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## Symposium: Children, Crime, and Consequences: Juvenile Justice in America

## Articles

**\*29 WHAT ABOUT THE GIRLS? THE ROLE OF THE FEDERAL GOVERNMENT IN ADDRESSING THE  
RISE IN FEMALE JUVENILE OFFENDERS**

Joseph R. Biden, Jr. [FN1]

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## Institutionalized

Institutionalized I sit and ask myself why Two years old locked in the system Six years old, getting locked in a closet Seven years old locked in the attic. Twelve years old, locked in my room Fourteen years old locked in YGC Why is this a place I don't mind to be?

Tamika, Youth Guidance Center [FN1]

## I. INTRODUCTION

One headline catching attention across the country is that juvenile crime has dropped dramatically since 1994. The rate of juvenile violent crime in 2000 reached a two-decade low point [FN2]--a success story for the juvenile justice system and community prevention efforts. But there is, unfortunately, another headline that is not grabbing enough attention: girls make up the fastest-growing segment of the juvenile offender population. Female juvenile delinquency rose 83% between 1989 and 1998. [FN3] While the statistics do not herald a female crime wave (boys still make up three-fourths of the juvenile delinquent population), it is crucial that we develop a better understanding of why girls are entering the juvenile justice system at growing rates and create gender-responsive prevention, intervention, and treatment programs.

Some experts suggest that the influx of girls into the system is one of the bitter effects of gender parity--in days past, boys were handcuffed while girls were permitted to go home, whereas current arrest and detention statistics lead us to believe that male and female juvenile offenders are now treated more equally by law enforcement on the street. Other experts propose that the increased number of girls in the system is due to a precipitous rise in criminal activity by girls. Either way, the juvenile justice system is \*30 ill-equipped to handle the rising number of girls in the system. Historically, the system was built around boys' offenses and their rehabilitation needs. Given these institutional barriers, we must look closely at how the system is adapting to meet the unique issues girls present. And most importantly from my standpoint, we need to examine how the federal government is responding to this changing face of juvenile crime. Is it providing adequate support for state systems

to adjust and create gender-appropriate programs?

Traditionally, states play the lead role in designing and implementing the juvenile justice system. Local laws, law enforcement agencies, and courts deal with matters relating to children and teenagers. In contrast, the federal government's role is rightly confined to providing resources to states, disseminating research and data results, and setting a floor for permissible juvenile detention conditions. The Federal Office of Juvenile Justice and Delinquency Prevention is charged with managing the federal government's involvement in the juvenile justice system. Congress must walk a tight line between preserving states' rights to handle intrastate crime and promoting national interests in a just and effective juvenile justice system across the country. Recognizing these constraints, there remain significant ways for the federal government to impact state responses to the growing number of girls in the system.

The following article will set out what we do know thus far about the growing number of girls in the juvenile justice system, with attention to some of the unique characteristics of female offenders, such as past victimization by sexual abuse and the prevalence of mental health conditions. As the author of the Violence Against Women Act, [FN4] it is particularly troubling for me to see that at least 70% of the girls in the juvenile justice system have been subjected to sexual and physical abuse sometime in their past, as compared to about 20% to 30% of girls in the general public. [FN5] Finally, the article will discuss the federal government's current initiatives--primarily grant programs administered by the Department of Justice--to equip states with sufficient resources to develop gender-specific solutions, and will recommend that more federal resources be devoted to research, treatment, and prevention tailored to girls. Young people must be held accountable for their criminal activity, but we also must recognize that some juvenile crime may be a plea for help. There is a collective cry from our girls, and we need to answer it.

## II. TODAY'S FEMALE JUVENILE OFFENDER

### A. Statistical Snapshot of Females in the System

#### 1. Arrests

Coast to coast there are approximately sixty-eight million kids who fall within the jurisdiction of their state's juvenile court system. [FN6] Of those kids, the Office of Juvenile Justice and Delinquency Prevention reports that approximately 2.4 million youth under the age of eighteen were arrested by law enforcement in 2000, 28% of whom were females. [FN7] The 2000 arrest rate for females marks a 42% increase from 1983 rates. [FN8]

As evidenced by the chart below cataloguing female juvenile arrests in 2000, girls committed the full panoply of offenses, everything from robbery and drug violations to disorderly conduct. [FN9] Significantly, girls are arrested much more frequently than boys for status offenses (conduct considered to be an offense only because committed by a minor), which include running away from home, truancy, loitering and curfew offenses. [FN10] In 2000, girls were involved in 59% of all arrests for running away from home and 31% of arrests for curfew and loitering violations. [FN11] In datasets comparing the arrest rates per 100,000 males and females

aged 10 to 17, the 2000 female arrest rate for running away from home was 1.5 times greater than for males. [FN12]

**\*32** Figure 1: Female Proportion of Juvenile Arrests by Crime in 2000 [FN13]

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Violent crime accounts for a small proportion of juvenile female arrests-- only 3%. [FN14] Nevertheless, as compared with males, there was a disproportionate increase in aggravated assault arrest rates for girls from 1980 to 2000. [FN15] The federal government reported that in 1997 the female violent crime rate was 103% above the 1981 rate, in contrast to a 27% increase for males. [FN16]

These arrest rates for girls in 2000 are consistent with a national trend that began almost fifteen years ago. While juvenile arrests for violent crimes increased 33% for males from 1989 to 1993, they increased 55% for females. [FN17] In that same time frame, females were responsible for 17% of the growth in arrests for violent crime offenses and for 22% of the growth in arrests for property offenses. [FN18] Between 1992 and 1996, the number of juvenile female arrests for violent crime offenses increased by 25%, yet there was no increase for males in the same category. [FN19] Arrests of girls for property crime offenses increased by 21% in the same time frame, while boys' arrests increased by only 4%. [FN20]

### **\*33** 2. Juvenile Court Processing and Custody Decisions

The most current published juvenile court statistics are for cases disposed in 1999, with 1,670,000 juvenile cases--almost 400,000 of which were cases involving females. [FN21] Just as the rising arrest rates of girl offenders are probative of law enforcement practices on the streets, the increase in female juvenile caseloads are stark reminders that our courts and detention facilities must adapt to the influx of girls in the system. The following chart documenting the percentage changes in female and male juvenile caseloads over a ten-year period illustrates that across the board, girls are entering the judicial system at an even greater pace than boys. It is also notable that the greatest discrepancy between boy and girl caseloads deal with personal offenses, which include homicide, rape, aggravated assault, and simple assault.

Table 1: Overall Caseload Percent Increase from 1990 to 1999 [FN22]

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Significantly, of the girls entering the system, only 43% are formally processed with a petition filed in court; the remaining cases are handled informally, such as placement in private facilities. [FN23] Female offenders were detained in a secure facility in 15% of delinquency cases in 1997--a significant 65% increase from 1988 (36,500 detention cases in 1988 compared to 60,000 cases in 1997). [FN24] In 1999, 13% **\*34** of those juveniles placed in secure residential facilities were girls. [FN25]

Not unexpectedly, the sharp increase of girls in detention has strained existing facilities. For example, the number of girls detained pretrial more than doubled in Massachusetts between 1992 and 1998. [FN26] Likewise, in the Philadelphia Youth Study Center, the girls have surged from occupying one unit to four. [FN27]

Finally, a comprehensive snapshot of girls in the juvenile justice system must take into account race and ethnicity. Between 1988 and 1997, the number of cases increased 74% for Caucasian girls and 106% for African-American girls. [FN28] According to the Federal Bureau of Investigation, African American girls make up nearly half of all those in secure detention and Latinas constitute another 13%. [FN29] Seven out of ten cases involving Caucasian girls are dismissed, in contrast to three of every ten cases for African American girls. [FN30]

### 3. Female Gang Membership

Female gang membership has been sensationalized by the media and entertainment industry, yet in reality, the membership numbers are quite low. In 1996, the government estimated that about 11% of gang members were female, and a 1998 nationwide law enforcement survey found that 8% of all gang members were female. [FN31] Most recently, the Office of Juvenile Justice and Delinquency Prevention found that in 2000, only 6% of gang members were female. [FN32] Reports indicate that many, but not all, female gangs are involved in some kind of criminal activity; however, in general, female gangs engage in fewer violent crimes than male gangs, confining themselves primarily to property crimes, drug dealing, and status offenses. [FN33]

Female gangs are more likely to be found in small cities and rural areas than in larger cities, and their ethnicity varies according to geography: African-American gangs are more prominent in the Midwest and Northeast, while Latina gangs are more prominent in the Southwest. [FN34] Irrespective of geographic location, young girls victimized at home may be more likely to seek a safe haven in gang membership. For instance, in Los Angeles, one study found that 29% of female, Mexican American gang members had been sexually abused at home, and a study in Hawaii found that almost two-thirds of female gang members had been sexually abused at home. [FN35]

#### B. Understanding the Statistics

How can we explain the apparent burst of girls in the juvenile justice system? How should we dissect and process these striking statistics? There are no easy answers, and while the statistics suggest an explosion of violent and delinquent behavior by our nation's girls, closer scrutiny tells a different story. Notably, in self-report data obtained in the 1970s and 1980s, girls reported significantly higher \*35 violent behavior than the female arrest rates reflected. [FN36] Other self-report data gathered in the 1990s also indicate that many more girls engage in delinquent behavior, i.e., potential status offenses like using alcohol or staying out all night without permission, than those who are charged with the offenses. [FN37] Consequently, some experts suggest that the increase in arrests for criminal offenses may not mark an increase in criminal activity, but rather, a closing gap between what girls have always been doing and the arrest rates. [FN38] This theory suggests that what has lowered is society's tolerance for delinquent behavior by girls, and that lower tolerance fuels changes in law enforcement policies and judicial determinations. On the other hand, some scholars contend that the increase in girls' arrests for violent crimes reflects a true rise in violent behavior. [FN39] I propose that a reasonable conclusion blends these two opposing theories, such that the rising rates are attributable both to changed female behavior and to changed law enforcement practices, particularly in family disputes.

While it is important to note the increases and decreases of arrest rates, it is most productive to look closely at what kind of violent offenses girls are committing and to identify the cultural, social, and psychological cir-

cumstances surrounding girls' contact with the juvenile justice system. For instance, experts found that girls are far more likely to fight with parents or siblings than are boys (34% versus 9%), while boys are more apt to fight with strangers or friends. [FN40] Also, girls' aggression usually takes place within the home, and is therefore typically unreported to law enforcement. [FN41] Recent studies show that current female juvenile arrests for assault frequently arise out of domestic violence disputes [FN42]--assaults that ten years ago would not have triggered an arrest.

Another area to be closely examined is the disproportionately high arrest rate of girls for status offenses, particularly running away. Running away and prostitution are the only offense categories in which more girls than boys are arrested, [FN43] yet some delinquency studies reveal that boys and girls run away from home in about equal numbers. [FN44] Experts posit that these arrest rates are partially a result of parents who call the police when their daughter runs away but not when their son runs away. [FN45] Similarly, police may arrest runaway girls but not boys. [FN46] Traditionally, and perhaps still today, arresting girls for status offenses, like truancy or curfew transgressions, penalizes females for violating societal gender norms; it does not address behavior that is criminal and dangerous to the community. [FN47] In contrast, the low male arrest rates for status offenses suggest that this behavior does not deviate from gender norms, and thus, is perhaps less \*36 worthy of arrest.

Understanding the runaway statistics requires acknowledging the mixed messages our society sends when it comes to escaping from domestic abuse. We plead with adult women to leave domestic violence, and we try to provide temporary living arrangements for victims of abuse. Yet when teenaged girls try to leave domestic violence, we label them runaways and delinquent. [FN48] We "protect" these victimized teenaged girls by bringing them into the criminal justice system. We need to be asking hard questions about whether these particular female juvenile offenders are delinquents deserving of criminal penalties or dependents in need of state welfare services.

Connected to the disproportionate rates of runaway offenses applied to girls is the issue of "bootstrapping," which occurs when a juvenile violates a valid court order issued in connection with a status offense. [FN49] Once that violation occurs, the juvenile is considered a delinquent even though the original offense and court order violation are status offenses. If deemed delinquent, the juvenile is eligible for detention and more severe penalties unavailable for status offenses. [FN50] So for instance, a female juvenile offender is brought into the system for truancy, a status offense, and the court orders that she attend counseling. The female offender misses a counseling session, thereby violating a valid court order, and consequently, is deemed delinquent and subject to harsh contempt penalties, like detention in secure facilities. This is how a teenager becomes bootstrapped into delinquency status.

The phenomenon of bootstrapping occurs disproportionately to female juvenile offenders because girls, more frequently than boys, are status offenders on probation, with subsequent violations that catapult them into detention. [FN51] For instance, one study found that 54% of girls, versus 19% of boys, were detained for probation and parole violations, and although girls had a lower rate of recidivism than the boys, the use of contempt proceedings and probation and parole violations resulted in girls being more likely to go back into detention even though they had not committed a new crime. [FN52]

### C. Common Characteristics of Girls in the System

Experts agree that girls present unique medical, psychological, psychiatric, emotional, and social needs that must be addressed by our juvenile justice system. These issues and needs may vary according to race, ethnicity, and socioeconomic level, and we should be careful about drawing broad generalizations. Nonetheless, experts have identified the following common characteristics of girls in the juvenile justice system.

### 1. Sexual and Physical Abuse

The rates of sexual and physical abuse among girls in the juvenile justice system are staggering. Almost 70% of girls in the system have histories of physical abuse, as compared to approximately 20% of girls in the general population. [FN53] For example, in Los Angeles County, over one-third of the girls in probation camps and detention centers reported suffering an injury due to a childhood punishment. [FN54] With respect to sexual assault, more than 70% of girls in the system report sexual abuse and assault, as \*37 compared to 32% of boys. [FN55] In a 1998 study, 92% of girls in the California juvenile justice system reported they were a victim of sexual, physical, or emotional abuse. [FN56] The Oregon Social Learning Center studied chronically delinquent girls with past histories of sexual abuse and found the average age of the first abuse to be 7.43 years. [FN57]

While the extent of victimization is extraordinary, we should assume that these numbers are low since sexual abuse of any sort is often not reported or is underreported. Nonetheless, the statistics are irrefutable--sexual abuse puts girls at greater risk of becoming future offenders. Abused and neglected girls are almost two times more likely to be arrested as a juvenile, two times more likely to be arrested as an adult, and 2.4 times more likely to be arrested for committing a violent crime. [FN58]

### 2. Academic Failures

Experts have identified a connection between educational failure and delinquent behavior. [FN59] It appears that discouragement about and disengagement from school leads girls to antisocial and criminal conduct. Studies indicate that as many as 91% of the adolescent females in contact with the juvenile justice system failed at least one grade in school, one to three times. [FN60] Eighty-five percent of the girls surveyed in the California juvenile system have been expelled or suspended, and the median age for the first expulsion or suspension was thirteen. [FN61] Another study found that female gang members were at least two academic years behind their peers. [FN62] Significantly, a disproportionate number of girls in the juvenile justice system have learning disabilities. [FN63] Often left undiagnosed, girls with learning disabilities are left behind and placed at risk of becoming involved with the juvenile justice system.

### 3. Runaways

As previously discussed, many girls first come into contact with the juvenile justice system for the offense of running away. Many are running away from abuse and past victimization at home. [FN64] Once on the street, young girls have few options for survival, and often turn to prostitution and low-level theft. [FN65] Sometimes street survival requires befriending unsavory and unsafe individuals who lead young girls to \*38 drug abuse and delinquency, particularly prostitution. [FN66] Accurate and recent data on teenage prostitution are difficult to aggregate, however, older studies have found that between 40% and 75% of teenage prostitutes

have been victims of physical and/or sexual abuse. [FN67] A 1990 report of the Florida Supreme Court Gender Bias Study Commission recognized that 85% of juvenile prostitutes were victims of incest. [FN68] Furthermore, runaways are exposed to many health problems, but have little or no access to adequate medical care. Finally, once girls enter the system for runaway offenses, the likelihood of incarceration increases because of the lack of a safe home, which is often a condition of probation.

#### 4. Mental Health Needs

Experts and practitioners have just begun to explore and identify the mental health needs of girls in the system. A 1997 study of youth detained in juvenile justice facilities concluded that 84% of the girls--versus 27% of the boys--needed mental health care. [FN69] Much of the mental health needs of girls in the system stem from earlier childhood or adolescent sexual and physical abuse. A study of juvenile offenders in Georgia youth detention centers found that nearly 60% of the girls met the criteria for an anxiety disorder, compared to 32% of the boys, and 59% of the girls had a mood disorder, in contrast to only 22% of the boys. [FN70] Post-traumatic stress disorder is also prevalent among girls in the system--nearly 50% meet the criteria--due to past exposure to violence and trauma. [FN71] One study of girls in the custody of the California Youth Authority found that 65% of the girls suffered from post-traumatic stress disorder, as opposed to 11% of girls in the general population. [FN72] One scholar found that delinquent girls had higher rates of Attention Deficit Hyperactivity Disorder (ADHD) than did the delinquent boy comparators--a pattern that is the exact opposite in the general population. [FN73] Another study found that as compared to male delinquents, female delinquents were more likely to have a family history of mental illness. [FN74] Regrettably, our juvenile justice system has lagged in assessing and appropriately treating the mental health care needs of girls, and boys for that matter. [FN75]

#### \*39 5. Substance Abuse

Experts suggest that delinquent girls often abuse drugs and alcohol to cope with past abuse and trauma. [FN76] For instance, a study of the California juvenile justice system conducted by the National Council on Crime and Delinquency found that 75% of the young women interviewed reported regular use of drugs and alcohol, which generally began around age fourteen. [FN77] Recent studies show that up to 87% of teenaged female offenders need substance abuse treatment. [FN78] Almost 60% to 70% of young women aged fifteen to twenty, in a number of cities, tested positive for drugs at the time of arrest. [FN79]

#### 6. Health Care and Parenting

Many girls enter the juvenile justice system pregnant or are already mothers. For instance, at one session in a juvenile justice detention center in Dallas, Texas, of the ten attending girls (aged fourteen to seventeen), eight of them were pregnant and the other two had already given birth. [FN80] A California study found that in that state's system, 29% of the girls interviewed had been pregnant, 16% of them while in custody. [FN81] Sadly, this same California study found that 54% of the detained girls who were mothers had not had a single visit with their children. [FN82] In addition, girls in the system are clamoring for accurate information about family planning, reproductive health, and other health issues. Often girls enter the system with pervasive health problems since they have been unable to access routine health care. [FN83]

### III. CHANGING THE FACE OF JUVENILE JUSTICE: TREATMENT AND PREVENTION

#### A. The Development of A Juvenile Justice System Designed for Boys

To better understand the accommodations necessary for female juvenile offenders, it is instructive to review the development of the boy-centered juvenile justice system. Coinciding with significant immigration and population growth between 1750 and 1850, New York established the first correctional institution for children in 1824. [FN84] Later that century, in 1899, the first juvenile court was created in Chicago, with an emphasis on saving children from the ills of society under the doctrine of *parens patriae*. [FN85] While some girls were brought to juvenile courts and subsequently institutionalized in these early years, the interface was triggered by societal efforts to reform “wayward” or “immoral” girls and was centered on sexual mores. [FN86] To the contrary, boys were brought into the system for very different offenses, often quintessential delinquent conduct, like property offenses or assaults. Under these circumstances, facilities, treatment programs, and delinquency research did not take into account the female juvenile offenders' characteristics (and hence, treatment needs) described above. In practical terms, this meant that historically, states did not have female-only detention facilities, correctional staff trained in developmental needs unique to girls, or health care that included reproductive health care needs. It is against this historical backdrop that federal and state governments have initiated recent reforms to accommodate female juvenile offenders.

#### \*40 B. Creating Gender-Responsive Programs and Approaches

The first step towards an effective gender-specific program is to have a good overall program for any juvenile, boy or girl, such as well-trained staff, meaningful evaluation systems, and programs based on research and careful assessment tools. These components, and others, create the underlying scaffolding to appropriate and effective treatment. However, equal treatment for female and male juvenile offenders does not mean offering girls the same treatment solutions developed over the years for boys. [FN87] Rather, equity means having baseline equality in funding and resources, and then varying treatments; much like having two equally funded soccer teams, playing on the same high-quality fields, but separated by gender and different playing styles. At the same time, it is important to develop and implement solutions that do not perpetuate gender stereotypes, inaccurately categorize all female offenders, or erode diagnosis criteria and behavior expectations for both boys and girls.

Gender-responsive programming should incorporate and address the specific female risk factors and characteristics described above. For instance, a program should include health care, parenting skills classes, and psychological counseling for girls traumatized by victimization at home. Other core components that experts have identified for effective gender-specific programming include safe space away from the attention of adolescent males and opportunities to develop relationships with women already present in the girls' lives, like relatives or neighbors. [FN88]

In addition, gender-responsive treatment must be cognizant of the physical and mental changes occurring for adolescent girls, everything from bodily changes to loss of self-esteem. For example, young girls often lose their self-esteem during adolescence, which can lead to delinquent behavior. [FN89] A good treatment program understands this phenomenon and recognizes that a key piece of regaining self-esteem for girls is creating a con-

nection to an adult in a nonexploitative relationship. [FN90] Consequently, a responsive program will have staff prepared to nourish professional, but personal, relationships with young girls.

Finally, experts express the need for a continuum of care, that is, treatment and attention after the female juvenile offender has left the detention facility. [FN91] Reintegrating into teenage life, and avoiding risky behavior and peers, are hard for male and female offenders alike, and require outside support. In addition, girls often require advocacy and assistance in coordinating services from a variety of governmental agencies. Good programming will help girls navigate across systems to access the help they need.

#### IV. FEDERAL LAW AND PROGRAMS TARGETED AT GIRLS IN THE JUVENILE JUSTICE SYSTEM

##### A. The Juvenile Justice and Delinquency Prevention Act

Because juvenile justice traditionally is the responsibility of the states, the amount of federal legislation devoted to girls in the juvenile justice system is limited. The major federal law governing the juvenile justice system is the Juvenile Justice and Delinquency Prevention Act of 1974 ("JJDP Act"). [FN92] When originally enacted, it included two conditions that states needed to meet in order to access some \*41 federal juvenile justice monies: (1) removal of all status and nonoffenders from secure confinement, and (2) a requirement that there be no regular contact between juvenile and adult offenders. [FN93] While the original JJDP Act did not specifically address female juvenile offenders, the prohibition against secure confinement for status offenders had a significant effect on girls given their historic entry into the juvenile justice system through status offense violations. Nonetheless, at this time, no federal laws or grant programs were aimed especially at the needs of girls in the juvenile justice system.

This predicament changed in 1992 when two new provisions explicitly targeting female juvenile offenders were added to the JJDP Act: (1) a grant program for states to develop and implement gender-specific programming, and (2) a requirement that all state juvenile justice plans submitted to the federal government describe the status of female offenders. [FN94] Specifically, the 1992 reauthorization of the JJDP Act included a provision that required states to analyze current needs and services for girls and to propose a plan for meeting girls' needs. Accordingly, to receive federal money for juvenile justice, each state was required to submit a three-year plan with gender-specific programming. [FN95]

Targeted funding for girls' programming was available under the State Challenge Activity Grants (also referred to as Challenge E Programs) in another section of the JJDP Act. [FN96] This provision listed ten possible activities and programs for which states could receive specific funding in addition to regularly-received formula grants. One possible activity read:

(E) Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services. [FN97]

After these gender-specific provisions were added to the JJDP Act, Congress began funneling targeted funds

to the states. Beginning in 1995, through fiscal year 2000, Congress appropriated \$10 million annually to these State Challenge Activities. [FN98] In fiscal years 2001 and 2002, Congress appropriated just under \$10 million to the State Challenge Activities. [FN99]

\*42 At this writing, Congress has just reauthorized the JJDP Act for the first time since 1996. [FN100] Necessary negotiations across party lines produced a reauthorized JJDP Act that will scale down the state plan requirements regarding gender and eliminate the State Challenge E Programs. Specifically, with an eye towards streamlining the sometimes convoluted delivery of federal **juvenile justice** resources to the states, the JJDP Act reauthorization will fold the current State Challenge Activity **Grants** into a new juvenile delinquency prevention block grant program. Under the proposed block grant, programs targeted at **girls** in the **juvenile justice** system are one of twenty-four permissible uses of federal funds. In addition, the state plan requirement is refocused: States only need to propose a plan for the provision of gender-specific services. The requirement that an analysis of current girl-tailored services be included in a state's plan is eliminated.

The legislative process always includes a necessary give and take, and there is much to be said for the reauthorization of the JJDP Act. For the first time, a program targeted specifically at juveniles who are already part of the system is authorized, and significant dollars are dedicated to the initiative. The protections that have kept juveniles and adults apart when in prison will be preserved--a rebuff to pleas made by some that this requirement ought to be relaxed in the name of administrative efficiency. Mixing kids and adults together in the prison population is a dangerous proposition, and the reauthorization rejected changes to the current law's separation requirement-- an extremely positive development. But, we need to closely examine the changes to girl-specific provisions in the JJDP Act. I intend to closely monitor the law's implementation to ensure that the federal government does not shift its attention away from the unique problems of girls. Such monitoring may include convening congressional hearings to spotlight state and federal responses to female juvenile offenders. In addition, changes to the juvenile justice grant program must not result in fewer dollars devoted to girl-specific prevention and treatment.

States accomplished a great deal for female offenders with Challenge E Program funds, and although the grant format is reconfigured, I hope that work will continue. Indeed, since the passage of the 1992 amendments to the JJDP Act, at least twenty-three states applied for Challenge E Program funds, more than any other Challenge Program option. I am heartened by the extraordinary creativity and commitments taking place in various pockets of this country to address the influx of girls into the juvenile justice system. Although scarce, there are excellent girl-specific intervention and treatment programming, such as the Female Intervention Team in Baltimore, Maryland, a team dedicated to treating girls in the state's juvenile system, or the PACE Center for Girls, Inc. in Jacksonville, Florida, which has at least seven centers throughout the state offering day treatment programs for girls aged twelve to eighteen who are considered at risk for delinquent behavior. [FN101] My home state, Delaware, used Challenge E Program funds to create an intensive aftercare program entitled Supervised Independent Living Programs, designed to assist young women aged sixteen to eighteen with establishing an independent and productive living environment once they are released from the state's juvenile residential treatment centers. [FN102] This is exactly the kind of innovation and experimentation that federal funds should be supporting.

\*43 Although altered, the requirement that states submit plans detailing proposed gender-specific services remains an important one. A review of the most recent state plans illustrates that there is a wide spectrum of

competency among states regarding the issue of girls in the juvenile system; some states are just starting to recognize the unique needs of girls, some states are just beginning to collect gender-specific data, while other states are implementing sophisticated new gender-responsive treatment and intervention programs. For example:

- In Colorado, trainings were held across the state to develop gender-specific programs; [FN103]
- In Iowa, a newly formed task force created an annual conference for girl-serving organizations, published and distributed two reports, and conducted many trainings on gender-specific approaches and implementation; [FN104]
- In Pennsylvania, the state plan includes a complete compilation of statistical data on girls that includes race and ethnicity; [FN105]
- In South Carolina, a Truancy Intervention Plan focuses on pregnancy prevention by identifying risk factors and proposing an action plan; [FN106] and
- In Wisconsin, a special mental health unit was developed for “emotionally disturbed female juvenile offenders.” [FN107]

#### B. The Runaway and Homeless Youth Act

Although not aimed specifically at female juvenile offenders, the Runaway and Homeless Youth Act [FN108] provides federal funds to support community-based agencies working to prevent homelessness among our young and to provide assistance to runaways and homeless kids. The three major components of the Act are: (1) the Runaway and Homeless Youth Grant Program, (2) the Transitional Living Grant Program, and (3) the Sexual Abuse Prevention Program. [FN109] Given the disproportionate number of girls running away from home to escape victimization, these runaway programs are vital. We have an obligation to create safe alternatives for girls running away from abuse, just as we do for battered adult women. While not discounting the needs of runaway boys, dollars spent on this program will have a major impact on girls and may prevent their entry into the juvenile justice system. By all accounts, this is a safety net straining at the seams--last year the number of fundable applications under the Transitional Living Program was 258% greater than the number of programs actually funded. [FN110] And there are still many parts of this country where runaway and homeless youth have nowhere safe to go. Our strategy to decrease the number of girls in the juvenile justice system must include continued funding dedicated to reducing the number of runaway youth.

#### \*44 V. OPPORTUNITIES FOR FEDERAL LEADERSHIP

In addition to increasing funding for existing federal programs targeted towards girls, the federal government could take other steps to stem the tide of girls entering our juvenile justice system. First, in light of the tight link between victimization and delinquency, we must expand the mandate of the Violence Against Women Act to include young girls. We must reduce violence-- physical, sexual, and emotional--against girls. The number of girls subjected to violence at home is a national outrage, and juvenile delinquency is but one of the symptoms. The federal government can be a loud and powerful bully pulpit that should be used to raise national awareness about the prevalence of violence against girls and to educate the public about treatment and care for

girl victims. These violence prevention efforts may mean the difference between an adolescence spent in juvenile court or in the classroom.

The Violence Against Women Office in the U.S. Department of Justice, in collaboration with the Office of Juvenile Justice and Delinquency Prevention, should provide national leadership, helping states to inventory their policies and practices with respect to the criminalization of violence against girls and the services provided to these young victims. State changes could range from sensitizing law enforcement to possible child victims when responding to domestic violence calls to promulgating meaningful educational programs in our schools. By reducing violence against girls, we will significantly narrow a major pathway to delinquency.

Other possible initiatives include asking states to take a long, hard look at their detainment of girls for status offenses. States should answer questions such as: Do their statistics reflect a disproportionate number of girls detained for status offenses? How often are girls taken into custody for violations of probation orders based on status offenses? Is bootstrapping occurring at a disproportionate rate with female offenders? How many of the female runaways arrested for status offenses are running away from abuse at home? What preventative efforts are aimed at curbing female status offenses? I recognize that enforcing status offense laws plays a role in maintaining law and order in communities across the country, but we should have clear and convincing reasons for continuing to disproportionately enforce the laws against female offenders.

Given its long-standing expertise in this area, the Office of Juvenile Justice and Delinquency Prevention must take the lead in aggregating and disseminating comprehensive data about girls in the juvenile justice system. Such leadership from the Department of Justice should include ensuring that the states submit information about girls in the system that includes details about age, race, ethnicity, socio-economic status, and family formation. Furthermore, the federal government should promote and support more research on girls. There remains much to be learned about why girls are entering the juvenile justice system at growing rates. For instance, we need more small-scale studies to better understand regional trends, in addition to national ones. Longitudinal studies would help us determine the efficacy of female juvenile offender diversion, intervention, and treatment programs. More data about female juvenile offenders' previous contact with other governmental agencies would help us better comprehend the relationship between child dependency and teenage delinquency.

I have spent almost thirty years serving in the U.S. Senate. One of my most significant legislative accomplishments was when the Violence Against Women Act became law in 1994. We turned a bright spotlight on domestic violence and sexual assault as crimes, not private family matters. Since that time, we have witnessed a sea of change in how society responds to violence against women. We must shine that same spotlight on girls in the juvenile justice system, and disabuse archaic notions that the system is comprised of boys and a few stray girls. While juveniles must be held accountable for criminal conduct, so too must the system be held accountable for the way it treats female juvenile offenders.

[FN1]. Joseph R. Biden, Jr. (D., Delaware) is a sixth-term United States Senator and ranking member of the Foreign Relations Committee. From 1987 to 1994, Senator Biden was the chairman of the Judiciary Committee, and currently is the ranking member on the Subcommittee on Crime and Drugs. The author wishes to thank Louisa M. Terrell for her assistance in preparing this article.

[FN1]. Written by a participant of the Girls in the Hall program, at <http://www.kqed.org/w/juvenilejustice/mediasociety/gith.html> (last visited Feb. 28, 2003).

[FN2]. Jeffrey Butts & Jeremy Travis, Urban Institute, *The Rise and Fall of American Youth Violence: 1980 to 2000*, at 3 (2002), available at <http://www.urban.org/UploadedPDF/410437.pdf>.

[FN3]. Anne L. Stahl, *Delinquency Cases in Juvenile Courts, 1998*, OJJDP Fact Sheet (Office of Juvenile Justice and Delinquency Prevention, Washington, D.C.), Aug. 2001, at 1, available at <http://www.ncjrs.org/pdffiles1/ojjdp/fs200131.pdf>.

[FN4]. Violence Against Women Act of 1994, *Pub. L. No. 103-322*, 108 Stat. 1902 (codified as amended in scattered sections of 16 U.S.C., 18 U.S.C., and 42 U.S.C.) The Violence Against Women Act was passed as part of the Violent Crime Control and Law Enforcement Act of 1994, *Pub. L. No. 103-322*, 108 Stat. 1796 (codified as amended in scattered sections of 2 U.S.C., 16 U.S.C., 18 U.S.C., 21 U.S.C., and 42 U.S.C.), and was reauthorized in the Victims of Trafficking and Violence Protection Act of 2000, *Pub. L. No. 106-386*, 114 Stat. 1464 (codified as amended in scattered sections of 18 U.S.C., 22 U.S.C., 27 U.S.C., and 42 U.S.C.). I authored the Violence Against Women Act of 1994 (and its reauthorization in 2000), which contains a broad array of criminal and civil measures to combat domestic violence, sexual assault, and stalking, and several federal grant programs that distribute millions of dollars to states each year to address violence against women.

[FN5]. See Laurie Schaffner, *Female Juvenile Delinquency: Sexual Solutions, Gender Bias, and Juvenile Justice*, 9 *Hastings Women's L.J.* 1, 3 (1998).

[FN6]. C. Puzzanchera et al., *Easy Access to Juvenile Populations* (2002), at <http://ojjdp.ncjrs.org/ojstatbb/ezapop/asp/specific.asp>; see also U.S. Census Bureau, *Census 2000 Summary File 1, Age Groups and Sex: 2000* (summarizing data finding there were 72,293,812 Americans under the age of 18 in 2000), available at [http://factfinder.census.gov/servlet/QTTTable?ds\\_name=DEC\\_2000\\_SF1\\_U&geo\\_id=01000US&qr\\_name=DEC\\_2000\\_SF1\\_U\\_QTP1](http://factfinder.census.gov/servlet/QTTTable?ds_name=DEC_2000_SF1_U&geo_id=01000US&qr_name=DEC_2000_SF1_U_QTP1) (last visited Feb. 28, 2003).

[FN7]. Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, *OJJDP Statistical Briefing Book* (2002), available at <http://ojjdp.ncjrs.org/ojstatbb/html/qa250.html>. Notably, the 2000 arrest rates are the most recent juvenile arrest statistics published by the federal government.

[FN8]. Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, *OJJDP Statistical Briefing Book* (2002), available at [http://ojjdp.ncjrs.org/ojstatbb/asp/JAR\\_Display.asp?ID=qa2300031502](http://ojjdp.ncjrs.org/ojstatbb/asp/JAR_Display.asp?ID=qa2300031502) (adapted from Howard N. Snyder, *Law Enforcement and Juvenile Crime, Juvenile Offenders and Victims: National Report Series Bulletin* (Office of Juvenile Justice & Delinquency Prevention, Washington, D.C.), Dec. 2001, available at [http://www.ncjrs.org/html/ojjdp/nrs\\_bulletin/nrs\\_2001&uscore;12\\_1/contents.html](http://www.ncjrs.org/html/ojjdp/nrs_bulletin/nrs_2001&uscore;12_1/contents.html)).

[FN9]. It is important to remember that official records likely under-represent juvenile delinquent behavior because many crimes committed by youth are never reported to the authorities or the juvenile offender is not arrested by police. Not surprisingly then, compared with official statistics, self-report studies find a much higher proportion of the juvenile population involved in delinquent behavior. Official statistics are collected by the Federal Bureau of Investigation's Uniform Crime Reporting Program, and are comprised of data submitted by local law enforcement agencies nationwide. National estimates of juvenile delinquency cases are generated by the Nation-

al Juvenile Court Data Archive and published annually. Juvenile correctional populations are captured by the Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities (commonly known as the Children in Custody) administered by the U.S. Bureau of the Census.

[FN10]. Am. Bar Ass'n & Nat'l Bar Ass'n, Justice by Gender: The Lack of Appropriate Prevention, Diversion and Treatment Alternatives for Girls in the Justice System 17 (May 2001), available at <http://www.abanet.org/crimjust/juvjus/justicebygender.pdf> [hereinafter Justice by Gender].

[FN11]. Office of Juvenile Justice & Delinquency Prevention, *supra* note 7.

[FN12]. Office of Juvenile Justice & Delinquency Prevention, *supra* note 8.

[FN13]. Melissa Sickmund, A Profile of Females in the Juvenile Justice System, Presentation at the American Society of Criminology Conference 2 (Nov. 7, 2001, revised Sept. 2002) (PowerPoint presentation on file with author). Percentages are based on 2,369,400 total juvenile arrests in 2000.

[FN14]. *Id.* at 5.

[FN15]. *Id.* at 9.

[FN16]. Meda Chesney-Lind, Are Girls Closing the Gender Gap in Violence?, *Crim. Just.*, Spring 2001, at 18, 19.

[FN17]. Eileen Poe-Yamagata & Jeffrey A. Butts, Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Female Offenders in the Juvenile Justice System: Statistics Summary 2 (June 1996), available at <http://www.ncjrs.org/pdffiles/femof.pdf>.

[FN18]. *Id.*

[FN19]. Kimberly J. Budnick & Ellen Shields-Fletcher, What About Girls?, OJJDP Fact Sheet (Office of Juvenile Justice and Delinquency Prevention, Washington, D.C.), Sept. 1998, at 1, available at <http://www.ncjrs.org/pdffiles/fs-9884.pdf>.

[FN20]. *Id.*

[FN21]. A. Stahl et al., Nat'l Ctr. for Juvenile Justice, Easy Access to Juvenile Court Statistics: 1985-2000 (Dec. 17, 2002), at <http://ojjdp.ncjrs.org/ojstatbb/ezajcs>. Notably, between 1988 and 1997, the number of delinquency cases involving females increased by 83%, while male caseloads increased by only 35%. Meghan C. Scahill, Female Delinquency Cases, 1997, OJJDP Fact Sheet (Office of Juvenile Justice & Delinquency Prevention, Washington, D.C.), Nov. 2000, at 1, available at <http://www.ncjrs.org/pdffiles1/ojjdp/fs200016.pdf>.

[FN22]. Sickmund, *supra* note 13, at 16. Crimes against property include burglary, larceny, arson, and vandalism. Offenses against public order include weapon offenses, nonviolent sex offenses, liquor law violations, disorderly conduct, and obstruction of justice.

[FN23]. Faedra Lazar Weiss et al., Girls Inc. & Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't

of Justice, Prevention and Parity: Girls in Juvenile Justice 6 (June 1996) (citing Eileen Poe-Yamagata & Jeffrey A. Butts, Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Female Offenders in the Juvenile Justice System: Statistics Summary (June 1996), available at <http://www.ncjrs.org/pdffiles/femof.pdf>). Although the juvenile court process varies slightly from state to state, most follow a general procedure. When a juvenile commits a delinquent offense, a decision is made at arrest whether to refer the matter to the justice system or to outside the system, typically to an alternative program. If the case is referred to the justice system, the court's intake department screens the case and decides whether to dismiss the case, to handle the case informally, or to request formal intervention by the court. If handled formally, the intake department files a petition for an adjudicatory hearing or a waiver requesting a transfer to the criminal court. A delinquency petition sets forth the allegations and requests the judge to adjudicate the juvenile as delinquent. Once a juvenile is adjudicated delinquent, the probation staff designs a disposition plan, which is presented at a disposition hearing. Possible dispositions include: dismissal, probation, fine, community service, or residential placement. Howard N. Snyder & Melissa Sickmund, Nat'l Ctr. for Juvenile Justice & Office Of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Juvenile Offenders and Victims: 1999 National Report 97-100 (Sept. 1999), available at <http://www.ncjrs.org/html/ojjdp/nationalreport99/chapter4.pdf>.

In many respects, the processing of a status offense is similar to that for a delinquent offense. *Id.* at 100. Referrals of youth to the juvenile justice system for status offenses come from a variety of sources: schools, parents, social service agencies, and police. After a referral is made, the case is screened--usually by a juvenile probation office--to determine whether the case should be handled informally or formally. If the formal route is taken, a petition is drafted and the juvenile is charged with a status offense and given notice of a hearing. Similar to the delinquency process, the hearings include an adjudication hearing and possibly a disposition hearing.

[FN24]. Scahill, *supra* note 21, at 1.

[FN25]. Sickmund, *supra* note 13, at 24.

[FN26]. Justice by Gender, *supra* note 10, at 22.

[FN27]. *Id.*

[FN28]. Scahill, *supra* note 21, at 1.

[FN29]. Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Guiding Principles for Promising Female Programming: An Inventory of Best Practices 6 (July 2000), available at [http://ojjdp.ncjrs.org/pubs/principles/ch1\\_3.html](http://ojjdp.ncjrs.org/pubs/principles/ch1_3.html) [hereinafter Guiding Principles].

[FN30]. *Id.*

[FN31]. Joan Moore & John Hagedorn, Female Gangs: A Focus on Research, Juvenile Justice Bulletin (Office of Juvenile Justice & Delinquency Prevention, Washington, D.C.), Mar. 2001, at 2, available at <http://www.ncjrs.org/pdffiles1/ojjdp/186159.pdf>.

[FN32]. Arlen Egley, Jr., National Youth Gang Survey Trends from 1996 to 2000, OJJDP Fact Sheet (Office of Juvenile Justice and Delinquency Prevention, Washington, D.C.), Feb. 2002, at 2, available at <http://www.ncjrs.org/pdffiles1/ojjdp/186159.pdf>.

[www.ncjrs.org/pdffiles1/ojjdp/fs200203.pdf](http://www.ncjrs.org/pdffiles1/ojjdp/fs200203.pdf).

[FN33]. See Moore & Hagedorn, *supra* note 31, at 5.

[FN34]. *Id.* at 2.

[FN35]. *Id.* at 3.

[FN36]. Chesney-Lind, *supra* note 16, at 19.

[FN37]. Weiss et al., *supra* note 23, at 9.

[FN38]. Chesney-Lind, *supra* note 16, at 19.

[FN39]. See Laurie Schaffner, [Violence & Female Delinquency: Gender Transgressions and Gender Invisibility](#), 14 *Berkeley Women's L.J.* 40, 44-45 (1999).

[FN40]. Chesney-Lind, *supra* note 16, at 19.

[FN41]. *Id.* at 20.

[FN42]. *Id.* (“A review of more than 2,000 cases of girls referred to Maryland's juvenile justice system for ‘person-to-person’ offenses revealed that virtually all (97.9%) involved assault.... [and] about half were family centered and involved such activities as a girl hitting her mother and her mother ... pressing charges.”); see also Schaffner, *supra* note 39, at 44 (summarizing some scholars' contentions that instead of breaking up fights and mediating, police increasingly make mandatory arrests at scenes of disagreements, and, due to increased police training and attention to domestic violence, young women are more often arrested during violent family disputes).

[FN43]. Justice by Gender, *supra* note 10, at 18 (reporting that in 1999, girls constituted only 27% of all juvenile arrests, yet they made up 59% of juvenile arrests for running away and 54% of juvenile arrests for prostitution).

[FN44]. U.S. Gen. Accounting Office, *Juvenile Justice: Minimal Gender Bias Occurred in Processing Noncriminal Juveniles* 34 (Feb. 1995) (reporting to Congressional Requesters that during the six-year period from 1986 to 1991, running away status offense cases were a predominantly female category); Snyder & Sickmund, *supra* note 23, at 58 (citing the 1997 National Longitudinal Survey of Youth, which found that out of 9,000 youth, aged twelve to sixteen, 11% of the girls reported running away from home and 10% of the boys similarly reported running away from home).

[FN45]. Chesney-Lind, *supra* note 16, at 21.

[FN46]. *Id.*

[FN47]. See generally Meda Chesney-Lind, *The Female Offender: Girls, Women, and Crime* (1997).

[FN48]. Cindy S. Lederman & Eileen Nexer Brown, [Entangled in the Shadows: Girls in the Juvenile Justice System](#), 48 *Buff. L. Rev.* 909, 914-15 (2000).

[FN49]. See Weiss et al., *supra* note 23, at 19.

[FN50]. Although the federal law conditions states' receipt of federal funds on deinstitutionalizing juveniles for status offenses, the law permits an exception if the offense constitutes a violation of a valid court order. 42 U.S.C.A. § 5633(a)(12)(A) (West, WESTLAW through Pub. L. No. 108-6).

[FN51]. Weiss et al., *supra* note 23, at 19.

[FN52]. Justice by Gender, *supra* note 10, at 19-20.

[FN53]. Schaffner, *supra* note 5, at 4.

[FN54]. Nat'l Mental Health Ass'n, Mental Health and Adolescent Girls in the Justice System (June 1999), at <http://www.nmha.org/children/justjuv/girlsjj.cfm> (citing Jenifer Wood et al., Violence Exposure and PTSD Among Delinquent Girls, J. Aggression, Maltreatment & Trauma, Spring 2002, at 109).

[FN55]. *Id.*; Lederman & Brown, *supra* note 48, at 914 (citing Patricia Chamberlain & John B. Reid, Differences in Risk Factors and Adjustment for Male and Female Delinquents in Treatment Foster Care, 3 J. Child & Fam. Stud. 23, 24 (Mar. 1994)).

[FN56]. Schaffner, *supra* note 39, at 55.

[FN57]. Francine T. Sherman, Effective Advocacy Strategies for Girls: Promoting Justice in an Unjust System, in Criminal Law and Urban Problems 151, 156 (PLI Litig. & Admin. Practice Course Handbook Series No. C0-001E, 2001).

[FN58]. Cathy Spatz Widom, Childhood Victimization and the Derailment of Girls and Women to the Criminal Justice System, in 3 Nat'l Inst. of Justice, Research on Women and Girls in the Justice System: Plenary Papers of the 1999 Conference on Criminal Justice Research and Evaluation--Enhancing Policy and Practice Through Research 27, 29 (2000), available at <http://www.crimtoday.com/files/womenresearch.pdf>; see also Cathy S. Widom & Michael G. Maxfield, An Update on the "Cycle of Violence," Research in Brief (Nat'l Inst. of Justice, Washington, D.C.), Feb. 2001, at 3-5, available at <http://www.ncjrs.org/pdffiles1/nij/184894.pdf>.

[FN59]. Meda Chesney-Lind & Randall G. Shelden, Girls, Delinquency, and Juvenile Justice 117 (2d ed. 1998) (summarizing contemporary research linking poor educational performance to greater involvement with delinquent behavior).

[FN60]. Alexandra Marks, Juvenile Justice Not so Equal for Girls, Christian Sci. Monitor, Feb. 16, 1999, at 1, available at <http://csmweb2.emcweb.com/durable/1999/02/16/p1s2.htm>.

[FN61]. Leslie Acoca, Investing in Girls: A 21st Century Strategy, J. Office Juv. Just. & Delinq. Prev., Oct. 1999, at 3, 7, available at <http://www.ncjrs.org/html/ojdp/journal1099/invest1.html>.

[FN62]. Marty Beyer, Delinquent Girls: A Developmental Perspective, Ky. Child. Rts. J., Spring 2001, at 17, 20 (citing Elizabeth Talbot & Keith Thiede, Pathways to Antisocial Behavior Among Adolescent Girls, 7 J. Emotional & Behavioral Disorders 31-33 (1999)).

[FN63]. Nancy Ginsburg, *Girls and the Juvenile Justice System*, in *Criminal Law and Urban Problems* 131, 136 (PLI Litig. & Admin. Practice Course Handbook Series No. C0-001E, 2001).

[FN64]. Schaffner, *supra* note 5, at 23; see also Chesney-Lind & Shelden, *supra* note 59, at 35-38 (reporting that sexual abuse is the most common element in the lives of runaway girls).

[FN65]. Chesney-Lind & Shelden, *supra* note 59, at 39 (“The most common form of teenage prostitution today may be what some have called ‘survival sex.’ This differs from the more ‘commercial’ variety ‘in that it is sex in return for that which one needs immediately: warm shelter for a night, drugs or perhaps a few Big Macs.’”) (citing Beverly Beyette, *Hollywood's Teen-age Prostitutes Turn Tricks for Shelter, Food*, *Las Vegas Rev. J.*, Aug. 21, 1988).

[FN66]. A major study released last year by the University of Pennsylvania detailed the risks for runaways who use “survival sex” for food and shelter. Richard J. Estes & Neil Alan Weiner, Univ. of Pa., *The Commercial Sexual Exploitation of Children in the U.S., Canada and Mexico* (Sept. 2001, revised Feb. 20, 2002), available at [http://caster.ssw.upenn.edu/~restes/CSEC\\_Files/Complete&uscore;CSEC\\_020220.pdf](http://caster.ssw.upenn.edu/~restes/CSEC_Files/Complete&uscore;CSEC_020220.pdf).

[FN67]. Chesney-Lind & Shelden, *supra* note 59, at 38 (citing Debra Boyer & Jennifer James, *Easy Money: Adolescent Involvement in Prostitution*, in *Justice for Young Women: Close-up on Critical Issues* 73, 79 (Sue Davidson ed., 1982)).

[FN68]. Lederman & Brown, *supra* note 48, at 918.

[FN69]. Laura Prescott, *The Nat'l GAINS Ctr. for People with Co-Occurring Disorders in the Justice Sys., Improving Policy and Practice for Adolescent Girls with Co-Occurring Disorders in the Juvenile Justice System* 4 (1998).

[FN70]. Nat'l Mental Health Ass'n, *supra* note 54 (citing Frederick A. Marsteller et al., *Ctr for Substance Abuse Treatment, Prevalence of Substance Abuse Disorders Among Juveniles Admitted to Regional Youth Detention Centers Operated by The Georgia Dept. of Children & Youth Services* (1997)).

[FN71]. *Id.* (citing Elizabeth Cauffman et al., *Posttraumatic Stress Disorder Among Female Juvenile Offenders*, 37 *J. Am. Acad. Child & Adolescent Psychiatry* 1209 (Nov. 1998)).

[FN72]. Chesney-Lind, *supra* note 16, at 22 (citing Elizabeth Cauffman et al., *Posttraumatic Stress Disorder Among Female Juvenile Offenders*, 37 *J. Am. Acad. Child & Adolescent Psychiatry* 1209, 1209-16 (Nov. 1998)).

[FN73]. Kristen M. McCabe et al., *Gender Differences in Psychopathology, Functional Impairment, and Familial Risk Factors Among Adjudicated Delinquents*, 41 *J. Am. Acad. Child & Adolescent Psychiatry* 860, 861 (July 2002) (citing Mark Zoccolillo, *Gender and the Development of Conduct Disorder*, 5 *Dev. & Psychopathology* 65 (1993)).

[FN74]. *Id.* at 864.

[FN75]. In one survey of juvenile detainees, approximately 50% showed mental health problems of moderate or

higher severity, and 8.5% showed severe mental health problems, yet only 15% of these detainees were currently receiving any mental health services. Gail A. Wasserman et al., *The Voice DISC-IV with Incarcerated Male Youths: Prevalence of Disorder*, 41 *J. Am. Acad. Child & Adolescent Psychiatry* 314, 315 (Mar. 2002) (citing Policy Design Team, *Mental Health Needs of Youth in Virginia's Juvenile Detention Centers* (1994)). In another study, incarcerated youth in South Carolina had higher rates of outpatient mental health services than enrollees in a community mental health service, yet were significantly less likely to have ever received outpatient mental health services. *Id.* (citing Andres J. Pumariega et al., *Mental Health and Incarcerated Youth, II: Service Utilization*, 8 *J. Child & Fam. Stud.* 205 (June 1999)).

[FN76]. *Justice by Gender*, *supra* note 10, at 10; see also Beyer, *supra* note 62, at 20.

[FN77]. Acoca, *supra* note 61, at 5.

[FN78]. Nat'l Mental Health Ass'n, *supra* note 54 (citing Prescott, *supra* note 69, at 4).

[FN79]. *Id.* (citing Nat'l Inst. of Justice, *Arrestee Drug Abuse Monitoring Program: 1997 Annual Report on Adult & Juvenile Arrestees* (1998)).

[FN80]. Miriam Rozen, *Girls in Trouble: Rising Arrest Rates Threaten to Overwhelm State Facilities for Juveniles*, *Tex. Law.*, Sept. 5, 2002, at 22.

[FN81]. Acoca, *supra* note 61, at 7.

[FN82]. *Id.* at 6.

[FN83]. A profile of girls in detention in Baltimore, Maryland revealed that 32% had, or previously had, sexually transmitted diseases, and 32% had, or previously had, chronic health problems. Marian D. Daniel, *The Female Intervention Team*, *J. Office Juv. Just. & Delinq. Prev.*, Oct. 1999, at 14, 15, available at <http://www.ncjrs.org/html/ojjdp/jjjournal1099/fem4.html>.

[FN84]. Chesney-Lind & Shelden, *supra* note 59, at 127.

[FN85]. *Id.* at 128-29.

[FN86]. *Id.* at 132.

[FN87]. See Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice, *Juvenile Female Offenders: A Status of the States Report 13* (Oct. 1998), available at <http://www.ojjdp.ncjrs.org/pubs/gender> [hereinafter *Status of the States*].

[FN88]. *Guiding Principles*, *supra* note 29, at 40-41, available at [http://ojjdp.ncjrs.org/pubs/principles/ch2\\_6.html](http://ojjdp.ncjrs.org/pubs/principles/ch2_6.html).

[FN89]. *Id.* at 44-45.

[FN90]. *Id.*

[FN91]. *Id.* at 60, available at [http://ojjdp.ncjrs.org/pubs/principles/ch2\\_6.html](http://ojjdp.ncjrs.org/pubs/principles/ch2_6.html); see also Francine T. Sherman, The Juvenile Rights Advocacy Project: Representing Girls in Context, *Juvenile Justice*, Oct. 1999, at 29, 29 (describing an interdisciplinary and holistic legal clinical program that represents girls in multiple systems beyond delinquency proceedings), available at <http://www.ncjrs.org/html/ojjdp/jjjournal1099/brief1.html>.

[FN92]. JJDP Act, **Pub. L. No. 93-415**, 88 Stat. 1109 (1974) (codified as amended in scattered sections of 42 U.S.C. and 18 U.S.C.).

[FN93]. JJDP Act, **Pub. L. No. 93-415**, § 223(a)(12), (13), 88 Stat. 1109, 1121 (1974) (current version at 42 U.S.C. § 5633(a)(12)(A), (13)).

[FN94]. Act of Nov. 4, 1992, **Pub. L. No. 102-586**, § 2(f)(3)(i)(IV)(ff), (g)(6)(N), 106 Stat. 4982, 4987-89, 4997-98 (current version at 42 U.S.C. § 5633(a)(7)(B)(i)).

[FN95]. Act of Nov. 4, 1992, **Pub. L. No. 102-586**, § 2(f)(3)(i)(IV)(ff), 106 Stat. 4982, 4987-89. The relevant statutory language, as it appeared in the 1992 U.S. code read:

(a) Requirements. In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period.... In accordance with regulations which the Administrator shall prescribe, such plan shall ...

(8)(B) contain --

(i) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services for females; and

(ii) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency.

42 U.S.C.A. § 5633(a)(8)(B)(i), (ii) (West 1992) (current version at 42 U.S.C. § 5633(a)(7)(B)(i)).

[FN96]. 42 U.S.C. § 5667c(b)(2)(E) (originally enacted as part of Act of Nov. 4, 1992, **Pub. L. No. 102-586**, § 2(i), 106 Stat. 4982, 5006-08; repealed 2002).

[FN97]. *Id.*

[FN98]. Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995, **Pub. L. No. 103-317**, 108 Stat. 1724, 1725 (1994); Omnibus Consolidated Rescissions and Appropriations Act of 1996, **Pub. L. No. 104-134**, 110 Stat. 1321, 1321-14 (1996); Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, **Pub. L. No. 105-119**, 111 Stat. 2440, 2456 (1997).

[FN99]. Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, **Pub. L. No. 106-553**, 114 Stat. 2762, 2762A-66 (2000); Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, **Pub. L. No. 107-77**, 115 Stat. 748, 763 (2001).

[FN100]. Juvenile Justice and Delinquency Prevention Act of 2002, **Pub. L. No. 107-273**, §§ 12201-12223, 116 Stat. 1758.

[FN101]. See Office of Juvenile Justice & Delinquency Prevention, U.S. Dep't of Justice, Challenge Activities Program Areas 3-4 (1996), available at <http://www.ncjrs.org/pdffiles/chalproe.pdf>.

[FN102]. Status of the States, *supra* note 87, at 42, available at <http://www.ojjdp.ncjrs.org/pubs/gender/state-de.html>.

[FN103]. Children's Defense Fund & Girls Inc., Overview of Gender Provisions in State Juvenile Justice Plans 7 (Aug. 2002) (on file with author).

[FN104]. *Id.*

[FN105]. *Id.* at 9.

[FN106]. *Id.*

[FN107]. *Id.*

[FN108]. Runaway and Homeless Youth Act, *Pub. L. No. 93-415*, 88 Stat. 1129 (codified as amended in scattered sections of 42 U.S.C.).

[FN109]. The basic Runaway Homeless Youth Grant Program provides grants to local public and private organizations to establish and operate local runaway and homeless youth centers. 42 U.S.C.A. § 5711 (West, WESTLAW through *Pub. L. No. 108-6*). The Transitional Living Grant Program provides grants to private and public entities to deal with the long-term needs of homeless youth aged sixteen to twenty-one. *Id.* §§ 5714-1 to 5714-2. The Sexual Abuse Prevention Program provides grants to private, nonprofit agencies for community-based outreach, education, and treatment for runaway, homeless, and street youth who have been subjected to, or are at risk of being subjected to, sexual abuse. *Id.* § 5712d.

[FN110]. Juvenile Justice & Delinquency Prevention Coalition, Runaway and Homeless Youth Act, Fact Sheet (Juvenile Justice & Delinquency Prevention Coalition), May 2001; National Coalition for the Homeless, Child & Youth Health and Homelessness, at <http://www.nationalhomeless.org/health/childyouthhealth.html> (last visited Feb. 28, 2003).

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