

# GENDER INJUSTICE

System-Level Juvenile Justice Reforms for Girls

Executive Summary

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In partnership with:



Every day in the U.S., abused and traumatized girls enter and are pushed through the justice system. Despite decades of attention, the proportion of girls in the juvenile justice system has increased and their challenges have remained remarkably consistent, resulting in deeply rooted, systemic gender injustice. Even in the midst of the current “developmental era” of reform, juvenile justice systems are routinely failing to modify promising system reforms for girls or even to collect data on how girls are affected by the problems systems seek to remedy.

Despite overall declining juvenile arrest rates, in the last two decades, girls’ share of the juvenile justice system increased at all stages of the juvenile justice process:



**Arrests increased 45 percent**  
(from 20 to 29 percent);



**Court caseload increased 40 percent**  
(from 20 to 28 percent);



**Detentions increased 40 percent**  
(from 15 to 21 percent);

**Post-adjudication probation increased 44 percent** (from 16 to 23 percent); and



**Post-adjudication placement increased 42 percent** (from 12 to 17 percent).

The traumatic and unhealthy social environments in which many girls live result in behaviors that are criminalized or are mishandled by other systems, resulting in girls’ entry into the juvenile justice system. Once girls are there, misguided processes pull them deeper into a system that is not built to help, heal, or respond to girls’ developmental needs, and often actually worsens girls’ situations.

This process is built on structural gender inequality and is particularly harsh on girls of color and LBQ/GNCT (lesbian, bisexual, questioning/gender non-conforming, transgender) girls.

Systems fail across the board to understand and address the needs of girls as part of juvenile justice reforms, but the needs of certain groups of girls warrant particular focus—pregnant and parenting girls, girls who run away, girls who are victims of sex trafficking, and the very many girls who are victims of in-home and community violence and abuse. For too many girls, adversity in their homes, communities, and in the way they experience society is traumatizing. This trauma, with its attendant psychological, emotional, and physical difficulties, long-term health complications, and adversity in adulthood, plays a particularly powerful role for girls and young women:



**45 percent of girls in an Adverse Childhood Experience (ACE) study of justice-involved youth had experienced 5 or more ACEs;**



**31 percent of girls had experienced in-home sexual abuse;**



**84 percent had experienced family violence; and**



**girls reported sexual abuse at 4.4 times the rate of boys.**

Yet for these girls and others, the current justice system responds to behaviors caused by trauma and abuse with punishment and fails to offer girls effective solutions and a healthy path forward.

# Developmental System Reform Recommendations for Girls

In jurisdictions around the country, a developmental approach to juvenile justice reform is taking hold. If jurisdictions intentionally apply this developmental approach to girls, justice systems will meet girls' needs, treat them fairly, and reduce their justice system involvement—finally moving girls off of the sidelines of reform so they can truly benefit from change.

## Recommendation 1

### Stop Criminalizing Behavior Caused by Damaging Environments that Are Out of Girls' Control

- Decriminalize offenses common to girls living in traumatic social contexts to prevent girls from entering the justice system.
- Train law enforcement to respond supportively to girls in need and avoid arrest.
- Use a child welfare—not juvenile justice—approach by retaining crossover girls in the child welfare system whenever possible and encouraging cross-system collaboration.
- Stop punishing girls for living in chaotic and violent homes by reforming mandatory and pro-arrest domestic violence laws and diverting girls involved in domestic violence.
- Treat sexually exploited girls as victims by decriminalizing “prostitution” for minors and diverting sexually exploited girls from the juvenile justice system.
- Prohibit detention of girls for status offenses and eliminate the valid court order (VCO) exception.
- Revise school policies to support girls in need, eliminating zero tolerance policies, revising truancy policies, and limiting school-based arrests and court referrals.

## Recommendation 2

### Engage Girls' Families throughout the Juvenile Justice Process

- Use family engagement strategies as tools for both prevention and intervention, working to resolve girls' family issues that often result in delinquency and status offenses.
- Incorporate Family Team Meetings and other family engagement tools into targeted diversion for girls.
- Ensure family engagement strategies are used with girls in the justice system who are pregnant and parenting, for whom family engagement is particularly critical.

## Recommendation 3

### Use Pre-Petition Diversion to Provide “Off-Ramps” from the Formal Justice System for Girls Living in Traumatic Social Contexts

- Increase utilization of diversion as a way to assist struggling girls and prevent deeper justice involvement.
- Target diversion to offense categories common to girls and ensure it is pre-petition and short-term.

- Design diversion programs so they offer a realistic opportunity to address the immediate issue raised by the offense.
- Ensure diversion does not net-widen, pulling girls into the system who would otherwise be left alone and whose issues would be best resolved without formal system involvement.

## Recommendation 4

### Don't Securely Detain Girls for Offenses and Technical Violations that Pose No Public Safety Threat and Are Environmentally-Driven

- Analyze data to assess how girls enter and move through detention in order to understand the processes that result in unnecessary detention of girls.
- Target reforms at deeply embedded juvenile justice practices that affect high numbers of girls—warrants and technical violations of probation, for example—and recognize that detention is often triggered by behaviors that are directly connected to girls' experiences of trauma, such as running away and rules violations.
- Implement specific practice innovations that reduce detention for girls, such as reception centers, respite care, cross-system collaboration to expand placement and service options, and reduction of lengths of stay.

## Recommendation 5

### Attorneys, Judges, and Probation Should Use Trauma-Informed Approaches to Improve Court Culture for Girls

- Train judges, attorneys, and all court personnel as to girls' traumatic social contexts and the corresponding impact on girls' behavior.
- Recognize that court processes can trigger reactions to trauma, including behaviors that may be perceived as disrespectful, defiant, or antisocial.
- Provide girls with consistent legal representation across the many legal issues that high-need girls confront, including post-disposition representation.
- End the widespread practice of shackling youth in court, which can re-traumatize and dehumanize vulnerable girls.

## Recommendation 6

### Adopt a Strengths-Based, Objective Approach to Girls Probation Services

- Shift away from the current deficit-based probation model to a positive youth development approach that focuses on girls' strengths, shores up positive social environments, and does not punish girls for minor violations.
- Ensure that girls' probation terms are brief and conditions are targeted to their offenses.
- Train probation officers who work with girls on the social contexts common among girls, girls' specific needs, and available community resources that are most effective for girls.
- Use probation risk/needs assessments that have been validated for girls to ensure accurate assessments and well-targeted services.

## Recommendation 7

### Use Health Dollars to Fund Evidence-Based Practices and Programs for Girls and Address Health Needs Related to Their Trauma

- Use health systems to develop solutions for girls, recognizing that much of the causes of girl offending are rooted in mental and physical health challenges related to trauma, poverty, neglect or abuse, sexually transmitted diseases, substance abuse, pregnancy, or motherhood.
- Screen all girls who touch the juvenile justice system for Medicaid and CHIP eligibility and use Medicaid and CHIP to fund evidence-based community interventions.
- To ensure continuity of care, reduce the use of juvenile justice facilities that are barred from using Medicaid funding due to the "inmate exclusion" rule.
- Do not terminate Medicaid coverage for those girls who must be placed in facilities; suspend coverage instead, so that it can be more easily reinstated upon community reentry.

## Recommendation 8

### Limit Secure Confinement of Girls, Which Is Costly, Leads to Poor Outcomes, and Re-Traumatizes Vulnerable Girls

- Close secure institutions for girls and reduce lengths of stay for girls who must be incarcerated.
- Use legislation to prohibit secure confinement for first offenses or low-level offenses typical of girls.

- Comply with the Prison Rape Elimination Act's (PREA) standards for juvenile facilities and, consistent with the U.S. Department of Justice guidance, remove girls under 18 from adult prisons and jails.

## Recommendation 9

### Support Emerging Adulthood for Young Women with Justice System Histories

- Provide programming and reentry planning for older girls that facilitate independent living, ensuring that young women are provided with adequate housing, health care, education, employment, and child care supports upon release.
- Utilize child welfare and health care resources that are increasingly available to young adults in order to help young women—and their children—obtain stable housing, education, and employment.
- Amend the federal Fostering Connections Act to reimburse states for young adults living in juvenile justice placements at age 18 and encourage integration among systems.
- Support young mothers with justice system histories, recognizing that motherhood has the potential to be a positive and transformative experience for justice-involved young women.

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