THE SEXUAL ABUSE TO PRISON PIPELINE: THE GIRLS' STORY

Human Rights Project for Girls

Georgetown Law Center
on Poverty and Inequality

Ms. Foundation for Women

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GEORGETOWN LAW

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Dedicated to the girls

The Nature of This Flower Is to Bloom
Rebellious. Living.
Against the Elemental Crush.
A Song of Color
Blooming
For Deserving Eyes.
Blooming Gloriously
For its Self.

— Alice Walker

ABOUT THE AUTHORS' ORGANIZATIONS

Human Rights Project for Girls works to make the lives of US young women and girls a human rights priority. Gendered violence here in the US, like gendered violence abroad, restricts girls' rights and the realization of their full potential and dignity. As a national organization of human rights lawyers, Rights4Girls addresses the conditions of sexual violence, rape, exploitation, and trafficking here in the United States in the areas of policy, legislation, and law. We advocate for the dignity and personhood of young women and girls – so that every girl may possess the right to be safe and live a life free of violence and exploitation. See more at www.rights4girls.org.

The Center on Poverty and Inequality works with policymakers, researchers, practitioners, and advocates to develop effective policies and practices that alleviate poverty and inequality in the United States. The Center's areas of anti-poverty work include national, state, and local policy and program recommendations that help marginalized girls, promote effective workforce and education policies and programs for disconnected youth, and develop policy to combat deep poverty. Its strategies are to partner with Administration agencies and non-profit organizations to host national conferences, produce and widely disseminate in-depth reports, engage in public speaking, and participate in national coalitions and working groups. See more at www.law.georgetown.edu/go/poverty.

The Ms. Foundation for Women is the first and largest US women's foundation. Since our founding in 1972, we have supported grassroots organizations across the country to sustain and amplify the vision and voice of women who area leading change in their communities, particularly low-income women, women of color and young women. We focus on three pillars — women's health, economic justice and safety — in order to fulfill our mission: to build women's collective power to realize a nation of justice for all. See more at www.forwomen.org.

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VIOLENCE AGAINST GIRLS IS A PAINFULLY AMERICAN TALE. IT IS A CRISIS OF NATIONAL PROPORTIONS…

Violence against girls is a painfully American tale. It is a crisis of national proportions that cuts across every divide of race, class, and ethnicity. The facts are staggering: one in four American girls will experience some form of sexual violence by the age of 18. Fifteen percent of sexual assault and rape victims are under the age of 12;[1] nearly half of all female rape survivors were victimized before the age of 18.[2] And girls between the ages of 16 and 19 are four times more likely than the general population to be victims of rape, attempted rape, or sexual assault.[3]

And in a perverse twist of justice, many girls who experience sexual abuse are routed into the juvenile justice system *because of* their victimization. Indeed, sexual abuse is one of the primary predictors of girls' entry into the juvenile justice system.[4] A particularly glaring example is when girls who are victims of sex trafficking are arrested on prostitution charges — punished as perpetrators rather than served and supported as victims and survivors.

Once inside, girls encounter a system that is often ill-equipped to identify and treat the violence and trauma that lie at the root of victimized girls' arrests. More harmful still is the significant risk that the punitive environment will re-trigger girls' trauma and even subject them to new incidents of sexual victimization, which can exponentially compound the profound harms inflicted by the original abuse.

This is the girls' sexual abuse to prison pipeline.

This report exposes the ways in which we criminalize girls — especially girls of color — who have been sexually and physically abused, and it offers policy recommendations to dismantle the abuse to prison pipeline. It illustrates the pipeline with examples, including the detention of girls who are victims of sex trafficking, girls who run away or become truant because of abuse they experience, and girls who cross into juvenile justice from the child welfare system. By illuminating both the problem and potential solutions, we hope to make the first step toward ending the cycle of victimization-to-imprisonment for marginalized girls.

GIRLS' PATHS OF SEXUAL ABUSE INTO THE JUVENILE JUSTICE SYSTEM

THE PROPORTION OF GIRLS — ESPECIALLY GIRLS OF COLOR — IN THE JUVENILE JUSTICE SYSTEM IS INCREASING.

The rate of girls' involvement in juvenile justice is growing disproportionately at key determinative points in the criminal justice process, including the decision to arrest and detain girls.[5]

Girls of color are particularly affected by this trend.[6] Although rates of overrepresentation vary significantly by jurisdiction,[7] the national trends are revealing. African-American girls constitute 14 percent of the general population nationally but 33.2 percent of girls detained and committed.[8] Native American girls are also disproportionately involved in the juvenile justice system:[9] they are 1 percent of the general youth population but 3.5 percent of detained and committed girls.[10]

The disproportionate rates of confinement in residential placements for girls of color are most accurately revealed when viewed per capita: Native American girls are in residential placements at a rate of 179 per 100,000; African-American girls at a rate of 123 per 100,000; and Latinas at a rate of 47 per 100,000. By comparison, 37 per 100,000 of non-Hispanic white girls are confined.[11]

According to studies by the Girls Study Group of the US Department of Justice's Office of Juvenile Justice and Delinquency Prevention, among others, the increase in girls' rate of arrest and incarceration over the last two decades is not a result of their engaging in criminal activity at higher rates.[14] Nor are they increasingly violent.[15] Although the reason has not been definitively determined, evidence suggests that one cause is more aggressive enforcement of non-serious offenses that are rooted in the experience of abuse and trauma,[16] as illustrated by the recent increase in arrests of girls involved in family-based incidents.[17] In fact, the leading cause of arrest for girls are minor offenses such as misdemeanors, status offenses, outstanding warrants, and technical violations.[18] And the decision to arrest and detain girls in these cases has been shown often to be based in part on the perception of girls' having violated conventional norms and stereotypes of feminine behavior,[19] even when that behavior is caused by trauma.[20]

GIRLS IN THE JUVENILE JUSTICE SYSTEM ARE DISPROPORTIONATELY VICTIMS OF SEXUAL VIOLENCE.

Research reveals that girls who are sent into the juvenile justice system have typically experienced overwhelmingly high rates of sexual violence.[21]

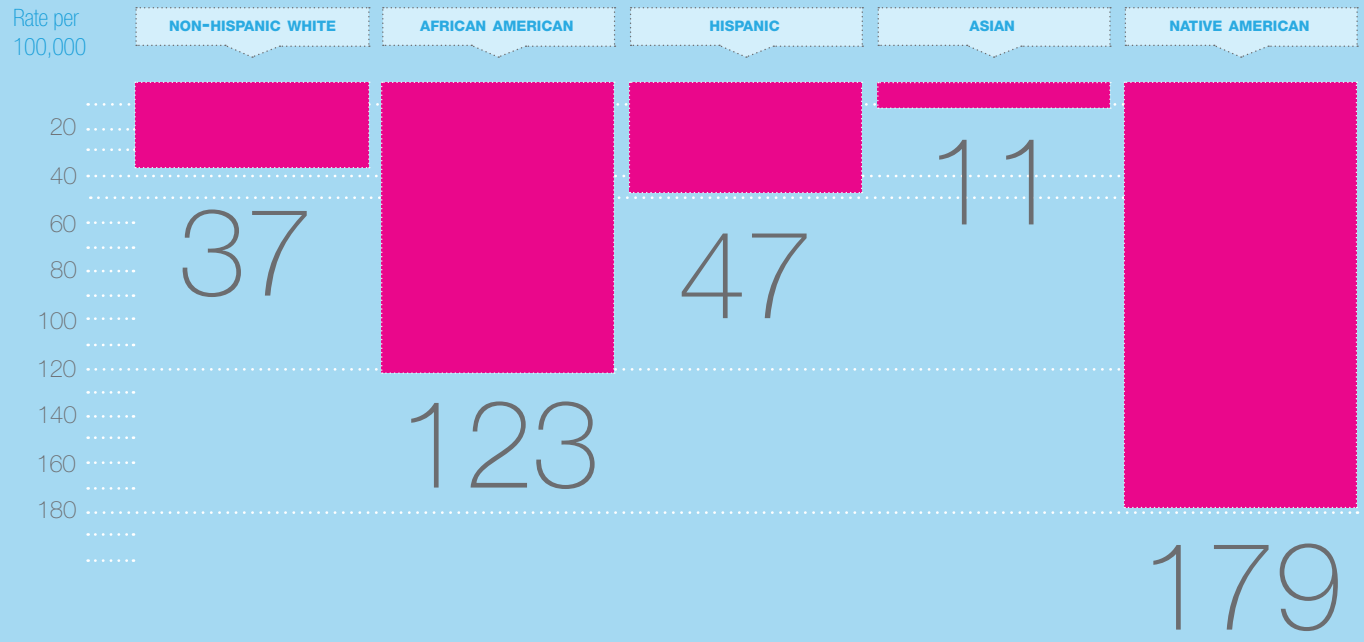
Further studies are urgently needed, as virtually no national data exists to illuminate incarcerated girls' histories of sexual violence. However, several local and regional studies paint an informative portrait of incarcerated girls' histories of abuse. In a 2006 study of girls involved in Oregon's juvenile justice system, for example, 93 percent had experienced sexual or physical abuse; 76 percent had experienced at least one incident of sexual abuse by the age of 13; and 63 percent had experienced both physical and sexual abuse.[22]

Similarly, in a 2009 study of delinquent girls in South Carolina, 81 percent reported a history of sexual violence, and 42 percent reported dating violence.[23]

LGBT/GNC Girls

Youth who identify as lesbian, gay, bisexual, transgender, or gender non-conforming (LGBT/GNC) are overrepresented in the juvenile justice system. Although LGBT/GNC youth comprise only 5 to 7 percent of the general population, they represent 13 to 15 percent of youth who come into contact with the juvenile justice system.[12] Recent research by the National Council on Crime and Delinquency (NCCD) indicates that LGBT/GNC girls, in particular, are involved in the system at an even higher rate: a survey of 1,400 girls across seven jurisdictions found that 40 percent of girls in the juvenile justice system are LGBT/GNC (compared to 14 percent of boys).[13]

GIRLS IN RESIDENTIAL PLACEMENT BY RACE AND ETHNICITY



Adapted from Child Trends DataBank, Juvenile Detention, Indicators on Children and Youth 5 (2013), *available at* http://www.childtrends.org/wp-content/uploads/2012/05/88_Juvenile_Detention.

GIRLS IN JUVENILE JUSTICE

31% SEXUALLY ABUSED

45% FIVE OR MORE ACEs

BOYS IN JUVENILE JUSTICE

7% SEXUALLY ABUSED

24% FIVE OR MORE ACEs

Girls' rate of sexual abuse is 4 times higher than boys' in juvenile justice, and girls' rate of complex trauma (five or more ACEs) is nearly twice as high.

Source: Michael T. Baglivio et al., US Dep't of Justice, Office of Justice Programs, Office of Juvenile Justice & Delinquency Prevention, *The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders*, 3 J. Juv. Justice 1, 9 (Spring 2014), *available at* http://www.journalofjuvjustice.org/JOJJ0302/JOJJ0302.pdf.

Finally, a 1998 study of juvenile-justice-involved girls in California found that 81 percent of girls had experienced one or more incident of physical or sexual abuse; 56 percent reported one or more forms of sexual abuse; and 45 percent reported being beaten or burned at least once.[24]

But rates of prevalence alone do not fully capture the severe extent and multiple incidents of girls' sexual victimization. In the California study, for example, of the 56 percent of girls who reported sexual abuse — which can take many forms — 40 percent of girls reported being raped or sodomized at least once, and 17 percent reported multiple occurrences of abuse.[25] Girls in the Oregon study, meanwhile, reported they had experienced an average of over four forms of severe sexual abuse before the age of 12.[26]

Justice-involved girls also are victimized by sexual violence at an earlier average age, and for a longer average duration, than other forms of abuse. The South Carolina study, for example, found that in contrast to other forms of violence that peaked during certain developmental stages, sexual violence was a risk for girls throughout their lives, though particularly during adolescence.[27] Meanwhile, the California study found that the age at which girls were "most likely" to be fondled or molested was five years old;[28] and the Oregon study found that the average age at which at least one instance of sexual abuse occurred was just under seven and a half years old.[29] These findings are particularly significant in light of a recent study that found that traumatic exposure before high school is an even stronger predictor of girls' delinquency than such exposure during high school.[30]

Although the precise findings of rates of sexual abuse vary, all studies find higher rates of victimization for girls than boys.[35] One local study of delinquent youth, for example, found that the rate of sexual abuse for justice-involved girls was over four times higher than for boys. And a 2011 literature review found that girls' dramatically higher rate of sexual abuse was the most consistent finding among nineteen studies that analyzed the prevalence of trauma by gender.[37] Other recent studies have replicated this finding.[38]

The US Attorney General's Task Force on Children Exposed to Violence has concluded that childhood trauma is associated with involvement in the juvenile justice system.[39] For girls more than for boys, this connection is strongly rooted in the experience of sexual violence. [40] And the link appears to continue even after girls are released: a recent study has shown that sexual abuse is one of the strongest predictors of whether a girl will be charged again after release; in fact, it appears to have a greater impact on girls' re-entry into the system than other risk factors like behavioral problems and prior justice involvement.[41] Yet, significantly, the experience of sexual abuse did not have the same impact on boys.[42] Clearly, sexual abuse has a uniquely defining impact on juvenile justice involvement for girls.

GIRLS' EXPERIENCE OF COMPLEX TRAUMA AND MULTIPLE INCIDENTS OF VICTIMIZATION

Some studies indicate that girls experience complex and multiple forms of trauma at disproportionate rates. In a 2014 study of the abuse histories of more than 60,000 youth in Florida's juvenile justice system, for example, girls reported having experienced Adverse Childhood Experiences (ACEs)[31] at higher rates than boys in all 10 categories of trauma and abuse analyzed.[32] Nearly half of the girls (45.1 percent) experienced five or more forms of trauma and abuse, compared to less than one-third (27.4 percent) of boys.[33] These findings are consistent with other research, including a 2010 study of a nationally representative sample of justice-involved youth, that show higher rates of complex trauma and multiple forms of victimization among girls.[34]

GIRLS' BEHAVIORAL REACTION TO SEXUAL ABUSE AND TRAUMA IS CRIMINALIZED, REINFORCING THE SEXUAL ABUSE TO PRISON PIPELINE.

The most common crimes for which girls are arrested — including running away, substance abuse, and truancy — are also the most common symptoms of abuse.[43] Indeed, child sexual abuse experts list these

FINDINGS VARY, BUT LOCAL AND REGIONAL STUDIES SHOW ALARMINGLY HIGH RATES OF ABUSE AMONG GIRLS IN THE JUVENILE JUSTICE SYSTEM.

SOUTH CAROLINA

81% OF GIRLS
VICTIMS OF SEXUAL VIOLENCE

42% OF GIRLS
VICTIMS OF DATING VIOLENCE

Source: Dana D. Dehart, The Ctr. For Child & Family Studies, Poly-victimization Among Girls in the Juvenile Justice System: Manifestations & Associations to Delinquency 12 (Oct. 2009), *available at* https://www.ncjrs.gov/pdffiles1/nij/grants/228620.pdf.

OREGON

93% OF GIRLS
SEXUALLY OR PHYSICALLY ABUSED

76% OF GIRLS
SEXUALLY ABUSED

63% OF GIRLS
SEXUALLY & PHYSICALLY ABUSED

Source: Dana K. Smith, Leslie D. Leve & Patricia Chamberlain, *Adolescent Girls' Offending and Health Risking Sexual Behavior:* The Predictive Role of Trauma, 11 Child Maltreatment 346, 350 (Nov. 2006).

FLORIDA

84% OF GIRLS
VICTIMS OF FAMILY VIOLENCE

31% OF GIRLS
SEXUALLY ABUSED

41% OF GIRLS
PHYSICALLY ABUSED

Source: Michael T. Baglivio et al., US Dep't of Justice, Office of Justice Programs, Office of Juvenile Justice & Delinquency Prevention, *The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders*, 3 J. Juv. Justice 1, 9 (Spring 2014), *available at* http://www.journalofjuvjustice.org/JOJJ0302/JOJJ0302.pdf.

CALIFORNIA

81% OF GIRLS
SEXUALLY OR PHYSICALLY ABUSED

In the California study, of the girls who had been sexually abused, the abuse was severe and often occurred multiple times.

56% OF GIRLS
SEXUALLY ABUSED

40% OF GIRLS
RAPED/SODOMIZED AT LEAST ONCE

45% OF GIRLS
BEATEN OR BURNED AT LEAST ONCE

17% OF GIRLS
MULTIPLE OCCURRENCES

Source: Leslie Acoca, *Outside/Inside: The Violation of American Girls at Home, on the Streets, and in the Juvenile Justice System*, 44 Crime & Delinquency 561 (1988), *available at* http://leslieacoca.org/images/Outside-Inside_-_The_Violation_of_American_Girls_at_Home_-_On_the_Streets_-_and_in_the_Juvenile_Justice_System_by_Leslie_Acoca.pdf.

MULTI-STATE STUDY

32% OF GIRLS
SEXUALLY MALTREATED

39% OF GIRLS
SEXUALLY ASSAULTED/RAPED

40% OF GIRLS
PHYSICALLY ABUSED

56% OF GIRLS
DOMESTICALLY ABUSED

Source: Carly B. Dierkhising et al., *Trauma Histories Among Justice-Involved Youth: Findings from the National Child Traumatic Stress Network*, 4 Eur. J. Psychotraumatology (Jul. 2013), *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3714673/.

behaviors as warning signs that an adolescent has been abused and needs therapeutic intervention.[44] According to a study conducted by the US Department of Health and Human Services, 46 percent of runaway and homeless youth report being physically abused; 38 percent report being emotionally abused, and 17 percent report being forced into unwanted sexual activity by a family or household member.[45] Research has consistently shown that girls' problem behavior, in contrast to that of boys, "commonly relates to an abusive and traumatizing home life."[46] Self-reports by female offenders support these findings, in which girls "are significantly more likely than males to report that victimization was a key factor leading to their offending."[47]

A National Child Traumatic Stress Network (NCTSN) review of literature on trauma and girls' delinquency emphasizes the causal role that unaddressed trauma can play in the criminalization of girls:

> [Studies] suggest that if trauma is not resolved, … result[s may] includ[e] (a) alcohol and drug use, (b) involvement in violent activity, and (c) development of mental health problems such as PTSD. For many of these adolescent females, there appears to be a link between the experience of abuse and neglect, the lack of appropriate treatment, and the behaviors that led to arrest.[48]

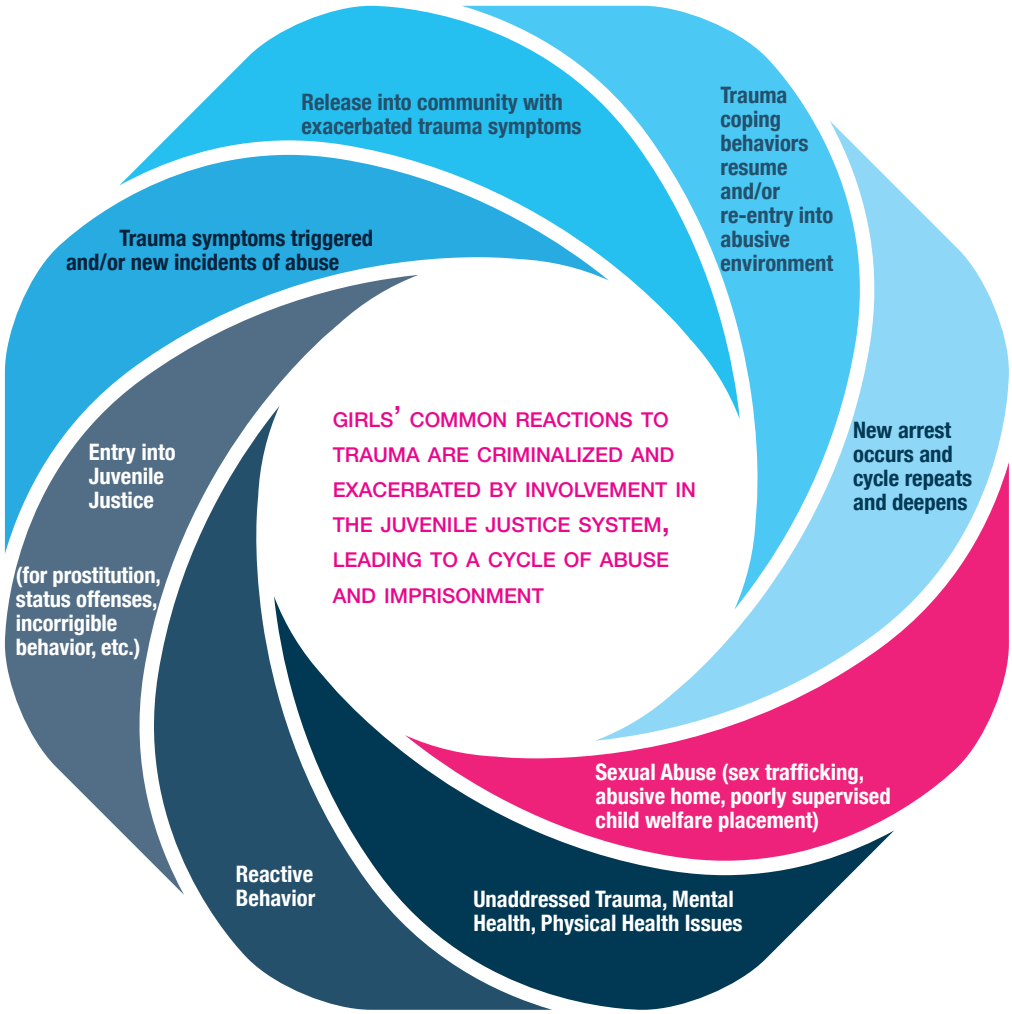
Yet despite the body of research showing that the effect of trauma and abuse drives girls into juvenile justice,[49] the system itself typically overlooks the context of abuse when determining whether to arrest or charge a girl, often with a minor offense. When law enforcement views girls as perpetrators, and when their cases are not dismissed or diverted but sent deeper into the justice system, the cost is twofold: girls' abusers are shielded from accountability, and the trauma that is the underlying cause of the behavior is not addressed. The choice to punish instead of support sets in motion a cycle of abuse and imprisonment that has harmful consequences for victims of trauma.

THE JUVENILE JUSTICE SYSTEM TYPICALLY FAILS TO ADDRESS, AND OFTEN EXACERBATES, TRAUMA THAT CAUSED GIRLS TO BE THERE.

Although some defend the practice of detaining victimized girls on the grounds that the system can provide protection or needed services,[50] that justification cannot counterbalance the significant psychological and physical harms created by commitment. In fact, access to adequate services, if any, is severely limited; worse, the system's routine processes can serve to re-traumatize girls; and, worse still, some report that they experience new incidents of abuse while inside.

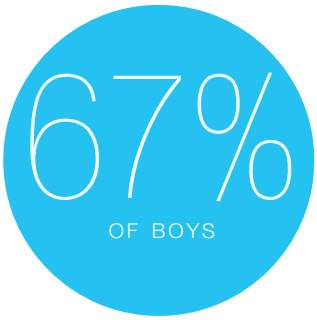
The NCTSN has noted the unique link between trauma and mental health for girls: "[S]tudies have consistently found that among those who are exposed to trauma, females are more likely than males to develop mental health problems as a result."[51] And, consistent with the link between trauma and contact with the juvenile justice system, in 2004 the NCTSN noted overwhelming rates of trauma and post-traumatic stress disorder (PTSD) among girls in the system: 70 percent of girls in juvenile justice had been exposed to some form of trauma and over 65 percent had experienced symptoms of PTSD sometime in their lives, 48.9 percent of whom were experiencing those symptoms at the time of the study.[52]

Rates of PTSD and other mental health disorders are consistently higher in girls than their male peers.[53] For example, one study by the National Center for Mental Health and Juvenile Justice found that approximately 80 percent of females in the juvenile justice system met the criteria for at least one mental health disorder, compared to 67 percent of boys.[54] Another found that major depression is four to five times more common in girls housed in detention and correctional facilities than in the general community, compared to twice as common in detained boys than the general community.[55] The rate of major depression in detained girls was 29 percent, compared to 11 percent in boys.[56]



Gender Differences in Mental Health Diagnoses

MENTAL HEALTH DIAGNOSES AMONG JUSTICE-INVOLVED YOUTH BY GENDER



Source: Jennie L. Shufelt & Joseph J. Cocozza, Nat'l Ctr. for Mental Health and Juvenile Justice, Youth With Mental Health Disorders in the Juvenile Justice System: Results from a Multi-State Prevalence Study 4 (June 2006), *available at* http://www.ncmhjj.com/wp-content/uploads/2013/07/7.-PrevalenceRPB.pdf.

Yet when girls enter the juvenile justice system, mental health screenings are rarely administered by licensed professionals, and follow-up assessments and treatment are frequently inadequate.[57] Some studies have found that this lack of services exists more often in facilities that serve girls.[58] According to a recent nationwide census conducted by the US Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP), only approximately half the youth in the juvenile justice system are placed in a facility that provides mental health evaluations of all residents.[59] Follow-up care is often insufficient even for youth who do receive evaluations.[60] And a significant majority of juvenile justice youth (88 percent) resides in facilities in which mental health counselors are not licensed professionals.[61]

"I became even more withdrawn and angry. I felt completely disconnected from my family, from friends; and the counselors inside offered no support for the real problems I was facing. I felt like nobody believed that I could actually do something positive with my life — especially the staff inside the facilities, who treated me like a case number, not like a person. At that time what I needed was to talk to folks about all I had been through, to feel connected to people — to feel useful, so that I could find my own direction in life. I needed to heal from the trauma and to be supported with love and encouragement." – NADIYAH SHEREFF

Yet mental health services can yield important and positive results for girls. A study in Florida that examined girls after release, for example, found that those who received mental health care services were 37 percent less likely to re-offend, and another found that two years after release, girls who were provided a trauma-based intervention had reduced rates of recidivism compared to girls in generic group care.[62] Meanwhile, a recent study in Oregon found that girls living in out-of-home placements who were provided with a trauma-based intervention were far less likely to become pregnant: while 46.9 percent of girls in the traditional group care setting became pregnant within two years, the same was true for only 26.9 percent of those who received the intervention.[63]

In addition, the juvenile justice system rarely meets medical needs related to sexual abuse that girls have experienced, including gynecological and obstetric care. Although the national prevalence of adolescent pregnancy among justice-involved girls is unknown, several local studies have found that a significant percentage of girls in the juvenile justice system are or have been pregnant,[64] and the risk for adolescent pregnancy is increased by childhood trauma and sexual abuse.[65] In a survey of girls in the juvenile justice system, The National Crittenton Foundation found that 49 percent of the young mothers in the study reported a history of sexual abuse.[66]

Most juvenile justice facilities are unaccredited and do not offer specialized services for pregnant girls who have been sexually abused. Nor are they in compliance with standards of pediatric or reproductive health care for incarcerated populations established by the American College of Obstetricians and Gynecologists and other accrediting organizations such as the National Commission on Correctional Health Care.[67] In one recent national survey by OJJDP, only 18 percent of juvenile justice facilities provided the basic service of pregnancy testing at entry.[68] Moreover, pregnant girls in some juvenile justice facilities report being shackled, hungry, and without access to prenatal and parenting education.[69]

In addition to the insufficient treatment of trauma-related health needs, conditions in juvenile justice systems risk re-traumatizing girls. Routine procedures, including the use of restraints and strip searches, as well as the isolating, punitive environment itself, can be particularly harmful to victims of trauma by triggering their traumatic stress symptoms.[70]

A 2012 Texas Criminal Justice Coalition study of incarcerated girls illustrates the issue. In that study, 46 percent of participants reported that the staff, programs, and treatment in county juvenile justice facilities did not help them deal with past trauma in

their lives; 4 percent said their time in county facilities did more harm than good in dealing with past trauma. State facilities fared only marginally better: 30 percent of surveyed girls reported that their time in the state secure facility was unhelpful in addressing past trauma. Significantly, 8 percent reported that the state facility had done them more harm than good.[71]

Girls in such conditions tend to respond by internalizing their negative experiences, entering into depression or engaging in self-harm. [72] These reactions can increase the risk of additional harm.[73] According to the National Child Traumatic Stress Network, "[m]any characteristics of the detention environment (seclusion, staff insensitivity, loss of privacy) can exacerbate negative feelings and feelings of loss of control among girls, resulting in suicide attempts and self-mutilation."[74] In addition, some girls experience new incidents of sexual victimization while in the system.[75] Taken together, lack of appropriate care and re-triggering conditions can lead to a harmful cycle of trauma that often turns inward.

For girls who are sent into the juvenile justice system because of behavior based on their reaction to trauma – such as running away from home to escape an abusive caretaker — detention is an unjust and harmful practice. These girls are not a threat to public safety.[76] Arresting and detaining them effectively punishes girls for being victims, and it fails to provide the services necessary to heal and recover. It is simply an unacceptable response to child sexual abuse.

Dismantling the Pipeline: Policy Recommendations to Reduce Traumatized Girls' Arrest and Incarceration.

Strengthen the JJDPA.

Passed in 1974, the Juvenile Justice and Delinquency Prevention Act (JJDPA) is the single most comprehensive federal legislation that governs conditions of confinement for youth and delinquency prevention. The JJDPA sets standards for states' operation of juvenile justice systems, provides federal funding to improve the juvenile justice system and to prevent delinquency, and establishes State Advisory Groups, among other provisions. The JJDPA, however, has not been reauthorized since 2002. Reauthorization of the JJDPA is critical to funding services, innovation, and creating new standards that will reflect over a decade of research and the development of best practices to serve the needs of children in the juvenile justice system.

As part of the reauthorization process, we recommend the following changes to the JJDPA to improve conditions for girls in the juvenile justice system:

- Implement accountability mechanisms to ensure that states to comply with standards and guidelines for gender-specific services, including issuing annual public reports on progress towards compliance with standards and guidelines.
- Increase funds available to incentivize states to create gender-specific, trauma-informed prevention and treatment programs and services.
- Require at least one State Advisory Group member to have expertise in gender-specific issues, such as sexual abuse and domestic child sex trafficking, as well as knowledge of effective interventions.
- Require states to employ validated, comprehensive screening and assessments to evaluate all children entering the juvenile justice system for trauma and to develop appropriate treatment plans and programming in response to identified needs.
- Require states to screen children at intake for commercial sexual exploitation and divert identified victims away from the juvenile justice system whenever possible.
- Explicitly prioritize funding for the development of programs to train law enforcement officers and other juvenile justice system staff to better identify and respond to trauma.
- Require states to evaluate the effectiveness of juvenile justice programs that address the needs of girls; develop plans to remedy identified gaps and deficiencies; and report on progress annually.

- Require the collection of data on girls in the juvenile justice system and their outcomes disaggregated and cross tabulated by race and ethnicity, including the following information:
  - → The number of victims of commercial sexual exploitation involved in the juvenile justice system.
  - → The conditions of confinement for girls, including frequency of solitary confinement or isolation, strip searches, shackling during childbirth, inappropriate use of restraints, or other practices that may exacerbate girls' trauma.
  - → The number of pregnant and parenting girls in the system and the treatment they receive, from pregnancy testing through postpartum care and new-parenting services.

Further the Work of OJJDP's National Girls Initiative.

Promising work has been initiated by the OJJDP, which oversees compliance with the JJDPA. Through its Girls Study Group and National Girls Initiative (NGI), OJJDP has elevated a focus on girls in the juvenile justice system. The current Administrator, Robert Listenbee, has expressed his strong commitment to improving the juvenile justice system for girls. We applaud these efforts and urge that NGI receive the appropriate funding and support to engage in the following actions:

- Issue regulations interpreting the JJPDA requirements for the creation and implementation of gender-specific policies and programming.
- Assist OJJDP in enforcing JJDPA requirements to create and implement gender-specific services.
- Convene a coalition and seek input from broad, diverse sources to develop clear guidelines and best practices for gender-responsive programming and policies.
- Develop training and technical assistance for states seeking to create more gender-responsive programming and policies.
- Identify and develop other sources of federal funding to support the creation of community-based, gender-responsive, and trauma-informed programming such as the Juvenile Accountability Block Grant Program (JABG) and the NGI Innovation Awards.

Fully Enforce — and Strengthen — the Prison Rape Elimination Act.

The Prison Rape Elimination Act (PREA) is a powerful tool that can help prevent abuse against girls in juvenile justice if effectively enforced. Under the law, facilities must screen inmates for a history of sexual abuse and provide appropriate medical and mental health care within 14 days of intake.[77] Youth who are victimized while in a facility, meanwhile, must have timely access to emergency medical and crisis intervention services.[78] PREA standards also limit procedures that are likely to trigger re-traumatization, such as pat-downs by officers of the opposite sex, strip searches, and solitary confinement. And the law requires state facilities to collect data on allegations of sexual abuse, aggregate the data at least yearly, and make that data publicly available.[79]

Although these provisions represent progress, enforcement mechanisms are weak. There is no private right of action to enforce PREA's standards. And while the US Department of Justice may reduce by 5 percent federal grant funds to states that fail to certify compliance, a state can avoid that penalty as long as the governor "submits an assurance that such 5 percent will be used only for the purpose of enabling the state to achieve and certify full compliance with the standards in future years."[80] No deadline has been imposed for states to come into compliance.[81]

PREA would be a more effective means of preventing and addressing violence against girls in juvenile justice if amended in the following ways:

- Provide for mandatory penalties if states fail to adopt and comply with federal standards within a reasonable period.

- Limit the time that a state can offer an assurance before funding is cut.
- Define the required "timely" crisis intervention services as within 12 hours of a resident's filing a complaint under the law.
- If an assault disclosed at intake occurred shortly before entering the facility (within a week), reduce the maximum allowable timeframe for states to provide victims with access to mental health and medical services to three days from the current 14-day standard.
- Require foster homes and congregate care facilities to comply with PREA and federal standards if they enter into contracts with juvenile justice agencies.[82]

Provide Gender-Specific Physical and Mental Health Care In Justice Settings.

Girls need access to trauma-informed and gender-specific health care — not only to improve their wellbeing over the long term, but also to reduce the likelihood of recidivism. [83] The Multidimensional Treatment Foster Care model is one approach that has been shown to be effective in reducing recidivism among girls.[84] Juvenile justice systems should ensure that girls' mental health needs are adequately identified, assessed, and treated while in the system, and that girls have access to necessary mental health care when they re-enter their communities.

Implement Gender-Specific Health Screening and Assessment.

State and local jurisdictions should require facilities to implement gender-specific health screening at intake. The Girls Health Screen (GHS), developed by Leslie Acoca of the National Girls Health and Justice Institute, is a helpful model to guide the development of gender-specific medical triage in juvenile justice settings.[85] Currently, it is the only validated health screening tool tailored specifically to girls in state custody,[86] and it has been effectively implemented in juvenile justice facilities in three California counties.[87] Comprehensive follow-up assessments can help inform treatment plans.

Require Facilities to be Accredited for the Provision of Medical Care.

The National Commission on Correctional Health Care (NCCHC) has promulgated widely accepted standards for health care in correctional settings. Compliance, however, is not mandatory, and many juvenile justice facilities remain unaccredited.[88] As a result, compliance with established standards of pediatric care is low or non-existent. According to the American Academy of Pediatrics Committee on Adolescence, "[D]ata from 2004 showed that overall, fewer than half of the facilities were compliant with recommended health screening and assessments. Few detention facilities met even minimal levels of care, although better care was seen as the length of stay increased."[89] Policymakers at the federal, state, and local level should mandate accreditation.

Provide Comprehensive Reproductive Health Care.

The juvenile justice system should adopt a coordinated and integrated approach to reproductive health needs in addressing girls' high rates of sexual abuse.[90] Most fundamentally, juvenile justice facilities should be required to meet the comprehensive standards for women's physical and reproductive health care developed by the NCCHC[91] and adhere to guidelines like those established by the American College of Obstetricians and Gynecologists (ACOG), the American Public Health Association, and the Juvenile Detention Alternatives Initiative of the Annie E. Casey Foundation.[92] Consistent with a 2011 report by ACOG's Committee on Health Care for Underserved Women, for example, protocols should include mandatory assessment for pregnancy risk at intake and follow-up pregnancy testing as appropriate. The shackling of pregnant young women during labor and delivery should be strictly prohibited.[93]

In addition, given the unique reproductive health consequences of trauma and abuse, juvenile justice systems should work with specialists to integrate mental health treatment into reproductive health treatment and services.

SCHOOL DISCIPLINE: GIRLS, VIOLENCE, AND THE SCHOOL TO PRISON PIPELINE

Sasha was raped as a high school student. When news of the rape was circulated in social media, she was ridiculed by her classmates, making it impossible for her to feel safe at school. Sasha immediately became truant. For six months, Sasha's mother unsuccessfully appealed to school district administrators to transfer Sasha to a safer school environment. In an effort to ensure that Sasha still received her education, her mother attempted to home school her, but the school district threatened to refer Sasha to the child welfare system for keeping her out of school. Because of her extensive, unaddressed trauma and fear for her own safety, Sasha refused to go to school and ultimately dropped out. After two years out of school and without receiving trauma-related services, she was arrested on petty theft charges. Only after her arrest was Sasha referred to a therapist who identified her trauma as the cause of her truancy. With the assistance of an educational advocate, Sasha applied and was accepted to an alternative school that provided a small therapeutic setting and a second chance at graduation.[98]

Sasha's story illustrates a common problem. When schools fail to support girls who are victimized by gender-based violence and harassment on campus, girls no longer feel safe and as a result may disengage, become truant, or exhibit challenging behaviors that are rooted in the trauma they have experienced.[99] Yet instead of being viewed as victims of sexual violence, these girls are often disciplined, including being suspended, expelled, or referred to law enforcement.[100]

In Norman, Oklahoma, for example, after rumors spread about the rape of three female students by a male peer, the school reportedly did not act to stop the repeated harassment of the victims. In fact, when one of the rape victims swung a heavy book bag at a student who stated "I hear you like being raped in the ass,"[101] she was suspended along with the student who harassed her.[102]

More research should be conducted to study the rates at which girls experience sexual violence in school and how schools handle these incidents, including the services they provide to the victims.[103]

Meanwhile, school districts should abandon zero-tolerance disciplinary policies[104] for victims of sexual violence on campus and consider whether a given violation of school policy was caused by the initial trauma of sexual victimization. As stated by the Illinois State Board of Education Ensuring Success in School Task Force, "When there is a relationship between the survivor's behavior and the survivor's experience of violence — for example, when students engage in acts of self-defense — schools need to be flexible and modify punishment appropriately."[105] This recommendation reflects the need to recognize the link between girls' reactive behaviors and underlying initial trauma and train staff to respond accordingly.

Include Trauma-Related Health Treatment in Re-entry/Aftercare Plans.

As described above, sexual abuse is a unique predictor of recidivism for girls.[94] The period immediately after release is when girls are at the highest risk of recidivism and serious harm. The original underlying abuse, for example, may resume; or girls may deal with unresolved trauma by using coping strategies that increase girls' risk of re-entry, such as substance abuse or running away. To lessen this risk, re-entry planning should include an attempt to connect girls with trauma-related health resources in the community.[95]

Although juvenile justice systems often operate with limited financial and case management resources to address issues that may arise after release, Medicaid and CHIP funds can be used to finance some trauma-related health and mental health services, as detailed below.[96] At a minimum, states should require juvenile justice systems to assist youth in enrolling in health care coverage before release to eliminate unnecessary administrative barriers to accessing mental health and trauma services during this critical time.[97] Ideally, every girl released from the juvenile justice system should have a community provider identified as part of her aftercare treatment plan.

LIVED EXPERIENCE OF THE SEXUAL ABUSE TO PRISON PIPELINE: VICTIMS OF SEX TRAFFICKING JAILED AS OFFENDERS

"Suffering, isolated, tired and helpless at the age of 15, the concrete box that represented my cell in Zenoff Hall, the girls' section the largest of the juvenile facility in Las Vegas, Nevada, seemed no less invasive than the horror of the streets. As much of a real physical confinement as it was, it wasn't all too different than the mental confinement I endured from my pimp. I was interrogated for hours on end, reminded that my opinions didn't matter, and locked in like a dog in a kennel. Unless I was saying the answers to the questions that they wanted to hear, my voice was irrelevant. Skip ahead a few years later, I endured it again in California, only that time experiencing my seventeenth birthday within the juvenile hall walls. Both times I was faced with charges of solicitation and/or prostitution, a crime that as a minor who wasn't of legal age to consent to sex, couldn't seriously be charged to commit. But yet, there I was, facing them. To my agony, I comprehended this as yet another system that failed me … I was re-traumatized every day in detention while having to be watched, fully nude, while I showered. No one assessed me or ever even asked me what got me there, no rehabilitation services were offered. I just sat locked in a box while being interrogated and talked-down to."[106]

— Withelma "T" Ortiz Walker Pettigrew

One of the grimmest examples of the sexual abuse-to prison pipeline is the detention of girls who are bought and sold for sex.

Child sex trafficking* is child sexual abuse. And it is abuse that is often layered over pre-existing trauma: children who have been sexually abused are especially vulnerable to traffickers. Yet many jurisdictions still view victims of child sex trafficking as perpetrators. These girls are arrested on charges of prostitution even though they are too young to legally consent to sex.[108]

Although child welfare agencies are charged with the task of responding to child sexual abuse cases and have often had previous interactions with exploited youth, they do not — and in many states, cannot — function as an alternative to incarceration unless the trafficker is a parent or "caretaker," as defined by state law.[109] As a result, trafficked children, who are victims of statutory rape or child abuse, are sent into the juvenile justice system — imprisoned as a direct consequence of their victimization.

A few states have adopted legislation or regulations to allow child welfare to respond to child sex trafficking victims.[110] But even when child welfare systems can respond to child sex trafficking, too often they do not.[111]

In the worst cases, where children are poorly cared for, the child welfare system inadvertently plays a part in making girls vulnerable to exploitation. When girls who grow up in the child welfare system — especially children who have been placed in multiple homes — live without stability or safe, supportive family attachments, it can render them vulnerable to the manipulation of traffickers who promise to love and care for them.[112] Indeed, some traffickers purposely troll for youth in certain group homes because they are aware of this vulnerability. As one report in California stated:

> Exploiters know where foster care group homes are and they directly recruit girls from these settings — they prey on the kids they know are the most vulnerable. Exploiters also use coercion and threats to force these

* *Domestic Minor Sex Trafficking: Hearing before the H. Subcomm. on Crime, Terrorism & Homeland Security of the H. Comm. on the Judiciary*, 111th Cong. 4 (Sept. 15, 2010) (testimony of Ernie Allen, President & CEO, Nat'l Ctr. for Missing & Exploited Children).

young girls to recruit other youth living in the group home.[113]

We know too little about the lives of trafficked girls and the experiences of girls in child welfare. More research is urgently needed to learn how many American girls are trafficked each year, as well as the percentage of trafficked girls in child welfare, given their significant abuse histories and unique vulnerability.

Recently enacted legislation may help the child welfare system support girls in their care who are trafficked or at-risk and help them avoid crossing over into juvenile justice: the Preventing Sex Trafficking and Strengthening Families Act. This law requires states to identify, document, and determine appropriate services for children in the child welfare system who are victims of sex trafficking or at risk of becoming victims. It also allows them to track child victims of sex trafficking under the Adoption and Foster Care Analysis and Reporting System before and during their time in foster care. Importantly, the law also requires the child welfare system to report children who are missing from foster care placements to law enforcement and the National Center for Missing and Exploited Children within 24 hours.[114] Further guidance is needed to assist states in collecting data from the child welfare and juvenile justice systems, identifying and developing appropriate screening tools, and ensuring that services are gender-specific, trauma-informed, and culturally competent.

Dismantling the Pipeline: Policy Recommendations to Keep Victims of Sex Trafficking Out of Juvenile Justice.

End the Arrest and Detention of Youth for Prostitution.

State laws and delinquency codes should define children under the age of 18 who engage in commercial sex acts as *per se* victims of trafficking, and they should prohibit the arrest, detention, and prosecution of children for prostitution, prostitution-related offenses, or other acts related to their sexual exploitation.

Such laws would be consistent with state laws that declare minors to be legally incapable of consenting to sex, as well as federal law, which defines any act of commercial sex with a person under the age of 18 as a severe form of trafficking in persons.[115]

Enact Effective and Universal Safe Harbor Laws.

States that continue to allow the arrest and detention of children on prostitution charges should enact safe harbor or immunity laws to ensure that trafficked youth are treated as victims, not perpetrators. Several states have adopted these laws. The provisions of existing safe harbor laws vary, but all strive to direct child victims of sex trafficking into appropriate treatment services and divert them from juvenile justice involvement.

To be fully effective, safe harbor statutes should at minimum include the following elements:

- Funding mechanism and/or partnership with child welfare system to ensure provision of comprehensive services to victims and appropriate alternatives to arrest, detention, and prosecution;
- Eligibility of all minors under the age of 18;
- Eligibility of all victims of sex trafficking, regardless of whether they enter the system on prostitution charges;
- Immunity from arrest and prosecution when the charging offense is directly related to the child's exploitation and victimization; and
- Fully funded court diversion programs when immunity is not an option.

Diversion programs avoid detention and instead provide child victims with essential services. Victims avoid acquiring records and instead may receive specialized and individualized treatment, including family support services, essential life skills training, and assistance with job placement, as well as housing, education, and vocational skills.

ENDING VIOLENCE AGAINST GIRLS BY ENDING DEMAND

As with all markets, even illicit ones, sex trafficking is driven by both supply and demand.[117] To date, most enforcement efforts at the federal and state levels focus on the victims and the traffickers. Laws that criminalize the act of sex with minors[118] are too rarely enforced in the context of child sex trafficking. In many cases, child-sex buyers escape with little or no accountability, despite the traumatic effect of their acts on the victims. To help put an end to the commercial sexual exploitation of children, advocates and lawmakers should:

- **Educate the public on the role of buyers in perpetuating systematic violence against underage girls and other vulnerable youth;**
- **Increase training of law enforcement and prosecutors on investigations and prosecutions of child-sex buyers and redirect resources to scale up operations against buyers rather than criminalizing victims;**
- **Instruct federal and state anti-trafficking task forces throughout the country to target buyers of child sex in their operations; and**
- **Encourage the use of federal anti-trafficking statutes and state laws that criminalize sex with minors to prosecute buyers of underage girls.**

A targeted strike against demand from both a cultural and legal standpoint would weaken the market for commercially sexually exploited youth and help combat this form of gender-based violence.

LIVED EXPERIENCE OF THE SEXUAL ABUSE TO PRISON PIPELINE: DETENTION OF GIRLS FOR STATUS OFFENSES

"I was locked up ten different times within a two year period. Inside juvie I met other girls like myself who were there for prostitution, running away, and truancy. All of us were from the same neighborhoods, poor families, and seemed to have the same disposition of trauma, anger mixed with hopelessness. We were not violent girls. We were girls who were hurting. Being confined to a tiny cement room was one of the hardest things I have ever had to experience. Being locked up all I could do was reflect on my life but it didn't seem to help. I became even more withdrawn and angry." — *Nadiyah Shereff*

Status offenses such as truancy, running away, or curfew violations are acts that are unlawful only when committed by youth. Unlike juvenile delinquent offenses, the acts are defined by the perpetrator's age.[119]

Girls are disproportionately involved in the juvenile justice system for status offenses at critical stages of the process, including petitions, which initiate a case; detention; and judicial dispositions that result in out-of-home placement at residential centers, foster homes, or correctional facilities.[120] In 2011, for example, girls accounted for 28 percent of all petitioned delinquency cases, but 41 percent of petitioned status offense cases.[121] Strikingly, girls comprised only 16 percent of the overall detained population in 2011, but almost 40 percent of youth detained for status offenses.[122] Finally, girls accounted for 40 percent of status offense cases that resulted in out-of-home placement in 2011, although they were just 12 percent of youth receiving such dispositions overall.[123]

Status offenses can often be seen more comprehensively when viewed in the context of trauma. The root cause for committing status offenses is often tied to abuse, such as running away from an abusive home or failing to attend school because a trafficker is forcing a girl to "work."[124] For example, as recently stated in a brief prepared for the National Child Traumatic Stress Network: "Youth who have experienced chronic trauma do not believe that the adults around them can or will protect them, and sometimes they are right. What is interpreted as delinquent behavior or pointless acting out is often their attempt to assume the burden of taking care of themselves."[125]

Consistently, girls are disproportionately affected by the enforcement of the status offense of running away.[126] Over the past twenty years, girls have accounted for approximately 60 percent of runaway cases.[127] It is the only petitioned offense in recent years other than prostitution for which the majority of youth offenders are girls.[128] Yet running away is often a response to sexual abuse,[129] which contrib-

utes to a harmful cycle: when girls with a history of sexual abuse run away, they are more likely to be commercially sexually exploited[130] or engage in other behavior that increases their risk of involvement in the juvenile justice system. Research indicates that, in turn, when a girl returns home after release, if the juvenile justice system failed to address the underlying abuse, she remains at high risk of subsequent sexual victimization throughout her life.[131]

Despite the link to sexual abuse, of all status offenses, runaway cases have most consistently resulted in detention and out-of-home placement adjudication over the past two decades.[132] Greater attention should be directed at the trauma underlying these minor offenses and away from detention.

Dismantling the Pipeline: Policy Recommendations to Decrease the Disproportionate Effect of Status Offense Enforcement on Girls.

Close the Valid Court Order Loophole.
The Juvenile Justice and Delinquency Prevention Act (JJDPA) prohibits youth from being incarcerated for status offenses.[133] In 1980, however, Congress created a loophole in that ban: the Valid Court Order (VCO) exception. The VCO exception allows children to be detained if they violate court orders that prohibit them from committing enumerated status offenses. For example, if a court issues an order that forbids a girl from running away, she can be sent into the juvenile justice system under the VCO exception if she later does so.

The VCO exception undercuts the JJDPA's core requirement that youth should not be detained for status offenses. In 2010, in recognition of the problem, the National Council of Juvenile and Family Court Judges, which had originally advocated for the exception, called for the phaseout of the VCO.[134] Some states have voluntarily chosen to do so, but they remain in the minority.[135]

Because girls are disproportionately charged with and detained for status offenses, closing this loophole would particularly benefit girls. We recommend that all states adopt legislation closing the VCO loophole, and that the federal government provide incentives for them to do so in a reauthorized and strengthened JJDPA.

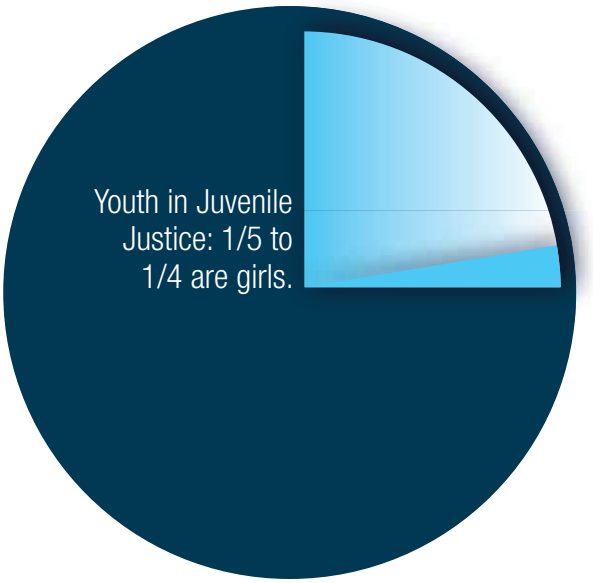
Provide Law Enforcement Training on Gender Bias and Gender Stereotyping to Decrease Girls' Contact with the Justice System.
The disproportionate effect of the enforcement of status offenses on girls is part of a broader trend sometimes referred to as "net widening," in which law enforcement policies and practices arrest, detain, and incarcerate more youth for less serious offenses.[136] Net widening has resulted in an increase in girls' involvement with the juvenile justice system over the past twenty years.[137]

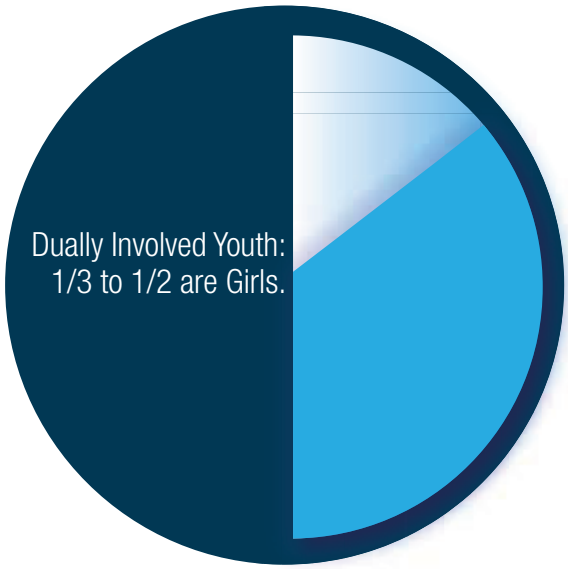
But girls who commit low-level violations and who do not pose a risk to public safety do not belong in the justice system[138] — especially those whose behavior stems from sexual abuse. Training is required to understand implicit and structural gender and racial bias that results in the disproportionate rates of girls entering the system, and to better recognize trauma. The National Child Traumatic Stress Network has produced several resources on recognizing trauma in the juvenile justice system, including bench cards to help judges recognize and respond to the impact of trauma on children[139] and a brief on trauma among girls in the juvenile justice system.[140] Similar guidance should be expanded and deepened to include information about the effect of gender bias and stereotyping on public systems' perceptions of and responses to girls' behavior, as well as ways to ensure that trauma assessments are integrated into treatment plans.

IN FOCUS: DUAL-SYSTEM YOUTH AND THE SEXUAL ABUSE TO PRISON PIPELINE

Youth who have been involved in both the juvenile justice and child welfare systems — known as crossover, dual-system, or dually involved children[141] — are some of the most vulnerable children in state custody,[142] and they are disproportionately female:[143] girls comprise one-fifth to one-quarter of the juvenile justice population, but one-third to one-half of dual-system youth.[144] A Los Angeles report, for example, found that of the first-time juvenile offenders studied who were also involved in the child welfare system, 37 percent were female, although girls comprised only 24 percent of first-time offenders who were not involved in child welfare.[145]

Girls are disproportionately represented in the dually involved youth population.





SOURCE: DENISE HERZ ET AL., GEORGETOWN UNIV., CTR. FOR JUVENILE JUSTICE REFORM, ADDRESSING THE NEEDS OF MULTI-SYSTEM YOUTH: STRENGTHENING THE CONNECTION BETWEEN CHILD WELFARE AND JUVENILE JUSTICE 1 (Mar. 2012), *available at* http://cjjr.georgetown.edu/wp-content/uploads/2015/03/MultiSystemYouth_March2012.pdf.

Research by the National Council on Crime and Delinquency (NCCD), meanwhile, found that gender non-conforming girls are especially vulnerable to juvenile justice involvement after contact with the child welfare system.[146] (NCCD's findings are consistent with several studies that indicate that LGB girls and GNC youth are particularly at risk of juvenile justice involvement and face distinct safety risks in public systems.[147])

The consequences of crossing into the juvenile justice system are significant. The risk of recidivism is higher for foster care youth than for their peers. One study of dual-system youth, conducted two years after release from juvenile justice, found that 70 percent had re-entered the justice system, compared to 34 percent of their peers who had not had contact with the child welfare system.[152] Meanwhile, a significant percentage of dual-system youth languish in the juvenile justice system for a longer time than their non-child-welfare-involved counterparts, and they are more likely to be involved in the criminal justice system as adults.[153]

Collaboration between the juvenile justice and child welfare systems can help prevent crossover. Inter-agency cooperation can improve the development of treatment plans and better inform judges in deciding whether to detain girls or divert them from juvenile justice.[154] To that end, some jurisdictions have begun screening for child welfare involvement at the time of arrest. A helpful model is the Crossover Youth Practice Model (CYPM), developed by the Center for Juvenile Justice Reform at Georgetown University. CYPM is a dual-system approach that works to reduce foster youth involvement in the juvenile justice system, out-of-home-placements, congregate care placement, and pre-adjudication detention, as well as increase families' participation in the decision-making process.[155]

Dismantling the Pipeline: Policy Recommendations to Reduce Foster Girls' Crossing Over Into the Juvenile Justice System.

- Implement screenings upon entry into the child welfare system to identify a history of trauma.
- Develop cross-system collaboration between the juvenile justice and child welfare systems. Implement models like CYPM, adding gender-responsive components to improve services and outcomes for dually involved girls.
- Limit providers' referrals to law enforcement to manage challenging behaviors.[161]

THE CROSSOVER PATHWAY FOR GIRLS OF COLOR

The crossover pathway is especially significant for African-American youth, who are involved in the child welfare system at 2.26 times their representation in the general population of children[148] and, once there, are disproportionately likely to become involved in the juvenile justice system.[149] A study of one county found that 27 percent of African-American girls in juvenile detention had an open child welfare case compared to 7 percent of youth overall and 13 percent of African-American boys.[150] Research shows that children of color in the child welfare system face disparities in outcomes compared to white youth. They are less likely to be reunited with families, more likely to be placed in congregate care settings, less likely to exit child welfare with a permanent family, and face worse long-term outcomes in academic achievement, health, and other areas than their white peers.[151]

Girls who have experienced abuse often engage in challenging and, at times, defiant and disruptive behavior, which is a common response to trauma. When foster families and caregivers are not adequately trained to address these behaviors, they sometimes call law enforcement to control the children in their care.[162] But as described above, the juvenile justice process is likely to be significantly harmful and risk re-traumatizing these youth. To avoid this cycle, providers who apply for contracts to work with vulnerable children should be required to demonstrate that they are qualified to address these trauma-rooted behaviors without resorting to calling the police except in extreme circumstances.

Meanwhile, child welfare agencies should be required regularly to collect data on provider referrals to law enforcement based on behavior while in their care or otherwise related to placement. Such data, which should be publicly available, should be analyzed to develop policies and practices to improve providers' handling of crisis situations and end unnecessary shunting of child welfare youth into the juvenile justice system.

THE ROLE OF GROUP HOMES

Poorly supervised group homes and other congregate care facilities that do not implement specialized protections and trauma-informed treatment supports can play a significant role in the sexual abuse to prison pipeline. According to one study, girls with a history of sexual abuse are more likely to be placed in a group home or congregate care facility.[156] Placement in congregate care, in turn, doubles the risk of juvenile justice involvement for girls – though it does not have the same effect on boys.[157] Preliminary research suggests that the reason for this increased risk of juvenile justice involvement for girls is unsafe living conditions in congregate care, including a higher risk of sexual abuse and physical abuse by staff and other youth.[158] This abuse may lead girls in these placements to develop coping strategies that increase their risk of justice involvement, as described in this report.

THE ROLE OF LAW ENFORCEMENT

Youth in foster care sometimes enter the juvenile justice system because their residential placements do not adequately address the behavioral challenges common among girls who have experienced severe abuse, and instead rely on law enforcement to control the behavior of youth in their custody.[159] At least one-third of arrests for crossover youth are related to their child welfare placement. In most cases, the arrest is the result of an incident that occurred within the youth's group home.[160]

CHILD WELFARE AND THE SEXUAL ABUSE TO PRISON PIPELINE: IDENTIFYING AND TREATING TRAUMA IN THE CHILD WELFARE SYSTEM

Child welfare systems can act as a leading force in helping prevent and respond to girls' trauma. Although it is challenging for underfunded and overburdened child welfare systems to fully accommodate the needs of girls struggling with complex needs, failing to do so carries consequences that are significant and enduring.

Histories of sexual abuse appear to be vastly underreported in the system, given the surprisingly low rate (9 percent) of child welfare cases that are initiated based on sexual abuse allegations.[163] One reason for the low rate may be that child welfare cases focus on the actions of the caretaker. This practice excludes incidents in which girls are sexually abused by others. To address the needs of all girls who are victims of sexual abuse, regardless of the perpetrator, the child welfare system should screen all youth for a history of sexual abuse at entry, irrespective of the reason their case was initiated.

Each year, approximately 190,000 girls live in foster care, but little research has been collected on their histories of sexual abuse or their outcomes.[164] In one of the few studies to examine the issue, 54 percent of foster care girls reported a history of sexual abuse.[165] In addition, girls who had experienced sexual abuse fared worse in the system than other girls in foster care: they changed placements twice as often; they were more likely to have been placed in a restrictive placement or congregate care setting (64 percent vs. 35 percent);[166] they were more likely to exhibit mental health symptoms (37 percent vs. 18 percent);[167] and they were almost twice as likely to have been involved in the juvenile justice system (41 percent vs. 24 percent).[168] Another study similarly found that sexual abuse significantly increased the risk of multiple placements and adoption disruptions.[169] Meanwhile, as previously mentioned, sex trafficking of girls in foster care is clearly an issue, though its prevalence is unknown.

The primary mission of the child welfare system, of course, is to care for children who have experienced abuse, violence, or neglect. Some jurisdictions have made important progress by implementing trauma-informed care. But these efforts are not yet sufficiently uniform or widespread. States can do more to improve systems' identification and assessment of trauma and abuse, enhance the provision of services, and build stronger partnerships with other public systems that play key roles in serving traumatized girls, including schools and the mental health field. According to research by the National Child Traumatic Stress Network (NCTSN), significant work lies ahead:

> Despite the extraordinary number of children in foster care who have experienced traumatic events and are exhibiting traumatic stress symptoms, and the growing body of science about efficacious treatments for child traumatic stress, few child welfare agencies across the nation integrate trauma knowledge into their practices, policy, training, performance standards, or assessment and have evidence-based trauma-specific interventions available in their community or their service continuum, including mental health contract portfolios.[170]

In a 2005 study conducted in 11 geographically diverse jurisdictions, NCTSN conducted interviews with staff who serve traumatized youth, including the child welfare system, dependency and family courts, foster care agencies, mental health agencies, and schools, and found the following:

- Child welfare workers seldom receive in-depth information about a child's trauma history when a child is first referred to them by another agency or system.
- Many agencies do not conduct a standardized post-traumatic stress assessment with a child who has experienced maltreatment and has been referred to the child welfare system.
- Fewer than half of those interviewed trained staff on available evidence-based treatments for child traumatic stress.

- Over a third of those interviewed conducted no staff trainings on assessment of child trauma.
- About a third of those interviewed said that they never make referrals to a treatment provider or placement based on use of evidence-based practices; another third said they rarely did so.[171]

In light of the substantial harms inflicted by sexual abuse, it is critical to ensure that child welfare systems fully assess children's histories of trauma and abuse and develop comprehensive supports, protocols, and protections when incidents of abuse are disclosed about youth in their care. Although it will be complex and challenging work that will require collaboration among the health system, child welfare system, and juvenile justice system, as well as a recognition of the significant overlap in the populations of children they serve, this urgent issue must be addressed to better serve girls and steer them away from the juvenile justice system.[172]

Dismantling the Pipeline: Policy Recommendations to Improve the Child Welfare System's Response to Girls.

Improve the Child Welfare System's Identification of Victims of Abuse and Implement a Gender-Responsive Approach to Victims of Abuse.

- Develop and implement high-quality trainings for staff on how to prevent, identify, assess, and respond to children who enter the system with a history of sexual abuse, including commercial sexual exploitation. Promising training has been developed by the National Child Traumatic Stress Network.[173]
- Extensively train foster parents and kinship caregivers on the risks of sex trafficking and how to mitigate them. For those girls who already have a history of being trafficked, and who may continue to maintain a connection to their former traffickers, specially trained foster homes should be considered, akin to therapeutic foster placements and specialized foster placements for pregnant and parenting teens.[174]
- Implement system-wide gender-responsive protocols for trauma screening and assessment of girls to identify urgent needs relating to violence and abuse.
- Administer an immediate and thorough assessment when abuse is identified by a qualified mental health professional.
- Implement mechanisms to ensure that all caregivers receive updated results of mental health assessments to ensure appropriate treatment.
- Coordinate meetings with girls' teams of professionals and other caregivers to discuss the assessment as the baseline for developing an effective treatment plan consistent with practices developed by the National Child Traumatic Stress Network, including referrals out of the system to provide appropriate services where necessary.
- Use culturally appropriate, evidence-based assessment tools and treatment plans to address traumatic stress and associated mental health symptoms.
- Increase federal child welfare funding to support the most effective strategies for girls and their families and create federal standards for gender-specific child welfare practices.

The two primary sources of federal financing for child welfare services, Title IV-E and Title IV-B of the Social Security Act,[175] are significantly underfunded. Congress should increase funding to these programs to better serve children. As part of this effort, it should incentivize states to decrease overreliance on group homes that are unstable and that fail to address girls' complex needs; instead, it should emphasize placing more youth in family-like settings and therapeutic foster care and providing services at home, consistent with research that shows these methods so serve foster youth most effectively.[176] Finally, it should incentivize states to provide front-line child welfare workers with professional training on best practices in trauma-informed approaches.

Use Medicaid Funds to Improve Quality Care and Trauma-Related Services for Girls in Child Welfare.

Medicaid is currently underutilized as a tool to help youth who have experienced trauma. Medicaid funds can be better used to cover the cost of certain trauma-related services needed by abused and neglected girls in state custody, including multi-systemic therapy and functional family therapy, two of the most commonly recommended evidence-based treatment services for system-involved youth.[177]

Improve the Use of Medicaid to Cover the Cost of Trauma-Related Care.

Federal law requires Medicaid agencies to assess and improve the delivery of services for children in foster care.[178] A 2013 guidance letter issued by the US Department of Health and Human Services (HHS) offers assistance to states to use Medicaid more effectively to cover the cost of trauma-related care, as well as design Medicaid treatment strategies for children and youth who have experienced trauma.[179] Recommended strategies include using Medicaid funds to cover evidence-based screening and assessment practices, as well as home and community-based services for children exposed to trauma.

Fully Utilize Medicaid's Early Periodic Screening, Diagnostic and Treatment Benefit (EPSDT).

The EPSDT applies to children enrolled in Medicaid, particularly those who have experienced trauma and require specialized health services as a result. This benefit covers services that physicians determine are medically necessary "to correct or ameliorate any physical and mental illness or conditions,"[180] even if the conditions are not included in the state's Medicaid plan.[181] As such, it can cover many services that are commonly needed by children in state custody who have experienced trauma, such as cognitive behavioral therapy, crisis management services, peer support, family therapy, and targeted case management.[182] Many states do not maximize use of this benefit, particularly for children with mental health needs.[183]

Use Medicaid to Connect Child-Welfare-Involved Children with Integrated Health Care Practices.

For a variety of reasons — including periods of homelessness and running away, frequent placement changes, and involvement in the juvenile justice system — girls in foster care often lack consistent access to the coordinated health services they need to recover from trauma and abuse.

Through the Affordable Care Act, the Center for Medicare and Medicaid Innovation (CMMI) has invested in integrated care models that "emphasize a person-centered, continuous, coordinated and comprehensive care" approach to health care.[184] These models provide critical trauma-informed primary care for people with complex medical needs, including children in the child welfare system.[185]

An example of an integrated care model is the medical home. Medical homes are comprised of interdisciplinary teams of providers who develop individualized, coordinated plans [186] for people with chronic health conditions.[187] The medical home model is especially well-suited for girls who have suffered abuse, because they address needs holistically, including mental and physical health and social service needs. They can also serve mobile or hard-to-reach populations. The American Pediatric Association has developed tools to help medical providers understand how this model can address the health needs of children exposed to violence,[188] including training on medical issues associated with violence exposure, screening tools, and methods to engage families in violence prevention.[189]

Invest in Creating Safe and Supportive Group Homes with Specialized Services for Teenage Girls.

Although family preservation is often a desirable outcome, there will always be girls for whom staying in a family or relative placement is not a safe option because of intra-familial abuse or other harmful environmental factors. Currently, there are not enough

family foster care options or adoptive parents to serve all children who need them. Identification of and investment in group homes that provide quality, specialized services to youth should be increased, while group homes that do not should be phased out. Youth themselves should be consulted in making these assessments and help identify improvements to better meet their needs.

To complement these efforts, child welfare systems should ensure that effective and meaningful complaint procedures are in place to allow girls to seek protection and immediate placement changes when they feel unsafe. Federal standards of abuse or maltreatment of children in foster care are too limited to adequately address girls' experiences and concerns,[190] as revealed in a qualitative study on girls' reports of abuse in foster care placements.[191] At a minimum, all service providers should be required to demonstrate comprehensive child abuse prevention practices before receiving accreditation or grant funding. For group homes, these practices should be similar in scope to the PREA standards for juvenile justice facilities.

Implement Policies that Improve Responses to the Behavior of Foster Youth Who Have Experienced Trauma and Abuse.

In recognition of the challenging trauma-rooted behaviors that child welfare children often exhibit, the system contracts with specialized providers that can provide therapeutic interventions and help children heal. When these providers fail to manage the trauma-related behavioral challenges they have been hired to handle, they should not punish the girls in their care by calling on law enforcement except as a last resort, as detailed above.

Implement "No Eject, No Reject" Policies to Prevent Discrimination and Guard Against "Cherry-picking" of Youth Among Child Welfare Providers.

Under-funding and a shortage of beds leaves certain groups of children at particular risk, including older youth, pregnant and parenting youth, LGBT/GNC youth, and children with disabilities. Child welfare agencies and courts should prohibit refusals to serve youth based on their immutable characteristics and ban the practice of cherry-picking the most cooperative youth, which tends to exclude children who have experienced the most severe abuse and are in greatest need of services, increasing their risk of juvenile justice involvement.

Prohibit Child Welfare Agencies and Providers from Discharging Runaway Girls.

Currently, child welfare systems can discharge youth who are on runaway status, and providers are not always required to hold beds for runaway youth, which contributes to placement instability and service disruption after a runaway child is located. Yet chronic episodes of running away are often indicative of violence and abuse, which, if untreated, increase these youths' risk of harm and arrest. While these cases may be challenging to manage, effective strategies should be developed to continue to serve these vulnerable girls.

Require Continuing Crisis De-escalation Training for All Providers in the Child Welfare System to Help Staff Effectively Manage Trauma-rooted Behavior.

Providing regular training and ongoing professional development support to front-line staff is critical to ensuring the well-being of youth in custody and ending the abuse to prison pipeline.

CONCLUSION

Girls' high rates of sexual abuse and their increased involvement in the juvenile justice system is not a coincidence. There is a direct correlation. Research has illuminated the link between girls' trauma and the ever-widening law enforcement net in which girls are caught, most often on minor offenses.

There is much work to do.

We still do not know enough about this pipeline for girls. Research typically excludes girls from study samples, data is often not disaggregated by gender, race, and ethnicity, and public agencies do not collect information about trauma and gender-specific issues. The real and distinct lives of girls, especially when their lives play out at the intersection of race and gender, remain invisible.

And when we lack the most basic information about girls' unique needs and what is happening in their lives, especially against the backdrop of high rates of sexual violence, the battle to develop effective strategies for their health is an uphill one.

We must take action to learn more about the systemic criminalization of victimized girls, who are disproportionately girls of color. In the context of the emerging and significant debate on the criminalization of boys of color, our report is a definitive call to recognize the harm that is girls' experience. We hope that this report will fuel new conversations and a sense of urgency to recognize and remedy the unjust and injurious response to victims and survivors of sexual abuse.

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58. Emily G. Marston et al., *Dealing with Double Jeopardy: Mental Health Disorders Among Girls in the Juvenile Justice System*, *in* Delinquent Girls: Contexts, Relationships, and Adaptation, *supra* note 4, at 106 (citing Acoca (1999), Vermeiren (2006)).
59. Sedlak, *supra* note 57, at 2 (Apr. 2010), *available at* https://www.ncjrs.gov/pdffiles1/ojjdp/227728.pdf; *see also* Sarah Hockenberry, Melissa Sickmund & Anthony Sladky, Nat'l Ctr. for Juv. Justice, Service Provisions by Number of Locked and Unlocked Publicly and Operated Facilities by State, 2010 (2013), *available at* http://www.ojjdp.gov/pubs/241134.pdf. (analysis of OJJDP's Juveniles in Residential Facility Census (2010)).
60. *See* Sedlak, supra note 57, at 8.
61. *Id.* at 9.
62. Leslie Acoca, Nat'l Council on Crime & Delinquency, Educate or Incarcerate? Girls In Florida and Duval Country Juvenile Justice Systems 45 (Nov. 2000), *available at* http://leslieacoca.org/images/Educate_or_Incarcerate_-_Girls_in_the_Florida_and_Duval_County_Juvenile_Justice_Systems_by_Leslie_Acoca.pdf; Patricia Chamberlain, Leslie D. Leve & David S. DeGarmo, *Multidimensional Treatment Foster Care for Girls in Juvenile Justice: Two-Year Follow up of a Randomized Clinical Trial*, 75 J. Consulting & Clinical Psychol. 1, 192-193 (2007), *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1995088/.
63. David C.R. Kerr, Leslie D. Leve, & Patricia Chamberlain, *Pregnancy Rates Among Juvenile Justice Girls in Two RCTS of Multidimensional Treatment Foster Care*, 77 J. Consulting & Clinical Psychol. 3, 588 (June 2009).
64. *See* Vanessa Patino, Lawanda Ravoira & Angela Wolf, Nat'l Council on Crime and Delinquency, A Rallying Cry for Change: Charting a New Direction in the State of Florida's Response to Girls in the Juvenile Justice System 51 (July 2006), *available at*http://www.nccdglobal.org/sites/default/files/publication_pdf/cry-for-change.pdf (finding that approximately one-third of their sample experienced a pregnancy); Cindy S. Lederman, Gayle A. Dakof, Maria A. Larrea, & Hua Li, *Characteristics of Adolescent Female in Juvenile Detention*, 27 Int'l. J.L. & Psychiatry 321, 326 (2004) (finding that 32 percent of their sample had ever been pregnant); R. Alan Williams, & Helen M. Hollis, *Health Beliefs and Reported Symptoms Among a Sample of Incarcerated Adolescent Females*, 24 J. Adolescent Health 1, 21, 24 (1999) (finding that 37 percent had been pregnant); Leslie Acoca, *Are Those Cookies for Me or My Baby? Understanding Detained and Incarcerated Teen Mothers and Their Children*, 55 Juv. & Fam. Ct. J. 65, 67 (2004) (finding that in a study of 1,000 girls in California, 29 percent had been pregnant at least once; 16 percent were pregnant while incarcerated; the average age of delivery was 14; 23 percent had a miscarriage and 29 percent had been placed in physical restraints).
65. Jennie G. Noll & Chad E. Shenk, *Teen Birth Rates in Sexually Abused and Neglected Females*, 131 Pediatrics 4, 1181, 1185 (Apr. 2013), *available at* http://pediatrics.aappublications.org/content/early/2013/03/18/peds.2012-3072.full.pdf+html ("The current set of results indicates that maltreatment, specifically sexual abuse and neglect during adolescence, significantly increased the risk of teen childbirth by 2.74-fold and 3.14-fold, respectively.").
66. The Nat'l Crittenton Found., Summary of Results: Crittenton Adverse Childhood Experiences (ACE) Pilot 6 (Oct. 24, 2012), *available at* http://www.nationalcrittenton.org/wp-content/uploads/2015/03/ACEresults.pdf.

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69. Leslie Acoca, *Are Those Cookies for Me or My Baby? Understanding Detained and Incarcerated Teen Mothers and Their Children*, *supra* note 64, at 68-72.
70. Maxine Harris & Roger D. Fallot, Envisioning a Trauma-Informed Service System: A Vital Paradigm Shift, in Using Trauma Theory to Design Service Systems 3, 3 (Maxine Harris & Roger D. Fallot, eds., 2001).
71. Tex. Criminal Justice Coal., Girls' Experiences in the Texas Juvenile Justice System 5 (Oct. 2012), *available at* http://www.texascjc.org/sites/default/files/uploads/Girls%20Experiences%20in%20the%20TX%20JJ%20System%20%28Oct%202012%29.pdf.
72. Stephanie Hawkins Anderson, *Girls in the Juvenile Justice System: The Causes and Correlates of Girls' Involvement*, *in* Delinquent Girls: Contexts, Relationships, and Adaptation, *supra* note 4, at 44 ("Girls tend to endure more trauma internally (e.g. depression, suicidal ideation/behaviors, disordered eating) before they respond overtly") (internal citations omitted)).
73. Hennessey, *supra* note 48, at 5.
74. *Id.*; Patricia K. Kerig & Julian D. Ford, Nat'l Child Traumatic Stress Network, Trauma Among Girls in the Juvenile Justice System 7 (2014), *available at* http://www.nctsn.org/sites/default/files/assets/pdfs/trauma_among_girls_in_the_jj_system_2014.pdf.
75. For analysis of substantiated cases of sexual assault in juvenile justice facilities see Howard N. Snyder & Melissa Sickmund, US Dep't of Justice, Office of Justice Programs, Office of Juvenile Justice & Delinquency Prevention, Juvenile Offenders and Victims (2006), *available at* http://www.ojjdp.gov/ojstatbb/nr2006/downloads/chapter7.pdf; For survey data on sexual assault in juvenile justice facilities see Allen Beck, David Cantor, John Hartge, & Tim Smith, US Dep't of Justice, Office of Justice Programs, Bureau of Justice Statistics, Sexual Victimization in Juvenile Facilities Reported by Youth 2012 (June 2013), *available at* http://www.bjs.gov/content/pub/pdf/svjfry12.pdf.
76. Mark Levin & Derek Cohen, Tex. Pub. Policy Found., Kids Doing Time for What's not a Crime: the Over-Incarceration of Status-Offenders 2 (Mar. 2014), *available at* file:///C:/Users/MaheenKaleem/Downloads/Kids_Doing_Time_for_Whats_Not_a_Crime__The_OverIncarceration_of_Status_Offenders.pdf ("This stemmed from the overuse of incarceration to handle nonviolent, minor offenses like running away and truancy. Such punishments have proven to be costlier than alternatives, are largely ineffective at (and, in some cases, counterproductive to) enhancing public safety, and are detrimental to the youth's development."); *See* Coal. for Juvenile Justice, SOS Project Girls, Status Offenses, and the Need for a Less Punitive and More Empowering Approach, supra note 19, at 3 ("Girls are being incarcerated for their own protection, not because of any safety threat they pose to the community.").
77. Prison Rape Elimination Act (PREA) Juvenile Facility Standards, 28 C.F.R. § 115.381 (2012) Medical and mental health screenings; history of sexual abuse.
78. Prison Rape Elimination Act Juvenile Facility Standards, 28 C.F.R. § 115.382 (2012) (Access to emergency medical and mental health services); 28 C.F.R. § 115.383. (Ongoing medical and mental health care for sexual abuse victims and abusers).
79. Prison Rape Elimination Act, 42 USC. § 15603(a)(1) (2012) ("The Bureau of Justice Statistics of the Department of Justice shall carry out, for each calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape."); *see also PREA Essentials: Data Collection and Review*, National PREA Resource Center, http://www.prearesourcecenter.org/training-technical-assistance/prea-essentials (last visited May 25, 2015).
80. *Audit and Compliance*, National PREA Resource Center, http://www.prearesourcecenter.org/faq/audit-and-compliance (Last Updated Mar. 14, 2013).
81. *See Frequently Asked Questions*, Nat'l PREA Resource Center, "Is there a limit to the number of years that a state can submit an Assurance without a reduction in Department of Justice (DOJ) grant funding?", *available at* http://www.prearesourcecenter.org/faq#n2233 (Last updated May 16, 2014) ("During the initial three year audit cycle, which ends on August 19, 2016, DOJ is not imposing a specific date by which states that submit Assurances throughout that audit cycle must come into compliance with the National PREA Standards or face a reduction in DOJ grant funding. If necessary, additional guidance will be provided by DOJ as the end of the initial three year audit cycle approaches.").
82. *Frequently Asked Questions: Applicability of Standards to Individual Settings*, (Items 6 and 7), Nat'l PREA Resource Center, http://www.prearesourcecenter.org/faq (Item 6 Last Updated Jul. 9, 2013) (Item 7 Last Updated Feb. 7, 2013).
83. *See* E. Michael Foster, Amir Qaseem & Tim Connor, *Can Better Mental Health Services Reduce the Risk of Juvenile Justice System Involvement?* 94 Am. J. Pub. Health 859 (2004); Stephen P. Becker, Patricia K. Kerig, Ji-Young Lim & Rebecca N. Ezechukwu, *Predictors of Recidivism among Delinquent Youth: Interrelations Among Ethnicity, Gender, Age, Mental Health Problems, and Posttraumatic Stress*, 5 J. Child & Adolescent Trauma 2, 145 (2012); *see also* Acoca, *supra* note 62, at 45.
84. Patricia Chamberlain, Leslie D. Leve & David S. DeGarmo, *Multidimensional Treatment Foster Care for Girls in the Juvenile Justice System: 2-Year Follow-up of a Randomized Clinical Trial*, *supra* note 62, at 190.
85. Mana Golzari, Cynthia J. Mollen & Leslie Acoca, *The Girls' Health Screen Pilot Study: A Screening Instrument for Girls in the Juvenile Detention System*, 11 J. Evidence-Based Soc. Work 480-483 (2014); Leslie Acoca, *The Girls Health Screen*, Girls Health and Justice Institute, *available at* http://www.girlshealthandjustice.org/programs/girls-health-screen/ (last visited May 25, 2015); *see also* Acoca and Lexcen, Development of the Girls' Health Screen: Technical Report (2009), *available at* http://stoneleighfoundation.org/sites/default/files/GHS2%20Technical%20Report%20For%20Web.pdf.
86. The screen, which takes between 11 and 13 minutes to administer, can identify health conditions that typical intake exams may miss, as it is administered privately via a computerized questionnaire, written at a fourth grade reading level, and available in English and Spanish. Girls may also choose to have the questions read to them through headphones. Based on a triage model, the screen identifies health needs according to a color-coded urgency scale, which allows medical providers to quickly and easily pinpoint urgent conditions requiring immediate treatment, such active suicidal ideation, lack of required medication, or incidents of sexual assault experienced just before entering the facility. All girls receive physical exams and referrals when concerns are identified. *Girls Health Screen*, Girls Health and Justice Initiative, *supra* note 85 ; Leslie Acoca, Jessica Stephens & Amanda Van Fleet, The Kaiser Family Found., Health Coverage and Care for Youth in the Juvenile Justice System: The Role of Medicaid and CHIP 11 (May 2014), *available at* http://kaiserfamilyfoundation.files.wordpress.com/2014/05/8591-health-coverage-and-care-for-youth-in-the-juvenile-justice-system.pdf.
87. Acoca, *supra* note 86, at 11.
88. *Id.* at 5.

89. *See* Am. Acad. of Pediatrics, Comm. on Adolescence, *Policy Statement: Health Care for Youth in the Juvenile Justice System supra* note 67, at 1228.
90. *Id.* at 1231-1232; *See also* Anita G. Hufft, *Supporting Psychosocial Adaptation for the Pregnant Adolescent in Corrections*, 29 MCN Am. J. Matern. Child Nurs. 122-127 (2004); The Nat'l Campaign to Prevent Teen & Unplanned Pregnancy & Georgia Campaign for Adolescent Power Potential, Help Me to Succeed: A Guide for Supporting Youth in Foster Care to Prevent Teen Pregnancy, *available at* http://thenationalcampaign.org/sites/default/files/resource-primary-download/help-me-succeed.pdf.
91. Nat'l Comm'n for Corr. Health Care, Standards for Health Servs. in Juvenile Detention & Confinement Facilities (2004); Nat'l Comm'n on Corr. Health Care, Standards for Health Servs. in Jails (2008); Nat'l Comm'n on Corr. Health Care, Standards for Health Servs. in Prisons (2008), *available at* http://www.ncchc.org/standards-resources; on shackling, see Am. Coll. of Obstetricians and Gynecologists, Committee on Health Care for Underserved Women, Health care for Pregnant & Postpartum Incarcerated Women & Adolescent Females, *supra* note 67, at 3.
92. Am. Civil Liberties Union, State Standards for Pregnancy-Related Health Care and Abortion for Women in Prison, *available at* https://www.aclu.org/maps/state-standards-pregnancy-related-health-care-and-abortion-women-prison-map#NATstandards (last visited May 25, 2015); Annie E. Casey Found., Juvenile Detention Alternatives Initiative, A Guide to Juvenile Detention Reform: Juvenile Detention Facility Assessment (2014), *available at* http://www.aecf.org/m/resourcedoc/aecf-juveniledetention-facilityassessment-2014.pdf#page=103.
93. Am. Coll. of Obstetricians and Gynecologists, Committee on Health Care for Underserved Women, Health care for Pregnant & Postpartum Incarcerated Women & Adolescent Females, Comm. Op. No. 511, *supra* note 67; Annie E. Casey Found., Juvenile Detention Alternatives Initiative, A Guide to Juvenile Detention Reform: Juvenile Detention Facility Assessment, *supra* note 92, at 175.
94. Selby M. Conrad, Nicole Placella, Marina Tolou-Shams, Christie J. Rizzo & Larry K. Brown, *Gender Differences in Recidivism Rates for Juvenile Justice Youth: The Impact of Sexual Abuse*, *supra* note 4, at 309-310.
95. *See* Emily G. Marston et al*., in* Delinquent Girls: Contexts, Relationships, and Adaptation, *supra* note, at 114 ("Collaboration between juvenile justice and community mental health systems may be a necessity, in order to supply sufficient numbers of clinical professionals who can effectively address the treatment needs of incarcerated adolescent female populations . . . [T]o maintain treatment gains made in the juvenile justice facility, empirically supported aftercare programs are necessary to facilitate these high-risk adolescent females' successful reentry into the community.").
96. 42 U.S.C. § 1396d(h)(1) (2012).
97. The MacArthur Foundation has outlined several strategies states can employ to accomplish this goal. Sarabeth Zemel, Kimm Mooney, Diane Justice & Katie Baudouin, John and Catharine T. MacArthur Found., Nat'l Acad. for State Health Policy, Facilitating Access to Health Coverage for Juvenile Justice Involved Youth 7 (Dec. 2013), *available at* http://www.nashp.org/sites/default/files/Facilitating_Access_to_Health_Care_Coverage.pdf. For example, states may do the following:
    1) suspend, rather than terminate, Medicaid eligibility to enable coverage to be reinstated as quickly as possible on release from a juvenile justice facility;
    2) implement "continuous eligibility," which allows children who enter and leave a juvenile detention facility within a 12-month period to maintain eligibility upon reentry into the community;
    3) adopt a policy of "presumptive eligibility," which permits qualified providers to make temporary eligibility determinations for Medicaid before a final determination has been made by the Medicaid agency thereby enabling youth to immediately access health services without waiting for official approval; or
    4) implement special enrollment procedures, such as by requiring juvenile justice staff to fill out Medicaid applications for every youth leaving custody.
98. Telephone Interview with Educational Advocate (Jan. 27, 2015).
99. Zahn, *supra* note 15, at 12.
100. Nat'l Women's Law Ctr., The Next Generation of Title IX: Harassment and Bullying Based on Sex 2 (June 2012), *available at* http://www.nwlc.org/sites/default/files/pdfs/nwlcharassbullying_titleixfactsheet.pdf; Am. Ass'n of Univ. Women Educ. Found., Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School 37-38 (2001), *available at* http://www.aauw.org/files/2013/02/hostile-hallways-bullying-teasing-and-sexual-harassment-in-school.pdf (On student's self-reported reactions to the high prevalence of sexual harassment in school).
101. Rebecca Chance, *A Demand for Justice in Norman OK After Three Students Were Raped and Bullied Out of School*, The Flounce, (Dec. 4, 2014), http://theflounce.com/demand-justice-norman-ok-three-students-raped-bullied-school/.
102. Rebecca Klein, *Hundreds of Students Protest Norman High School Over Alleged Bullying of Rape Victims*, Huffington Post (Nov. 24, 2014),http://www.huffingtonpost.com/2014/11/24/norman-high-school-protest_n_6214222.html.
103. *See generally* Am. Ass'n of Univ. Women Educ. Found., Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School, *supra* note 100; *see also Sexual Violence Prevention Strategies*, Centers for Disease Control and Prevention, http://www.cdc.gov/violenceprevention/sexualviolence/prevention.html (last visited May 30, 2015).
104. Zero-tolerance policies refer to school disciplinary policies that assign specific, predetermined punishments to certain behaviors regardless of the context in which the behavior occurred. Advocates have criticized these policies for being overly harsh reactions to student misbehavior that have not necessarily resulted in deterrence or reduction in violent or illegal activity on school campuses. Christopher Boccanfuso & Megan Kuhfeld, Evidence-Based, Nonpunitive Alternatives to Zero Tolerance 1-2 (Mar. 2011), *available at* http://www.childtrends.org/wp-content/uploads/2011/03/Child_Trends-2011_03_01_RB_AltToZeroTolerance.pdf.
105. Ill. State Bd. of Educ. Ensuring Success in School Task Force, Final Report to the Illinois General Assembly 32 (June 2010), *available at* http://povertylaw.org/sites/default/files/webfiles/final-essa-task-force-report-with-appendix%20(1).pdf.
106. *Hearing: Innocence for Sale: Domestic Minor Sex Trafficking, Before the Subcomm. On Crime, Terrorism, Homeland Sec., and Investigations, H. Comm. On the Judiciary*, 113th Cong. (Mar. 26, 2014) (testimony by Withelma "T" Ortiz Walker Pettigrew), *available at* (http://judiciary.house.gov/_cache/files/2ad6a4b5-09d7-41c1-90dd-44dec1dbfc69/ortiz-pettigrew-testimony.pdf.
107. *See* Linda Smith, Samantha Vardaman & Melissa Snow, Shared Hope International, The Nat'l Report on Domestic Child Sex Trafficking: America's Prostituted Children 30-32 (2009), *available at* http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf; Melissa Farley, Prostitution, Trafficking, and Cultural Amnesia: What We Must Not Know in Order To Keep the Business of Sexual Exploitation Running Smoothly 102-103 (2006), *available at* http://www.prostitutionresearch.com/Farley%202006%20-%20Prosituttion,%20Trafficking%20and%20Cultural%20Amnesia.pdf; Victims of sexual abuse are also 28 times more likely to be arrested for prostitution as adults than their peers. Francine T. Sherman & Lisa Goldblatt Grace, *The System Response to the Commercial Sexual Exploitation of Girls*, *in* Juvenile Justice: Advancing Research, Policy and Practice 336 (Francine T. Sherman & Francine H. Jacobs eds., 2011) (citing Cathy Spatz Widom, US Dep't of Justice, Office of Justice Programs, Victims of Childhood Sexual Abuse — Later Criminal Consequences 5 (March 1995), *available at* https://ncjrs.gov/pdffiles/abuse.pdf.).
108. Francine T. Sherman, *Justice for Girls, Are We Making Progress?*, *supra* note 50, at 1611 (2012). If an adult engages in sexual activity with

someone under the statutorily defined age of consent, it is considered statutory rape. In most states, the age of consent is at least 16. Global Justice Initiative, Legal Age of Consent for Marriage and Sex for the 50 United States (2011), *available at* https://globaljusticeinitiative.files.wordpress.com/2011/12/united-states-age-of-consent-table11.pdf. However, only a handful of states have legislation with provisions that ensure that minors are immune from prosecution for prostitution or prostitution-related offenses, leaving most children vulnerable to arrests on prostitution or prostitution-related charges. Shared Hope Int'l, JuST Response Mapping Report, *supra* note 50, at 11.

109. Shared Hope Int'l, State Survey Laws: Factors Affecting Child Protective Services Involvement in Commercial Sexual Exploitation of Minors Cases (2014), *available at* http://sharedhope.org/wp-content/uploads/2014/06/Shared-Hope-State-law-survey_CPSInvolvement_through-8.1.pdf.
110. *Id.*; US Dep't of Health and Human Servs., Admin. For Children & Families, Child Welfare Information Gateway, State Statutes: Current Through June 2014 2, *available at* https://www.childwelfare.gov/pubPDFs/define.pdf (Seven states define human trafficking as a form of sexual abuse in their child welfare laws and four states define human trafficking as a form of physical abuse).
111. Shared Hope Int'l & Casey Family Programs, Traffic Stop: A Discussion about Child Welfare and Judicial Strategies for Preventing Juvenile Sex Trafficking and Helping Its Survivors 18-21 (2014), *available at* http://sharedhope.org/wp-content/uploads/2014/08/Traffic-Stop-FINAL.pdf.
112. *Hearing: Innocence for Sale: Domestic Minor Sex Trafficking, Before the Subcomm. On Crime, Terrorism, Homeland Sec., and Investigations, H. Comm. On the Judiciary*, 113th Cong. (Mar. 26, 2014) (testimony by Withelma "T" Ortiz Walker Pettigrew), *supra* note 106 ("Like me, any youth in foster care becomes accustomed to adapting to multiple moves from home to home which allows us to easily then adapt when traffickers/pimps/exploiters move us multiple times, from hotel to hotel, city to city, and/or state to state. For myself, as unfortunate as it is to say, the most consistent relationship I ever had in care was with my pimp and his family.").
113. Kate Walker, California Child Welfare Council, Ending the Commercial Exploitation of Children: A Call for a Multisystem Collaboration in California 18-19 (2013), *available at* http://www.youthlaw.org/fileadmin/ncyl/youthlaw/publications/Ending-CSEC-A-Call-for-Multi-System_Collaboration-in-CA.pdf.
114. Preventing Sex Trafficking and Strengthening Families Act, P.L. 113-183 (2014).
115. 22 U.S. C. § 7102(9)(A) (2015).
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119. Jessica R. Kendall, Am. Bar Ass'n Div. for Pub. Educ., Juvenile Status Offenses: Treatment and Early Intervention, Technical Assistance Bulletin No. 29, 1 (2007), *available at* http://www.americanbar.org/content/dam/aba/migrated/publiced/tab29.authcheckdam.pdf.
120. Sarah Hockenberry & Charles Puzzanchera, Nat'l Ctr. for Juvenile Justice, Juvenile Court Statistics 2011, Chapter 4: National Estimates of Petitioned Status Offense Cases, 71 (2011), *available at* http://www.ncjj.org/pdf/jcsreports/jcs2011.pdf.; Sickmund, *supra* note 8.
121. Hockenberry, *supra* note 120, at 12, 71 ("Males were involved in 72% of the delinquency cases handled by juvenile courts in 2011") and 71("Males accounted for 59% of the total petitioned status offense caseload in 2011.").
122. Melissa Sickmund, Anthony (T.J.) Sladky, Wei Kang & Charles Puzzanchera, US Dep't of Justice, Nat'l Ctr. for Juvenile Justice, *Easy Access to the Census of Juveniles in Residential Placement, Offense Profile of Detained Residents by Sex and Race/Ethnicity for United States* 2011, *available at* http://www.ojjdp.gov/ojstatbb/ezacjrp/asp/Offense_Detained.asp (In 2011, girls were only 16.2% of detained residents, but were 36.8% of youth detained for a status offense).
123. Id. (In 2011, girls were only 12.3% of total number of juveniles committed to residential placements, but they were 40.3% of youth committed for a status offense).
124. *Id.* at 3-4. *See also* Francine T. Sherman, Richard A. Mendel, & Angela Irvine, Annie E. Casey Found., Making Detention Reform Work for Girls: A Guide to Juvenile Detention Reform, *supra* note 5, at 11-12; US Dep't of Educ., Office of Safe and Healthy Students, Human Trafficking in America's Schools 5-8 (2015), *available at* https://safesupportivelearning.ed.gov/sites/default/files/HumanTraffickinginAmericasSchools.pdf; US Dep't of Educ., Office of Safe and Drug-Free Schools, *available at* http://files.eric.ed.gov/fulltext/ED498514.pdf (2007).
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133. See 42 U.S.C. §§ 5633(a)(11)-(13), (22) (2012).
134. Nat'l Council of Juv. and Fam. Ct. Judges, Resolution Supporting Reauthorization of JJDP Act and Elimination of VCO Exception, *available at* http://www.ncjfcj.org/sites/default/files/vcoresolution3-10.pdf; *See also* Gary Gately, *New Report Finds Incarceration for 'Status Offenses' Still Widespread,* Juvenile Justice Information Exchange (Apr. 10, 2015), http://jjie.org/new-report-finds-incarceration-for-status-offenses-still-wide-

spread/108565/ (recommending against detention for status offense behaviors). For a history of the valid court order exception, see Barry C. Field, *Violent Girls or Relabeled Status Offenders?: An Alternative Interpretation of the Data*, 55 Crime & Delinquency 243, 243-246 (2009).

135. According to the Office of Juvenile Justice and Delinquency Prevention, 27 states plus the District of Columbia still use the VCO exception. US Dep't of Justice, Office of Justice Programs, Office of Juvenile Justice & Delinquency Prevention, http://www.ojjdp.gov/compliance/FY2013-FY%20 2014VCO-state.pdf; *see also* Coal. for Juvenile Justice, SOS Project, Status Offenses: A National Survey 8 (2015), *available at* http://www.juvjustice.org/sites/default/files/resource-files/Status%20Offenses%20-%20A%20National%20Survey%20-FINAL%20-%20WEB.pdf.
136. Jennifer Schwartz & Darrell Steffensmeier, *Stability and Change in Girls' Delinquency and the Gender Gap: Trends in Violence and Alcohol Offending Across Multiple Sources of Evidence*, *in* Delinquent Girls: Context, Relationships and Adaptation, *supra* note 4, at 5 ("Policy shifts toward stretched definitions of what constitutes law-violating behavior . . . leads to enhanced sanctioning for aggressive conduct among youth overall but even more so among girls who tend to commit the milder, less serious forms of physical attacks or threats.") (internal citations omitted). One example of net-widening is ending the practice of "up-charging," in which girls who have committed a status offense are instead charged with misdemeanor offenses to evade the restrictions of the JJDPA. Barry C. Feld, *Violent Girls or Relabeled Status Offenders?: An Alternative Interpretation of the Data*, *supra* note 134, at 253.
137. Feld, *supra* note 134, at 253.
138. *See generally* Kerig, *supra* note 74.
139. Nat'l Child Traumatic Stress Network & Nat'l Council of Juv. And Fam. Ct. Judges, NCTSN Bench Card for the Trauma-Informed Judge, available at http://www.nctsn.org/sites/default/files/assets/pdfs/judge_bench_cards_final.pdf (last visted May 27, 2015); *see also Resources for Justice Professionals, Law Enforcement and First Responders, For Juvenile Justice Professionals/Law Enforcement/First Responders*, Nat'l Child Traumatic Stress Network, http://www.nctsn.org/category/products/juvenile-justice-professionalslaw-enforcementfirst-responders (last visited May 27, 2015).
140. Patricia K. Kerig & Julian D. Ford, Nat'l Child Traumatic Stress Network, Trauma Among Girls in the Juvenile Justice System, *supra* note 74.
141. Many children are involved in both the juvenile justice and child welfare systems; these children are known by a variety of terms, including "crossover," "dual system," "dual- involved," or "dually-adjudicated" youth. The broadest term for these children is "crossover youth," which refers to all youth who have experienced child abuse or maltreatment and engaged in delinquency, whether or not they are ever known to child protective services or the juvenile justice system According to that definition, "crossover youth" would encompass all children who enter the abuse-to-prison-pipeline. Denise Herz et al., Georgetown Univ., Ctr. for Juvenile Justice Reform, Addressing the Needs of Multi-System Youth: Strengthening the Connection Between Child Welfare and Juvenile Just. 1 (2012), *available at* http://cjjr.georgetown.edu/wp-content/uploads/2015/03/MultiSystemYouth_March2012.pdf.
142. Shay Bilchik & Judge Michael Nash, *Child Welfare and Juvenile Justice: Two Sides of the Same Coin, Juvenile and Family Justice Today* 17-18 (Fall 2008), *available at* http://cjjr.georgetown.edu/pdfs/Fall%2008%20 NCJFCJ%20Today%20feature.pdf.
143. *Id.* at 17; Herz, *supra* note 141, at 2 (stating that majority are male but the proportion of females among cross-over youth is much higher than proportion of females in general delinquency).
144. Herz, supra note 141, at 16-17.
145. *Joseph P. Ryan & Denise C. Herz, Crossover Youth and Juvenile Justice Processing in Los Angeles County, Ctr. for Families, Children & The Courts Research Update 4 (Dec. 2008), available at http://www.courts.ca.gov/documents/AB129-CrossoverResearchUpdate.pdf. See also* Kerig, *supra* note 4, at 134; Jennifer L. Woolard, *Crossing Over: Girls at the Intersection of Juvenile Justice, Criminal Justice, and Child Welfare*, *in* Delinquent Girls: Context, Relationships, and Adaptation, *supra* note 4, at 34 (comparing the child welfare and non-child welfare samples, the child welfare sample was more likely to be female, younger, African American and Hispanic. Thirty seven percent of the crossover sample was female, compared to 24% of non-child welfare youth).
146. Irvine, *supra* note 13 ("While 14% of gender-conforming girls in the juvenile justice system were previously removed from their homes by social workers, 40% of GNC girls were previously removed. While 6% of gender-conforming girls in the juvenile justice system were placed in group homes because someone was hurting them, 24% of GNC girls had this experience.").
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148. John D. & Catherine T. MacArthur Found., Models for Change, Is there a Link Between Child Welfare and Disproportionate Minority Contact in Juvenile Justice? 2 (Dec. 2011), *available at* http://www.naco.org/programs/csd/Documents/Criminal%20Justice/Juvenile%20Justice%20Page/Dual%20Status%20Youth/06%20Knowledge_Brief_Is_There_a_Link_between_Child_Welfare_and_Disproportionate_Minority_Contact_in_Juvenile_Justice.pdf.
149. Georgetown Univ., Ctr. for Juvenile Justice Reform, Crossover Youth Practice Model 93 (2010), *available at* http://cjjr.georgetown.edu/wp-content/uploads/2014/12/cypm.pdf (listing characteristics of crossover youth and stating that two studies found that "African American youth are overrepresented in the crossover numbers relative to the general population, child welfare referrals, and juvenile justice referrals"); *see* Denise Herz & Joseph P. Ryan, Georgetown Univ., Ctr. for Juvenile Justice Reform, Building Multisystem Approaches in Child Welfare and Juvenile Justice (2008); Michelle L. Saeturn & Janay R. Swain, Exploring Characteristics and Outcomes of 241.1 Youth in Alameda County (2009); John D. & Catherine T. MacArthur Found., Models for Change, Is there a Link Between Child Welfare and Disproportionate Minority Contact in Juvenile Justice?, *supra* note 148, at 3.
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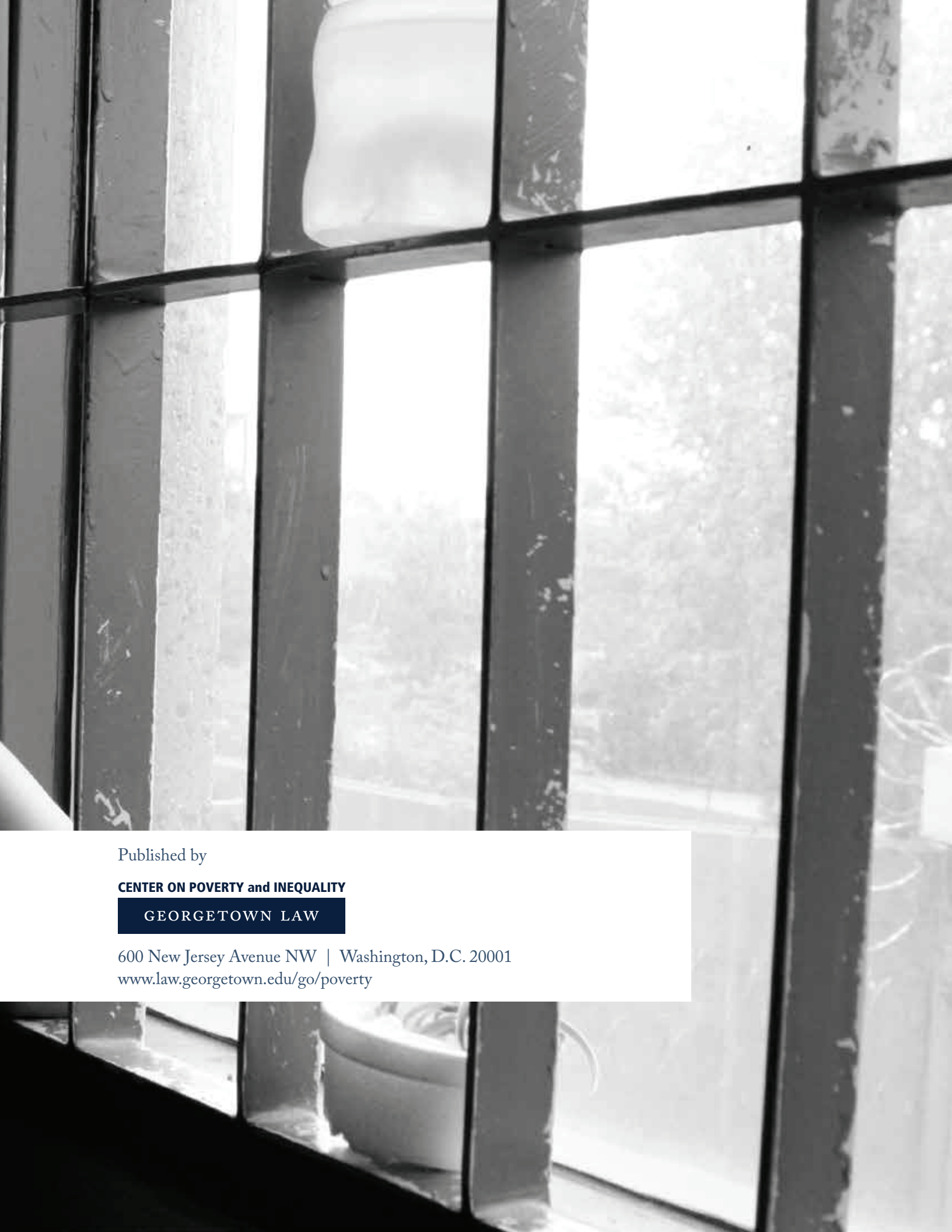

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