

THE SEXUAL ABUSE TO PRISON PIPELINE: THE GIRLS' STORY

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 are 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 percep-

tion 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

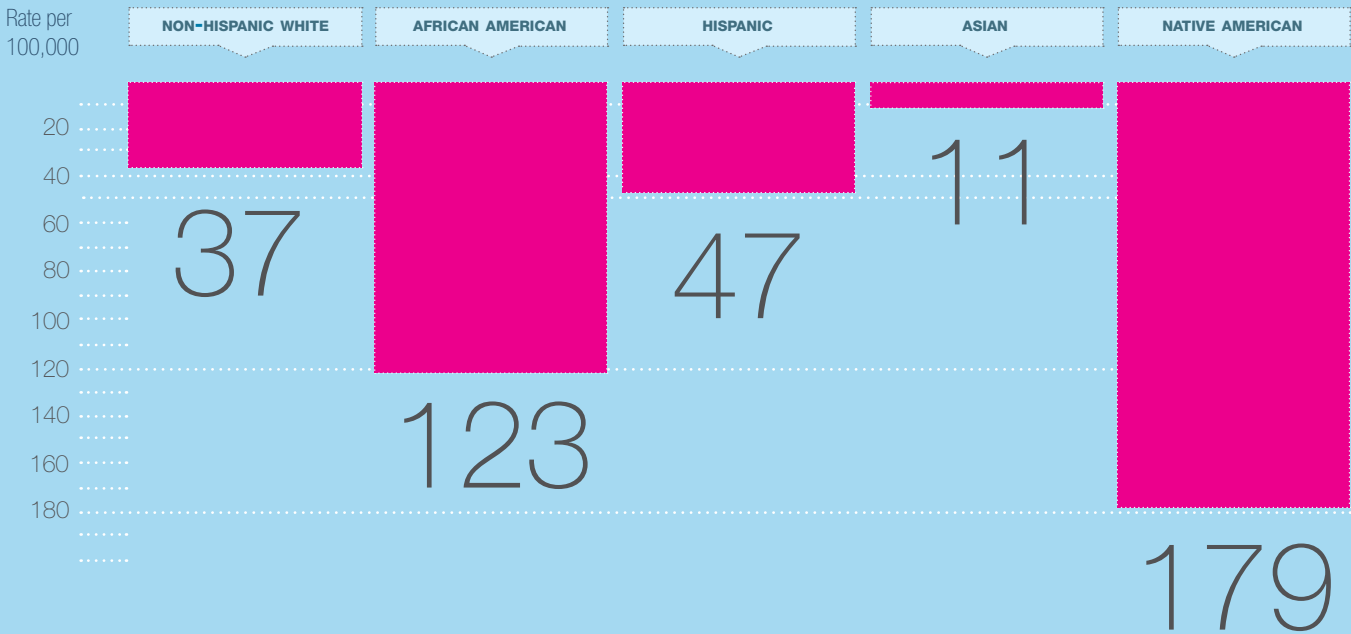
LGBT/GNC Girls

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

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

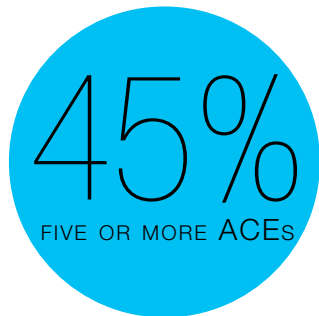
Similarly, in a 2009 study of delinquent girls in South Carolina, 81 percent reported a history of sexual violence, and 42 percent reported dating violence.²³

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



BOYS IN JUVENILE JUSTICE



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

OREGON

93%

OF GIRLS

SEXUALLY OR PHYSICALLY ABUSED

76%

OF GIRLS

SEXUALLY ABUSED

63%

OF GIRLS

SEXUALLY & PHYSICALLY ABUSED

FLORIDA

84%

OF GIRLS

VICTIMS OF FAMILY VIOLENCE

31%

OF GIRLS

SEXUALLY ABUSED

41%

OF GIRLS

PHYSICALLY ABUSED

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>.

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).

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

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: 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.

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

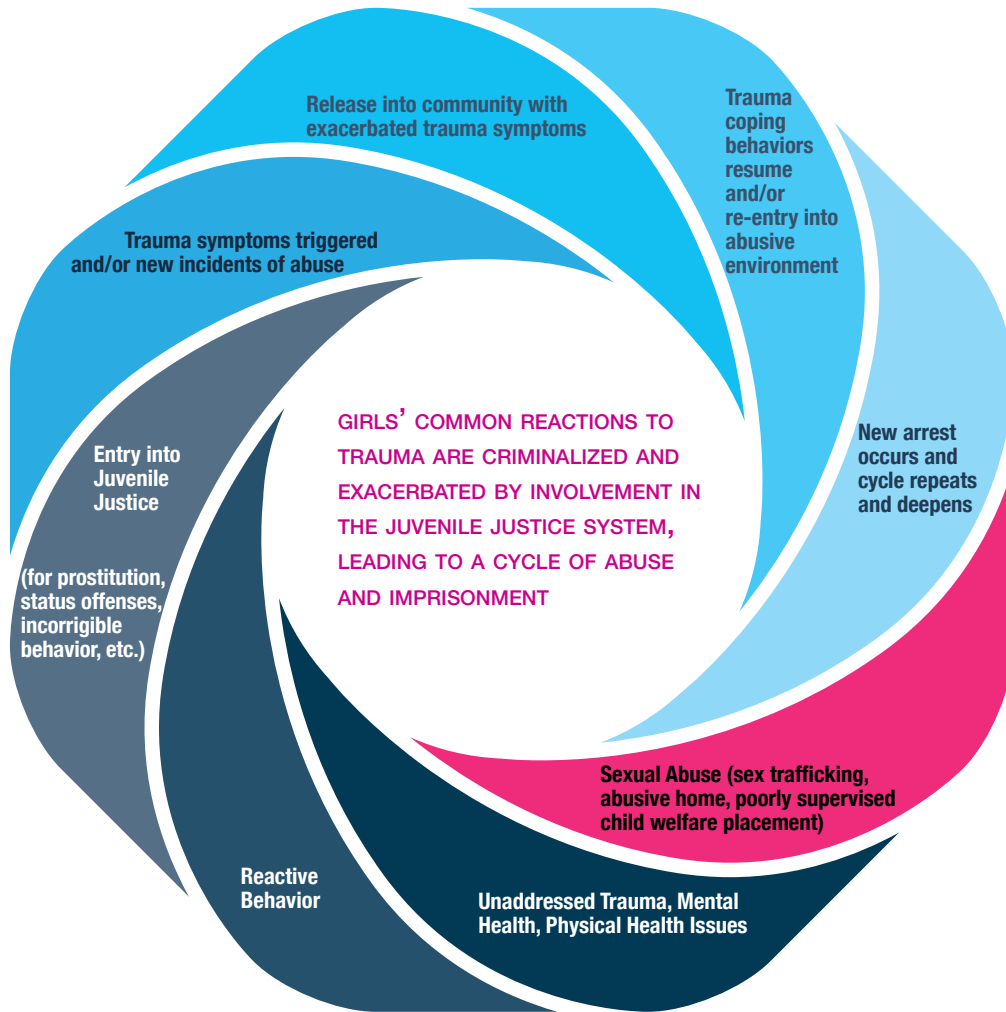
Yet despite the body of research showing that the effect of trauma and abuse drives girls into juvenile justice,⁴⁹ the system itself typically overlooks the context of abuse when determining whether to arrest or charge a girl, often with a minor offense. When law enforcement views girls as perpetrators, 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.

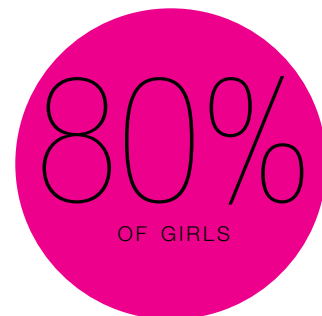
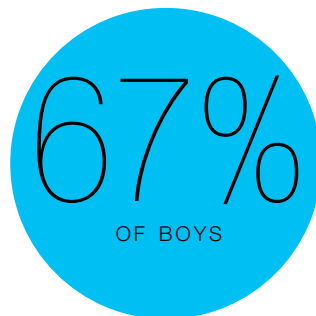
The NCTSN has noted the unique link between trauma and mental health for girls: "[S]tudies have consistently found that among those who are exposed to trauma, females are more likely than males to develop mental health problems as a result."⁵¹ And, consistent with the link between trauma and contact 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.ncmhhj.com/wp-content/uploads/2013/07/7.-PrevalenceRPB.pdf>.

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 JJDPA 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 NCCHC⁹¹ 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 policies¹⁰⁴ 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.

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, prosti-

tution-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.

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 plans¹⁸⁶ 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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16. ZAHN, *supra* note 14, at 3-4; Schwartz, *supra* note 4 at 20-21; See also Kerig, *supra* note 4, at 121, 134-135; Am. Bar Ass'n & Nat'l Bar Ass'n,

- Justice By Gender: The Lack of Appropriate Prevention, Diversion, and Treatment Alternatives for Girls in the Juvenile Justice System*, *supra* note 14.
17. 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 5-6 ("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."); ZAHN, *supra* note 15, at 6 ("Because arrests for assault increased without corresponding increases in arrests for homicide or robbery, these analysts attribute the increases in assault arrests to changes in law enforcement policies, such as responses to domestic violence, rather than to actual increases in assaults").
 18. SHERMAN, DETENTION REFORM AND GIRLS: CHALLENGES AND SOLUTIONS, *supra* note 5, at 29-34; SHERMAN, MAKING DETENTION REFORM WORK FOR GIRLS: A GUIDE TO JUVENILE DETENTION REFORM, *supra* note 5, at 7.
 19. Jyoti Nanda, *Blind Discretion: Girls of Color & Delinquency in the Juvenile Justice System*, 59 UCLA L. REV. 1502, 1529-1530 (2012); Tina L. Freiburger & Alison S. Burke, *Status Offenders in the Juvenile Court: The Effects of Gender, Race, and Ethnicity on the Adjudication Decision*, 9 YOUTH VIOLENCE & JUVENILE JUSTICE 4, 352, 354 (2011); Patricia K. Kerig & Stephen P. Becker, *Trauma and Girls Delinquency*, in DELINQUENT GIRLS: CONTEXTS, RELATIONSHIPS, ADAPTATIONS, *supra* note 4, at 120; *see also* COALITION FOR JUVENILE JUSTICE, SOS PROJECT, EMERGING ISSUES POLICY SERIES, ISSUE No. 1 3-4 (2013), available at <http://juvjustice.org/sites/default/files/resource-files/SOS%20Project%20-%20Girls,%20Status%20Offenses%20and%20the%20Need%20for%20a%20Less%20Punitive%20and%20More%20Empowering%20Approach.pdf>.
 20. SHERMAN, MAKING DETENTION REFORM WORK: A GUIDE TO JUVENILE DETENTION REFORM, *supra* note 5, at 19; MARGARET ZAHN, STEPHANIE HAWKINS, JANET CHIANCONE & ARIEL WHITWORTH, US DEP'T OF JUSTICE, GIRLS STUDY GROUP: UNDERSTANDING GIRLS' DELINQUENCY, *supra* note 14, at 3; Dana K. Smith, Leslie D. Leve & Patricia Chamberlain, *Adolescent Girls' Offending and Health Risking Sexual Behavior: The Predictive Role of Trauma*, 11 CHILD MALTREATMENT 4, 346,346-347 (Nov. 2006).
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 22. Dana K. Smith, Leslie D. Leve & Patricia Chamberlain, *Adolescent Girls' Offending and Health Risking Sexual Behavior: The Predictive Role of Trauma*, *supra* note 20, at 350.
 23. 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>.
 24. Leslie Acoca, *Outside/Inside: The Violation of American Girls at Home, on the Streets, and in the Juvenile Justice System*, 44 CRIME & DELINQUENCY 4, 561, 566 (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.
 25. *Id.* at 567.
 26. Patricia Chamberlain & Kevin J. Moore, *Chaos And Trauma In The Lives Of Adolescent Females With Antisocial Behavior And Delinquency*, 6 JOURNAL OF AGGRESSION, MALTREATMENT, AND TRAUMA 1, 79, at 92 (2002).
 27. Dana D. Dehart, *supra* note 23, at 32.
 28. Acoca, *supra* note 24, at 567.
 29. Chamberlain, *supra* note 26, at 92.
 30. Mary C. Marsiglio, Krista M. Chronister, Brandon Gibson & Leslie D. Leve, *Examining the Link Between Traumatic Events and Delinquency Among Juvenile Delinquent Girls: A Longitudinal Study*. 7 J. CHILD AND ADOLESCENT TRAUMA 4, 217, 224-225 (Dec. 2014), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4286894/> ("Study results point to a prospective predictive relationship between previous trauma event exposure and future delinquency for pre-high school entry girls only. For older girls, results suggest that previous trauma experiences were predictive of future trauma experiences, but not future delinquency.
 31. The Adverse Childhood Experiences (ACEs) study conducted by Dr. Felitti with Kaiser Permanente and the Centers for Disease Control revealed that the higher a child's ACE score – that is, the greater then number of adverse childhood experiences, including sexual and physical abuse — the greater her risk of mental and physical health problems throughout her life. V.J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences Study*, 14 AM. JOURNAL OF PREVENTIVE MEDICINE 4, 245 (1998). The ten categories of ACEs used in recent studies of youth in the juvenile justice system include emotional abuse, physical abuse, sexual abuse, emotional neglect, physical neglect, family violence, household substance abuse, household mental illness, parental separation or divorce, and having an incarcerated household member. The experience of childhood trauma has been proven to lead to many negative long-term health consequences and juvenile justice involvement. *See, e.g.*, 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 Experience (ACE) in the Lives of Juvenile Offenders*, 3 J. OF JUV. JUSTICE 2, 11 (Spring 2014), available at <http://www.journalofjuvjustice.org/JOJJ0302/JOJJ0302.pdf> ("ACEs not only increase the chances of involvement in the juvenile justice system but the risk of re-offense. A focused effort on early identification of ACEs, and intervention for ACEs with a goal of improving youth life circumstances and preventing criminal behavior may reduce likelihood and costs related to juvenile criminal activities.").
 32. Baglivio, *The Prevalence of Adverse Childhood Experience (ACE) in the Lives of Juvenile Offenders*, *supra* note 31, at 9 (Fig. 1).
 33. *Id.*; *See also* Karen Baynes-Dunning & Karen Worthington, *Responding to the Needs of Adolescent Girls in Foster Care*, XX GEO. J. POVERTY L. & POL'Y 2, 324 (2013), available at http://karenworthington.com/uploads/2/8/3/9/2839680/adolescent_girls_in_foster_care.pdf (analyzing the three primary data sets on child maltreatment and finding that sexual abuse was the driving factor of girls experiencing higher overall maltreatment rates as compared to their male peers).
 34. The Florida study replicated the finding of several other studies, including Erin M. Espinosa, Jon R. Sorenson, & Molly A. Lopez, *Youth Pathways to Placement: The Influence of Gender, Mental Health Need and Trauma on Confinement in the Juvenile Justice System*, 42 J. YOUTH & ADOLESCENT DEV. 1824, 1830 (2013); Julian D. Ford et al., *Poly-Victimization and Risk of Posttraumatic, Depressive, and Substance Use Disorders and Involvement in Delinquency in a National Sample of Adolescents*, 46 J. ADOLESCENT HEALTH 545, 548 (2010); DEHART, *supra* note 23, at 11-12.
 35. Kerig, *supra* note 4, at 134 (citing Abram 2002; Belknap and Holsinger 2006; Dembo 1998; Ford 2008; Johansson and Kempf-Leonard 2009; Kerig 2009, 2010; Lawyer 2006; McCabe 2002; Taylor 2008; Wood 2002; Yoshinaga 2004).
 36. Other forms of abuse occurred in less disproportionate rates. Baglivio, *supra* note 31, at 4.
 37. Kerig, *supra* note 4, at 134.
 38. *See* 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.ejpt.net/index.php/ejpt> to <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3714673/> (last visited May 18 2015); Selby M. Conrad, Nicole Placella, Marina Tolou-Shams, Christie J. Rizzo, and Larry K. Brown, *Gender Differences in Recidivism Rates for Juvenile Justice Youth: The Impact of Sexual Abuse*, *supra* note 4, at 310.

39. Robert L. Listenbee Jr., ET AL., US DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, REPORT OF THE ATTORNEY GENERAL'S NATIONAL TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE 21 (Dec. 12, 2012), available at <http://www.justice.gov/defending-childhood/cev-rpt-full.pdf>. ("The vast majority of children involved in the juvenile justice system have survived exposure to violence and are living with the trauma of those experiences.")
40. Smith, *supra* note 20, at 350; see also 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.
41. Conrad, *supra* note 4, at 309-10.
42. *Id.* ("Childhood sexual abuse (CSA) is a potent risk factor for delinquency and subsequent juvenile justice involvement, especially for young women (Chesney-Lind, 1997; Gavazzi et al., 2006; Hubbard & Pratt, 2002)"); see also Anderson, *supra* note 4, at 44.
43. 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.
44. *Tip Sheet: Warning Signs of Possible Sexual Abuse in a Child's Behaviors*, STOP IT NOW!, <http://www.stopitnow.org/ohc-content/tip-sheet-7> (last visited May 25, 2015).
45. NAT'L COAL. FOR THE HOMELESS, FACT SHEET: HOMELESS YOUTH 1 (June 2008), available at <http://www.nationalhomeless.org/factsheets/youth.pdf> (citing US Dep't of Health & Human Servs., National Evaluation of Runaway and Homeless Youth (1997)).
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47. Anderson, *supra* note 4, at 44 (citing Dixon 2004, Breslau 1991; Cauffman 1998; Hoyt and Scherer 1998; Rivera and Widon 1990)).
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49. *E.g.* DELINQUENT GIRLS: CONTEXTS RELATIONSHIPS AND ADAPTATION, *supra* note 4.; Margaret Zahn et al., US DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, CAUSES AND CORRELATES OF GIRLS DELINQUENCY (Apr. 2010), available at <https://www.ncjrs.gov/pdffiles1/ojdp/226358.pdf>.
50. See Francine T. Sherman, *Justice for Girls: Are We Making Progress*, 59 UCLA L. REV 1584, 1602-1612 (2012), available at <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1870&context=lsfp>; See also SHARED HOPE INT'L, JUST RESPONSE STATE SYSTEMS MAPPING REPORT 14 (2015), available at http://issuu.com/julianbach/docs/just_response_mapping_report_digita?e=5039581/12008488 ("States assert several reasons for considering alternatives to immunity laws. Many feel they do not have safe placement alternatives to detention. In states where child protective services is unable to investigate juvenile sex trafficking because laws bringing these cases within their mandate are not in place, a juvenile justice response may be the only system option available to intervene in the minor's exploitation. In states that employ a diversion response, the option to charge trafficked children with delinquency for prostitution offenses allows the court to mandate participation in a trauma-informed diversion program that may encourage victims overcoming trauma bonds to be more cooperative in their treatment plan. However, while detention may guarantee separation from traffickers, it does not necessarily guarantee safety and rarely offers trauma-informed services.")
51. HENNESSEY, *supra* note 48, at 4.
52. *Id.*
53. See Kerig, *supra* note 4, at 120, 134 ("One reason to hypothesize that PTSD is differentially related to girls' delinquency is that PTSD, in general, is a gender-linked disorder. Across samples and ages, a well-replicated finding is that women and girls are more likely to be diagnosed with PTSD than men and boys, even in the context of exposure to the same traumatic event (citing Tolin and Foa (2006).").
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57. ANDREA J. SEDLAK & KARLA S. MCPHERSON, US DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, YOUTH'S NEEDS AND SERVICES: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT 8 (Apr. 2010), available at <https://www.ncjrs.gov/pdffiles1/ojdp/227728.pdf>.
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60. *Id.* at 9.
61. *Id.* at 9.
62. LESLIE ACOCA, NAT'L COUNCIL ON CRIME & DELINQUENCY, EDUCATE OR INCARCERATE? GIRLS IN FLORIDA AND DUVAL COUNTY 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/>.
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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).
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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).
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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).
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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/GHS%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/resource/aecf-juvenile-detention-facility-assessment-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 BAUDOIN, 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/nwlccharasbullying_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_AIToZeroTolerance.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](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-%20Prostitution,%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).
 116. At least 28 states that have passed legislation that seeks to treat victims of domestic child sex trafficking as victims and divert them away from the juvenile justice system. NAT'L CONFERENCE OF STATE LEGS., HUMAN TRAFFICKING OVERVIEW, <http://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-overview.aspx#SafeHarbor> (last visited May 26, 2015). At least 5 states have pending legislation. At the time of the writing of this paper, at least two of the states with pending legislation have passed safe harbor bills. SHARED HOPE INT'L, JUST RESPONSE MAPPING REPORT, *supra* note 50, at 8.
 117. SHARED HOPE INT'L, DEMANDING JUSTICE 4 (2014), available at http://sharedhope.org/wp-content/uploads/2014/08/Demanding_Justice_Report_2014.pdf.
 118. 18 U.S.C. § 1591 (2012). Indeed, the courts have held that "[t]he unambiguous text of §1591 makes no distinction between suppliers and purchasers of commercial sex acts with children." *United States v. Jungers*, 702 F.3d 1066, 1072 (8th Cir. 2013).
 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 Puzanchera, 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).
 125. SUE BURRELL, NAT'L CTR. FOR CHILD AND TRAUMATIC STRESS, TRAUMA AND THE ENVIRONMENT OF CARE IN JUVENILE INSTITUTIONS 3 (2013), available at http://www.njcn.org/uploads/digital-library/NCTSN_trauma-and-environment-of-juvenile-care-institutions_Sue-Burrell_September-2013.pdf.
 126. HOCKENBERRY, *supra* note 120, at 71; See also, SYDNEY MCKINNEY, VERA INSTITUTE OF JUSTICE, STATUS OFFENSE REFORM CENTER, RUNAWAY YOUTH: A RESEARCH BRIEF 1-2 (May 28, 2014), available at http://www.statusoffensereform.org/wp-content/uploads/2014/05/Running-Away_Final.pdf.
 127. SYDNEY MCKINNEY, VERA INSTITUTE OF JUSTICE, STATUS OFFENSE REFORM CENTER, RUNAWAY YOUTH: A RESEARCH BRIEF, *supra* note 126 at 1-2.
 128. Francine T. Sherman, *Justice for Girls: Are We Making Progress?*, *supra* note 50, at 12 ("In 2009, girls made up 55 percent of youth arrested for running away; prostitution was the only other crime for which girls made up the majority of arrests."); *supra* note 119, at 1.
 129. JODY M. GREENE, ET AL., US DEP'T OF HEALTH AND HUMAN SERVS., ADMIN. ON CHILDREN, YOUTH, AND FAMILIES, SEXUAL ABUSE AMONG HOMELESS ADOLESCENTS: PREVALENCE, CORRELATES, AND SEQUELAE ES-2 (2002), available at http://www.acf.hhs.gov/sites/default/files/opre/sex_abuse_hmless.pdf; Kimberly A. Tyler, Dan R. Hoyt & Les B. Whitbeck, *The Effects of Early Sexual Abuse on Later Sexual Victimization Among Female Homeless and Runaway Adolescents*, 15 J. INTERPERSONAL VIOLENCE 246 (Mar. 2000), available at <http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1031&context=sociologyfacpub>; Kimberly A. Tyler, Kellie J. Hagenew & Lisa A. Melander, *Risk Factors for Running Away Among a General Population Sample of Males and Females*, 43 YOUTH & SOC'Y 583, 598 (Jun. 2011); Sanna J. Thompson, Kimberly Bender & Jihye Kim, *Family Factors as Predictors of Depression Among Runaway Youth: Do Males and Females Differ?* 28 CHILD & ADOLESCENT SOC. WORK 35, 44-45 (2011).
 130. SYDNEY MCKINNEY, VERA INSTITUTE OF JUSTICE, STATUS OFFENSE REFORM CENTER, RUNAWAY YOUTH: A RESEARCH BRIEF, *supra* note 126, at 2.
 131. Lisa Thrane, Kevin Yoder & Xiaojin Chen, *The Influence of Running Away on the Risk of Female Sexual Assault in the Subsequent Year*, 26 VIOLENCE & VICTIMS 825 (2011).
 132. SARAH HOCKENBERRY & CHARLES PUZZANCHERA, NAT'L CTR. FOR JUVENILE JUSTICE, JUVENILE COURT STATISTICS 2011, CHAPTER 4: NATIONAL ESTIMATES OF PETITIONED STATUS OFFENSE CASES, *supra* note 120, at 81, 85.
 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. Feld, *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%202014VCO-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 JJDP. 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 visited 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://cjr.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://cjr.georgetown.edu/pdfs/Fall%2008%20NCJFCJ%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.").
 147. See, e.g., K. MAJID, J. MARKSAMER, AND C. REYES, HIDDEN INJUSTICE: LESBIAN, GAY, BISEXUAL AND TRANSGENDER YOUTH IN JUVENILE COURTS 94 (Fall 2009), available at http://www.equityproject.org/pdfs/hidden_injustice.pdf; Hannah Brückner and Kathryn E. W. Himmelstein, *Criminal-Justice and School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study*, 127 PEDIATRICS 49-57 (2011), available at <http://pediatrics.aappublications.org/content/early/2010/12/06/peds.2009-2306.full.pdf+html> (first published online on Dec. 6, 2010).
 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://cjr.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.
 150. 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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