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# Meeting the Challenges Faced by Girls in the Juvenile Justice System: Testimony before the Healthy Families and Communities Subcommittee of the U.S. House of Representatives Education and Labor Committee

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**Healthy Families and Communities Subcommittee  
U.S. House of Representatives Education and Labor Committee  
The Honorable Carolyn McCarthy, Chair**

[Meeting the Challenges Faced by Girls in the Juvenile Justice System](#)

**March 11, 2010, 10:00 am**

**Testimony by Francine T. Sherman,  
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Law School**

Good Morning Chairwoman McCarthy and members of the Committee, and thank you for inviting me to testify today on the challenges faced by girls in the juvenile justice system and the ways our justice systems can best respond. In my testimony I draw on my 15 years teaching juvenile justice, representing girls in the justice system and developing programming for them as Director of the Juvenile Rights Advocacy Project at Boston College Law School as well as 10 years providing research and technical assistance to Annie E. Casey Foundation Juvenile Detention Alternatives Initiative (JDAI) jurisdictions around the country on ways to reduce the inappropriate detention of girls and increase their success in their communities.

Over the last two decades, while girls remain a numerical minority in the juvenile justice system, their proportion has steadily increased; from 1999 to 2008 arrests of girls decreased less than their male counterparts in almost every offense category and for some crimes (such as assault) arrests of girls increased while those of boys decreased (Puzzanchera, 2009). In 2008 girls were 30% of juvenile arrests, and in 2006 they were

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18% of detentions and 13% of commitments (Sickmund, Sladky, Kang & Puzzanchera, 2008).

- Who are these girls?
- What forces are moving them into the delinquency system?
- And is the delinquency system the right place for them?

Girls' presence in the justice system is closely linked to developmental and social factors unique to girls in either kind or degree and there is increasing evidence that unintended consequences of juvenile justice system policies and practices are pulling girls into the juvenile justice system and keeping them there when it is clear that another system or community-based agency would better serve them.

In 2008, girls comprised the majority of arrests for prostitution and running away; 44% of arrests for theft, and between 30-40% of arrests for non-index offenses such as liquor law violations, disorderly conduct, and curfew and loitering. With the exception of assaults, girls continue to comprise under 10% of arrests for violent crime (Puzzanchera, 2009). These trends in girls' arrests have been consistent over the past two decades.

### **Family Chaos and Trauma**

For girls in the juvenile justice system you cannot overstate the impact of family chaos and trauma. While boys and girls in the justice system are likely to come from distressed families, data shows that female delinquents are more likely to come from families characterized by chaos such as violence, incarceration of a parent, death of a

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parent or sibling, poor family communication, and residential instability (Lederman, Dakof, Larrea, & Li, 2004; Bloom, Owen, Deschenes, & Rosenbaum, 2002, Acoca, 1999, Timmons-Mitchell, Brown, Schulz, Webster, Underwood, & Semple, 1997).

Moreover, there is strong evidence that girls are being criminalized for living in these chaotic households by being arrested for family based assaults in situations that would have triggered family services intervention in a prior decade (Zahn, et al, 2008), and by being detained for violating curfew and orders to obey “house rules” in status offense cases.

Recent research by the Girls Study Group concluded that the increase in assault arrests for girls is due in part to their arrests for home-based violence, as an unintended consequence of law enforcement practices that require arrest or detention in domestic disputes. They note that while the most common victim of boys’ and girls’ violence is a same sex peer, the second most common victim of girls’ violence is a family member, reinforcing what we have always known, that girls’ crime is closely linked to their relationships (Zahn, et al., 2008).

The Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) is a 15-year effort to reduce the inappropriate detention of youth and shore up communities to help youth live successfully in their homes. JDAI is now in over 100 jurisdictions nationwide (Mendel, 2009). In my work with JDAI jurisdictions, we look closely at local data, always disaggregated by gender, race and ethnicity, to pinpoint ways that girls are disproportionately, unintentionally, or inappropriately detained

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when they would be served better and more successfully in their homes and communities. In that work the link between family chaos and girls' detention is a constant finding and was recently illustrated across JDAI sites in Nevada.

2006 detention data from Washoe and Clark Counties, Nevada (Reno and Las Vegas) showed that while girls comprised an average of 25% of detentions overall, they comprised an average of 42% of detentions for domestic battery. At that time Nevada law required that anyone arrested for domestic battery be securely detained for a minimum of 12 hours, making no distinction for the age of the offender. Similar laws and policies exist around the country. Girls, who experience family violence at high rates, were bearing the disproportionate impact of this well-intended law. When police were called about fights between a mother and daughter, they were much more likely to arrest the teenage daughter because the mother had responsibility for other children in the home. This would trigger mandatory detention, which in most cases stretched beyond the 12 hours. In Nevada a coalition of rural and urban jurisdictions including juvenile justice systems, law enforcement and the domestic violence community worked with the state legislature, amending the statute to prohibit detention for domestic battery alone and put family crisis services in place as an alternative. Data from Washoe County now shows that girls arrested for domestic battery are provided family services, not detained, and not swept into the delinquency system for being victims of family chaos (Sherman, 2009).

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Like detention for domestic violence, detention for violations of valid court orders in status offense cases, often criminalizes girls who are the victims of chaotic families. In 2006, technical probation violations and status offenses accounted for 25% of boys' detentions and 41% of girls' detentions (Sickmund, Sladky, Kang & Puzzanchera, 2008). A technical violation of probation is a violation for curfew, failing to meet "house rules", failing to meet with a probation officer, failing to attend school or some other condition of probation which is not criminal in and of itself, but is in the nature of a status offense once a youth is on probation. The original probation may be for a status or delinquency offense, depending on the jurisdiction. Allowing detention to be used in these cases, which are at their core about girls' distressed families, criminalizes the victim, contributes to the instability in these girls' lives, and provides no incentive to jurisdictions to put community-based family supports in place.

### **Victimization**

The research is unequivocal that a history of abuse and post-traumatic stress disorder affects a significant number of girls in the juvenile justice system and is often a catalyst for their entry into the delinquency system.

Although empirical findings as to the incidence of victimization vary, research shows that up to 73% of girls in the justice system have experienced sexual or physical victimization (Hayes, 2009). One study found that while males are more likely to have witnessed violence, females are more likely to have been the target of violence (Caffman, 2008). Girls are more likely than boys to have experienced sexual assault,

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rape or sexual harassment (Zahn et al., 2008), and a history of abuse is probably a more powerful predictor of delinquent behavior for girls than for boys (Cauffman, 2008). Abuse histories in girls may be linked to mental health issues such as depression and anxiety disorders (Bloom, Owen, & Covington, 2003; Sherman, 2005; Goodkind, Ng, & Sarri, 2006), or may manifest in girls as externalizing disorders such as aggressive behavior (Sherman, 2005).

Girls who have experienced sexual abuse are likely to engage in risky sexual behaviors themselves (Hayes, 2009; Goodkind et al., 2006; Bloom et al., 2002; Kelly, Owen, Peralez-Dieckmann, & Martinez, 2007), risking their health and often triggering involvement in the juvenile justice system. Girls with histories of sexual victimization are more likely to become commercially sexually exploited teens, leading to arrests and detention for prostitution related offenses and to lives marked by more abuse and trauma (Farley & Kelly, 2000; Spangenberg, 2001). Abusive experiences in the past may also affect girls' emotional adjustment and their ability to trust others, and may be a factor in substance abuse, which can lead to arrest as well (Bloom et al., 2002). Victimization and trauma is also a major catalyst leading girls to run away from home, which, as discussed previously, is a frequent cause of their arrest (Chesney-Lind & Okamoto, 2001; Bloom & Covington, 2001).

Girls' profound histories of victimization become a pathway into the juvenile justice system in these numerous ways, but using detention and incarceration punishes and re-victimizes the victim and fails to provide states and localities with incentive to

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properly address girls' victimization in the public health, child and family services, and victim services systems. As a January 2010 report by the U.S. Department of Justice made clear, sexual victimization is occurring at alarmingly high levels in juvenile facilities across the country (Beck, Harrison & Guerino, 2010).

### **Mental and Physical Health**

Generally speaking research shows that girls in the juvenile justice system are more likely than boys to have a mental health disorder and specifically to be diagnosed with internalizing disorders such as anxiety and depression (Teplin et. al., 2002; Shufelt et al., 2006; Wasserman et al., 2005). Moreover, there are clear connections between the well-documented mental and behavioral health needs of girls in the juvenile justice system and their histories of trauma and victimization. Detention and the juvenile justice system are not designed to treat girls with mental health issues, who could be treated effectively in their homes using community mental health resources. When systems detain and incarcerate girls whose behavior is driven by significant mental health needs, they are punishing the victim, and relieving the mental and public health systems of their responsibility for these youth.

While the mental health of girls in the juvenile justice system has received considerable attention, girls' significant and increasing physical health needs warrant more attention. Rates of STDs among girls in the juvenile justice system are higher than for girls in the general population or boys in the juvenile justice system (Centers for Disease Control and Prevention, 2007). Moreover, their risky sexual behaviors and drug

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use puts them at risk for Hepatitis B and C and HIV (Elkington et. al., 2008; Teplin, Mericle, McClelland, & Abram, 2003). Although further study of this issue is needed, pregnancy rates among girls in the juvenile justice system are higher than among girls in the general population (Gallagher, Dobrin, & Douds, 2007). These pregnancies are complicated by substance use, post-traumatic stress disorder, youth and complex family and personal circumstances (Braverman & Morris, in press). Given their many health challenges, continuous and seamless access to health care is critical for girls in the juvenile justice system and the next generation of children.

### **Collaboration Across Systems and with Girls**

Because girls' offending is often tied to families, trauma histories, and mental health needs, girls in the juvenile justice system commonly have histories in the child welfare system or are simultaneously in the juvenile justice and other systems. The following catalogue of systems and services is typical among girls I represent: contact with the child welfare system as a status offender or abused child, the juvenile justice system including probation and/or a commitment agency, the education system often as a special education student, the public health system often for reproductive health issues such as sexually transmitted illness, and the mental health system. These multiple system involvements bring with them multiple case and social workers, courts and lawyers.

For girls, to whom development of strong consistent relationships is critical to a sense of security and identity, the lack of continuity of care and placement that results

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from so many different agency involvements is particularly frightening and traumatic. In all youth cases, but particularly in girls' cases typified by multiple system involvement, community-based, wrap-around services are critical and states should be encouraged to find ways to work across traditional agency boundaries to provide for the needs of the whole girl.

### **Data by Gender, Race and Ethnicity**

Although there are clear national patterns among girls in the juvenile justice system and there are principles to be drawn from evidence-based practices that can be applied for girls across jurisdictions nationally, the precise nature and mix of practices and programs needed to address the challenges posed by girls in individual juvenile justice systems will vary locally. Systems are state created, agencies are state or county run, and girls' behavior is closely linked to their families and local communities. Without data that is disaggregated by gender and cross-referenced by race and ethnicity, we cannot fully understand the challenges facing girls and which policies will be effective.

JDAI jurisdictions are illustrative here as well. Local JDAI jurisdictions (juvenile justice systems) pinpoint ways in which girls are inappropriately detained by generating hypotheses based on national data and then always fully examining the operation of their system through data disaggregated by gender, race and ethnicity. The data is discussed and analyzed by a stakeholder group that represents the juvenile justice and other systems as well as community programs and constituencies relevant to girls'

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issues, to gather a full understanding of the issue and design revised practices and programs to better serve the girls (Sherman & Irvine, in press).

Without that detailed data Nevada jurisdictions would not have seen that girls were being disproportionately detained for domestic violence, and Missouri jurisdictions would not have seen that African American girls were disproportionately entering detention for failed foster care placements. In every jurisdiction I have worked with, detailed data collection and analysis, disaggregated by gender and cross-referenced by race and ethnicity has been the key to understanding girls' issues and designing effective solutions.

### "Grace's" Story

Recently I have been working on a case study of a young woman, I'll call her "Grace", who is now 24 years-old and spent much of her childhood first in the foster care system in Massachusetts as an abused child and then in the delinquency system as a runaway girl. She was committed to the delinquency system for "disturbing a school assembly" when she was 15 years old, living in a foster home 2 hours away from her sisters and grandmother and suffering from depression. She has never been charged with another crime since. But she did run away from foster care frequently, cut herself and behaved in other ways that were dangerous to herself and rightly caused concern on the part of the systems charged with her care. The systems however reacted by locking her in detention each time she failed in a placement or ran away. Like most juvenile justice systems, ours did not work well with child and family services and the

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mental health agency and, when confronted with the complex behavioral health issues presented by a girl with a childhood filled with loss and trauma, defaulted by placing her in detention over and over again.

During the two years from age 15 to 17, in the care of the delinquency and children's services agencies Grace was placed 44 times, in and out of emergency shelters, secure detention, foster care, kinship care and back to detention. She spent a total of 426 days in secure detention over 18 different detention placements, the longest of which was 65 days. For minor crime and running away, this girl with significant behavioral health issues, spent 54% of those two critical years of her life in locked detention, which is designed to hold kids, not to treat them.

A very bright young woman, Grace turned 18 without hope of a high school diploma, and with little education about how to negotiate an adult world and deal with her distressed family. An extremely resilient young woman, Grace now attends school and is raising her two children. She struggles everyday to cope with poverty, mental health issues, and a family that is both a support to her and a drain on her limited resources. She describes the fear, isolation and instability she felt as she moved in and out of detention and foster homes during her teen years in the systems this way:

You really do lose yourself through all the chaos, I say chaos because you're jumping from one place to another, one bed to another bed. Then you have you know, one [agency] to another [agency], one judge to another judge, one court system to another court system, and then you're locked up. You get dizzy. Have you ever been in a fight, and you don't even know who you're fighting, it's like a dizzy moment and it happened so quick, that's how it felt, my life. My life went so fast, and it could have went a little slower, if someone had stopped and slowed me down a little bit. (Sherman & Greenstone, in press)

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## **Gender-Specific Approaches**

Gender-specific or gender-responsive are terms used interchangeably in the literature and essentially describe services and systems that strive to satisfy girls' unique developmental needs, personal characteristics, and life circumstances including understanding girls' pathways into the justice system, the multiple risk factors associated with girls' system involvement, and how these factors interact with one another. Although there are a number of overlapping recommendations for how services and systems can be gender-specific, three broad principles are consistent.

Gender-specific systems and services are:

- Emotionally and physically safe;
- Attentive to girls' relationships; and
- Collaborative, sharing power across systems and with girls in systems.

(Sherman & Greenstone, in press).

## **Recommendations**

Under current policies, girls' involvement in the juvenile justice system is closely linked to their histories of family chaos, trauma, victimization, and mental and physical health needs. These high need girls find that services in the juvenile justice system are poorly suited to their situations and that juvenile justice policies can play an active role in labeling them as delinquent youth, preventing them from getting the help they need. To better understand and respond to the challenges posed by these girls I recommend:

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- Requiring jurisdictions to collect and analyze juvenile justice system data disaggregated by gender, and cross-referenced by race and ethnicity.
- Eliminating the Valid Court Order exception to the deinstitutionalization of status offender mandate to prevent criminalization as well as provide incentives for jurisdictions to develop appropriate programming and community services.
- Encouraging the use of community-based, wrap-around services coordinated across agencies for girls with high social service and mental health needs rather than use detention;
- Additional research on girls and the system practices affecting them, particularly on the prevalence and needs of pregnant and parenting girls in the juvenile justice system and alternatives to juvenile justice involvement for commercially sexually exploited girls, two areas of high need for girls, about which we have an incomplete understanding.

Again, thank you for this opportunity to testify and I would be happy to answer any questions you have as you move forward on re-authorization of the Juvenile Justice and Delinquency Prevention Act and consider its many implications for girls.

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