

a series on social justice



INTRODUCING

FIGHT FOR OUR GIRLS

Through this series, *Fight for Our Girls*, the Center for the Study of Social Policy's Alliance for Racial Equity in Child Welfare seeks to radically shift the narrative surrounding girls of color and status offenses from a focus on delinquency and misbehavior to structural discrimination, trauma and youth well-being. Released over the next year, the series of briefs will promote programs, policies and initiatives aimed at developing a trauma-informed approach to addressing status offenses and supporting the ability of girls of color to thrive.

The briefs in this series will:

- 1 Unpack the role that **trauma** plays in girls of color committing status offenses

- 2 Dissect **structural misogyny** (combined racial and gender bias) in system decision-making and explore promising practices in addressing the needs of girls of color
- 3 Explore the intersections between **race, gender, sexual orientation and gender identity** for girls of color facing intervening public system involvement due to status offenses
- 4 Develop a set of **trauma-informed recommendations** useful to states and jurisdictions working to support the ability of girls of color involved in intervening public systems to thrive

Stay tuned to www.cssp.org for series updates.

CENTER FOR THE STUDY OF SOCIAL POLICY

1575 EYE STREET, NW, SUITE 500, WASHINGTON, DC 20005 | www.cssp.org | 202.371.1565



STATUS OFFENSES,

Intervening Public Systems & GIRLS OF COLOR

Due to the tireless work of juvenile justice advocates and shifts in state policies, the number of youth placed in secure confinement has gone down significantly since 1997. Despite this reduction in overall confinement, significant numbers of girls continue to be detained for status offenses. Nonviolent behaviors, such as running away, truancy and violating curfew, are driving girls into juvenile detention and residential placement facilities at disproportionate rates.¹

Youth charged with status offenses may land in the juvenile justice or child welfare system as persons in need of supervision (PINS) or children in need of supervision (CHINS). However, whether a young woman is determined to be neglected or delinquent, both juvenile and child welfare court judges have the authority to place

minors in secure confinement. Detention is harmful for all youth, and institution-based programs have not been proven more effective than community-based programs in any rigorous evaluation.²

Particularly problematic for girls is the likelihood that “traumatic stress symptoms may worsen as a result of juvenile justice system involvement,”³ especially in light of the coercive environment prevailing in many secure facilities.⁴ Furthermore, locked confinement disconnects youth from school, out-of-school activities and relationships with their peers, family and community.⁵

Despite the harms caused by detention, girls are too often confined for offenses that would not result in the same consequence for boys.⁶ In 2011, girls accounted for 40 percent of status offense cases that



resulted in out-of-home placement, although they were just 12 percent of youth receiving such dispositions overall.⁷

Girls' higher rate of confinement has historical roots.

The first juvenile court defined “delinquent” as anyone younger than age 16 who broke the law, but included additional considerations for girls, such as incorrigibility, frequent attendance at pool halls or saloons, using profane language and associating with immoral persons.⁸ From the beginning, girls faced sexist perceptions of acceptable and unacceptable behavior that increased their risk of juvenile justice system involvement. More than 100 years later, a study from the Annie E. Casey Foundation’s Juvenile Delinquency Alternative Initiatives found a similar pattern of disparate treatment, including decision-makers’ paternalistic attitudes; a prevailing belief that girls need to be protected from themselves; fear of adolescent girls expressing their sexuality in ways that violate social norms; comfort with using locked confinement to access services for girls with significant needs; and an intolerance for behavior deemed uncooperative and noncompliant.⁹

Not only does gender play a role in how courts respond to youth charged with committing status offenses, but race also determines a girl’s likelihood of being detained. Girls

of color have the highest rates of confinement to residential placements for status offenses, with Native American girls placed at a rate of 179 per 100,000, African American girls at a rate of 123 per 100,000 and Latinas at a rate of 47 per 100,000. By comparison, 37 per 100,000 of non-Hispanic white girls are confined for the same behaviors.¹⁰

Given the gender and racial disparities in status offense adjudication, a major concern is the role child welfare involvement plays in juvenile justice dispositions. While national data are not available on the exact number of girls crossing over between the child welfare and juvenile justice systems, available statistics show there is a larger proportion of girls in the crossover population than in the general delinquency population.¹¹ One Illinois study revealed child welfare involvement doubles the risk of a young person receiving a formal delinquency petition.¹²

African American youth are especially vulnerable to crossing between the child welfare and juvenile justice systems as they are placed in the child welfare system at two times their rate in the general population¹³ and constitute the largest growing group of girls referred to juvenile courts and entering detention.¹⁴ The relationship between the two systems is starkest when recognizing youth of color are more likely to be placed in congregate care settings – a placement that doubles a girl’s risk for juvenile justice system involvement.¹⁵

Structural racism and sexism, as well as implicit bias play key roles in shaping young people’s experiences when involved with intervening public systems.¹⁶ These intersecting forms of oppression leave decision-makers more likely to see girls of color as a group representing a social problem, rather than individuals who have been impacted by social problems.¹⁷ Too often discrimination camouflages the role trauma plays in leading girls to commit status offenses.

**STRUCTURAL RACISM AND SEXISM,
AS WELL AS IMPLICIT BIAS PLAY
KEY ROLES IN SHAPING YOUNG
PEOPLE’S EXPERIENCES WHEN
INVOLVED WITH INTERVENING
PUBLIC SYSTEMS. 77**



**GIRLS OF COLOR
HAVE THE
HIGHEST RATES
OF CONFINEMENT
TO RESIDENTIAL
PLACEMENTS FOR
STATUS OFFENSES.**



TRAUMA & STATUS OFFENSES

Girls are more likely than their male counterparts to face violence, emotional abuse and sexual abuse.¹⁸ The federal Office of Juvenile Justice & Delinquency Prevention (OJJDP) found among those involved in the juvenile justice system, girls' rate of sexual abuse is four times higher than boys', and their rate of complex trauma (five or more adverse childhood experiences) is almost twice as high.¹⁹

In light of such victimization, certain status offenses such as running away, curfew violations and truancy can be viewed as methods of survival. For example, running away is a typical response to abuse, trauma and family conflict, and after leaving home, girls often find it difficult to remain connected to school, and thus become truant.²⁰

Running away is one of the most common status offense charges for girls, who account for almost 60 percent of runaway cases over the past 20 years.²¹ After running away, girls become especially susceptible to commercial sexual exploitation (CSE), compounding the initial trauma that may have led them to leave home.²² Race and gender play a major role in

this form of victimization – a New York City study found 85 percent of exploited youth were female and 67 percent were African American.²³

Some authorities believe placing girls who commit status offenses in secure confinement is necessary for their own protection and critical to prosecuting traffickers or other adults connected to them. However, involvement with the very intervening public systems meant to protect them too often exposes them to an additional layer of trauma. Inadequate services and new incidences of abuse that occur while girls are placed in confinement are not uncommon.²⁴ Additionally, far too many detention facilities are focused on punishment rather than addressing girls' underlying trauma and healthy development.²⁵

Congress is working to reauthorize the Juvenile Justice Delinquency and Prevention Act (JJDP), which provides protection for youth charged with status offenses by prohibiting courts from placing them in secure confinement and forcing states to determine and use community-based alternatives.

JJDPA History & Reauthorization

Congress enacted the Juvenile Justice and Prevention Act (JJJPA) in 1974 amid a trend of states recognizing youth misbehavior not as delinquent, but requiring social service responses. The legislation included the Deinstitutionalization of Status Offenses (DSO) provision as a core requirement, prohibiting states that received federal grants for juvenile justice from placing youth charged with status offenses in locked confinement. Due to this legislative mandate, court referrals for status offenses decreased by 21 percent, and status offense detentions decreased by 50 percent between 1974 and 1980.²⁶

Unfortunately, this trend didn't continue when Congress amended the JJJPA in 1980 to allow youth charged with status offenses to be detained through a Valid Court Order (VCO) exception. This exception permits judges to place youth in secure confinement for violating an order prohibiting them from committing behaviors charged as status offenses. This provision essentially provided a legal loophole to the DSO provision in the first JJJPA. In 2010, OJJDP reported 12,000 uses of the VCO exception.²⁷

Early this year, the bipartisan bill to reauthorize the JJJPA was considered under a fast-track procedure

in the Senate, but failed to pass due to the lack of unanimous support. The reauthorized bill would offer various protections to young people involved in the juvenile justice system, including prohibiting girls from being shackled during labor, diverting victims of human trafficking to appropriate services and programs, keeping youth awaiting trial in criminal court out of adult lock-ups and prohibiting states from detaining youth charged with status offenses

by eliminating the VCO exception. Provisions such as these could force states to strengthen their trauma-informed approach to all youth who come in contact with the juvenile justice system, including girls of color charged with status offenses.

PASSING THE REAUTHORIZED LEGISLATION IS ONLY A PORTION OF THE BATTLE TO PROTECT GIRLS OF COLOR INVOLVED IN INTERVENING PUBLIC SYSTEMS DUE TO STATUS OFFENSES. ”

However, passing the reauthorized legislation is only a portion of the battle to protect girls of color involved in intervening public systems due to status offenses. Eliminating the VCO exception is important, but we also need to provide the alternatives to detention that adequately address the behaviors and underlying trauma that lead to status offenses. States and local jurisdictions must continue to work to understand the unique needs of girls of color and advance policies and practices targeted at improving their well-being.



Photo: Taté Walker, Mniconjou Lakota

#FIGHTFOROURGIRLS

INTERSECTING FORMS OF OPPRESSION LEAVE DECISION-MAKERS MORE LIKELY TO SEE GIRLS OF COLOR AS A GROUP REPRESENTING A SOCIAL PROBLEM, RATHER THAN INDIVIDUALS WHO HAVE BEEN IMPACTED BY SOCIAL PROBLEMS. TOO OFTEN DISCRIMINATION CAMOUFLAGES THE ROLE TRAUMA PLAYS IN LEADING GIRLS TO COMMIT STATUS OFFENSES. ¶¶

ENDNOTES

1. Balck A. & Sherman F. (2015). *Gender injustice*, p.8. Retrieved from <http://www.nationalcrittenton.org/gender-injustice>.
2. Center for the Study of Social Policy (2015). *Dismantling the pipeline: Addressing the needs of young women and girls of color involved in intervening public systems*. Retrieved from <http://www.cssp.org/pages/body/WGOC-policy-oct2015-spreads.pdf>.
3. Ford J., Chapman J., Hawke J., Albert D., & National Center for Mental Health and Juvenile Justice. (2007). *Trauma among youth in the juvenile justice system: Critical issues and new directions*. Retrieved from http://www.traumacenter.org/initiatives/Polyvictimization_Articles/Trauma_and_Youth.pdf.
4. Center for the Study of Social Policy. (2015).
5. Annie E. Casey Foundation (2005). *Detention reform and girls: Challenges and solutions*. Retrieved from <http://www.aecf.org/m/resourcedoc/AECF-DetentionReformAndGirls-2005.pdf>
6. Sherman F. (2012). *Justice for girls: Are we making progress? UCLA L. REV.* 1584. Retrieved from <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1456&context=lsfp>.
7. Saada Saar, M., Epstein, R., Rosenthal, L., & Vafa, Y. (2015). *The sexual abuse to prison pipeline: The girls' story*, p. 22. Retrieved from http://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf.
8. Coalition for Juvenile Justice. (2013). *Girls status offences and the need for a less punitive and more empowering approach*. Retrieved from <https://csgjusticecenter.org/youth/publications/girls-status-offenses-and-the-need-for-a-less-punitive-and-more-empowering-approach>.
9. Annie E. Casey Foundation. (2013). *Making Detention Reform Work for Girls: A Guide to Juvenile Justice Reform #5* Retrieved from <http://www.aecf.org/resources/making-detention-reform-work-for-girls/>
10. Annie E. Casey Foundation. (2013).
11. Baynes-Dunning K., & Worthington K. (2013). Responding to the needs of adolescent girls in foster care. *Georgetown Journal on Poverty Law & Policy*, Vol. ZZ(2), Winter, 2013, p. 322.
12. Models for Change. (2011). *Is there a link between child welfare and child disproportionate minority contact in juvenile justice?*, p.3. Retrieved from <http://www.modelsforchange.net/publications/317>.
13. Models for Change, Systems. (2011). p. 25.
14. Sherman. (2012) p. 1617.
15. Center for the Study of Social Policy. (2015). p. 3.
16. Coalition for Juvenile Justice. (2013). p. 4.
17. Coalition for Juvenile Justice. (2013). p. 4.
18. Baynes-Dunning & Worthington. (2013). p. 325.
19. Saada Saar et al. (2015). p. 8.
20. Saada Saar et al. (2015). p. 326.
21. Saada Saar et al. (2015). p. 22.
22. Center for the Study of Social Policy. (2015). p. 19.
23. Center for the Study of Social Policy. (2015). p. 19.
24. Center for the Study of Social Policy. (2015). p. 19.
25. Center for the Study of Social Policy. (2015). p. 16.
26. Coalition for Juvenile Justice. (2013). *National standards for youth charged with status offenses*. pp. 7-8. Retrieved from <http://www.juvjustice.org/our-work/safety-opportunity-and-success-project/national-standards-care-youth-charged-status>.
27. Coalition for Juvenile Justice. (2013). *National standards for youth charged with status offenses*. p. 8. Retrieved from <http://www.juvjustice.org/our-work/safety-opportunity-and-success-project/national-standards-care-youth-charged-status>.

The logo for the Center for the Study of Social Policy (CSSP) is centered in a light blue circle. The text is arranged in a stacked, centered format: "Center" in a large serif font, "for the" in a smaller sans-serif font below it, "Study" in a large serif font below that, "of" in a small sans-serif font, "Social" in a large serif font, and "Policy" in a large serif font at the bottom.

Center
for the
Study
of
Social
Policy

This research brief was authored by Tashira Halyard, J.D., a senior associate at CSSP who leads the Alliance for Racial Equity in Child Welfare. The Center for the Study of Social Policy (CSSP) works to secure equal opportunities and better futures for all children and families, especially those most often left behind. Underlying all of the work is a vision of child, family and community well-being which serves as a unifying framework for the many policy, systems reform, and community change activities in which CSSP engages.

Center for the Study of Social Policy

1575 Eye Street, Suite 500
Washington, DC 20005
202.371.1565 telephone

50 Broadway, Suite 1504
New York, NY 10004
212.979.2369 telephone

1000 North Alameda Street, Suite 102
Los Angeles, CA 90012
213.617.0585 telephone

Published March 2016

www.cssp.org

