AND NATIONAL DATA: 2013-2019

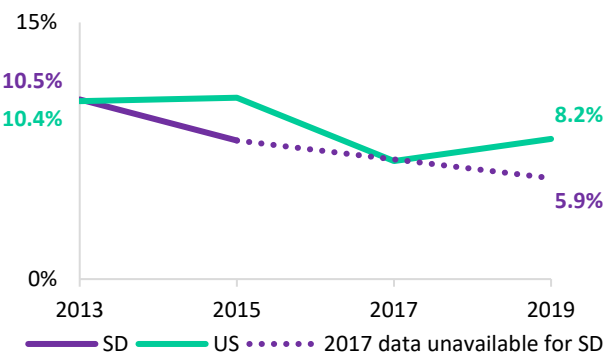
The YRBS has three questions on experiences of sexual violence, with two asked on at least two years of the survey. Figure 13 shows that rates of forced sexual intercourse declined from 2013 to 2015 but increased from 2015 to 2019.

**Figure 13.** Percentage of SD high school students who experienced sexual violence, 2013-2019<sup>9</sup>

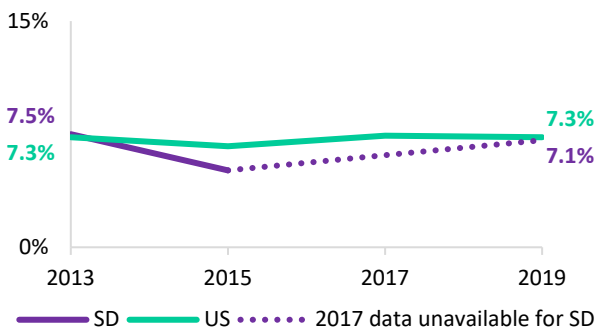
### Experienced sexual violence by anyone (in the past 12 months before the survey)



### Experienced sexual dating violence (in the past 12 months before the survey)



### Ever physically forced to have sex



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

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