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13

PATHWAYS TO JUVENILE DETENTION REFORM

DETENTION REFORM
AND **GIRLS**

challenges and solutions

by Francine T. Sherman

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SERIES PREFACE

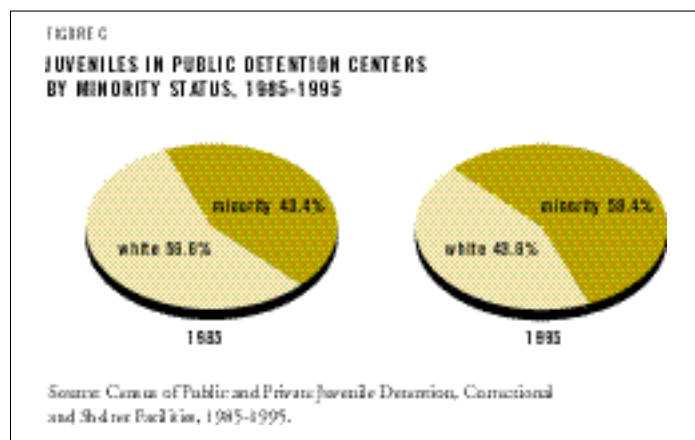
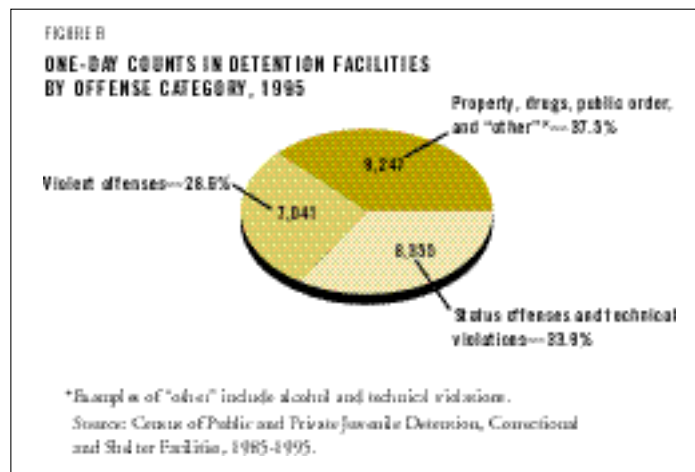
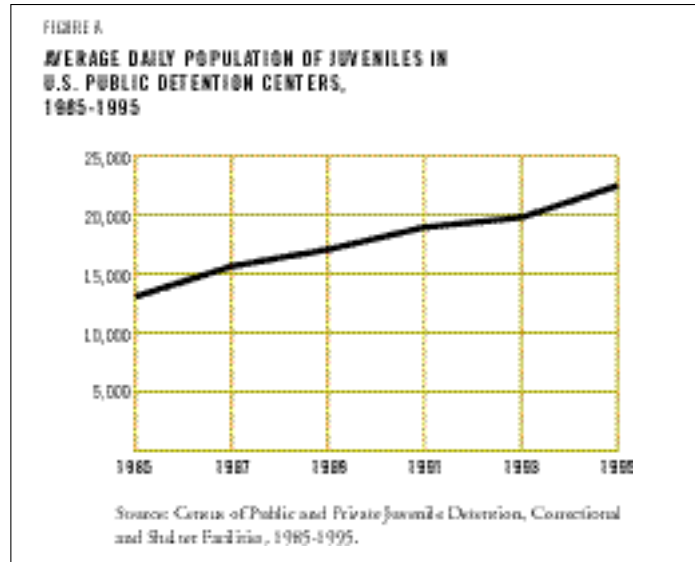
Many years ago, Jim Casey, a founder and longtime CEO of UPS, observed that his least prepared and least effective employees were those unfortunate individuals who, for various reasons, had spent much of their youth in institutions or who had been passed through multiple foster care placements. When his success in business enabled him and his siblings to establish a philanthropy (named in honor of their mother, Annie E. Casey), Mr. Casey focused his charitable work on improving the circumstances of disadvantaged children, in particular by increasing their chances of being raised in stable, nurturing family settings. His insight about what kids need to become healthy, productive citizens helps to explain the Casey Foundation's historical commitment to juvenile justice reform. Over the past two decades, we have organized and funded a series of projects aimed at safely minimizing populations in juvenile correctional facilities through fairer, better informed system policies and practices and the use of effective community-based alternatives.

In December 1992, the Annie E. Casey Foundation launched a multi-year, multi-site project known as the Juvenile Detention Alternatives Initiative (JDAI). JDAI's purpose was straightforward: to demonstrate that jurisdictions can establish more effective and efficient systems to accomplish the purposes of juvenile detention. The initiative was inspired by work that we had previously funded in Broward County, Florida, where an extremely crowded, dangerous, and costly detention operation had been radically transformed. Broward County's experience demonstrated that interagency collaboration and data-driven policies and programs could reduce the numbers of kids behind bars without sacrificing public safety or court appearance rates.

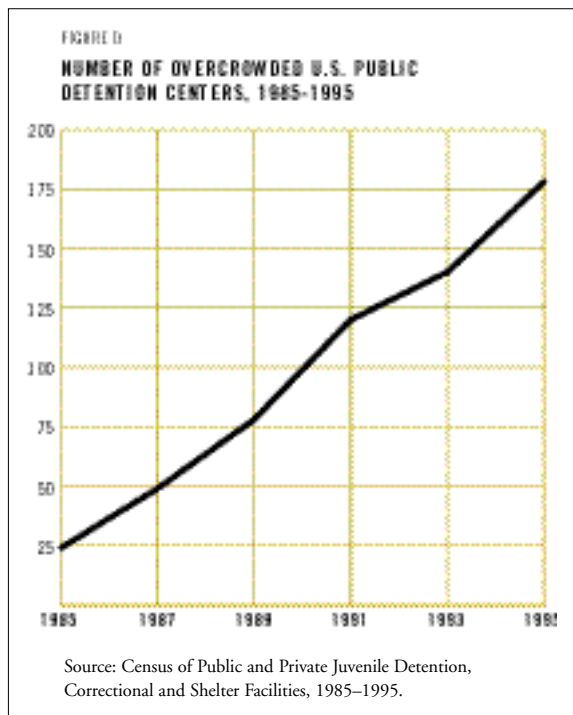
Our decision to invest millions of dollars and vast amounts of staff time in JDAI was not solely the result of Broward County's successful pilot endeavors, however. It was also stimulated by data that revealed a rapidly emerging national crisis in juvenile detention. From 1985 to 1995, the number of youth held in secure detention nationwide increased by 72 percent (*see Figure A*). This increase

might be understandable if the youth in custody were primarily violent offenders for whom no reasonable alternative could be found. But other data (see *Figure B*) reveal that less than one-third of the youth in secure custody (in a one-day snapshot in 1995) were charged with violent acts. In fact, far more kids in this one-day count were held for status offenses (and related court order violations) and failures to comply with conditions of supervision than for dangerous delinquent behavior. Disturbingly, the increases in the numbers of juveniles held in secure detention facilities were severely disproportionate across races. In 1985, approximately 56 percent of youth in detention on a given day were white, while 44 percent were minority youth. By 1995, those numbers were reversed (see *Figure C*), a consequence of greatly increased detention rates for African American and Hispanic youth over this 10-year period.¹

As juvenile detention utilization escalated nationally, crowded facilities became the norm rather than the exception. The number of facilities

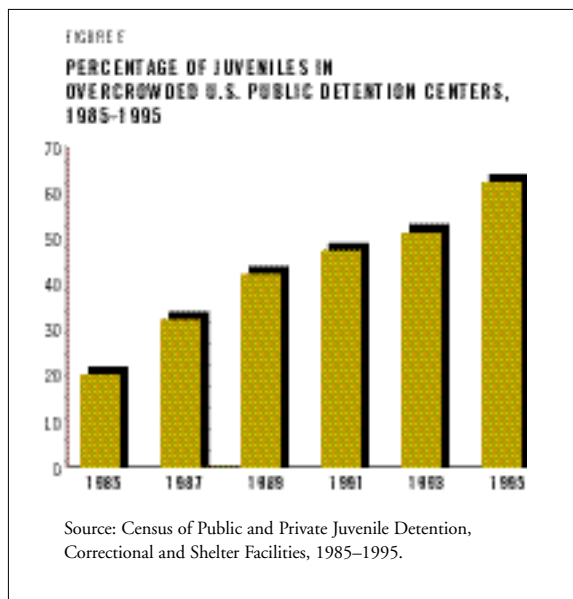


operating above their rated capacities rose by 642 percent, from 24 to 178, between 1985 and 1995 (see Figure D), and the percentage of youth held in over-



crowded detention centers rose from 20 percent to 62 percent during the same decade (see Figure E). In 1994, almost 320,000 juveniles entered overcrowded facilities compared to 61,000 a decade earlier.

Crowding is not a housekeeping problem that simply requires facility administrators to put extra mattresses in day rooms when it's time for lights out. Years of research and court cases have concluded that overcrowding produces unsafe, unhealthy conditions for both detainees and staff. A recently published report by staff of the National Juvenile Detention Association and the Youth Law Center summarizes crowding's impact:



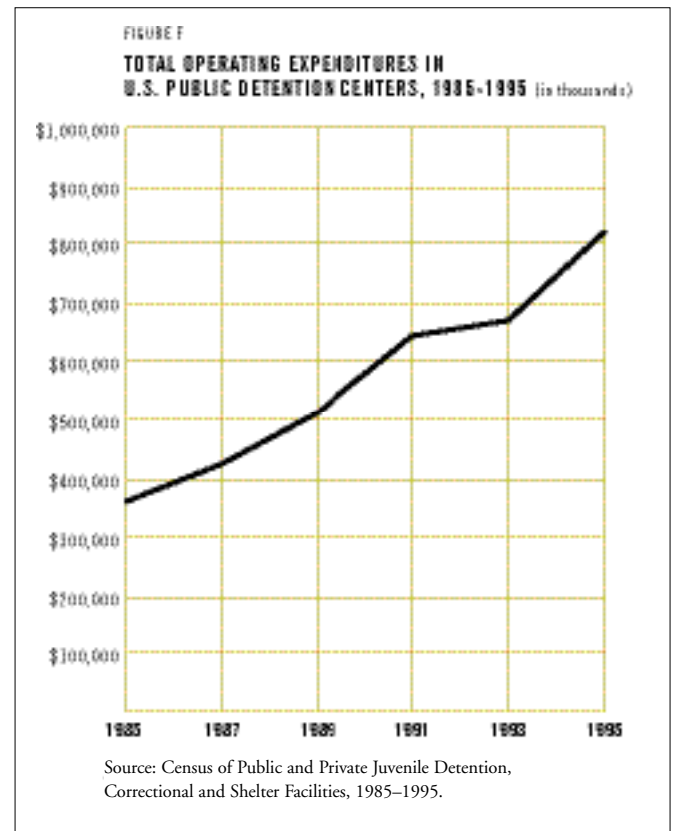
Crowding affects every aspect of institutional life, from the provision of basic services such as food and bathroom access to programming, recreation, and education. It stretches existing medical and mental health resources and, at the same time, produces more mental health and medical crises. Crowding places additional stress on the physical plant (heating, plumbing, air circulation) and makes it more difficult to maintain cleaning, laundry, and meal preparation. When staffing ratios fail to keep pace with population, the incidence of violence and suicidal behavior rises. In crowded facilities, staff invariably resort to increased control measures such as lockdowns and mechanical restraints.²

Crowding also puts additional financial pressure on an already expensive public service. Operating costs for public detention centers more than doubled between 1985 and 1995, from \$362 million to almost \$820 million (see Figure F). Some of these increased operating expenses are no doubt due to emergencies, overtime, and other unbudgeted costs that result from crowding.

JDAI was developed as an alternative to these trends, as a demonstration that jurisdictions could control their detention destinies. The initiative had four objectives:

- to eliminate the inappropriate or unnecessary use of secure detention;
- to minimize failures to appear and the incidence of delinquent behavior;
- to redirect public finances from building new facility capacity to responsible alternative strategies; and
- to improve conditions in secure detention facilities.

To accomplish these objectives, participating sites pursued a set of strategies to change detention policies and practices. The first strategy was *collaboration*, the coming together of disparate juvenile justice system stakeholders and other potential partners (like schools, community groups, the mental health system) to confer, share information, develop systemwide policies, and promote accountability. Collaboration was also essential for sites to build a consensus about the limited purposes of secure detention. Consistent with professional standards and most statutes, they agreed that secure detention should be used only *to ensure that alleged delinquents appear in court at the proper times and to protect the community by minimizing serious delinquent acts while their cases are being processed.*



Armed with a clearer sense of purpose, the sites then examined their systems' operations, using objective data to clarify problems and dilemmas and to suggest solutions. They changed how admissions decisions were made (to ensure that only high-risk youth were held), how cases were processed (particularly to reduce lengths of stay in secure detention), and created new alternatives to detention programs (so that the system had more options). Each site's detention facility was carefully inspected and deficiencies were corrected so that confined youth were held in constitutionally required conditions. Efforts to reduce disproportionate minority confinement and to handle "special" detention cases (e.g., probation violations or warrants) were also undertaken.

In practice, these reforms proved far more difficult to implement than they are now to write about. We began JDAI with five sites: Cook County, IL; Milwaukee County, WI; Multnomah County, OR; New York City; and Sacramento County, CA. Just about when implementation activities were to begin, a dramatic shift occurred in the nation's juvenile justice policy environment. High-profile cases, such as the killing of several tourists in Florida, coupled with reports of significantly increased juvenile violence, spurred both media coverage and new legislation antithetical to JDAI's notion that some youth might be "inappropriately or unnecessarily" detained. This shift in public opinion complicated matters in virtually all of the sites. Political will for the reform strategies diminished as candidates tried to prove they were tougher on juvenile crime than their opponents. Administrators became reluctant to introduce changes that might be perceived as "soft" on delinquents. Legislation was enacted that drove detention use up in several places. Still, most of the sites persevered.

At the end of 1998, three of the original sites—Cook, Multnomah, and Sacramento Counties—remained JDAI participants. Each had implemented a complex array of detention system strategies. Each could claim that they had fundamentally transformed their system. Their experiences, in general, and the particular strategies that they implemented to make their detention systems smarter, fairer, more efficient, and more effective, offer a unique learning laboratory for policymakers and practitioners who want to improve this critical component of

the juvenile justice system. To capture their innovations and the lessons they learned, we have produced this series of publications—*Pathways to Juvenile Detention Reform*. The original series included 13 monographs, most of which cover a key component of detention reform. As this work matures and expands, additional *Pathways* are being added to the series. A list of currently available titles in the *Pathways* series is provided at the end of this publication.

In 2000, the National Council on Crime and Delinquency (NCCD) completed its evaluation of the project. NCCD's analyses confirmed that sites had reduced reliance on secure detention without increasing rearrest or failure-to-appear rates, despite the harsh policy environment that drove detention utilization up nationally.³

For taking on these difficult challenges, and for sharing both their successes and their failures, the participants in the JDAI sites deserve sincere thanks. At a time when kids are often disproportionately blamed for many of society's problems, these individuals were willing to demonstrate that adults should and could make important changes in their own behavior to respond more effectively to juvenile crime.

Bart Lubow

Senior Associate and Initiative Manager

The Annie E. Casey Foundation

Notes

¹In 1985, white youth were detained at the rate of 45 per 100,000, while African American and Hispanic rates were 114 and 73, respectively. By 1995, rates for whites had decreased by 13 percent, while the rates for African Americans (180 percent increase) and Hispanics (140 percent increase) had skyrocketed. Wordes, Madeline and Sharon M. Jones. 1998. "Trends in Juvenile Detention and Steps Toward Reform," *Crime and Delinquency*, 44(4):544–560.

²Burrell, Sue, et al., *Crowding in Juvenile Detention Centers: A Problem-Solving Manual*, National Juvenile Detention Association and Youth Law Center, Richmond, KY, prepared for the U.S. Department of Justice, Department of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (December 1998), at 5–6.

³M. Wordes, et al., *Juvenile Detention Alternatives Initiative Evaluation Report*, Oakland, CA: National Council on Crime & Delinquency, 2000.

WHY SHOULD WE FOCUS ON GIRLS?

More Girls Are Being Arrested and Detained

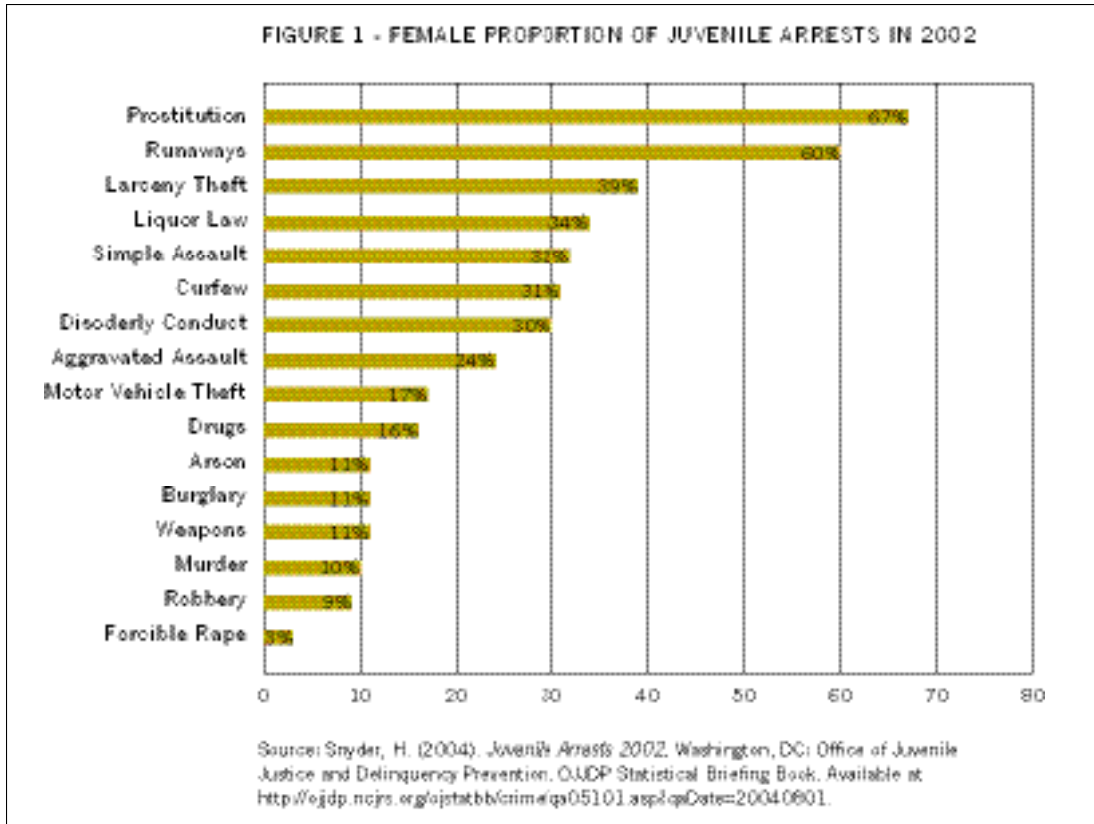
During the past decade juvenile justice systems throughout the country saw an increase in the numbers of girls being detained. Though they represented only 19 percent of detained youth in 2001, more girls are entering detention and they have significant needs that differ in both degree and kind from those of the boys for whom detention systems have historically been designed. In addition, there is evidence that the juvenile justice process differs for boys and girls, resulting

in inappropriate detention of girls. The increase in detention use for girls and the special needs of those girls detained magnify the already troubling conditions under which many girls are detained and is creating a real crisis in many jurisdictions.

Though they represented only 19 percent of detained youth in 2001, more girls are entering detention and they have significant needs that differ in both degree and kind from those of the boys for whom detention systems have historically been designed.

From 1990–1999 there was a 50 percent increase in the number of female delinquency cases entering detention compared with a 4 percent increase for boys¹ and girls' upward trend continued through 2001.² The rise in detained girls is a result, in part, of both an increase in arrests and detention for technical violations of probation and parole and for warrants. From 1983 through 1997 the juvenile arrest rate increased more for girls than for boys (72 percent as compared with 30 percent) and then through 2002 declined less for girls than for boys (21 percent as compared with 31 percent). Female juvenile arrest rates appear, moreover, to be influenced by gender-specific factors. Notably, over the past two decades the female proportion of arrests for assault and aggravated assault increased substantially, prompting the suggestion that policy changes and changes in attitudes toward women and girls have resulted in the unintended consequence of more female arrests.³

Though the increase in arrest rates for girls has outpaced boys, fewer girls than boys are arrested and violent crime accounts for a small proportion of arrests of girls.⁴ In 2002, girls comprised 29 percent of juvenile arrests, but the greatest



proportion of female arrests continued to be for more minor offenses, some of which (i.e., prostitution and runaways) we traditionally associate with girls.

Detention Is Used Differently with Girls

In addition to the increase in arrests, there is evidence that detention is often used differently for girls than boys, especially for technical violations and status offenses. In 2001, girls comprised 19 percent of detained youth, but 24 percent of those detained for technical violations and 43 percent of those detained for status offenses.⁵ In some states, girls comprise more than 70 percent of youth detained for status offenses. Moreover, nationally in 2001, technical violations were 31 percent of detained girls but 16 percent of committed girls, supporting the hypothesis that courts are using detention to “protect” or “service” girls who do not end up committed post-adjudication.⁶ One recent study indicates that though detention is used for girls with less extensive delinquency histories than boys, girls spend

more time in detention than their male counterparts. In that study of chronically delinquent youth, conducted by the Oregon Social Learning Center, boys entering treatment foster care had an average of 14.2 prior offenses and girls an average of 11.8 prior offenses, yet boys had averaged 72 days in detention while girls had averaged 131 days.⁷

Conditions of Confinement for Girls Are Often Severely Deficient

The increase in detention use for girls has magnified problems within detention systems. Many girls' units are overcrowded and conditions of confinement for many girls in detention are poor. Over the past decade complaints about conditions for girls in detention were raised in Georgia, Connecticut, Maryland, Pennsylvania, Louisiana, South Dakota, and California, among other states. As the rate of detention for girls has increased, already poor environmental conditions and inequities in programming, physical exercise, mental health treatment, and education have become worse.

In 2001, girls comprised 19 percent of detained youth, but 24 percent of those detained for technical violations and 43 percent of those detained for status offenses.

The System Was Designed and Developed for Boys

Moreover, detention centers, as well as alternatives to detention have historically been designed for boys—existing policies, practices, and training are boy-specific. For example, the absence of state regulations addressing conditions of confinement for girls is evidence of failure to attend to the gender-specific needs of detained girls. Less than half of the states have enacted regulations addressing specific conditions of confinement for girls and none of them are comprehensive (see Chapter 6). The difficulties of transforming this male-based culture to one responsive to the developmental needs of girls are magnified by the increasing number of girls in detention, which puts pressure on the whole juvenile justice system.

Interest in and Knowledge of Gender-Specific Issues Is Growing

Federal attention to girls in the delinquency system began with the 1992 Juvenile Justice and Delinquency Prevention (JJDP) Act's requirement that states analyze their juvenile justice system's provision of "gender-specific services" to female offenders

and plan the delivery of gender-specific treatment and prevention services. Between 1992 and the current reauthorization of the JJDP Act, funding was available under “Challenge E” to prevent gender bias and provide access to a full range of gender-specific services for girls. As an indication of the interest in gender among the states, from 1995–1998 Challenge E was the most popular Challenge area, accounting for almost 20 percent of funding applications among the ten Challenge areas. Among the states that received Challenge E funding, 95 percent used some of the funds to gather data on the needs of their female populations, 38 percent funded girl-specific programs, 25 percent held a conference or provided training about the needs of girls, and 10 percent were involved in specific legislative, system, or policy changes concerning girls.⁸

Although somewhat altered, the federal focus on girls continues under the current JJDP Act, which was reauthorized in November 2002. The reauthorized act requires that state plans include, “a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency”⁹ and “... assurance that youth in the juvenile justice system are treated equitably on the basis of gender”¹⁰

JDAI sites are struggling with how to reduce the population of girls in their secure facilities, implement detention alternatives to best meet girls’ needs, and provide gender-responsive programming for girls who require detention. Sites understand that reducing the use of detention for girls requires simultaneous attention to several core population management strategies already known to reduce inappropriate and unnecessary confinement. However, those core strategies by themselves—without specific policies, practices, and programs that address the particular challenges posed by girls—do not seem sufficient to eliminate disparities (e.g., girls’ higher detention rates for status offenses), to improve program performance, or to ensure appropriate conditions of confinement. For example, without gender-responsive alternatives to detention for the girls whose screening

To effectively reduce inappropriate detention of girls, sites should view the core population management strategies through a gender lens, analyzing data with attention to the impact of practices and policies on girls and implementing reform with an understanding of girls’ needs.

scores are overridden due to domestic violence, objective admissions screening instruments will not be successful in reducing their detention. Moreover, without policies to reduce detention for warrants and probation violations, the girls who need them most will not be eligible for gender-responsive detention alternatives. To effectively reduce inappropriate detention of girls, sites should view the core population management strategies through a gender lens, analyzing data with attention to the impact of practices and policies on girls and implementing reform with an understanding of girls' needs.

Viewing the core strategies through a gender lens requires sites to:

- **Collaborate:** Identify, empower, and convene stakeholders representing public and private sectors that impact girls' lives;
- **Rely on Data:** Use quantitative and qualitative data to assess the impact of detention and every stage of the detention process on girls;
- **Control the Front Gates:** Examine Risk Assessment Instrument elements, scoring, and overrides for their impact on girls and behaviors associated with girls;
- **Expedite Cases:** Reduce processing and detention time for girls by developing expertise on girls' resources, matching girls to resources through collaborations and alternatives and swiftly processing cases;
- **Address Special Detention Cases:** Reform practices that result in girls' disproportionately affected by warrants, technical violations of probation and parole, and detention for misdemeanors and status offenses;
- **Address Conditions of Confinement:** Assess and reform conditions impacting girls who are vulnerable due to trauma histories, mental and physical health needs, and histories of family violence and chaos;
- **Develop Gender-Responsive Alternatives to Detention:** Create and better utilize gender-responsive detention alternatives to reduce inappropriate detention and promote community relationships that can reduce detention returns;
- **Reduce Racial and Gender Disparities:** Weave gender into all efforts to reduce racial disparities making disproportionate minority confinement (DMC) strategies racially, culturally, and gender responsive.

This *Pathway* responds to needs expressed in many jurisdictions, whether just beginning or well into detention reform, by providing principles and practices for gender-responsive detention reform. It will discuss the complex personal and social backdrop for girls in the delinquency system and look at the ways in which girls are tracked into detention at various key points in the juvenile justice process. With a map of how girls end up in detention, the monograph will examine strategies for gender-responsive detention reform focusing on key system sticking points for girls and cross-system approaches to reform. Hopefully, the lessons learned from JDAI experiences and other relevant research on girls in detention will provide jurisdictions with a starting point as they work to reduce the inappropriate detention of girls.

Notes

¹Harms, P., “Detention in Delinquency Cases: 1990–1999,” *OJJDP Fact Sheet*, Washington, DC: US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2003.

²Sickmund, M., Sladky, T.J., & Kang, W., *Census of Juveniles in Residential Placement Databook*, 2004. Available at www.ojjdp.ncjrs.org/ojstatbb/cjrp/.

³Snyder, H., *Juvenile Arrests 2002*, Washington, DC: US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2004.

⁴Ibid.

⁵Sickmund, Sladky, and Kang, 2004.

⁶Ibid.

⁷Chamberlain, P. (January 24–26, 2002), *The Multidimensional Treatment Foster Care Model: Research and Community-Based Services*. Presented at the 2nd National Training Conference on Juvenile Detention Reform. Portland, Oregon: Annie E. Casey Foundation.

⁸Chesney-Lind, M., “What to Do About Girls,” in McMahon, M. (Ed.), *Assessment to assistance: Programs for women in community corrections* (pp. 139-170), Lanham, MD: American Correctional Association, 2000.

⁹42 U.S.C.A. § 5633(a)(7)(B)(i).

¹⁰42 U.S.C.A. § 5633(a)(15).

GUIDING PRINCIPLES FOR GENDER-RESPONSIVE DETENTION REFORM

1. Girls Are Different Than Boys.

Adolescent girls who are in the justice system differ from boys developmentally in their focus on relationships; their internalized responses to trauma in the form of depression, self-mutilation, and substance use; and their externalized responses to trauma in the form of aggression. In addition, the pathways girls take into the justice system differ from those of their male counterparts in the prevalence and type of trauma, family loss, and separation they experience. Girls have higher incidence of mental health disorders and unidentified learning disabilities than do boys.

Social expectations of girls and girls' experiences differ from those of boys and girls' development in adolescence is influenced by these differences. These social expectations influence their relationships with their mothers, peers, and with men, as well as with institutions such as schools, health care providers, social services, and the justice system.

Finally, the juvenile justice process has a different impact on girls than it does on boys. Girls are more likely than boys to be detained for minor offenses and technical violations and are more likely than boys to be returned to detention for technical violations. Running away and domestic violence, both common in the lives of girls, tend to result in their detention and system involvement.

All of these differences demand particular attention in detention reform.

2. Gender-Responsive Policies and Practices Are Fundamental to a Constitutional and Individualized Juvenile Justice System.

Federal and state constitutional and statutory law requires that detention systems be equitably administered across gender and that programming be delivered in a manner responsive to the needs of each gender. Under the federal Equal Protection Clause and state Equal Rights Amendments, young men and women who are similarly situated are entitled to equal programming and treatment from states and

counties. For example, jurisdictions that have alternatives to detention for boys but not girls, may be violating equal protection. Moreover, Title IX provides a statutory foundation for claims when states and counties do not provide equitable educational, employment training, or athletic programming to boys and girls in custody. In addition to equal protection grounds, the Due Process Clauses of federal and state constitutions support girls' and boys' rights to individualized treatment that is sensitive to gender and development. Under "right to treatment" theories, current practices and programs that were designed for boys may not be constitutional when applied to girls. In essence, gender-responsive detention reform is central to individualized juvenile justice in which policies and programs respond to the needs and circumstances of girls just as they should for boys.

3. System Leaders Should Examine Both Decision-Making Processes and Attitudes Toward Girls.

Since the early 1970s, researchers have noted "gender bias" in the justice system resulting in girls being confined for less serious offenses and for longer periods than boys.¹ Perhaps the most striking findings were that, unlike boys, significant numbers of girls were being confined for status offenses. That situation continues today despite the 1974 Juvenile Justice and Delinquency Prevention Act that mandated the deinstitutionalization of status offenders. Through a practice known as "bootstrapping," status offending girls are detained for contempt citations or violations of valid court orders when they violate conditions of probation, and girls with minor delinquency charges are detained for running away and curfew violations.

JDAI data and other relevant research demonstrate that patterns of arrest and case processing continue to be different for girls than for boys. Various reasons for these differences in how and why girls are detained have been suggested:

- Paternalism among decision-makers;
- Detention to obtain services for girls with significant needs;
- Detention to protect girls from sexual victimization;
- Fear of teen pregnancy and its social costs;
- Fear of adolescent girls' expressions of sexuality, which violate social norms;
- Intolerance of girls who are non-cooperative and non-compliant.

Detention reform for girls, therefore, must begin with willingness by decision-makers to look critically at how girls are processed and treated in the justice system, and the attitudes and beliefs about gender that are played out in daily practices, policies, and individual judgments.

4. Data Collection and Analysis Are Critical to Effective Detention Reform for Girls.

Data collection that examines the role of gender at each step in the juvenile justice process is essential for gender-responsive reforms (see *Pathway #7, By the Numbers: The Role of Data and Information in Detention Reform*). Data analysis should explore gender differences at key decision points including: arrest, petitions, detention admissions, overrides to screening instruments, detention hearings, etc. Data should track the impact of the Risk Assessment Instrument on girls and also should track returns to detention.

In addition, quantitative analyses should be paired with qualitative data, such as interviews of girls and other stakeholders that can clarify social issues related to detention use for girls and help develop detention alternatives. Finally, significant proportions of detained girls are currently, or have been, served by other human services systems. As a result, cross-system data analyses that identify girls' system overlaps and system histories are critical to an accurate understanding of the needs of girls and which responses are effective.

5. Inter-System Collaboration Is Essential to Addressing Gender Disparities.

Being involved in multiple systems contributes to the disproportionate arrest and

detention of girls directly and indirectly. Recent analysis of cases in the Cook County Juvenile Court, for example, found delinquent girls 44 percent more likely than delinquent boys to have had a prior child protection petition filed, and girls who have had a child protection case were almost



four times more likely than the general population to have a delinquency petition filed against them (compared with twice as likely for boys).²

Similarly, the Vera Institute of Justice found that New York City girls in foster care were 17.6 percent more likely to be detained than girls who were not in foster care, while boys in foster care were 4.8 percent more likely to be detained than boys not in foster care.³

The high percentage of girls in detention who have been clients of various human services systems (e.g., special education, mental health, child welfare) is an important indicator that inter-agency and inter-system collaboration could prevent unnecessary detention admissions and result in more timely releases because more appropriate services would be available. Today, however, the growing detention of girls is evidence of “dumping” cases by these other systems, limiting juvenile justice officials’ options.

6. Detention Facility Conditions Should Address Girls’ Needs and Vulnerabilities.

Girls arrive in detention particularly vulnerable, with histories of abuse, school failure, multiple home transitions, and mental health needs. Teenage girls’ self-images depend on healthy relationships, yet their abuse histories, school failures, and system involvement have damaged their relationships and made development of positive identities and feelings of success more difficult. All of this makes girls particularly vulnerable to harm from conditions in detention that should be addressed in detention reform.

Though research documents high rates of post-traumatic stress disorder and depression among girls in detention, mental health screening and treatment are often poor and overcrowding in detention has made them worse.⁴ Girls with trauma histories are further traumatized when isolation and restraints are used in detention.

Many girls in detention have experienced school failure, yet detention further disrupts their education and many girls have undiagnosed special education needs, which remain undiagnosed in detention. Girls who return to detention experience frequent disruptions in their education, making successful reentry into public school and their communities more difficult.

Girls also have health needs associated with pregnancy and childbirth that are often unattended in detention. From the most basic issues of personal hygiene to the broader issues of educational programming, girls' rights to dignity and respect are routinely being violated in detention. In addition to the lessons on reforming conditions of confinement contained in *Pathway #6, Improving Conditions of Confinement in Secure Juvenile Detention Centers*, which apply to both boys and girls, gender-responsive detention reform requires attention to the particular impact of conditions of confinement on girls.

7. Gender-Responsive Strategies Should Be Strengths Based Not Deficit Driven.

Outside of the justice system, girls' programming is beginning to focus on strengths. An increasing number of empowerment programs for "at-risk" girls are available in communities, offering opportunities for skill development, leadership training, and community organizing. These programs recognize the need to nurture and encourage girls' strengths, while justice system programming continues to focus on controlling girls' behaviors and labeling their problems. Detention and related services are largely based on that deficit model.

Boys' justice system programs also too often rely on a deficit model when they should be strengths based. For both boys and girls, deficit-driven approaches are ineffective, focusing on behaviors rather than needs, while building on a youth's strengths has the short-term benefit of improving his or her sense of self-worth and the long-term benefit of promoting autonomy and self-sufficiency.

Notes

¹Chesney-Lind, M., & Shelden, R., *Girls, Delinquency, and Juvenile Justice, 2nd Edition*, Belmont, CA: West/Wadsworth, 1998.

²Keller, K., *Juvenile Female Offenders in Cook County: Trends and Outcomes*. Presented November 14, 2002, American Society of Criminology Conference.

³Conger, D., & Ross, T., *Reducing the Foster Care Bias in Juvenile Detention Decisions: The Impact of Project Confirm*, New York: The Vera Institute of Justice, 2001.

⁴Teplin, L., Abram, K., McClelland, G., Dulcan, M., & Mericle, A., "Psychiatric Disorders in Youth in Juvenile Detention," *Archives of General Psychiatry*, 59, 1133–1143, 2002.

GIRLS' NEEDS VS. DETENTION REALITIES

Needs of Girls' in the Justice System

Though every girl in the system is far more than the needs she brings with her, effective implementation of detention reforms depends on understanding the social context and individual needs of girls who encounter the delinquency system and detention. During the 1990s, researchers identified gender-specific risk factors and needs of girls in the justice system. The following is a brief summary of that research.

I never been this quiet in my life. Cause I have never been locked up in no kind of place like this. I want to hold my peace until I get out cause I don't want to stay here no longer. So it's almost like . . . they take your voice away.—*Girl in Detention in Massachusetts*

Trauma Histories

A history of physical or sexual victimization is one of the most common characteristics of girls in the justice system. The depth of this victimization is staggering. For example, chronically delinquent girls studied by the Oregon Social Learning Center reported their first sexual encounters at an average age of 6.75.¹ An overwhelming 92 percent of girls interviewed in four California counties in 1998 had suffered some form of abuse—88 percent suffered emotional abuse, 81 percent reported physical abuse, and 56 percent reported one or more form of sexual abuse (40 percent reported at least one incident of forced sex and 17 percent reported more than five incidents).² Trauma appears to be more central to the histories of girls in the system than it does for boys. Research from the Oregon Social Learning Center shows that while 3 percent of boys in their study had documented histories of physical abuse, 77.8 percent of the girls had histories of abuse.³ An extensive longitudinal study found that girls and women with histories of childhood abuse or neglect were 73 percent more likely

A history of physical or sexual victimization is one of the most common characteristics of girls in the justice system.

An overwhelming 92 percent of girls interviewed in four California counties in 1998 had suffered some form of abuse— 88 percent suffered emotional abuse, 81 percent reported physical abuse, and 56 percent reported one or more form of sexual abuse.

than females without abuse histories to be arrested for property, alcohol, drug, and misdemeanor offenses such as disorderly conduct, curfew violations, or loitering. Moreover, unlike boys, girls with childhood experiences of abuse and neglect were more likely to be arrested as a juvenile or adult for a violent offense than those without abuse histories.⁴

Many detained girls are currently involved in prostitution where they are subject to sexual violence from pimps and johns. Experts believe the rates of prostitution among detained girls are high, however, girls are often not charged with prostitution but with related crimes such as running away, drugs, or public order offenses. In Atlanta, for example, the juvenile court judges, prosecutors, and youth advocates all agree that prostitution is much more prevalent among the detained girls than is apparent from their offenses.⁵ Girls detained in San Francisco and Atlanta talk of being robbed, beaten, and kidnapped by pimps and johns, a level of significant and ongoing abuse that requires specialized attention and treatment.

Family Stress and Chaos

Family stress and chaos are characteristic of the lives of many detained girls, and inappropriate detention use only continues these patterns of residential instability, family separation, and disrupted relationships. Delinquent girls studied by the Oregon Social Learning Center had an average of 16 home transitions when they entered the study—more than one home transition for each year of their lives. Seventy-three percent of girls in the study came from a single-parent household as compared with 56 percent of boys, and 35 percent of girls came from low-income households as compared with 22 percent of boys.⁶ More than half of the girls interviewed in the juvenile system in Duval County, Florida, had parents who abused drugs and nearly a third had a parent who was currently incarcerated. One in five girls had a deceased parent.⁷ Of girls in the Oregon study, 67 percent had fathers convicted of a crime and 48 percent had mothers convicted of a crime.⁸

Family stress results in child welfare involvement for many delinquent girls so that delinquent girls are likely to have histories in the child welfare system or be

child welfare involved while in the detention system. Separation from parents is repeated when detention forces separation between girls and their children. Of girls studied in the California Youth Authority in 1998, 29 percent had been pregnant at least once, and 16 percent had been pregnant while in custody.⁹ According to a survey of probation caseloads in Cook County in September 2002, one-fifth (21.2 percent) of all girls on probation were pregnant or parenting.¹⁰ Under the Adoption and Safe Families Act (ASFA), which imposes strict time frames from a child's removal to his or her return or release for adoption, once a girl and her child are separated and the child is placed in the foster care system the chances of reunification are reduced and it becomes more likely that mother and child will be separated permanently.

Mental and Physical Health

Studies show that adolescent girls in the justice system have higher rates of depression and post-traumatic stress disorder (PTSD) than boys, resulting in significant distress and contributing to behavioral problems in custody. Of girls studied in the California Youth Authority, 65 percent exhibited symptoms of PTSD at some point in their lives, and 49 percent were exhibiting those symptoms at the time of the study.¹¹ On every scale, delinquent girls studied by the Oregon Social Learning Center had more significant mental health problems than boys—over three-quarters of the girls in the study met the criteria for three or more DSM IV Axis 1 diagnoses.¹² A study of detained youth in Cook County from 1995 to 1998 found that girls had higher rates of psychiatric disorders than boys—nearly three-quarters of girls met criteria for one or more psychiatric disorder and rates of depression and anxiety disorders were particularly high among girls.¹³ Notably, girls are more likely than boys to be diagnosed with more than one mental health disorder, often a mental health disorder with a substance use disorder.¹⁴

Family stress results in child welfare involvement for many delinquent girls so that delinquent girls are likely to have histories in the child welfare system or be child welfare involved while in the detention system.

System-involved girls engage in sexually risky behaviors and tend to have higher rates of STDs than girls in the community.¹⁵ National standards identify STD testing and treatment and prenatal health care as essential for detained juveniles, yet many jurisdictions fail to provide these basics. A recent study found that both boys and girls in detention in Cook County had much higher rates of risk behaviors for HIV and AIDS than youth in the general population.¹⁶

School Failure

Even more than for boys, negative attitudes toward school and school failure are powerful predictors of delinquency in girls.¹⁷ School failure—either in the form of truancy, suspension, poor grades, or expulsion—was the most statistically significant risk factor for girls who were repeat offenders in Duval County, Florida.¹⁸ Girls are particularly vulnerable to school failure during pre- and early adolescence.¹⁹ In Duval County, 39 percent of girls whose case files were reviewed and 90 percent of girls interviewed had histories of school suspension. Twenty-five percent of girls interviewed needed special education services and 36 percent of the case files reviewed reflected special education needs. These numbers probably underrepresent the level of educational need, because education-related data were missing from a significant percentage of the case files.²⁰

Detention Realities

If girls enter detention particularly vulnerable due to their chaotic home lives, histories of trauma, and high rates of mental illness, conditions in detention often exacerbate their difficulties. Detention, like juvenile justice programming, was designed for boys and has been slow to accommodate the needs of girls. Staffing patterns, staff training, classification systems, physical design, and the correctional routine typical of detention were all designed for a male juvenile population. Given the needs and vulnerabilities of girls, this male model may be particularly damaging.

Detention = Trauma

Girls re-live early trauma when isolated and restrained in detention, a practice that occurs more frequently in overcrowded detention units with staff inconsistently trained

in gender-responsive practices (see *Pathway #6, Improving Conditions of Confinement in Secure Juvenile Detention Centers*). The use of restraints is particularly problematic for pregnant girls. Isolation increases the risk of suicide in adolescents and, given that twice as many girls as boys attempt suicide, is a particularly dangerous practice for girls.

Though providing girls with a safe opportunity for healing is central to gender-responsive programming, in detention girls are often re-victimized by staff and the environment. For example, girls in detention and corrections report that staff use demeaning and sexually abusive language, which violates their human rights and national standards.²¹ Girls in detention and corrections also report physical and sexual abuse by male staff, which has been the subject of litigation and spawned protective legislation in a number of states.²²

Detention = Powerlessness

For girls who see women in society as less powerful than men, who have seen their mothers victimized in abusive relationships, and who have been victimized themselves, developing a sense of mastery and control is particularly important.²³ Detention, however, makes girls feel powerless. A common complaint among girls in detention is that they are kept in the dark by caseworkers, lawyers, and probation officers, who do not contact them, yet have control over placement and service decisions. Girls express confusion about the reasons behind their moves in and out of programs and detention, who the system players are, and what roles they play. This lack of control generates frustration and runs counter to their developmental needs.



Detention Exacerbates Health and Mental Health Conditions

Though research identifies extensive mental health needs among detained and incarcerated girls, few girls' detention units address girls' mental health comprehensively and appropriately. Adequate mental health screening is not common, nor is mental health treatment, and temporary detention is disruptive to community mental health treatment and to treatment through medication. In a recent study of



girls' services and conditions of confinement, juvenile court judges, defense attorneys, and girls surveyed identified mental health diagnosis and treatment as the most significant gap in detention services.²⁴

Unhealthy environmental conditions in girls' detention centers exacerbate existing physical and mental health problems among the girls. Girls in detention report dif-

difficulty sleeping on hard, uncomfortable mattresses; unappealing and unhealthy food; lack of physical exercise; significant weight gains; being required to wear clothes that are dirty and smell; lack of personal items in their rooms; lack of access to basic feminine hygiene products; and being required to wear ill-fitting, stained underwear. Though significant rates of STDs and high-risk health behaviors are reported among detained girls, detention units do not screen for physical health issues consistently or thoroughly and appropriate health care is often unavailable. The failure to properly treat pregnant girls, reported by girls and advocates in the field, is particularly troubling, as it will affect the well-being of the next generation of children.

Detention Education Is Often Inadequate

The quality of education within secure detention is often poor and rarely gives girls the opportunity to experience academic success. Advocates for youth in the system

report the failure of schools in detention to educate both regular and special education students effectively. Education records from community schools are rarely available in detention and transitions to subsequent school placements in treatment programs or the community are haphazard. Schools in secure detention typically do not coordinate curricula with public schools, making it difficult for youth to receive fair credit for their education in the system and earn high school diplomas. Finally, OJJDP's guidelines for effective gender-specific programs call for curricula reflecting women's roles in society and promoting positive female role models, yet these programs are rare in detention.²⁵

Notes

¹Chamberlain, 2002.

²Acoca, L., & Dedel, K., *No Place to Hide: Understanding and Meeting the Needs of Girls in the California Juvenile Justice System*, San Francisco, CA: National Council on Crime and Delinquency, 1998.

³Chamberlain, 2002.

⁴The "Cycle of Violence" study found that girls who experienced childhood abuse and neglect were at increased risk for participation in violence as juveniles or adults, while boys who experienced childhood abuse and neglect were not at increased risk for participation in violence but were at increased risk for frequent participation in violence: Widom, C., & Maxfield, M., "An Update on the 'Cycle of Violence,'" *Research in Brief*, Washington DC: US Department of Justice, Office of Justice Programs, National Institute of Justice, 2001.

⁵Hanson, J., "Selling Atlanta's Children," *The Atlanta Journal-Constitution*, January 7, 2001.

⁶Chamberlain, 2002.

⁷Acoca, L., *Educate or Incarcerate: Girls in the Florida and Duval County Juvenile Justice Systems*, San Francisco, CA: National Council on Crime and Delinquency, 2000.

⁸Chamberlain, 2002.

⁹Acoca & Dedel, 1998.

¹⁰Keller, 2002.

¹¹Cauffman, E., Feldman, S., Waterman, J., & Steiner, H., "Posttraumatic Stress Disorder Among Female Juvenile Offenders," *Journal of the American Academy of Child and Adolescent Psychiatry*, 37, 1209–1217, 1998.

¹²Chamberlain, 2002.

¹³Teplin, et al., 2002.

- ¹⁴Veysey, B., "Adolescent Girls with Mental Health Disorders Involved with the Juvenile Justice System," *Research and Program Brief*, Washington, DC: National Center for Mental Health and Juvenile Justice, 2003.
- ¹⁵Widom, R., & Hammett, T.M., *HIV/AIDS and STDs in Juvenile Facilities*, Washington, DC: US Department of Justice, National Institute of Justice, NCJ 155509, 1996.
- ¹⁶Teplin, L., Mericle, A., McClelland, G., & Abram, K., "HIV and AIDS Risk Behaviors in Juvenile Detainees: Implications for Public Health Policy," *American Journal of Public Health*, 93, 6–12, 2003.
- ¹⁷Harris, P., *The Female Delinquent. ProDes: The Program Development and Evaluation System*, Philadelphia, PA: Crime and Justice Research Institute and the Division of Juvenile Justice Services, Department of Human Services, 1998.
- ¹⁸Acoca, 2000,
- ¹⁹Acoca & Dedel, 1998.
- ²⁰Acoca, 2000.
- ²¹Amnesty International, "*Not Part of My Sentence*": *Violations of the Human Rights of Women in Custody*, London, England: Amnesty International Publications, 1999.
- ²²Smith, B., "Sexual Abuse Against Women in Prison," *ABA Criminal Justice Magazine*, 16, 30–36, Spring, 2001.
- ²³Beyer, M., "Delinquent Girls: A Developmental Perspective," *Kentucky Children's Rights Journal*, 9, 17–25, 2001.
- ²⁴Sherman, F., *Girls in the Juvenile Justice System: Perspectives on Services and Conditions of Confinement*, Boston, MA: Girls' Justice Initiative, 2003.
- ²⁵Greene, Peters, & Associates, *Guiding Principles for Promising Female Programming: An Inventory of Best Practices*. Washington, DC: US Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1998. Available at ojjdp.ncjrs.org/pubs/principles/contents.html.

SYSTEMIC ISSUES AFFECTING GIRLS' DETENTION

The 2nd National Training Conference on Juvenile Detention Reform in Portland, Oregon, provided a forum for jurisdictions to gather and discuss their experiences implementing detention reforms for girls. At a workshop, jurisdictions described their struggles to reduce the number of girls detained in terms that were familiar to everyone. Their female populations reflected some of the most difficult issues in detention reform—violations of probation, warrants, awaiting placement cases, inter-system “detention dumping,” status offenders, and minor delinquents.

National data and data from JDAI sites support observations from the field that social context, combined with features of the juvenile justice process, results in inappropriate detention for girls. Understanding this dynamic is critical to gender-responsive detention reform. Currently, data indicate that girls are inappropriately detained: (1) for minor offenses, warrants, and technical violations of probation and parole; (2) as a direct and indirect result of family violence; and (3) as a result of the failure of systems to work together.

Girls Are More Likely to Be Detained for Misdemeanors, Status Offenses, Warrants, and Technical Violations

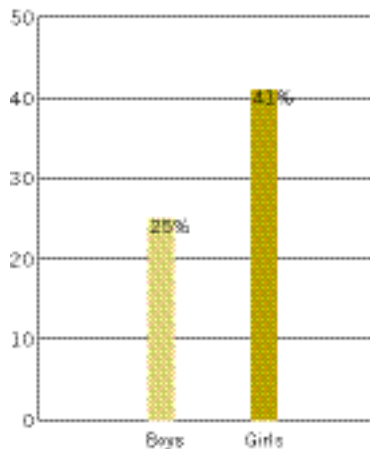
Minor Offenses

Nationally, in 2001 girls were almost twice as likely as boys to be detained for technical violations and status offenses. Technical violations and status offenses accounted for 41 percent of girls' detentions and 25 percent of boys' detentions (see Figure 2).

The practice of detaining larger percentages of girls than boys for minor offenses, status offenses, technical violations, and warrants is visible around the country. According to an analysis of detention screening data in Georgia from January through July 31, 2002, 41 percent of detained girls had a misdemeanor as their most serious offense as compared with 34 percent of boys,

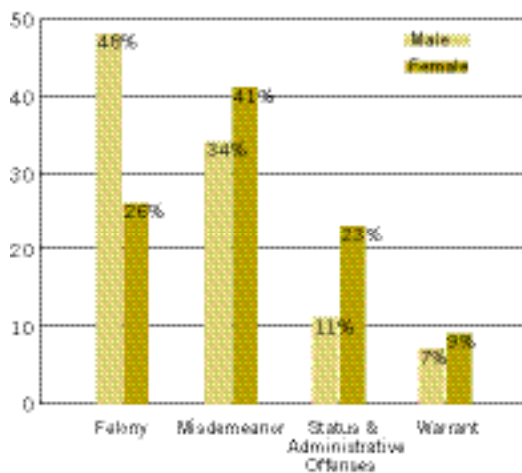
Nationally, in 2001 girls were almost twice as likely as boys to be detained for technical violations and status offenses. Technical violations and status offenses accounted for 41 percent of girls' detentions and 25 percent of boys' detentions.

FIGURE 2
NATIONAL PERCENTAGE
OF YOUTH DETAINED FOR
TECHNICAL VIOLATIONS AND
STATUS OFFENSES, 2001



Source: Sickmund, M., Sladky, T.J., & Kang, W. (2004) "Census of Juveniles in Residential Placement Databook." Available at www.ojjdp.ncjrs.org/ojstatbb/cjrp.

FIGURE 3
MOST SERIOUS OFFENSE FOR DETAINED
YOUTH IN GEORGIA, JANUARY-JULY 2002



Source: Georgia Department of Juvenile Justice, October 2002.

23 percent of girls had a status or administrative offense as compared with 11 percent of boys, and 9 percent of girls had a warrant as compared with 7 percent of boys (see Figure 3).

A recent study of detained youth in St. Louis examined the impact of gender on the court's decision to detain in serious (violent felonies) and non-serious (status offenses or misdemeanors) cases. It found that girls were more likely than boys to be detained in non-serious cases. The study found that controlling for factors such as criminal history, which influence the detention decision, girls charged with non-serious offenses were 1.9 times more likely than similarly situated boys to be detained.¹

Secure detention for status offenders is unlawful under the JJDP Act, except for violations of a valid court order and the Act requires close monitoring of status offenders who are taken into custody as a result of violations of valid court orders.² Though the JJDP Act first mandated deinstitutionalization of status offenders in 1974, throughout the country many girls who are primarily runaways and status offenders are being detained. Through findings of contempt, probation violations, or violations of valid court orders, courts detain girls with underlying status offenses or minor delinquency charges, in a practice that has been called "bootstrapping."³

In some states, like New York and Massachusetts, bootstrapping has been limited or prohibited by the courts⁴ (see Chapter 6). A number of other jurisdictions have repealed or rarely use laws

governing status offenders.⁵ However, in jurisdictions that actively use status offense laws and have no judicial limitation, the contempt sanction is more likely to bootstrap girls than boys into detention. A study conducted by Donna Bishop and Charles Frazier in Florida in the early 1990s confirms this. According to that study, a typical male status offender had a 37.6 percent chance of formal referral to court that increased to 45.7 percent if he was referred for contempt, while the typical female status offender had a 31.2 percent chance of formal court referral that increased to 69.7 percent if she was referred for contempt. This bias extended to the use of incarceration for repeat status offenders—the typical male status offender had a 3.9 percent chance of incarceration, which increased to 4.4 percent if he was found in contempt; the typical female offender had a 1.8 percent chance of incarceration, which increased to 63.2 percent if she was held in contempt.⁶

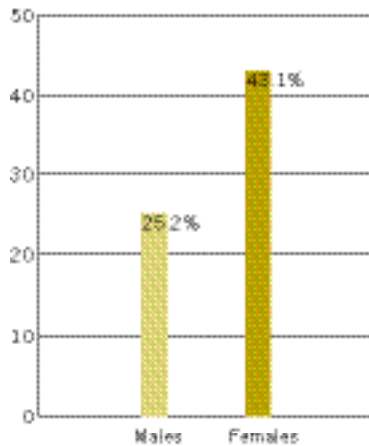


Moreover, in jurisdictions that do not actively use status offense laws, analysts have questioned whether minor delinquency charges (i.e., curfew, shoplifting, and minor in possession of alcohol) are being filed increasingly against girls who would otherwise have been treated under status offense laws, criminalizing status offense behavior in girls.⁷

Warrants

A greater proportion of girls than boys are detained for warrants, which are often triggered by running away from home or placement. As a result of warrant practices that mandate detention, girls are detained due to the combination of minor delinquency and running away, when neither the underlying delinquency nor the running away alone would have resulted in detention. According to Cook County data for 2001, slightly less than half of girls' detention admissions were due to a

FIGURE 4
2001 COOK COUNTY DETENTION:
PERCENTAGE OF TOTAL
ADMISSIONS FOR JUVENILE
ARREST WARRANTS BY GENDER

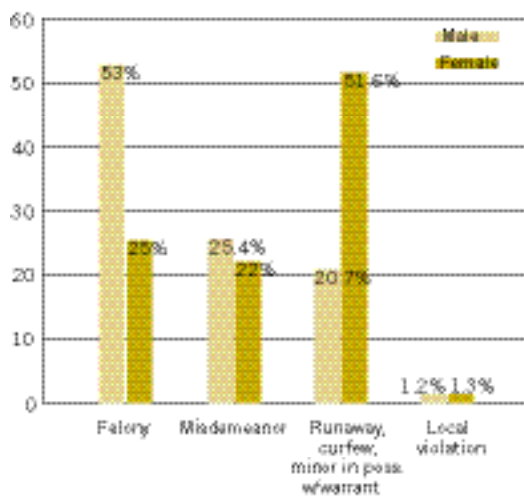


Source: Cook County Juvenile Probation and Court Services, 2002.

Juvenile Arrest Warrant (JAW) compared with approximately one-quarter of male admissions (see Figure 4).

Practices that result in detention of girls for warrants (when the underlying behavior is really a status offense) pose a significant hurdle even in jurisdictions like Multnomah County, Oregon, which have successfully reduced detention populations of boys and girls. In 2001, Multnomah County only detained 155 girls and 406 boys, yet more than two times the percentage of girls (51.6 percent) than boys (20.7 percent) were detained for running away, truancy, or underage possession of alcohol with a prior warrant (see Figure 5). Of detention admissions for girls in 2001 (155), 45 percent were for running away with a prior warrant compared to 18.7 percent of admissions for boys in 2001 (406). In Portland, girls and boys picked up for minor offenses or running away without outstanding warrants are taken to the New Avenues for Youth Reception Center where they are assessed, referred to services, and rarely detained (see Chapter 5). However, if a youth has a prior warrant and is picked up for the same minor offense, he or she is likely to be detained as a result of the warrant (see *Pathway #9, Special Detention Cases: Strategies for Handling Difficult Populations*).

FIGURE 5
MULTNOMAH COUNTY DETENTION
ADMISSIONS BY OFFENSE TYPE IN 2001



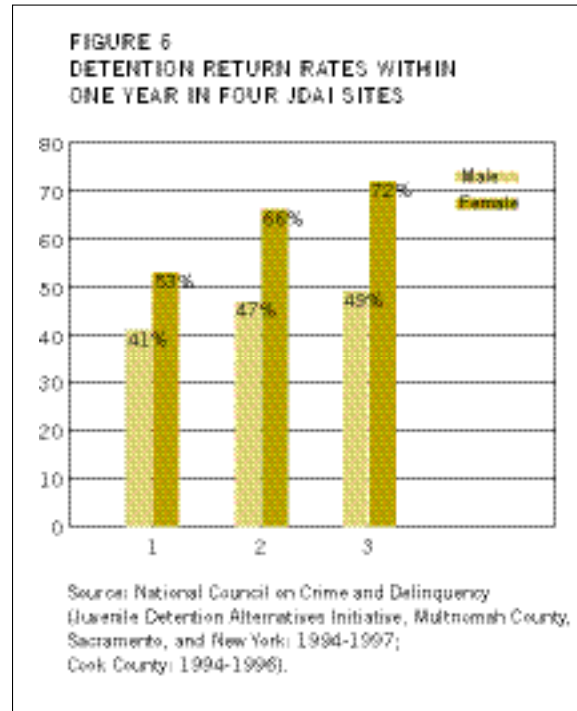
Source: Multnomah County Department of Community Justice, 2002.

Technical Violations

Warrants and technical violations of probation (as opposed to new offenses) affect return to detention as well. A review of JDAI data from four of the

original sites between 1994 and 1997⁸ indicates both the significance of probation violations, warrants, and program failures as reasons for detention returns, as well as the gender gap in detention returns for these reasons. Across the JDAI sites, girls returned to detention for warrants, probation or parole violation, or program failures in greater percentages than boys and that gap increased with each detention return. Thus, across the four sites, of youth that returned to detention once within one year, 53 percent of girls as compared to 41 percent of boys did so for warrant, probation or parole violation, or program failure. Of youth returning twice within one year, 66 percent of girls as compared with 47 percent of boys did so for warrants, probation or parole violation, or program failure. Moreover, of youth returning to detention three times within one year, 72 percent of girls as compared with 49 percent of boys did so for warrants, probation or parole violation, or program failure. The gender gap, or difference between the rate of boys' and girls' returns, increased from 7 percent between the first and the second detention return to 11 percent between the first and third return (see Figure 6).

Social context interacts with the juvenile justice process resulting in detention of girls for minor offenses and technical violations but can be difficult to measure. Virtually all practitioners report many runaway girls in detention for warrants and violations of probation on underlying delinquency or status offenses. In fact, those working with girls identify running away as one of the most common and challenging issues they face.



Across the JDAI sites, girls returned to detention for warrants, probation or parole violation, or program failures in greater percentages than boys and that gap increased with each detention return.

Data indicate that while both boys and girls run away from their homes and placements, girls run away at higher rates. The Oregon Social Learning Center's research with chronically delinquent youth indicates that 67.6 percent of the boys studied had pre-treatment runaway histories as compared with 92.3 percent of the girls.⁹ Moreover, running away triggers system involvement more for girls than for boys. Nationally, in 2002 girls accounted for 60 percent of juvenile arrests for running away.¹⁰ Similarly, the Vera Institute of Justice study of foster youth in New York City found higher rates of runaway girls than boys in the foster care system and a recent study of detention cases in Maryland found that running away played a central role in the detention of girls awaiting placement.¹¹

Girls Are Detained as a Result of Their Chaotic Home Lives

In Cook County, system data show that while the overall initial detention rate for males and females is about the same (41 percent), the reasons for detention differ, with more girls detained as a result of their family situations and more boys detained as a result of the seriousness of the offense. The data for 2001 indicate that override rates (on detention screening instruments) were twice as high for girls than

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boys and half the girls' overrides were for reasons having to do with their home lives (domestic violence or parent refusing to take the girl home). These data support the qualitative reports from experts working with girls in the field nationally.

Another indication that family chaos plays a significant role in the detention of girls is the incidence of "dually involved" girls in the justice system: girls currently or formerly involved with both the juvenile justice and child protection systems. In Cook County, from 1994 through 2000, girls were 44 percent more likely than boys to have had a child protection petition filed on their behalf, and girls who had child protection petitions were almost four times more likely than girls in the general population to end up with a delinquency petition. Moreover, girls with higher numbers of delinquency petitions are much more likely to have been in the dependency system

while this correlation does not hold to the same degree for boys.¹²

The use of the juvenile justice system by families in chaos in an effort to remove their daughters from their homes or to obtain services for them has been noted in the literature. Chesney-Lind cites examples of police or probation officers suggesting that parents file delinquency charges or report their daughters to probation when parents are frustrated with their daughters' behaviors at home.¹³ Many experienced juvenile defense lawyers corroborate this practice. National arrest data suggest a connection between enforcement of domestic violence laws and the criminalization of girls. The disproportionate rise in arrests of girls, as compared to boys, over the past two decades for aggravated assault has been described as an unintended consequence of stricter enforcement of domestic violence laws that criminalizes the girl and ignores the real issue—her chaotic and stressed family.

The connections between domestic violence and detention for young girls are just beginning to be identified, but the frequency of domestic violence as the identified reason for overriding a release decision for girls raises important questions for researchers. Is there more domestic violence in girls' homes than in boys' homes? Are girls more willing to report domestic violence? Are screeners (and others making detention decisions) viewing girls as more vulnerable to domestic violence and overriding release decisions in girls' cases but not in similar boys' cases? What sort of home-based interventions will work to address family crises so that girls are not detained because of domestic chaos and violence?

Lack of Cross-System Collaboration Increases Detention of Girls

The JJDP Act focuses on collaboration between child welfare and juvenile justice systems, requiring states to:

- Implement a system to ensure that child welfare records are available to juvenile courts for youth charged with delinquency;

The data for 2001 indicate that override rates (on detention screening instruments) were twice as high for girls than boys and half the girls' overrides were for reasons having to do with their home lives (domestic violence or parent refusing to take the girl home).

- Incorporate relevant child protective service records into disposition planning for delinquent youth; and
- Ensure that delinquent youth funded under Title IV-E receive procedural protections available to youth in the child welfare system.¹⁴

Both the failure of systems to work together and the absence of appropriate gender-responsive programming contribute to inappropriate use of detention for girls. Advocates for girls in the justice system have identified the lack of communication and advocacy across the juvenile justice, child welfare, mental health, and education systems as a long-standing cause of inappropriate detention and placement for girls who are dumped in detention when they should be serviced in the other systems. In addition, reducing detention use for girls depends on the development of effective gender-responsive programming so that girls do not return to detention or wait in detention for a program bed.

A 1998 study by the Vera Institute of Justice highlights the costs, to youth and the public, of the lack of coordination between the child welfare and juvenile justice systems. That study estimated that 1,000 foster children were in the criminal or

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juvenile justice systems in New York City in 1997. The study found that 15 percent of youth in detention from mid-December 1996 to mid-February 1997 were foster children, which was eight times the rate of foster children among the New York City general population. Yet the foster children in detention were not committing serious offenses that might account for their significant presence in detention.¹⁵ Later studies conducted by the Vera Institute of Justice found that the impact of foster care on detention was greater among girls. Overall, foster youth were more likely to be detained than non-foster youth, but that bias was particularly sharp for foster girls who comprised 28 percent of the studied foster children in detention in New York from 1997 through 1999, while non-foster girls comprised only 17 percent of the non-foster children in detention. Of the entire population of girls who

entered detention in New York City between 1994 and 1999, over 20 percent were in foster care compared with 10 percent of all boys entering detention.¹⁶

The study concluded that lack of coordination between the juvenile justice and foster care systems was largely responsible, because foster children were less likely to have an adult present at any stage of the proceeding, thereby reducing their chances of release. Moreover, juvenile justice personnel had difficulty determining who to call in the child welfare agency when a foster child was arrested. Significantly, foster children were far more likely to be arrested in their foster or group homes than non-foster youth were in their homes. Once in detention, foster children typically could not return to their foster placements, which were given to another child, further reducing their chances of release and increasing their instability.

Another population for whom cross-system collaboration and expanded gender-responsive resources are critical is girls involved with prostitution. Advocates and researchers estimate that more than 300,000 teens in the United States are involved in prostitution. In 2002, girls comprised 67 percent of arrests for prostitution, which (with running away) was one of only two offense categories for which more girls than boys were arrested. Recently, advocates have observed that the age of entry into prostitution is getting younger. Cities such as San Francisco and Atlanta, which are analyzing the problem, have found that significant numbers of female teen prostitutes are detained. In San Francisco in March 2002, 11.4 percent of girls in detention were charged with prostitution and it is likely that many more were involved with prostitution but detained for other offenses. In one Georgia county, the juvenile court sees 35–40 girls involved in prostitution each month.¹⁷ Judges say that because they fear for the girls' safety on the street and have no alternative to detention, they feel compelled to detain teenage prostitutes though they know these girls pose no community risk and would be better served in their homes and communities.

The use of the juvenile justice system by families in chaos in an effort to remove their daughters from their homes or to obtain services for them has been noted in the literature.

It is important to note that for many girls in detention, cross-system issues move into the next generation as they have children of their own. When teenage mothers are detained, their children are often placed in foster care repeating the pattern of family separation that so many of the girls in detention experienced through their lives. The Adoption and Safe Families Act of 1997 (ASFA), and its state counterparts, require either reunification or release for adoption of children in foster care within a time frame that is not feasible for many confined girls. As a result of ASFA, the stakes for mothers in the justice system are very high and many more detained girls risk permanent separation from their children.¹⁸

Notes

¹McGuire, D., "The Interactive Effects of Race, Sex and Offense Severity on Detention Processing Decisions," *Journal for Juvenile Justice and Detention Services*, 17, 259–77, 2002.

²42 U.S.C.A. § 5633(11); 42 U.S.C.A. § 5633(23).

³Girls Incorporated, *Prevention and Parity: Girls in Juvenile Justice*, Indianapolis, IN: Girls Incorporated, National Resource Center, 1996; Acoca, L., "Investing in Girls: A 21st Century Strategy," *Juvenile Justice Journal*, VI (1), 3–13, Washington, DC: US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 1999.

⁴*In Re Florence E.*, 709 N. E. 2d 418 (Mass. 1999) (holding Juvenile Court does not have the power to issue contempt orders against a juvenile for failing to comply with conditions of custody in a Children in Need of Services (CHINS) case, due to lack of statutory authority); *In Re Naquan J.*, 727 N.Y. S.2d 124 (N.Y. App. Div. 2001) (finding Family Court did not have the authority to order that Person in Need of Services (PINS) be held in criminal contempt, for leaving appointed placements, and repeatedly violating court orders).

⁵In 1983, Illinois's Minor in Need of Supervision (MINS) statute was replaced with Minor Requiring Authoritative Intervention (MRAI) taking jurisdiction for status offense out of the juvenile court. The impact of this on girls' cases in Cook County was significant. In 1981 and 1982, there were over 3,800 status offender petitions filed in juvenile court, 57 percent against girls, accounting for 46 percent of petitions filed against girls in those years. In 1983, the first year of the changed jurisdiction 10 percent of juvenile court petitions involved girls as compared with more than 16 percent in 1981 and 1982; Keller, 2002.

⁶Bishop, D., & Frazier, C., "Gender Bias in Juvenile Justice Processing: Implications of the JJDP Act," *Criminology*, 82, 1162–1186, 1992.

⁷Keller, 2002.

⁸These data are a total of detention admissions from Multnomah County, Sacramento, and New York City from 1994 through 1997 and Cook County from 1994 through 1996.

⁹Chamberlain, 2002.

¹⁰Snyder, 2004.

¹¹Although the overall sample was small and girls were only 14 percent of the sample studied, 61 percent of girls compared with 44 percent of boys were awaiting placement without an underlying new charge. In all of the cases running away played a significant role in the girls' detention; Holman, B., & Wade, S., *Doing Deadtme: Awaiting Placement in Juvenile Detention*, Baltimore, MD: Annie E. Casey Foundation, forthcoming.

¹²Keller, 2002.

¹³Chesney-Lind & Shelden, 1998.

¹⁴42 U.S.C.A. § 5633 (a)(26–28).

¹⁵Armstrong, M., *Adolescent Pathways: Exploring the Intersections Between Child Welfare and Juvenile Justice, PINS, and Mental Health*, New York: The Vera Institute of Justice, 1998; Conger & Ross, 2001.

¹⁶Conger & Ross, 2001.

¹⁷Satchel, R., *Representing Sexually Exploited Children: Resource Manual for Attorneys*, Atlanta, GA: DESIST (Deinstitutionalize Every Sister and Insist on Some Treatment), Southern Center for Human Rights, 2001.

¹⁸Smith, G., "Adoption and Safe Families Act of 1997 and Its Impact on Prisoner Mothers and Their Children," *Women, Girls and Criminal Justice*, Vol. 1, No. 1, December/January, 2000.

PROMISING PRACTICES AND GENDER-RESPONSIVE PROGRAMS

Gender-responsive detention reform should include practices, policies, and programs that address: (1) systemic inequities that result in inappropriate confinement of girls (for minor offenses, technical violations, family chaos, and as the result of lack of cross-system collaboration); and (2) girls' needs and pathways into detention that are different from those of boys. Reform of systemic inequities and development of gender-responsive detention and disposition alternatives should minimize girls' returns to detention, prevent detention "dumping," and reduce detention awaiting placement. The following practices and programs are efforts at gender-responsive reform that incorporate these approaches. They have either demonstrated effectiveness or are potentially effective in reducing inap-

Experts agree that girls who form positive connections to individuals and programs within their communities are less likely to return to detention, but strengths-based community services are unavailable to detained girls.

appropriate detention of girls. They are roughly categorized here as either practice (a set of strategies within the system) or program (direct service delivery). However, many of them are a blend of both.

Gender-Responsive Practices

Linking Girls to Gender-Responsive Community-Based Services

Experts agree that girls who form positive connections to individuals and programs within their communities are less likely to return to detention, but strengths-based community services are unavailable to detained girls. A common complaint among judges, probation, and defense counsel is that they are not aware of existing community services for girls. Publishing service directories and forming coalitions of girls' services providers are useful ways to identify and promote connection of girls to community-based programs. Coalitions focusing on girls' services have published directories of local resources for girls that have been distributed to system officials as well as to girls in detention and on probation. This improves girls' awareness of and access to community-based resources and helps

community-based programs work together. Coalitions of girl-serving organizations exist in some communities (e.g., the Girls' Coalition of Greater Boston, www.girlscoalition.org) and can be useful in organizing and convening girls' services providers. Resource directories have been compiled in Boston, San Francisco, and Cook County. These directories can be on the Internet, making them readily available and easy to modify. To ensure relevance, they should evaluate programs with information from girls in the community for whom the programs are designed.

In San Francisco and Boston, the juvenile justice systems are actively linking girls to strengths-based community programs to reduce the use of detention and other out-of-home placements, and to promote long-lasting community ties. In San Francisco, the probation department and the United Way have developed a collaborative project to reduce recidivism for first-time detained girls, ages 12 to 18, by linking girls to community-based services, strengthening girls' services organizations, and expanding girls' services. Girls in juvenile hall are given a strengths-based assessment, which forms the basis for an individual service plan and referral to community programs. The initiative collaborates with 14 community-based programs that are trained to deliver programming in juvenile hall to connect with the girls and then provide programming for those girls in the community.

The partnership with community-based programs results in gender-responsive programming for girls in juvenile hall throughout the day. Programs begin after school and end at 9:00 p.m., and include writing workshops, expressive arts, music therapy, and prostitution prevention. The initiative strengthens community-based girls' services through training—targeting issues relevant to girls involved in the justice system—and through a United Way commitment to increase fundraising for services targeting system-involved girls. It has created strong working relationships between community-based girls' programs and the Girls Services Unit at juvenile hall. Most significant, it provides girls continuous, gender-responsive programming in detention that follows them into the community.

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Boston's Female Focus Initiative (FFI), run by a community-based nonprofit (Roxbury Youthworks Inc.), is a similar effort operating out of a girl-only programming space in a Boston neighborhood. (The FFI operates out of the "Still We Rise" center, which was named by the girls from the Maya Angelou poem.) FFI was developed to respond to a rapidly growing population of females committed to the Massachusetts Department of Youth Services (DYS). (The number of girls

After assessing a site ... to determine why girls are being detained and what their needs are, sites should collaborate with community-based programs to develop a continuum of targeted alternatives to detention for girls. This continuum should emphasize the principle of least restrictive alternatives, be located in and reflect girls' communities, be gender responsive in design, and respond to the specific needs identified within the population of girls.

in the DHS committed caseload increased 168 percent from 1995 to 2005, and the number of committed girls in Boston increased 31 percent in calendar year 2002 alone.) FFI is designed to promote girls' connections to strengths-based community programs and delivers virtually all of its services in collaboration with these programs. Through these collaborations, FFI supports girls as they leave treatment or detention until they are no longer under the authority of DHS (age 18 or 21) and provides girls with relationships in the community that can continue into their adult life. Through FFI's collaborations, girls have access to job training and placement, art programming, empowerment groups, and faith-based and recreational programming. In collaboration with a community health center, a nurse works part-time at the "Still We Rise" center providing gender-responsive health assessments and facilitating health care access in the community.

Creating a Continuum of Alternatives for Girls

After assessing a site (by analyzing site data and speaking to key stakeholders) to determine why girls are being detained and what their needs are, sites should collaborate with community-based programs to develop a continuum of targeted alternatives to detention for girls. This continuum should emphasize the principle of least restrictive alternatives, be located in and reflect girls' communities, be gender responsive in design, and

respond to the specific needs identified within the population of girls (i.e., substance abuse).

Philadelphia's Girls' Continuum

Philadelphia provides one example of a gender-responsive continuum. Philadelphia's Department of Human Services coupled collaborations across human services divisions, courts, and the community with a continuum of home-based alternatives to detention and incarceration in a concerted and successful effort to reduce detention



use for girls. At the end of 2000, the population of girls at the Philadelphia Youth Study Center (its secure detention facility) was increasing and attorneys from the Philadelphia Defender's Association conducted a study demonstrating that most of these girls were high need/low risk, inappropriately detained, and inadequately served. Two-and-a-half years later, in June 2003, there were fewer than ten girls detained, and detentions have remained low.

Anne Marie Ambrose, Deputy Commissioner for the Division of Juvenile Justice Services, and advocates in Philadelphia attribute their success to a continuum of home-based alternatives developed to reduce the use of detention for girls who are minor offenders and a girls' probation unit dedicated to using those services instead of detention. Although Philadelphia has had difficulty maintaining all the services in its continuum over time, the continuum has included pre-hearing intensive supervision, electronic monitoring, Functional Family Therapy, and Multi-Systemic Therapy as well as community-based shelters. Philadelphia's system recognizes that girls in the justice and dependency systems often present the same issues, so many of Philadelphia's services are available to girls across those points of entry and it has designated a juvenile court session for youth (many of whom are girls) in the dependency system who are charged with delinquency. The focus of that court session is to prevent dependent youth from crossing over into the delinquency system.

Project Confirm: Addressing “Foster Care Bias”

The Vera Institute of Justice’s Project Confirm uses cross-system strategies to reduce the “foster care bias” against detained youth in New York City. Its strategies include: (1) notifying the child welfare system when a foster child is in police custody or detention; (2) conferencing and information sharing between child welfare, probation, and other interested agencies; and (3) actively seeking placements and resources as detention alternatives for difficult-to-place foster youth. Though Project Confirm’s cross-system strategies of notification, communication, and

Comprehensive, cross-system legal representation makes sense as a model for girls who are often simultaneously involved with multiple agencies and whose needs often require education, child welfare, and mental health advocacy alongside delinquency representation.

information sharing succeeded in reducing foster care bias for girls with less serious offenses, high rates of “AWOL” among detained foster girls (58 percent of girls as compared with 43 percent of boys) made reducing the “foster care bias” among girls particularly difficult.¹

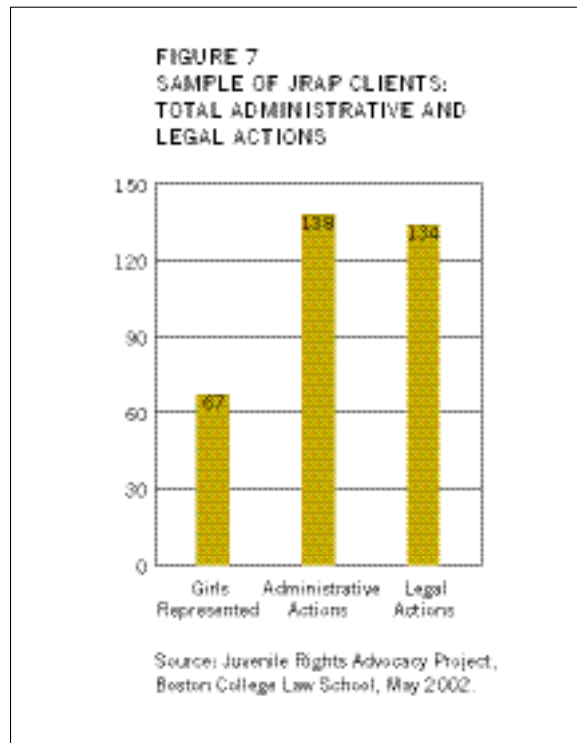
Comprehensive Legal Representation

Comprehensive, cross-system legal representation makes sense as a model for girls who are often simultaneously involved with multiple agencies and whose needs often require education, child welfare, and mental health advocacy alongside delinquency representation. The Juvenile Rights Advocacy Project (JRAP) is a law clinic at Boston College Law School that has developed a model of comprehensive representation for girls in the system. At JRAP, one lawyer and two law students represent each girl through multiple legal and administrative actions until the client ages out of the system (18 or 21 in Massachusetts). Under this comprehensive model, clients’ goals are pursued proactively through legal and administrative systems to ensure ongoing agency responsiveness and accountability to statutes, regulations, and constitutional provisions governing services to girls. JRAP attempts to reduce juvenile justice placements by accessing appropriate services within human services systems and the girls’ communities. Moreover, continuous representation provides ongoing supportive relationships for the client, viewing delinquency in the context of the girl’s overall functioning—her needs and strengths.

Project data indicate that each girl represented by the JRAP is involved, on average, in four legal or administrative cases. These include delinquency, status offenses, dependency, special education, suspension, expulsion, appeals, and post-disposition advocacy within the social services and youth services systems. JRAP evaluation data describe enormous system inefficiency and explain why lack of consistency and coordination across systems is such a significant complaint among both girls and professionals working in the systems.

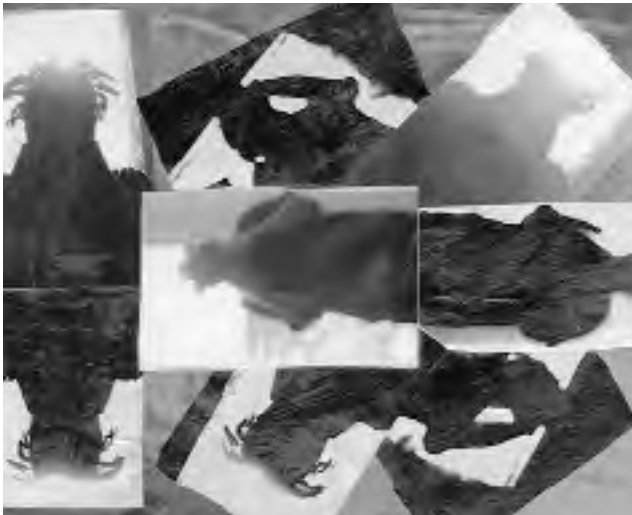
Though each girl encountered by JRAP is different, the following case illustrates the multi-system nature of JRAP cases and the potential for comprehensive legal representation.²

Tamika had been in the custody of the Department of Social Services (DSS) as a neglected child since she was six years old. She began running away from placements at eight and was placed in numerous foster homes, and residential and mental health programs. At 14 she became involved in prostitution and was committed to the Department of Youth Services (DYS) for delinquency. The following years were a cycle of detention, placement, and return to detention for AWOL. She never picked up a new offense but fled many DYS placements. She was never successful in school and although she qualified for special education services when she was in 5th grade, she received limited educational services and her education was continuously disrupted by her many residential and detention placements. At 16, shortly after her DYS commitment, she gave birth to her first child. During a run from a foster home, she placed him with a former foster mother and a child protection petition was filed alleging abandonment.



She subsequently had a second child and was abused by the child's father. At 18 she aged out of the DYS and DSS systems.³

Tamika was involved in a delinquency case, post-disposition advocacy with two state agencies (DSS and DYS), special education representation, a dependency case as a mother, and a restraining order as a victim. In the traditional legal system, she



would probably have been appointed two different attorneys, one for the delinquency charge ending at the commitment to DYS and another for the dependency case. She would have had no access to counsel for the administrative cases to access post-disposition services from agencies, the special education case, or the domestic violence restraining order. This situation is not unique to Massachusetts. A recently published case study of a

delinquent girl in Philadelphia reports that throughout six years of court involvement on one charge she saw four judges and several masters, and probably had six attorneys and at least three probation officers.⁴

Under a model of comprehensive representation, all of Tamika's records are compiled and a chronology of placements and services developed. Advocacy focuses on reducing detention and incarceration by accessing social services placements and programs in the community for Tamika and her children while protecting her from abuse by the father of her daughter and holding the schools accountable for her education. Her victimization as a child, a teenage prostitute, and an intimate partner, coupled with her minor crime, is a persuasive argument for less restrictive, community-based placements with social services. However, because typical representation is fragmented (or unavailable) the connections across her experiences would not have been presented and she would likely have been separated from her children in traditional delinquency placements and

detention. Though she continues to encounter difficulties as an adult, she received far more appropriate services and support during her teenage years as a result of comprehensive representation than she otherwise would have. Tamika remained a JRAP client for six years, one of the longest relationships of her life, and continues to call for referrals and support as an adult.

Gender-Responsive Cross-System Case Conferencing Strengths- and Needs-Based Approach

Case planning through conferences that fully include the girl in the identification of strengths and needs for services is an effective practice and can be incorporated at detention, probation, or disposition. Typically, services are dictated to the girl and her participation is not actively elicited in planning. Because she has no role in the decision-making process, she has no stake in the outcome. By eliciting strengths and needs from her with the support of all the important adults and relevant agencies in her life, she becomes vested in the outcome. Conferences should include family members (if they are available), lawyers or Guardians ad Litem for the girl, therapists, social workers, probation, dependency and juvenile justice agencies, and schools. The service plan must be specific, matching specific services to strengths or needs identified by the girl and agreed upon by the group. General services or conditions such as “counseling” or “will attend school” are not sufficiently targeted to goals. This girl-centered case conferencing is gender responsive in that it is both empowering and relational in design. It also offers continuity. Once the initial case plan is developed, the same parties reconvene at each change of circumstances to revisit the strengths and needs and modify the services.⁵

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Multnomah County’s Cross-System Conferencing

In Multnomah County, the “11:30 meeting” is an innovation in case processing, using cross-system case conferencing to maximize the chances of release, in part, through pre-adjudicatory case management (see *Pathway #5, Reducing Unnecessary Delay: Innovations in Case Processing*). The meeting occurs while the youth is in



custody and is followed by the detention hearing at which the case recommendations developed in the meeting can be presented to the judge. The meeting is attended by the prosecutor, defense counsel, a representative from the Department of Community Justice, and, in cases with an active dependency case, a representative from the Department of Human Services (DHS).

The parties report that in cases with complex social service needs, such as many girls' cases, they use the 11:30 meeting to work through the available options, trying to find ones that fit the girl's needs. The following story illustrates the potential of the 11:30 meeting, and other collaborative approaches based on pre-adjudication conferencing, to reduce the use of detention for girls.

Under Oregon's interstate compact, youth from another state who are picked up in Multnomah County must be held until they can be returned to their home state. For years this resulted in girls who run to Oregon from out of state being held in detention. Many of these girls are running from abuse in their homes. They pose little risk to the community, but are clearly in need of social service intervention. The detention center had no capacity to investigate the abuse allegations or develop service interventions, but felt bound to detain them nonetheless. Early in 2001, one girl who had run from Idaho to Portland and described abuse in her home was the subject of an 11:30 meeting. Her attorney presented a plan for her release to Harry's Mother, a staff-supervised shelter care facility contracting with the Department of Community Justice as a detention alternative for girls. At the 11:30 meeting, the parties reached an agreement whereby Harry's Mother would investigate the abuse with authorities in Idaho,

develop a social services plan for the girl, and return her to her home state. Once the protocol was developed in that one case, it became the standard for cases of out-of-state, runaway youth, so that these boys and girls are no longer detained and their underlying personal and family issues are addressed.

Another example of Multnomah County's efforts at cross-system placement is the Alternative Placement Committee (APC), comprised of representatives from DHS, Oregon Youth Authority, residential treatment programs, and the juvenile court. If a youth is delinquent and has complex service needs, her case can be reviewed by the committee, which can then coordinate multi-system service planning. APC strives to develop a unified recommendation that can be presented to the court. Its guidelines require that cases be presented in a "balanced, 'strength based' approach, identifying youth and family strengths as well as needs" and recommendations are developed by consensus considering level of risk, community protection, limited resources, and the best interest of the youth. The committee meets weekly and in 2001 reviewed 55 cases, approximately one-fifth of which were girls. APC deliberations have significantly reduced out-of-home placements in the Multnomah system.

Cross-System Data Sharing

The Juvenile Justice and Delinquency Prevention Act mandates that child welfare records be made available to the juvenile court for any youth before the court for delinquency and incorporated into the juvenile court delinquency record for disposition planning.⁶ These provisions respond to the clear data that many delinquent youth have child welfare system histories or are involved with both systems simultaneously. The link between child welfare and delinquency is particularly strong for girls and, as a result, record sharing across these systems and data collection tracking multiple system involvement can help prevent "dumping" of girls who should be served by the child welfare or mental health systems.

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In Cook County, for example, each family is assigned a “family number” allowing the courts to track each family member’s contacts with the juvenile court. Data collected from all available sources and maintained by the Department of Children and Family Services provide judges with weekly lists of the dually involved juveniles on their delinquency dockets so that they can tailor dispositions to the needs of multi-system youth. These lists are also made available to the state’s attorney, public defender, Guardian ad Litem, and probation. This information helps identify appropriate detention and disposition alternatives to ensure effective representation and appropriate judicial decisions, yet it is unavailable to advocates and courts in many jurisdictions. A Girls’ Justice Initiative study of juvenile defense counsel found that between 85 percent and 93 percent consider access to information

COOK COUNTY’S GIRLS LINK: A CASE STUDY IN GENDER-RESPONSIVE PRACTICE

The most effective gender-responsive practices do not stand alone. They are a coordinated set of strategies targeting a range of system decision points known to impact girls and result in their inappropriate detention (i.e., community probation, case processing, and risk assessment). Cook County’s Girls Link is an example of this comprehensive approach to gender-responsive practice.

Since 1994, representatives of more than 20 public and private agencies in Cook County have been meeting regularly with the goal of affecting system change for girls. The group, known as Girls Link, has had remarkable staying power and consistency, with approximately half of its original members still around the table. Girls Link is directly or indirectly responsible for many of Cook County’s most notable innovations in training and program development for girls in the justice system.

The relationships developed across systems in Cook County can be partially credited with the development of a staff-secure shelter, Cook County’s residential detention alternative for girls, the girls’ evening reporting center, and the probation department’s female-only unit: RENEW. Girls Link was instrumental in developing gender-responsive assessment tools and a case management model for girls’ probation services. Girls Link is particularly effective and active in training, reaching across systems and public and private sectors to promote gender-responsive programming through a series of programs and opportunities for technical assistance.

Those involved in Girls Link believe an ingredient of its success is the continuity and breadth of the effort. Over the years, Girls Link has been a steady voice for girls in human services, law enforcement, probation, education, juvenile justice, the judiciary, and the private sector. These efforts have drawn federal resources, reformed probation practice, and resulted in residential and community alternatives to detention. Moreover, Cook County’s Girls Link has undergone a thorough evaluation. Its efforts are among the most comprehensive in the country.

The elements of Cook County’s decade-long effort at gender-responsive policies and programs to reduce detention for girls are summarized in Table 1.

TABLE 1
OVERVIEW OF COOK COUNTY'S GENDER-RESPONSIVE DETENTION REFORM

<p>Structures</p>	<p>Girls Link: A coalition across law enforcement, courts, defense bar, state's attorney, corrections, juvenile justice, and children and family services to "influence the development of female responsive systems that meet the needs of girls who are involved in the juvenile justice system or deemed at risk through: advocacy, education, policy and program development."</p> <p>Women's Leadership Group: Since 2002, the Cook County Juvenile Probation Department brings female supervisors and deputy chiefs together on a regular basis to add women's voices to girls' programming, address workplace issues, and develop women's leadership. The effort is intended both to support women working in a predominantly male field and to stimulate innovation in programs and practices for girls.</p>	<p>Targeted Funding: Girls Link's planning and implementation has been funded with a grant from OJJDP, Illinois Juvenile Justice Commission, JDAI support from the Annie E. Casey Foundation, and in-kind support from Cook County.</p>	<p>Analyses: Girls Link sponsored three studies of gender-responsive reform in Cook County:</p> <ol style="list-style-type: none"> 1. A process evaluation of Girls Link; 2. A profile of juvenile female offenders in Cook County; and 3. An analysis of the pathways girls take into and through the system from arrest through disposition. 	<p>Training in Gender-Responsive Practices: Girls Link has offered training each year in gender-responsive programming and practices, both inside and outside of the courts, for probation, state's attorneys, and human services providers.</p> <p>"Guidelines for Effective Female Responsive Programming for Girls": In November 2003, Cook County issued an extensive manual on gender-responsive programming to assist organizations working with justice system-involved girls. The manual includes guidelines for assessment, evaluation, staffing, and program design.</p>
<p>Practice Reforms</p>	<p>Female Offender Probation Units: Two units were established (May 1998 and July 2001) in which probation officers with caseloads of 25 girls develop expertise in the needs of the female juvenile population and the resources available to them. Probation officers in these units receive training in gender-responsive programming.</p>	<p>Female-Only Dockets: Two juvenile court judges maintain jurisdiction over girls' delinquency cases connected with the RENEW units, providing continuity of judicial oversight.</p>	<p>Girl-Focused Programming: Girl Talk is a collaboration of organizations working with girls currently or formerly detained at the Cook County Temporary Detention Center, providing information and support to the girls and voice and visibility to their issues.</p> <p>GIRLS2WOMEN is a yearly full-day conference sponsored by the Cook County Juvenile Probation Department for girls on probation.</p>	
<p>Alternatives to Detention</p>	<p>Shelter Care Facility: A 14-bed temporary alternative to detention for young women who would otherwise be detained in the Cook County detention center due to their RAI score, an override, or awaiting placement.</p>	<p>Evening Reporting Center: Opened in September 2001 for young women with pending violations of probation, warrants, or new charges, the evening reporting center offers 15 girls a 21-day, community-based, 5-night/week program from 4:00-9:00 p.m.</p>		

PAT ZEGLEN: A CHAMPION FOR GIRLS

Consistency has been a key to Cook County's reforms for girls and one key ingredient of that consistency has been Pat Zeglen, policy administrator in the Cook County Juvenile Probation Department. Zeglen recalls, "As a woman, I wanted to make things better for younger women, and for the next generation, their children." In 1994, that opportunity arose with an initial planning grant from OJJDP to develop a collaboration promoting gender responsiveness for the increasing number of girls entering the juvenile justice system in Cook County.

For Zeglen, Girls Link was, and continues to be, a welcome challenge, an opportunity to "... take some risks and do some things differently." She feels that promoting gender-responsivity is something they will accomplish in Cook County because the numbers of girls are relatively small and the leadership of the Cook County Juvenile Probation Department and Juvenile Court are receptive to addressing the needs of girls.

Zeglen has been with the Juvenile Probation Department for 39 years and is co-founder of its newly developed Women's Leadership Group. She is well respected among advocates, judges, and others working in the courts and has become the voice for gender-responsive practices in Cook County. According to Mike Rohan, director of juvenile probation and court services in Cook County, "People respect Pat's drive. Prior to Pat, we were focused on system change, but not on girls. Pat has been the inspiration in Cook County, bringing the issue of gender responsiveness to our attention and exposing us to ideas, which might have been overlooked."

To her credit, she has been a consistent voice not only for innovative policies and programs, but also for critical examination of Cook County's efforts on behalf of girls. She fully supports research and evaluation, believing that the best services for girls come with the best understanding of girls' needs.

Zeglen's leadership is notable for the lack of "ego" involved. Her leadership style is collaborative and she views her role as one of "consciousness raiser" in a male-dominated juvenile court system. Monica Mahan, a fellow member of Girls Link and supervising social worker at the Children and Family Justice Center at Northwestern University Law School, observes, "For girls, Pat has always been the go-to person in Cook County: she does it because she believes it is the right thing to do, not because her name is on it."

Zeglen is a persistent and determined voice for girls in Cook County and advancing their agenda has become her mission. She recently postponed her retirement to continue the work. She is working on Cook County's newly developed Juvenile Advisory Council, to include youth perspectives in reform efforts, and its Women's Leadership Group, to build community among women in the Juvenile Probation Department and courts. She is developing a partnership with health services to provide mentoring and parenting education to the sizable group of pregnant and parenting girls in Cook County and continues to speak out nationally, raising awareness about effective practices for girls.

Because gender issues are often hidden within other court or agency business, it is particularly important to have someone inside the system, consistently and intelligently pushing the girls' agenda forward. In Cook County, Pat Zeglen is that person.

about the histories of physical abuse and sexual trauma among their female clients important to effective representation, but only 55 percent said that information was typically available to them.⁷

Gender-Responsive Programming: Detention and Disposition Alternatives

In addition to addressing systemic problems through reform practices, gender-responsive systems should provide girls access to a range of gender-responsive programs as detention and disposition alternatives. Detention alternatives directly reduce detention by providing alternatives to secure custody, and disposition alternatives reduce girls' returns to detention for new offenses or violations of conditions of probation or parole by increasing their success post-adjudication.

Though there is no single list of gender-responsive program elements embraced by everyone in the field, there is a consensus that girls' programs should be:

- **Comprehensive**—weaving family, community, and systems together for girls;
- **Safe**—promoting healing from trauma caused by physical and psychological abuse;
- **Empowering**—addressing needs while encouraging leadership and the development of her strengths;
- **Community and Family Focused**—based in the community, fostering healthy family relationships and sustainable community connections; and
- **Relational**—supporting continuous, positive relationships for girls with older women, family, and peers.

The following programs incorporate these elements and address issues that result in the inappropriate detention of girls. All of these programs were designed specifically for girls, have been evaluated for their effectiveness with girls, or contain elements that are particularly responsive to the needs of girls.

Nationally, the female proportion of adjudicated cases ordered to probation rose from 15 percent in 1990 to 21 percent in 1999. Some jurisdictions have responded to the rise in girls on probation with dedicated female probation units, which may be effective in reducing detention for technical violations of probation.

Female-Focused Probation Units

Nationally, the female proportion of adjudicated cases ordered to probation rose from 15 percent in 1990 to 21 percent in 1999.⁸ Some jurisdictions have responded to the rise in girls on probation with dedicated female probation units, which may be effective in reducing detention for technical violations of probation.⁹

Cook County's two female offender units—called RENEW: Reclaim, Empower, Nurture, and Embrace Womanhood—illustrate this model. The probation officers believe that their gender-responsive training, focus on girls, and low caseloads allow them to develop relationships and support girls in the community in ways that would otherwise be impossible. Each unit has five probation officers, all of whom are women. In January 2005, there were 220 girls in RENEW's caseload, representing 29 percent of the girls on probation in Cook County. The maximum caseload for each probation officer is 25. Probation officers in these units choose to work there and receive specialized training in female adolescent development and the needs of girls in the justice system.

In 2000 and 2001, there were 33 violations of probation filed by these units, but only about 1 percent resulted in detention, far fewer than for girls in general probation units. RENEW staff attribute the low violation rate to the continuity of attention their cases receive, including assignment to a single judge. For example, the RENEW units reduced detention of girls for warrants by having their cases

heard in a dedicated girls' calendar, by a judge familiar with them.

Having a probation unit focused on girls also allows Cook County to better identify service needs and target responsive programs. For example, the Cook County juvenile probation department sponsors a yearly



GIRLS2WOMEN conference for girls on probation, focusing on employment and gender-related issues like safety. The Female Evening Reporting Center, opened in September 2001, was in part a result of a girl-focused probation agenda that identified limitations of co-educational centers. The ability to identify issues among a cross-section of girls also stimulated probation programs on self-esteem, self-respect, avoiding pregnancy, and parenting. A female probation focus also helps probation officers develop expertise on community resources and build connections in the community for girls on probation.

Evening Reporting for Girls in Cook County

The Cook County Female Evening Reporting Center is a gender-responsive alternative to detention that provides a safe space for girls while building their ties to their community and their families. The majority of girls at the reporting center are awaiting adjudication and scored for conditional release on their admissions risk assessment. They were ordered on home confinement, with evening reporting, until hearing and disposition. A minority of the girls were given probation and evening reporting as their post-adjudication disposition.

The Female Evening Reporting Center opened in September 2001 and is located in a church community center on the South Side. The evening reporting center provides an array of gender-responsive, strengths-based opportunities after school and into the evening. The Female Evening Reporting Center was established because girls and boys were distracted from the programming in co-educational reporting centers, tending to focus on each other. In the co-educational environment, girls were also reluctant to participate openly in the groups.

When they are assigned, the evening reporting probation officer goes out to the home, introduces the program, and explains the court process hoping to engage and educate the girl and family about the reporting center. The services within the center are contracted to a social services agency housed in the community center. Programming in the center includes victim impact panels as a part of the restorative justice process, as well as skills and strengths-based programs such as computer training, arts and crafts, and nutrition and health awareness. The Female Evening

Reporting Center is open from 4–9 p.m. with transportation provided by a van service.

Wings for Life: Keeping System-Involved Girls and Their Children Together

“The feel of our program has changed dramatically with the children. It’s more of a family. The girls respect each other and the program because of the children. They hold each other accountable for taking care of the children and being good moms.”—*Audra Ray, Former Program Director, Wings for Life, Texas*

Wings for Life, in Marion, Texas, is a residential program run by Associated Marine Institutes (AMI, a large, national nonprofit service provider) where girls committed to the Texas Youth Commission live with their babies for four to six months and receive a range of gender-responsive programming. Prior to coming to Wings, each of the girls had violated probation and had been incarcerated. The majority of the girls committed felony offenses.

Children from birth to three years old live in private rooms with their mothers at the program, which also accepts pregnant girls. Wings for Life is a charter school under the University of Texas and provides each girl with education consistent with state requirements, including having a certified special education teacher on staff. Girls receive parenting education and assistance with skills they will need to live in the community with their children. The life skills training extends for 30 days after their discharge to ease their transitions.

Approximately 50 percent of the children living in the program with their mothers are involved with child protective services and Wings works with the mothers to satisfy conditions of that agency. A few of the girls in Wings do not have custody of their babies but are working with the program to regain custody, at which time the baby will live with them in the program. Girls in Wings receive individual counseling, group counseling, and programming directed at re-socialization. There is a nurse on staff and pregnant girls receive prenatal care, Lamaze education, and nursing support.

Though girls have run away from the program, if they turn themselves in within 24 hours they are accepted back. Having responsibility for their children

appears to be a disincentive for running away, as it can result in a report to child protective services. Though the program has not yet completed outcome evaluations, staff believe, based on reports from girls who stay in contact with the program after graduating, that relatively few girls who complete the program return to the system.

Developing a program for both mothers and babies was a significant logistical and funding challenge, but program staff believe it was well worth it. They describe the program as more like a home and the group of girls and their children as a “family.” They say that having the children there creates the supportive family-like environment.

PACE: Preventing Detention through Comprehensive, Community-Based Gender-Responsive Programming

PACE Center for Girls is a nationally recognized program operating 19 gender-responsive PACE Centers throughout Florida. The PACE curriculum addresses “Six Domains of Adolescent Development” for at-risk girls: intellectual, spiritual, emotional, relational, sexual, and physical. PACE day programs provide education, life management training, communication skills, career awareness, healthy lifestyles, and violence prevention. It conducts individual comprehensive assessments for each girl and designs individualized education programs in collaboration with local school boards. PACE focuses closely on girls’ transitions, monitoring girls for three years following their participation in the day program, a level of follow-up very unusual in youth programming.

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PACE identified six gender-specific risk factors that often characterize the girls it serves: school failure, family instability and conflict, early sexual activity and pregnancy, delinquent behavior, victimization, and behaviors that can endanger health. According to an April 2003 snapshot of the population, PACE girls are a group at high risk for delinquency: 27 percent of PACE girls had a prior arrest; 27 percent reported domestic violence in their homes; and 27 percent had moved three or more times in the past five years. As a group, PACE girls have experienced significant trauma and manifest high-risk health behaviors:

29 percent report abuse at home and 23 percent report sexual abuse; 28 percent have histories of running away; 35 percent have considered suicide; and 44 percent have a diagnosed mental health disorder.

PACE has been successful at reducing justice system involvement, and consequently detention, for the girls enrolled in their programs. In fiscal year 2000–2001, between 85 and 97 percent (depending on whether they had a prior delinquency record) of girls in the program remained out of the delinquency system. In addition to reductions in delinquency involvement, girls enrolled in PACE ran away significantly less than they had prior to PACE. Outcome measures from

fiscal year 2001–2002 show that prior to PACE 32.4 percent of the girls had run away from home, which dropped to 13.3 percent while enrolled in PACE and 6.2 percent when enrolled in transitional services.

Multidimensional Treatment Foster Care (MTFC), developed by Dr. Patricia Chamberlain of the Oregon Social Learning Center, is an example of a gender-responsive, home-based, post-adjudication program effective in reducing recidivism and detention returns. MTFC uses a team approach to case planning.

Multidimensional Treatment Foster Care

Multidimensional Treatment Foster Care (MTFC), developed by Dr. Patricia Chamberlain of the Oregon Social Learning Center, is an example of a gender-responsive, home-based, post-adjudication program effective in reducing recidivism and detention returns. MTFC uses a team approach to case planning. A clinical supervisor, treatment foster parents, biological family, youth advocate, family therapist, child therapist, youth, school, and probation or parole officer may all be involved. Case planning reflects the girls' views of what they need as well as what they want to be involved in. The foster placement provides the most family-like setting to provide the girl a safe and stable home environment, assist her to develop strategies for understanding her past experiences, increase her ability to develop a plan for her future, and give her opportunities to practice the skills needed to realize her future plans. Girls in MTFC participate in individual and family therapy, skills training, health activities, school, work, community activities, and other relevant services. Foster families are carefully recruited, trained, and supported by the treatment foster care

staff who contact the families each day to immediately work through issues as they arise and ensure ongoing positive feedback for each girl. Girls' successes are reinforced and difficulties are identified and addressed early and in a sustained way.

The first task of MTFC is to provide a stable, supportive home for each girl. For girls with histories of running away from home, the program supports them in developing alternative problem-solving strategies. If a girl runs away from the foster home, her placement remains available to her when she returns and the treatment plan, developed with the girl, is directed at shoring up the home so the girl can live there successfully. MTFC is notable for the “we won't give up” message it gives to the girls. It promises them a stable home no matter what they do. Consequently, running away is not seen as a failure of the foster home or the girl but an expected behavior that the program works through with the girl. The combination of loving firmness and commitment to stability is critical to this gender-responsive approach.

Evaluation data compared outcomes for girls with those for boys and found that while the treatment foster care process for girls differed from that for boys, arrests, self-reported delinquency, and program completion outcomes were the same for boys and girls. On all three outcome measures both girls and boys in Multidimensional Treatment Foster Care did better than boys and girls in group care.¹⁰

Multnomah County's “Reception Center”

The New Avenues for Youth Reception and Referral Center is a program established through a contract between the Multnomah County Department of Community Justice, the Portland Police Bureau, and New Avenues for Youth, a non-profit agency serving homeless and runaway youth. Historically, Portland police brought approximately 2,000 youth annually to detention on misdemeanors or status offenses, despite state laws making most of these youth ineligible for secure detention. Many of these youth were runaway girls who were

Every arrested youth brought by police to the Reception Center meets with a counselor who assesses their needs and plans their release and referral services. According to these assessments, victimization is more widespread among girls than boys—with three times as many girls as boys requiring medical attention at intake and twice as many girls as boys reporting abuse.

perceived by police officers as vulnerable and in need of protection. Under a negotiated memorandum of agreement, beginning December 1, 2001, the police bring youth charged with status offenses and minor misdemeanors to the New Avenues for Youth Reception Center rather than to the detention center. (Youth with outstanding warrants or runaways from outside of Oregon are still taken to the detention center.)

From March 2001 through March 2002, the Reception Center screened 719 youth, 48 percent of whom were girls, a third of whom were picked up for running

The center has been effective in reducing inappropriate (and unlawful) detention of high-need, low-risk youth, many of whom are girls.

away. Every arrested youth brought by police to the Reception Center meets with a counselor who assesses their needs and plans their release and referral services. According to these assessments, victimization is more widespread among girls than boys—with three times as many girls as boys requiring medical attention at intake and twice as many girls as boys reporting abuse.

The New Avenues for Youth Reception Center does not have a residential component, so all youth must be released following intake, assessment, and referrals. Three-quarters of the boys and girls were released to a parent, guardian, other responsible adult, or to themselves. Of the remaining youth, approximately 20 percent of the girls and 10 percent of the boys were released to a range of homeless and runaway shelters. Only 3 percent of the boys and girls screened by the Reception Center were remanded to the detention center.

Close to 10 percent of the girls report physical, psychological, or sexual abuse. These girls are referred to family-focused community services and, when warranted under the mandatory reporting statute, referrals are made through the child abuse hotline for protective foster care and to the Juvenile Rights Project for legal representation. As a result, these cases of family chaos, which often result in detention for girls in other jurisdictions, are properly identified and serviced as family issues in Multnomah County.

The Reception Center provides family mediation and offers family counseling services. Whenever possible the families of screened youth are involved in the referral

services, which include domestic violence shelters and counseling; female health; mental health; mentoring; youth empowerment; gang intervention; gay, lesbian, and bisexual support and counseling; and GED and employment programs.

The advocacy and human service communities believe that the Reception Center effectively provides a conduit to appropriate community services for teens in Multnomah County. Moreover, it provides a prevention service that was previously unavailable, linking minor and status offenders to services that address the issues underlying their offending. The center has been effective in reducing inappropriate (and unlawful) detention of high-need, low-risk youth, many of whom are girls. Those involved with the center agree that follow-up studies are needed to determine the rate of service follow-through among Reception Center youth.

DeKalb County's Crisis Intervention Program: Reducing Detention by Reducing Family Chaos

From 2002 to 2005 in Georgia, a pilot project reduced inappropriate detention of girls (and boys) through family-focused crisis intervention. In DeKalb County, the state's second largest county, the Department of Juvenile Justice and the DeKalb Juvenile Court recognized that a significant number of youth were detained because their parents refused to take them home, despite Detention Assessment Instrument (DAI) scores too low for secure custody. In August 2002, a crisis intervention program targeting these youth and families was implemented in collaboration with the Children & Teenagers Foundation, a family preservation agency.

From August 2002 through May 2003, the program worked with 163 youth, 44 percent of whom were girls. In all of the girls' cases, the DAI scores were low or medium (69 percent low DAI scores), making them presumably ineligible for detention. The majority of girls were 11–16 years old, 95 percent were African American, and their offenses were primarily simple battery, motor vehicle theft, shoplifting, running away, trespassing, or unruly conduct. Program staff report that in girls' cases tension between mothers and daughters and sexual abuse

From 2002 to 2005 in Georgia, a pilot project reduced inappropriate detention of girls (and boys) through family-focused crisis intervention.

THE CENTER FOR YOUNG WOMEN'S DEVELOPMENT: BUILDING LEADERSHIP AND ACTIVISM AMONG YOUNG WOMEN IN THE JUSTICE SYSTEM

The Center for Young Women's Development (CYWD) is a unique program in San Francisco, entirely operated by young women (under 25) who are either currently or formerly involved in the juvenile justice system. CYWD hires all staff directly from the streets or juvenile hall, pays them a living wage with benefits, and involves them fully in the management and development of the organization. CYWD is their enterprise.

The Girl's Detention Advocacy Project (GDAP) is a natural outgrowth of the center's work. Started by Marlene Sanchez, a young woman who spent her teenage years in detention and group homes and who recently became executive director of CYWD, GDAP staff lead regular workshops in juvenile hall focusing on political education, healing, personal accountability, and self-advocacy. Those groups are followed with individual goal setting and a continued process of learning how to be self-advocates. GDAP accompanies girls throughout the court process, providing information, advocacy, and support to them and their families.

"I have a passion for working with girls on the inside," explains Sanchez. She began her work with the CYWD as a teenage girl in juvenile hall. Having the connection to a youth-run community-based organization made a difference to her when she was sent to group homes away from San Francisco. "The center staff called and visited me and I knew there was a community of women for me when I returned to San Francisco," she says.

More than the ongoing connection, Sanchez believes that the center communicates confidence to young women by investing resources in them and continually telling them in words and actions that they can grow to become leaders. She believes that "young people who are affected firsthand by the system will be the one's to change it."

GDAP's goal for girls in detention is to educate them about the system and create circumstances in which they can be successful when released. This is accomplished by incorporating each girl's interests and ideas into her community service, collaborating with the juvenile hall Girls' Services Unit to ease transitions into the community, and providing girls with jobs at CYWD.

CYWD has a unique recipe for promoting leadership among young, system-involved women:

- provide them with important work;
- listen to their views about what they know all too well;
- give them a stake in the outcome of their efforts and a safe place to heal; and
- help them build an enterprise devoted to community safety, youth organizing, and leadership for young women.

Recently, CYWD published the *Know Justice Handbook*, a guide to the justice system for youth and families. "The beautiful thing," Sanchez notes, "is that young women from the CYWD are trained and educate youth throughout the Bay Area about the justice system using the handbook." Characteristic of the CYWD approach, the handbook was developed based on questions from girls on the streets and in the system and, in turn, those girls are responsible for training youth to advocate for themselves.

CYWD has received well-deserved national attention for their unique brand of leadership for girls. Lateefah Simon, the 27-year-old former executive director of CYWD, was awarded the MacArthur Foundation's "Genius" Fellowship in 2003. Simon began working in CYWD's Street Outreach Program when she was 16 years old and three-and-a-half years later became its executive director. The MacArthur Foundation described Simon's success this way: "[b]y tapping into the talent and experiences of street-smart young women, she instills a sense of community that young women use to help themselves and each other out of difficult circumstances." Both Lateefah Simon and Marlene Sanchez are on the Organizing Council of the Community Justice Network for Youth.

by a male member of the household were common. They report that many of the girls have histories of running away and prostitution is suspected.

In 53 percent of the girls' cases (and 66 percent of overall cases) youth were picked up by their parents after crisis intervention services (brief counseling, referral to and coordination of community-based services) and, therefore, were not detained. Once under way, the program provided crisis intervention training for detention intake workers who also provided family crisis counseling resulting in fewer parents refusing to take their girls home. As the program progressed, only the most complex cases required referral to the crisis intervention program.

Notes:

¹Conger & Ross, 2001.

²The name and details have been changed to preserve her anonymity.

³In Massachusetts, juveniles committed to the Department of Youth Services for delinquency, probation violations, or as youthful offenders are the responsibility of that agency until 18 or 21. At commitment, the juvenile court drops jurisdiction and all decisions about service, placement, and return to the community ("parole") are made by the Department of Youth Services along a continuum of administrative process. Although there is no right to counsel during this phase of the delinquency case and no practical access to counsel for most youth, JRAP continues representation post-disposition until the girl ages out of the agency.

⁴Beyer, M., Blair, G., Katz, S., Simkins, S., & Steinberg, A., "A Better Way to Spend \$500,000: How the Juvenile Justice System Fails Girls," *Wisconsin Women's Law Journal*, 18, 51–76, 2003.

⁵Beyer, et al., 2003.

⁶42 U.S.C.A. § 5633(a) (26).

⁷Sherman, F., 2003.

⁸Sickmund, M., *A Profile of Females in the Juvenile Justice System*. Presented: American Society of Criminology Conference, Atlanta, Georgia, November 7, 2001 (juvenile court statistics information updated September 2002).

⁹Daniels, M., "The Female Intervention Team," *Juvenile Justice Journal VI*(1), 14–20, Washington, DC: US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 1999.

¹⁰Chamberlain, P., "Treatment Foster Care," in Burns, B., & Hoagwood, K. (Eds.), *Community Treatment for Youth: Evidence-Based Interventions for Severe Emotional and Behavioral Disorders* (pp. 117–138), New York: Oxford University Press, 2002.

ELIMINATING GENDER BIAS AND PROMOTING GENDER RESPONSIVENESS

Chapter 5 provides examples of practices and programs that make better use of community resources, provide gender-responsive alternatives to detention and incarceration, and work across systems. These practices and

Advocates can influence policy more broadly to reduce gender bias and promote gender responsiveness through legislation, litigation, and documentation. These approaches can build public will for equitable and responsive treatment of girls and ensure that institutions and officials provide services to girls in a lawful manner.

programs can reduce detention by addressing some of the systemic problems, which result in inappropriate detention for girls. In addition to those approaches, advocates can influence policy more broadly to reduce gender bias and promote gender responsiveness through legislation, litigation, and documentation. These approaches can build public will for equitable and responsive treatment of girls and ensure that institutions and officials provide services to girls in a lawful manner.

Legal Strategies to Promote Gender Equity

The ways in which juvenile justice practices and policies adversely impact girls suggest legal theories and areas that could benefit from systemic and individual legal advocacy. Legal theories focusing on gender may be useful to:

- reduce the misuse of detention for minor offenses, status offenses, and technical violations; and
- promote equity in access to gender-responsive detention alternatives.

As with many of the strategies and practices identified in this monograph, effective legal theories for girls may apply to boys as well, in that they focus on stages and decisions in the juvenile justice process that result in inappropriate detention for many youth.

Legal Advocacy for Social Service Alternatives

In addition to legal advocacy directed at the statutory requirements for detention, lawyers for girls may pursue alternatives to detention through the social services, mental health, and special education systems. Because many girls charged with

delinquency have current or former contacts with these systems, statutes and regulations governing those services may provide opportunities for more appropriate alternatives to the justice system (e.g., special education services, foster placement as a dependent child). Comprehensive case intake, including histories of services and contacts with other systems, an understanding of girls' development, and access to records from other systems are important first steps.

Challenging “Bootstrapping” of Status Offenders

The Juvenile Justice and Delinquency Prevention Act mandates deinstitutionalization of status offenders so that states that detain status offenders, absent a violation of a valid court order, are in violation of the JJDP Act and risk losing federal funding.¹ Moreover, the reauthorized JJDP Act requires monitoring of status offenders held for violations of court orders.² Girls, who are disproportionately represented among status offenders, are also disproportionately detained for violations of valid court orders and contempt. This practice is called “bootstrapping” and legal challenges to it have ended the practice in a few states, including Massachusetts and New York.³ In both states, the decisions were based on limitations in the language of the state status offense statutes. In both cases, the courts invited the state legislatures to provide courts with appropriate tools to enforce its orders through amendments to the status offender laws.

Eliminating the use of detention for status offenders charged with violating court orders would reduce the numbers of girls in detention and reduce the practice of “dumping” girls, who should be serviced in the social services system, into detention.

Applying Equal Rights Theories

Equal protection provisions and state equal rights amendments (ERAs) provide legal theories supporting gender-responsive detention alternatives and programming as well as access for girls to services that are available to boys. For example, if a jurisdiction has a non-secure detention alternative for boys but not for girls, so

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that boys and girls with similar offenses and offense histories are not treated similarly, the jurisdiction may be violating equal protection or state equal rights. Moreover, if a jurisdiction adds girls to a program without modifying the program to be gender responsive, it may be violating equal rights laws. Each state constitution and the federal constitution protect similarly situated groups from being

treated differently under their equal protection clauses. Moreover, 14 states have adopted ERAs and, in many states, these ERAs offer greater protection than state and federal equal protection clauses.⁴

State Purpose Clauses

Forty-eight states include rehabilitation, in some form, within the purpose clause of their juvenile justice statutes. Twenty-five states speak specifically of rehabilitation as a goal including providing specific direction as to how it should be accomplished. Many of the states that do not mention rehabilitation specifically refer to youth development or growth. Arguments based on state purpose clauses may be particularly compelling in states with ERAs or statutes mandating gender-responsive practices. In combination, these statutes may support legal theories for girls inappropriately detained and may be tools for advocates to encourage states to develop gender-responsive alternatives to detention.⁵

“...[A]s a matter of statewide concern, it is in the best interest of the people of this state that equal access for both males and females under 18 years of age to appropriate facilities, services and treatment be available through all state agencies providing or funding human services and juvenile corrections programs for children and adolescents.”—*Oregon Revised Statutes 417.270 (2)*

Statutory & Regulatory Changes

Legislation focusing on issues of gender equity, gender-responsive programming, and conditions of confinement for detained girls can reduce detention and improve services by:

- clarifying state policy;
- requiring specific funding;
- establishing individual or group causes of legal action;
- enacting standards for courts to redress poor conditions; and
- providing standards for the oversight of girls' services.

Four key principles for gender-responsive state legislation are:

- providing equal access and gender-responsive programs as a matter of state policy;
- funding for girls' programs should be adequate to serve the number of girls in the justice population and address girls' particular needs;
- programs for all youth should be gender responsive; and
- tying equal access and equitable funding to specific types of programming and services.

Only a few states have statutes specifically addressing gender in delinquency programming. For example, Oregon⁶ and Minnesota⁷ specifically provide for gender equity in programming. Oregon mandates that state agencies and juvenile corrections programs provide “equal access to appropriate services and treatment.” It specifically requires agencies to report to the legislature on the percentages of funding going to services for boys and girls. Minnesota mandates services for females that are “substantially equivalent” to those provided for males.

Connecticut⁸ and Oregon both include statements of policy in favor of gender-responsive programming. Connecticut incorporates the goal of creating and maintaining gender-specific programs for juvenile offenders into its general juvenile justice purpose clause. Oregon's “Equal Access” law begins with acknowledgments that girls often lack equal access to facilities, services, and treatment and that it is

Equal protection provisions and state equal rights amendments (ERAs) provide legal theories supporting gender-responsive detention alternatives and programming as well as access for girls to services that are available to boys.

in the best interest of the people of the state to provide equal access. Both Minnesota and Oregon provide some oversight for this effort. Oregon requires financial accounting to the legislature and Minnesota provides for county plans with a mechanism for review, oversight, and appointment of an advisory group.

Finally, all three statutes provide a broad definition of gender-specific programming by placing it within the broader context of individually tailored programming, reflecting gender as well as other characteristics of juveniles. Though these statutes

have not yet been used as the basis for systemic litigation on behalf of girls, they have that potential.

Virtually every state has statutes protecting individuals from sexual misconduct by their custodians. According to an Amnesty International report, only Alabama, Oregon, and Minnesota are without such legislative protection. However, of states with such legislation, only about half have statutes that clearly protect juveniles in the delinquency or social services systems (as opposed to adults in prison). Amnesty International actively promotes custodial sexual misconduct legislation in all states and wrote a comprehensive guide to existing statutes and regulations. Laws clearly covering girls in detention—as well as in non-secure programs run by child welfare, mental health, or juvenile justice systems—should be on the books in every state and provide easy access to justice for girls who are too often powerless in the face of sexual misconduct by their custodians.

State regulations addressing conditions of confinement in detention and programs for girls are another area in which gender-responsive practices and policies should be reflected. However, only approximately half of the states have regulations specifically addressing the needs of detained and confined girls

and no state treats the issue comprehensively. The most common area of existing regulation is the supervision of girls by male staff, although most state regulations

Legislation focusing on issues of gender equity, gender-responsive programming, and conditions of confinement for detained girls can reduce detention and improve services by: clarifying state policy; requiring specific funding; establishing individual or group causes of legal action; enacting standards for courts to redress poor conditions; and providing standards for the oversight of girls' services.

only require the presence of at least one female staff member. Only Minnesota broadly mandates that "... [s]taff members shall not be placed in positions of responsibility for the supervision and welfare of residents of the opposite sex in circumstances that can be described as invasions of privacy, degrading or humiliating to the resident."⁹ Few states have regulations addressing health care or parenting education for pregnant girls in custody. Professional standards for conditions of confinement for youth provide some guidance to jurisdictions developing gender-responsive regulations.

Among those areas that should be addressed in state regulations are:

- separation by gender in housing and programming;
- girls' hygiene needs;
- pregnancy and sexual health counseling and care;
- girls' access to family including children;
- equal access to gender-responsive programs and services available to boys;
- opportunities for physical exercise and participation in sports;
- gender-responsive training for staff;
- supervision of girls by female staff;
- respect for girls' privacy;
- restraint and isolation practices; and
- protection from abuse in institutions.

(See *Pathway #6, Improving Conditions of Confinement in Secure Juvenile Detention Centers*.)

Documenting the Situation of Girls in Local Justice Systems

As jurisdictions become aware of the needs of girls in their justice systems, documentation can play a crucial role in setting the agenda to safely reduce detention and develop gender-responsive practices and policies. For example, three reports documenting the situation facing girls in San Francisco's juvenile hall helped catalyze ongoing reform efforts. In 1996, the Center for Criminal and Juvenile Justice published *Out of Sight, Out of Mind: The Plight of Adolescent Girls in the San Francisco Juvenile Justice System*, which discussed the rising population of girls and

Few states have regulations addressing health care or parenting education for pregnant girls in custody.

poor conditions of confinement in juvenile hall, and described the context of offending and juvenile justice processing for girls in the area. That report was followed in 2000 by *Urban Girls in Trouble: Highlights from San Francisco Juvenile Probation*, which drew on detailed interviews with girls in detention and provided clear recommendations about how the probation department could better serve San Francisco's girls and reduce their unnecessary detention.

Momentum from these reports resulted in collaboration between the San Francisco district attorney's office and the probation department to bring on a victim advocate experienced in working with girls as the coordinator of the juvenile hall Girls' Services Unit. The Girls' Services Unit was established to provide

education, advocacy, and rehabilitation services to young women detained in juvenile hall, and to decrease their incarceration and out-of-home placement by increasing the quality and quantity of gender-specific prevention and intervention services.

In 2001, the United Way of the Bay Area's "Safe Communities Issue Cabinet" convened an extensive group of service providers to examine



the situation for girls in the Bay Area's justice system. The group identified arrest rates, sexual assault rates, reincarceration rates, and prostitution as the leading areas of concern. In a continuation of efforts, the United Way collaborative (comprised of 14 community-based agencies, probation, and the United Way) released a report in spring 2003 entitled *Girls on the Edge*, which presented its findings and described a model for linking girls in the justice system to community-based programs.

Responsible media coverage of the situation for girls in the justice system can also be helpful in educating the public and public officials. For example, beginning in January 2001, *The Atlanta Journal-Constitution* ran a series of articles exposing the plight of girls involved in prostitution. The series brought this issue to the public's attention and helped to galvanize the judiciary, legislature, juvenile justice, and social services communities. In this instance, documentation resulted in the development of a community-based "safe house" for teen prostitutes, legislation increasing the penalties for adult pimps of minors, and high-profile prosecutions of pimps involved in the trafficking of girls for prostitution.

Notes:

¹42 U.S.C.A. § 5633 (11)(A&B).

²42 U.S.C.A. § 5633 (23).

³In Re Florence E., 709 N. E. 2d 418 (Mass. 1999) (holding Juvenile Court does not have the power to issue contempt orders against a juvenile for failing to comply with conditions of custody in a Children in Need of Services (CHINS) case, because the Juvenile Court cannot issue orders under CHINS law); In Re Naquan J., 727 N.Y. S.2d 124 (N.Y. App. Div. 2001) (finding Family Court did not have the authority to order that Person in Need of Services (PINS) be held in contempt, for leaving appointed placements, and repeatedly violating court orders because the PINS law limited available sanctions for violations).

⁴Levick, M., & Sherman, F., "When Individual Differences Demand Equal Treatment: An Equal Rights Approach to the Special Needs of Girls in the Juvenile Justice System," *Wisconsin Women's Law Journal*, 2003, 18, 9–50.

⁵Ibid.

⁶Or. Rev. Stat. § 417.270 (2001).

⁷Minn. Stat. Ann. § 241.70 (1992).

⁸Conn. Gen. Stat. Ann. § 46b-121h (2002).

⁹Minn. R. 2930.1700.

LESSONS LEARNED

1. We Need to Know More About How Detention Practices and Programs Affect Girls.

Understanding the impact of juvenile justice practices on girls and evaluating the effectiveness of programs for girls are critical steps to gender-responsive detention reform. Because the focus on girls in the juvenile justice system is fairly new, there is a lot we do not know about how systems process girls and what sorts of programs and policies will be most effective. What we do know indicates that data collection across systems is particularly critical, as is a better understanding of the ingredients that go into decision-making about girls throughout the juvenile justice process.

The discussion in Chapter 3 demonstrates that there are disparities between the processing of girls and boys and that many contextual factors result in inappropriate detention of girls. In most jurisdictions, however, data are not analyzed by gender, nor collected to answer gender-based questions. To fully understand the detention of girls, data collection and analysis could accomplish the following:

- map decision points for girls that affect their detention;
- collect data by gender along those decision points to identify factors critical to detaining girls;
- examine overall population trends for girls;
- track girls longitudinally to determine if and why they return to detention;
- link statistical analyses with qualitative analyses of relevant contextual factors;
- and
- explore social services involvement among girls' in detention.

2. Core Detention Reform Strategies Are Essential to Gender-Responsive Detention Reform, But Not Sufficient. We Also Need to Develop Gender-Responsive Policies, Practices, and Programs.

JDAI's core strategies are essential to gender-responsive reform, but reducing inappropriate detention for girls, whose needs are complex and intersect many systems, requires more. Jurisdictions like Philadelphia, Multnomah County, and Cook County,

which have successfully reduced inappropriate detention for girls, have developed a continuum of gender-responsive practices and programs. Whether it is Multnomah County's 11:30 meeting and Reception Center, Cook County's girls' staff-secure shelter and Female Evening Reporting Center, or Philadelphia's continuum of alternatives-to-secure detention and cross-system juvenile court session, generalized strategies to reduce detention for all youth may need to be adapted specifically for girls. For example, we know that many girls are inappropriately detained as a result of violence in their homes. Effective gender-responsive detention reform, such as DeKalb County's Crisis Intervention Program, should address the issues underlying this inappropriate use of detention.

3. Inter-Agency and Cross-System Collaboration Is Essential.

As a result of abuse histories, running away, mental health problems, etc., girls have histories in other service delivery systems. Moreover, girls, more than boys, are simultaneously involved in the juvenile justice and child welfare systems. Courts, frustrated with girls' unmet needs, inappropriately detain them. Gender-responsive reform must work across these systems so that girls are not detained in misguided efforts to provide services. Regardless of the motives behind the detention decision, detention is not a therapeutic environment. Conferencing across systems can work to prevent detention in many cases. Advocacy to access mental health, education, and social services and to prevent girls' cases from escalating deeper into the juvenile justice system has also worked. Formal links between community-based services for girls and the justice system appear promising to reduce girls' returns to detention and strengthen their community ties. Gender-responsive reform means that detention should no longer be the dumping ground for girls whose



issues should be addressed by other systems and services. Changing those practices requires collaboration across agencies and systems.

4. Formal Structures Help Support Gender-Responsive Reform.

The longevity of Girls Link and its accomplishments over the years are testimony to the critical role of formal structures, particularly those that have official approval and include individuals at the highest levels of local juvenile justice systems. Cook



County officials and the Girls Link evaluation report that Girls Link has altered the consciousness and culture of their system by ensuring a consistent and focused voice for gender sensitivity. Though gender should be a factor in discussions on all levels, commitment among leadership in the Department of Human Services and Juvenile Court has also

been responsible for the implementation of a continuum of alternatives to detention for girls in Philadelphia, including programs tailored specifically to girls.

5. Gender-Responsive Reform Requires Leadership.

Reform for girls is advanced most effectively when it has champions, leaders either inside or outside of the system. Pat Zeglen's leadership in Cook County is an example of the power of a determined, long-term commitment to girls' issues. She is a highly respected system insider who has made girls her cause and raises gender responsivity at every opportunity. Lateefah Simon and Marlene Sanchez of the Center for Young Women's Development are examples of youth leaders who have inspired girls in the justice system to help themselves. They serve as mentors, role models, and partners for girls in detention, helping them develop their capacities

as leaders. They also demonstrate the importance of including girls' voices in reform efforts.

Because girls' issues are often among the last to be addressed and can be buried within other, broader system issues, a leader dedicated to interjecting a girls' agenda into each discussion is critical. Virtually every jurisdiction promoting gender-responsive reforms can point to someone who has made it her mission to reform the system for girls.

6. Gender-Responsive Detention Reform Requires Multiple Approaches.

Inappropriate detention of girls results from systemic flaws, gender-biased policies, and inadequate resources, both financial and programmatic. As a result, effective reform requires multiple approaches. Gender-based legal challenges and legislative and regulatory reform, coupled with implementation of gender-responsive practices, should most effectively lead to comprehensive reform for girls. Multnomah County's practice reforms, such as the 11:30 meeting and Reception Center, coupled with their Equal Access Law, are an example of this. San Francisco's extensive documentation of the situation of detained girls, coupled with innovative programming like the Center for Young Women's Development, provides another example.

SELECTED READINGS

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RESOURCES ON DETENTION REFORM AND GIRLS

Organizations

Annie E. Casey Foundation
Juvenile Detention Alternatives Initiative
701 St. Paul Street
Baltimore, MD 21202
ph: (410) 547-6600
www.aecf.org

Juvenile Detention Alternatives Initiative Sites

Cook County
Mike Rohan, Director
Juvenile Probation & Court Services
Circuit Court of Cook County
1100 S. Hamilton Avenue
Chicago, IL 60612
ph: (312) 433-6575
mrohan@cookcountygov.com

Multnomah County
Rick Jensen, Detention Reform Initiative Coordinator
Department of Community Justice
1401 NE 68th Avenue
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rick.k.jensen@co.multnomah.or.us

Santa Cruz County
Judy Cox, Chief Probation Officer
Probation Center
3650 Graham Hill Road (mailing address: PO Box 1812)
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Other Resources

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In Our Daughter's Hands
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