

BEYOND THE WALLS:

A Look at Girls in D.C.'s Juvenile Justice System

Rights4Girls and the Georgetown Juvenile Justice Initiative



**Juvenile
Justice
Initiative**
GEORGETOWN LAW

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ABOUT THE AUTHORS' ORGANIZATIONS

Rights4Girls

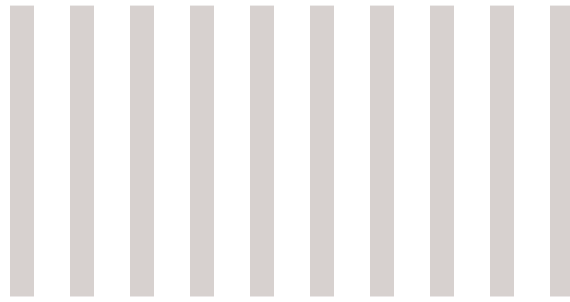
Rights4Girls is a human rights organization dedicated to ending gender-based violence against young women and girls in the U.S. We work to change the narrative and policies that allow girls to be criminalized when they are victimized and advocate for approaches and interventions that provide girls and young women with safety and support. Our work includes advocacy at the federal, state, and local levels as well as public education campaigns, coalition building, research, and training and technical assistance. We center the voices and needs of our most marginalized girls to ensure that all of our work is far-reaching and intersectional. See more at www.rights4girls.org.

Georgetown Juvenile Justice Initiative

The Georgetown Juvenile Justice Initiative at the Georgetown Juvenile Justice Clinic seeks to raise the level of practice among juvenile defenders, both regionally and nationally. Our mission is to support, educate, and cultivate a community of attorneys practicing in our region, while simultaneously working to change the very systems in which our lawyers operate to improve our clients' lives. Our unique position as a law school initiative allows us to harness the skills of law students, while offering students experiential learning opportunities in the field of juvenile justice. See more at <https://www.law.georgetown.edu/academics/academic-programs/clinical-programs/our-clinics/JJC/new-projects/>.

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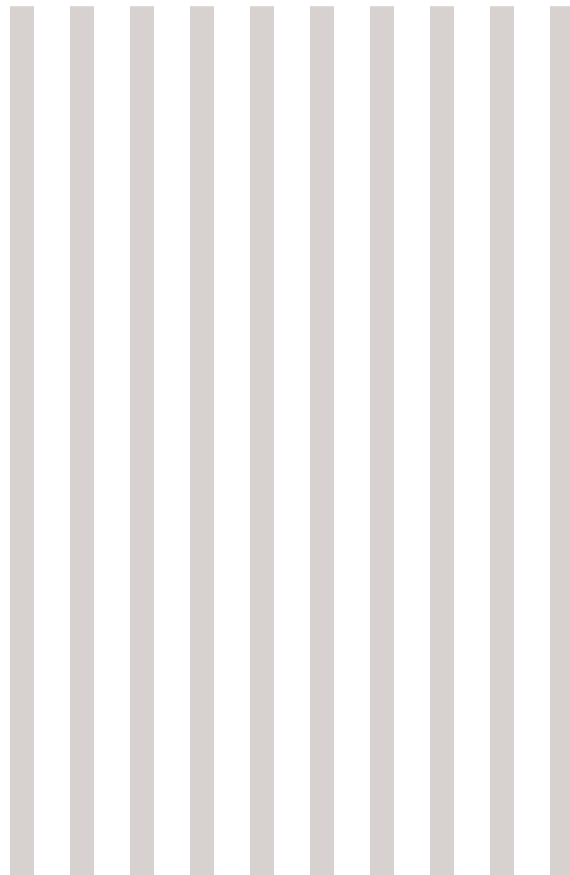


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86% OF
ARRESTS OF GIRLS
IN D.C. ARE FOR
NON-VIOLENT,
NON-WEAPONS
RELATED OFFENSES

GIRLS TODAY MAKE UP A LARGER PORTION
OF SYSTEM-INVOLVED YOUTH THAN IN
PREVIOUS YEARS.

IN D.C., BLACK GIRLS ARE SIGNIFICANTLY
OVERREPRESENTED IN THE JUVENILE
JUSTICE SYSTEM.

OVER TIME, THE PROPORTION OF 13 TO 15-
YEAR-OLD GIRLS ENTERING THE JUVENILE
JUSTICE SYSTEM HAS GROWN
AT THE GREATEST RATE.



Introduction

Both nationally and in the District of Columbia, boys have made up a vast majority of the juvenile justice population. Consequently, research, best practices, system reform efforts, and policies have been primarily based on the male population.¹ In the past two decades, overall rates of youth involvement in the juvenile justice system have declined, yet the share of girls arrested, petitioned to court, placed on probation, and placed out of home has steadily increased.² Due in part to a historical inattention to the unique drivers for girls into the juvenile justice system and the specific needs of justice-involved girls, jurisdictions around the country are seeing an increase in the rates of girls' involvement in the juvenile justice system.

Over the past decade, Washington, D.C. (D.C.) has seen a significant increase in the share of girls in its juvenile justice system. This brief serves as a starting point to understand what is causing girls' increased contact with D.C.'s juvenile justice system, to highlight distinctions between girls' and boys' involvement in D.C.'s juvenile justice system, and to identify information gaps that must be addressed in order to reduce the number of system-involved girls and ensure that those girls who are already involved are receiving appropriate services and interventions.

The data portion of this brief highlights four main findings that were consistent across data from the law enforcement and juvenile justice agencies in D.C. The main findings that will be explored in detail in the sections to follow are:

- » **Girls today make up a larger portion of system-involved youth than in previous years.**
- » **Over time, the proportion of 13 to 15-year-old girls entering the juvenile justice system has grown at the greatest rate.**
- » **Eighty-six percent of arrests of girls in D.C. are for non-violent, non-weapons related offenses.**
- » **In D.C., Black girls are significantly overrepresented in the juvenile justice system.**

1 THE FEMALE OFFENDER: GIRLS, WOMEN, AND CRIME 3 (Meda Chesney-Lind & Lisa Pasko eds., 3d ed. 2013); BARBARA E. BLOOM & STEPHANIE S. COVINGTON, EFFECTIVE GENDER-RESPONSIVE INTERVENTIONS IN JUVENILE JUSTICE: ADDRESSING THE LIVES OF DELINQUENT GIRLS 1 (2001).

2 FRANCINE T. SHERMAN & ANNIE BALCK, GENDER INJUSTICE: SYSTEM LEVEL JUVENILE JUSTICE REFORM FOR GIRLS 5 (2015).

What We Know About Girls in the Juvenile Justice System: A National Context

Girls have been impacted by justice involvement since the inception of the first juvenile court in 1899.³ Historically, the offenses that have led to girls' justice involvement have been inextricably linked to girls' engagement in behaviors that violated social norms about gender, race, and femininity.⁴ Unlike decisions around boys' delinquency, which centered on a concern for public safety, the behaviors that characterized girls' criminalization had more to do with preventing girls from being sexually promiscuous, protecting girls from victimization, and ensuring that young women and girls' behavior was socially acceptable.⁵

Although an increasing share of girls have become involved in the juvenile justice system, most of the behaviors for which girls are criminalized have remained the same. The majority of offenses for which girls are arrested and detained are still non-violent, non-weapons related offenses.⁶ Research indicates that decisions to detain girls have more to do with problems in their homes, while decisions to detain boys are guided by concerns about public safety.⁷ Girls have a greater likelihood of being detained for minor offenses, such as status offenses, technical violations and misdemeanors.⁸

Despite clear and historical evidence that the drivers, experiences, and needs of justice-involved girls differ from boys, juvenile

delinquency policies and practices are primarily based on male populations with the assumption that they will also be effective for female populations.⁹ Justice-involved girls differ from boys in significant ways, including how they respond to program interventions and treatment.¹⁰ The failure on the part of systems, researchers, and other stakeholders to contemplate the unique experiences and needs of girls has contributed to a dearth of information and resources to address their needs.¹¹ While girl-focused research and program development has increased, there are still considerably fewer programs designed for girls than boys.¹²

In 1992, the Juvenile Justice and Delinquency Prevention Act (JJDPA) was amended to require states to develop gender-specific policies for their juvenile justice systems. This amendment came about due to recognition that girls were beginning to represent an increasing proportion of the juvenile justice population—a trend that continues today.¹³ Between 1992 and 2013, girls' shares of involvement at every point of contact in the juvenile justice system increased by at least 40%.¹⁴ During that time period, the share of girls arrested increased by 45%, and the proportion of girls on the juvenile court increased by 40%. Girls' shares of youth in detention, placed on post-adjudication probation, and sent to residential placement post-adjudication increased at similar rates.¹⁵

3 Coal. For Juvenile Justice, D.C., *Girls, Status Offenses and the Need for a Less Punitive and More Empowering Approach*, EMERGING ISSUES POL'Y SERIES, Fall 2013, at 1-2.

4 *Id.*

5 *Id.* at 5; Lisa Pasko, *Damaged Daughters: The History of Girls' Sexuality and the Juvenile Justice System*, 100 J. CRIM. L. & CRIMINOLOGY 1099, 1101-08 (2010); SHERMAN & BALCK, *supra* note 2, at 4.

6 MALIKA SAADA SAAR ET AL., RIGHTS4GIRLS, GEORGETOWN LAW CTR. ON POVERTY & INEQUALITY & MS. FOUND. FOR WOMEN, *THE SEXUAL ABUSE TO PRISON PIPELINE: THE GIRLS' STORY* 9 (2015); SHERMAN & BALCK, *supra* note 2, at 7.

7 Erin M. Espinosa & Jon R. Sorensen, *The Influence of Gender and Traumatic Experiences on Length of Time Served in Juvenile Justice Settings*, 43 CRIM. JUST. & BEHAV. 187, 190 (2015).

8 *Girls, Status Offenses and the Need for a Less Punitive and More Empowering Approach*, *supra* note 3, at 5; SAADA SAAR ET AL., *supra* note 6, at 7.

9 See BLOOM & COVINGTON, *supra* note 1.

10 *Girls, Status Offenses and the Need for a Less Punitive and More Empowering Approach*, *supra* note 3, at 6.

11 MARGARET A. ZAHN ET AL., DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, *THE GIRLS STUDY GROUP—CHARTING THE WAY TO DELINQUENCY PREVENTION FOR GIRLS* 3-4 (2008); SHERMAN & BALCK, *supra* note 2, at 3.

12 *Girls, Status Offenses and the Need for a Less Punitive and More Empowering Approach*, *supra* note 3, at 6.

13 Francine Sherman, *Justice for Girls: Are We Making Progress?* 59 UCLA L. REV. 1584, 1592 (2012), <http://www.uclalawreview.org/pdf/59-6-5.pdf>; *Girls and the Juvenile Justice System*, OFF. JUV. JUST. & DELINQ. PREVENTION, <https://www.ojjdp.gov/policyguidance/girls-juvenile-justice-system/> (last visited June 8, 2017); Juvenile Justice and Delinquency Prevention Act of Nov. 4, 1992, Pub. L. No. 102-586, 106 Stat. 4982; Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. §§ 5601-5784; SHERMAN & BALCK, *supra* note 2.

14 SHERMAN & BALCK, *supra* note 2.

15 *Id.*

In 2004, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) launched the *Girls Study Group* in order to address the gaps in data and research about girls' justice involvement. In 2010, OJJDP began to administer grants through the National Girls' Initiative¹⁶ to support gender-specific research and programming and to identify best practices to reduce girls' involvement with the system. These efforts have contributed to a growing body of research with respect to girls in the juvenile justice system.

Primary Drivers Behind the Increase in Girls' Involvement in the Juvenile Justice System

According to various studies, the rise in girls' justice involvement cannot be attributed to changes in their behavior.¹⁷ There is no evidence to suggest that girls are increasingly engaging in criminal behavior, or that their behavior has become more violent.¹⁸ Instead, girls are overrepresented among status offenders, particularly those arrested for running away.¹⁹ In fact, running away and prostitution are the only two offenses for which girls comprise a majority of youth offenders.²⁰ In 2012, girls comprised 76% of prostitution arrests, 42% of larceny arrests, 40% of arrests for liquor law violations, and 35% of disorderly conduct arrests.²¹ That same year, girls comprised only 10% of robbery arrests, and 9% of murder arrests.²²

Researchers attribute more vigorous enforcement of non-serious offenses as at least one cause of girls' higher arrest and incarceration

rates.²³ Because girls are more likely than boys to be arrested and detained for minor offenses, this practice has a disparate impact on girls.²⁴ Their offenses often stem from abuse and trauma that has gone unrecognized and unaddressed.²⁵ Decisions to arrest, detain, and maintain girls' involvement in the juvenile justice system can often be attributed to paternalism on the part of system players who believe that girls who engage in certain behaviors must be subjected to more control and supervision for their own protection.²⁶

The impact of gendered and racial attitudes on decisions to arrest, detain, and push girls further into the juvenile justice system are especially acute for girls of color and lesbian, gay, bisexual, transgender, and gender non-conforming (LGBT/GNC) youth.²⁷ Girls of color and girls who identify as LGBT/GNC remain overrepresented in the juvenile justice system.²⁸ Black girls are only 14% of the general population, yet they are 33% of detained and committed girls.²⁹ Native girls are only 1% of the youth population, and yet they are 3.5% percent of girls detained and committed.³⁰ Lesbian, gay, and bisexual (LGB) youth are only 7 to 9% of all youth, but they are 20% of all youth in juvenile justice facilities. Forty percent of girls in juvenile justice facilities identify as LGB compared to 3.2% of boys, and 85% of LGBT/GNC youth in juvenile justice facilities are youth of color.³¹

Girls in the juvenile justice system share many characteristics.³² These characteristics include: experiencing poverty, an unstable family life, academic disconnection, histories of sexual, physical, or emotional abuse, neglect, self-harm, substance abuse, and mental health challenges.³³ Their experiences of trauma, separation, and

16 Sherman, *supra* note 13.

17 SAADA SAAR ET AL., *supra* note 6, at 7.

18 *Id.*

19 *Id.* at 22.

20 *Crime in the United States 2014: Table 38*, FED. BUREAU OF INVESTIGATION, <https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-38> (last visited June 1, 2017); *Crime in the United States 2014: Table 40*, FED. BUREAU OF INVESTIGATION, <https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-40> (last visited Aug. 23, 2017); SARAH HOCKENBERRY & CHARLES PUZZANCHERA, NAT'L COUNCIL OF JUVENILE & FAMILY COURT JUDGES, NAT'L CTR. FOR JUVENILE JUSTICE, JUVENILE COURT STATISTICS 2013, at 71 (2015).

21 SHERMAN & BALCK, *supra* note 2, at 6-7.

22 *Id.*

23 SAADA SAAR ET AL., *supra* note 6, at 7.

24 *Girls, Status Offenses and the Need for a Less Punitive and More Empowering Approach*, *supra* note 3, at 5; Stephanie Covington, *Women and the Criminal Justice System*, 17 *Women's Health Issues* 1, 2 (2007).

25 SAADA SAAR ET AL., *supra* note 6, at 7.

26 Sherman, *supra* note 13, at 1590-95; Jyoti Nanda, *Blind Discretion: Girls of Color and the Juvenile Justice System*, 59 *UCLA L. Rev.* 1502, 1515-27 (2012).

27 Nanda, *supra* note 26, at 1522-32; REBECCA EPSTEIN & THALI GONZÁLEZ, GEORGETOWN LAW CTR. ON POVERTY & INEQUALITY, GENDER & TRAUMA, SOMATIC INTERVENTIONS FOR GIRLS IN JUVENILE JUSTICE: IMPLICATIONS FOR POLICY AND PRACTICE 15-16 (2017); CTR. FOR AM. PROGRESS & MOVEMENT ADVANCEMENT PROJECT, UNJUST: HOW THE BROKEN JUVENILE AND CRIMINAL JUSTICE SYSTEMS FAIL LGBTQ YOUTH 4-15 (2016).

28 SAADA SAAR ET AL., *supra* note 6, at 7.

29 *Id.*

30 *Id.*

31 CTR. FOR AM. PROGRESS, MOVEMENT ADVANCEMENT PROJECT & YOUTH FIRST, UNJUST: LGBTQ YOUTH INCARCERATED IN THE JUVENILE JUSTICE SYSTEM 2 (2017), <http://www.lgbtmap.org/file/lgbtq-incarcerated-youth.pdf>.

32 BLOOM & COVINGTON, *supra* note 1, at 3; Covington, *supra* note 24.

33 BLOOM & COVINGTON, *supra* note 1, at 3; Covington, *supra* note 24.

family loss differ from boys.³⁴ Justice-involved girls are four times more likely than boys to have experienced childhood sexual abuse.³⁵ Nationally, 73% of girls in the juvenile justice system have experienced physical or sexual abuse.³⁶ They are twice as likely as boys to have experienced five or more Adverse Childhood Experiences (ACEs),³⁷ indicating that most girls in the juvenile justice system suffer from complex trauma.³⁸ At least 65% of girls in the juvenile justice system have experienced Post Traumatic Stress Disorder (PTSD) at some point in their lives, and the rates of major depression among justice-involved girls are more than twice those of justice-involved boys.³⁹

These experiences of trauma and marginalization are directly correlated to girls' delinquency. The most common pathways for girls' involvement in the juvenile justice system are:

- (1) **The Abuse to Prison Pipeline:** Sexual abuse is a primary predictor for girls' justice involvement.⁴⁰ The abuse to prison pipeline describes the gendered pathways by which girls enter the justice system for offenses directly related to their being victims of abuse, such as running away, crossover from the child welfare system, or being victims of domestic child sex trafficking.⁴¹
- (2) **Disproportionate Criminalization of Girls for Status Offenses:** Status offenses are non-violent acts that are only unlawful when committed by minors.⁴² Girls are disproportionately arrested and detained for the commission of status offenses such as running away, truancy, and curfew violations.⁴³

- (3) **Crossover: From Child Welfare to Juvenile Justice:** Crossover refers to the passage of children from the child welfare system into the juvenile justice system or vice-versa.⁴⁴ Girls are overrepresented among youth dually-involved in the child welfare and juvenile justice systems.⁴⁵
- (4) **Domestic Violence and Mandatory Arrest Policies:** Research shows that girls' misbehavior is commonly linked to abuse in the home.⁴⁶ Unfortunately, one of the unintended consequences of mandatory arrest policies is that girls are increasingly arrested for conflicts within their homes, even though their acts may be a defense to abuse or in response to family chaos.⁴⁷
- (5) **School Pushout:** Girls, and Black girls in particular, are increasingly being referred to the juvenile justice system as a result of discriminatory application of school discipline policies that criminalize them for normal adolescent behavior, for expressing themselves,⁴⁸ or for minor misbehaviors that could be addressed within the school system.⁴⁹ Additional factors such as sexual harassment and violence at or on the way to or from school, pregnancy, caretaking responsibilities and undiagnosed learning disabilities also contribute to girls' truancy or pushout.⁵⁰
- (6) **Poverty and Housing Instability:** Housing instability can cause girls to engage in behaviors that put them at risk for justice involvement.⁵¹ These include behaviors such as larceny or curfew violations that may be a consequence of not having their basic needs met, including lacking safe or stable housing. Housing instability also increases girls' vulnerability to become victims of commercial sexual exploitation.⁵²

34 Patricia K. Kerig & Stephen P. Becker, *Trauma and Girls Delinquency*, in *DELINQUENT GIRLS: CONTEXTS, RELATIONSHIPS, AND ADAPTATION* 119, 120 (S. Miller et al. eds., 2012); EPSTEIN & GONZÁLEZ, *supra* note 27, at 12, 18; *Girls, Status Offenses and the Need for a Less Punitive and More Empowering Approach*, *supra* note 3, at 5.

35 SAADA SAAR ET AL., *supra* note 6, at 8.

36 FRANCINE SHERMAN, ANNIE E. CASEY FOUND., *PATHWAYS TO JUVENILE JUSTICE REFORM: DETENTION REFORM AND GIRLS CHALLENGES AND SOLUTIONS* 21-22 (2005).

37 SAADA SAAR ET AL., *supra* note 6, at 8.

38 See EPSTEIN & GONZÁLEZ, *supra* note 27, at 8.

39 SAADA SAAR ET AL., *supra* note 6, at 12.

40 *Id.* at 5.

41 *Id.*

42 *Id.* at 22.

43 *Id.*

44 *Id.* at 24.

45 *Id.*

46 See SHERMAN & BALCK, *supra* note 2, at 20.

47 *Id.* at 17.

48 LETICIA SMITH-EVANS ET AL., NAACP LEGAL DEF. & EDUC. FUND, INC. & THE NAT'L WOMEN'S LAW CTR., *UNLOCKING OPPORTUNITY FOR AFRICAN AMERICAN GIRLS: A CALL TO ACTION FOR EDUCATIONAL EQUITY* 19 (2014); Kay Lazar, *Black Malden Charter Students Punished for Braided Hair Extensions*, BOS. GLOBE (May 12, 2017), <https://www.bostonglobe.com/metro/2017/05/11/black-students-malden-school-who-wear-braids-face-punishment-parents-say/stWDIBSCJhw1zocUWR1QMP/story.html>.

49 SMITH-EVANS ET AL., *supra* note 48; MONIQUE W. MORRIS, *PUSHOUT: THE CRIMINALIZATION OF BLACK GIRLS IN SCHOOLS* (2015).

50 MORRIS, *supra* note 49; KAREN SCHULMAN, KAYLA PATRICK & NEENA CHAUDHRY, NAT'L WOMEN'S LAW CTR., *LET HER LEARN: STOPPING SCHOOL PUSHOUT FOR GIRLS WITH DISABILITIES* 1 (2017); KELLI GARCIA & NEENA CHAUDHRY, NAT'L WOMEN'S LAW CTR., *LET HER LEARN: STOPPING SCHOOL PUSHOUT FOR GIRLS WHO ARE PREGNANT OR PARENTING* 1 (2017).

51 SHERMAN & BALCK, *supra* note 2, at 17.

52 *Id.*

COMMON PATHWAYS FOR GIRLS' INVOLVEMENT IN THE JUVENILE JUSTICE SYSTEM

THE ABUSE TO PRISON PIPELINE

DISPROPORTIONATE CRIMINALIZATION OF GIRLS FOR STATUS OFFENSES

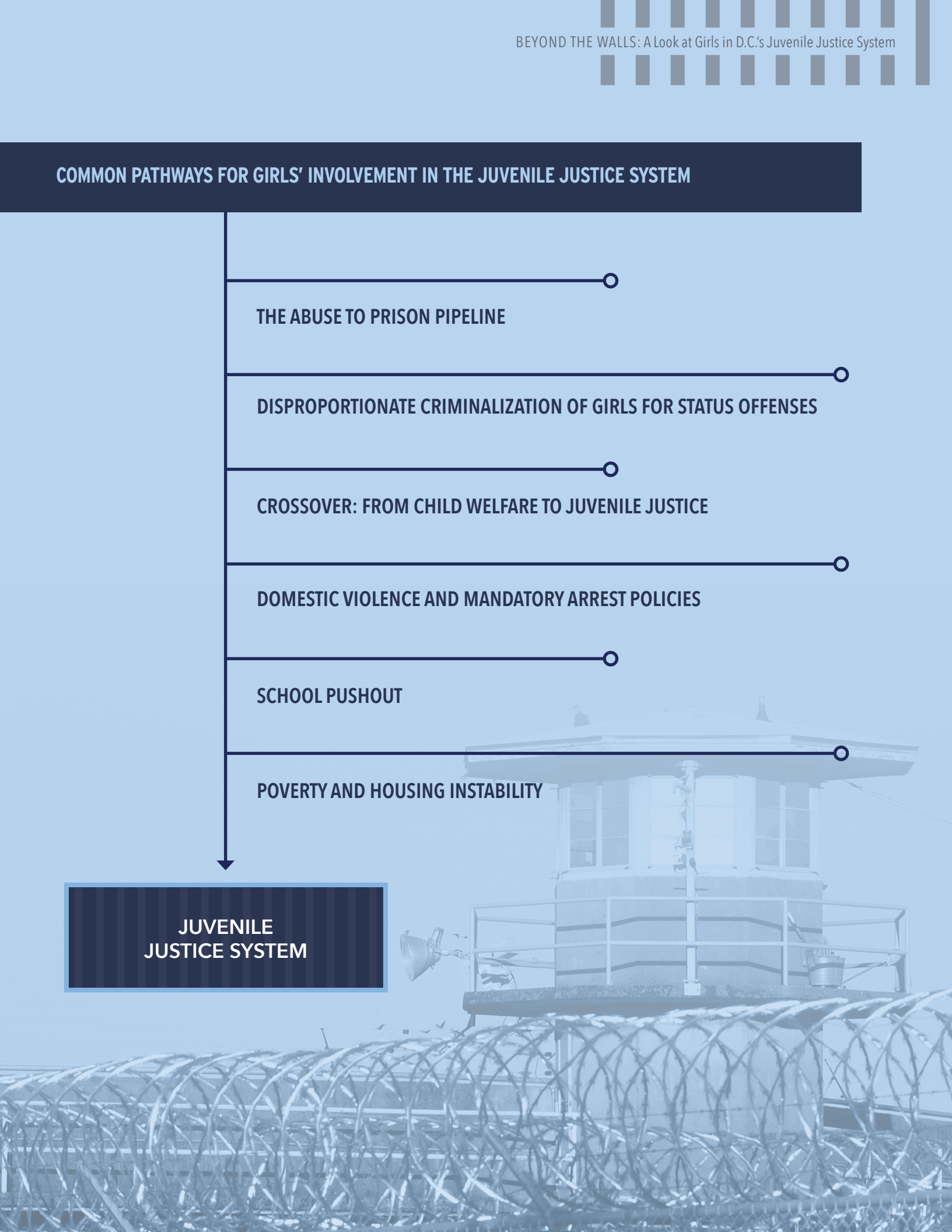
CROSSOVER: FROM CHILD WELFARE TO JUVENILE JUSTICE

DOMESTIC VIOLENCE AND MANDATORY ARREST POLICIES

SCHOOL PUSHOUT

POVERTY AND HOUSING INSTABILITY

JUVENILE
JUSTICE SYSTEM



In one study,
81% of girls
in the juvenile
justice system
had **experienced
childhood sexual
abuse** prior
to any justice
involvement.



The Abuse to Prison Pipeline

For girls, the connection between trauma and justice involvement is strongly rooted in the experience of sexual or physical violence.⁵³ The offenses for which girls are most often arrested, such as running away, truancy, and prostitution, happen to be the most glaring indicators of abuse and exploitation.⁵⁴ Childhood sexual abuse is not only a primary predictor for girls' involvement in the juvenile justice system,⁵⁵ but also a strong predictor of recidivism.⁵⁶ We describe the ways in which the experience of sexual abuse drives girls into the juvenile justice system as the Abuse to Prison Pipeline. The Abuse to Prison Pipeline can be illustrated in three ways: (1) the criminalization of girls for status offenses, such as running away or truancy, that are often attempts to escape or avoid violence; (2) arrests of trafficked children for prostitution-related offenses; and (3) the arrest of girls who cross over from the child welfare system as a result of experiencing sexual abuse and violence.⁵⁷

Girls in the justice system experience physical and sexual abuse at extremely high rates.⁵⁸ In one study, 81% of girls in the juvenile justice system had experienced childhood sexual abuse prior to any justice involvement.⁵⁹ According to the National Child Traumatic Stress Network, behavior that is considered delinquent is often a child's attempt to care for him/herself due to a disbelief in adults' ability or willingness to do so.⁶⁰ Research indicates that experiencing sexual trauma at young ages can result in girls' belief that adults will not or are unable to protect them.⁶¹ In addition, behaviors such as running away or being aggressive are characteristic of those who have experienced sexual trauma. However, they are viewed as problematic and antisocial, and consequently criminalized.⁶² Girls who have experienced complex trauma and abuse are more likely to engage in risky behavior, self-harm, and substance abuse.⁶³ Despite only accounting for approximately 30% of youth arrests, girls account for more than 50% of youth arrested for running away, and 40% of liquor law violations.⁶⁴ When their behaviors are not viewed in the context of abuse or responses to trauma, the underlying causes for girls' delinquency remain unaddressed.⁶⁵

53 SAADA SAAR ET AL., *supra* note 6; Espinosa & Sorensen, *supra* note 7, at 190-91.

54 SAADA SAAR ET AL., *supra* note 6.

55 *Id.* at 5.

56 *Id.* at 9; ESPINOSA & SORENSEN, *supra* note 7, at 191.

57 SAADA SAAR ET AL., *supra* note 6, at 5.

58 *Id.* at 7; Sherman & Balck, *supra* note 2, at 20, 26.

59 SAADA SAAR ET AL., *supra* note 6, at 11.

60 *Id.* at 22.

61 Kerig & Becker, *supra* note 34, at 136-37 (2012).

62 *Id.*; Saada Saar et al., *supra* note 6, at 9, 12; EPSTEIN & GONZÁLEZ, *supra* note 27, at 18.

63 PATRICIA K. KERIG & JULIAN D. FORD, NAT'L CHILD TRAUMATIC STRESS NETWORK JUVENILE JUSTICE CONSORTIUM, TRAUMA AMONG GIRLS IN THE JUVENILE JUSTICE SYSTEM 7 (2014).

64 SHERMAN & BALCK, *supra* note 2, at 7.

65 SAADA SAAR ET AL., *supra* note 6, at 12.

The Abuse to Prison Pipeline: The Criminalization of Victims of Domestic Child Sex Trafficking

Perhaps one of the most glaring examples of the Abuse to Prison Pipeline is the ongoing criminalization of victims of domestic child sex trafficking. Under federal law, commercial sex involving a person under 18 is considered child sex trafficking.⁶⁶ However, child sex trafficking victims are viewed as perpetrators in many jurisdictions, causing them to be arrested and incarcerated for prostitution or other offenses related to their exploitation.⁶⁷ Despite an increasing trend for states to stop arresting girls for prostitution,⁶⁸ girls still account for 78% of juvenile prostitution arrests.⁶⁹ Black children are arrested for prostitution more than any other racial group, comprising 52% of all juvenile arrests for prostitution.⁷⁰ Even when children are immune from prosecution for prostitution, victims of child sex trafficking may be arrested on “masking charges” or offenses they commit as a direct result of their exploitation, including status offenses, loitering, trespass, substance abuse, etc.⁷¹

detention, and incarceration of youth for minor offenses, including status offenses.⁷⁴ The increased enforcement of status offenses is detrimental to girls because actors within the juvenile justice system take harsher stances towards girls who commit status offenses than they do boys who commit status offenses.⁷⁵

The offenses for which girls are most often arrested, such as **running away, truancy, and prostitution**, happen to be the most **glaring indicators of abuse and exploitation**.

Girls are disproportionately arrested and detained for status offenses.⁷⁶ For example, in 2011, girls accounted for 41% of status offense cases compared to 28% of delinquency cases.⁷⁷ Running away and truancy are among the most common status offenses for which girls are arrested.⁷⁸ Girls are 55% of youth arrested for running away,⁷⁹ making it one of only two petitioned offenses for which girls constitute the majority of youth offenders.⁸⁰ Between 1995 and 2013, the number of girls petitioned for truancy cases outnumbered those of all other status offense categories for which girls were

Disproportionate Criminalization of Girls for Status Offenses

Status offenses are acts that are only unlawful when committed by youth.⁷² A trend referred to as “net widening” has contributed to the rise in girls’ justice involvement.⁷³ Net widening refers to the law enforcement policies and practices that lead to the increased arrest,

66 22 U.S.C. §§ 7102(9)-(10).

67 SAADA SAAR ET AL., *supra* note 6, at 19.

68 See SHARED HOPE INT’L., PROTECTED INNOCENCE CHALLENGE: 2016 END OF YEAR LEGISLATIVE PROGRESS REPORT 1 (2016), SHARED HOPE INT’L., NATIONAL STATE LAW SURVEY: NON-CRIMINALIZATION OF JUVENILE SEX TRAFFICKING VICTIMS 1-2 (2016).

69 Crime in the United States 2014: Table 38, *supra* note 20; Crime in the United States 2014: Table 40, *supra* note 20.

70 See Crime in the United States 2014: Table 43B, FED. BUREAU OF INVESTIGATION, <https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-43> (last visited Aug. 31, 2017).

71 Rights4Girls, DOMESTIC CHILD SEX TRAFFICKING AND THE JUVENILE JUSTICE SYSTEM 1; SHARED HOPE INT’L., JUSTICE FOR JUVENILES: EXPLORING NON-CRIMINAL RESPONSE MECHANISMS FOR CHILD SEX TRAFFICKING 4 (2015).

72 SHARED HOPE INT’L., *supra* note 71, at 22.

73 SAADA SAAR ET AL., *supra* note 6, at 23.

74 *Id.*

75 Girls, Status Offenses and the Need for a Less Punitive and More Empowering Approach, *supra* note 3.

76 SAADA SAAR ET AL., *supra* note 6, at 22.

77 SHERMAN & BALCK, *supra* note 2, at 15.

78 See SAADA SAAR ET AL., *supra* note 6, at 4; see Sherman & Balck, *supra* note 2, at 27.

79 HOCKENBERRY & PUZZANCHERA, *supra* note 20, at 70.

80 SAADA SAAR ET AL., *supra* note 6, at 22.

Girls accounted for only 16% of total detained youth but nearly 40% of youth detained for status offenses.

petitioned during that time period.⁸¹ Girls are also more likely to be detained for status offenses. In 2011, girls accounted for only 16% of total detained youth but nearly 40% of youth detained for status offenses.⁸² In 2012, 37% of detained girls were in detention for status offenses and technical violations, in comparison to only 25% of boys.⁸³

Researchers attribute girls' runaway behaviors to attempts to escape abusive homes or foster care placements, natural responses to traumatic environments, or difficulty identifying safe adults.⁸⁴ In a study conducted by the US Department of Health and Human Services, 17% of runaway and homeless youth reported having a family or household member force them into unwanted sexual activity.⁸⁵ In addition, runaway girls are at an increased risk to become victims of domestic child sex trafficking and more likely to engage in behavior that increases their likelihood of justice system involvement.⁸⁶

Truancy can also be tied to a girl's experiences of sexual violence. For example, a girl may miss school because she is being trafficked⁸⁷ or because she is experiencing sexual harassment either at school or on the way to or from school.⁸⁸ Other causes for girls' truancy

include being pregnant or parenting, having unidentified learning disabilities, experiencing untreated depression or other mental health challenges, or having trouble with peers.⁸⁹

Crossover: From Child Welfare to Juvenile Justice

Crossover refers to the passage of children from the child welfare system into the juvenile justice system or vice-versa.⁹⁰ Crossover typically occurs either because youth in the child welfare system are referred to the juvenile justice system by those charged with their care or because they are placed in environments that increase the likelihood that they may engage in behavior that puts them at risk of justice involvement.⁹¹ While more research is necessary to understand the full extent of crossover on girls, data indicates that girls represent a greater proportion of crossover youth.⁹² Girls account for 33% to 50% of dual-system youth, though they comprise 20% to 25% of the juvenile justice population.⁹³ Black and gender non-conforming girls are at particular risk of entering the justice system through the child welfare system.⁹⁴

Girls may be funneled into the justice system as the result of conflict within child welfare placements—for example, for fights at a group home or in a foster home.⁹⁵ Child welfare agencies may refer youth in their care to law enforcement or court to address problematic behavior stemming from trauma or maltreatment, such as sexual abuse.⁹⁶ In addition, certain realities of the child welfare system might inadvertently push girls into the delinquency system by making them vulnerable to exploitation and domestic child sex trafficking.⁹⁷ At least 60% of trafficked youth have had prior contact with the child welfare system.⁹⁸ Crossover can occur when stakeholders such as law enforcement, child welfare workers, and judges view trafficked youth as perpetrators, or arrest and detain them in the absence of programs and policies designed to address their specific needs.⁹⁹

81 HOCKENBERRY & PUZZANCHERA, *supra* note 20, at 70.

82 SAADA SAAR ET AL., *supra* note 6, at 22.

83 SHERMAN & BALCK, *supra* note 2, at 9.

84 SAADA SAAR ET AL., *supra* note 6, at 22.

85 *Id.* at 12.

86 *Id.* at 23.

87 *Id.* at 22.

88 KAYLA PATRICK & NEENA CHAUDHRY, NAT'L WOMEN'S LAW CTR., LET HER LEARN: STOPPING SCHOOL PUSHOUT FOR GIRLS WHO HAVE SUFFERED HARASSMENT AND SEXUAL VIOLENCE 8 (2017).

89 SMITH-EVANS ET AL., *supra* note 48, at 20-27.

90 SAADA SAAR ET AL., *supra* note 6, at 24.

91 *Id.*; SHERMAN & BALCK, *supra* note 2, at 15.

92 SAADA SAAR ET AL., *supra* note 6, at 24.

93 *Id.*

94 *Id.* at 25.

95 *See id.* at 26.

96 SHERMAN & BALCK, *supra* note 2, at 15.

97 SAADA SAAR ET AL., *supra* note 6, at 19.

98 *Id.*

99 *Id.* at 19-20.

Domestic Violence and Mandatory Arrest Policies

The number of girls arrested for in-home conflicts is growing.¹⁰⁰ In 2012, girls accounted for 37% of youth simple assault arrests and 38% of youth domestic offense arrests.¹⁰¹ In many cases, girls were arrested for simple assault of their mother or another caregiver that resulted in a minor injury or no injury at all.¹⁰² Scholars attribute the rise in girls' assault arrests to changes in law enforcement policies pertaining to domestic violence.¹⁰³ Many states have mandatory or pro arrest laws which were intended to address concerns about inadequate law enforcement response to adult intimate partner violence.¹⁰⁴ However, these laws are commonly applied to situations involving intra-family conflicts between youth and their caregivers.¹⁰⁵ Consequently, girls are often treated as aggressors, even when their actions are a direct response to family chaos.¹⁰⁶ Girls are still arrested for these types of offenses even when the family or child is known to the child welfare system.¹⁰⁷

School Pushout

Girls—particularly girls of color—are often the targets of harsh school disciplinary sanctions and responses to their behavior are informed by stereotypes about gender and race. Black girls are five and a half times more likely to be suspended from school than white girls.¹⁰⁸ American-Indian and Alaskan Native girls are three times more likely to be suspended than white girls, and Latina girls are almost two times more likely to be suspended than white girls.¹⁰⁹ Oftentimes, girls are disciplined for dress code or behavior violations that result from implicit and explicit bias on the part of teachers, administrators, and school resource officers.¹¹⁰ Being suspended or

expelled renders girls especially vulnerable to abuse, exploitation, and juvenile justice involvement.¹¹¹

In some instances, girls are disciplined or referred to law enforcement for their responses to sexual harassment or violence.¹¹² These policies can make schools feel unsafe and unwelcoming for girls, and contribute to truancy.¹¹³ Girls of color with learning disabilities are also overrepresented among justice-involved youth. Black girls who are incarcerated are twice as likely to have a diagnosed disability under the Individuals with Disabilities Act than white girls and they account for nearly half of all incarcerated girls with diagnosed disabilities.¹¹⁴

Poverty and Housing Instability

Girls who experience poverty and housing instability are at an increased risk of contact with the juvenile justice system. In a study conducted by the Administration on Children, Youth and Families, 78% of the homeless youth interviewed had at least one contact with police and nearly 44% had been in a juvenile detention center, prison or jail.¹¹⁵ Without stable housing and the financial means to provide for themselves, girls engage in a variety of survival behaviors that can lead to justice involvement, such as arrests for sleeping in public places (loitering), seeking shelter (trespassing), and stealing to pay for food or other expenses (theft), to name a few.¹¹⁶ For some girls, this path of housing instability and justice involvement often begins with abuse. For example, girls who run away to escape abuse within their homes. All girls who lack stable housing are at an increased risk for commercial sexual exploitation which also puts them at risk of justice involvement.¹¹⁷ In a recent study conducted by the Field Center, 67% of homeless female youth had been offered

100 SHERMAN & BALCK, *supra* note 2, at 17.

101 *Id.*; FRANCINE T. SHERMAN, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION'S NAT'L GIRLS' INITIATIVE, UNINTENDED CONSEQUENCES: ADDRESSING THE IMPACT OF DOMESTIC VIOLENCE MANDATORY AND PRO-ARREST POLICIES AND PRACTICES ON GIRLS AND YOUNG WOMEN 6 (2016).

102 SHERMAN, *supra* note 101.

103 *Id.* at 5; SHERMAN & BALCK, *supra* note 2, at 17.

104 SHERMAN & BALCK, *supra* note 2, at 17; SHERMAN, *supra* note 101, at 5.

105 SHERMAN & BALCK, *supra* note 2, at 17; SHERMAN, *supra* note 101, at 5.

106 SHERMAN & BALCK, *supra* note 2, at 17, 20; SHERMAN, *supra* note 101, at 5.

107 See SHERMAN & BALCK, *supra* note 2, at 15; SHERMAN, *supra* note 101, at 8; and see Goldie Taylor, *What Happened to Gynnya McMillen in Jail*, The Daily Beast, Feb. 3, 2016, <http://www.thedailybeast.com/goldie-taylor-what-happened-to-gynnya-mcmillen-in-jail>.

108 ADAKU ONYEKA-CRAWFORD ET AL., NAT'L WOMEN'S LAW CTR., LET HER LEARN: STOPPING SCHOOL PUSHOUT FOR GIRLS OF COLOR 1 (2017).

109 *Id.*

110 MORRIS, *supra* note 49, at 120-32.

111 *Id.* at 101; SHERMAN & BALCK, *supra* note 2, at 16; SMITH-EVANS ET AL., *supra* note 48, at 6; KIMBERLÉ WILLIAMS CRENSHAW ET AL., AFRICAN AM. POLICY FORUM & CTR. FOR INTERSECTIONALITY AND SOC. POLICY STUDIES, BLACK GIRLS MATTER: PUSHED OUT, OVERPOLICED, AND UNDERPROTECTED 10, 24 (2014).

112 PATRICK & CHAUDHRY, *supra* note 88.

113 MORRIS, *supra* note 49, at 120-32; see Patrick & Chaudhry, *supra* note 88, at 1-8; SHERMAN & BALCK, *supra* note 2, at 16.

114 KAYLA PATRICK & NEENA CHAUDHRY, NAT'L WOMEN'S LAW CTR., LET HER LEARN: STOPPING SCHOOL PUSHOUT FOR GIRLS INVOLVED IN THE JUVENILE JUSTICE SYSTEM 3 (2017).

115 LISA PILNIK ET AL., COAL. FOR JUVENILE JUSTICE ET AL., ADDRESSING THE INTERSECTIONS OF JUVENILE JUSTICE INVOLVEMENT AND YOUTH HOMELESSNESS: PRINCIPLES FOR CHANGE 3 (2017).

116 *Id.* at 2.

117 See *supra* text accompanying notes 66-71.

money in exchange for sex.¹¹⁸ In another study, 20% of homeless females had been trafficked for sex.¹¹⁹ Youth reported that secure housing was one of their primary concerns and their fears of having to sleep on the streets left them particularly vulnerable to being trafficked.¹²⁰ Additional research is needed on the intersections of poverty, housing instability and justice involvement, especially as they pertain to girls of color.

Once Inside the Juvenile Justice System, Girls Experience Unique Vulnerabilities

Many girls who come into contact with the juvenile justice system exhibit a high need for services, such as counseling and medical care.¹²¹ Yet, the punitive nature of the juvenile justice system commonly causes girls' needs to go unmet and exposes them to additional vulnerabilities and trauma. Girls at risk of juvenile justice involvement are disconnected from many needed services.¹²² As a result, many are in poor physical health and suffer from conditions such as asthma, diabetes, and anemia.¹²³ Girls also have gynecological, pregnancy, and postpartum healthcare needs.¹²⁴ This is especially true for girls who have experienced sexual abuse and exploitation.¹²⁵ These children often experience high rates of pregnancy, sexually-transmitted infections and negative health conditions.¹²⁶ Juvenile facilities sometimes fail to provide girls with appropriate physical care to address their unique health risks.¹²⁷ In fact, most juvenile facilities are unaccredited and not in compliance with reproductive or pediatric health care standards for incarcerated populations.¹²⁸

In addition to physical health, justice-involved girls have significant mental health needs.¹²⁹ Girls in the juvenile justice system experience higher rates of PTSD than boys,¹³⁰ and substance abuse treatment is a need of 60-87% of justice-involved girls.¹³¹ A survey of youth's access to adequate mental health care in juvenile facilities indicated that girls rarely receive mental health screenings administered by licensed professionals, adequate treatment, or follow up.¹³² Some studies have found that the lack of adequate mental health services is more prevalent in girls' facilities than in boys' facilities.¹³³ Furthermore, girls responses to trauma differ from boys.¹³⁴ Innovative practices that contemplate girls' unique experiences are emerging, but the research is still in its nascent stages.¹³⁵

More Out of Home Placements and Increased Length of Confinement

Girls are often vulnerable to longer terms of confinement in local facilities and out-of-home placements.¹³⁶ A Texas study, on the influence of trauma history and gender on lengths of confinement and out-of-home placements, found that girls' duration of confinement in local facilities was significantly longer than boys.¹³⁷ The study also found disparities between girls and boys regarding the length of their confinement for probation violations, with girls who have histories of trauma serving longer periods in confinement.¹³⁸ Other studies have found that girls with probation violations were seven times more likely to be placed in confinement than boys with probation violations¹³⁹ and that girls' histories of trauma had a stronger influence on girls' placement, at all levels, than boys.¹⁴⁰ Spending time in and out of juvenile facilities and out-of-home placements can create significant barriers to girls'

118 THE FIELD CTR. FOR CHILDREN'S POLICY PRACTICE & RESEARCH, THE FIELD CENTER COMPLETES MULTI-CITY STUDY ON CHILD TRAFFICKING AMONG HOMELESS YOUTH: IDENTIFIES RISK AND RESILIENCE FACTORS 1 (2017).

119 LOYOLA UNIV. NEW ORLEANS & MODERN SLAVERY RESEARCH PROJECT, LABOR AND SEX TRAFFICKING AMONG HOMELESS YOUTH 5 (2017). Though these studies focus on youth above the age of 16, they nevertheless demonstrate the vulnerabilities girls face when they are homeless, particularly since some of the youth were minors at the time they were trafficked.

120 *See id.* at 6.

121 Covington, *supra* note 24.

122 *Id.*

123 *Id.*

124 *Id.*

125 *Id.*; SHERMAN & BALCK, *supra* note 2, at 16; PHYSICIANS FOR HUMAN RIGHTS, UNIQUE NEEDS OF GIRLS IN THE JUVENILE JUSTICE SYSTEM 1.

126 Covington, *supra* note 24; SHERMAN & BALCK, *supra* note 2, at 16; PHYSICIANS FOR HUMAN RIGHTS, *supra* note 125.

127 SAADA SAAR ET AL., *supra* note 6, at 14.

128 *Id.*

129 SHERMAN & BALCK, *supra* note 2, at 16.

130 SAADA SAAR ET AL., *supra* note 6, at 12.

131 PHYSICIANS FOR HUMAN RIGHTS, *supra* note 125.

132 SAADA SAAR ET AL., *supra* note 6, at 14.

133 *Id.*

134 EPSTEIN & GONZÁLEZ, *supra* note 27, at 14.

135 *E.g., id.* at 2; SAADA SAAR ET AL., *supra* note 6; SHERMAN & BALCK, *supra* note 2.

136 Espinosa & Sorensen, *supra* note 7, at 189, 199.

137 *Id.* at 187.

138 *Id.*

139 *Id.* at 188.

140 *Id.*

educational achievement,¹⁴¹ impact girls' access to consistent mental and physical health care, and exacerbate feelings of instability and detachment from family and support systems that can contribute to recidivism.¹⁴²

Pregnancy

Girls in the justice system are more likely to have a child or be pregnant than girls who are not justice-involved.¹⁴³ As previously discussed, most juvenile justice facilities do not adhere to reproductive healthcare standards. In fact, in one OJJDP survey, only 18% of facilities conducted pregnancy tests upon entry.¹⁴⁴ As that survey suggests, the majority of facilities do not screen for pregnancy. Nationally, there is a dearth of data on pregnant and parenting girls in the system, as facilities are not required to track this information. In some facilities, pregnant girls reported harmful conditions that extended beyond medical care, such as being hungry, shackled, and without prenatal and parenting education.¹⁴⁵ For girls who are parents, few juvenile justice programs exist that assist them with their children.¹⁴⁶ In addition, and sometimes as a result of a dearth of programming and support, parenting girls may be forced to give up their parental rights due to their involvement in the juvenile justice system.¹⁴⁷

Risks in Detention

The characteristics of detention, such as loss of privacy, isolation or seclusion, staff insensitivity, and standard methods of maintaining order (e.g., body searches and the use of restraints), can be especially traumatic for girls who have histories of self-harm, low self-esteem, and physical and sexual trauma. These conditions can cause negative feelings to worsen, resulting in re-traumatization and self-harm.¹⁴⁸

Isolation and restraints are particularly harmful.¹⁴⁹ Shackling can be especially detrimental to girls' mental health because it reinforces their feelings of powerlessness and negatively impacts their self-esteem.¹⁵⁰ In most states, youth are indiscriminately shackled in juvenile court, despite the fact that adults are not automatically shackled.¹⁵¹ Adolescent girls in particular may find being shackled in public to be shameful and humiliating.¹⁵² Shackling can also re-traumatize girls who have experienced or witnessed abuse.¹⁵³ Furthermore, shackling reinforces feelings of criminality, which can be especially detrimental for girls who are involved in the juvenile court solely for their experiences as victims of abuse and trauma. Although the Prison Rape Elimination Act (PREA) standards limit procedures that are likely to re-traumatize youth, its enforcement varies significantly across jurisdictions.¹⁵⁴

Increased Vulnerability to Sexual Victimization

Children in confinement are at risk of sexual victimization and girls are overrepresented among victims of abuse in detention.¹⁵⁵ In state systems, girls accounted for 38% of youth sexually victimized by staff, though they were only 10% of youth held in 2011.¹⁵⁶ In locally and privately operated facilities, girls accounted for 23% of victims, though they were 15% of youth held in 2011.¹⁵⁷ That same year, girls comprised 40% of staff sexual harassment victims.¹⁵⁸ Girls were also disproportionately victims of youth-on-youth sexual victimization, accounting for 36% of victims in state systems and 26% of victims in locally or privately operated facilities.¹⁵⁹ While sexual assault of minors in any circumstance is troubling, it is especially cause for concern under these circumstances given that many girls in confinement have histories of sexual abuse.

141 PATRICK & CHAUDHRY, *supra* note 114, at 10.

142 SAADA SAAR ET AL., *supra* note 6, at 12-15; Kerig & Becker, *supra* note 34; KERIG & FORD, *supra* note 63.

143 *Girls and the Juvenile Justice System*, *supra* note 13 ("According to the Survey of Youth in Residential Placement, 9 percent of girls in custody have children (compared with 6 percent of female youth in the general population) and a 2004 national census found that 5 percent of girls in juvenile justice residential placement were pregnant."); Davis et al., *infra* note 155, at 3.

144 SAADA SAAR ET AL., *supra* note 6, at 14.

145 *Id.*

146 SHERMAN & BALCK, *supra* note 2, at 25.

147 *Id.*

148 SAADA SAAR ET AL., *supra* note 6, at 15; PHYSICIANS FOR HUMAN RIGHTS, *supra* note 125; Covington, *supra* note 24, at 4.

149 Espinosa & Sorensen, *supra* note 7, at 199.

150 SHERMAN & BALCK, *supra* note 2, at 9.

151 CAMPAIGN AGAINST INDISCRIMINATE JUVENILE SHACKLING, WHERE ARE THERE STATEWIDE BANS ON AUTOMATIC JUVENILE SHACKLING 1 (2016).

152 *Id.*

153 *Id.*

154 SAADA SAAR ET AL., *supra* note 6, at 16.

155 ANTOINETTE DAVIS ET AL., NAT'L COUNCIL ON CRIME & DELINQUENCY & NAT'L INST. OF CORR., NO PLACE FOR YOUTH: GIRLS IN THE ADULT JUSTICE SYSTEM 5 (2016).

156 ALLEN J. BECK & RAMONA R. RANTALA, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, SEXUAL VICTIMIZATION REPORTED BY JUVENILE CORRECTIONAL AUTHORITIES, 2007-12, at 11 (2016).

157 *Id.*

158 *Id.*

159 *Id.* at 7.

Involvement in Adult Courts

Girls also experience vulnerabilities in regard to involvement in adult courts, particularly girls of color.¹⁶⁰ Due to bias, Black and Latino youth are more likely than white youth to be moved into the adult criminal justice system and face harsher punishment at each decision point.¹⁶¹ One study found that 88% of girls in adult court were girls of color whereas 83% of boys in adult court were boys of color. Sixty-eight percent of girls were Black and 59% of boys were Black.¹⁶² Girls who are lesbian, bisexual, questioning or gender non-conforming also have a heightened risk of adult court involvement, perhaps due to bias that causes them to be stereotyped as aggressive and hyper-masculine.¹⁶³

The adult system is not equipped to meet girls' specific needs. Just as the juvenile justice system was designed with a focus on boys, adult facilities were designed with a focus on men.¹⁶⁴ In addition, adult facilities fail to provide age-appropriate medical, educational or rehabilitative services and subject youth to conditions that are emotionally and physically unsafe, such as exposure to seasoned offenders.¹⁶⁵ Namely, it interferes with their development by interrupting or ending the period of growth that typically occurs in adolescence—development of healthy relationships, educational attainment, and development of interests and skills that will provide the foundation for their adult identity.¹⁶⁶ Youth in adult facilities are also at risk of committing suicide. Youth under age 18 are twice as likely as adults to commit suicide during their incarceration in adult facilities.¹⁶⁷ Adult facilities' routine practice of holding youth in isolation increases their suicide risk.¹⁶⁸ Because of federal statutory requirements that girls be separated from adults by sight and sound, girls in adult facilities are sometimes subjected to isolation simply because there are so few of them.¹⁶⁹ Youth in adult facilities are also more likely to recidivate than their peers in juvenile facilities.¹⁷⁰

¹⁶⁰ DAVIS ET AL., *supra* note 155, at 3.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.* at 4.

¹⁶⁴ *Id.* at 1.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.* at 4.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* at 1, 4.

¹⁶⁹ *Id.* at 5.

¹⁷⁰ *Id.* at 1.

What We Know About Girls in the Juvenile Justice System: The Local Context

Consistent with national trends, the District of Columbia is also experiencing a rise in girls' involvement with the juvenile justice system. Girls in D.C. make up a larger proportion of youth coming into contact with the delinquency system than in previous years. This section of the report will provide a brief overview of the D.C. juvenile justice system and discuss the key findings from a review of data collected from a variety of D.C. and federal agencies relating to the juvenile justice system. This section will also discuss our methodology and the limitations of the data we were able to collect. Although additional research is necessary to determine specific causes underlying these trends, evaluating this data in the context of the national trends related to girls' delinquency as well as information about the social and economic context surrounding the lives of girls in D.C. offers some possible explanations for the increase in girls' delinquency.

A Primer on the District of Columbia's Juvenile Justice System

The District of Columbia's juvenile justice system consists of two different types of cases—delinquency cases and persons in need of supervision (PINS) cases. In delinquency cases, a youth is accused of committing a delinquent act—an act designated an offense under D.C. or federal law.¹⁷¹ In PINS cases, a youth is accused of being habitually truant from school, committing an offense that is committable only by children, or being ungovernable.¹⁷² While delinquency and PINS cases are handled differently in practice, the two types of cases are governed by roughly the same procedural stages outlined in the D.C. Code.¹⁷³

Major Stages of the Juvenile Justice System

Arrest: Arrest is the formal taking into custody and booking of an individual alleged to have committed a delinquent offense

or criminal act. In the District of Columbia, the choice whether to arrest a young person typically falls with the Metropolitan Police Department (MPD), although a federal or regional law enforcement agency (like the U.S. Park Police or the Metro Transit Police) can make an initial arrest. MPD has the option to divert certain youth to the Alternatives to Court Experience (ACE) Program or to refer the youth to the Court Social Services Division (CSSD) of the D.C. Superior Court for consideration for formal delinquency court processing.

Intake: Intake is the process by which CSSD prepares its recommendations with regard to whether the youth should be detained overnight, whether charges should be filed by the Office of the Attorney General (OAG), and, if the OAG files charges, whether the youth should be detained pending trial. During this process, CSSD typically investigates whether the youth has any prior contacts with the Family Court; interviews the youth and the youth's parent; and gathers additional background information on the youth, the youth's family, and the youth's community.

Petition: While CSSD conducts the intake of the youth and makes a recommendation to the OAG regarding whether the case should be petitioned, the OAG makes the final decision regarding whether to file a petition against the youth. Generally speaking, the OAG's options are to petition, to divert away from formal court involvement, or to not petition.

Adjudication: The D.C. Superior Court Family Division presides over the adjudication and disposition of the young person. At the adjudication phase, the judge conducts fact finding to determine whether the young person was involved in the offense with which she is charged. A youth is typically adjudicated delinquent after a fact-finding hearing (i.e., trial) or a plea.

Disposition: Disposition is the juvenile court equivalent of sentencing in adult criminal court. At disposition, the role of the judge is to determine whether: 1) a case should be closed for social reasons, 2) the young person should be placed on probation,

171 D.C. CODE § 16-2301(6)-(7).

172 D.C. CODE § 16-2301(8). PINS cases are often referred to as status offense cases as they involve offenses that result from the respondent's status of being a child.

173 D.C. CODE § 16-2301 *et. seq.*

Major Stages of the Juvenile Justice System



or 3) the young person should be committed to the care of the Department of Youth Rehabilitation Services (DYRS). Probation can last up to one year while commitment to DYRS can last up to the child's 21st birthday.

Methodology & Limitations

Broadly speaking, the goal of the local context section of this report was to summarize and analyze data from the various local and federal agencies with responsibility for juvenile justice-involved youth, in order to explore common and divergent trends by gender across the various stages of the system. To that end, data was collected via Freedom of Information Act (FOIA) requests from DYRS, OAG, and MPD and via publicly available information, such as the Family Court annual reports to Congress.¹⁷⁴ The data was then compiled and analyzed by gender (and, where possible, by race and gender) over time.

During the course of research, five key limitations arose that should inform the reading of this report, future research, and data collection efforts by the agencies with responsibility for youth in the juvenile justice system.

First, there is little accurate, readily accessible data relating to PINS youth. While the OAG responded to our FOIA request seeking information relating to the number of PINS petitions by gender and by type of PINS case (truancy, runaway, ungovernability, other), they were only able to provide approximations of the data. Due to a lack of clarity about the scale of the approximations and how the analysis might be skewed, information from the OAG is not included

in our analysis. Additionally, CSSD was not able to provide any of the requested data relating to the number of petitions, adjudications, or dispositions of PINS youth prior to the writing and production deadlines for this report. As a result, this report contains little information relating to PINS youth. Instead, the analysis below focuses primarily on youth with delinquency matters.

Second, while there is a substantial amount of data regarding youth who are committed, little information was able to be collected in time for the publication of this report regarding youth who are on probation due to the fact that CSSD was not able to provide data. Because most youth who go to disposition are placed on probation, the lack of data for this stage of the process leaves a substantial gap in our analysis.

Third, the data requests that were sent to the various agencies sought information "by gender." Data returned in response to these requests reported gender as either male or female. Neither the requests nor the responses appeared to account for the gender identity, gender expression, or sexual orientation of the system-involved youth. This is an area that likely requires both improved data collection and additional analysis.

Fourth, the agencies from whom data was collected often use different terminology or definitions when reporting data. For instance, when reporting violent offenses, MPD tends to follow the definition of "violent" as set forth by the Federal Bureau of Investigation¹⁷⁵ while DYRS tends to use a definition of "violent" that is more inclusive and more closely resembles CSSD's definition of "acts against persons." For the sake of clarity, the brief attempts to use consistent definitions throughout the text. Where the definition of an agency may differ from the one used in the text, it is noted.

¹⁷⁴ D.C. COURTS, STATISTICAL SUMMARY 2016 (2017), <https://www.dccourts.gov/superior-court/family-court-operations/family-court-annual-reports>. A data request was also made to the Court Social Services Division (CSSD) of the D.C. Superior Court. However, the data requested of CSSD was not available in any preexisting reports, and staff resources could not be diverted at that time to undertake the work. While the requested data could not be provided in time for inclusion in this report, the Family Court will make the data available for inclusion in a second report that will seek to fill data gaps identified in this report and will attempt a more qualitative assessment of obstacles system involved girls in D.C. face.

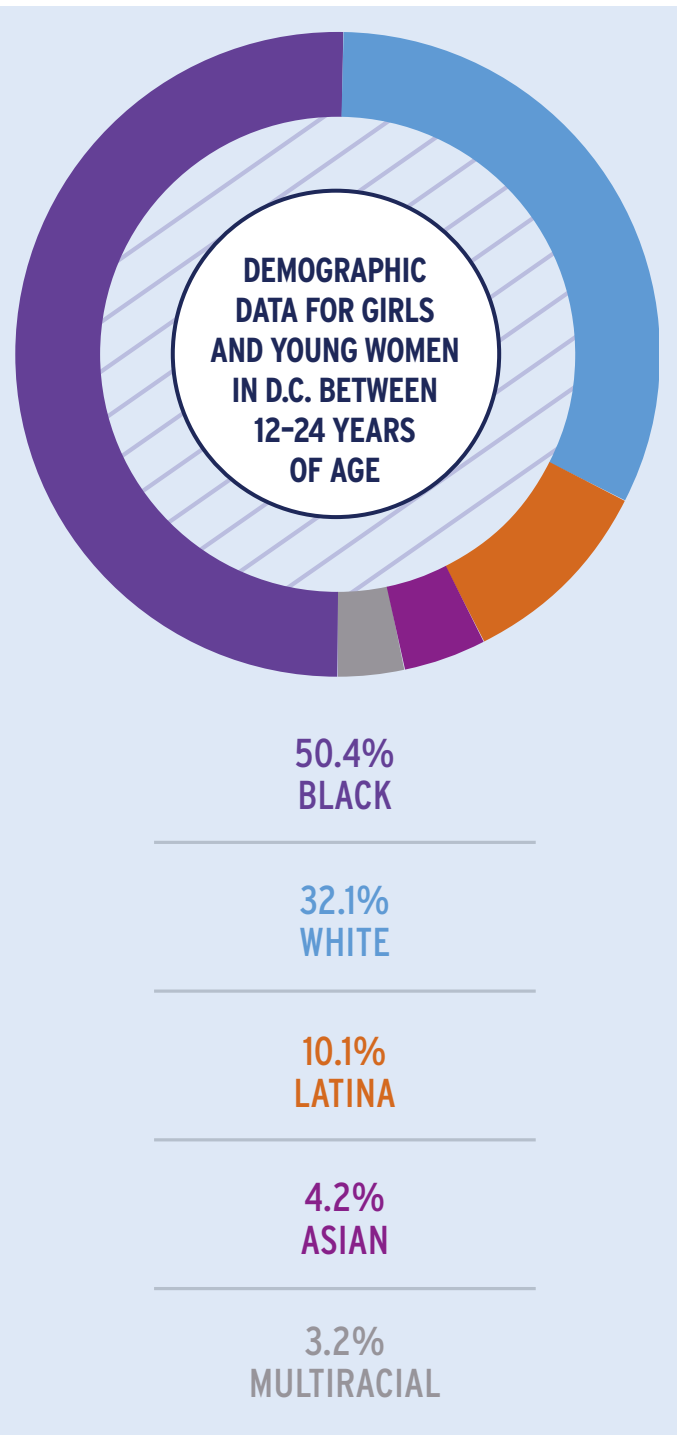
¹⁷⁵ Compare District Crime Data at a Glance, D.C. Metro. Police Dep't, <https://mpdc.dc.gov/page/district-crime-data-glance> (last visited Nov. 20, 2017) (defining violent offenses as homicide, sexual abuse, robbery, and assault with a dangerous weapon) with *Crime in the United States: 2010*, U.S. DEP'T OF JUSTICE FED. BUREAU OF INVESTIGATION, <https://ucr.fbi.gov/crime-in-the-u.s./2010/crime-in-the-u.s.-2010/violent-crime> (last visited Nov. 20, 2017) (defining violent offenses as homicide/non-negligent manslaughter, forcible rape, robbery, and aggravated assault).

Finally, the analysis below focuses on youth in the juvenile justice system and does not examine trends for youth who are charged as adults in the District of Columbia by gender.¹⁷⁶

Girls in D.C.: A Bird's-Eye View

The data below regarding girls' justice involvement cannot be separated from the conditions characterizing the lives of girls in Washington, D.C. According to a recently released report by the Washington Area Women's Foundation, 67% of girls and young women between the ages of 12 and 24, in D.C., are of color. More specifically, 50.4% of them are Black, 32.1% are White, 10.1% are Latina, and 4.2% are Asian.¹⁷⁷ The report indicates that girls and young women of color are more likely to live in poverty than their white counterparts,¹⁷⁸ or to be disconnected from education or employment opportunities.¹⁷⁹ Twenty percent of high school girls in D.C. report experiencing physical or sexual dating violence,¹⁸⁰ and girls and LGBT/GNC youth in D.C. are experiencing homelessness at disproportionate rates.¹⁸¹ Black and Latina girls and girls who identify as LGBT/GNC also report that they have skipped school as a consequence of feeling unsafe.¹⁸² Finally, Black girls in D.C. are suspended at six times the rate of their white counterparts,¹⁸³ and they are nine times more likely to receive at least one out-of-school suspension, compared to non-Black girls.¹⁸⁴

Girls of color are more likely to **live in poverty** than their white counterparts.



176 ALEX PEERMAN ET AL., D.C. LAWYERS FOR YOUTH, CAMPAIGN FOR YOUTH JUSTICE & STUDENTS UNITED FOR YOUTH JUSTICE, CAPITAL CITY CORRECTION: REFORMING D.C.'s USE OF ADULT INCARCERATION AGAINST YOUTH 11-12 (2014) (finding that 98% of youth tried as adults in the District of Columbia are male). More information regarding youth charged as adults in the District can be found in *Capital City Correction: Reforming D.C.'s Use of Adult Incarceration Against Youth* (May 2014).

177 C. NICOLE MASON, WASH. AREA WOMEN'S FOUND., A FAIR CHANCE 3 (2017).

178 *Id.*

179 *Id.* at 4.

180 *Id.* at 6.

181 *Id.* at 7.

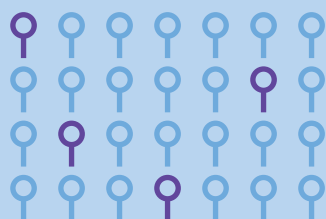
182 *Id.* at 6.

183 GALEN SHERWIN, AM. CIVIL LIBERTIES UNION, LEAVING GIRLS BEHIND: AN ANALYSIS OF WASHINGTON D.C.'s "EMPOWERING MALES OF COLOR" INITIATIVE 7 (2016).

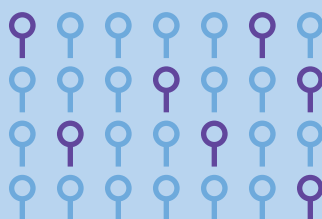
184 MASON, *supra* note 177, at 5.

GIRLS MAKE UP AN INCREASINGLY LARGER PORTION OF D.C.'S JUVENILE JUSTICE SYSTEM

ARRESTS



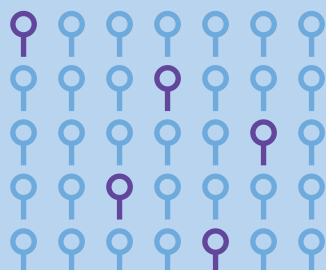
In 2007, fewer than **1 in 7** youth arrests **were girls**.



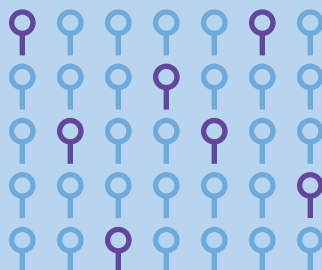
Since 2013, more than **1 in 4** youth arrests **were girls**.

ARRESTS OF
GIRLS HAVE
INCREASED
87%

PETITIONS



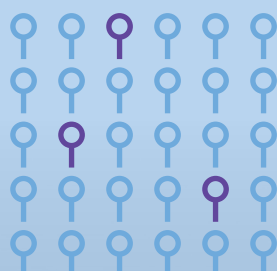
In 2007, fewer than **1 in 7** petitioned youth **were girls**.



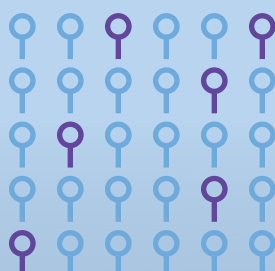
By 2016, **1 in 5** petitioned youth **were girls**.

PETITIONS FOR
GIRLS ARE DOWN
23%
WHILE DOWN NEARLY
50% FOR BOYS

COMMITMENTS TO DYRS

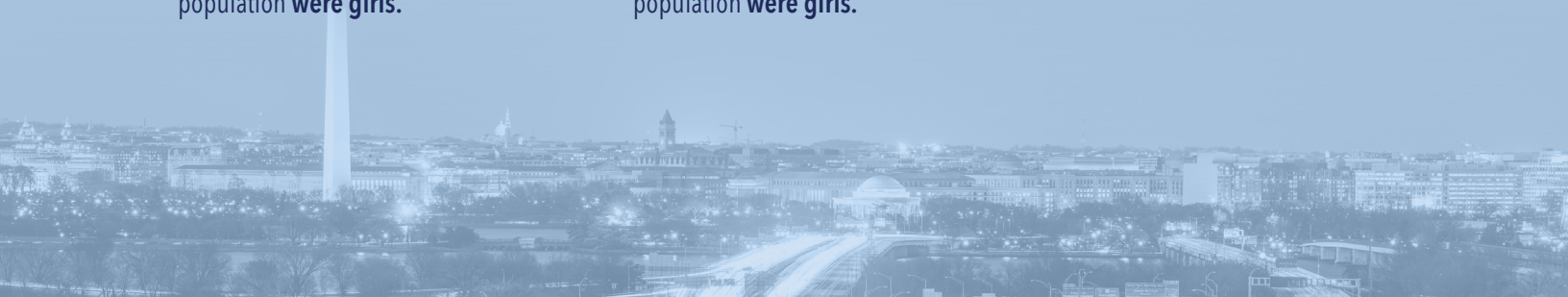


In 2009, **1 in 10** of DYRS's committed population **were girls**.



By 2015, **1 in 5** of DYRS's committed population **were girls**.

NEW
COMMITMENTS
OF GIRLS ARE DOWN
48%
WHILE DOWN 79%
FOR BOYS



Primary Data Findings

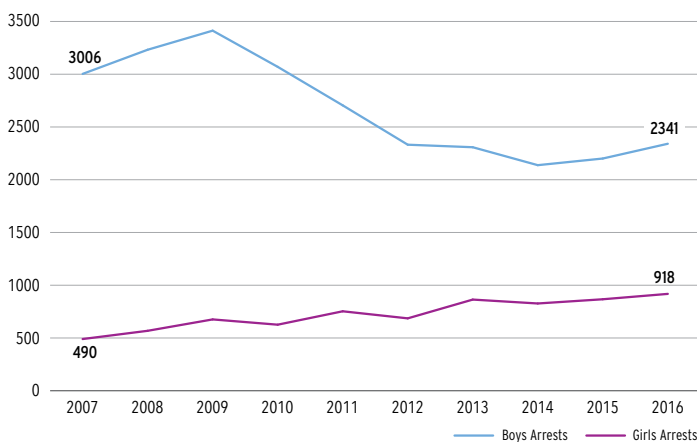
In D.C., Girls Make Up a Larger Proportion of System-Involved Youth at All Points in the System than in Previous Years

Over the last ten years, girls have become an increasingly larger proportion of D.C.'s juvenile justice system. Between 2007 and 2016, the share of girls involved at all stages of the system—arrests, petitions, and commitments—increased significantly even while D.C.'s juvenile justice system shrunk substantially. Despite overall positive trends indicating reduced involvement of youth in D.C.'s justice system, D.C. cannot overlook the growing population of girls and young women in its juvenile justice system and must work to better serve the needs of D.C. girls both before and after they become court-involved.

Arrests

Despite youth arrests generally decreasing over the past eight years, this trend does not hold true for girls. In 2016, there were more arrests for girls in D.C. than in any of the previous nine years. In fact, arrests of girls increased from 490 in 2007 to 918 in 2016, an increase of 87% (Figure 1).

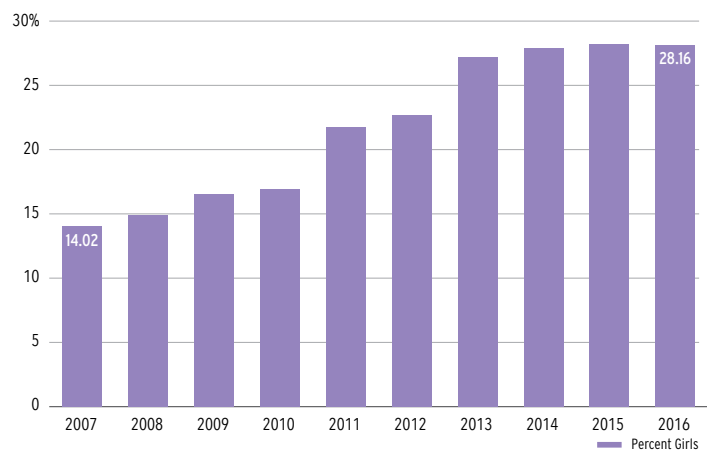
Figure 1: As arrests for boys have decreased, arrests for girls have increased significantly



Girls now account for **1 in 4** youth arrests each year.

This dramatic increase in the arrests of girls occurred at the same time that arrests of boys decreased 22%. As a result, since 2007, the proportion of youth arrested in D.C. who are girls has more than doubled, going from 14% in 2007 to 28% in 2016 (Figure 2). In other words, where fewer than 1 in 7 youth arrests in 2007 were girls, since 2013, more than 1 out of every 4 youth arrested in D.C. was a girl.

Figure 2: Arrests for girls account for an increasing share of overall youth arrests in D.C.



Petitions

Girls also make up an increasing share of juvenile petitions in D.C. Though the overall numbers of petitions for youth in D.C. dropped for both boys and girls between 2007 and 2016 (Figure 3), girls make up a greater share of petitions in 2016 than they did in 2007 (Figure 4). Between 2007 and 2016, petitions for girls dropped approximately 23% while petitions for boys dropped nearly 50%. As a result of the differential in relative declines, girls now account for nearly 1 in 5 petitions (19%), up from fewer than 1 in 7 (13%) in 2007.

Figure 3: Juvenile petitions have declined more drastically for boys than for girls

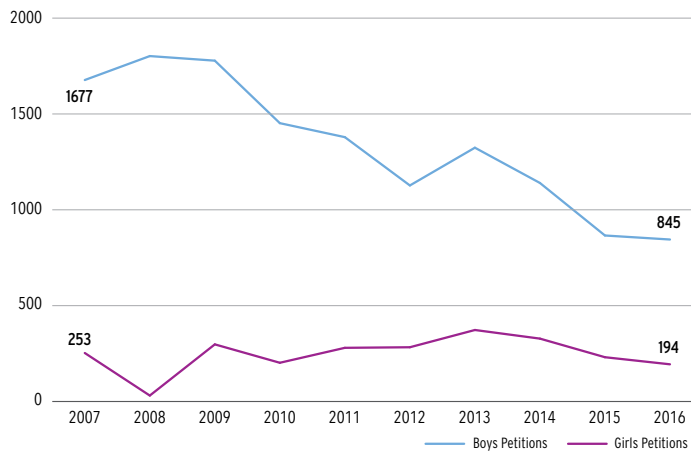
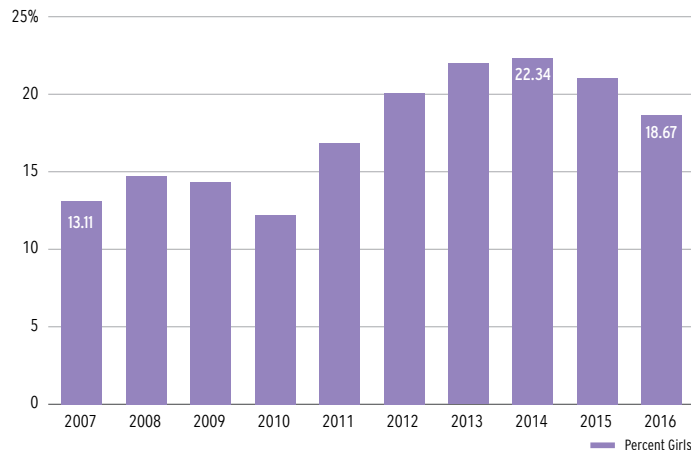


Figure 4: Girls now account for nearly 1 in 5 petitions in D.C.



Looking only at the overall declines between 2007 and 2016 for petitions of both boys and girls fails to account for the differing paths between boys and girls to those overall declines. Petitions for boys peaked in 2008 at 1802 petitions before declining steadily to 845 in 2016. In contrast, petitions for girls increased steadily between 2007 and 2013, peaking at 373 petitions, before declining precipitously to 194 petitions in 2016 (Figure 3).



Pretrial Detention

The number and percentage of girls who were detained at their initial hearings¹⁸⁵ paralleled the trajectory of petitions. Specifically, the number of girls detained at their initial hearings increased between 2008 and 2013, peaking at 139 girls detained, prior to decreasing to 35 girls in 2016 (Figure 5). The percentage of girls detained at their pretrial hearing peaked in 2014 (41%) when nearly as many girls were detained as in 2013 but fewer petitions were filed than the year prior.

In contrast, paralleling the trends relating to petitions, the number of boys detained pretrial has decreased steadily over the last eight years as petitions for boys have progressively decreased (Figure 6). Nevertheless, even when the number of boys detained pretrial was decreasing while the number of girls detained pretrial was increasing, boys were detained at higher rates than girls throughout the entire period (Figure 7). This is likely explained, at least in part, by the fact that boys are arrested and charged for more serious offenses than girls.¹⁸⁶

¹⁸⁵ The court data used for this report defines pretrial detention only as the detention decisions made at the initial hearing and so it does not reflect the movement from one placement status to another at any point either before or after adjudication. As a result, the data reported is a very conservative estimate of the number of girls and boys detained between 2008 and 2016.

¹⁸⁶ See *infra* pp. 23–29. However, as a reminder, this data does not take into account the pretrial detention of girls after the initial hearing or the pretrial detention of girls in PINS cases.

Figure 5: Petitions and pretrial detention by year and gender

	Gender	Petitions	Total Pretrial Detention	% in Pretrial Detention	Secure Detention	Staff Secure Detention
2008	Female	311	100	32%	53	47
	Male	1802	774	43%	556	218
2009	Female	298	98	33%	60	38
	Male	1778	795	45%	575	220
2010	Female	202	62	31%	35	27
	Male	1452	683	47%	474	209
2011	Female	283	89	31%	50	39
	Male	1379	554	40%	303	251
2012	Female	283	100	35%	48	52
	Male	1127	499	44%	276	223
2013	Female	373	139	37%	56	83
	Male	1324	639	48%	394	245
2014	Female	328	136	41%	78	58
	Male	1140	534	47%	331	203
2015	Female	231	50	22%	23	27
	Male	866	299	34%	161	138
2016	Female	194	35	18%	14	21
	Male	845	286	34%	143	143

Figure 6: The number of girls placed in pretrial detention has fluctuated significantly

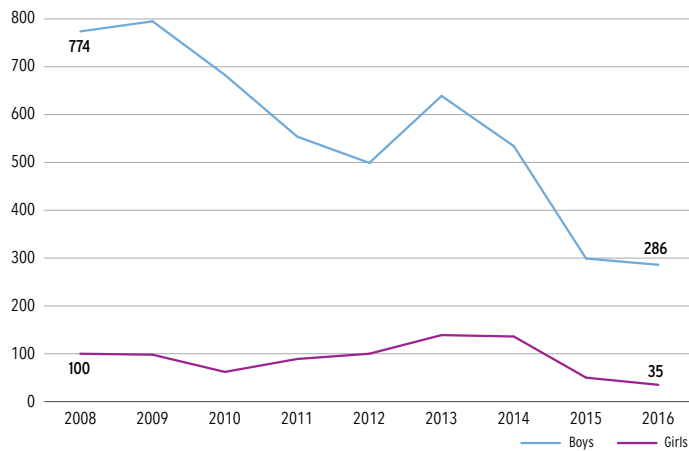
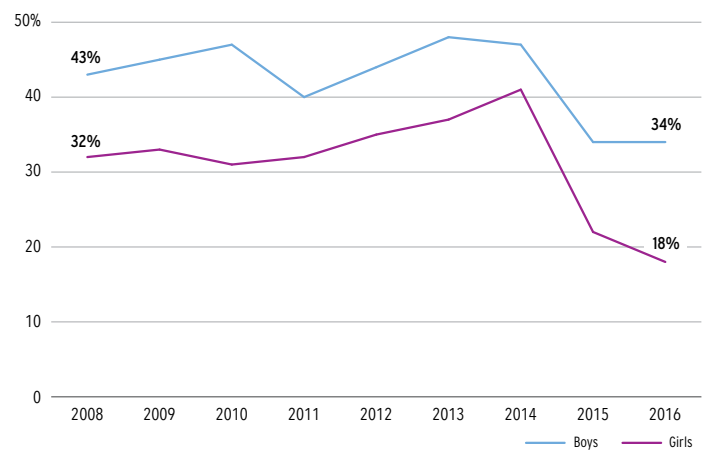


Figure 7: Percent of petitions for girls placed in pretrial detention lower than percent for boys



The fact that **girls comprise a higher share of deep-end youth** than in previous years **deserves serious attention.**



Disposition

The vast majority of youth who go to disposition receive a term of probation. Unfortunately, data relating to the number of dispositions per year by gender by outcome is not available in any existing reports kept by the Court Social Services Division or the Court.¹⁸⁷ As a result, no data was available to the authors on the number of boys and girls who receive probation as of the writing of this report.

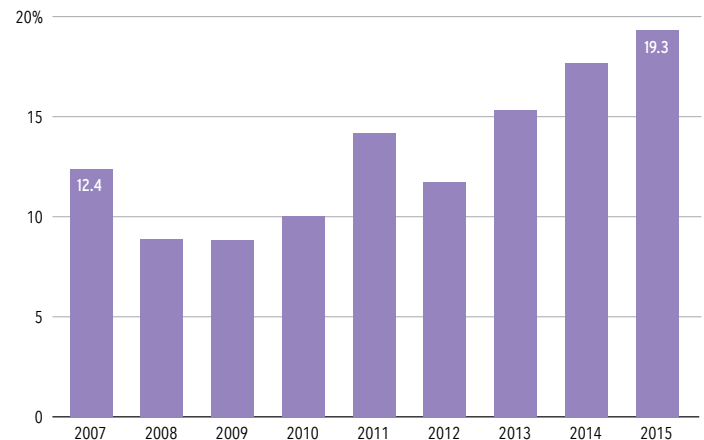
Commitment

Since 2009, the number of new commitments to DYRS per year—for both girls and boys—has decreased substantially. New commitments of girls peaked in 2009 at 33 new commitments before declining by more than 48% to 17 new commitments in 2015 (*Figure 8*). Similarly, new commitments of boys peaked in 2009 at 342 new commitments before declining by more than 79% to 71 new commitments in 2015 (*Figure 8*). The decline in the number of girls under DYRS care is encouraging, but the fact that girls comprise a higher share of deep-end youth than in previous years deserves serious attention (*Figure 9*).

Figure 8: New commitments for all youth declined between 2009 and 2015



Figure 9: Girls make up a larger share of new youth committed to DYRS



¹⁸⁷ See *supra* p. 14.

Between 2007 and 2015, per capita arrests for girls in D.C. more than doubled for 13 and 15-year-olds and more than tripled for 14-year-olds.

This decline in the number of new commitments each year between 2009 and 2015 led to a decline in the overall population of youth committed to DYRS (*Figure 10*). Unfortunately, as DYRS's overall committed population declined, the share of DYRS's committed population comprised of girls increased substantially—nearly doubling between 2009 and 2015—from 11% of all committed youth to 18% of all committed youth (*Figure 11*).

Figure 10: Both girls and boys under DYRS care have declined since 2008, but girls more slowly

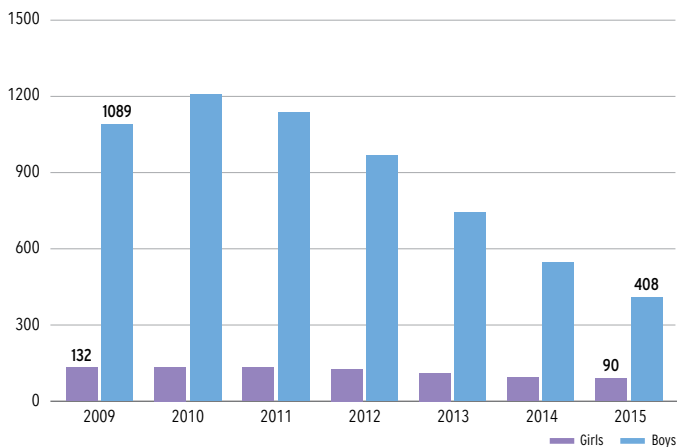
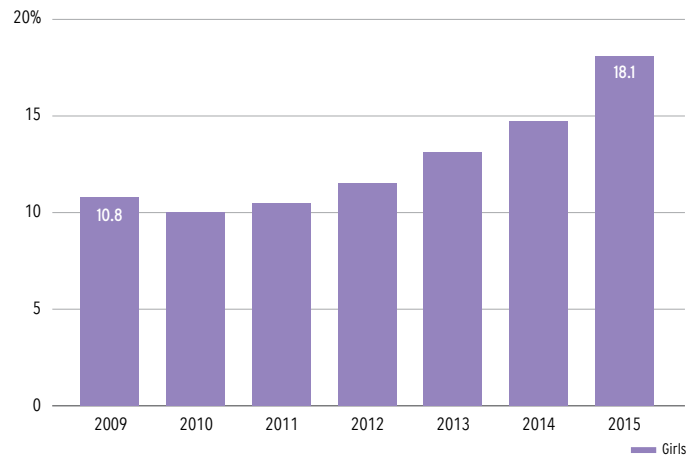


Figure 11: Girls' proportion of total committed youth under DYRS care has increased



Girls Become Involved in the Juvenile Justice System At Younger Ages Than Boys

A more than two-fold increase in arrests for girls ages 13, 14, and 15 accounts for the dramatic rise in arrests for girls between 2007 and 2015. Between 2007 and 2015, per capita arrests for girls in D.C. more than doubled for 13 and 15-year-olds (112% and 138% increases, respectively) and more than tripled for 14-year-olds (223% increase) (*Figures 12, 13*). While per capita arrests for 16 and 17-year-old girls also increased significantly during this time, the increases were not nearly as large. Indeed, as a result of the increased pace of arrest for girls under 15, arrests of girls in that age cohort grew from under half of all arrests of girls in 2007 to nearly 60% of all arrests of girls in 2015 (*Figure 14*).

Figure 12: Arrests for girls per 1,000, by age, by year

	2007	2008	2009	2010	2011	2012	2013	2014	2015
13	16.69	17.34	21.86	22.5	28.99	24.55	31.14	31.18	35.4
14	22.65	27.66	41.15	37.57	50.55	47.15	56.24	58.27	73.22
15	33.78	37.84	42.24	50.37	59.19	53.49	79.95	75.37	80.41
16	42.72	45.19	57.39	62.19	71.46	59.25	81.06	70.16	78.88
17	37.52	58.66	65.93	48.23	61.4	68.75	71.71	71.19	55.68

Figure 13: Percentage increase in arrests for girls, by age, between 2007 and 2015

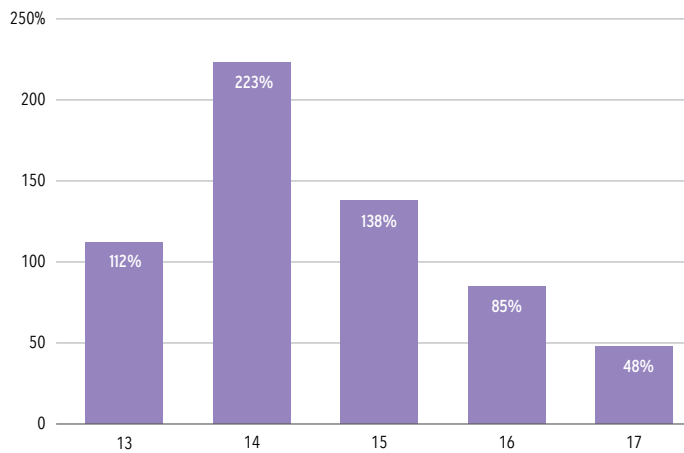
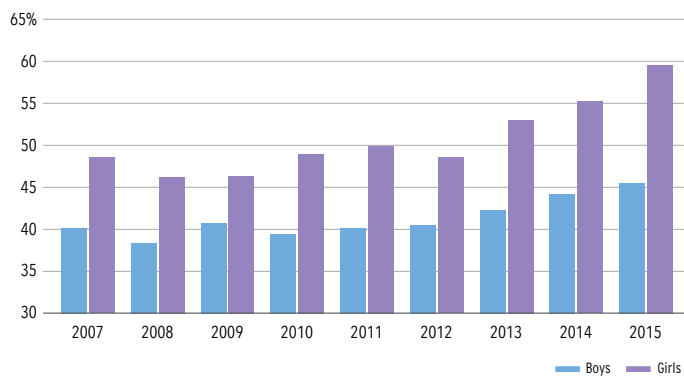


Figure 14: Percent of arrests of youth age 15 or younger, by gender

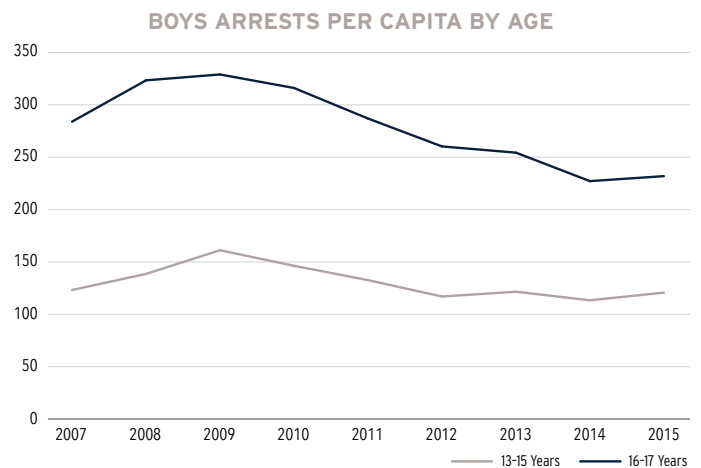
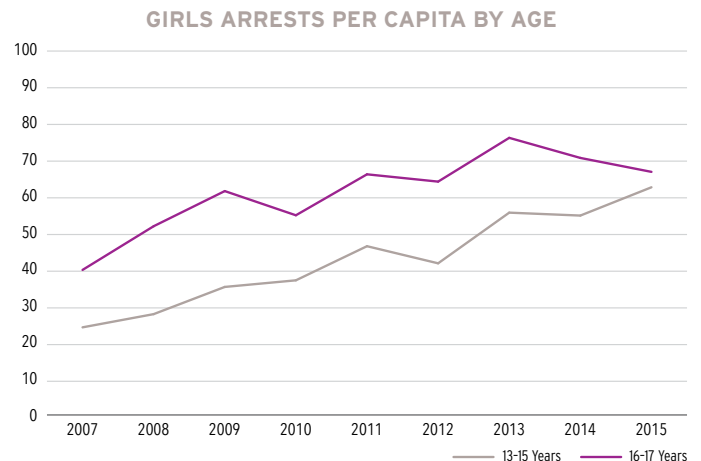


Additionally, there are three key differences between per capita arrest rates for girls and boys, by age, demonstrating that girls become involved in the juvenile justice system at comparatively younger ages. First, per capita arrest rates increased significantly for girls across all ages studied while rates decreased for boys across nearly all ages studied (*Figures 12, 15, 17*). Second, the proportion of arrests for girls who are 15-years-old or younger is significantly higher than the proportion of arrests for boys 15-years-old or younger (*Figure 14*). Third, due to the dramatic increase in per capita arrests for girls age 13 to 15, by 2015, per capita arrest rates for girls age 13 to 15 were similar to arrest rates for girls age 16 and 17 (*Figures 12, 16*). In contrast, per capita arrest rates for boys age 16 and 17 remained substantially higher than arrest rates for boys age 13 to 15 throughout the time period studied (*Figure 16*).

Figure 15: Arrests for boys per 1,000, by age, by year

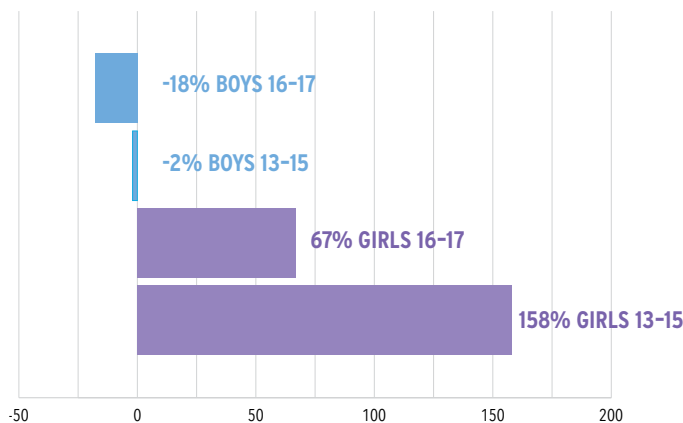
	2007	2008	2009	2010	2011	2012	2013	2014	2015
13	58.57	67.04	62.73	70.78	63.18	54.63	60.48	56.9	59.24
14	119.66	138.44	173.93	135.74	122.55	118.19	122.32	115.38	132.34
15	186.48	203.32	246.45	228.45	211.14	175.95	181.93	168.72	166.67
16	289.55	281.2	318.8	294.89	264.36	246.14	240.69	226.3	223.9
17	282.67	371.6	343.77	340.91	313.54	276.43	270.62	230.22	242.03

Figure 16: Arrests for girls, ages 13-15, increased more dramatically than other age/gender cohorts over the last eight years



Almost half of all girls newly committed to DYRS custody are **15-years-old or younger**.

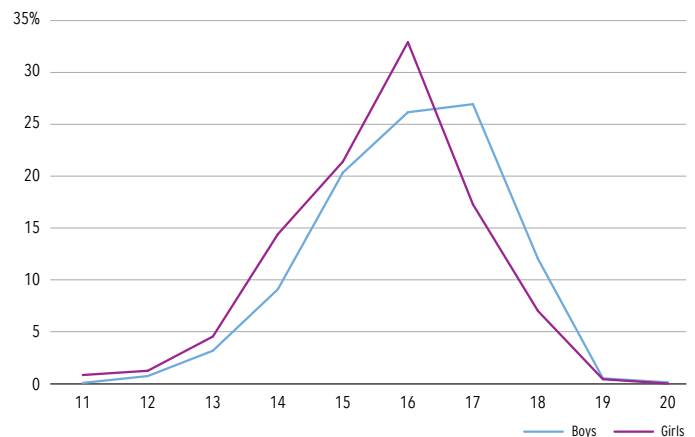
Figure 17: Change in per capita rate of youth arrests (per 1,000) between 2007 to 2015



Commitment data also supports the finding that girls not only become involved in the juvenile justice system at a younger age but also penetrate the system more deeply at a young age. Specifically, the data demonstrates that girls were committed at younger ages than boys on average. Over the last eight years, 49% of newly

committed girls were 15-years-old or younger, compared to 33% of boys (Figure 18). In other words, almost 1 in 2 girls newly committed to DYRS custody is 15-years-old or younger while only 1 in 3 boys are newly committed at such a young age.

Figure 18: Of all newly committed DYRS youth (2007-2015), the median age for girls at commitment is younger than for boys



Non-Violent, Non-Weapons Offenses Are the Leading Cause of Girls' System Involvement

In 2016, 86% of arrests of girls in D.C. were for non-violent, non-weapons related offenses (Figure 19).¹⁸⁸ Moreover, over the last eight years, simple assault¹⁸⁹ has consistently been the most frequent arrest charge for girls. Additionally, looking at arrests with an *identified* charge, between 2007 and 2016 for girls, 42% were for simple assaults, another 9% were for assault with a dangerous weapon,¹⁹⁰ and another 6% were for assault on a police officer.¹⁹¹ Combined, about 56% of all arrests for girls were for some form of assault (Figure 20). As a point of comparison, only 28% of classified arrests for boys were accounted for by these same assault charges. As a result, for girls whose arrests were classified in the data in a specific MPD category, more than 1 in every 2 arrests is for some form of assault, and more than 2 in every 5 are for a simple assault.

188 Non-violent and non-weapon offenses include any offense that is not aggravated assault, robbery, rape or other violent sexual offenses, homicide, and or an offense that involves a weapon. A majority of arrests of boys (68%) were also for non-violent, non-weapons offenses.

189 See D.C. CODE § 22-404(a)(1). Simple assault typically involves an assault on a civilian that results in minor or no injury. *Contrast with* D.C. CODE § 22-404(a)(2) (assault with significant bodily injury) and § 22-404.01 (aggravated assault). Common examples of simple assaults include fights within the home or the school that do not result in significant bodily injury.

190 While the authors do not have data on the types of weapons used during these alleged assaults, weapons can include a variety of items, including items ranging from shoes and snowballs to knives and guns.

191 Arrests with identified charges are all arrests that were not reported as "Blank" or "Other" in MPD data. Between 2007 and 2015, "Other" accounted for 510 arrests for girls (8%) and "Blank" accounted for 1421 arrests for girls (21%).

Figure 19: Non-violent, non-weapons offenses accounted for 86% of arrests for girls (2016)

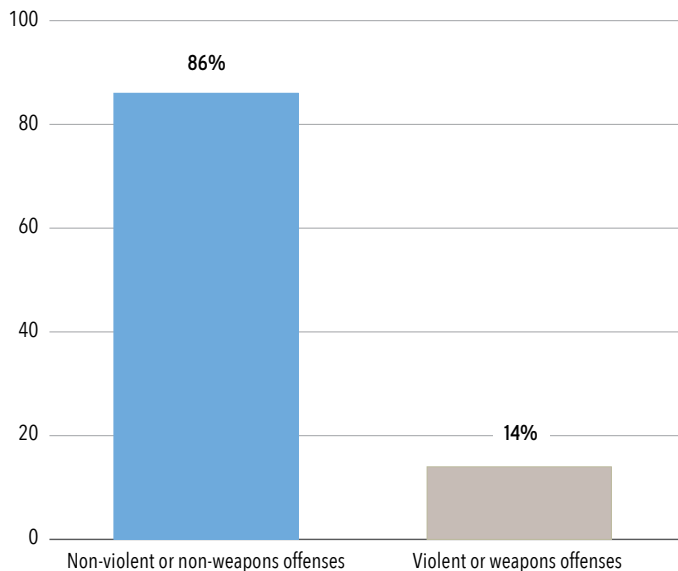
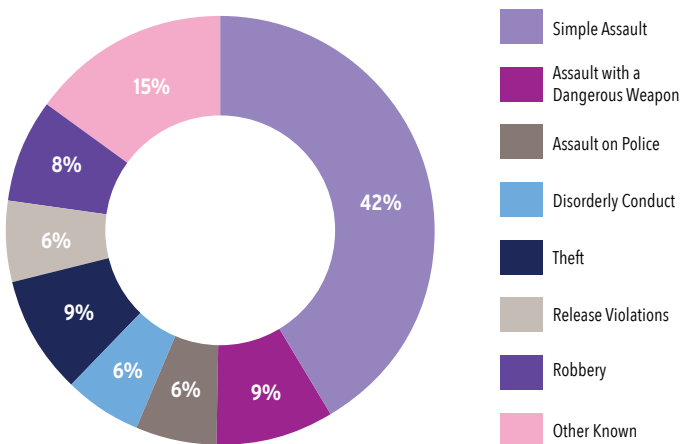


Figure 20: Between 2007-2016, simple assaults accounted for 42% of arrests with identified charges¹⁹²



Not only do simple assaults make up the greatest share of arrests for girls combined across years, but during *each* of the past eight years, simple assaults made up the largest category of arrests for girls by a large margin. In each of the past eight years, there was more than double the amount of arrests for simple assault than for any other single, specified charge (Figure 21). Though the number of arrests

for simple assaults has fluctuated over the last nine years it has consistently been the leading charge and, in 2015, simple assault arrests on girls were four times more frequent than the next leading known charge (Figure 22).

Figure 21: Simple assault is consistently the leading cause of arrest for girls¹⁹³

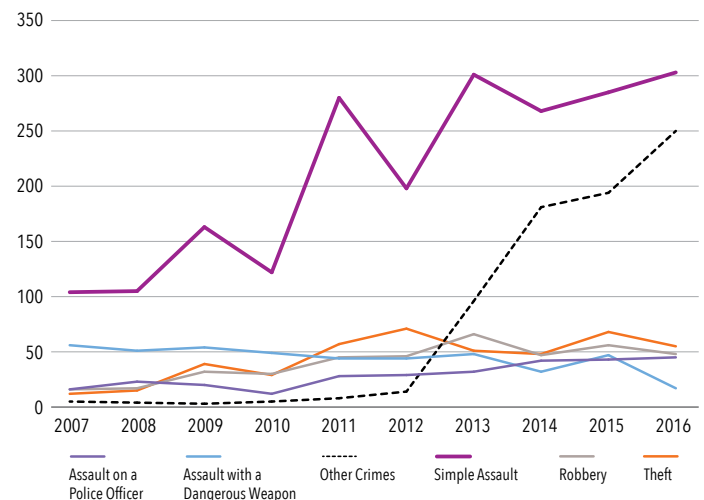
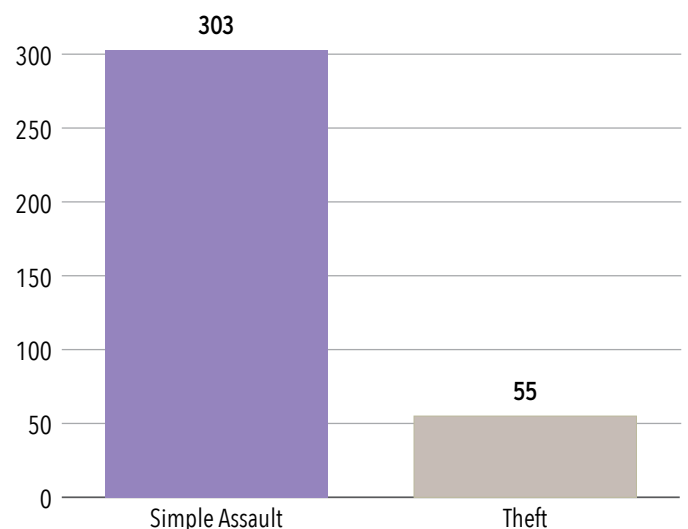


Figure 22: In 2016, the number of arrests of girls for simple assault was over five times greater than the number of arrests for the next most common charge



¹⁹² "Other known" consists of 26 other categories of juvenile arrests which each, individually, make up less than 3% of arrests during the above timeframe.

¹⁹³ The dashed line in Figure 21 represents crimes that MPD labeled as "Other" rather than one of the 29 arrest categories they used. The need for improvement in specific data reporting and collection by MPD is highlighted in the Methodology & Limitations section of this report.

The **majority of girls in D.C.** committed to DYRS are being committed for **misdemeanor charges and status offenses** (i.e., PINS cases) as opposed to felonies.

Simple assaults are also consistently the leading charge for petitions of girls. Simple assaults account for a much larger proportion of petitions for girls compared to boys, making up between 20% to 33% of petitions for girls each year, and between 8% and 13% for boys each year (*Figure 23*). Additionally, behavior categorized as some form of assault accounts for a significantly higher number of petitions for girls compared to boys.¹⁹⁴ For girls, in any given year since 2007, over half—and as many as 62%—of all petitions are for behavior categorized as assault. For boys, behavior categorized as assault is the leading charge for less than a third of petitions—and as few as 22%—in any given year (*Figure 24*).

Figure 23: A significantly greater proportion of juvenile petitions for girls are for simple assaults

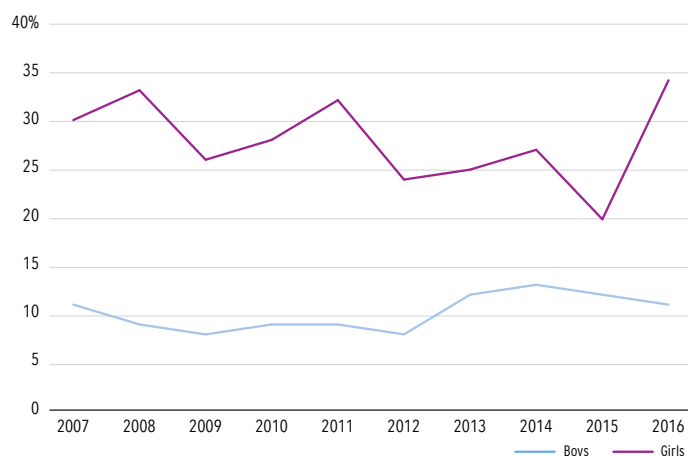
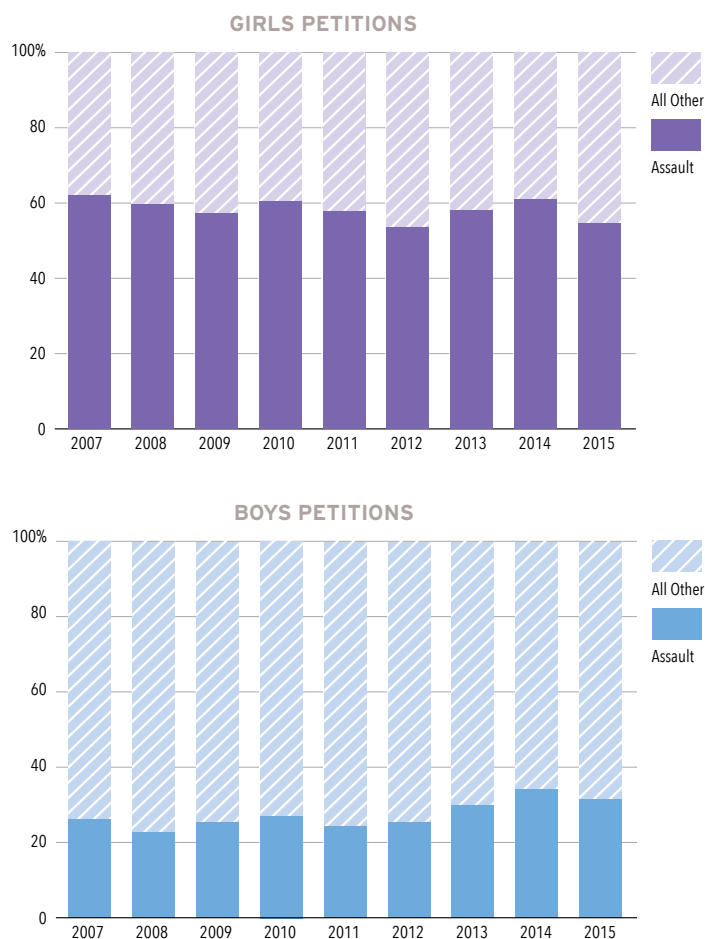


Figure 24: A majority of petitions for girls in court are for some form of assault



Allegations of assaults against persons are also driving the commitment of girls to DYRS—the deepest end of D.C.'s juvenile justice system. However, while such behavior is categorized as an act against a person, the majority of girls in D.C. committed to DYRS are being committed for misdemeanor charges and status offenses (i.e., PINS cases) as opposed to felonies. This mirrors national trends that indicate that the majority of girls involved in the juvenile justice system are not there because their behavior necessarily poses a significant threat to public safety.¹⁹⁵

¹⁹⁴ In the petition context, behavior categorized as assault includes simple assault, aggravated assault, and assault with a dangerous weapon.

¹⁹⁵ See *supra* p. 3.



Girls committed to DYRS in any year between 2007 and 2015 were most likely to be committed for acts against a person (Figure 25). In a given year, between 43% and 77% of girls newly placed under DYRS care were committed to DYRS for person-based charges, while between 38% and 63% of boys were committed because of person-based charges. In 2015, 3 out of every 4 girls entered DYRS care because of a person-based charge. In contrast, only 2 of the 241 girls (less than 1%) committed to DYRS care between 2007 and 2015 were placed there for drug offenses (Figure 26). Girls with PINS charges made up 14% of girls (34 girls) newly placed in DYRS care. For boys, 183 of the 1806 boys placed in DYRS care were placed there for drug offenses (10%) and 25 boys (1%) were placed in DYRS care for PINS. The disproportionality of the difference in commitments for PINS cases for girls and boys highlights the need for further data and analysis regarding status offense cases.

Figure 25: Charges for newly committed girls in DYRS care by year¹⁹⁶

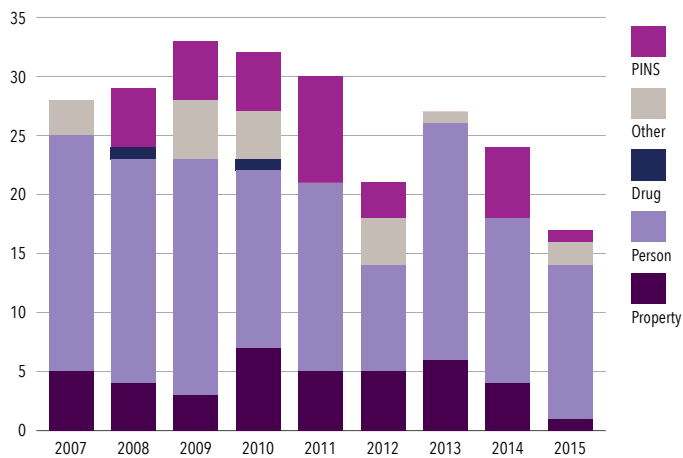
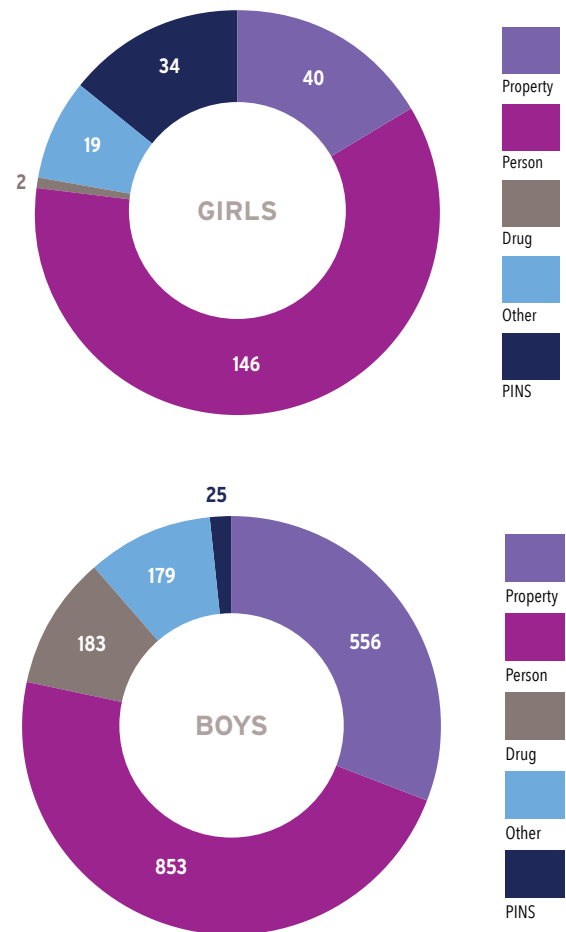
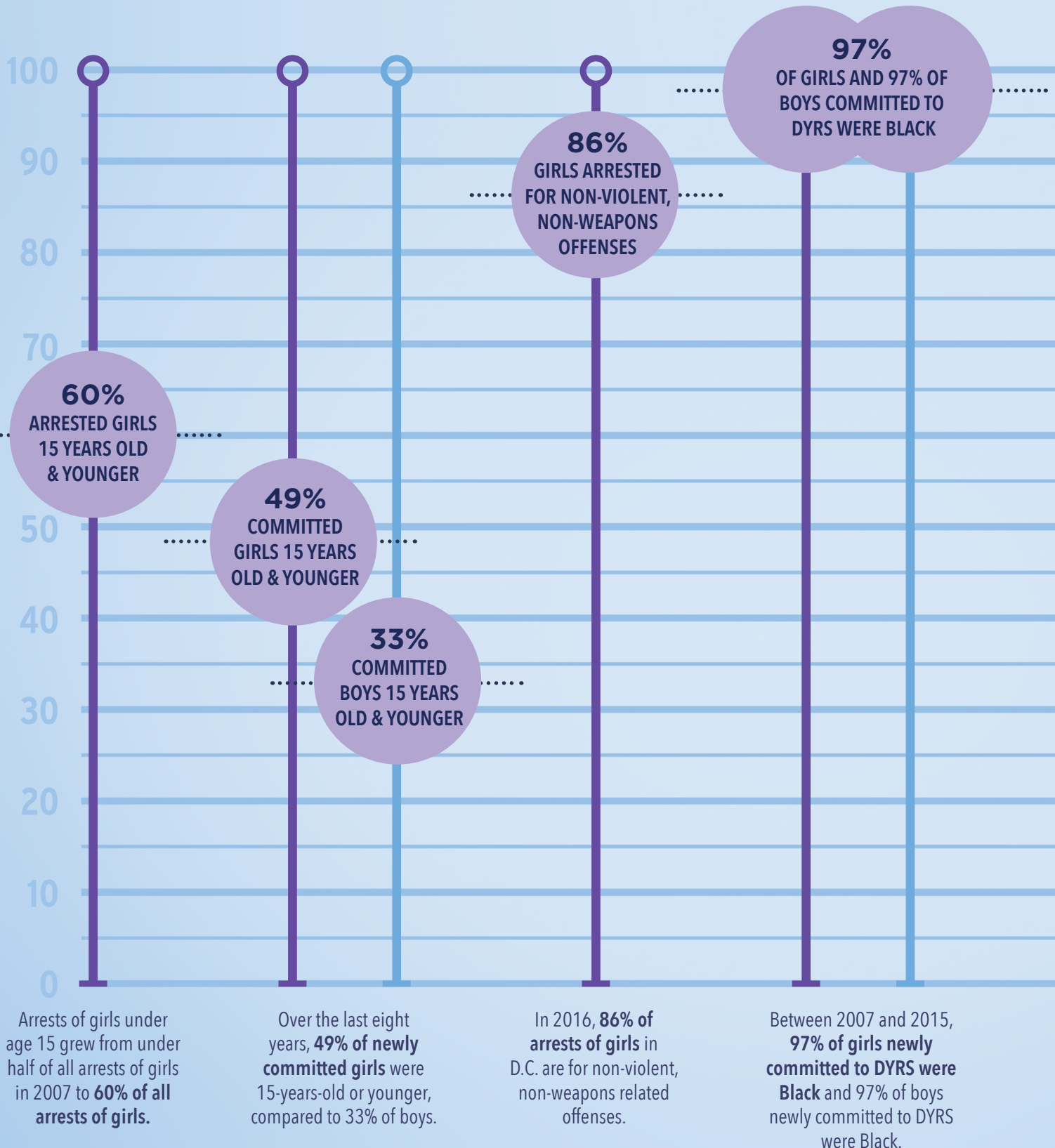


Figure 26: Charges for total new commitments between 2007 and 2015



¹⁹⁶ For consistency, we relabeled the DYRS category of “violent” offenses to “acts against person” given it consists of offenses, including simple assaults and other misdemeanors, that do not involve drugs or property and includes behavior characterized as assault that are included in the arrest and petitions analysis. It should also be noted that when comparing the charges for girls newly committed to DYRS care, the populations involved are small at about 20-30 cases per year, so caution should be used in extrapolating these results to larger samples.

AT A GLANCE: ARRESTS AND COMMITMENT TRENDS FOR GIRLS IN D.C.





The offenses for which girls are committed are less serious than the offenses for which boys are committed.

While the majority of offenses for which girls were committed are categorized as offenses against persons, it is critical to note that the majority of offenses for which girls were committed are misdemeanor and status offenses (*Figure 27, 28*). Between 2007 and 2015, 52% of girls newly committed to DYRS were committed on misdemeanor charges and 15% were committed on status offense charges while only 33% were committed on felony charges (*Figure 29*). The fact that such a high percentage of the charges at commitment for girls were misdemeanors indicates that a large number of the offenses against persons involve misdemeanor charges as opposed to felony charges within the acts against persons category.

This also stands in contrast to the charges that form the basis for commitment of boys. While two-thirds of commitments of girls were for misdemeanor and status offenses, 57% of commitments of boys were based on felonies (*Figure 30*). This indicates that the offenses for which girls are committed are less serious than the offenses for which boys are committed. As a result, it appears that girls are often committed for reasons other than offense severity, which is often a proxy for public safety.

Figure 27: Newly committed girls by offense severity

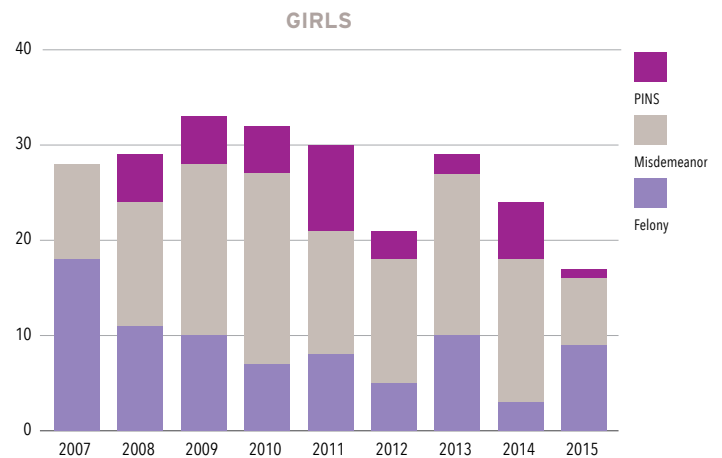


Figure 28: Newly committed boys by offense severity

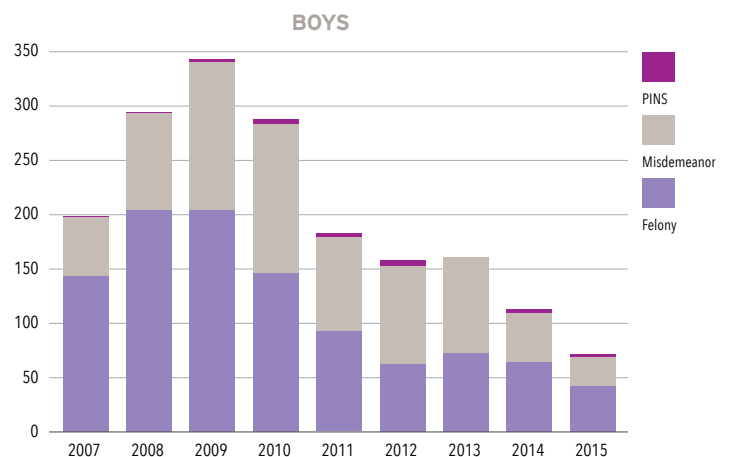


Figure 29: Charges of newly committed girls entering DYRS custody between 2007 and 2015

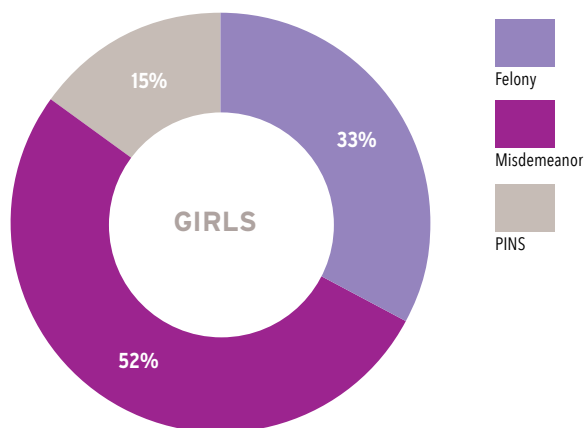
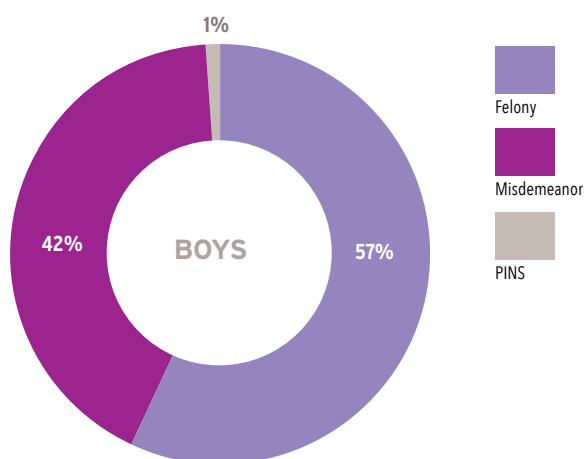


Figure 30: Charges of newly committed boys entering DYRS custody between 2007 and 2015



Black girls were arrested at a rate over 30 times that of white youth.

There Are Significant Racial Disparities Among D.C.'s System-Involved Girls

There are significant racial disparities in arrests by race and gender for D.C. youth. Comparing the number of 2015 arrests of only those youth who provided D.C. addresses with the population of 10 to 17-year-olds, by race, Black girls were arrested at a rate of 51.9 per 1000 youth—over thirty times that of both girls (1.6) and boys (1.6) reported as white (Figure 31).¹⁹⁷

Consistent with the trends described above, this disparity has only grown over time. In 2007, there were 20 arrests per 1,000 Black female youth residents while, in 2015, there were 52 arrests per 1,000 Black female youth residents. As a result, between 2007 and 2015, per capita arrests for Black girls more than doubled (Figure 31, 32). In contrast, per capita arrests for Black male youth residents increased only 6% while per capita arrests for youth reported as white decreased.

¹⁹⁷ Black boys were arrested at a rate 83 times greater than white boys and white girls (Figure 31). This analysis relies on the data reported in response to a FOIA request submitted to MPD. Categories for race reported in the response include Asian, Black, Pacific Islander, White, and Unknown. Using numbers for all youth arrested in D.C., rather than just those with D.C. addresses, reveals similar per capita magnitudes. However, unknown arrests and non-D.C. resident arrests were excluded as only the D.C. youth population was used to calculate the per capita rate.

Figure 31: Yearly per capita arrest rates show very different trends by gender and race

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Black girls	20.3	26.6	34.1	31.2	36.3	37.2	51.4	50.8	51.9
Black boys	125.8	146.8	167.5	155.3	137.5	123.8	133.5	129.7	133.9
White boys	18.8	22.1	17.9	26.1	4.3	3.9	2.7	1.5	1.6
White girls	2.4	4.9	3.4	4.2	1.8	0.6	0.6	1.5	1.6

97% of girls and 97% of boys newly committed to DYRS were Black.

These observed disparities between Black girls and boys and their non-Black peers are not limited to the point of arrest. Between 2007 and 2015, 97% of girls newly committed to DYRS were Black and 97% of boys newly committed to DYRS were Black (Figure 33).

Figure 32: Per capita (1,000) arrests of Black girls in D.C. more than doubled

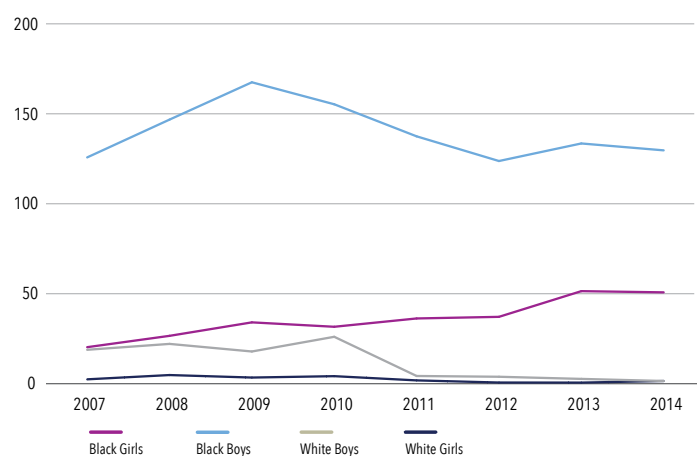
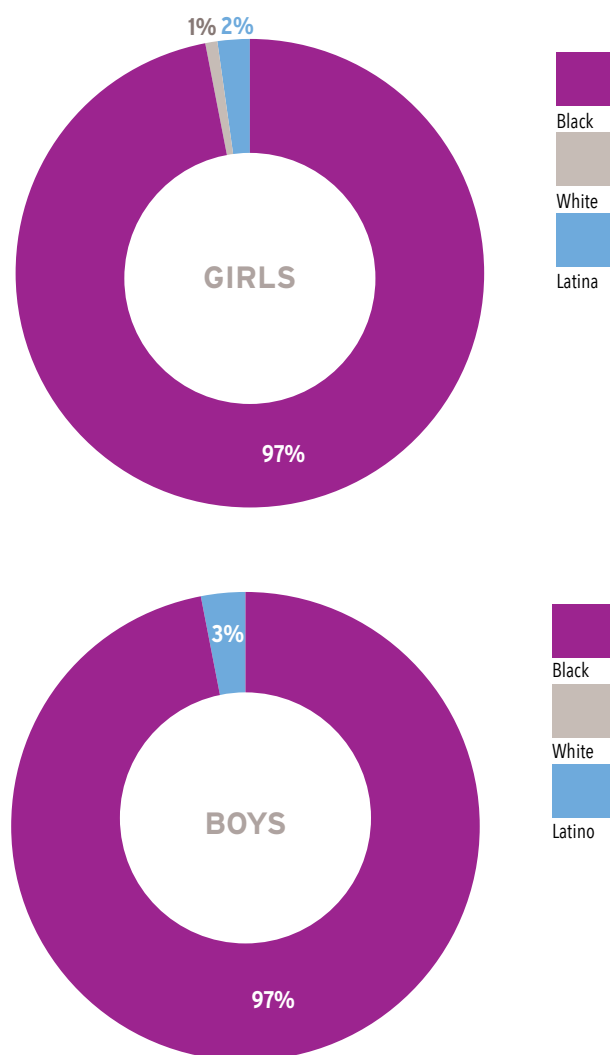


Figure 33: Percentage of committed youth by race (2007 to 2015)



Additionally, the problem of racial disparities is not confined to how girls are treated in the juvenile justice system, but also impacts the pathways by which girls enter the system. It is well documented that school suspension and expulsion renders youth, particularly Black girls and other youth of color, more vulnerable to become system involved.¹⁹⁸ In D.C. public and public charter schools, during the 2015-2016 school year, Black girls were over nine times more likely to receive at least one out of school suspension compared to girls of other races, and over eight times more likely to receive a suspension than white boys.¹⁹⁹

Analysis

The arrest, petition, detention and commitment data for girls in D.C. reveals trends worth exploring, monitoring, and considering within the larger context of justice reform efforts throughout D.C. D.C.'s juvenile justice system includes a growing population of girls who have been historically under considered and neglected in data collection, preventative services and intervention efforts. The data in this report provides some context but the data we are not able to show highlights the need for D.C. agencies to track populations of girls, by age and race, and to collect information on the potential causes for the increase in girls' justice involvement.

Based on the above findings, we draw three primary conclusions:

1. Arrests for girls ages 15 and under is a main driver into the juvenile justice system for girls in D.C.
2. Girls at the deepest end of D.C.'s juvenile justice system are not dangerous.
3. The increase in arrests of Black girls is driving the growing share of girls in the juvenile justice system.

Arrests of Girls Ages 15 and Under Are a Main Driver of Girls into the Juvenile Justice System

In D.C., arrest trends show that girls are more likely to be 15 and under compared to boys (*Figures 34 and 35*), and that girls newly placed under DYRS care also tend to be slightly younger than boys (*Figure 17 and Figure 18*). Other research also supports the idea that for girls, the crime curve may peak earlier than for boys (*Figure 36*).²⁰⁰

Figure 34: Arrest rates of girls in D.C., by age (per 1,000)

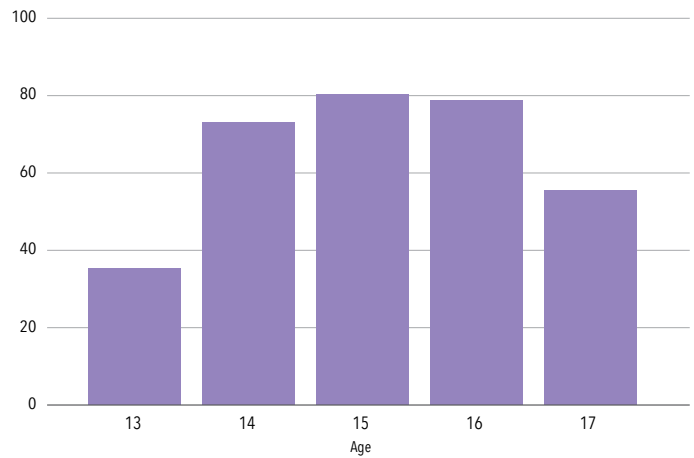
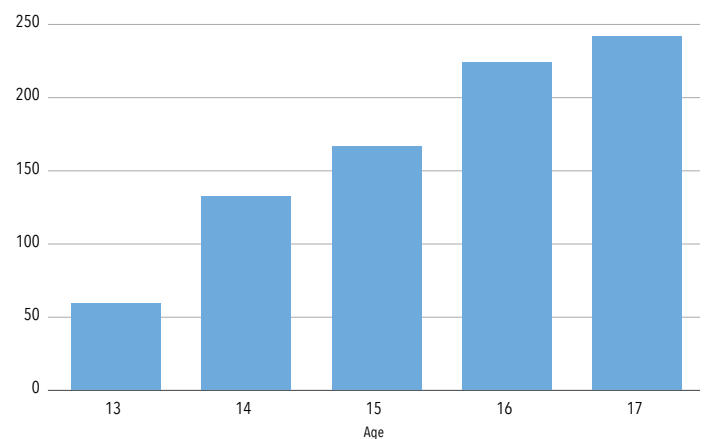


Figure 35: Arrest rates of boys in D.C., by age (per 1,000)

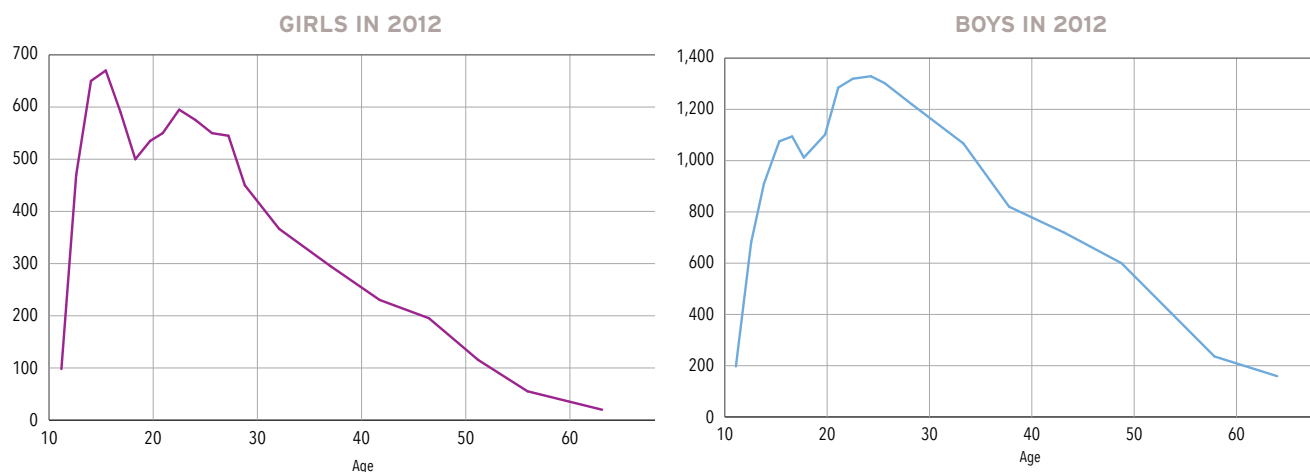


198 E.g. MORRIS, *supra* note 49; CRENSHAW ET AL., *supra* note 111, at 33-35; KHADIJA HUDSON & BRITTANY BRATHWAITE, GIRLS FOR GENDER EQUITY, THE SCHOOL GIRLS DESERVE (2017); NEENA CHAUDHRY & JASMINE TUCKER, NAT'L WOMEN'S LAW CTR., LET HER LEARN: STOPPING SCHOOL PUSHOUT OVERVIEW AND KEY FINDINGS (2017).

199 D.C. OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, STATE OF DISCIPLINE 2015-2016 SCHOOL YEAR 26 (2017).

200 U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, FROM *Juvenile Delinquency to Young Adult Offending*, NAT'L INST. OF JUSTICE, <https://www.nij.gov/topics/crime/Pages/delinquency-to-adult-offending.aspx> (last modified Mar. 11, 2014).

Figure 36: National arrests trends for simple assault show an earlier peak for girls compared to boys



The prevalence of young girls in the juvenile justice system may be better understood by considering the behaviors that bring girls into the system. A rise in charges for behaviors characterized as assault and a rise in the arrest of younger girls may be associated. Recent research demonstrates that, nationally, the rise in simple assault charges filed against girls may be explained as an unintended consequence of law enforcement responses to familial violence or conflict within the home.²⁰¹ Studies that have examined law enforcement responses to girls accused of assault against family members found that younger girls were more likely to be formally arrested than older girls.²⁰² This is critical because a trend of younger girls entering the system may cause, foreshadow, or contribute to an increase in the number of girls reentering and remaining in the juvenile justice system. Research studying the impact of having one's first arrest occur early in life has found that the risk of both subsequent offending and subsequent arrests increase through separate processes.²⁰³ As a result, the early involvement of younger girls in D.C.'s juvenile justice system can have compounding consequences that not only reflect the reason why girls are becoming increasingly involved in the juvenile justice system but may also be a cause of later involvement in the system.

Girls in D.C.'s Juvenile Justice System Are Not Driven into the System Because They Are Dangerous

While the local data demonstrates that girls are becoming an increasingly larger share of the D.C. juvenile justice system, the data also demonstrates that girls in D.C. are often being arrested, charged, and committed for non-violent, non-weapons related behavior. These trends mirror a national trend where girls are disproportionately arrested for simple assault. Nationally, simple assault is among the leading charges for girls entering the juvenile justice system, after prostitution, theft, status offenses such as curfew violations, and domestic offenses that are often the result of violence or abuse within the home.²⁰⁴ In the U.S., in 2011, girls made up 29% of juvenile arrests but 37% of all simple assault arrests.²⁰⁵ Some states break down charges for assaultive behavior into more specific categories. For example, in Illinois from 2000 to 2011, girls made up 38% of the state's detention admissions for adolescent domestic battery and 10% of admissions for all other charges.²⁰⁶

The tendency for assault and, in particular, simple assault to drive arrests for girls should not be confused with a simplistic narrative that girls are committing more crimes generally and more violent crimes in particular. Indeed, simple assault and assault with a deadly weapon can often involve incidents without significant injury, and

201 SHERMAN, *supra* note 101, at 5.

202 Kevin J. Storm et al., *Policing Juveniles: Domestic Violence Arrest Policies, Gender, and Police Response to Child-Parent Violence*, 60.3 *Crime & Delinq.* 427, 443 (2014).

203 Akiva M. Liberman, David S. Kirk & Kideuk Kim, *Labeling Effects of First Juvenile Arrests: Secondary Deviance and Secondary Sanctioning*, 52 *Criminology* 345, 363 (2014).

204 SHERMAN & BALCK, *supra* note 2, at 6-8, 15.

205 CHARLES PUZZANCHERA, *JUVENILE ARRESTS 2012*, U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION 3 (2014).

206 ILL. MODELS FOR CHANGE INITIATIVE, *ADOLESCENT DOMESTIC BATTERY: RESPONDING EFFECTIVELY TO FAMILIES IN CRISIS* 25 (2012).

neither are defined as violent offenses by MPD.²⁰⁷ In order to get at the root causes of the increase in arrests of girls in D.C., the District must look beyond the arrest itself and instead look at the reason the incident or the arrest occurred. While more research and local data is necessary in order to find a definitive answer, there are a host of hypotheses that can help guide the conversation and inform further research. For instance, system involvement for young girls can be attributed to an increase in laws and policies that label girls' behavior as delinquent even when it does not pose a threat to public safety or relate to criminal activity,²⁰⁸ or when it is a manifestation of unresolved trauma experienced by young girls during childhood.²⁰⁹

Policies and Policing Factors Drive System Involvement

There is tremendous discretion in the labeling of any behavior as "assault," as well as considerable discretion in classifying assault as "simple," "aggravated," "assault with a dangerous weapon," and other categories. Because assault charges include a wide range of behaviors, there is little information reflected in the data on the precise behaviors behind the assault charges and no information regarding the cause of that behavior. In places like D.C. where youth come into contact with police in a variety of settings, including schools, it is possible that behaviors that previously were not considered "assault" are now being policed. This is consistent with research suggesting that the rise in girls' delinquency can be attributed to changes in law enforcement's responses to girls' behavior, rather than changes in girls' behavior in and of itself.²¹⁰

Current research on girls in the juvenile justice system suggests that paternalism influences decisions to arrest and detain girls who may diverge from prevailing social norms about femininity.²¹¹ At the national level, a failure to recognize this paternalism has resulted in net-widening, or an expansion of girls' behavior that has come under law enforcement control.²¹² For example, the deinstitutionalization of status offenders could lead to jurisdictions deciding to re-label non-violent female offenders that they feel are at-risk for violence and exploitation in order to place them in secure facilities or force

System involvement for young girls can be attributed to an increase in laws and policies that **label girls' behavior as delinquent even when it does not pose a threat to public safety or relate to criminal activity.**

them to comply with services. This theory can also help explain why reports of incidents in which girls have assaulted family members are more likely to end in arrest compared to incidents of assault between boys and family members.²¹³ A similar explanation of paternalism is offered in research that found girls are more likely to be referred to the juvenile justice system for status offenses.²¹⁴

One recently released study indicates that nearly 1 out of 4 Black and Latina girls report being in a physical fight or altercation on school property, in comparison to 1 out of every 50 white non-Hispanic girls. This study also indicates that 20% of LBT/GNC girls report engaging in physical fights on campus.²¹⁵ More research is necessary to determine the potential relationship between higher rates of physical altercations, higher presence of law enforcement on campuses where students are predominantly of color, and increased rates of arrest for simple assault.

207 See METRO. POLICE DEP'T, ANNUAL REPORT 2015 28 (2016).

208 SAADA SAAR ET AL., *supra* note 6, at 23; MARGARET A. ZAHN ET AL., U.S. DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, GIRLS' STUDY GROUP, CAUSES AND CORRELATES OF GIRLS' DELINQUENCY 11 (2010).

209 Kerig & Becker, *supra* note 34; SAADA SAAR ET AL., *supra* note 6.

210 SAADA SAAR ET AL., *supra* note 6, at 23; ZAHN ET AL., *supra* note 208; MEDA CHESNEY-LIND & RANDALL G. SHILDEN, GIRLS, DELINQUENCY, AND JUVENILE JUSTICE 19 (4th ed. 2014); see generally III. MODELS FOR CHANGE INITIATIVE, *supra* note 206.

211 See Nanda, *supra* note 26, at 1529-30.

212 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: CONTEXTS, RELATIONSHIPS, AND ADAPTATION 3, 5 (Shari Miller et al. eds., 2012); Anne L. Stahl & Phyllis Coontz, *Juvenile Assault Arrestees and Their Incidents: Same and Opposite Gender Relationships*, in DELINQUENT GIRLS: CONTEXTS, RELATIONSHIPS, AND ADAPTATION 57, 68 (Shari Miller et al. eds., 2012).

213 Strom et al., *supra* note 202, at 431.

214 See generally Andrew L. Spivak et al., *Gender and Status Offending: Judicial Paternalism in Juvenile Justice Processing*, 9 Feminist Criminology 224 (2014).

215 MASON, *supra* note 177, at 6.

FACTORS CONTRIBUTING TO GIRLS' INVOLVEMENT IN D.C.'S JUVENILE JUSTICE SYSTEM

The early involvement of younger girls in D.C.'s juvenile justice system can have compounding consequences that not only reflect the reason why girls are becoming increasingly involved in the juvenile justice system but may also be a cause of later involvement in the system.

Arrests for girls ages 15 and under is a main driver into the juvenile justice system for girls in D.C.

Girls at the deepest end of D.C.'s juvenile justice system are not dangerous.

The increase in arrests of Black girls is driving the growing share of girls in the juvenile justice system.

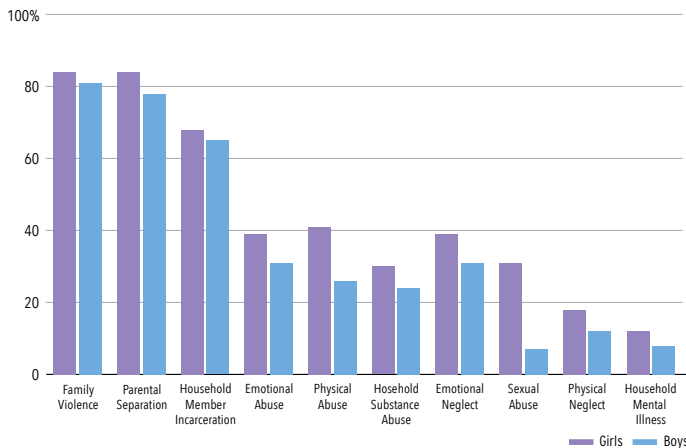
28%

of Black women reported having experienced **three or more adverse childhood experiences** and 16% experienced four or more.

Unaddressed Trauma Drives System Involvement

One other area that deserves attention when considering the behavior driving girls into the juvenile justice system is trauma, which research shows affects the vast majority of girls in the juvenile justice system. Recently released studies indicate that girls in the juvenile justice system experience high rates of sexual and familial violence.²¹⁶ A 2014 study of youth in Florida's juvenile justice system found that 84% of system-involved girls had experienced family violence, 84% had experienced parental separation or divorce, and 68% had experienced a household member being incarcerated.²¹⁷ The study looks at adverse childhood experiences (ACEs) (listed out in Figure 38).

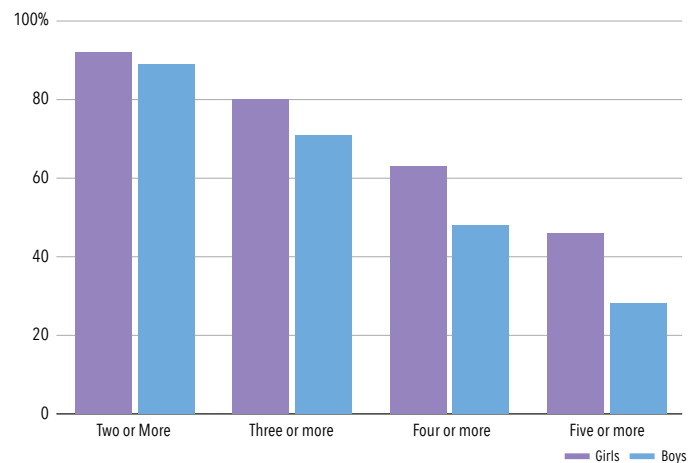
Figure 38: Adverse Childhood Experiences (ACEs) are very common among girls who are incarcerated²¹⁸



Not only did girls have higher likelihoods of experiencing particular adverse childhood experiences, but they were also more likely to report experiencing more cumulative adverse childhood experiences. Among the girls in the study, 45% experienced five or

more adverse childhood experiences. In comparison, 27% of boys experienced five or more ACEs (Figure 39).²¹⁹

Figure 39: A greater proportion of girls experience multiple adverse childhood experiences



Another study found that parental incarceration is experienced by 10% of adolescents in the general population compared to approximately 50% of adolescents incarcerated in juvenile justice facilities.²²⁰ Given that parental incarceration has been shown to negatively impact biological development and be a predictor of behavioral and emotional problems in youth, the high rates of this trauma should be understood and treated.²²¹

The intersection of trauma and delinquency in D.C. is an area for future research, but an initial look at D.C.-specific ACE data reveals that Black females experience higher rates of most individual ACEs, and also are more likely to have experienced multiple ACEs. The Behavioral Risk Factor Surveillance Survey (BRFSS) is the nation's largest continually conducted health survey system in the world. In 2010, D.C., along with four other states, included a module on

216 See SAADA SAAR ET AL., *supra* note 6, at 7; see generally SHERMAN & BALCK, *supra* note 2; Kering & Becker, *supra* note 34.

217 Michael T. Baglivio et al., *The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders*, OJJDP J. Juv. Just. 9 (2014).

218 See *id.* at 20.

219 *Id.*

220 Michelle Evans-Chase, *Addressing Trauma and Psychosocial Development in Juvenile Justice-Involved Youth: A Synthesis of the Developmental Neuroscience, Juvenile Justice and Trauma Literature*, 3(4) *Laws* 744, 746 (2014).

221 *Id.*; see also Colter Mitchell et al., *Father Loss and Child Telomere Length*, *PEDIATRICS*, Jul. 2017.

ACEs in their surveys. These questions were answered by adults, 18 years of age and older, and were prefaced with a statement asking respondents to think back to when they were 18 years of age. In D.C., 28% of Black women reported having experienced three or more adverse childhood experiences and 16% experienced four or more (Figure 40). Black women were also more likely to report a higher rate of experiencing a number of individual ACEs (Figure 41).

Figure 40: Prevalence of ACEs in D.C. by race and gender²²²

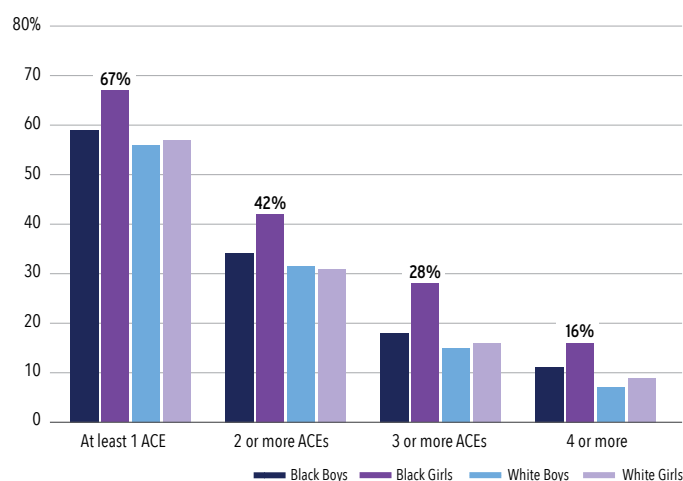


Figure 41: Prevalence of 8 measured ACEs in D.C.

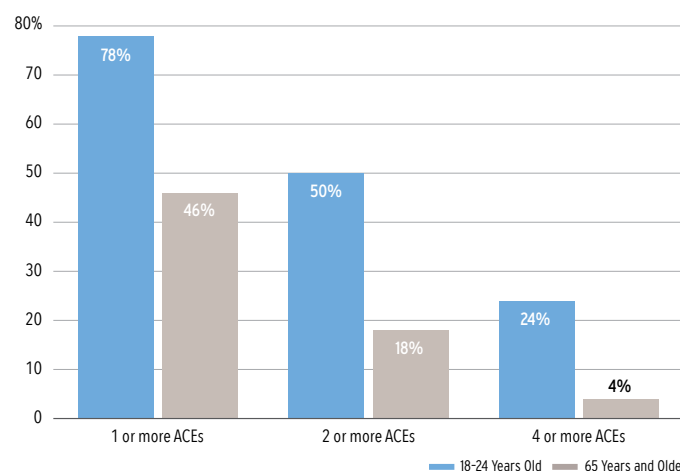
	Overall	Black Female
Divorce/Separated	30%	44%
Household member incarcerated	9%	16%
Parent drug abuse	27%	32%
Sex abuse	6%	11%
Physical abuse	11%	13%
Verbal abuse	27%	26%
Witness abuse	12%	17%
Mental illness	17%	14%
Physical neglect	NA	NA
Emotional Abuse	NA	NA

In addition to revealing differences in ACEs across race and gender, the BRFSS also revealed that young adults were much more likely to report high ACE frequencies than adults 65 and over (Figure 42). If

Girls are more likely to be dually-involved in both the juvenile justice and child welfare systems.

the youth in D.C. are more similar to the young adult respondents in this survey rather than the senior survey respondents, it is likely the actual prevalence of trauma in their lives is even higher than overall figures averaged across all age groups suggests.

Figure 42: Total measure of 8 ACEs, by respondent age



In addition to examining the data relating to the report of ACEs by D.C. residents, exploring the prevalence of crossover youth (i.e., youth who are dually-involved in the juvenile justice and child welfare systems) provides insight into the trauma experienced by girls in D.C.'s juvenile justice system. Nationally, girls are more likely to be dually-involved in both the juvenile justice and child welfare systems.²²³ This trend holds true in D.C. as well. Compared to all youth in DYRS custody, girls are much more likely to also be in the foster care system. Since 2009, there has always been a larger share

²²² Importantly, the BRFSS survey did not survey respondents for all ten traditional adverse experiences. Specifically, the survey did not request information relating to physical neglect or emotional abuse.

²²³ SAADA SAAR ET AL., *supra* note 6, at 24.

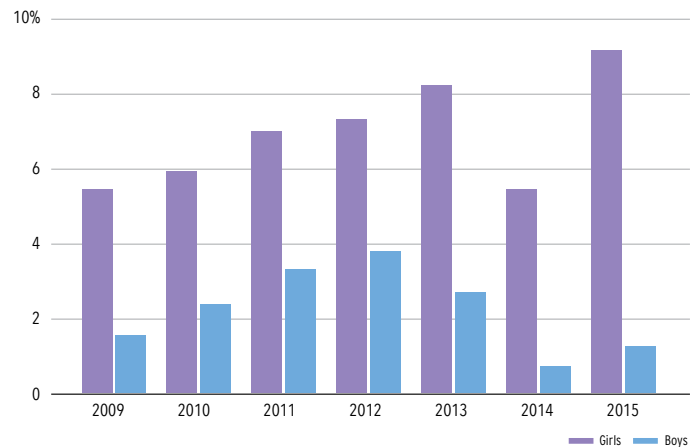
of girls in DYRS custody who are also under the custody of the Child and Family Services Agency (CFSA) compared to boys (Figure 43, 44). Indeed, in 2015, nearly 1 out of every 10 girls in DYRS custody were also in the foster care system, indicating that there are girls with high needs who end up in the deepest end of the juvenile justice system (Figure 44).

Figure 43: DYRS commitments and CFSA involvement

	Gender	# of Committed Youth	# of Dual Jacket (CFSA/DYRS)	% Dual Jacket
CY 2009	Female	132	7	5.30%
	Male	1089	16	1.47%
CY 2010	Female	134	8	5.97%
	Male	1207	28	2.32%
CY 2011	Female	133	9	6.77%
	Male	1137	36	3.17%
CY 2012	Female	126	9	7.14%
	Male	967	37	3.83%
CY 2013	Female	112	9	8.04%
	Male	743	19	2.56%
CY 2014	Female	94	5	5.32%
	Male	546	4	0.73%
CY 2015	Female	90	8	8.89%
	Male	408	5	1.23%

The combination of **sexism** and **racism** uniquely affects **Black girls' entry and outcomes** in the juvenile justice system.

Figure 44: A higher percentage of girls are dually-involved



While commitments for both boys and girls have decreased as discussed, and there are overall small numbers of CFSA youth, the consistently higher proportion of dually-involved girls is worth considering. Youth committed to CFSA custody are in the deepest end of the child welfare system while DYRS is the deepest end of the juvenile justice system. The prevalence of dually-involved girls who are also committed to both CFSA and DYRS may be an indicator of high levels of family need as well as the prevalence of extensive trauma. This is particularly important as family conflict or separation from family members are more predictive of system involvement for girls than they are for boys.²²⁴

The Increase in Arrests of Black Girls is Responsible for the Growing Share of Girls in the Juvenile Justice System

The increase in arrests of Black girls in D.C. is consistent with national research that Black girls are the fastest growing segment in the juvenile justice system.²²⁵ The combination of sexism and racism uniquely affects Black girls' entry and outcomes in the juvenile justice system. Research on school discipline reveals racial and cultural biases and subjective expectations of what being a "good girl" means and these biases and expectations impact how Black girls are treated.²²⁶

Studies have found that Black girls are more likely than other girls to receive school discipline measures for "defiance," a subjective

224 One large study of female admissions to a short-term juvenile detention facility found that 20% of the girls were currently in foster care. Leslie D. Leve, Patricia Chamberlain & Hyoun K. Kim, *Risks, Outcomes, and Evidence-based Interventions for Girls in the U.S. Juvenile Justice System*, 18 CLINICAL CHILD & FAM. PSYCHOL. Rev. 252 (2015).

225 SHERMAN & BALCK, *supra* note 2, at 22.

226 NIKKI JONES, *BETWEEN GOOD AND GHETTO: AFRICAN AMERICAN GIRLS AND INNER-CITY VIOLENCE* (2010).



construct that schools often do not define.²²⁷ Racial biases and cultural expectations that end with Black girls receiving harsher school discipline, take shape in interactions with systems outside of schools such as law enforcement and courts.²²⁸ Research on girls' interactions with juvenile justice personnel found that police officers and prosecutors who question youth were more likely to describe girls as "emotional," "manipulative," "verbally aggressive," and "confrontational" compared to their male peers.²²⁹ Furthermore, Black girls are more likely to be seen as hypersexual and more likely to be treated as older than they are.²³⁰ They are also less likely to be seen as victims of violence and trauma, and consequently more vulnerable to justice involvement when it results from unaddressed trauma.²³¹

In D.C., the trend of an increase in per capita arrests of Black girls over the last eight years, even as arrests for white boys decreased during the same time period, calls for an examination of both formal and informal policies and practices that lead to youth arrest. Until biases that exist at the intersection of race and gender are exposed, evidence-based improvements to the system are not possible.

Black girls are more likely to be seen as **hypersexual** and more likely to be **treated as older than they are.**

There are systems that disaggregate data by race and ethnicity, but because race and ethnicity is often considered its own category, and gender a separate category, there are not meaningful examinations of the intersection of race and gender. Failing to examine youth justice involvement from an intersectional lens will prevent any clear understanding of how to interrupt the disproportionate rate of Black girls' involvement in the juvenile justice system.

227 Jamilia J. Blake et al., Unmasking the Inequitable Discipline Experiences of Urban Black Girls: Implications for Urban Educational Stakeholders, 43 URB. REV. 90, 90-94 (2011); MORRIS, *supra* note 49, at 83-84; CRENSHAW ET AL., *supra* note 111; Edward W. Morris & Brea L. Perry, *Girls Behaving Badly? Race, Gender, and Subjective Evaluation in the Discipline of African American Girls*, 90 SOC. EDUC. 128 (2017).

228 Nanda, *supra* note 26, at 1507, 1529-30.

229 Barry C. Feld, *Questioning Gender: Police Interrogation of Delinquent Girls*, 49 WAKE FOREST L. REV. 1059, 1099-1103 (2014).

230 REBECCA EPSTEIN, JAMILIA J. BLAKE & THALI GONZÁLEZ, GEORGETOWN LAW CTR. ON POVERTY & INEQUALITY, GIRLHOOD INTERRUPTED: THE ERASURE OF BLACK GIRLS' CHILDHOOD 5 (2017), <http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/girlhood-interrupted.pdf>.

231 EPSTEIN & GONZÁLEZ, *supra* note 27, at 15; SAADA SAAR ET AL., *supra* note 6, at 12.

Commercially and Sexually Exploited Children in D.C.

While there is no comprehensive data on the number of trafficked youth in Washington, D.C., local providers have offered anecdotal evidence that the vast majority of identified survivors of domestic child sex trafficking in Washington, D.C. are girls of color.²³² In 2014, the D.C. Superior Court screened 901 youth who had been arrested upon intake for risk of commercial sexual exploitation.²³³ The initial study found that 11% of girls screened were found to be high risk for sexual exploitation, and 54% were found to be at moderate risk.²³⁴

Additional and updated data is necessary to determine how many girls among D.C.'s juvenile justice population are survivors of child sex trafficking.

D.C. does not currently prosecute children for prostitution offenses, but many of these survivors end up on the PINS calendar for masking charges such as abscondence or truancy. In 2015, 113 youth in Washington, D.C. were referred over a one-year-period to the CSEC Multidisciplinary Team (MDT), a cross-agency collaboration that reviews potential cases of domestic child sex trafficking throughout D.C.²³⁵ The majority of referrals to the MDT were known to the Court Social Services Division and 87% of them had active PINS cases.²³⁶ While this data is not indicative of domestic child sex trafficking as a driver into the juvenile justice system for girls, it certainly begs inquiry into the drivers for survivors of child sex trafficking into the juvenile justice system. The D.C. Superior Court's commitment to identify and support survivors of child sex trafficking will provide additional opportunities for data collection to better understand the relationship between child sex trafficking and juvenile justice involvement for girls.

²³² Tina Frundt, Exec. Dir., Courtney's House, Keynote Address at the D.C. Family Court Interdisciplinary Conference: The Truth About Sex Trafficking from a Survivor's Perspective (Oct. 27, 2017).

²³³ James R. Andretta et al., *Toward the Discreet Identification of Commercial Sexual Exploitation of Children (CSEC) Victims and Individualized Interventions: Science to Practice*, 22 PSYCHOL., PUB. POL'Y & L. 260, 263 (2016).

²³⁴ *Id.* at 267.

²³⁵ District of Columbia Superior Court, Court Social Services Division, CSEC Risk Statistics Summary, October 2015-2016. It should be noted that some of these referrals may have been duplicative.

²³⁶ *Id.* at 2.



Recommendations

Clearly, more information is necessary to truly assess the causes of the increased number of girls in D.C.'s juvenile justice system, to examine the needs and vulnerabilities of justice-involved girls, and to develop policies and practices that reduce girls' involvement in the delinquency system. The following recommendations seek to name the information and policy gaps that must be addressed:

- » All agencies that serve justice-involved girls should collect and publicly share data that is disaggregated by race, gender, sexual orientation, and gender identity. Comparing this data across agencies is critical in understanding where effective prevention and intervention for girls can occur.
- » Stakeholders should engage in a comprehensive, qualitative assessment of girls in the juvenile justice system to better understand their experiences in their own words. Due to experiences of violence, exploitation, and institutionalization, justice-involved girls often have no power or control in determining what happens to them.²³⁷ Engaging them at each stage of a reform effort, including the information-gathering stage, is critical.
- » Stakeholders should engage in mapping the programming available both to girls at-risk for justice involvement and girls already involved in the juvenile justice system. Once this mapping is complete, stakeholders can identify service gaps for justice-involved youth.
- » System stakeholders, including impacted youth, impacted families, the Family Court, probation officers, social workers, attorneys, content-knowledge experts, providers, and advocates, should convene to identify policies and practices that will expand community-based responses, reduce using law enforcement as a response to minor behavior, reduce girls' justice involvement, and improve services for girls at all stages of the juvenile justice system.

²³⁷ SHERMAN & BALCK, *supra* note 2, at 28.



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