

JUVENILE JUSTICE POLICY BRIEF SERIES

Gender Responsiveness and Equity in California's Juvenile Justice System



The Berkeley Center for Criminal Justice (BCCJ) at the UC Berkeley School of Law works to enhance public safety and foster a fair and accountable justice system through research, analysis, and collaboration.

About this Series

With support from The California Endowment, BCCJ developed policy briefs to address critical issues facing California's juvenile justice system today. The policy briefs provide research and recommendations for policymakers, local officials, and practitioners confronting the inadequacies of the juvenile justice system. In May of 2010 BCCJ published *Mental Health Issues in California's Juvenile Justice System*, which is located on the BCCJ website: www.bccj.berkeley.edu

Juvenile Justice Advisory Board

This project was guided by a diverse group of key leaders from across California. The advisory board convened several times to identify priority topics, provide consultation on recommendations, and review drafts of the policy briefs.

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GENDER RESPONSIVENESS AND EQUITY IN CALIFORNIA'S JUVENILE JUSTICE SYSTEM

Over the last two decades, there has been an increase in the number of girls referred to California's juvenile justice system. This increase raises questions about how the juvenile justice system can best respond to the unique needs of girls. Research has shown that girls enter the juvenile justice system for distinctly different types of delinquent behavior than do boys. It is the responsibility of the state and counties to ensure that the juvenile justice system offers appropriate programs and services that serve the unique needs of delinquent girls under their supervision. While the number of girls arrested in California is less than the number of boys for almost every type of crime, nearly 60,000 arrests over a 12-month period (see Figure 1) is still a significant number and deserves the attention of state and county officials. The purpose of this brief is to highlight how girls enter the system, describe some of the key differences between delinquent girls and delinquent boys, and offer recommendations for ways in which California's juvenile justice system can better meet the needs of girls under its jurisdiction.

Nationwide, the number of girls in the juvenile justice system is growing faster than the number of boys. Between 1995 and 2005 the number of girls in detention increased more quickly than the number of boys proportionately, 49 percent for girls compared to seven percent for boys (Acoca, 2009). Each year tens of thousands of girls are arrested in California. In 2008, 58,843 girls were arrested, representing 3.5 percent of the state's total population of girls between the ages of 12 and 17 (California Department of Justice, 2008; U.S. Census Bureau). In that same year, 58,195 referrals were sent to probation, resulting in 20,525 petitions filed on behalf of juvenile female offenders in juvenile court (California Department of Justice, 2008). Eighteen percent of girls' petitions resulted in dismissal; 21 percent resulted in informal supervision² or deferred entry of judgment;³ and 41 percent ended in an order of wardship.

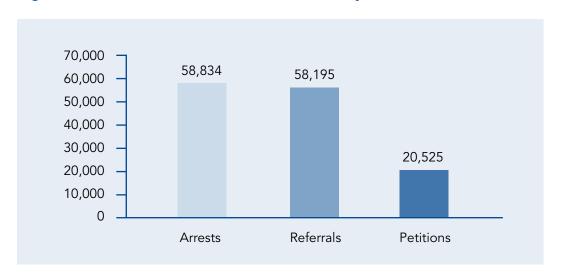


Figure 1. Girls in California's Juvenile Justice System (2008)

Source: California Department of Justice, Juvenile Justice in California Report (2008).

¹Arrests are those reported by law enforcement; referrals are law enforcement arrests as reported by probation and each referral can include up to five offenses; and petitions can include up to five different offenses.

² For some offenses minors can be placed on informal supervision for a six-month period before or after a petition has been filed. If the minor does well at the end of the six months, the matter is settled and the minor has no record. If the minor does not do well, formal proceedings on the petition go forward.

³ Minors 14 and older who have been charged with certain felony offenses can admit the petition and be placed on a one to three year program of supervision without being adjudged a ward of the court (i.e., judgment is deferred). If the supervision period is successful, the petition will be dismissed and the arrest will be deemed never to have occurred. If the minor fails the supervision period the matter proceeds to disposition.

PART 1: Overview of Girls in the System

If the court sustains a status offense or a criminal petition, it may adjudge the minor to be a ward of the court. In 2008, over two-thirds of wardship dispositions for girls (65%) resulted in an order of home or a relative's home on probation; 23 percent were placed at a county ranch or camp; and one in ten was placed in a private facility, such as a group home or residential placement. Less than one percent (0.2%) of girls with a wardship disposition in 2008 was committed to the Division of Juvenile Facilities (see Figure 2).

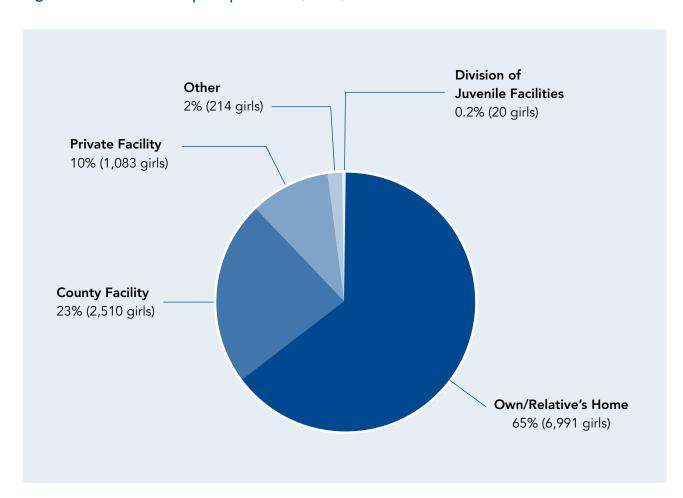


Figure 2. Girls' Wardship Dispositions (2008)

Source: California Department of Justice, Juvenile Justice in California Report (2008).

Girls come into contact with the juvenile justice system under very different circumstances than boys as a result of differences in the types of delinquent behavior. The following section discusses the types of referrals that bring girls to the attention of the juvenile justice system, as well as some of the offenses that have notable gender differences.

> "Most people don't know about the growing trend of girls going into the juvenile justice system and the problems the system has in dealing with them."

—Gwen Foster, Director of Mental
Health Training, CalSWEC,
UC Berkeley School of Social Welfar

PROSTITUTION

Prostitution is the only offense for which more girls than boys are referred to probation. In 2008, girls were referred at significantly greater numbers than were boys, with 696 prostitution referrals for girls compared to 34 for boys. Additionally, girls referred to probation for prostitution are more likely to have their referral result in a court petition than boys. In 2008, 70 percent of girls referred for prostitution were petitioned compared to 47 percent of boys (see Figure 3).4 This disparity becomes even more striking when you consider that in 2008, 57 percent of boys' total referrals resulted in petitions, while only 44 percent of girls' total referrals were petitioned. The implication here is that male prostitution referrals are frequently handled informally while female prostitution referrals are more often prosecuted. The share of girls petitioned for prostitution is significantly higher than for other types of referrals (70% and 44%, respectively) (California Department of Justice, 2008).

Figure 3. Percent of Referrals that are Petitioned (2008)

	GIRLS	BOYS
All Referrals	44%	57%
Prostitution Referrals	70%	47%

Source: California Department of Justice, Juvenile Justice in California Report (2008).

⁴ Note: Because the number of boys referred is so small even a minor variation in the number of boys petitioned makes a significant difference in the rate. There were 16 prostitution petitions for boys and 485 prostitution petitions for girls in California in 2008.

FELONIES

Most felony referrals for girls are for non-violent offenses. Girls' felony referrals and petitions occur most frequently for burglary and theft-related crimes. When combined, burglary, theft, and auto theft represent 47 percent of the felony referrals and 46 percent of the felony petitions filed on girls. By comparison, these three felony offenses account for 35 percent of boys' referrals and 36 percent of boys' petitions (California Department of Justice, 2008).

MISDEMEANORS

In 2008, girls in California were more likely to be referred to probation for misdemeanor assault and battery than for any other misdemeanor; the same is true for boys. Additionally, felony assault and misdemeanor assault and battery accounted for approximately one-third of girls' petitioned offenses (excluding status offenses). Notably, research has shown that the nature of girls' violence is more often relational. While both boys and girls are more likely to fight with same sex friends or acquaintances than any other type of victim, girls' next most likely victim is a family member, whereas for boys the next most likely victim is a stranger (Stahl, 2006).

DRUG AND LIQUOR LAW VIOLATIONS

Looking at drug and liquor law violations in 2008, boys' petition rates were only slightly higher than girls. Boys were petitioned 48 percent of the time that they were referred for drug and liquor law violations and girls were petitioned 41 percent of the time (California Department of Justice, 2008).

STATUS OFFENSES

Girls come to the attention of law enforcement for status offenses at a slightly higher rate than boys. Status offenses are acts that would not be classified as crimes if committed by adults and include truancy, curfew violation, and running away. Status offenses accounted for a slightly larger percentage of girls' total referrals (13%) than for boys' referrals (10%) in California in 2008. However, boys' status offenses were petitioned at a rate more than 20 percentage points higher, with girls at 47 percent and boys at 70 percent (California Department of Justice, 2008).

PART 3: The Unique Needs of Girls

The significant number of girls in the juvenile justice system means that the state and counties have an even greater responsibility to equip themselves to properly care for girls in their custody. Programs and strategies designed primarily for boys are often not the most appropriate for girls. Girls have unique needs and pathways into the juvenile justice system, which have significant implications for service provision.

"There needs to be a framework for what gender responsive means. Is it painting walls pink or giving nail polish? No. We need to pinpoint exactly what the different needs are for girls."

—Gena Castro Rodriquez,	
Executive Director, Youth Justic	e Institute

TRAUMA AND FAMILY DYSFUNCTION

A history of abuse is often a factor that contributes towards delinquency and involvement in the juvenile justice system. Studies have found that girls in the juvenile justice system have experienced higher rates of physical neglect and higher rates of physical, sexual, and emotional abuse than boys (McCabe et al., 2002). Girls experience sexual exploitation and abuse by family members and boyfriends, as well as through involvement in street gangs. A study of girls in the California Youth Authority (now the Division of Juvenile Justice) found that 75 percent of girls reported having experienced physical abuse and 46 percent reported sexual abuse (Owen and Bloom, 1997).

Physical, sexual, and emotional abuse inflicted on adolescent and pre-adolescent females can lead them to act out their psychological trauma criminally (Bloom, 2001). Prior victimization appears to be linked to subsequent violent behavior in girls (Molnar et al., 2005). While there are no California-specific data, a study from Ohio found that the majority of the incarcerated girls who reported a history of victimization believed that this victimization had influenced their offending behavior (Belknap and Holsinger, 2006). In addition, many girls first enter the juvenile justice system as runaways, often trying to escape abuse experienced at home (Chesney-Lind and Shelden, 1992; Bloom et al., 2002). Indeed, studies have found that the perpetrators of physical and sexual abuse were often within the family (Belknap and Holsinger, 2006). Researchers have found that running away, even from a sexually abusive home, is sometimes handled as an offense (Gilfus, 1992). In comparison to boys, girls are more likely to be arrested and placed outside their home for running away (American Bar Association and the National Bar Association, 2001; Chesney-Lind and Shelden, 1992).

As mentioned previously, girls are more likely to engage in violent behavior as a result of specific relational difficulties (Odgers et al., 2005). At the same time, while early aggression is one of the strongest predictors of subsequent delinquent behavior for boys, studies have shown its predictive power to be much weaker for girls (Tracy et al., 2009). Given the link between adverse domestic relationships and girls' violence, girls' aggression may be impacted by placement in dysfunctional domestic environments.

SUBSTANCE ABUSE

A 2000 study found that drug use among adolescent women had increased substantially since the 1970s (Dakof, 2000). Nationwide, over one-third of girls in the juvenile justice system reported experiencing blackouts, becoming sick, or having overdosed on drugs or alcohol (Acoca, 2009).

A main factor behind female adolescent drug use is internalized responses to family dysfunction. In addition, girls' drug use is symptomatic of greater internalizing disorders and family trauma than their male counterparts (Dakof, 2000).

MENTAL HEALTH AND PHYSICAL HEALTH

Girls in the juvenile justice system have mental health problems at higher rates than boys (Timmons-Mitchell et al., 1997; Skowyra and Cocozza, 2007; McCabe et al., 2202). Girls also experience traumatic life events at higher rates than boys. Studies have found that girls suffer most commonly from major depression, post-traumatic stress disorder (PTSD), anxiety disorders, and disruptive disorders. A study of incarcerated youth in Ohio also found that girls were more likely to report hurting or harming themselves, thinking about committing suicide, and having tried to commit suicide (Belknap and Holsinger, 2006). Evidence suggests that girls suffering from depression may be at greater risk of engaging in antisocial behavior (Obeidallah and Earls, 1999).

Detention and residential facilities, as well as the staff that work in them, are often ill-equipped to deal with the physical health needs unique to the girls in their care. Research reveals that there are no credible medical standards for girls in juvenile facilities, nor are there standardized medical screening and assessment tools for girls (Acoca and Lexcen, 2004). In addition, delinquent girls engage in sexual activity earlier than non-delinquent girls, resulting in a need for juvenile justice programs and services related to reproductive health, pregnancy, and parenting (Child Welfare League of America, 2004). According to one national survey, 25 percent of juvenile justice residential facilities reported housing at least one pregnant girl. At the same time, approximately one-quarter reported offering no obstetric services (Gallagher et al., 2007).

PART 4: Limited Availability of Programs for Girls in the Juvenile Justice System

Girls entering the juvenile justice system often find themselves placed in programs that were created for delinquent boys, and consequently, do not adequately address their needs (Bloom et al., 2002). The lack of programming available specifically for girls has been documented by several studies over the last two decades. A review of delinquency prevention programs from across the country found that of 443 programs identified, two percent served girls only (Lipsey, 1990). In a 2002 California study, juvenile justice officials and practitioners reported that funding for female-specific programs was limited. Survey respondents felt the California juvenile justice system lacked capacity and appropriate services for girls (Bloom et al., 2002).

A 2005 survey of California's Chief Probation Officers reported that gender-specific programs for girls were one of the least available program types, as less than 40 percent of counties offered girl-specific programs (Administrative Office of the Courts, 2006). In a juvenile court study conducted by the Administrative Office of the Courts, when asked about gaps in services, prosecutors and defense attorneys specifically identified a lack of residential placement facilities and local camps/ranches for girls. Several defense attorneys who participated in the study cited instances of female clients being sent to group homes because the county had no camp or ranch for girls. Additionally, in focus groups conducted with probation officers from six counties, the officers expressed similar dissatisfaction with available placement options for girls (Administrative Office of the Courts, 2008).

Limited funding for and availability of gender-specific placements and programs can result in different experiences for girls than for boys. First, in counties without a ranch or camp for females, girls may more likely be sent to residential placements, often group homes, than boys because out-of-home placement becomes a dispositional option earlier for girls. Residential programs often take longer to complete than a ranch commitment, which increases a girl's time away from her family, school, and community. Second, for those counties with no local ranch or camp and no local residential placement options for girls, they are placed out-of-county, further away from their home and families than boys, who more often receive in-county placement. Out-of-county placements complicate re-entry planning and increase the burden on their family for visits.

A group home or residential placement refers to a non-secure privately or occasionally publicly-run facility or "home" where youth live in the community, often attend public school, and receive treatment services designed to address particular mental health, substance abuse, or other behavioral issues.

A ranch or camp is a county facility operated by a probation department where youth live, attend school, and receive counseling services. They are frequently outside of urban areas and considered more secure than a residential placement.

"It's the tyranny of numbers. There are more boys than girls in the juvenile system and where the numbers are, that's where the money goes."

—Barry Krisberg, Distinguished Senior Fellow, Berkeley Center for Criminal Justice

In addition, research about the specific factors critical to effective girls' programs and services and evaluations of genderspecific program outcomes are limited due to the relatively small number of girls included in study samples. Studies that assess the effectiveness of programs have focused primarily on boys, and it is unclear how applicable these findings are for girls (Bloom et al., 2002).

The federal Office of Juvenile Justice and Delinguency Prevention (OJJDP) convened the Girls Study Group to conduct a review of effective girls' programming, recognizing that a lack of evaluation of gender-specific programming is one of the major challenges to assessing and developing effective interventions (Girls Study Group, 2008). The report catalogs 61 girls-only programs nationwide, only 17 of which have been evaluated. Of the programs evaluated, none met the criteria to be classified as "effective," and only half of the risk/needs assessment instruments in use were valid for both girls and boys (Girls Study Group, 2008).

While few gender-responsive programs are available and none have been deemed "model programs," there are certain characteristics and elements that are considered to be integral to effective girls programs (Patton and Morgan, 2002). Key characteristics include:

- Relationship-based,
- Strengths-based,
- Responsive to a history of trauma, and
- Provide a safe treatment space removed from males.

The limited research on gender-specific programming and the inadequacy of resources and tools currently available is also problematic for juvenile justice staff. Juvenile justice practitioners in California reported that girls were harder to work with as they faced more complicated issues (Bloom et al., 2002). These practitioners reported not feeling prepared to work with girls, and indicated a desire for more information regarding their needs. Juvenile justice staff members have also reported finding girls to be manipulative and verbally aggressive (Adler, 1997). The first step to more effectively working with girls is to better understand the unique needs and challenges they present.

1. Provide staff training on how to respond to girls' needs.

Juvenile justice practitioners report difficulties in working with girls and a need for additional training and information on how to best work with girls. Mental health and juvenile justice experts agree that staff should be trained on forming relationships with girls who have trust issues and to ensure the juvenile justice environment can adequately meet their needs (Cooney et al., 2008). Many detained girls have never had a healthy relationship with an adult male. Training for male staff in boundary setting and sensitivity to effectively interact with girls who have histories of physical and sexual abuse can be beneficial (Okamoto and Chesney-Lind, 2004). Staff should be aware of girls' needs and histories, and be trained on how to respond sensitively and in an informed manner to issues of past victimization. They should be informed that girls' disruptive behavior may be a sign of mental health issues. Given the acknowledgment that working with females is particularly challenging, gender-responsiveness training should be included in probation's annual 40-hour Standards and Training for Corrections (STC) curriculum.

Additionally, juvenile court judges, attorneys, and other justice system stakeholders should receive training and education about how to more effectively work with female offenders. Key juvenile justice stakeholder groups should participate in cross-discipline training that promotes communication about issues that affect girls in an environment that encourages sharing diverse perspectives. Research-based training conducted by experts in mental health disorders, adolescent development, gender responsiveness, and cultural differences would promote awareness of girls' needs and help practitioners understand the important issues that particularly influence the success of girls on probation.

2. Use assessment tools validated for female populations.

Risk assessment tools are used to assess the risk of certain outcomes, such as the potential to reoffend or the likelihood of making a court appearance. These tools take into account criminal histories, such as types and number of prior offenses, as well as education level, substance abuse problems, and mental health issues (Brumbaugh, 2010). Risk assessment tools developed for boys may not be appropriate for girls for various reasons, such as differences between the nature of girls' and boys' violent behavior. Traditional risk assessment tools rely on prior violent offenses to predict future violence. While this is an effective means of predicting future violence in males, females who engage in anti-social and aggressive behavior in their youth are not necessarily more likely to commit violence in the future (Brumbaugh, 2010). Needs-based or treatment-focused assessment tools are used to determine treatment needs or diagnose various disorders for case planning and to assist youth upon re-entry. Such instruments include global needs, substance abuse, and mental health assessments.

The OJJDP-convened Girls Study Group identified various types of instruments that have performed favorably for girls (Brumbaugh, 2010). California probation departments that currently utilize a wide-range of untested tools should prioritize implementing tools that have been identified by the OJJDP Girls Study Group. The Study Group found a total of 73 instruments, out of 143, that garnered a "favorable" rating. These instruments include all types: risk assessment, needs assessment, substance abuse assessment and mental health assessment (Brumbaugh, 2010). For further information on the instruments reviewed by the Study Group, please see: www.nttac.org/GirlsStudyGroup/dsp_instrument_list1.cfm.

3. Develop and utilize gender-responsive community-based programming.

In some cases, the detention or custodial commitment of girls can compound rather than address underlying causes of delinquency by separating girls from their families. Psychological disorder and familial trauma, often underlying causes of female delinquency, could be effectively treated by community-based programming. In circumstances where public

safety is not a concern, community-based alternatives may be a more appropriate and less traumatic way of serving female offenders. The juvenile justice system should not only strive to increase the availability of community-based alternatives to incarceration, but also assess whether girls currently in custodial facilities could be more appropriately treated in the community.

4. Improve and increase the availability of programming for girls.

The limited availability of programming for girls in the juvenile justice system and their unique risk factors, needs, and characteristics necessitates improving and increasing gender-specific programs, services, and treatment approaches. Programming for girls should incorporate methods that are relationship-based, encourage communication, and ensure emotional and physical safety (Bloom, 2001). In order to adequately provide for the girls under its care, the justice system must take into account a girl's history of abuse, mental health needs, substance use, and difficult family environment.

A Corrections Standards Authority Formula Grant Program Plan report from 2008 identified six gender-specific programs operating in California using \$3.5 million in Juvenile Justice Crime Prevention Act funding (Corrections Standards Authority, 2008). In addition, 18 counties reported gender-specific services being funded by federal, state, and local resources. Given the number of girls currently under the jurisdiction of California's 58 county probation departments, these limited funds and few programs are not sufficient to respond effectively to the needs of female juvenile offenders. Recipients of state juvenile justice funding should be required to provide gender-appropriate services for girls and collect data on the outcomes of those programs and their participants.

5. Equip detention centers and residential facilities to deal with the unique physical and mental health needs of girls.

Detention centers and residential facilities should provide access to medical and mental health professionals, services, and other resources that adequately meet the physical and mental health needs of girls dealing with the aftermath of physical, sexual, and emotional abuse as well as other gender-specific health concerns. A history of physical and sexual abuse is one of the most common afflictions facing girls in juvenile detention. Sexual abuse disproportionately affects girls and can have severe long-lasting implications for delinquency. In addition, girls have unique health needs that may require education and treatment around sexually transmitted diseases, reproductive issues, pregnancy, and parenting. It is important that facilities provide access to medical and mental health professionals who can assist girls in addressing their particular needs.

Title 15 of the Corrections Standards Authority's Code of Regulations, which regulates standards for county detention facilities, should be strengthened to include gender-responsive policies and practices that would improve classification procedures for girls in custody, treatment plans, and access to physical and mental health services.

Change policies and programs in detention facilities that re-traumatize girls.

A high percentage of girls in juvenile detention have experienced some form of trauma prior to placement. Girls in juvenile justice settings who have a history of trauma need to feel physically and psychologically safe. Custodial facilities that rely on traditional approaches like physical confrontation, isolation, and use of restraints to discipline girls run the risk of re-traumatizing girls in juvenile justice care (Griffin, 2002). Many characteristics of the detention environment (e.g., seclusion, staff insensitivity, loss of privacy) can exacerbate negative feelings and the sense of a loss of control among girls. In fact, for females with PTSD, the detention experience may result in re-traumatization and/or re-victimization (Hennessey et al., 2004). Gender-specific mental health assessments should be utilized in tandem with changes to traditional policies and approaches to reduce re-traumatization.

Increased numbers of girls entering the juvenile justice system have drawn national attention to the issue of inadequate gender-specific services and programming. Juvenile justice services have historically been designed for male populations and ineffectively meet the needs of female offenders. However, research highlighting these shortfalls has helped identify targeted strategies that would significantly improve service provision and outcomes for girls. While the current fiscal environment presents challenges to the creation and implementation of gender-specific policies and programs, investment in appropriate gender-responsive programs will contribute to a more effective juvenile justice system and save money in the long term. Because services have historically been designed for male populations, it is time resources are committed to addressing the needs of female offenders.

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