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CONSIDERATIONS FOR SEXUAL ASSAULT DATA COLLECTION IN SOUTH
DAKOTA:
A CROSS-NATIONAL COMPARISON WITH IRELAND

by

Mattie J. Jones

A Thesis Submitted in Partial Fulfillment
Of the Requirements for the
University Honors Program

Department of Criminal Justice

The University of South Dakota

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ABSTRACT

Considerations for Sexual Assault Data Collection in South Dakota:

A Cross-National Comparison with Ireland

Mattie J. Jones

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In order to develop policy and legislation, accurate and comprehensive data is necessary to inform next steps. South Dakota faces limitations in its collection and reporting of data throughout the criminal justice system. One area that lacks comprehensive statistical information is child and adult sexual assault. From statistics on prevalence all the way through conviction rates of offenders, South Dakota misses key statistical information that could be useful for meaningful change in the state. Using the Republic of Ireland's data collection and reporting as a model, this report will evaluate key areas throughout South Dakota's criminal justice system where sexual assault data should be collected and publicly reported. It will create a step-by-step model of how a sexual assault moves through the criminal justice system starting with how data is collected about the prevalence of these assaults. Each step will show what data is already being collected and how, and it will explain what data is missing. This information will advocate for the continuance of existing data collection efforts and the development of new methods to create a more comprehensive set of statistics.

KEYWORDS: sexual assault; South Dakota; data collection; data report; criminal justice system

TABLE OF CONTENTS

LIST OF TABLES & FIGURES	v
ACKNOWLEDGEMENTS	vi
INTRODUCTION	1
LITERATURE REVIEW	4
Why Sexual Assault?	4
The Importance of Good Data	7
ANALYSIS	11
Prevalence of Victimization	13
Offender Detection	16
Judicial Process and Conviction	18
Recidivism	22
Summary of Ireland	23
COMPARISON	25
Prevalence of Victimization in South Dakota	26
Offender Detection in South Dakota	31
Judicial Process and Conviction in South Dakota	32
Recidivism in South Dakota	34
Summary of South Dakota	35
RECOMMENDATIONS AND CONCLUSION	38
Recommendations	38
Conclusion	42
REFERENCES	44

LIST OF TABLES & FIGURES

TABLE 1: IRELAND’S STAGES FOR DATA COLLECTION AND REPORTING	13
TABLE 2: IRELAND’S LEGAL DEFINITIONS OF SEXUAL ASSAULT	14
TABLE 3: POSSIBLE OUTCOMES AT THE DISTRICT COURT LEVEL	19
TABLE 4: RESOLVED CASE DATA FOR CIRCUIT COURT LEVEL	20
TABLE 5: POSSIBLE OUTCOMES AT THE CIRCUIT COURT LEVEL	20
TABLE 6: APPEALS DATA COLLECTED AT THE CIRCUIT COURT LEVEL	20
TABLE 7: CONVICTION DATA AT THE HIGH COURT LEVEL	21
TABLE 8: APPEALS DATA AT THE APPELLATE COURT LEVEL	22
FIGURE 1: MODEL FOR SEXUAL ASSUALT DATA COLLECTION THROUGH THE JUSTICE SYSTEM	24
TABLE 9: SOUTH DAKOTA’S DEFINITIONS OF SEXUAL ASSAULT	27
TABLE 10: COMPARISON OF ELEMENTS OF SEXUAL ASSAULT DEFINITIONS	28
TABLE 11: SUMMARY OF COMPARISON FOR DATA COLLECTION AND REPORTING	37

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INTRODUCTION

In March of 2021, the South Dakota Department of Health released “Sexual Violence in South Dakota: 2019 Data Report” (McMahon et al., 2021). This report compiled rape and sexual assault statistics in the state drawing data from the South Dakota Office of the Attorney General, the Federal Bureau of Investigation Uniform Crime Reporting Program, and Youth Risk Behavior Survey (McMahon et al., 2021). While the report successfully compiled existing data, the authors raised questions about South Dakota’s limitations on data collection and reporting. How accurate and reliable is the data already being collected? What data on sexual assault is not being collected and reported? This issue of data collection for sexual assault is not unique to South Dakota. One of the biggest limitations is measuring the prevalence of rape or sexual assault. The National Crime Victimization Survey (NCVS) began in 1973 to measure crimes not reported to police to account for a gap in national statistics on crime (Morgan & Thompson, 2022). This survey demonstrates that a large percentage of sexual assaults in the nation go unreported with 22.9% not reported in 2020 alone (Morgan & Thompson, 2021). South Dakota does not have its own version of the NCVS; it only compiles crime data from those rapes and sexual assaults reported to the police.

The public reporting of this crime data in South Dakota has additional limitations. To be included in the annual crime report, sheriff offices, police departments, the Highway Patrol, and the Division of Criminal Investigation can voluntarily report their data to the Attorney General’s Office (South Dakota Office of the Attorney General, 2022). Moreover, statistics on South Dakota’s sexual assault virtually do not exist after

arrest records. South Dakota does not publicly report data on sexual assaults as they move into and through the court system. The only report available on court data is the “Annual Statistical Report of the South Dakota Unified Judicial System,” which only breaks down data from the criminal caseload by “Felony & Extradited,” “Class 1 Misdemeanor,” and “Class 2 Misdemeanor” (Gilbertson & Sattizahn, 2020). Therefore, data is not publicly available on how many sexual assaults enter the court system and how many cases result in convictions, pleas, or otherwise. South Dakota’s Department of Corrections does provide statistics that demonstrate some of the outcomes for sexual assault (2022). This report showcases the number of individuals incarcerated for sexual offenses and is discussed in more detail below. However, due to inconsistencies in the definitions of consent, the number of individuals incarcerated for sexual assault or rape in South Dakota does not demonstrate the entirety of the issue.

This report uses Ireland as the model for comparison because of its legislated data collection and report methods and agencies as well as its similarity to South Dakota’s legal system. The criminal justice system in Ireland is very similar to that of the United States. Both Ireland and the United States operate under a criminal justice system that has developed from English common law and utilizes statute law (Bureau of Justice Statistics, 2021; Pease & Cox, 2003; Kimber, 1995). The stages of both criminal justice systems revolve around four primary components: the presence of a victim, the police, the courts, and corrections (Cocklin, 1977; Kimber, 1995). Therefore, the basic processes and steps of the Irish justice system are the same as those of South Dakota’s. Additionally, the structure of South Dakota’s Unified Judicial System allows for a straightforward comparison with the court system in Ireland, which is discussed further

below. Moreover, Ireland has two legal acts providing for the creation of independent agencies responsible for the collection and public report of data within the criminal justice system. This legislation results in a multitude of comprehensive public reports that show how sexual assaults move through the Irish legal system.

The purpose of this report is to further explain the process and limitations of the collection and reporting of sexual assault data in South Dakota and evaluate at what stages through the criminal justice system data exists but is not being publicly reported. First, it will outline the scope and impact of sexual assault and the need for good statistical information. Second, the report will outline Ireland's legislated process for the collection and reporting of sexual assault data. This analysis will provide the basis for a model of the four primary stages in the justice system, showing what data contributes to an understanding of each stage. Next, it will apply this model to South Dakota's data collection and reporting process to demonstrate what the state does well and areas for expansion and improvement. Finally, the report will make recommendations, based on the Irish model, for continuing and expanding data collection and public reports related to sexual assault in South Dakota.

LITERATURE REVIEW

WHY SEXUAL ASSAULT?

Sexual assault is a broad term used to encompass an array of sexual victimizations. According to the Rape, Abuse & Incest National Network (RAINN), sexual assault is “sexual contact or behavior that occurs without explicit consent of the victim” (2022). The term can refer to coerced sexual acts, unwanted sexual contact, using force to obtain sexual acts, and/or rape or attempted rape (RAINN, 2022). While rape falls under the umbrella of sexual assault, the terms are not interchangeable. The term sexual assault incorporates all rapes and attempted rapes, but the definition of rape does not include all forms of sexual assaults. Rape is often used in legal definitions to encompass a variety of nonconsensual sexual penetration offenses (RAINN, 2022). The Federal Bureau of Investigation (FBI) provides a standardized definition of rape for the Unified Crime Report (UCR) as “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” (2014). Throughout this report, the terms rape, sexual assault, and sexual offenses will be used in reference to the broader definition of sexual assault.

From the available statistics and information about sexual assault in the United States, it is clear that it is a nationally pervasive crime. The Centers for Disease Control and Prevention (CDC) classifies sexual assault as a complicated public health concern with lasting impacts (Basile et al., 2022). One reason for this classification is because of the prevalence of sexual assault victimization. The CDC’s National Intimate Partner and Sexual Violence Survey (NISVS) surveyed 15,152 women and 12,419 men through an

anonymous telephone interview about their experiences with sexual assault (Basile et al., 2022). From the results, the report makes conclusions about the prevalence of rape in the United States. It estimates that one in four women and one in twenty-six men, 33.5 million and 4.5 million respectively, have experienced sexual assault at some point in their lives (Basile et al., 2022). Both female and male victims experienced victimization primarily at the hands of male acquaintances. An overwhelming majority (94%) of female victims were assaulted only by men, and 56.1% of female victims reported the perpetrator was an acquaintance (Basile et al., 2022). Over three quarters of male victims reported being assaulted exclusively by men, and 57.3% of all male victims identified the perpetrator to be an acquaintance (Basile et al., 2022).

Another self-report survey showing similar statistics is the National Crime Victims Survey (NCVS) conducted under the Bureau of Justice Statistics (BJS). This study found that, in 2020 alone, 319,950 individuals experienced rape and/or sexual assault (Morgan & Thompson, 2021). Because of the COVID-19 pandemic, these numbers were much lower than previous years. The NCVS points to changes in their data collection methods due to COVID-19 that may have impacted these numbers (Morgan & Thompson, 2021). In 2018 and 2019, the number of individuals who experienced rape and/or sexual assault was 734,630 and 459,310, respectively (Morgan & Thompson, 2021). Even more alarming is the number of individuals who reported their sexual assaults to law enforcement. In 2020, the NCVS estimates that only 22.9% of rapes and sexual assaults were reported to police (Morgan & Thompson, 2021). In 2019, it is estimated only 33.9% of victims filed reports (Morgan & Thompson, 2021). These rates mean only about 73,000 of the 319,950 sexual assaults are included in recorded crime

data. Recorded crime data is not able to capture the entire scope of sexual assault. Because of the nature of the crime, victims often feel apprehensive to disclose their experience to authorities. It is believed that victimization occurs at much higher rates than even surveys of prevalence can account for (McMahon et al., 2021). It is important to keep in mind that even the best tools currently used to evaluate the prevalence of sexual assault are not able to capture the full extent of victimization.

The other reason the CDC classifies sexual assault as a public health concern is because sexual assault impacts the totality of victims' lives. Victims report negative changes for both their mental and physical health after victimization (Basile et al., 2022). The CDC found that, compared to individuals who did not report victimization, both female and male victims reported significantly higher rates of asthma, frequent headaches, chronic pain, and difficulty sleeping (Basile et al., 2022). Those same individuals reported experiencing activity limitations like dressing or bathing; difficulty concentrating, remembering, or making decisions; and difficulty doing errands alone at higher rates than those who did not report victimization (Basile et al., 2022).

Additionally, victims of sexual assault are more likely to experience depression, anxiety, post-traumatic stress disorder, suicidal ideation, and suicide attempts (Basile et al., 2022). Both male and female victims reported fear and concern after experiencing sexual assault. Over 67% of female victims and nearly 50% of male victims reported concerns for their safety after the assault (Basile et al., 2022). Over 64% of female victims and 51% of male victims expressed being fearful as a result of their experience (Basile et al., 2022). Victims also experienced negative physical health outcomes as a result of the sexual assault. One in seven female victims and one in twenty-five male

victims contracted a sexually transmitted infection from the assault; one in three female victims and one in eighteen male victims reported physical injury (Basile et al., 2022). One in seven women who experienced sexual assault became pregnant from the offense (Basile et al., 2022). Victims of sexual assault face life-long impacts, both physically and mentally. For each incident of sexual assault, the victim faces a lifetime of pervasive negative impacts.

THE IMPORTANCE OF GOOD DATA

How do individuals decide what to care about? How do leaders and politicians decide what needs attention and improvement? According to researcher Loseke, individuals often worry more about feeling than thinking, so the challenge lies in getting people to feel the weight of prominent issues. To achieve this goal, researchers must construct a narrative to give societal problems meaning (2018). Statistics are one of the best ways to make sense of a complex world (Best, 2004). The application of statistics has exerted dominance on every known field (Fioramonti, 2014). Statistics provide researchers and average individuals with a numerical measure and mathematical understanding of greater public issues. They influence the way individuals experience the world and what they can learn from it, which then affects decision-making, especially in relation to governance (Fioramonti, 2014). Because being able to measure the world is a key aspect of human existence, statistical measurements serve as an essential component for societal improvement (Fioramonti, 2014).

While societal improvement comes in many forms, statistics are ideal for making sense of the world because they can inform almost any issue. Statistics serve as the basis to “assess development strategies, measure performance, inform policy-making and guide

reforms” (Fioramonti, 2014). They are essential for demonstrating the narrative in a meaningful way and driving attention for decisive action. Those decisions made based on data-driven claims rely primarily on formal techniques and information and not on personal experience and judgements (Fioramonti, 2014). As a result, data-driven claims are more legitimate. They represent a standardization that seeks to “emphasize the consistent and even mechanical application of established procedures across the board to avoid bias, the one aiming at truth to fact, and the other at fairness” (Gigerenzer et al., 1989). Statistics are representations of the scale of issues and both shape the narrative about notable societal problems as well as inform the solutions.

Not all statistics are good or entirely representative of the issues at hand, however. Validity is a requirement for data to be accurate (Fioramonti, 2014). Data can never be perfect; it will always experience some limitations (Best, 2004). Despite these limitations, however, good data can exist. It is important to understand the components that one should evaluate when evaluating the validity of data. One necessary component for good data is that someone has measured something meaning in a way that is accurate, as comprehensive as possible, and makes sense (Best, 2004).

Good data should also be straightforward and clear. Simple statistics should be easy to understand, and if they are not, individuals should seek to understand if the representation of the data is confusing or if the numbers are intentionally confusing for a reason (Best, 2004). Additionally, good data should compare related information; it should not compare unrelated phenomena to create shocking results (Best, 2004). While all data should shape the narrative it is being used for, good data should not have undergone complex manipulation to fit a narrative, and it should recognize that the issues

it is representing are complex and nuanced (Best, 2004). No simple formula or checklist exists to evaluate the validity of statistical data, but good data should attempt to meet these goals.

An example of data informing policy decisions has already proven successful in South Dakota. During the 2022 state legislative session, lawmakers proposed a bill to repeal the most recent reforms juvenile justice system in South Dakota (Ki, 2022). As a result of the Unified Judicial System sharing data on juvenile offender rates, lawmakers could see the results of the current juvenile justice reforms (Ki, 2022). Moreover, according to the UJS, the proposed bill would be directed at a very small percentage of juvenile offenders, so it would not be as beneficial as originally explained (Ki, 2022). These data sharing efforts helped lead to key discussions about the effectiveness of the proposed bill.

From this understanding of why good statistical data is necessary for creating change and making improvements, it is important to recognize how it can apply to increasing awareness and improvements for sexual assault. The current focuses for sexual assault data collection include reported offenses, arrest rate, and prosecution rate (Lonsway & Archambault, 2012). Because of the federal level of attention on these areas from the Bureau of Justice Statistics, they house the most accessible and reliable statistics on sexual assault through the justice system (Lonsway & Archambault, 2012). Federal attention primarily focuses on these three areas alone and often does not put the same spotlight on other areas of the justice system. The BJS's prioritization of these categories results in most other data reports emphasizing only these areas. Researchers in the field, however, are calling for further research and documentation to capture the full picture for

sexual assault cases (Lonsway & Archambault, 2012). Data collection methods must explore alternate aspects of the system to produce good statistical representations of the scope of the problem as well as to inform systematic improvements.

Overall, this report contributes to a general understanding of the data report processes in the state of South Dakota as well as in the country of Ireland. While these reports exist on their own, few compilations of these reports exist to gain an understanding of the process of data reporting on sexual assault from entry of the criminal justice system to end. Additionally, this report adds to the discussion of the importance of public data laws. The primary vein of this report advocates for better public access to statewide data. Public data laws are the root of increasing access to good data on public issues.

ANALYSIS

The national trend to focus on sexual assault data related to reported offenses, arrest rate, and prosecution rate serves as the basis for South Dakota's methods. The state's focus on these areas results in a lack of reporting on many data points relevant to sexual assaults moving through the justice system. Existing data reports that provide a more comprehensive overview of sexual assault can provide direction for what data South Dakota should report on. Because the national focus is primarily on those three aforementioned areas, reports from other countries offer the best insight. Ireland serves as an exemplary example for data collection and reporting. The Irish government has legislated that statistics in the criminal justice system must be collected and reported on. It focuses on the major reports related to sexual assault that are legislated under two primary acts in Irish law: the Statistics Act, 1993 and the Courts Service Act, 1998.

The Statistics Act, 1993 provides legislation that mandates the creation of the Central Statistics Office (CSO), which is an independent statistical organization, and defines the duties and strategic direction of the office (1993). The purpose of the Central Statistics Office is the "collection, compilation, extraction and dissemination for statistical purposes of information relating to economic, social and general activities and conditions in the State" (Statistics Act, 1993). As part of the conditions of the State, the CSO is required to collect and report all available statistics on the criminal justice system. While the CSO collects a variety of data as a central, standardized agency, it is not the only organization that collects and reports statistics on sexual assault. It will also be necessary to consider data from other official statistical processes to generate a complete

understanding of where what data exists on Ireland’s sexual assaults. It is important to keep in mind that the existence of a central, standardized statistics organization speaks to Ireland’s commitment to data collection and reporting.

The Courts Service Act, 1998 operates similar to the Statistics Act, instead creating the Courts Service. The Courts Service is an independent agency designed to “manage the courts; provide support services for the judges; provide information on the courts system to the public; provide, manage and maintain court buildings; and provide facilities for users of the courts” (1998). The act also mandates the creation and submission of an annual report at the end of each year (1998). The report must include data and other necessary information related to the performance of the various functions of Courts Service for the entire 12-month period covered in the report (Courts Service Act, 1998). Thus, the Courts Service of Ireland must collect data for a yearly summary of the cases and outcomes that the Irish courts system process and report this summary to the public.

An examination of Ireland’s data reports results in the emergence of four main categories for data collection and reporting. These categories are summarized in Table 1 and further elaborated on in Figure 1. The categories represent the major stages of the criminal justice process. Ireland collects and reports on sexual assault data for each stage from different sources with different methods. These four categories will serve as the basis for comparison with South Dakota’s collection and reporting methods.

Table 1: Ireland’s Stages for Data Collection and Reporting

Prevalence of Victimization	Offender Detection	Judicial Process and Conviction	Recidivism
Data on sexual assaults that occur, both reported and unreported.	Data on sexual offenders, both suspected and arrested.	Data on sexual assault cases entering and traveling through the court system, where they drop out, and the resulting convictions.	Data on sexual offenders that reoffend after release from prison or probation.

PREVALENCE OF VICTIMIZATION

To understand the scope of sexual assault victimization, it is important to discuss Ireland’s legal definitions of what constitutes sexual assault. Ireland has two different definitions of rape and definitions for sexual assault and aggravated sexual assault. Irish law defines four different statutes related to sexual assault. The legal definitions from Ireland’s Department of Justice (2019) are listed in Table 2. One major limitation of Ireland’s definitions of sexual assault crimes is that the language is not inclusive and does not offer expanded definitions, leaving ambiguity and areas for increased discretion in the interpretation of the laws. For example, the definition of rape is not inclusive of other gender identities or broader understandings of victimization, implying only women experience rape at the hands of men. Sexual assaults must fall within one of these four definitions to be considered a sexual offense. Due to these limitations, Ireland’s reported records on sexual assault may not include all instances of victimization.

Table 2: Ireland’s Legal Definitions of Sexual Assault

Rape	Unlawful sexual intercourse with a woman who at the time of intercourse does not consent to it, where the man knows that she does not consent to the intercourse, or he is reckless as to whether she does or does not consent to it.
Rape under section 4	Sexual assault that includes penetration (no matter how slight) of the anus or mouth by the penis, or penetration (no matter how slight) of the vagina by any objects held or manipulated by another person.
Aggravated sexual assault	Sexual assault aggravated by serious violence, or the threat of serious violence, or is such as to cause severe injury, humiliation or degradation of a grave nature to the victim.
Sexual assault	Sexual attack with a less serious level of violence than aggravated sexual assault.

One of the most widely used ways to evaluate prevalence is to use data on reported sexual assaults. Ireland’s Central Statistics Office collects and publishes data quarterly on the number and type of crimes the police record as well as known victim demographic information (2022, September 26). Only “valid” crimes that are reported directly to police or that the police become aware of in another way are included in these statistical reports (Central Statistics Office, 2022, September 26). “Valid” crimes are legally defined criminal offences that law enforcement does not have the evidence to disprove occurred (Central Statistics Office, 2022, September 26). Reported crimes that the police have evidence to disprove occurred and those that the reporting party withdraws are not included in recorded crime statistics (Central Statistics Office, 2022, September 26). Victims of crime, for statistical reasons, are the injured person in a recorded crime and require a valid and complete person record (Central Statistical Office,

2022, April 27). The CSO releases data on the type of crime, how many of each type of crime is reported to police, and the sex and age range of victims in the “Recorded Crime Releases” and “Recorded Crime Victims and Suspected Offenders” releases (2022, September 26; 2022, April 27).

The Central Statistics Office collects this data from the Police Using Leading Systems Effectively (PULSE) system (2022, September 26). The PULSE system is the primary database for recording and initially processing crimes for Irish law enforcement, and the Central Statistics Office has access to the data after law enforcement records it in the system (Central Statistics Office, 2020). Because law enforcement uses the system for investigative purposes, it incentivizes them to record crime data promptly and accurately. Thus, the CSO has access to the same statistical information law enforcement utilizes. However, the CSO recognizes the data gaps that result from some data fields in the PULSE system not being thoroughly complete (2020). Ireland’s recorded crime statistics offer a good estimate of the number of sexual assault victims in the country, yet the reporting system still limits comprehensive data on victimization.

Measuring the prevalence of sexual assault requires more than just official report statistics, however. The Central Statistics Office recognizes that its crime record statistics cannot account for the under-recording and reporting of crimes (2022, September 26). Additionally, because “valid” crimes do not account for withdrawn reports, victims who retract their reports for their safety or other reasons will not be represented in recorded crime statistics. To account for these limitations, Ireland also draws prevalence data from national surveys on sexual violence. To estimate national prevalence of sexual assault, Ireland conducted one nationwide survey two decades ago. The Sexual Abuse and

Violence in Ireland (SAVI) report recognized the shortcomings of recorded crimes and attempted to estimate the prevalence of sexual assault, both reported and unreported (McGee et al., 2002). The survey randomly sampled over 3,000 Irish adults and consisted of an anonymous telephone survey asking respondents questions related to the prevalence of sexual violence (McGee et al., 2002).

This survey serves as the basis for the recently legislated Sexual Violence Survey (SVS) that will provide official, nationwide statistics on the prevalence of sexual assault in Ireland (Central Statistics Office, 2022, January 6). The SVS will follow a similar framework to SAVI, and it will account for societal changes and requirements (Central Statistics Office, 2022, January 6). The SVS must be conducted every ten years; however, the survey is not yet available as its estimated completion is set for January 2024 (Central Statistics Office, 2022, January 6). These surveys face limitations in respondents' willingness to disclose personal information and their ability to collect a representative sample. Surveys like these provide a better estimate for sexual assault as they account for those instances of victimization that are not included in recorded crime. They account for data that is currently overlooked and provide a more comprehensive understanding of the frequency that sexual assault occurs.

OFFENDER DETECTION

Ireland collects and reports sexual offender information similarly to victim statistics. It utilizes recorded crime statistics along with additional statistics. As referenced above, the recorded crime statistics represent data on reported sexual assaults. It also collects and reports information on the offenders that commit those crimes using similar collection methods. Because recorded crimes do not always have a known

offender, the Central Statistics Office represents offender statistics as “suspected offenders” (2022, April 27). The CSO defines a suspected offender as an individual with a complete personal record who law enforcement believes is responsible for a crime and has been issued a charge, summons, or caution (2022, April 27). However, not all investigations reveal just one suspect or any suspect at all.

As a result, the number of suspected offenders does not necessarily reflect the number of recorded or detected crimes (Central Statistics Office, 2022, April 27). The suspected offender statistics represent the overall number of suspects that law enforcement has identified through the investigation of the recorded crimes. The CSO collects the number of suspected offenders, the type of crime they are suspected of committing, and their sex and age, and it reports this data in the “Recorded Crime Victims and Suspected Offenders” release (2022, April 27). The information is available to the CSO from the same PULSE system used to collect recorded crime data, and consequently face the same limitations (2022, April 27).

In addition to the “Recorded Crime Victims and Suspected Offenders,” the CSO also releases “Recorded Crime Detection” (2021, November 5). Crime detection statistics are similar to those on suspected offenders. Instead of evaluating information on all suspected offenders, crime detection statistics merely reflect the number of crimes that have at least one suspect with a charge, summons, or caution (Central Statistics Office, 2021, November 5). The CSO uses PULSE data on recorded crimes and detected crimes and takes the number of detected crimes divided by the number of recorded crimes, demonstrating the rate at which recorded crimes result in the charging of offenders for different types of offenses (2021, November 5). These statistics are included in the report

“Recorded Crime Detection” along with demographic statistics on suspected offenders to create a more comprehensive data release (Central Statistics Office, 2021, November 5). This data on detection and suspected offenders creates a comprehensive overview of the individuals who are committing sexual offenses and demonstrates how many recorded crimes result in law enforcement action.

JUDICIAL PROCESS AND CONVICTION

After sexual offenders enter the justice system, it is important to follow their cases to understand how the system responds to sexual offenses. Ireland’s Courts Service tracks this data as it moves through the district court, the circuit court, the high court, and the appeals court (2022). The Courts Service has access to the number and type of cases that move through the levels of the courts, which allows it to compile and release a report on the actions and decisions of the courts (2022). The Courts Service collects the number of incoming offenses and the number of resolved offenses for each type of offense at each level of the court system (Courts Service, 2022). For the purpose of this work, the only offense classification that is relevant is Sexual Offenses, but the Courts Service collects and reports on the number and type of all other offenses that move through the system in the same manner.

For the district court, it reports the number of offences and the number of individual defendants, which falls under “incoming” data (Courts Service, 2022). It then showcases “resolved” data, reporting on the number of cases that qualify as summary, indictable dealt with summarily, and sent to trial (Courts Service, 2022). Summary offenses are minor or less serious offenses, indictable offenses are more serious offenses, and cases that go to trial move forward through the court system (Courts Service, 2022).

The report further shows what happens to summary and indictable dealt with summarily offenses. The report represents this data as “outcomes” for the district court level (Courts Service, 2022). For both summary and indictable offenses, the outcome data represents the number of offenses that fall within the twelve outcomes (Courts Service, 2022). All twelve possible outcomes are listed in Table 3. The report demonstrates the number of offenders that drop out of the justice system, move on to trial, or receive punishment at the district court level. It also shows what type of punishment offenders receive, if any.

Table 3: Possible Outcomes at the District Court Level

Dismiss
Strike out
Taken into consideration
Fine
Bond
Disqualified
Community service
Probation
Imprisonment/detention
Suspended sentence
Other
Fixed penalty

At the circuit court level, the data and report are similar with minor differences. The “incoming” data also reports the number of offences and the number of individual defendants entering the circuit courts (Courts Service, 2022). However, the “resolved” data requires different categorizations. The Courts Service (2022) report includes the number of cases that fall into one of the “resolved” data categories, which are listed in Table 4. For those cases that result in a conviction after trial, the “outcome” data represents nine outcome categories listed in Table 5. The circuit courts also see appeals from the district courts. Therefore, the Courts Service must collect “appeals” data from the district court that appears at the circuit court level (2022). This data includes the

number of offenses and individual defendants whose appeals fall into one of the categories listed in Table 6. Circuit court data demonstrates much of the same information as district courts with the added element of “appeals” data.

Table 4: Resolved Case Data for Circuit Court Level

Guilty pleas
Trials convicted
Trial acquitted
Dismissed cases
Cases taken into consideration
Cases seeking judicial review
Cases where the accused is deceased

Table 5: Possible Outcomes at the Circuit Court Level

Taken into consideration
Fine
Bond
Disqualified
Community service
Probation
Imprisonment
Suspended sentence
Other

Table 6: Appeals Data Collected at the Circuit Court Level

Affirmed
Varied
Reversed
Struck out
Struck out with no appearance

The high court initially collects and reports data in the same way as the circuit court. It uses the exact same categorizations for “incoming” and “resolved” data (Courts Service, 2022). It primarily differs in the way it reports its “outcomes” data. The outcomes at the high court level include convicted, acquitted, disagreed, not guilty by reason of insanity, or prohibited (Courts Service, 2022). From there, it also reports further on the number of offenders who receive one of five convictions; the five “conviction”

data categories are shown in Table 7. The high court also reports on the length of sentence for those imprisoned—up to two years, two to five years, two to ten years, over ten years, or life (Courts Service, 2022). High court data shows outcome data based on criminal trial of sexual offenders as well as data on the type and length of conviction these offenders receive.

Table 7: Conviction Data at the High Court Level

Fine
Detention (minors only)
Imprisonment fully suspended
Imprisonment partially suspended
Imprisonment

Finally, the appeals court demonstrates data from the other court levels, with the exception of the district courts, that result in an appeal. The Courts Service report includes both “incoming” and “resolved” data for the appeals court as the number and type of cases that come from each level of the lower courts (2022). It further breaks out resolved cases into seven outcomes based on why the case was appealed which can be found in Table 8. These categories reflect “appeals” data because they demonstrate the most common reasons sexual offense cases result in appeals. At all stages of the judicial process, the Courts Service is reporting on incoming case data, resolved case data, and case outcome data. As the cases move through the justice system, it also reports on conviction outcome data and appeals data. The resulting report demonstrates a clear picture of how the Irish court system handles sexual offenses and gives a broad understanding of what happens to offenders.

Table 8: Appeals Data at the Appellate Court Level

Conviction
Sentence severity
Conviction and sentence
Sentence leniency
Dismissal
Miscarriage of justice
Other

RECIDIVISM

Ireland’s Central Statistics Office offers two different statistical evaluations of sexual offender recidivism—prison re-offending statistics and probation re-offending statistics. The information collected and reported for both releases is straight forward. Prison recidivism data includes statistics on the type of offense originally committed, the type of offense committed after release, the time period between release and re-offending, and the age and sex of the offender (Central Statistics Office, 2020, August 8). The CSO uses the PULSE system to collect information on the offender and offenses and compares that to prison census records (2020, August 8). Because of the reasons explained previously, however, the use of PULSE data does provide limitations to the quality of the data available. The CSO compares the name, address, and date of birth of the suspect to prison records and determines if they have committed another crime within three years of their release; if so, the offender is included in the “Prison Re-Offending” release (2020, August 8). This release shows how likely sexual offenders are to commit another offense during the three-year period after release.

Probation re-offending statistics operate in a similar fashion. This data comes from the PULSE system and the Probation Service records; the Central Statistics Office connects probationers to offense records through name, address, and date of birth (2021, August 11). For individuals to be included in probation re-offending statistics, they must

meet two criteria. The offender must commit a recorded re-offense within a predetermined period of time after the date of their Probation Order, and this predetermined period varies based on the collection year (Central Statistics Office, 2021, August 11). The second criteria requires that the offender must be convicted of the re-offense within two years of the report date (Central Statistics Office, 2021, August 11). The “Probation Re-Offending” release reports on the type of offense originally committed, the type of re-offense, the time after the beginning of probation when the re-offense occurred, and the age and sex of the offender (Central Statistics Office, 2021, August 11). These statistics demonstrate how many sexual offenders on probation reoffend and how quickly they will complete a re-offense.

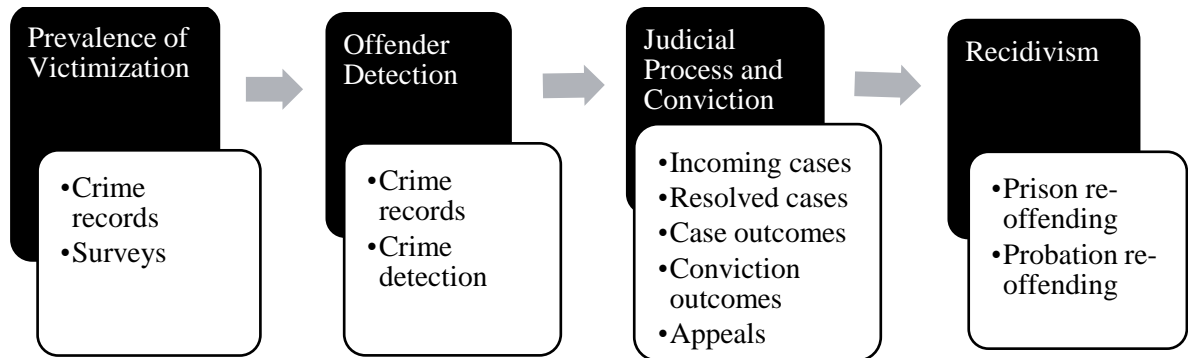
SUMMARY OF IRELAND

Based on what data Ireland collects and reports, it is clear at what stages data can exist and where it can be collected. Figure 1 demonstrates the four main stages for following a sexual assault through the criminal justice system. These stages represent the information included above in Table 1. This model, however, includes the type of data reports Ireland produces for each stage. Ireland’s Central Statistics Office and Courts Service releases multi-page reports publicly for free on data collected from crime records, surveys, crime detection, incoming and resolved cases, outcomes and convictions, appeals, and probation and prison re-offending.

Both agencies provide the public access to the raw data they used, compiled annual reports with interpretations of the data, and infographics for especially noteworthy data (Central Statistics Office, 2022; Courts Service, 2022). Ireland’s greatest strength in data collection and reporting on sexual assault is making the accessible to the larger

public and providing comprehensive reports on the data. Because of these strengths, the model reflects the general overall process and what data and reports contribute to each stage. The model can serve as a standard for any justice system to track and report data on sexual assaults.

Figure 1: Model for Sexual Assault Data Collection through the Justice System



COMPARISON

The model in Figure 1 will serve as the basis for understanding South Dakota's data collection and reporting processes. South Dakota operates under the same adversarial justice system as Ireland and the rest of the United States. Thus, the primary four steps and places for data collection will follow a similar pattern. It is important to note that Ireland is a nation and South Dakota is a state. While the United States as a nation has many similar data collection methods and reports to Ireland, South Dakota as a state has many limitations in these areas. Ireland's methods and reports have national resources at its disposal, whereas South Dakota is more limited in its resources and influence. South Dakota can reach many of these same standards, however. While South Dakota is nearly three times the size of Ireland, geographically, Ireland's population is nearly 17.5 times more than South Dakota's (Comparea, 2022). South Dakota might have to cover a larger geographic area for data collection and report, but with only a fraction of the population, South Dakota has fewer people to account for in statistical representations, making it easier to process, collect, and report data on the larger population.

South Dakota does not have legislation creating independent agencies for data collection and reporting, nor does it legislate what data and how it should be collected. South Dakota's only pieces of legislation that are similar to what exists in Ireland center on criminal identification data and the sex offender registry. For criminal identification data, South Dakota Codified Law explains that the attorney general is responsible for gathering and compiling information on offenders after law enforcement takes them into

custody as well as information on inmates in the penal system (Criminal Identification, 1939). The information they collect is primarily for building a criminal record against the offender—photos, descriptions, measurements, fingerprints, etc.—not necessarily statistical information (Criminal Identification, 1939). Additionally, it does not include provisions for the collection or report of publicly relevant data.

The sex offender registry operates similarly with its collection and report of data. South Dakota Codified Law explains that law enforcement agencies and the Division of Criminal Investigation should make public any registration records or registration lists (Sex Offender Registry, 2021). It does not provide any direction or requirements for public report, however. It merely explains that the information is public record. While agencies and stakeholders may complete additional steps, what is relevant is that South Dakota does not have a standardized, legislated method for collecting and reporting data on sexual assaults through the criminal justice system nor on sexual offenders.

PREVALENCE OF VICTIMIZATION IN SOUTH DAKOTA

To understand sexual assault victimization in South Dakota, it is necessary to understand the legal definitions of the differing types of sexual assault. Unlike Ireland, South Dakota provides more comprehensive and inclusive definitions of rape and sexual assault. Table 9 shows the legal statues and definitions according to South Dakota Codified Law (SDCL) (2014).

Table 9: South Dakota’s Definitions of Sexual Assault

Rape	An act of sexual penetration accomplished with any person under any of the following circumstances: victim is less than 13; use of force, coercion, or threat of harm to victim or other; victim incapable of consent due to physical or mental incapacity; victim incapable of consent due to incapacitating agent; victim is 13 but less than 16 and offender is 3+ years older.
Sexual penetration	An act, however slight, of sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the body or of any object into the genital or anal openings of another person's body.
Sexual contact with a child under 16	A person 16+ knowingly engages in sexual contact with a person under 16.
Sexual contact with person incapable of consenting	A person 15+ knowingly engages in sexual contact with person physically or mentally incapable of consent.
Sexual contact without consent with person capable of consent	A person 15+ knowingly engages in sexual contact with person not consenting.
Sexual contact	Any touching, not amounting to rape, whether or not through clothing or other covering, of the breasts of a female or the genitalia or anus of any person with the intent to arouse or gratify the sexual desire of either party.
Consent	No definition

These laws revolve around South Dakota’s standardized definition of sexual penetration and sexual contact. Sexual contact statutes encompass the majority of sexual assaults that do not constitute rape within the state. One statute with language of note is SDCL 22-22-7.4 which is “sexual contact of person capable of consent” (2014). While the other statutes include expanded definitions of ambiguous language, like sexual penetration and sexual contact, South Dakota Codified Law does not provide a standard definition for consent. Without a standardized definition of consent, the current data does

not accurately represent those who have not consented to sexual acts. The current lack of definition leaves too much room for discretion and ambiguity. As a result, the state’s understanding of victimization is not comprehensive and creates limitations for the statistical representation of sexual assault. Table 10 demonstrates how Ireland’s sexual assault laws compare to South Dakota’s as a whole.

Table 10: Comparison of Elements of Sexual Assault Definitions

	Ireland	South Dakota
Inclusive language	No	Yes
Legal definitions encapsulating the different types of sexual assault	No	Yes
Definition of rape	Yes	Yes
Definition of sexual assault/sexual contact	Yes	Yes
Definition of sexual penetration	Yes	Yes
Definition of consent	No	No

Victimization data in South Dakota is primarily available from recorded sexual assaults. Law enforcement agencies across South Dakota collect criminal reports and the associated data, but they are not responsible for reporting the data. Each individual agency, including sheriff’s offices, police departments, Highway Patrol, and the Division of Criminal Investigation, voluntarily provides its recorded criminal data to the Attorney General’s Office which then compiles it into a public report (South Dakota Office of the Attorney General, 2022). For the purpose of this analysis, only information gathered in cases related to sexual assault is relevant. In relation to victim prevalence, the Attorney General’s report includes information on the number of reported sexual assaults, the type of victim, victim age, victim gender, victim race, victim ethnicity, victim resident status,

victim injuries, and victim relationship to offender (2022). This data provides a relatively complete profile of victims of reported sexual assault.

While the type of information collected and reported is comprehensive, the methods of collection point to limitations for the data. At the time of the most recent report, South Dakota had 126 law enforcement agencies with the capabilities of collecting criminal reports (South Dakota Office of the Attorney General et al., 2021). Only 119, or 94% of, agencies reported information to the Attorney General's office for the 2020 report (2021). To submit data for the report, agencies use the National Incident-Based Reporting System (NIBRS) that collects information on 24 crime categories made up of 52 specific crimes (South Dakota Attorney General & Criminal Statistical Analysis Center, 2022). This reporting system offers some uniformity in what agencies provide for the report; however, limitations arise from trying to fit each unique crime into a category and ensuring that all agencies utilize this data report method.

Another limitation South Dakota faces in the collection of data for this report is the absence of a unified police system. The report draws from four different types of agencies, each with their own methods and procedures. This structure can cause complications with collecting data from all agencies because of their differences and lack of communication between them. Two other limitations for this method of reporting recorded crime statistics are accuracy from the agencies and comprehensiveness of statewide data. Accuracy from the agencies refers to the nature of self-report preventing an impartial party from collecting and reporting the data. Law enforcement agencies have a great amount of discretion on what data they send to the Attorney General's office, which can skew the data in the report and inaccurately represent the prevalence of sexual

assault in the state. Similarly, by not requiring all agencies to contribute to the report, the state experiences a data gap when agencies do not contribute. South Dakota does not have the entire picture of reported sexual assaults in the state, adding to an already complicated understanding of the prevalence of sexual assault victimization.

As discussed throughout this report, many victims do not report sexual assault to law enforcement. Therefore, it is important to have a measure for prevalence outside of recorded crime data. Unlike Ireland, South Dakota does not have a legislated or standardized survey to measure prevalence. The closest release South Dakota has is a Department of Health (DOH) report that fills a similar role and provides a more complex understanding of sexual assault data. The “Sexual Violence in South Dakota: 2019 data report” combines three data sets with different collection methods to create a comprehensive analysis of reported and unreported cases (McMahon et al., 2021). The report combines data from South Dakota’s crime report referenced above, the FBI’s Unified Crime Reporting (UCR) Program, and the Youth Risk Behavior Survey (YRBS) (McMahon et al., 2021). The UCR data operates similarly to South Dakota’s as it requires self-report from agencies and organizations; however, it is included because it provides an estimate for those agencies that do not report or only partially report (Federal Bureau of Investigation, 2020). The YRBS is an anonymous survey of high school students in South Dakota used to gather information on individual experiences and behaviors, and it includes a section on experience of sexual assault (McMahon et al., 2021). This survey demonstrates the prevalence of sexual assault experienced in this age group that may or may not have been reported.

While these sources for data collection do fill gaps in the data, the DOH report faces limitations in how it understands prevalence. The UCR is only able to make estimations and those estimations are based on rates of reported crime, meaning data on unreported sexual assaults is still not factored in. The YBRS serves to evaluate unreported experiences of sexual assault, but it only surveys a limited section of the population. Without a survey of the larger population, it cannot translate to generalizable data on sexual assault prevalence for the entire state. The state has significant limitations in its ability to gather and report comprehensive data on the prevalence of sexual assault victimization in South Dakota.

OFFENDER DETECTION IN SOUTH DAKOTA

For those sexual assaults that do result in a report, it is important to understand the outcomes. The next step in the justice process puts the focus on the offender. As stated earlier, this report only evaluates data collection on offenders of sexual assault related crimes. For reported crimes, the Attorney General's report includes information on the number of cases, if the case was cleared exceptionally and for what reason, bias motivation, location type, gang involvement, and weapon type (2022). South Dakota collects both offender data and arrestee data (South Dakota Office of the Attorney General, 2022). Offender data is information law enforcement has collected on the suspect of the assault, but the offender has not been arrested or is not known (South Dakota Office of the Attorney General, 2022). This data includes the number of suspected offenders by offense type, the age, sex, race, and ethnicity of the offender, and if the offender used alcohol, drugs/narcotics, or computer equipment during the commission of the offense (South Dakota Office of the Attorney General, 2022). Arrestee

data includes the number of arrestees by offense type, the age, sex, race, and ethnicity of the offender, and the type of arrest (South Dakota Office of the Attorney General, 2022). The Attorney General's report only includes data for arrestees if they have been taken into custody, summoned or cited, or arrested on-view (2022).

For the same reasons the reported crime statistics have limitations, so do those related to offender statistics. South Dakota's report on these statistics is the "Crime in South Dakota" report from the Attorney General's office, meaning it falls victim to the same pitfalls associated with self-report data. While the type of data collected demonstrates a broad understanding of the crime and offenders, it is not comprehensive because it does not include all of the offender and arrestee data from across the state. Overall, the data collected and reported leaves gaps in understanding the number of offenders and arrests related to sexual assault in South Dakota.

JUDICIAL PROCESS AND CONVICTION IN SOUTH DAKOTA

South Dakota has one primary report on the state court system. The "State Fiscal Year 2020 Annual Statistical Report of the South Dakota Unified Judicial System" collects information on the work of the South Dakota Supreme Court, Circuit Courts, Magistrate Courts, and the State Court Administrator's Office (Gilbertson & Sattizahn, 2020). In relation to understanding sexual assault through the court system, the report provides data on Circuit Court caseload and Supreme Court workload (Gilbertson & Sattizahn, 2020). The relevant reported data for the Circuit Court is the "Criminal Caseload" statistics which simply shows the number of "Felony & Extradited," "Class 1 Misdemeanor," and "Class 2 Misdemeanor" cases (Gilbertson & Sattizahn, 2020). Data on the Supreme Court is also a simple report. The report shows the number of filings,

disposition, and pending cases through the South Dakota Supreme Court that year (Gilbertson & Sattizahn, 2020).

While this report helps the public understand the overall workload of the courts, it does not provide any information on how sexual assault moves through the court system. Data is not publicly available for how many sexual assault cases enter the court system. Consequently, data is not available for the number and type of resolutions, outcomes of the cases, length and type of convictions, and the number and type of appeals for sexual assault cases. Additionally, the nature of the Unified Judicial System links all levels of courts together in a unified manner. This system connects all data pathways, making the statistics on all courts available to one central body. The unified nature of the system should allow for a streamlined data collection process and a straightforward process for a comprehensive data report.

Without a more developed report, it is impossible to know how sexual assault cases move through the court system. It is not clear where these cases drop out of the system or progress. Overall, it is not clear how these cases end and why. The report is not comprehensive enough to provide adequate data on how a sexual assault case progresses through South Dakota's courts. As a result, it is increasingly difficult to understand how South Dakota can improve the judicial response to sexual assault.

While the Unified Judicial System does not report on convictions for sexual offenses, South Dakota's Department of Corrections offers a data report that can add to the overall understanding. The "Breakdown of Crimes of South Dakota Inmates" shows the number of men and the number of women convicted for specific types of crimes defined in SDCL (South Dakota Department of Corrections, 2022, August). The report

also demonstrates what percentage of the state's total prison population these offenders make up (South Dakota Department of Corrections, 2022, August). This data provides information on how many individuals in South Dakota's prison system receive a conviction for sexual assault and related offenses. This report, however, is not entirely comprehensive. It does not include information on any of the sentencing for each offender, leaving a gap in the statistical information that can inform improvements in legal system regarding sexual assault.

RECIDIVISM IN SOUTH DAKOTA

The Department of Corrections in South Dakota also collects and reports data on the state's recidivism rate. The report includes an offender in recidivism data if that offender goes to prison for a new felony or for the revocation of parole or suspended sentence supervision within three years of their release from prison (South Dakota Department of Corrections, 2022). The report shows the percent of offenders that recidivate within the one-year, two-year, and three-year time frames (South Dakota Department of Corrections, 2022). It also shows those same percentages broken out by the sex of the offender (South Dakota Department of Corrections, 2022).

This data report provides the public with a general overview of recidivism in the state, but it does not provide statistics on probation recidivism. More importantly, the data does not provide any information recidivism related to sexual offenses. The report does not break data out by type of offense, neither original nor re-offense. This limitation is especially relevant to the inclusion of parole in the report. The report does not indicate the nature of the offense that constitutes a parole violation, so the public cannot decipher if the parolees are recommitting sexual offenses or committing a smaller violation that

simply violates the provisions of their parole. This limitation makes it difficult to make conclusions about how likely sexual offenders are to reoffend and difficult to understand how to better respond to sexual assault offenses to limit these re-offenses. The release of this data lacks an in-depth statistical report that could aid the state in improving its response to sexual assault.

SUMMARY OF SOUTH DAKOTA

One important aspect of South Dakota's data collection and reporting worth noting are those facets relating to the nine federally recognized tribes in the state. While statistics relating to sexual assaults that occur on tribal land may be included in the reports listed above, jurisdictional complications may limit what data state agencies have access to. The Major Crimes Act (1885) dictates that federal agencies and federal courts have jurisdiction over those offenses that involve a Native American offender or occur in Indian country. Most of the data on sexual assaults that fall under the provisions of the Major Crimes Act (1885) is not included in the state's collection and report methods and is deferred to federal reports. Federal agency participation in these cases further adds to the limitation of not having a unified police system. These jurisdictional complications severely limit South Dakota's understanding of sexual assault. This lack of data is even more important when considering that Native Americans are nearly twice as likely to experience sexual assault victimization than any other race (Basile et al., 2022). Limitations on state-level data collection and reporting on the nine federally recognized tribes leaves a large gap for understanding sexual assault in South Dakota.

South Dakota's greatest limitation for data on sexual assault is its lack of publicly accessible reports on the information explained above. South Dakota collects most of the

data needed to understand sexual assaults as they move through the criminal justice system. The best example of this collection is for the judicial process and conviction data. The Unified Judicial System in South Dakota already collects much of the same information as Ireland about incoming and resolved cases, case outcomes and convictions, and reasons for appeal. However, researchers must contact UJS to request this data and pay for the ability to use it. Unlike Ireland, South Dakota does not provide any public access to the raw data used in the creation of existing reports. It also provides limited access to comprehensive reports with interpretations of the data and does not provide any infographics for a snapshot of the most relevant data. Table 11 provides a visual comparison and summary of the information discovered through the process of comparative analysis.

Table 11: Summary of Comparison for Data Collection and Reporting

Elements of data collection and report on sexual assault	Ireland	South Dakota
Legislation requiring data collection and reporting	X	X
Legislation explains what must be collected and reported	X	
Legislation establishing independent data agency	X	
Unified police system	X	
Centralized database for law enforcement's reports	X	
Data agency has access to all relevant law enforcement data	X	
Public access to raw data used to compile reports	X	
Public release of infographics for important data	X	
Data is free for public use	X	
Definition of rape	X	X
Definition of sexual assault/contact	X	X
Definition of sexual penetration	X	X
Definition of consent		
Inclusive legal language for all gender identities		X
Multiple legal definitions for types of sexual offenses		X
Public report on recorded sexual assault victimization data	X	X
Report includes data on the number of victimizations	X	X
Report includes data on victim demographics	X	X
Standard survey of population's experience with sexual assault	X	
Public report on recorded sexual offender data	X	X
Report includes data on suspected offenders	X	X
Report includes data on arrested offenders	X	X
Report includes data on number of offenders	X	X
Report includes data on offender demographics	X	X
Report includes sexual assault arrest rate	X	
Public report on court data	X	X
Unified judicial system		X
Report includes data for each level of the court system	X	
Report includes number of incoming sexual offense cases	X	
Report includes number of resolved sexual offense cases	X	
Report includes number and type of outcomes for resolved cases	X	
Report includes the level at which and reason why sexual offense cases drop out of the court system	X	
Report includes the number of and reason for appeals	X	
Public report on sexual offense conviction data	X	X
Report includes number and type of conviction (not prison)	X	
Report includes number and type of conviction (prison)	X	X
Report includes length of sentence	X	
Public report on sexual offender prison recidivism	X	X
Report includes type of original offense and re-offense	X	
Report includes time between release and re-offense	X	X
Report includes offender demographics	X	X
Public report on sexual offender probation recidivism	X	
Report includes type of original offense and re-offense	X	
Report includes time between release and re-offense	X	
Report includes offender demographics	X	

RECOMMENDATIONS AND CONCLUSION

RECOMMENDATIONS

Based on the Irish-inspired model of data collection in Figure 1 and the analysis of South Dakota's collection and reporting, it is clear that South Dakota could improve its methods in these areas. At the most basic level, South Dakota must maintain its current forms of data collection and reporting on sexual assaults. Not only should it continue with reports on crime, courts, and convictions, but it must continue with the Department of Health report. Currently, the "Sexual Violence in South Dakota: 2019 Data Report" is the only statewide report with an explicit focus on sexual assault (2021). Without this report, South Dakota does not have a comprehensive report to evaluate sexual assault in the state. The state would be left with a large gap in the data used to inform policy and developments for the statewide understanding of and response to sexual assault.

To supplement the statistics in the DOH report, South Dakota should also seek to improve the other statewide reports it already produces. The "Crime in South Dakota" publications, the court statistics reports, and the Department of Corrections reports on inmates and recidivism could all include more data breakouts. The methods of collection for each of these reports involves compiling existing records from crime reports, court records, and inmate records. These records include more information that is relevant to a better understanding of sexual assault in the state. Examples of data breakouts that would pull from the same records already used include a breakout for court workload by type of offense. Additionally, other data available in court records could allow the report to release the number of incoming and resolved cases, the case outcomes, the type of

conviction and/or sentence length, and the number of appeals for sexual offenses in the court system. Another example would be including the original type of crime, the type of re-offense, and probation recidivism rates for recidivism statistics. This information is available with the current data collection methods. To make the existing reports exhaustive, they should include this information on sexual assaults and sexual offenders.

Beyond improving the data South Dakota's agencies report, it is necessary to ensure that statistics capture the entirety of the state. One way to improve these current limitations impacting the "Crime in South Dakota" publications is to require agencies to participate. This limitation could be remedied with legislation that requires law enforcement agencies to provide data to the Attorney General's office. With all agencies participating, the report will provide a more comprehensive understanding of both prevalence and offender statistics. These statistics would create a more generalizable understanding of sexual assault statewide because it would allow for the Unified Crime Reporting Program to more accurately estimate the number of sexual assaults that are not reported to law enforcement. Requiring all agencies to participate in the data collection process will increase the reliability and thoroughness of the reports.

To account for those cases of sexual assault that do not result in a police report, South Dakota should employ a survey similar to the Youth Risk Behavior Survey that is included in the DOH report. The YRBS only evaluates high school age adolescents in the state. South Dakota should release a survey about experiences of sexual assault that samples individuals 18 or older across the state. This survey would capture a broader swath of the population and allow for a more complete understanding of the prevalence

of sexual assault in the state. The information from this survey would fill gaps in the data and help improve resources for the prevention, reporting, and response to sexual assault.

Another improvement the state could make to understand the prevalence of sexual assault is to update South Dakota's Codified Laws. As discussed in the analysis, SDCL 22-22-7.4 hinges on whether a person is capable of giving consent, but the current laws do not provide a definition of consent (2014). South Dakota law must include a standard definition of consent in order to better encapsulate victims of sexual assault. Without this definition, too much ambiguity exists, leaving many cases without a clear route forward because they do not fit into a defined legal category. A definition of consent would allow victims a clear legal understanding to identify their experience. Victims who understand that their experiences constitute sexual assault will have a better understanding of what happened to them and may be more likely to report their experience to police. As victims make more reports, the data would become more comprehensive on the prevalence of victimization of sexual assault. It would also help law enforcement charge offenders and allow concise language for prosecution. The overall understanding of and response to sexual assault would greatly benefit from a definition of consent in the SDCL.

More ambitious recommendations would see the state following the Irish example more closely. The primary way it should follow this example is to legislate data collection methods and reporting in a standardized way on a statewide level. This type of legislation would require state agencies to collect data from the stages shown in Figure 1 and provide detailed reports, much like the Irish government provides. To reduce limitations based on participation, this legislation should also provide for a standard database, like the PULSE system in Ireland, that law enforcement uses to record crimes.

A statewide database that law enforcement agencies use to file reports would incentivize these agencies to create accurate and exhaustive records for reported sexual assaults. A database of this scale may face complications because the police system in South Dakota is not unified; however, agencies' goals for using the system would be to create standardized sexual assault reports, eliminating departmental differences. This system would account for the limitations with the current voluntary data reporting method. It would ensure that the recorded crime and offender data is accurate and that all agencies participate in the report.

Additionally, this legislation should include provisions for an independent data collection and reporting entity housed within the state government. The agency should operate similarly to the Central Statistics Office and Courts Service. It should have access to the statistics from the collection agencies, but it should work independently from them to create reports and data releases. This process would ensure consistency in reporting and reduce the potential for skewed data. It would improve the overall methods of collecting and reporting on sexual assault statistics and account for many of the current limitations South Dakota faces in this area.

It is important to recognize that all of these suggested changes and improvements require funding and support. Even the mere continuation of current methods and reports require continued advocacy. If the state were to consider any of these changes, it should prioritize those that are easiest or most beneficial to complete. Smaller improvements of existing systems are both cost-effective and beneficial. Large-scale changes may provide greater overall benefits and systematic change but will also require much more funding and public support. The only true negative option for South Dakota is to do away with the

existing methods and reports it provides. Even if many of these recommendations will not be considered until much later, it is imperative that South Dakota maintains its current methods and reports and does not regress.

CONCLUSION

Overall, while South Dakota does a decent job of data collection for sexual assaults, its greatest limitations come from its capacity to report the findings. Using the model presented in this report, South Dakota should seek to improve its statistical methods in the four stages of the criminal justice to improve its response to sexual assault. The most efficient way to make these improvements is to expand the requirements of the current collection and report methods. Ireland has used its publicly reported data on sexual assaults to garner attention and support for the need for advocacy and support services like the Rape Crisis Network Ireland (RCNI) (Rape Crisis Network Ireland, 2021). The accessibility of the data clearly demonstrates to the public a need for non-profit victim services, and the RCNI capitalized on this support.

Additionally, advocates for change use the data and reports to draw conclusions and advocate for larger systemic changes for the country. For example, Irish lawmakers' recognition of the frequency of sexual assault and discrepancies in offender detection have very recently led to the acceptance of a bill strengthening consent law (BBC, 2022). Academics use this data to advocate for Ireland's improvement of mental health care for victims of sexual assault (Vallières et al., 2020). Greater access to more complete data would help South Dakota make improvements in similar facets. As discussed above, South Dakota has already used data releases to inform policy discussions in relation to juvenile justice reforms. Allowing for public release of sexual assault data would have

similar benefits. Access to more comprehensive data on sexual assault through the justice system can help inform South Dakota's policy and improve outcomes for victims as lawmakers and practitioners garner a more complete understanding of the issue in the state.

Future directions of research could include an evaluation of how the culture of silence in law enforcement and local government contributes to a lack of publicly accessible data. Research should also examine what changes in policy and sexual assault response directly result from accessible data on sexual assault if South Dakota takes steps to make this data widely available.

REFERENCES

- Basile, K.C., Smith, S.G., Kresnow, M., Khatiwada, S., Leemis, R.W. (2022). *The national intimate partner and sexual violence survey: 2016/2017 report on sexual violence*. Centers for Disease Control and Prevention.
<https://www.cdc.gov/violenceprevention/pdf/nisvs/nisvsReportonSexualViolence.pdf>.
- BBC. (2022, July 28). Rape law: New bill approved to strengthen laws on consent. *BBC*.
<https://www.bbc.com/news/articles/cd19y6nr8p6o>.
- Best, J. (2004). *More Damned Lies and Statistics*. University of California Press.
- Bureau of Justice Statistics. (2021). *The justice system*. U.S. Department of Justice.
<https://bjs.ojp.gov/justice-system>.
- Central Statistics Office. (2020). *Review of the quality of recorded crime statistics*.
<https://www.cso.ie/en/releasesandpublications/ep/p-rqcs/reviewofthequalityofrecordedcrimestatistics2020/>.
- Central Statistics Office. (2020, August 8). *Prison re-offending*.
https://www.cso.ie/en/statistics/crimeandjustice/prison_recidivism/.
- Central Statistics Office. (2021, August 11). *Probation re-offending*.
https://www.cso.ie/en/statistics/crimeandjustice/probation_recidivism/.
- Central Statistics Office. (2021, November 5). *Recorded crime detection*.
<https://www.cso.ie/en/statistics/crimeandjustice/recordedcrimedetection/>.
- Central Statistics Office. (2022). *Crime and justice*.
<https://www.cso.ie/en/statistics/crimeandjustice/>.

Central Statistics Office. (2022, January 6). *Sexual violence survey (SVS)*.

<https://www.cso.ie/en/surveys/surveysunderdevelopment/sexualviolencesurveysvs/>.

Central Statistics Office. (2022, April 27). *Recorded crime victims and suspected offenders*.

<https://www.cso.ie/en/statistics/crimeandjustice/recordedcrimevictimsandsuspectedoffenders/>.

Central Statistics Office. (2022, September 26). *Recorded crime*.

<https://www.cso.ie/en/methods/surveybackgroundnotes/recordedcrime/>.

Cocklin, K. R. (1977). *Function of criminal justice procedures, tasks, and personnel*.

Office of Justice Programs. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/functions-criminal-justice-procedures-tasks-and-personnel>.

Comparea. (2022). *South Dakota (USA) and Ireland*.

https://www.comparea.org/IRL+US_SD.

Courts Service. (2022) *Annual report for 2021*. The Courts Service of Ireland.

https://www.courts.ie/acc/alfresco/24bce47c-3cc6-4e86-b647-04cdc64c2445/Courts_Service_Annual_Report_2021.pdf/pdf#view=fitH.

Courts Service Act, 1998, No. 8 of 1998. (1998).

<https://www.irishstatutebook.ie/eli/1998/act/8/enacted/en/print>.

Criminal Identification, SDCL 23-5. (1939).

https://sdlegislature.gov/Statutes/Codified_Laws/2047950.

Department of Justice. (2019). *What sexual violence is*.

<https://www.gov.ie/en/publication/9bd76c-what-is-sexual-violence/#sexual-assault>.

Federal Bureau of Investigation. (2014). Rape. *Crime in the United States 2013*.

<https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/violent-crime/rape>.

Federal Bureau of Investigation. (2020). Violent crime. *Crime in the United States 2019*.

<https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/violent-crime>.

Fioramonti, L. (2014). *How numbers rule the world: The use and abuse of statistics in global politics*. Zed Books.

Gigerenzer, G., Swijtink, Z., Porter, T., Daston, L., Beatty, J., & Kruger, L. (1989). *The Empire of Chance: How probability changed science and everyday life*.

Cambridge University Press. <https://doi.org/10.1017/CBO9780511720482>.

Gilbertson, D. & Sattizahn, G. (2020) State fiscal year 2020 annual statistical report of the South Dakota Unified Judicial System. *South Dakota Courts*, 1-26.

<https://ujs.sd.gov/uploads/annual/fy2020/FY2020AnnualReportEntireReport.pdf>.

Ki, N. (2022, February 20). South Dakota weighs whether to lock up kids with ‘bad behavior.’ *Argus Leader*.

<https://www.argusleader.com/story/news/2022/02/20/south-dakota-senate-hear-new-law-repealing-juvenile-justice-system/6812460001/>.

- Kimber, C. J. M. (1995). *Criminal justice systems in Europe: Ireland*. Office of Justice Programs. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/criminal-justice-systems-europe-ireland>.
- Loeseke, D. R. (2018). Presidential address: Narrative and the politics of meaning in a “post-fact” world. *Social Problems*, 65(1). <https://doi.org/10.1093/socpro/spx041>.
- Lonsway, K. A. & Archambault, J. (2012). The “justice gap” for sexual assault cases: Future directions for research and reform. *SAGE Publications*.
<https://cdn.cnsnews.com/documents/Justice%20Gap%20paper%20Lonsway%20Archambault.pdf>.
- Major Crimes Act, 18 U.S.C. § 1153 (1885).
<https://www.justice.gov/archives/jm/criminal-resource-manual-679-major-crimes-act-18-usc-1153>.
- McGee, H., Garavan, R., deBarra, M., Byrne, J., & Conroy, R. (2002). The SAVI report: Sexual abuse and violence in Ireland. *Royal College of Surgeons in Ireland*.
https://repository.rcsi.com/articles/report/The_SAVI_report_sexual_abuse_and_violence_in_Ireland/10770797/1.
- McMahon, T., Walstrom, B., & Kerkvliet, J. (2021). Sexual violence in South Dakota: 2019 data report. *South Dakota Department of Health*, 2-18.
https://doh.sd.gov/documents/Prevention/2019_SD_SexualViolenceReport.pdf.
- Morgan, R.E. & Thompson, A. (2021). *Criminal victimization, 2020*. U.S. Department of Justice: Office of Justice Programs, Bureau of Justice Statistics.
<https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cv20.pdf>.

Morgan, R.E. & Thompson, A. (2022). *The nation's two crime measures, 2011-2020*.

U.S. Department of Justice: Office of Justice Programs, Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/ntcm1120.pdf>.

Pease, K. & Cox, G. (2003). *World factbook of criminal justice systems: Republic of Ireland*. U.S. Department of Justice: Bureau of Justice Statistics.

<https://bjs.ojp.gov/content/pub/pdf/wfbcjsri.pdf>.

Rape, Abuse & Incest National Network (RAINN). (2022). *Sexual assault*.

<https://www.rainn.org/articles/sexual-assault>.

Rape Crisis Network Ireland (RCNI). (2021). *Rape Crisis Network Ireland responds to CSO figures on crime victims and suspected offenders*. <https://www.rcni.ie/rape-crisis-network-ireland-responds-to-cso-figures-on-crime-victims-and-suspected-offenders/>.

<https://www.rcni.ie/rape-crisis-network-ireland-responds-to-cso-figures-on-crime-victims-and-suspected-offenders/>.

Sex Offender Registry, SDCL 22-24B. (2021).

https://sdlegislature.gov/Statutes/Codified_Laws/2047480.

Sex Offenses, SDCL 22-22. (2014).

https://sdlegislature.gov/Statutes/Codified_Laws/2047349.

South Dakota Department of Corrections. (2022). *Recidivism*.

<https://doc.sd.gov/about/Recidivism.aspx>.

South Dakota Department of Corrections. (August 2022). *Breakdown of crimes of South Dakota inmates*. <https://doc.sd.gov/documents/AdultCrimesAugust2022.pdf>.

<https://doc.sd.gov/documents/AdultCrimesAugust2022.pdf>.

South Dakota Office of the Attorney General. (2022). *Crime in South Dakota publications*.

<https://atg.sd.gov/OurOffice/Departments/DCI/SAC/CrimeinSouthDakota.aspx>.

South Dakota Office of the Attorney General & Criminal Statistical Analysis Center.
(2022). *National incident-based reporting system (NIBRIS)I*.

<https://atg.sd.gov/OurOffice/Departments/DCI/SAC/NIBRS.aspx#gsc.tab=0>.

South Dakota Office of the Attorney General, Division of Criminal Investigation, &
Criminal Statistical Analysis Center. (2021). *Crime in South Dakota 2020*.

<https://sdcrime.nibrs.com/Publication/Archived/1.Crime%20In%20South%20Dakota%202020.pdf>.

Statistics Act, 1993, No. 21 of 1993. (1993).

<https://www.irishstatutebook.ie/eli/1993/act/21/enacted/en/print>.

Vallières, F., Gilmore, B., Nolan, A., Maguire, P., Bondjers, K., McBride, O., Murphy, J.,

Shevlin, M., Karatzias, T., & Hyland, P. (2020). Sexual violence and its
associated psychosocial effects in Ireland. *Journal of Interpersonal Violence*,

37(11-12). <https://doi.org/10.1177/0886260520978193>.