

# EXECUTIVE SUMMARY



## OVERLOOKED OR OVERSCRUTINIZED?

A CASE STUDY OF GIRLS' JUSTICE IN  
PHILADELPHIA AND IMPLICATIONS FOR  
THE DESIGN OF A FAIRER SYSTEM

# SUMMARY

The following report is an executive summary of a much larger report with the same title. As will be detailed in the pages of this executive summary, the greater report to follow will be released in a series of five installments, with each installment encompassing local data analysis, a national literature review, and policy recommendations related to one of five unique “stages” of girls’ juvenile justice in America.

The organizing stages of our larger report include:

- 1) The Display of a “Delinquent” Behavior
- 2) System Entry and Assessment
- 3) Resource Allocation and Program Referral
- 4) Provision of Juvenile Justice Services
- 5) System Exit and the Next Generation

This executive summary aims to provide a high-level overview of the findings from our local data analysis and national literature review included in the five forthcoming installments, as well as an aggregate snapshot of the many evidence-informed policy recommendations to come. We hope that those who read this executive summary do so with an eye towards making practical design decisions for the improvement of their own local juvenile justice systems, and we hope to provide a forum for organized discussion in the upcoming months.

Further background on the larger report may be found in the *Background* section of this executive summary, beginning on page “i.”

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Many thanks to the generous professionals inside of the Philadelphia District Attorney’s Office as well as our external reading committee who took the time to review this report.



“

Social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labeling them as outsiders. From this point of view, deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an “offender.” The deviant is one to whom that label has successfully been applied; deviant behavior is behavior that people so label...It is an interesting fact that most scientific research and speculation on deviance concerns itself with the people who break the rules rather than with those who make and enforce them. If we are to achieve a full understanding of deviant behavior, we must get two possible foci of inquiry into balance. We must see deviance, and the outsiders who personify the abstract conception, as a consequence of a process of interaction between people, some of whom in the service of their own interests make and enforce rules which catch others who, in the service of their own interests, have committed acts which are labeled deviant.<sup>1</sup>

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— Howard S. Becker

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# PREFACE

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# BACKGROUND

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## ABOUT THIS PROJECT

Each year in the United States, roughly 700,000 youth enter what is commonly referred to as “the juvenile justice system.”<sup>2</sup>

And yet there is, of course, no single national system of justice. Instead, while American youth are offered some shared federal protections, and youth in each state may share an additional set of common laws, it would perhaps be most accurate to say that each year in the United States, roughly 700,000 youth are introduced to a series of local juvenile justice systems governed by *local* policies and *local* adults, each of which and whom may drastically alter the course of their lives.

There are some specific differentiators between the adult and juvenile justice systems that make this local reframing all the more relevant:

- 1) Juvenile courtrooms, unlike adult courtrooms, are often closed to the public
- 2) All individual-level juvenile court data, unlike individual-level adult court data, is fiercely protected from the public
- 3) Juvenile court disposition structures are often subjective by design, while adult court disposition structures are often guided by statute with flexibility in interpretation

While each of these points has some decided benefits for youth, together they also produce an unfortunate consequence seen across many municipalities: a lack of available information necessary for the general public to understand and measure the subjective and locally nuanced decisions of juvenile justice stakeholders, and for juvenile justice stakeholders and the general public alike to craft evidence-informed strategies to implement any necessary change.

The following report is part of a series of reports sponsored by the Philadelphia District Attorney’s Office (DAO) in an attempt to use its access to juvenile justice data to lend transparency to a traditionally opaque system, and to generate a public and evidence-informed discussion on juvenile justice reform. The reports themselves are borne from a larger effort by the office to implement data-informed and human-centered performance management and innovation techniques across its Juvenile Unit, and to share any valuable lessons learned.

All data included in these reports were compiled and analyzed through a custom database and dashboard built to integrate the many disparate data sources in Philadelphia’s juvenile justice system. In service of the broader goal of increased transparency and knowledge in local juvenile justice systems, all data collection and analytic tools used to produce these reports will be released as open source for those who are interested in undertaking similar efforts.

## ABOUT THIS REPORT

The report to follow examines the operations of the juvenile justice system in Philadelphia through the filter of its treatment of justice-involved girls. In doing so, its specific goals are twofold:

- 1) The report aims to offer a focused examination of the unique circumstances surrounding justice-involved girls in Philadelphia, and to present a targeted set of recommendations to improve their local experiences and outcomes.
- 2) By following a cohort of arrested youth<sup>i</sup> through multiple stages of the juvenile justice system in a major American city, this report strives to provide a comprehensive case study of metropolitan juvenile justice proceedings more broadly, with hopes of producing a generalizable continuum of findings that can be applied to national reform efforts beyond girls' justice. The selection of girls as our cohort of interest can be attributed in part to girls' underrepresentation in research studies and other policy-oriented reports, but more importantly, to the fact that most existing approaches to juvenile justice have been designed largely to serve boys. As such, we felt that an exercise to reimagine an entire justice system to better serve girls offered a unique opportunity to spot foundational design flaws in existing strategies often overlooked by those focused primarily on designing for the majority-boys population. This concept of inclusive design is discussed throughout the report.

We must note that we have taken a performance management and policy-centered approach to data collection and analysis. As such, we did not set out to prove any singular hypothesis, but to use local data to help better define local problems, and to then pair local practitioners' knowledge with a deep dive into national literature to explore potential solutions. In this fashion, we hope that the key takeaways from this report are at once both local and national in scope. In all chapters, we aim to include a level of local detail and nuance necessary for the practical implementation of our recommendations, but encourage stakeholders reading from other jurisdictions to consider how these changes may translate to their own systems and help to improve outcomes for youth, victims, and communities.

This report will also explore and advocate for a multidisciplinary approach to juvenile justice reform. We echo many scholars, activists, and practitioners who point out that the juvenile justice system is not impervious to external forces, and that its outcomes are intertwined with the performance and constraints of many other public systems. With this in mind, this report includes recommendations addressed to a variety of youth-serving systems and stakeholders, as many must participate in reform efforts to create meaningful societal change. Because of this, our intended audience for this report is broad. We hope that criminal legal system stakeholders such as probation officers and district attorneys read this report alongside external system actors, such as education professionals and legislators, as well as members of the general public and those with lived experience of system involvement.

In crafting such a wide-ranging set of recommendations, we do not intend to claim expertise in all fields discussed in this report, nor to fully understand the challenges experienced by professionals in each field. We only acknowledge that research and recommendations isolated to a single stakeholder are not likely to produce systems-level transformations. As a point of framing, we make all recommendations in this report with a strengths-based framework in mind, assuming the best intentions of the stakeholders highlighted and hoping that our findings and ideas may work in tandem with what practitioners are already doing in their work to best serve the youth and communities with whom they interact.

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<sup>i</sup> In this case, every girl arrested and charged by the District Attorney's Office with a felony or misdemeanor offense in calendar year 2019.

# KEY TAKEAWAYS

This executive summary offers a thousand-foot view of a larger report to follow, which explores girls' juvenile justice issues through both a local and national lens.

While we hope that readers will consume the executive summary and larger report in their entirety, below we offer some key themes under which many of our more specific findings may be categorized:

- » **BOYS COMPRISE A LARGE MAJORITY OF YOUTH IN THE JUVENILE JUSTICE SYSTEM, AND THIS GENDER SKEW HAS DIRECT STRUCTURAL CONSEQUENCES ON THE DESIGN OF A PRIMARILY MALE-FOCUSED ECOSYSTEM OF SERVICES AND RESEARCH:** In 2019, national data from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) shows that boys accounted for 69% of all youth arrests while girls accounted for 31%. This skew was even more pronounced in Philadelphia in 2019, where our data indicates that boys accounted for 81% of all youth arrests for which the District Attorney's Office (DAO) filed charges and girls accounted for 19%.<sup>ii</sup> While at first glance, this gender skew at point-of-arrest appears favorable towards girls, a resulting lack of attention paid to girls' needs and outcomes once they enter the juvenile justice system can have a negative impact on the availability of girls' resources as well as research on the efficacy of girls' programming. Studies examining juvenile justice program effectiveness, for example, often look at male-only study samples or do not disaggregate their outcome analysis by gender. As a result, justice-involved girls are often served by programs designed and evaluated for boys. Other times, girls may be pushed deeper into the juvenile justice system due to a lack of programming options made available to them—a likelihood exacerbated in systems where service providers are reimbursed on a fee-for-service (*or per youth*) basis. This is true both nationally and locally in Philadelphia, where girls are not offered the same menu of programming alternatives as boys to keep them out of secure detention and state placement facilities.
- » **GIRLS ARE ARRESTED FOR A NARROWER VARIETY OF OFFENSES, WITH ALLEGATIONS OF ASSAULT SERVING AS THE PRIMARY DRIVER OF GIRLS' ENTRY INTO THE JUVENILE JUSTICE SYSTEM:** Both locally and nationally, assaults seem to drive girls' arrest trends. Locally, in 2019, assaults accounted for a full 44% of girls' arrests that led to charges being filed by the District Attorney's Office. Boys' arrests were for a more varied set of behaviors, with the leading boys' offense category – robbery – accounting for only 21% of total boys' arrests. This local finding matches national arrest data in which girls' arrests appear to be fueled by a narrower set of behaviors, and national research literature suggesting that policy changes related to the policing of youth assaults, specifically, may have led to a closing gender gap in the nation's juvenile justice system in recent decades. Literature also suggests that many of the incidents for which girls are arrested may stem from girls lashing out at peers and known adults as a byproduct of their elevated interpersonal trauma histories and heightened reactivity; a finding supported by local data analysis suggesting that justice-involved girls in Philadelphia self-report trauma at greater rates than boys and are disproportionately arrested for fighting peers, school staff, or female adults in the home. While the Supreme Court of the United States has accepted developments in adolescent brain science as a basis that children are not as culpable for their actions as adults (*Roper v. Simmons, Graham v. Florida, and Miller v. Alabama*) and to limit the levels of punishment to which they may be exposed, the Pennsylvania criminal code gives no special considerations to adolescence in the *charging* of youth.

<sup>ii</sup> This data excludes youth charged with summary offenses and cases for which the DAO declined prosecution



- » **GIRLS ARE DISPROPORTIONATELY REFERRED TO THE JUVENILE JUSTICE SYSTEM FOR INCIDENTS THAT OCCURRED IN THE HOME OR SCHOOL:** Locally, data shows that about 1 in 3 girls' 2019 arrests in Philadelphia for which the District Attorney's Office filed charges were the result of a school-based or home-based incident. In that same year, about 1 in 5 boys' arrests were the result of a school-based or home-based incident. This matches literature from around the country indicating that girls are often disproportionately affected by school-based disciplinary practices as well as police policies related to domestic violence (including allegations of adolescent to parent violence [APV]). Our analysis of local school-based arrests was particularly telling, as girls' arrests referred to the juvenile justice system in 2019 were not only twice as likely as boys' arrests to stem from a school-based incident (22% v. 11%), but 98% of girls' school-based arrests were of Black and/or Hispanic girls. Additionally, over 80% of girls' school-based arrests were for assaults. These local trends match national literature demonstrating that Black and Brown girls are often pushed out of schools due to minor behavioral infractions and misperceptions by school staff, and that the insertion of police into schools often leads to an uptick in arrests for fighting (or, assault), a charge for which girls are particularly overrepresented. Examining the context surrounding allegations of physical conflict with teachers and school police officers in Pennsylvania is particularly important, as the state's criminal code mandates that any such offense is charged as a second-degree felony, regardless of context or injury.
- » **EXISTING RISK ASSESSMENT STRATEGIES OFTEN OVERASSESS GIRLS DESPITE THEIR DEMONSTRATED LOWER RISKS TO PUBLIC SAFETY:** Despite local data and literature from around the country consistently demonstrating that girls tend to pose a much lower risk to public safety than their male peers, juvenile justice risk assessment tools often classify youth of both genders as presenting similar levels of risk for future criminality. For example, in our local 2019 Philadelphia arrest cohort, girls who were arrested and charged by the District Attorney's Office scored only slightly lower, on average, on risk assessment scores claiming to predict their risk of rearrest despite being about half as likely as boys to have had a prior arrest upon system entry or to get rearrested within three years. This data finding matches concerns expressed by feminist criminologists about the tendency of existing assessment paradigms to overclassify girls' risk levels. Many posit that any overassessment of justice-involved girls may be due to existing tools conflating girls' high needs (i.e., factors indicating they could use additional supports) with high criminogenic risk (i.e. factors indicating they may commit future crimes). Such over-classification may result in the unnecessary use of intensive supervision services for low-risk girls, including the use of house arrest, electronic monitoring, or residential confinement for girls who present very little danger to public safety. In Philadelphia, for example, while only 24% of girls' arrests for which the District Attorney's Office filed charges in 2019 were of a girl with prior system contact, 54% of said arrests resulted in a girl being held in the city's secure detention facility before the discharge of her delinquent petition, including a full 70% of arrests that bypassed diversion and were referred to the formal juvenile justice system.

## **AN OVERWHELMING MAJORITY OF GIRLS ARRESTED IN PHILADELPHIA WERE BLACK AND/OR HISPANIC**

Approximately 95% of girls' arrests in Philadelphia in 2019 that led to charges being filed by the District Attorney's Office were of a Black (82%) and/or Hispanic (13%) girl. This represents a stark disparity from the racial composition of Philadelphia's greater youth population, which was approximately 70% Black and/or Hispanic (47% and 23%, respectively). Although this racial disparity is not unique to girls but persistent across all Philadelphia youth arrests, it must be stated overtly that the discussion of girls' justice in Philadelphia is, very specifically, a discussion about the experiences of largely Black and/or Hispanic girls. While this report focuses primarily on gender issues and not racial disparities, all forthcoming data and policy discussions should be interpreted through this intersectional lens.

For those interested in the practical application of our work, the end of this executive summary includes a series of practice-focused recommendations arranged by the design “problem” they intend to solve, and the stakeholder and stage of the juvenile justice system to which they most directly apply. Specific recommendations aside, the organizing principle of our work to craft and publicize these potential solutions is to display how a targeted redesign of the juvenile justice system for girls may offer a unique chance for leaders to substantially downsize said system at little risk to public safety. While these recommendations are focused on girls, through our inclusive design framework (discussed in the pages to follow), we also believe their application will have beneficial effects for all justice-involved youth.

Below, we offer single sentence summaries of the larger recommendations which will conclude this executive summary:

### **LEGISLATURES & FUNDING AGENCIES**

- » Increase budget for preventative community services.
- » Increase budget for caregiver support programs.
- » Adjust “protected class” statute mandating second-degree felony charges regardless of intent or injury.
- » Craft a youth-specific criminal code and accompanying youth mens rea standards.
- » Tie juvenile justice funding to outcome-based metrics that consider the intersectional identities of youth receiving juvenile justice services; provide funding for better data collection and reporting tools accordingly.
- » Undertake zero-based budgeting exercises in alignment with values and legal mandates.
- » Examine the relationship between existing funding mechanisms and the availability of girls’ programming; explore innovative funding alternatives.

### **POLICE**

- » Establish non-police-centered responses to reports of home-based disputes involving youth.
- » Distance police officers’ proximity to school-based behavioral incidents.
- » Continue expansion of eligibility standards for Philadelphia’s School Police Diversion Program

### **SCHOOL OFFICIALS AND ADMINISTRATORS**

- » Improve student-to-counselor ratios and ensure gender-specific hiring practices.
- » Provide comprehensive sex education.
- » Provide gender-specific school-based activities and extracurriculars.

### **PROSECUTORS**

- » Design youth-specific charging units and/or charging policies.
- » Craft adolescent-specific charging guidelines to differentiate between aggravated assault, simple assault, and summary fighting offenses for youth.
- » Adopt adolescent-specific interpretations of mens rea culpability standards for all prosecutorial functions and policies in juvenile court.
- » Where possible, utilize public safety metrics and evidence from continuous performance management efforts to make diversion decisions, not alleged “lead charges.”
- » Design youth-specific court-based prosecution practices.

## **JUVENILE COURTS & PROBATION DEPARTMENTS**

- » Implement gender-responsive risk assessment strategies.
- » Reduce the use of intensive supervision programs including in-home detention and electronic monitoring.
- » Assess probation violations through a trauma-informed lens considering youths' individual risk-needs, with a particular emphasis on understanding and responding to girls' unique risk-needs.
- » Decriminalize girls' romantic relationships, including court and probation responses to girls' sexual behaviors.

## **YOUTH SERVICE PROVIDERS**

- » Create strategies to better involve families in girls' justice programming.
- » Implement gender-specific curricula and practices.
- » Design gender appropriate residential environments.
- » Ensure aftercare support plans are in place for all youth before every juvenile justice service discharge.
- » Dedicate more attention and resources towards reentry/reintegration services for girls.

## **DATA, RESEARCH, AND PERFORMANCE MANAGEMENT PROFESSIONALS**

- » Examine girls' juvenile justice trends in the context of girls' specific experiences and risk-needs, not solely in comparison to boys' experiences and risk-needs.
- » Evaluate girls' programs with more holistic, non-recidivism metrics.

## **ADVOCATES AND THE GENERAL PUBLIC**

- » Engage city and state leaders in discussions surrounding the strategic reinvestment of public funds in preventative services.
- » Explore the viability of Title IX and Equal Protection class action lawsuits.

# DATA, RESEARCH, AND LIMITATIONS

The data in this report has been reviewed by both staff and affiliated experts at the Philadelphia District Attorney's Office (DAO) on the cohort of youth arrested and charged with either a felony or misdemeanor offense by the office in calendar year 2019. Data on summary offenses and cases for which the office declined prosecution are not included.

The unit of measurement for this report is a *youth arrest* (defined here as the arrest of a defendant who was under eighteen at the time of his or her alleged offense, and for whom the DAO filed felony or misdemeanor charges). Importantly, there might be multiple petitions (i.e., "cases") on a single arrest (e.g., if a youth is arrested one time for punching three people), and a single youth might have multiple arrests in our dataset (e.g., if a youth is arrested for punching someone on Monday, and then arrested again for stealing someone's car on Friday).

By this methodology, each arrest we discuss in this report can be thought of as the beginning of a youth's newest trajectory into the justice system; our data framework then tracks everything that happens to said youth along each of these individual trajectories. Importantly, while all youth in our dataset were under 18 at the time of the incident for which they were arrested, our report follows their full experience of Philadelphia's justice system from point-of-arrest through the official discharge of all related cases, be it through juvenile court, juvenile diversion, or the adult criminal justice system. This data is inclusive of all associated court dispositions through December 31st, 2021.<sup>iii</sup>

The data presented in this report is a product of a best effort to clean and integrate into one database data from many separate (and oftentimes competing) sources to present a single, sequential data story on the outcome of every youth arrest and justice system referral in Philadelphia. As such, our figures may vary slightly from those found in any other unique data system. In some instances, this variation may be due to missing data. In others, variance may be attributed to differing units of measurement, or inaccuracies found while cleaning data that resulted in appropriate corrections. Further, as figures in this report have been compiled utilizing data output from a live database and not a static dataset, it is also possible there may be slight variance in figures compiled at later dates.<sup>iv</sup>

We acknowledge this lack of data uniformity as a limitation of not just this report, but juvenile justice data reporting in Philadelphia more broadly. As such, we do not intend for this report to serve as a singular source of truth for any aggregate juvenile justice counting metrics (e.g., aggregate number of youth arrests or aggregate number of delinquent placements), but as a snapshot through which stakeholders can identify important trends regarding system performance and strategize for future improvement. We welcome competing interpretations from any who have similar data access.

We also acknowledge as a limitation the use of a single-year arrest cohort for analysis. 2019 arrests were selected for this report as they represent data from the first full calendar year in which the DAO had completed its integrated data collection tools, as well as the cohort of arrests with the most complete

<sup>iii</sup> While court disposition data is inclusive of all court hearings through December 31st, 2021, later in this report we will display rearrest data that is inclusive of all rearrests through December 31st, 2022.

<sup>iv</sup> A static version of the dataset utilized to complete this report has been archived on the DAO network as of March 21st, 2023.

court disposition data for analysis at the time of writing.

To supplement our local data analysis, this report includes findings from peer-reviewed literature from across the country, government reports, and other sources of youth arrest, charging, and disposition data. Through this expansive search of the available juvenile justice literature, we have found that the local trends uncovered in this report are largely aligned with those seen nationally. This has enhanced our confidence in the findings to follow.

This report also makes no claims of causality with any of its findings. We do not include inferential statistics nor attempt to demonstrate statistical significance or predictive power. Instead, the data presented throughout should be taken at face value (often presented in simple percentages or ratios) and for no more than its expressly stated purpose: to offer a snapshot of the experiences of girls arrested in a major American city as they progressed through a local justice system.

While the above points may highlight some data limitations, we affirm a few things to be true:

- 1) Although data from a single-year arrest cohort may be limited in scope, we believe it provides enough information to achieve an initial step forward in transparency and to begin discussions on the state of a local juvenile justice system.
- 2) We believe that the goal of reforming the juvenile justice system is too important to wait for more data to be cleaned, entered, and consolidated in order to begin discussions.
- 3) While our individual data points may vary slightly from those seen in other systems, we believe the data trends included in this report are substantial enough to inform policy discussions. We again welcome those with competing interpretations of similar data to present them for public consumption and discussion.
- 4) While we cannot, with data from a single cohort of youth, say that the experiences of the youth discussed in this report represent the experiences of all justice-involved youth encapsulated in all years of data, we believe that a lack of data from other cohorts does not negate the experiences of those youth discussed in this report. There are many lessons that can be learned from these standalone experiences.
- 5) Although Philadelphia's juvenile justice system, like all municipal justice systems, has certain local nuances, it is not wholly unique from the systems seen in other similar municipalities. We believe that if the data presented in this report sparks discussions on how Philadelphia's juvenile justice system could have produced better outcomes for the cohort of youth included in the pages to follow, these discussions will be applicable to youth in other cities and in future years.

# A NOTE ON LANGUAGE AND ITS IMPLICATIONS

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Here and throughout this report, we discuss “girls” and how they are viewed and processed in the juvenile justice system. We must note that this may frame gender justice concerns largely as a comparison of boys’ and girls’ experiences. This framing is a byproduct of critical information gaps in juvenile justice reporting standards, not an intentional choice by the writers.

Unfortunately, due to the nature of data collection at arrest, intake, and other stages of the justice system, we did not have information on youth who identify as trans and/or non-binary at the writing of this report. As such, it is possible that some juvenile justice stakeholders reported youths’ genders as their “sex assigned at birth,” while others reported youths’ true gender identities at the time of data collection. We note that no youth in our data are recorded as identifying as non-binary, suggesting that youth who identified as such were placed into a binary category likely based on sex assigned at birth or gender presentation.

Our binary use of gender throughout this report is in no way meant to suggest that gender identity is limited to these binaries; it is simply a reflection of how gender data was reported on official system records. We also note that we do not include a discussion of LGBTQIA+ identities in the justice system, as we also did not have this data available at the time of writing. It must be highlighted, however, that there is much literature suggesting that youth who identify as members of the LGBTQIA+ community are often overrepresented in the juvenile justice population, especially when this identity intersects with other marginalized identities.

These are major limitations in our data and resulting discussions and recommendations. We hope an acknowledgment of such limitations sheds light on the importance of adding gender and LGBTQIA+ inclusive options and language on official documents throughout the juvenile justice system, as without such additions, stakeholders and the broader public will never have a complete and transparent picture of disparities in youth justice.

## LOOKING FORWARD

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Throughout all sections of this report, we aim to make a series of actionable recommendations based upon the key findings from our data analysis, literature review, and conversations with local stakeholders and national experts. The broadest theme of these recommendations will be that adjustments made to the way in which the juvenile justice system responds to girls can afford leaders a unique opportunity to downsize their systems and improve outcomes for all youth (especially those who come from historically marginalized populations), all without compromising public safety. While we cite data and research throughout, the aim of this report is to foster pragmatic discussion. We hope that those who read it do so with an eye towards designing more equitable and effective strategies for the communities they intend to serve.

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# REPORT

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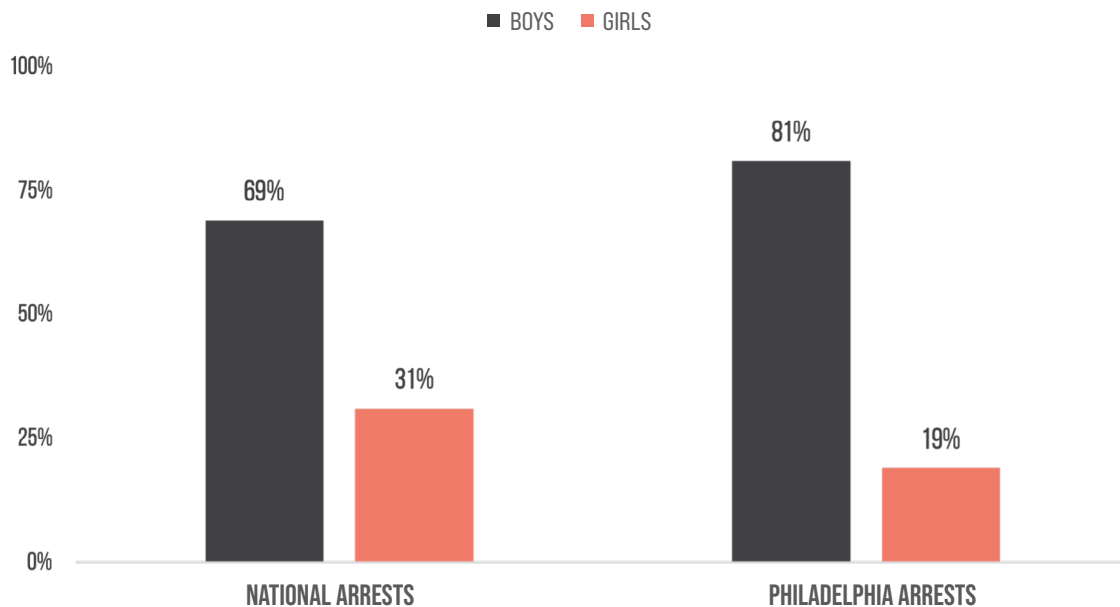
# AN INTRODUCTION TO THE PROBLEM

A scan of national literature and data reveals that across the country, fewer girls are arrested, detained, and involved in all subsequent stages of the juvenile justice system than their male peers.<sup>3</sup>

This trend holds true in Philadelphia, where in 2019, of the 2,242 arrests of youth accused of committing a crime while under the age of 18 for which the District Attorney's Office (DAO) filed charges, 81% were of boys and 19% were of girls.

*Figure 1 (below)* shows how these figures compare to national arrest trends for the same year, where the Office of Juvenile Justice and Delinquency Prevention (OJJDP) highlights a gender breakdown for all arrested youth of 69% male and 31% female.<sup>4</sup>

**FIGURE 1: GENDER BREAKDOWN OF YOUTH ARRESTS**  
NATIONAL V. PHILADELPHIA (2019)



While depictions of disparate arrest trends like the one above might offer a simplistic understanding of the nation's most pressing gender justice concerns, a closer look at the experiences of youth who enter the juvenile justice system tells a much more complicated story.

In the following report, we will demonstrate the various ways in which an extreme male gender skew in the American juvenile justice system can lead government agencies, researchers, and social service providers alike to overlook justice-involved girls and their unique needs, and how this oversight can have a devastating impact on both the availability of girls' resources, and the outcomes achieved by girls' juvenile justice services.



This is seen not only in our local data, but also in the literature. With regards to both program existence and efficacy, one meta-analysis on juvenile justice program effectiveness, for example, examined 548 study samples from 361 research reports on juvenile justice programs, and found that 87% of said study samples were comprised of a gender mix of only or mostly boys compared to 4% of samples comprised of a gender mix of only girls,<sup>i</sup> this despite girls making up almost one-third of youth in the nation's juvenile justice system.<sup>5</sup> Locally, a cursory scan of juvenile justice programming options in Philadelphia as of January 2023 reveals a similar skew, with a number of services offered exclusively to boys, including a variety of alternative-to-confinement programs, which are vital resources in any municipality's efforts to shield youth from the deepest ends of the juvenile justice system. Specifically, the Post-Adjudicatory Evening Reporting Center (an alternative-to-placement for youth struggling to comply with probation), Community-Based Detention Shelter (an alternative-to-secure-confinement for youth held in detention), and the Aftercare Evening Reporting Center (a community-based support for youth returning home from placement) are not offered to girls in Philadelphia at the time of our writing.<sup>ii</sup>

This apparent lack of equity seen in municipalities across the country has not been lost on gender justice advocates, many of whom fear that once exposed to the juvenile justice system, a shortage of appropriate services for girls means that they are often treated the same as boys despite their distinctly different risk-need profiles. Worse, some fear that poor familiarity with girls' risk-needs borne (at least in part) from a shortage of gender-responsive resources means that girls can be even *more* scrutinized by the system actors who ultimately determine their fate.

This fear is supported by research indicating that despite some of its touted reforms in recent decades, the juvenile justice system seems to have grown increasingly punitive towards girls. One report examining national-level data on incarceration, for instance, found that between 1991 and 2003, the population of girls committed to placement rose by 88% while the population of boys committed to placement rose by only 23%.<sup>6</sup> Locally, a Philadelphia Youth Residential Placement Task Force report released in 2022 stated that while the use of residential placement for Philadelphia youth in the dependent and delinquent systems was down approximately 53% from FY18 to FY21, girls now occupied a nine percentage point greater share (from 36% in FY18 to 45% in FY21) of total youth in residential facilities (*while it was stated that boys "vastly outnumber" girls in delinquent facilities, this report did not specify how girls' increased proportionality was divided between dependent and delinquent placements*).<sup>7</sup>

## **A RISING TIDE OF GIRLS' INCARCERATION OFFENDERS IN JUVENILE FACILITIES**

"For both males and females, the detained population increased more from 1991 to 2003 than the committed population. Among males, the increase was 23% for committed delinquents and 29% for detained delinquents. For females, the increase was 88% for committed delinquents and 98% for detained delinquents."<sup>8</sup>

*– Juvenile Offenders and Victims: 2006 National Report*

Some have suggested that a more punitive juvenile justice system for girls has been driven by a closing "gender gap" in the nation's youth arrest trends, and more specifically, a gender gap whose narrowing is reflective of behavioral patterns in which American girls appear to have become more violent around the turn of the 21st century. Indeed, statistics indicate that between 1985 and 2007, girls' delinquency cases across the country rose by 101% (223,100 to 448,900) while boys' delinquency cases rose by 30% (933,600 to 1,217,100), with girls' proportional share of juvenile person offenses increasing from 20% to 30%.<sup>9</sup> Concurrently, gender justice scholars write that the 1990s ushered in an era of the "violent girl,"

<sup>i</sup> The author of this study did not provide information on the other 9% of study samples; it may be possible that these samples had a close to equal gender split, had missing data, or were comprised of mostly girls.

<sup>ii</sup> The writers of this report are also unaware of any residential delinquent placement facilities for Philadelphia girls aside from state placement facilities, whose utilization is traditionally reserved for only the most serious offenders.

where stories about delinquent, violent, and gang-affiliated girls ran in the *Washington Post*, *Newsweek*, *The New York Times*, and even on *ABC Primetime Live*, shifting the public portrayal of girls, particularly girls of color, from the lesser criminogenic sex to youth who were “bad” and presented similar risks to public safety as their male counterparts.<sup>10</sup>

## 1990s: THE VIOLENT GIRL ERA

### A SHIFTING PORTRAYAL OF GIRLS' CRIMINALITY

In the 1990s, a narrative began to take shape in the American popular media that girls were becoming increasingly aggressive.<sup>11</sup> This depiction was not uniform, however. While media portrayals depicted white girls as mean, sneaky, and conniving, Black and Latina girls were portrayed as violent and masculine, including newsprint articles evoking imagery of them carrying guns, flashing gang signs, and engaging in extreme forms of violence.<sup>12</sup>



On TV, *ABC Primetime Live* aired two segments of “Girls in the Hood,” which followed Latina girls in gangs and depicted these girls and young women as perpetrators of extreme gang violence that was once only associated with boys and men.<sup>13</sup>

Nationally, these stories had the effect of sensationalizing girls’ crime, causing public fear and calls for greater justice-system responses.<sup>14</sup>

*See endnote 15 for photo credits*<sup>15</sup>

A closer look at data, however, once again reveals a more complex picture. In particular, national statistics show that while girls may have been *arrested* with increasing frequency during this timeframe, *crime* (inclusive of those crimes that never led to an arrest) was rising twice as fast amongst boys.<sup>16</sup> Further, while scholars largely seem to agree that *assault* arrests, in particular, can be credited for the greatest narrowing of the gender gap in the American juvenile justice system,<sup>17</sup> girls’ ratio of simple-to-aggravated assault arrests between 1980 and 2005 increased from triple (2.9) to more than five-fold (5.6), while the boys’ ratio grew from double (1.9) to more than triple (3.5).<sup>18</sup> This indicates that any uptick in girls’ criminality—and *violent* criminality in particular—may have been driven less by a surge in girls’ committing serious violent acts as represented by popular media, and more by public policy changes that fueled the arrest and charging of more *girls*, specifically, for allegations of misdemeanor fighting, or “simple assault.” We will examine these changes in great depth in later pages, and offer numerous demonstrations of how police and prosecutorial policies that appeared gender-neutral in their drafting phase have, in practice, had disparate impacts on the system-entry rates of boys and girls in recent decades.

More specifically, we will show how policies meant to curb the dangerous behaviors of boys and men may have inadvertently led to an uptick in the number of low-risk girls exposed to the juvenile justice system.

## A RISE IN GIRLS' VIOLENCE AN ALTERNATE EXPLANATION

“We find that the rise in girls’ violence over the past one to two decades as counted in police arrest data from the Uniform Crime Reports is not borne out in unofficial longitudinal sources. Several net-widening policy shifts have apparently escalated girls’ arrest-proneness: first, stretching definitions of violence to include more minor incidents that girls in relative terms are more likely to commit; second, increased policing of violence between intimates and in private settings (for example, home, school) where girls’ violence is more widespread; and, third, less tolerant family and societal attitudes toward juvenile females.”<sup>19</sup>

- *An Assessment of Recent Trends in Girls’ Violence Using Diverse Longitudinal Sources*

Research into policies related to the policing of American schools, for example, shows that while funding for school police increased exponentially in the 1990s and 2000s following instances of school shootings<sup>20</sup> – a crime for which girls are almost *never* accused<sup>21</sup> – the *presence* of police officers in schools has been shown to drastically increase the number of school-based arrests of youth for simple assault without a weapon<sup>22</sup> – a crime for which girls are *often* accused. This establishes a relationship whereby girls’ daily exposure to police to protect them from a largely male behavior may lead to their own over-criminalization for more minor infractions, such as fighting in school.

A similar trend can be seen when examining changes made to national domestic violence policy, where a series of civil lawsuits alleging inadequate intervention by police officers responding to domestic violence calls made against men<sup>23</sup> prompted the US Attorney General’s Office in 1984 to declare that arrest, not mediation, was now the preferred method of response to incidents of home-based violence.<sup>24</sup> While this change has certainly benefitted many women, some subsequent research into domestic violence calls has shown that allegations of *adolescent to parent violence (APV)* has become one of the most likely scenarios to result in a domestic violence arrest, with allegations made against girls more likely to result in arrest than those against boys.<sup>25</sup>

Taken together, this (and other) evidence calls into question whether the increases seen in girls’ arrest and incarceration trends in recent decades are the natural downstream effects of an escalation in girls’ behavior indicating a greater need for justice-system intervention, or if instead, these increases are reflective of broader socio-systemic factors at the nexus of gender and public policy,<sup>iii</sup> factors that may drive girls’ justice trends while remaining disconnected from typical justice system concerns like protecting public safety or preventing chronic offending. This report will further explore this question, with a focus on examining a series of policies and practices that we believe perpetuate the mis-identification, mis-assessment, and mis-labeling of otherwise low-risk girls as “delinquent,” and the likelihood that in the current American juvenile justice paradigm, girls may be substantially over-arrested and over-supervised, even while representing an extreme minority share of the population at nearly every stage of the system.

To this end, one summative review of the literature on girls’ juvenile justice program evaluations and studies suggests that girls may receive harsher penalties once inside courtrooms despite being accused of relatively less severe crimes.<sup>26</sup> Another study examined juvenile justice professionals’ perceptions of

<sup>iii</sup> Of note, youth arrest rates in America peaked in the late 1990s and have continued to decline dramatically ever since. Yet while both boys’ and girls’ arrest rates dropped considerably in the decade from 2010 – 2019, girls’ rates have failed to decline as drastically. One explanation suggests that while fewer youth of either gender are arrested in total, policy changes like those above have helped to shift the nation’s definition of “delinquent” behavior in ways that continue to disparately impact girls’ referrals to the juvenile justice system.

the girls they encounter and showed that in some municipalities, probation officers and court officials report views that justice-involved girls are whiny and manipulative, including perceptions that they lie about abuse, are sexually promiscuous, and play the system.<sup>27</sup> As previously discussed, other researchers posit that justice-involved girls experience elevated rates of punishment due simply to the lack of appropriate treatment and supervision alternatives made available to them,<sup>28</sup> which leads to their deeper system penetration.<sup>29</sup>

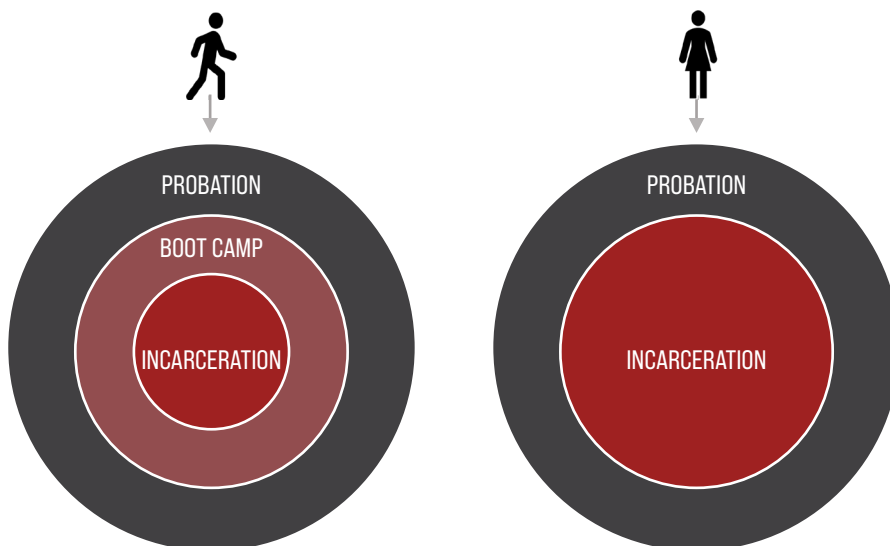
This last issue mirrors concerns at the center of numerous class action lawsuits filed on behalf of women alleging gender discrimination in the *adult* criminal justice system, often through claims that the disparity in programming opportunities afforded to male and female prisoners violates either the Equal Protection Clause of the United States Constitution, individual states' Equal Rights Amendments, or the Title IX Clause of the 1972 Education Amendments.<sup>30</sup> While the success of these individual lawsuits has been mixed due often to the challenge of establishing that males and females are "similarly situated" (a point of legalese we will detail in the larger report to follow), some legal scholars argue that the broader claim of gender discrimination is better tailored for the *juvenile* justice system, where the presumption of the Federal Juvenile Justice and Delinquency Prevention Act (JJDPA) is that all youth are *identically situated* in their need for equal individualized treatment.<sup>31</sup> In other instances, the success of litigation may hinge less on complex legal arguments and more on the availability of detailed outcome data, as clear precedent exists for a valid class action claim if it can be demonstrated that a lack of equal programming alternatives for males and females in a justice system has a statistical impact on their differing average lengths of incarceration (*see diagram and explanation of West v. Virginia Department of Corrections below*).

### WEST V. VIRGINIA DEPARTMENT OF CORRECTIONS A SUCCESSFUL CLASS ACTION SUIT

In *West v. Virginia Department of Corrections*, a class action ruling was issued in favor of women prisoners after it was shown that the existence of a boot camp for men and not women led to women suffering an increased average prison sentence by as much as 18 years.<sup>32</sup> *Figure 2* diagrams this structural inequity, as well as the legal precedent that may apply to girls in municipalities with similar resource disparities.

## FIGURE 2: WEST V. VIRGINIA DEPARTMENT OF CORRECTIONS

DIAGRAMMING A SUCCESSFUL ARGUMENT FOR STRUCTURAL GENDER DISCRIMINATION IN RESOURCES



The road to achieving a more just resource allocation reality for girls does not require time-consuming and costly litigation, however. In addition to our discussion of court-based reform strategies, we dedicate a full section of this report to a more fiscally-oriented policy discussion, highlighting how a lack of girls' programming across the country can often be attributed to the inadvertent financial incentives ingrained in state and local funding systems, not the gender biases of any frontline decision-makers. In particular, we discuss the perverse financial incentives promoted by *fee-for-service* payment models of juvenile justice service provision (where service providers are compensated at an agreed upon rate for every youth served by their programs), as well as *per diem* fee-for-service models (where said compensation is rendered per day of service).

Here, a simple acknowledgement of the ways in which these common billing mechanisms, if not adjusted for gender, will *economically disincentivize* the creation of programming for girls (the smaller and therefore less lucrative population) can help jurisdictions imagine a more practical set of solutions— an alternate framing of the conversation on resource inequity that places the keys to course correction not in a courtroom or gender-focused practitioners' training session, but the crafting of more strategic public budgeting and contracting approaches.

We discuss numerous fiscal alternatives in this report, outlining both a series of specific adjustments that government funders can make to current payment structures for girls' juvenile justice programming in Philadelphia, as well as potential innovations to juvenile justice budgeting strategies more broadly. Examples of modified payment structures include transitioning all girls' service contracts from fee-for-service to cost reimbursement billing models, or creating elevated, gender-specific per diem rates where fee-for-service contracts remain necessary. Examples of innovations to broader budgeting strategy include engaging in zero-based budgeting exercises to ensure that juvenile justice budgets reflect constitutional imperatives for equity (*see callout box*) and exploring the de-categorization and pooling of Medicaid and child welfare funding for justice-involved youth served in community-based settings.<sup>33</sup>

## WHAT IS ZERO-BASED BUDGETING?

Zero-based budgeting (ZBB) is an exercise where an organization's proposed budgets are reset to zero and money is then allocated in accordance to the organization's priorities, not its previous years' spending.<sup>34</sup> For example, while the conclusion drawn from a traditional budgeting exercise might be that there are not enough girls in a justice system to justify the appropriation of new money to create an alternative-to-placement program to serve them, a zero-based budgeting exercise might start with a value statement that girls *must* have an alternative-to-placement program if one exists for boys. Organizational leaders must then figure out the best way to pay for said necessary program.

In all instances, we discuss the necessity of ensuring that the business incentives of juvenile justice service providers align with public funding, contracting, and oversight mechanisms to guarantee that critical services are offered to *all* justice-involved youth regardless of their gender or population share.

And yet the failure of the American juvenile justice system for girls extends well beyond the simple lack of resources made available to them. There is also cause for concern regarding the *quality* of those resources that girls *are* provided, a factor similarly influenced by the hyper-focus of system leaders on the needs of the larger population of justice-involved boys. Here, we join scholars, stakeholders, and advocates alike who contend that an assessment of the current state of American juvenile justice reveals a system that, at a foundational level, has been designed to prevent

*male recidivism*, largely through control-oriented treatment models claiming cognitive restructuring interventions as best-practice.<sup>35</sup>

This presents a value proposition<sup>iv</sup> crisis for girls' justice. For while the design of the current juvenile justice system might make sense for boys, research indicates a few key ways in which a one-size-fits-all approach to treatment, supervision, and rehabilitation is likely suboptimal for girls. At the core of this argument, we discuss numerous studies throughout this report indicating that while boys and girls who enter the juvenile justice system may possess many of the same risk factors for, and protective factors from, future delinquency, they can also have risk-need profiles that are heavily influenced by their gender. Specifically, girls' pathways into the juvenile justice system are frequently characterized by elevated histories of childhood maltreatment,<sup>36</sup> sexual abuse,<sup>37</sup> family dysfunction,<sup>38</sup> mental health needs,<sup>39</sup> and other complex relational issues.<sup>40</sup> Further, even for those youth with similar backgrounds, girls' and boys' risk-needs may also manifest themselves through different behaviors, with some research indicating that boys may be more likely to present to the justice system with stereotypical antisocial behaviors such as violence and aggression, while girls may present with impulsive behaviors associated with relational isolation and alienation.<sup>41</sup> For some researchers, girls' trauma histories, in particular, are so intertwined with girls' juvenile justice involvement that they have coined the phrase "trauma-to-prison pipeline" to describe how said trauma may trigger select behaviors for which girls are often arrested.<sup>42</sup>

Given these factors, we will argue that while both boys and girls may benefit from traditional approaches to reducing delinquency (including, but not limited to, cognitive behavioral interventions), girls could likely benefit more from therapeutic relational-cultural treatment that is trauma-informed and gender-specific (*see callout box*).<sup>43</sup> This is evidenced again not only by girls' risk-need profiles being rife with trauma that is highly relational in nature [i.e., trauma occurring within a close relationship], but also by many of the offenses for which girls are labeled as delinquent being relational as well, such as lashing out at family members or peers, often in self-defense or retaliation.<sup>44</sup> Specific interventions aside, a broader logical argument remains that one should expect suboptimal results from any program or service not designed to meet the specific needs of its users, a key tenet in numerous design and performance management frameworks, including human-centered design thinking, a problem solving approach from which we will borrow often throughout this report.

This does not mean, of course, that gender-specific program design is a panacea. In fact, we acknowledge the critique of some who contend that investment in gender-specific programming may be an inefficient use of limited public resources given its elevated cost and mixed success in producing greater reductions in recidivism than traditional juvenile justice approaches.<sup>47</sup> We will ultimately argue, however, that recidivism is itself a flawed key performance indicator for gender-specific programming given girls' already substantially lowered risk for rearrest,<sup>48</sup> and that policymakers should instead focus their inquiries on the ability of gender-specific programs to produce better psychosocial-emotional outcomes for girl participants, a result that has been demonstrated across multiple program evaluations.<sup>49</sup>

There are other important caveats. We also caution that while recommendations for gender-specific programs

## WHAT IS RELATIONAL TREATMENT?

The relational model of treatment refers to a feminist and multiculturally grounded treatment framework based on the belief that as relationships are vital in shaping one's experience and well-being, recognizing and navigating complex relational issues in healthy ways are essential skills towards achieving positive life outcomes.<sup>45</sup> Further, the relational model takes a culturally humble and empathetic approach that focuses on fostering healthy relationships, building an empowered self-image, and healing from trauma through connection.<sup>46</sup>

<sup>iv</sup> A value proposition is a statement of the value (or benefits) that a product or service intends to deliver to its consumers or users. See: Osterwalder, A., Pigneur, Y., Smith, A., & Etienneble, F. (2020). *The invincible company: how to constantly reinvent your organization with inspiration from the world's best business models* (Vol. 4). John Wiley & Sons.

will be a common theme throughout this and other stakeholders' gender-focused policy report(s), increasing the availability of such programming may have unintended negative consequences for girls if it leads to an increased use of juvenile justice interventions for non-criminal behavior. Indeed, any advocacy efforts aiming to expand the availability of gender-specific programming must avoid justifying the creation of said programming by citing girls' rising arrest rates as proof positive of girls' intensifying criminality and need for intervention,<sup>50</sup> while also remaining vigilant to ensure that program referrals are made in accordance with girls' needs for in-system services, not incentives to blindly fill new girls' program seats once they are created. Without such guardrails, advocacy for girls' services may result in "net-widening,"<sup>51</sup> where low-risk youth are unnecessarily arrested, processed, and referred to higher levels of supervision and programming in the juvenile justice system than appropriate. This practice may be particularly harmful for girls due to their lower average level of risk to public safety, coupled with research indicating that a lighter system touch is often more effective than intensive intervention for low-risk youth.<sup>52</sup> To this end, some studies have even found that a "do nothing" approach of simply dropping low-risk youths' delinquent cases with no intervention whatsoever may in fact prove more effective at preventing future arrests than assigning said youth to probation or intensive supervision services.<sup>53</sup>

## BEYOND BEST INTENTIONS

### CHALLENGING MORE PROGRAMMING ALONE AS THE SIMPLE SOLUTION

"Stemming from this developmental perspective, recommendations for gender-specific services focus primarily on individualized programs to the exclusion of attention to larger systemic problems, such as the continued institutionalization of status offenders, the overrepresentation of girls of color, and the general overprocessing of youths who could be better served in less punitive and less controlling settings. Although many have cited social and environmental factors as causes of girls' delinquency, they have not included addressing these factors as part of the solution."<sup>54</sup>

– *Gender-Specific Services in the Juvenile Justice System: A Critical Examination*

To be clear, however, although our local analysis and findings by researchers across the country may suggest that girls are often unnecessarily and improperly served by the juvenile justice system, this interpretation may run counter to the highest-level takeaways inferred from aggregate juvenile justice data snapshots, where girls, in comparison to boys, so often appear to receive preferential treatment. In cities like Philadelphia, for example, our own 2019 data indicates that girls who were arrested and charged by the DAO were more likely to be diverted than boys, less likely to be held in detention, and less likely to be committed to residential placement.

We echo the urgency of gender justice advocates who stress the need for deeper analysis.

Philosophically, we agree with those who highlight that juvenile justice reform is not a zero-sum competition for resources between genders, and that the need for improved approaches to serving girls must be given its own calculus, not weighed solely in comparison to the need for boys' reforms.<sup>55</sup>

More practically, throughout this report we urge practitioners and scholars to take a closer look at their data on girls' justice. To demonstrate the importance of such further inquiry, we dedicate a full section of the report to discussing the potential confounding effects of a statistical phenomenon known as Simpson's Paradox,<sup>56</sup> where conclusions that may seem obvious in examinations of aggregate datasets may change or even reverse themselves once taking a closer look at specific subpopulations (*see callout box on the next page*).

For justice-involved girls, we contend that this paradox can carry particularly dangerous downstream

effects if undetected by research and performance management frameworks, as the substantial male overrepresentation in nearly all undesirable aggregate data points offers an easy conclusion for those who look no further: girls, by traditional disparity metrics, appear to receive a *more* than fair shake from the juvenile justice system. It is boys then who must remain the primary focus.

And in this fashion, as researchers, funders, policymakers, and practitioners alike continue to hone on improving outcomes for boys, the larger population, the canon of “what we know” and “what works” in the field of juvenile justice consistently ignores the needs of girls.

## SIMPSON’S PARADOX IN ACTION

In 1973, data from the admissions department of the University of California, Berkeley, appeared to show a clear gender bias in admissions, with women having a statistically significant lower chance of being admitted than men.<sup>57</sup> Concerned, the administration engaged statisticians to reexamine the data.<sup>58</sup>

In perhaps the most famous example of Simpson’s Paradox, a closer look at data revealed that admissions odds actually *avored* women applicants; women simply had lower admissions rates because they applied to the most competitive University departments.<sup>59</sup>

In juvenile justice, as in all other fields, conclusions drawn from aggregate data may change, or even reverse themselves, upon closer examination. Just as in this example, these changes may carry very different policy implications.

Against this backdrop, this report attempts to model the many different ways in which data may be disaggregated to tell a clearer and more human-centered story about girls’ experiences of the juvenile justice system. While we include boys’ statistics for context, the aim of this report is not to assess girls’ outcomes in comparison to boys’ outcomes, but to ask if the levels at which girls are served and supervised by the juvenile justice system make sense in light of the types of crimes for which girls themselves are often arrested and girls’ typical risk-need profiles at point of system entry.

Upon pairing our original analysis with a comprehensive dive into both national research as well as local fiscal, legal, and bureaucratic policies, we conclude that while girls are, by aggregate population share, underrepresented in the juvenile justice system and often given a lighter touch than boys once inside, they may still be substantially *over-treated* by said system

given their relatively modest levels of danger to public safety and risk for chronic delinquency.

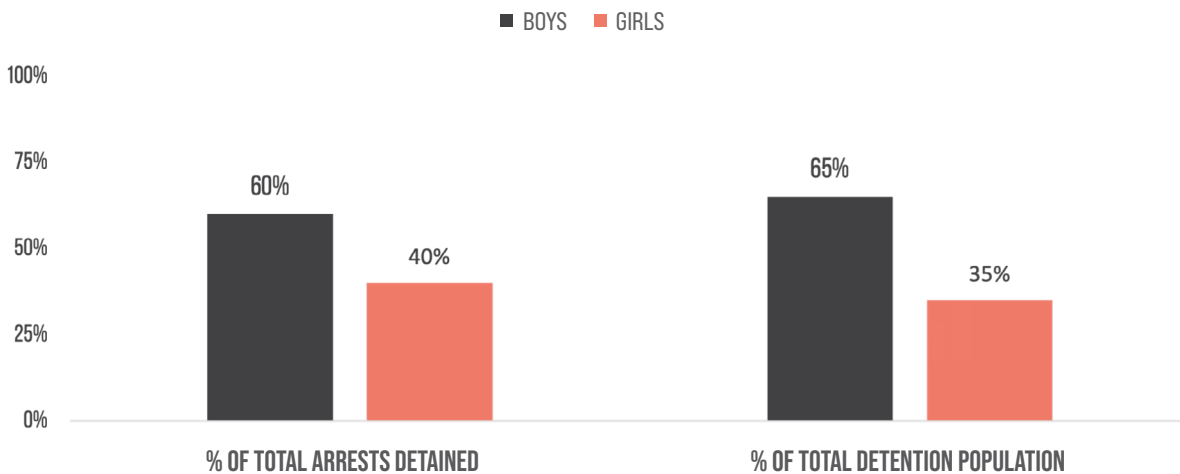
We offer a hypothetical to help simplify the argument.

Let’s imagine that after reading this report, you, the reader, are called by stakeholders from a juvenile justice system to help advise them on reform efforts to reduce the population at the local detention center. After asking to see a series of graphs about the rates at which various subsets of youth are held in detention, you are handed *Figure 3 (next page)* which shows that of all youth arrested, 60% of boys are held in secure detention compared to only 40% of girls. Further, boys occupy a large majority of the *total* detention population, comprising 65% of the daily detention census compared to only 35% of the daily population that is girls.

This figure confirms the experience of those who work at the detention center and are accustomed to serving a largely male population. As such, the conversation at the committee meeting moves quickly towards a brainstorm of solutions to target the two most obvious high-impact strategies for decreasing the overall youth detention population: reducing the number of boys detained or the total lengths of time that boys spend in detention.



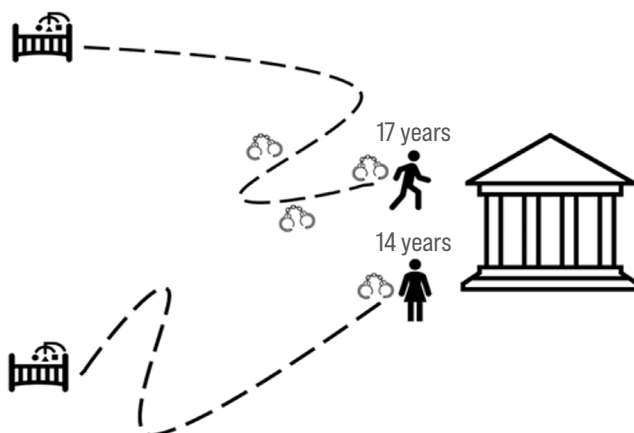
**FIGURE 3: HYPOTHETICAL SECURE DETENTION SNAPSHOT BY GENDER**



Before the rest of the team can settle on a solution, however, you remember that aggregate data snapshots alone may at times present a misleading picture. Citing the discussion of Simpson's Paradox above, you ask the committee to postpone any decision-making until the next meeting, and task the data professionals in the room to go one step further in their analysis and map the average life course of those boys and girls who *are* ultimately held in detention.

A week later you receive *Figure 4 (below)* which paints the picture of an entirely different problem in need of solving.

**FIGURE 4: HYPOTHETICAL PATHWAYS TO ARRIVE AT THE LOCAL DETENTION CENTER**



With this closer examination, you can now see that while there may be fewer girls than boys detained *overall*, those girls who *are* detained are substantially younger and have far fewer arrests before being held in secure detention.

This sparks a separate policy conversation for your working group. While it is true that reducing the number of boys detained may still have the highest impact on reducing the *overall* detention population,

reducing the number of girls detained may have the highest impact on reducing the *unjust* (or *unnecessary*) use of secure detention.

There is of course no right answer as to which of these issues you may choose to attack first. This report simply hopes to encourage stakeholders to ask the questions necessary to paint this more nuanced problem definition and enable a better calibrated effort to generate solutions.

We must also note that this report does not discuss many important concerns about boys' treatment in the juvenile justice system, which will be the focus of future reports. While we acknowledge that boys' overrepresentation suggests that improving the juvenile justice system for boys may have the highest impact on outcomes at large, just as in the example of the hypothetical detention center above, we hope that the research and data in the following pages will demonstrate why the needs of girls are equally important, and how the fact patterns most commonly leading to girls' arrests, charges, and referrals to the juvenile justice system might actually present system leaders with a uniquely scalable and low-risk opportunity for reform.

As indicated by our discussion of inclusive design principles throughout, those reforms intended to improve the experiences of girls will likely better the system for all youth.

We include a high-level overview of our basic data findings in the section to follow.

# LESSONS FROM A DIFFERENT FIELD: INCLUSIVE DESIGN

The challenge of structuring a product, service, physical space, or system to meet the needs of all potential users is not one unique to the juvenile justice system. In any professional field, this challenge may be best met by incorporating a strategy known as **inclusive design**, whereby designers aim to satisfy the use constraints of a maximum diversity of users, including those who are traditionally excluded from consideration.<sup>60</sup> Despite common misperceptions, this is not strictly a charitable endeavor, but one with a strong business case. It is often through designing with oft-excluded user populations in mind that products, services, physical spaces, or systems may ultimately become more usable for all.<sup>61</sup>

## *A quick example:*

Today's public transportation systems employ audio technology to inform users of what stop is coming next. While this design modification may have been first conceptualized to help riders with visual impairments to navigate public transportation, it now yields clear benefits to all riders who receive audio alerts to ensure they don't miss their stops. In this fashion, a system designed to include the needs of those with visual impairments has made public transportation more broadly usable for all riders.

Of course, even with both visual and audio prompts, some riders may still miss their stops.

Many will chalk this up to "human error." There are, after all, numerous prompts given to differently-abled riders through a variety of mediums.

On the dangers of blaming human error for any unwanted occurrence, Don Norman - one of the early originators of the human-centered design framework - writes in his book, *The Design of Everyday Things*:

"When a bridge collapses, we analyze the incident to find the causes of the collapse and reformulate the design rules to ensure that form of accident will never happen again. When we discover that electronic equipment is malfunctioning because it is responding to unavoidable electrical noise, we redesign the circuits to be more tolerant of the noise. But when an accident is thought to be caused by people, we blame them and then continue to do things just as we have always done."<sup>62</sup>

Here, we see the notion that despite a natural inclination to blame the users of any product or process for their errors, ultimately, it is the responsibility of the *designer* of said product or process to render a design that reduces the chance for human error.<sup>63</sup> In the case of our seemingly hapless subway riders, while any individual rider may still miss his or her stop, if *many* riders continue to err despite the various existing prompts, one may again need to explore the underlying system design. Perhaps the signs announcing next stops flash too quickly or are tilted at a bad angle, or perhaps the accompanying audio announcements aren't played loudly enough.

Applied to juvenile justice, we believe that the poor outcomes seen so commonly in systems around the country<sup>64</sup> are just as likely attributable to flaws in said systems' fundamental construction as they are indicative of a myriad of unique failures of individual youth to grasp well-designed efforts to assist them.

In the spirit of inclusive design, as the juvenile justice system has historically been designed for boys, we focus this report on reimagining a system that is more responsive to the needs of girls, an oft-overlooked and vulnerable youth justice population. In doing so, we hope to arrive at a series of recommendations that can achieve better results for all youth served.

# A BRIEF DATA SNAPSHOT OF THE ISSUES

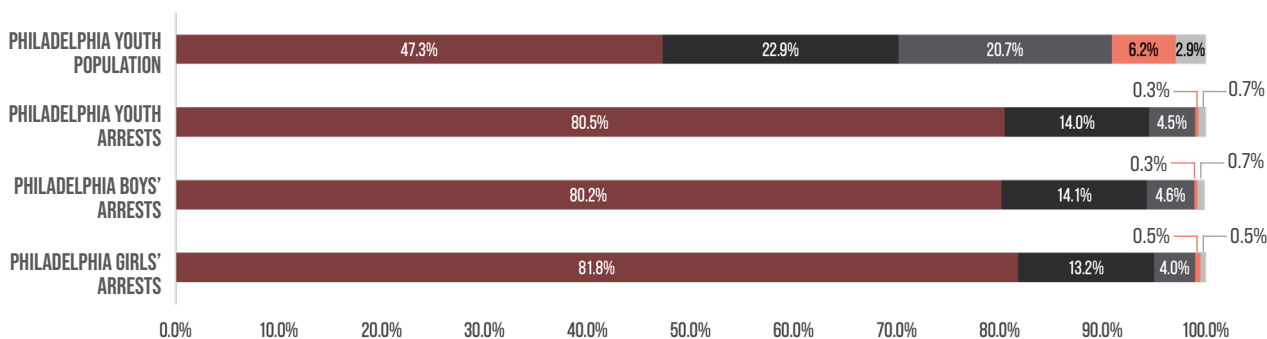
While we cite both local and national literature from a number of researchers throughout this report, we use our data on the progression of all youth arrested and charged in Philadelphia in 2019 through the local juvenile justice system as a case study on how these many theoretical factors might play-out on the ground in a single large American city. We offer the basis for our general thesis in a few analytic bullet points below.

» **AN OVERWHELMING MAJORITY OF GIRLS ARRESTED IN PHILADELPHIA WERE BLACK AND/OR HISPANIC.**

Approximately 95% of girls’ arrests in Philadelphia in 2019 that led to charges being filed by the District Attorney’s Office were of a Black [82%] and/or Hispanic [13%] girl. This represents a stark disparity from the racial composition of Philadelphia’s greater youth population, which was approximately 70% Black and/or Hispanic [47% and 23%, respectively].<sup>v 65</sup>

While *Figure 5 (below)* shows that this racial disparity in Philadelphia’s 2019 youth arrest trends was not a unique feature of girls’ arrests but endemic to *all* youth arrests, it should inform the interpretation of any forthcoming discussion of “girls’ justice” in Philadelphia regardless, as this term will refer near entirely to the experiences of Black and/or Hispanic girls. All local data to follow should be interpreted through this intersectional lens.<sup>vi</sup>

**FIGURE 5: YOUTH RACE AND ETHNICITY**  
ALL PHILADELPHIA YOUTH V PHILADELPHIA YOUTH ARRESTS\*  
\*Percentages rounded to one decimal to equal 100%



<sup>v</sup> “Philadelphia Youth Population” demographic information is adapted from 2018 figures included in *Growing Up Philly* (see endnote 65), whose authors indicate that “Black” does not include Hispanic youth. Youth who were coded as both Black and Hispanic in our dataset are identified as “Black” in our analysis above (accounting for approximately 2% of all records).

<sup>vi</sup> While Hispanic youth may appear underrepresented in the arrest figures above, this appearance is likely due to the extreme overrepresentation of Black youth. In other words, Black youth are so overrepresented in Philadelphia’s juvenile justice system that Hispanic arrest trends can easily lose their relative context. To better understand, take note that while *Figure 5 (above)* shows Hispanic youth as comprising a much smaller share of Philadelphia’s youth arrest population than its general youth population, Hispanic youths’ outsized share of arrests relative to white youth (who are similarly sized in the general population) indicates they are likely overrepresented in arrest trends compared to their white peers. To account for this phenomenon, stakeholders may produce a metric called the Relative Rate Index (RRI) (more information on the RRI can be found at: [https://www.ojjdp.gov/ojstatbb/special\\_topics/qa11603.asp?qaDate=2020](https://www.ojjdp.gov/ojstatbb/special_topics/qa11603.asp?qaDate=2020)).

» **A LARGE MAJORITY OF GIRLS ARRESTED AND CHARGED IN PHILADELPHIA HAD NO PRIOR ARRESTS.**

Approximately 76% of girls' arrests in Philadelphia in 2019 that led to charges being filed by the District Attorney's Office were of a girl with no prior delinquent history. Compared to boys, girls who were arrested and charged were about half as likely to have had prior juvenile justice system contact, and less than half as likely to be active in the system at time of arrest.

This matches previously published research on both the national<sup>66</sup> and state<sup>67</sup> level indicating that boys are significantly more likely than girls to be rearrested.

**TABLE 1: PRIOR JUVENILE JUSTICE INVOLVEMENT OF 2019 PHILADELPHIA ARRESTS**

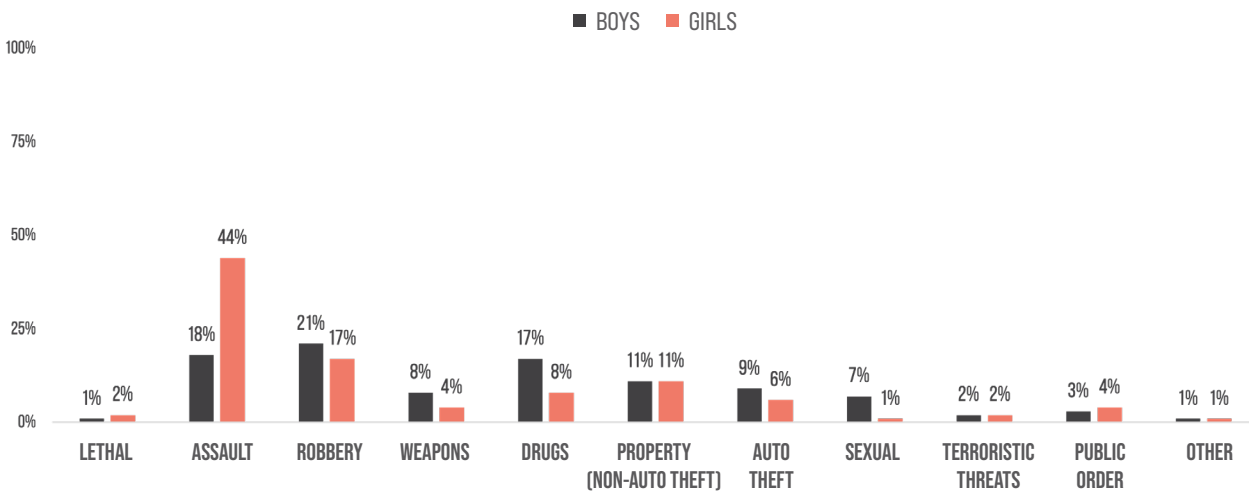
PRIOR SYSTEM INVOLVEMENT	BOYS	GIRLS
Had Prior System Involvement	48%	24%
<i>average # of prior arrests (of youth with at least one prior)</i>	<i>2.1</i>	<i>1.6</i>
Was Active in Juvenile Justice System When Arrested	28%	12%

» **A SIGNIFICANT PORTION OF GIRLS ARRESTED AND CHARGED IN PHILADELPHIA WERE ACCUSED OF A SINGLE BEHAVIOR: ASSAULT.**

Assaults accounted for a full 44% of girls’ arrests that led to charges being filed by the District Attorney’s Office in 2019. This is more than double the share of total arrests occupied by any other offense category for either gender, with boys’ leading offense category - robbery - accounting for 21% of all boys’ arrests.<sup>vii</sup>

This reflects national research indicating that girls arrest statistics appear to be driven by a narrower selection of offenses. OJJDP statistics from 2019, for example, indicate that while across the United States, simple assault, larceny theft, and drug offenses were the top three offenses for both boys and girls, these three offenses accounted for 48% of all girls’ arrests and only 38% of all boys’ arrests.<sup>68</sup> This mirrors statistics published from the previous year (2018), where these same three top offenses accounted for 49% of all girls’ arrests compared to 39% of all boys’ arrests.<sup>69</sup>

**FIGURE 6: YOUTH ARRESTS BY LEAD OFFENSE TYPE**  
ALL PHILADELPHIA ARRESTS CHARGED BY DAO IN 2019



<sup>vii</sup> Notably, *Figure 6 (above)* displays offenses by category (i.e. “assault”) and not specific charges (i.e., aggravated or simple assault). More consideration is given to specific gradations of assault in the larger report, including discussions as to how prosecutorial determinations are made between the charging of simple and aggravated assault, and how the labels attached to these determinations may carry different public perceptions of identical behaviors (i.e., fighting).

» **A CONSIDERABLE PORTION OF GIRLS ARRESTED AND CHARGED IN PHILADELPHIA WERE ARRESTED FOR INCIDENTS THAT OCCURRED IN THE HOME OR SCHOOL.**

Approximately 22% of girls' arrests in Philadelphia in 2019 that led to charges being filed by the District Attorney's Office were the result of a school-based incident, compared to approximately 11% of boys' arrests.

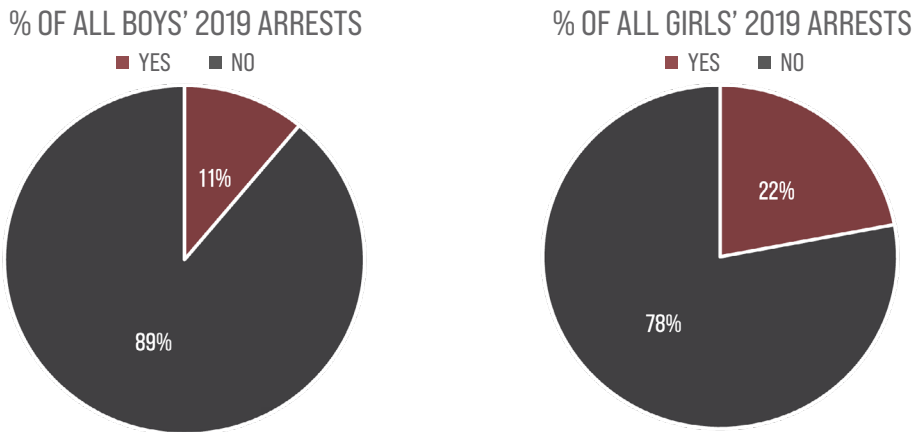
In a similar fashion, approximately 12% of girls' arrests in Philadelphia in 2019 that led to charges being filed by the District Attorney's Office were the result of a home-based incident, compared to approximately 8% of boys' arrests.

Taken together, about 1 in 3 girls' arrests in Philadelphia in 2019 that led to charges being filed by the District Attorney's Office were the result of either a school-based or home-based incident, compared to fewer than 1 in 5 arrests for boys.

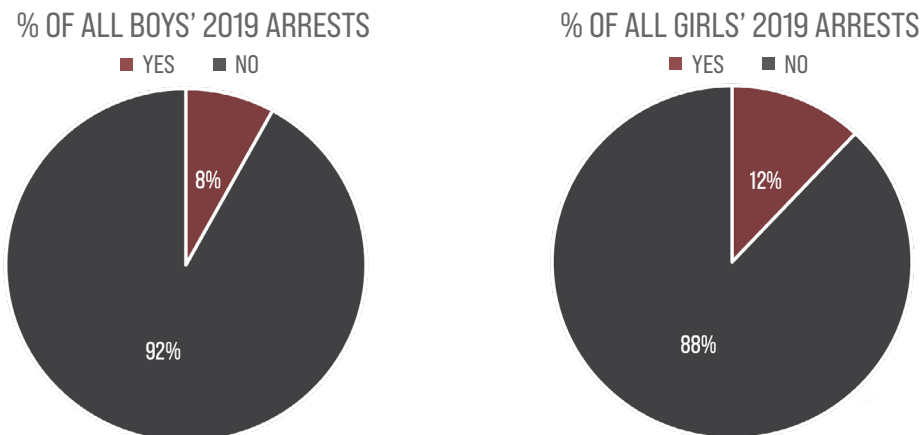
For girls, the most common lead charge in both school-based and home-based arrests was assault.

These figures align with aforementioned research suggesting that the behaviors for which girls commonly enter the juvenile justice system are often influenced by high rates of relational trauma resulting in their lashing out at family members or peers,<sup>70</sup> and that girls' arrest patterns may be disparately impacted by public policy approaches towards the policing of youth in their homes and schools.<sup>71</sup>

**FIGURE 7: PERCENTAGE OF TOTAL YOUTH ARRESTS FOR A SCHOOL-BASED INCIDENT**



**FIGURE 8: PERCENTAGE OF TOTAL YOUTH ARRESTS FOR A HOME-BASED INCIDENT**

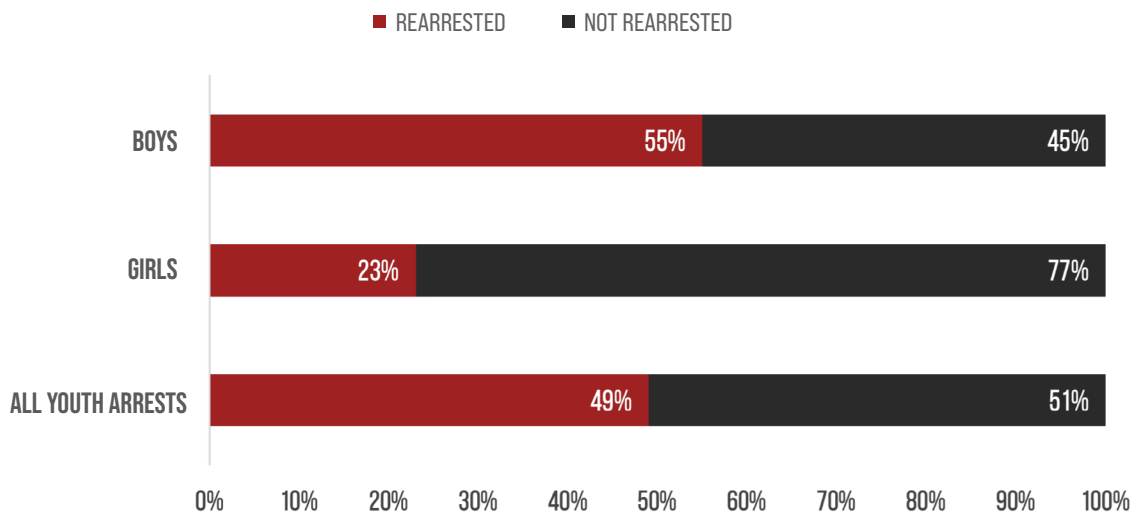


» **A LARGE MAJORITY OF GIRLS ARRESTED AND CHARGED IN PHILADELPHIA IN 2019 HAVE NOT BEEN REARRESTED.**

As of 12/31/22, in a three-year follow-up analysis of youth rearrest rates, approximately 77% of girls' arrests in Philadelphia in 2019 that led to charges being filed by the District Attorney's Office had not resulted in a youth accruing a subsequent arrest for a new offense.

This is closely tied to the first data and research takeaway highlighted in this section [Table 1] outlining the relative modesty of girls' *prior system involvement* at point of arrest.

**FIGURE 9: WERE YOUTH REARRESTED FOR A NEW INCIDENT?**  
THREE-YEAR REARREST RATES FOR 2019 YOUTH ARRESTS





» **WHILE YOUTH GUN VIOLENCE REMAINS A PRIMARY LOCAL CONCERN, JUSTICE-INVOLVED GIRLS DO NOT APPEAR TO PRESENT A LARGE RISK TO PERPETRATE OR BE VICTIMIZED BY GUN VIOLENCE.**

Approximately 94% of youth arrested and charged with a gun-involved incident in Philadelphia in 2019 were male.

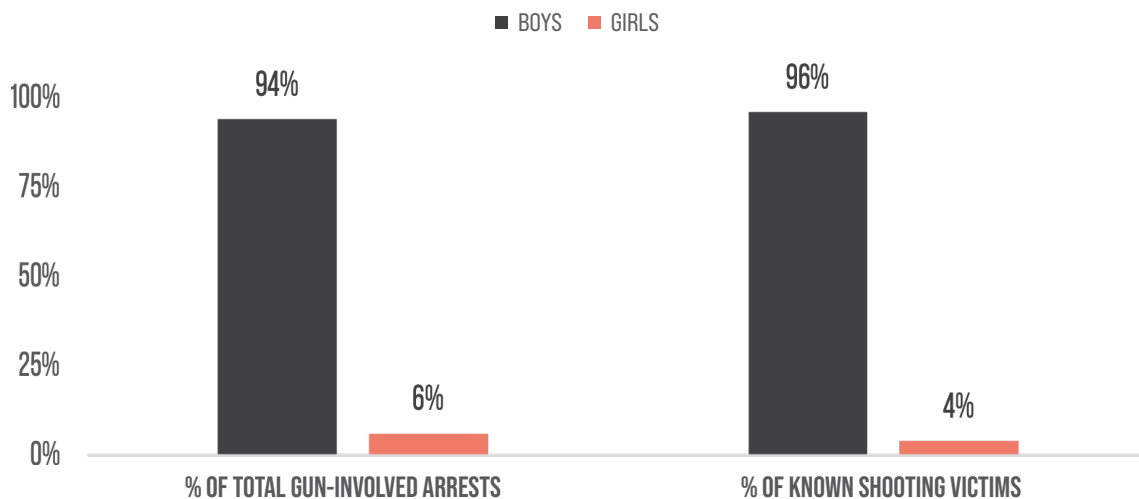
Further, through the tracking of our 2019 cohort of arrested youth as they proceeded through Philadelphia’s juvenile justice system, we encountered records of approximately 4% of youth reporting a history of being shot or having a new shooting victimization documented in justice-system records after their 2019 arrest. Of these youth, 96% were boys and 4% were girls.

Both of these trends parallel research indicating that gun violence (both perpetration and victimization) is largely a male phenomenon.

As it relates to perpetration, while OJJDP data does not disaggregate weapons arrests by type of weapon involved, across the country in 2019, there were 14,440 boys’ weapons arrests compared to 1,650 girls’ weapons arrests.<sup>72</sup> Further, national research shows that 92% of juvenile homicide offenders are boys while only 8% are girls, and that boy homicide offenders are 70% more likely to use guns than girl homicide offenders.<sup>73</sup>

As it relates to victimization, the trends surfaced in our juvenile justice data appear representative of broader local trends, where Philadelphia police data from 2019 indicates that approximately 91% of shooting victims in the city were male.<sup>74</sup>

**FIGURE 10: PREVALENCE OF GUN-INVOLVED VARIABLES**  
2019 ARRESTS DISAGGREGATED BY GENDER



» **DESPITE THEIR LOWER DEMONSTRATED RISK TO RECIDIVATE OR FAIL TO APPEAR IN COURT (FTA), GIRLS ARE ASSIGNED SIMILAR SCORES AS BOYS BY RISK ASSESSMENT TOOLS CLAIMING TO PREDICT EITHER OR BOTH OF THESE TWO EVENTS.**

Table 2 (below) compares the average scores accrued by boys and girls in our dataset on the two risk assessment tools administered by Philadelphia’s Juvenile Probation Department: The Pennsylvania Detention Risk Assessment Instrument (or, “PaDRAI”), and the Youth Level of Service/Case Management Inventory 2.0 (or, “YLS/CMI 2.0”). Of note, both of these tools claim to predict a youth’s likelihood to recidivate,<sup>75</sup> while one (the PaDRAI) also claims to predict a youth’s likelihood to fail to appear (FTA) in court.<sup>76</sup>

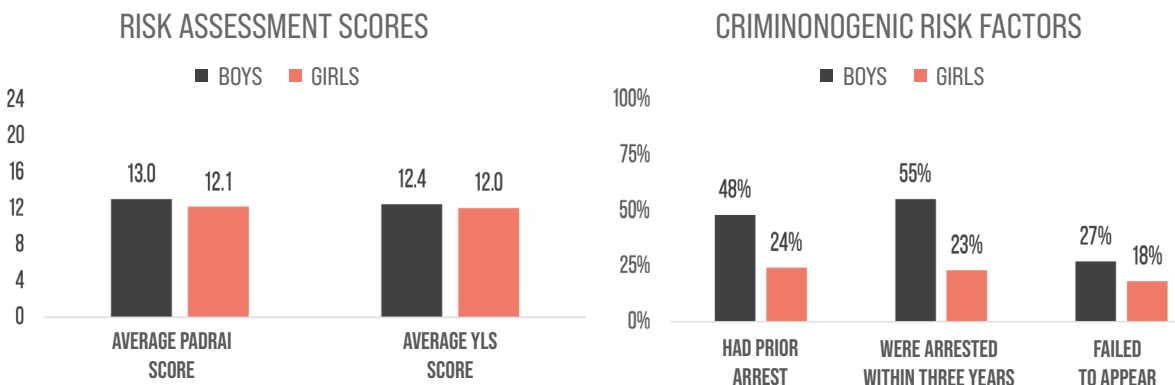
**TABLE 2: COMPARISON OF BOYS’ AND GIRLS’ ASSESSED RISK VERSUS DEMONSTRATED BEHAVIORS**

SNAPSHOT OF BOYS’ AND GIRLS’ RATES AND SCORES		
VARIABLE	BOYS	GIRLS
% Had Prior Arrest	48%	24%
% Were Rearrested Within Three Years	55%	23%
% Failed to Appear to Court	27%	18%
Average PaDRAI Score	13.0	12.1
Average YLS/CMI 2.0 Score	12.4	12.0

A quick glance at this table reveals that while boys, on average, scored higher than girls on both risk assessments, there was not substantial separation between genders on the average scores accrued by either tool.

Figure 11 (below) adds some critical context to these figures. Here we can see that boys’ and girls’ similar risk assessment scores on tools claiming to predict their risk for rearrest or FTA do not seem to reflect the actual real-world risk posed by youth for either outcome. For example, while girls arrested and charged by the DAO in 2019 scored only slightly lower than boys on the PaDRAI (12.1 v. 13.0) and the YLS/CMI 2.0 (12.0 v. 12.4), they were only about half as likely as boys to have had a prior arrest at the time of their system entry (24% v. 48%), less than half as likely to be rearrested and charged within the three years following their arrest (23% v. 55%), and about a third less likely to fail to appear (18% v. 27%).

**FIGURE 11: BOYS’ AND GIRLS’ RISK ASSESSMENT SCORES VERSUS ACTUAL RISK**



If the risk assessment tools in use in Philadelphia were offering an accurate assessment of risk, one might expect the average risk scores of boys and girls to reflect a difference in size similar to the difference in the *actual demonstrated behaviors* (i.e. rearrest and failure to appear rates) said tools claim to predict. This existing lack of separation between the average assessment scores of boys and girls locally matches broader concerns expressed by numerous researchers about the validity of current risk assessment strategies for girls. To this end, one meta-analysis of the YLS states: “Feminist criminologists’ primary critique of the risk principle [upon which the YLS is built] stems from evidence of over-classification [i.e., lower risk women routinely assessed as higher risk, resulting in unnecessary increased social control].”<sup>77</sup>

## A COMMON MISNOMER

### HOW DO WE ADVERTISE “GENDER-INFORMED?”

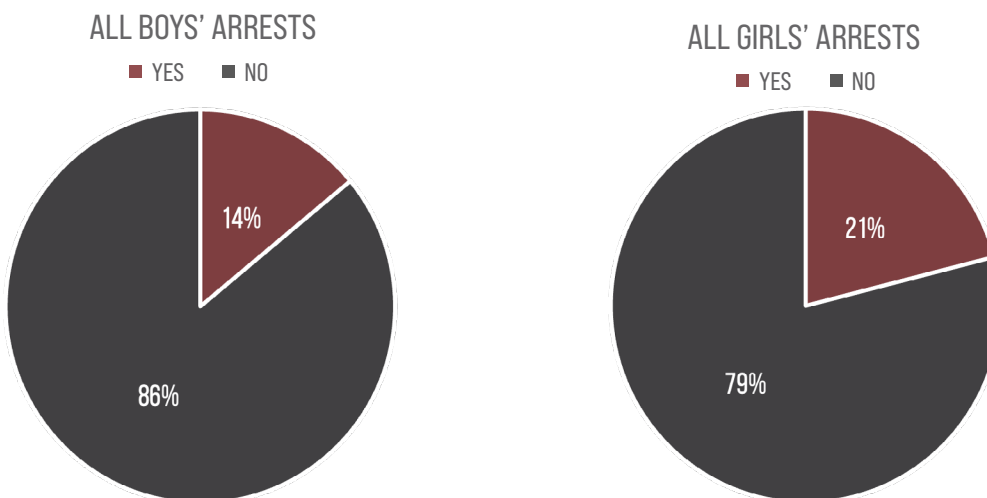
“...given that our review found the [YLS] does not perform the same across gender or race and was not developed specifically for girls, the use of ‘gender-informed’ in the marketing strategy is, we feel, deceiving at worst—questionable at best. Anecdotal evidence suggests that marketed use of the term “gender-informed” may be misleading correctional agencies into thinking they adequately measure girls’ risks, needs, and strengths when they are actually causing harm. The utilization and marketing of risk/needs assessments that do not work as well for girls is an unethical practice that can no longer be ignored.”<sup>78</sup>

*- Starting With Girls and Their Resilience in Mind:  
Reconsidering Risk/Needs Assessments for System-Involved Girls*

» **DESPITE THEIR LOWER DEMONSTRATED RISK TO BE REARRESTED, COMMIT AN ACT OF FATAL (OR GUN-RELATED) VIOLENCE, OR FAIL-TO-APPEAR IN COURT, GIRLS WHO ENTER THE JUVENILE JUSTICE SYSTEM ARE LIKELY TO BE SUPERVISED AT SIMILAR RATES OF INTENSITY AS BOYS.**

It is true that girls who were arrested in 2019 may have received greater access to juvenile justice system “offramps” than their male peers given their lesser delinquent profiles at the time of arrest. For example, *Figure 12 (below)* shows that at the very front-end of the juvenile justice system, 21% of girls’ 2019 arrests were diverted by the District Attorney’s Office compared to only 14% of boys’ 2019 arrests.<sup>viii</sup>

**FIGURE 12: WAS YOUTH DIVERTED?**



While this indicates that a greater percentage of girls may avoid formal juvenile justice system court proceedings, it tells us little of how the formal juvenile court system treats those girls it does encounter. To better answer this question, *Figure 13 (next page)* examines only those 2019 arrests that *bypassed* diversion and proceeded to conventional court hearings.

Here, we can see that upon entering the formal juvenile justice system, girls—despite presenting an overall modest risk to public safety—still received a significant amount of court-ordered supervision.

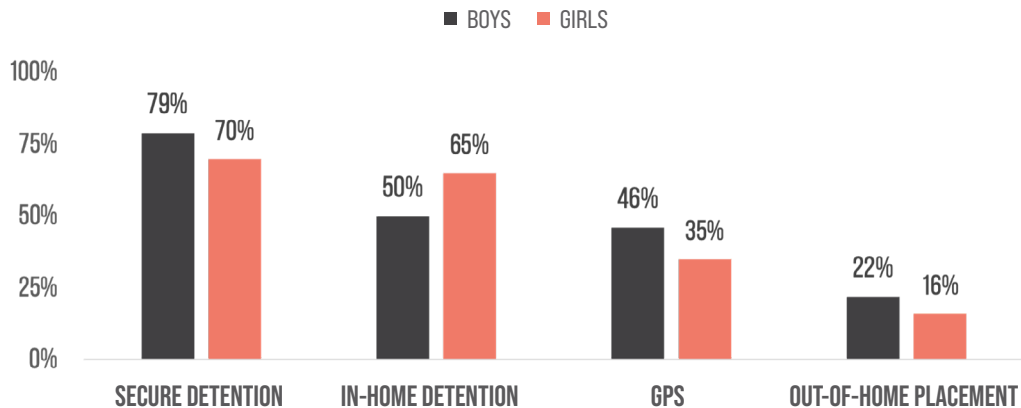
More specifically, while our data analysis (not visualized here) indicates that approximately 71% of non-diverted girls’ arrests in 2019 were of girls with no prior juvenile justice contact, and approximately 94% were for incidents that did not involve a firearm, *Figure 13 (next page)* shows that approximately 70% of these arrests resulted in a girl being held in secure detention at some point prior to discharge from the system, 65% resulted in a girl being placed on in-home detention, 35% resulted in a girl being placed on GPS (i.e. electronic) ankle monitoring, and 16% resulted in a girl getting committed to some form of out-of-home placement (including congregate dependency placements).

We will discuss numerous studies and data throughout this report challenging the validity of

<sup>viii</sup> Juvenile diversion is a mechanism whereby a youth’s case may be removed from formal court proceedings and referred for an alternate course of accountability. Diversion in this context refers to DAO pre-petition diversion, where a prosecutor and youth may agree upon a contract of conditions that can be completed in order for a youth to avoid court and have their case dismissed upon completion. Diverted cases are also eligible for expungement within six months.

employing such a supervision-intensive approach for girls. This will include some research calling into question the logic of utilizing home-restriction programs for girls given national trends in which girls are often referred to the juvenile justice system for minor offenses (such as running away from home and curfew violations), as well as for domestic and family conflict (often parent-child altercations).<sup>79</sup> We will also discuss how girls in residential programs at the deeper ends of the system are at risk of sexual assault, inadequate health care and education services, and social isolation.<sup>80</sup>

**FIGURE 13: PERCENTAGE OF NON-DIVERTED ARRESTS MANDATED TO COURT-ORDERED SUPERVISION**



As stated previously, while almost all of the supervision rates in *Figure 13 (above)* appear favorable for girls in comparison to the rates of supervision assigned to boys, they may also be said to represent unnecessary levels of court-ordered restriction if examined solely within the context of the *actual* risk the average girl presents to broader public safety following an arrest.

This concept of over-supervision, like others discussed throughout this report, will apply more broadly to all youth upon a more detailed examination to follow.

It is also of note that while the out-of-home placement rates in *Figure 13* include data on both dependent and delinquent placement commits, girls in our dataset who were committed to residential placement facilities were far more likely than boys to be committed to *dependent* placement. In total, 53% of girls' arrests that resulted in a residential placement commit saw a girl committed to dependent placement, compared to only 16% of boys' arrests that resulted in a placement commit.<sup>ix 81 82</sup> This is in line with research cited throughout this report regarding home-based stressors as a common factor in girls' delinquent system penetration.

<sup>ix</sup> The Office of Juvenile Justice and Delinquency Prevention defines delinquency cases as those related to "acts or conduct in violation of criminal law," whereas dependency cases are those related to "neglect or inadequate care on the part of parents or guardians (see endnote 81). As such, dependency placement is utilized when a child is removed from the home and held in a residential placement facility following a determination that said child cannot remain in the parent or guardian's care due to neglect and/or abuse. Delinquency placement, on the other hand, is utilized when a youth is remanded to a residential juvenile justice facility after having been found to have committed a delinquent offense and to be in need of supervision, treatment, and/or rehabilitation that cannot be provided effectively in the community (see endnote 82).

# THE STRUCTURE OF THE LARGER REPORT TO FOLLOW

## THE FIVE STAGES OF GIRLS' JUVENILE JUSTICE INVOLVEMENT

Taken together, national research and our local data point to the juvenile justice system's overassessment of girls' risk, over-assignment of supervision for girls, and misallocation of public resources. While each justice-involved girl certainly has her own unique pathway into the system, the following report will detail a series of structural flaws in the underlying design of the juvenile justice system for girls that can be generalized into five unique, sequential stages. Each section of the larger report to follow this executive summary will be dedicated to one of these stages, offering a focused snapshot of research, data, and practitioners' knowledge centered on girls' experiences at specific points in their juvenile justice progression. We offer a brief summary of each of the five stages below:

### 1) THE DISPLAY OF A "DELINQUENT" BEHAVIOR

Girls' high rates of trauma and psychosocial needs can lead to reactive behaviors in the community that are often considered delinquent offenses, such as lashing out at peers, teachers, or parents. While these behaviors may result in an arrest and referral to the juvenile justice system, they are often not indicative of risk for long-term criminality.

### 2) SYSTEM ENTRY AND ASSESSMENT

After girls are arrested and referred to the juvenile justice system, system intake and screening procedures often mistakenly assess their high-need profiles and trauma histories for high criminogenic risk. Conversations around girls' need for system involvement may then be detached from traditional justice-system concerns like recidivism and public safety.

### 3) RESOURCE ALLOCATION AND PROGRAM REFERRAL

The mislabeling of high-need girls as high-risk leads to the use of intensive court-ordered supervision programs for girls at rates not otherwise required by the nature of their offenses and relatively low risk for future offending. A lack of suitable programming alternatives for girls also means that girls' only available options for treatment may be located in deeper parts of the juvenile justice system not intended to serve low-risk youth.

### 4) PROVISION OF JUVENILE JUSTICE SERVICES

Once referred to court-ordered services, girls are largely sent to programs with intervention approaches that have been designed for boys. These programs may lack the gender-responsive supports necessary to adequately address girls' unique concerns and needs.

## 5) SYSTEM EXIT AND THE NEXT GENERATION

If their needs are not appropriately assessed and treated, girls may experience suboptimal long-term psychosocial emotional outcomes from treatment, or may even experience new trauma imposed by the juvenile justice system itself. This trauma, as well as the effects of any untreated needs, may contribute to intergenerational involvement with the justice system.

### OUR PHILOSOPHICAL FRAMEWORK: A PROBLEM-SOLVING APPROACH

Our primary aim in writing this report is not solely to add to the body of literature surrounding girls' juvenile justice issues. Instead, we hope in the following pages to outline a practical framework for identifying flaws in the existing approaches to girls' justice, and to offer a number of specific, *actionable* recommendations for making things better. In this sense, we hope that this report may serve as a broader call for innovation in the juvenile justice system.

Fortunately, a scan of the innovation literature reveals that people far smarter than us have offered some valuable insight over the years as to how one might approach tackling such a seemingly massive change initiative.

Legend has it that Albert Einstein himself, when asked how he might save the entire world if given only one hour, responded: "Spend 55 minutes defining the problem, and five minutes solving it."<sup>83</sup> More recently, in her book *Lean Impact*, social impact professional Ann Mei Cheng exhorts any of her readers aiming to be social entrepreneurs to "fall in love with the problem, not just your solution."<sup>84</sup>

These are but a couple examples of innovators echoing the notion that one cannot expect a change initiative to succeed without properly defining the problem it intends to solve. A strategy aiming to reduce girls' rearrest rates by placing all girls on home-restriction, for example, would be unlikely to succeed if its' designers failed to recognize local trends in which primary drivers of said rearrest rates were girls fighting with their guardians and/or running away from home while on home-restriction.

Of course, even with reams of data and research, crafting an *actionable* problem definition remains difficult. "Girls Fight with Their Parents and Are Rearrested" written on the blackboard at a probation brainstorming meeting, for example, does not necessarily engender creative thinking.

In their book *Sprint*, authors Jake Knapp, John Zeratsky, and Braden Kowitz—former design partners at Google Ventures—describe a structured innovation framework through which they and their team have helped over 150 organizations to prototype and test solutions to big problems in just five days.<sup>85</sup> As an early part of their "sprint" process, Knapp and colleagues detail a method called *How Might We*, where team members are challenged to reframe the business problems they have identified as questions beginning with the phrase "How might we...", and whose answers can be tested as possible solutions.<sup>86</sup>

"Girls Fight with Their Parents and Are Rearrested," for example, may be rephrased as: "How might we prevent fights between girls and their parents to reduce girls' rearrest rates?"

*Now* the team may start focusing on imagining some testable strategies.

This same technique is seen in other problem-solving methodologies such as human-centered design thinking, where the use of *How Might We* statements is championed by leading design institutions such as IDEO<sup>87</sup> and the Stanford d.School, which defines the *How Might We* technique as "a way to frame your ideation, and often used for launching brainstorming."<sup>88</sup>

In this spirit of structured innovation, this report will follow a format that we hope will help encourage a solutions-focused reader experience. Each chapter will begin with a brief data and research snapshot of the "problem" encountered by girls at each of the five stages of the juvenile justice system discussed

above, followed by a series of *How Might We* statements to help reframe these problems as questions to prompt ideas for future action. Following these statements, all other data and research referenced will be written from a practical framework and in support of a series of specific recommended “solutions” we have drafted to the problems identified.

On the following page we include a snapshot of all the *How Might We* statements included in the larger report, organized by the stage to which they apply. It is these statements that served as design prompts to produce the policy recommendations to follow. We do not claim that this list is definitive or exhaustive; merely that it encompasses a set of questions inspired by our examination of girls’ justice trends whose answers we believe offer a practical pathway to meaningful juvenile justice reform.

As readers encounter these questions throughout this report, we challenge them to reflect on how they may help to contextualize any of the research and data we have presented, brainstorm solutions (or pick from any that we propose in our *Recommendations* section to follow) and discuss said solutions with colleagues.

We believe that those who are able to answer any of these questions effectively in practice will have a dramatic impact on the experience of youth served by their local juvenile justice systems, as well as their broader communities as a whole.

Immediately following these *How Might We* statements, we present a summary of our own proposed solutions from the larger report to follow. As with all aspects of this report, these *How Might We* statements and ensuing recommendations represent an effort to reimagine a better justice system for girls, which we believe will in turn yield improvements for all youth.



# HOW MIGHT WE STATEMENTS

## STAGE 1

- » How might we better address girls' histories of trauma to prevent instances of interpersonal aggression that might result in arrest?
- » How might we better support girls in their homes, schools, and communities to prevent them from entering the juvenile justice system?

## STAGE 2

- » How might we reimagine prosecutorial charging policies and practices to ensure they reflect the latest advancements in adolescent brain science, childhood development, and the effects of trauma that have been recognized in other areas of the law?
- » How might we maintain the legal protection of "protected classes" (*defined in this instance as complainants whose cases are given special charging protections by legal statute*) while still allowing district attorneys charging discretion when examining the facts of an alleged delinquent incident?
- » How might we reimagine police responses to home-based and school-based incidents to prevent the referral of low-risk girls to the formal juvenile justice system?
- » How might we reimagine school discipline to ensure that Black and Brown girls are not overexposed to police intervention for incidents that could be handled by school administration?
- » How might we redesign or adapt juvenile justice assessments to ensure that girls with high needs who present little danger to public safety are appropriately assessed?

## STAGE 3

- » How might we ensure equity of available treatment alternatives for girls despite the higher number of boys who enter the juvenile justice system?
- » How might we ensure that girls do not unnecessarily penetrate deeper parts of the juvenile justice system due to a lack of available resources or expertise?
- » How might we redesign our performance management frameworks to ensure that gender and other lesser considered social identities are appropriately represented in all key performance indicators and used to drive funding decisions accordingly?
- » How might we create and use data systems that examine and prioritize girls' justice metrics and outcomes independently of boys' justice metrics and outcomes?

## STAGE 4

- » How might we redesign juvenile justice services and interventions to ensure they meet the unique needs of girls?
- » How might we provide services to girls with high levels of need without over-supervising those who pose a low-risk to public safety?
- » How might probation practices be reimaged to be both trauma-informed and gender-responsive?
- » How might court-based prosecutorial practices be reimaged to ensure they are both trauma-informed and gender-responsive?

## STAGE 5

- » How might we better support girls in their homes, schools, and communities to prevent them from *reentering* the juvenile justice system?
- » How might we approach juvenile justice through a family service model to prevent intergenerational involvement in the criminal and juvenile justice systems?

# OUR RECOMMENDATIONS

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In the following pages, we attempt to summarize all recommendations included in this report and group them by the stakeholder to whom they most directly apply. We must note here that while we encourage readers to consume the forthcoming larger report in its entirety, we have also made a series of intentional structural decisions throughout to allow for a modular reading experience. In this fashion, we hope that the larger report may serve as a sort of choose-your-own-adventure practical handbook, whereby stakeholders may read the relevant *From the Literature* and *Data Snapshots* included at the beginning of each stage, then skip to the *Recommendations* sections most relevant to their own interests, each of which will include far more research and practical detail in the body of the larger report than in our summaries below.

To help orient the executive snapshot of our recommendations (beginning on the next page) through a similarly modular and solutions-focused lens, we have included a panel beside all recommendations to follow outlining the stages to which they apply, as well as the *How Might We Questions* they aim to solve. While we again wish for readers to explore all of said recommendations in their entirety, we hope that this structure increases the ease with which our ideas can be contextualized and matched to any particular area of interest.

## THE RELEVANT STAGES

**Stage 1:** The Display of a “Delinquent Behavior”

**Stage 2:** System Entry and Assessment

## HOW MIGHT WE...?

How might we better support girls in their homes, schools, and communities to prevent them from entering the juvenile justice system?

How might we maintain the legal protection of “protected classes” (*defined in this instance as complainants whose cases are given special charging protections by legal statute*) while still allowing district attorneys charging discretion when examining the facts of an alleged delinquent incident?

## LEGISLATURES & FUNDING AGENCIES

### **INCREASE BUDGET FOR PREVENTATIVE COMMUNITY**

**SERVICES:** Legislatures and funding agencies should increase funding provisions for community-based strategies that provide services to youth that may prevent their ultimate entry into the juvenile justice system. As many of girls’ drivers into said system are rooted in biopsychosocial needs, funding for preventative programming for girls should target services that both provide supports and build protective factors to help youth cope with and address said needs before they manifest themselves in behaviors that may result in arrest. (Stage 1)

### **INCREASE BUDGET FOR CAREGIVER SUPPORT PROGRAMS:**

Legislatures and funding agencies should increase funding for caregiver support programs and make said programs more physically and financially accessible to all caregivers. As data and research indicate that girls who enter the juvenile justice system have often been subjected to particularly high rates of family conflict, instability, and dysfunction, programs that offer social and financial supports to parents may prove especially impactful in girls’ prevention efforts. Said programming must be designed to ensure that there are adequate incentives in place to encourage caregiver participation, as well as equitable access offered across neighborhood and demographic subpopulations, including opportunities for caregivers of different ages, cognitive abilities, employment and socioeconomic statuses. (Stage 1)

### **ADJUST “PROTECTED CLASS” STATUTE MANDATING FELONY**

**CHARGES:** The Pennsylvania Criminal Code should be altered to remove mandatory felony charges for youth accused of assaulting members of a “protected class” (i.e., teachers and police officers). At present, the protected class statute in Pennsylvania mandates a second-degree felony charge be assigned to any such assault, regardless of the intent of the defendant or the severity of the complainant’s resulting injury. Youth should not be subject to such a punitive mandatory charging policy. If it is determined that a charging penalty must remain for allegations of assault against a member of a protected class, said penalty should consist of a mandatory first-degree misdemeanor (M1) charge as opposed to a mandatory second-degree felony (F2). This recommended gradation is seen in “protected class” statutes in other states, and still offers a mandatory charging penalty as Pennsylvania’s existing simple assault statute has all simple assault offenses graded as second-degree misdemeanors (M2). Alternately, mandatory charge gradations for allegations of assault against a member of a protected class may be removed altogether, allowing youth to be charged in accordance with the intent and severity of their alleged assaults and not the identities of the associated complainants. As many girls enter the juvenile justice system for

## THE RELEVANT STAGES

**Stage 2:** System Entry and Assessment

**Stage 3:** Resource Allocation and Program Referral

**Stage 4:** Provision of Juvenile Justice Services

## HOW MIGHT WE...?

How might we reimagine prosecutorial charging policies and practices to ensure they reflect the latest advancements in adolescent brain science, childhood development, and the effects of trauma that have been recognized in other areas of the law?

How might we redesign our performance management frameworks to ensure that gender and other lesser considered social identities are appropriately represented in all key performance indicators and used to drive funding decisions accordingly?

alleged assaults against teachers and school police officers, this change may have an outsized impact on girls' justice. [Stage 2]

### **CRAFT A YOUTH-SPECIFIC CRIMINAL CODE AND**

**ACCOMPANYING YOUTH MENS REA STANDARDS:** State legislatures should modify their criminal codes to reflect the scientific findings in recent decades which establish adolescence as its own unique stage of brain development and suggest that adolescents should not be expected to behave identically to adults in society. As these findings have been recognized in decisions rendered by the Supreme Court to limit the levels of punishment to which youth may be exposed, they should also influence state law. Specifically, state law should alter the culpability (or, blameworthiness) standards applied to youth in juvenile court, which are often identical to those applied to defendants in adult court and based on establishing the mens rea (or, "guilty mind") of a rational adult. In the absence of such changes to state penal codes, local prosecutors' offices should adopt internal, adolescent-specific mens rea standards wherever possible, using the rational adolescent brain, not the rational adult brain, as a basis for decisions related to criminal culpability in all prosecutorial policies and decisions. Such changes may have drastic impacts on girls' justice, as many girls enter the juvenile justice system for crimes associated with reactive behaviors typical of normative adolescence. [Stages 2 and 4]

### **TIE JUVENILE JUSTICE FUNDING TO OUTCOME-BASED METRICS THAT CONSIDER THE INTERSECTIONAL IDENTITIES OF YOUTH RECEIVING JUVENILE JUSTICE SERVICES; PROVIDE FUNDING FOR BETTER DATA COLLECTION AND REPORTING TOOLS ACCORDINGLY:**

Juvenile justice stakeholders and service providers must be compelled to collect the data necessary to examine success beyond the existing mandate of the Juvenile Justice Reform Act (JJRA) that states and municipalities that receive federal funds collect and report data on the race, gender, and ethnicity of all youth taken into custody. While this mandate to collect demographic data on youth taken into custody is a good starting point, and many states have additional infrastructure in place to examine custody rates in search of racial and ethnic disparities, stakeholders must also build capacity to more closely consider gender and other identities in all metrics, including those related to community-based services. Further, states and municipalities must be encouraged to develop the infrastructure to analyze all data through an intersectional lens, with success rates of both residential and community-based programs explored through any combination of descriptive variables, including (but not limited to) race, gender, and age. This broader, intersectional data lens may have particularly large impacts on girls, whose needs and concerns may not be captured in studies focused solely on the racial and ethnic disparities present in male-dominated juvenile justice systems. [Stage 3]

## THE RELEVANT STAGES

### **Stage 3:** Resource Allocation and Program Referral

#### **UNDERTAKE ZERO-BASED BUDGETING EXERCISES IN**

**ALIGNMENT WITH VALUES AND LEGAL MANDATES:** Local municipalities should undergo zero-based budgeting exercises to ensure that critical and legally mandated services are offered to all youth regardless of gender and population size. Such exercises could benefit girls specifically by providing a structured forum through which their service needs can remain a priority despite their substantially lesser share of the total juvenile justice population. (Stage 3)

#### **EXAMINE THE RELATIONSHIP BETWEEN EXISTING FUNDING MECHANISMS AND THE AVAILABILITY OF GIRLS' PROGRAMMING; EXPLORE INNOVATIVE FUNDING ALTERNATIVES:**

Both public and private funders must examine the mechanisms through which they fund juvenile justice services and ensure that the financial incentives of service providers are aligned with the creation of programming for girls. While constitutional mandates may necessitate the creation of equal programming opportunities for girls, new funding mechanisms may be required to incentivize and sustain the participation of service providers given girls' substantially lesser share of the total juvenile justice population. (Stage 3)

## HOW MIGHT WE...?

How might we ensure equity of available treatment alternatives for girls despite the higher number of boys who enter the juvenile justice system?

## THE RELEVANT STAGES

### Stage 2: System Entry and Assessment

#### HOW MIGHT WE...?

How might we reimagine police responses to home-based and school-based incidents to prevent the referral of low-risk girls to the formal juvenile justice system?

How might we reimagine school discipline to ensure that Black and Brown girls are not overexposed to police intervention for incidents that could be handled by school administration?

How might we eliminate barriers to juvenile diversion to ensure that girls who present little risk for chronic delinquency are not excluded by charge or circumstance?

## POLICE

### ESTABLISH NON-POLICE-CENTERED RESPONSES TO REPORTS

**OF HOME-BASED DISPUTES:** Police officers should not be the primary responders in home-based dispute calls involving youth, as they are often ill-equipped to provide the proper services or referrals and their presence may only escalate the situation. Where possible, social workers or mental health professionals should respond to these situations as part of a community-based crisis response team, which should be managed by a third-party social services entity and not embedded within the police force. Such a strategy can help to limit girls' exposure to the juvenile justice system, as girls are disproportionately arrested and referred to the juvenile justice system for allegations of adolescent to parent violence (APV). (Stage 2)

### DISTANCE POLICE OFFICERS' PROXIMITY TO SCHOOL-BASED

**BEHAVIORAL INCIDENTS:** School police and school resource officers should be removed from school discipline and only intervene with students in incidents of pressing public safety, such as those incidents that involve a deadly weapon. This should include refining the Memorandum of Understanding (MOU) between the Philadelphia Police Department and School District of Philadelphia, as well as the Student Code of Conduct, to include a list of behaviors for which the police may *never* be called, as opposed to only including a list of behaviors for which the police *can* or *must* be called. Such strategies can help to limit girls' exposure to the juvenile justice system, as girls are disproportionately referred to the juvenile justice system for school-based incidents. (Stage 2)

### CONTINUE EXPANSION OF ELIGIBILITY STANDARDS FOR PHILADELPHIA'S SCHOOL POLICE DIVERSION PROGRAM:

Given its proven success, Philadelphia's School Police Diversion Program should look to continue to change and expand its eligibility criteria. This may take any number of forms, including the expansion into new charges, the inclusion of youth with prior offenses, only referring youth for their second minor offense while first minor offenses receive a warning, and resetting diversion eligibility standards at the beginning of each school year. For students for whom diversion does not seem like the best option, the School District of Philadelphia has disciplinary courts which may offer a potential avenue to address more serious and habitual misbehavior in schools. This expansion of school diversion strategies can help to limit girls' exposure to the juvenile justice system, as girls are disproportionately referred to the juvenile justice system for school-based incidents. (Stage 2)

## THE RELEVANT STAGES

### Stage 1: The Display of a “Delinquent Behavior”

#### HOW MIGHT WE...?

How might we better address girls’ histories of trauma to prevent instances of interpersonal aggression that might result in arrest?

How might we better support girls in their homes, schools, and communities to prevent them from entering the juvenile justice system?

How might we reimagine school discipline to ensure that Black and Brown girls are not overexposed to police intervention for incidents that could be handled by school administration?

## SCHOOL OFFICIALS & ADMINISTRATORS

**IMPROVE STUDENT-TO-SCHOOL-COUNSELOR RATIOS AND ENSURE GENDER-SPECIFIC HIRING PRACTICES:** The student-to-school-counselor ratio in Philadelphia schools should be reduced from a current ratio of one counselor for every 650 students to one counselor for every 250 students to meet the evidence-informed staffing recommendations provided by the American School Counselor Association (ASCA). Further, all schools should be staffed by at least two school counselors regardless of school size, with at least one of these counselors identifying as a woman to ensure that girls have a safe space if they do not feel comfortable confiding in male-identifying counselors. Through the hiring of approximately 240 additional counselors to meet this two-counselor staffing floor, we project that approximately \$17.4 million in additional single-year staffing costs could immediately bring approximately 40% of additional district schools into compliance with ASCA staffing recommendations. This represents perhaps the quickest path towards ensuring the widest range of school compliance *(detailed cost proposal included in full recommendation)*. Greater exposure to school counselors may help reduce girls’ referrals to the juvenile justice system given research outlining the elevated rates of trauma, familial stressors, and mental health needs of those girls who ultimately enter said system. (Stage 1)

**PROVIDE COMPREHENSIVE SEX EDUCATION:** Schools should provide comprehensive sex education to all youth. However, girls and gender-marginalized youth may benefit from being in a class separate from boys to enhance levels of comfort in the learning space. In addition to reproductive education, this sex education should ensure that youth are able to recognize healthy and unhealthy relationships including sexual exploitation, as well as increase bodily autonomy and decrease relational risk. While comprehensive sex education should be provided for all students, research into the prevalence of sexual exploitation in justice-involved girls’ unique risk-needs profiles suggests that such education may prove particularly effective as a girls’ preventive strategy. While this education may unfortunately not be able to prevent all instances of such exploitation, it can empower girls to recognize its existence and effects and provide a safe space to confide in trusting adults and seek healthy coping mechanisms. (Stage 1)

**PROVIDE GENDER-SPECIFIC SCHOOL-BASED ACTIVITIES AND EXTRACURRICULARS:** Schools should provide gender-specific activities and extracurriculars where girls are afforded a space to address their unique needs in a safe and gender-responsive environment, allowing them to develop healthy coping skills and build prosocial peer relationships. This could help to reduce girls’ exposure to the juvenile justice system given the highly relational nature of girls’ most common offenses and risk factors. (Stage 1)

## THE RELEVANT STAGES

### Stage 2: System Entry and Assessment

## HOW MIGHT WE...?

How might we reimagine prosecutorial charging policies and practices to ensure they reflect the latest advancements in adolescent brain science, childhood development, and the effects of trauma that have been recognized in other areas of the law?

## PROSECUTORS

### DESIGN YOUTH-SPECIFIC CHARGING UNITS AND/OR

**CHARGING POLICIES:** District Attorney's Offices should have youth-specific assistant district attorneys (ADAs) responsible for charging who have extensive experience inside of the juvenile justice system, and who receive a regular course of training on multidisciplinary findings in the fields of adolescent brain development and trauma, as well as other topics relevant to juvenile law. These ADAs may then make better informed individual charging decisions, as well as influence the crafting of broader youth-specific charging policies. If hiring a youth-specific charging ADA represents an inefficient use of a full-time staff position given the relatively low number of youths arrested per day, wherever possible, ADAs from Juvenile Court and Juvenile Diversion units may handle youth charging functions, allowing those attorneys who have the most direct experience interacting with youth and interpreting the facts in juvenile cases to determine appropriate charges. Such a structure must be carefully monitored, however, to ensure that charges are not assigned with a goal of charge bargaining at later points in case processing. As girls can present to the juvenile justice system under circumstances that are largely unique from those often seen in the adult criminal justice system, this recommendation may help to avoid the overcriminalization of girls based on misinterpretations of their behavior. [Stage 2]

### CRAFT ADOLESCENT-SPECIFIC CHARGING GUIDELINES TO DIFFERENTIATE BETWEEN AGGRAVATED ASSAULT, SIMPLE ASSAULT, AND SUMMARY FIGHTING OFFENSES

**FOR YOUTH:** District Attorney's Offices should craft a unique set of youth-centered charging guidelines and supporting documentation outlining an age-appropriate approach to the charging of allegations of youth assault, an offense type whose categorization allows for a particularly high level of prosecutorial discretion. These documents should include more specifically defined fact patterns under which youth should and should not be charged with summary fighting offenses, simple assault, and aggravated assault, as well as a recognition of various mitigating factors related to adolescent brain development that have been upheld in other areas of juvenile law. Where possible, particular focus should be given to checking practices that use prosecutorial discretion towards overbroad interpretations of "serious bodily injury" and "specific intent," two factors considered in the differentiation between simple and aggravated assaults. As girls who enter the juvenile justice system are often accused of assault, this recommendation may have an outsized impact on girls' justice. [Stage 2]



## THE RELEVANT STAGES

**Stage 2:** System Entry and Assessment

**Stage 4:** Provision of Juvenile Justice Services

## HOW MIGHT WE...?

How might we reimagine prosecutorial charging policies and practices to ensure they reflect the latest advancements in adolescent brain science, childhood development, and the effects of trauma that have been recognized in other areas of the law?

How might we eliminate barriers to juvenile diversion to ensure that girls who present little risk for chronic delinquency are not excluded by charge or circumstance?

How might court-based prosecutorial practices be reimaged to be both trauma-informed and gender-responsive?

**ADOPT ADOLESCENT-SPECIFIC INTERPRETATIONS OF MENS REA CULPABILITY STANDARDS FOR ALL PROSECUTORIAL FUNCTIONS AND POLICIES IN JUVENILE COURT:** See previous recommendation in “Legislatures & Funding Agencies.” (Stage 2)

**WHERE POSSIBLE, UTILIZE PUBLIC SAFETY METRICS AND EVIDENCE FROM CONTINUOUS PERFORMANCE MANAGEMENT EFFORTS TO MAKE DIVERSION DECISIONS, NOT ALLEGED “LEAD CHARGES”:** District Attorney’s Offices should eliminate charge-based automatic diversion exclusion policies and train assistant district attorneys to make diversion decisions according to the available evidence on diversion efficacy, youths’ risk-needs, and public safety outcomes. In this model, diversion exclusions should be made on a case-by-case basis and based on youths’ unique profiles and service needs, not solely the written facts of an arrest. Offices should also continue to invest in data and performance management efforts to ensure that diversion policies remain fluid and respondent to emergent patterns in local arrest and public safety trends. For youth deemed particularly “low-risk,” diversion decision-makers should use caution to prevent net-widening through unnecessary referrals to diversion programming when withdrawing prosecution may be both more appropriate and more effective. As data on recidivism, homicide, and gun violence demonstrate that girls, on average, pose a lower threat to public safety than their male peers, this recommendation represents an opportunity to expand access to juvenile justice offramps at limited public risk. (Stage 2)

**DESIGN YOUTH-SPECIFIC COURT-BASED PROSECUTION PRACTICES:** District Attorney’s Offices should create youth-specific prosecutorial units where juvenile prosecutors are specially trained in juvenile behavior and prosecution, and work in interdisciplinary teams to handle all youth cases. Juvenile units should be comprised of ADAs who express interest in working with youth, and who may develop expertise in evolving legal standards regarding youth justice as well as interdisciplinary knowledge on youth development and behavior. These ADAs should be paired with social workers to assist in non-legal analysis that may inform prosecutorial recommendations to the court regarding youths’ technical violations of court orders, referrals to diversion and treatment programs, as well as other biopsychosocial considerations presented prior to or during youths’ juvenile justice involvement. This more holistic prosecutorial understanding of youth development and behavior may prove particularly impactful for girls’ justice, as technical violations of court-ordered supervision programs have been historical drivers of girls’ incarceration trends. (Stage 4)

## THE RELEVANT STAGES

**Stage 2:** System Entry and Assessment

**Stage 4:** Provision of Juvenile Justice Services

## HOW MIGHT WE...?

How might we redesign or adapt juvenile justice assessments to ensure that girls with high needs who present little danger to public safety are appropriately assessed?

How might we provide services to girls with high levels of need without over-supervising those who pose a low-risk to public safety?

How might probation practices be reimagined to be both trauma-informed and gender-responsive?

## JUVENILE COURTS & PROBATION DEPARTMENTS

### IMPLEMENT GENDER-RESPONSIVE RISK ASSESSMENT

**STRATEGIES:** Risk assessment, if deemed necessary, should be gender-responsive and reflective of research on how risk factors are both experienced and expressed by girls, as well as how biopsychosocial risk-need domains do not necessarily translate to public safety risk. Gender-responsive considerations for risk assessment may come in the form of new gender-responsive risk tools, innovative calibration of existing tools to account for gender-specific evidence, and/or training on gender-specific interpretation of assessments. Calls for such modifications are supported by a body of research indicating that existing assessment practices may overclassify girls' risk. (Stage 2)

### REDUCE THE USE OF INTENSIVE SUPERVISION PROGRAMS, INCLUDING IN-HOME DETENTION AND ELECTRONIC MONITORING

**MONITORING:** In instances where diversion is not possible and youth must proceed to court, judges and probation officers should implement community-based strategies that (with few exceptions for pressing public safety concerns) do not rely on intensive supervision, electronic monitoring, or in-home detention, as these practices have been demonstrated to lead to worse outcomes than lower levels of supervision.<sup>89</sup> Examples of such community-based alternatives include providing youth with mentors, close-to-home after-school programming, and other prosocial opportunities that offer access to supportive adults without the stigma and criminalization of house arrest and GPS ankle bracelets. Reductions in home-restriction and surveillance may specifically improve girls' juvenile justice outcomes given the body of research indicating that justice-involved girls are particularly likely to come from homes where they have experienced high levels of childhood maltreatment, sexual abuse, and family dysfunction. Terms of home-restriction should never be applied to girls who have been referred to the juvenile justice system solely for an alleged physical dispute with a guardian, as such terms potentially criminalize children leaving their homes to escape conflict or abusive situations. (Stage 4)

### ASSESS PROBATION VIOLATIONS THROUGH A TRAUMA-INFORMED LENS CONSIDERING YOUTHS' INDIVIDUAL RISK-NEEDS, WITH A PARTICULAR EMPHASIS ON UNDERSTANDING AND RESPONDING TO GIRLS' UNIQUE RISK-NEEDS

**STRATEGIES:** When considering youths' compliance with their probation conditions, probation officers should be trained to differentiate between criminogenic activity and normative youthful misbehavior. Responses to incidents of running away, missing school, or mutual fighting, for example, should be crafted through a trauma-informed framework that seeks to address the root behavior without defaulting to the unnecessary use of punitive

## THE RELEVANT STAGES

### Stage 4: Provision of Juvenile Justice Services

sanctions. Further, for girls, probation departments should explore how violations can be addressed through a gender-responsive lens. This may include the deployment of probation officers specially trained to work with girls, as research has indicated that girls who enter the juvenile justice system may have particularly high rates of trauma and needs, including (but not limited to) childhood maltreatment, sexual abuse, and mental health concerns, all of which may be expected to influence their behaviors while under probation supervision. [Stage 4]

### **DECRIMINALIZE GIRLS' ROMANTIC RELATIONSHIPS, INCLUDING COURT AND PROBATION RESPONSES TO GIRLS' SEXUAL BEHAVIORS:**

Girls' romantic relationships and sexual behaviors should be considered by the juvenile justice system only within the context of their influence on girls' risk for future criminality. As research demonstrates a history of court overreach into the lives of girls as stakeholders attempt to mitigate their perceived promiscuity and risk for pregnancy, those who work with justice-involved girls must be overt in naming the specific "risks" posed by each individual girl, and if said risks are within the purview of the juvenile justice system. If said risks are romantic or sexual in nature and non-criminogenic, stakeholders should offer referrals to voluntary community-based services with no court-based penalties. In practice, this ensures that punishment does not occur as a product of justice system overreach, while still providing girls access to community-based services and treatments from which they may benefit. [Stage 4]

## HOW MIGHT WE...?

How might we provide services to girls with high levels of need without over-supervising those who pose a low-risk to public safety?

## THE RELEVANT STAGES

**Stage 1:** The Display of a “Delinquent Behavior”

**Stage 4:** Provision of Juvenile Justice Services

**Stage 5:** System Exit and the Next Generation

## HOW MIGHT WE...?

How might we approach juvenile justice through a family service model to prevent intergenerational involvement in the criminal and juvenile justice systems?

How might we redesign juvenile justice services and interventions to ensure they meet the unique needs of girls?

How might we better support girls in their homes, schools, and communities to prevent them from reentering the juvenile justice system?

## YOUTH SERVICE PROVIDERS

### **CREATE STRATEGIES TO BETTER INVOLVE FAMILIES IN GIRLS’**

**JUSTICE PROGRAMMING:** Caregivers and guardians of girls served by the juvenile justice system should be involved in family-based therapeutic and other supportive programming to address girls’ home-based risks and needs. This programming should be strengths-based, trauma-informed, and accessible for families, such that it meets the family where they are, both physically and socio-emotionally. Further, where appropriate, this programming should include monetary support for participants, which may help to mitigate structural barriers that have traditionally limited family engagement in the juvenile justice system. The success of family engagement efforts is particularly vital for girls’ justice outcomes given the high levels of trauma and home-based relational conflict often surrounding girls’ pathways into the juvenile justice system. (Stages 1, 4, & 5)

### **IMPLEMENT GENDER-SPECIFIC CURRICULA AND PRACTICES:**

Gender-specific curricula and practice alternatives should be crafted for girls’ programming in the juvenile justice system, including community-based services and residential placements. These curricula and practices should be trauma-informed, strengths-based, and, where appropriate, rooted in the relational-cultural model. This is in line with research indicating that gender-specific curricula, programming, and strategies have outperformed traditional juvenile justice approaches in producing better psychosocial-emotional outcomes for girls. (Stages 4)

### **DESIGN GENDER APPROPRIATE RESIDENTIAL**

**ENVIRONMENTS:** Out-of-home placement and detention should be avoided for all youth except in the most serious situations based on immediate safety risks to the general public or to youth themselves. For girls who are ultimately held in congregate care, both detention centers and placement facilities must employ gender-specific design. This includes access to girls’ clothing, hygiene and sanitary products, immediate gynecological and obstetrics care when needed, nutritionally appropriate meals for girls, and other gender-informed necessities. Further, these facilities must implement augmented safety provisions for girls, including gender-responsive hiring practices and staff oversight, as well as safe spaces for girls to report any physical or sexual abuse — an unfortunate necessity given the many incidences of girls reporting abuse in juvenile justice facilities across the country. (Stage 4)

### **EVERY JUVENILE JUSTICE SYSTEM SERVICE MUST STRIVE TO DISCHARGE YOUTH WITH AN AFTERCARE PLAN FOR SUPPORT:**

All juvenile justice service providers must ensure that youth are discharged from services with aftercare support plans in place. These aftercare supports should include referrals and

## THE RELEVANT STAGES

### Stage 5: System Exit and the Next Generation

connections to community resources whose funding allocations and incentives are independent from court-mandated participant involvement. This expansion of voluntary aftercare services may be particularly important for girls, as research indicates that while they may have lower recidivism rates than boys, girls may also experience poor psychosocial life outcomes following justice system involvement, suggesting a need for ongoing access to non-justice system supports. (Stage 5)

#### **DEDICATE MORE ATTENTION AND RESOURCES TOWARDS**

**REENTRY/REINTEGRATION SERVICES FOR GIRLS:** Although we urge against the use of residential placement wherever feasible, girls who are sent to placement facilities should be supported to the greatest extent possible upon their return to the community. Despite the important role that reentry and reintegration programs can play in delivering this support, girls may currently be overlooked for such services due to their lower numbers inside of placement facilities and higher rates of desistance post-release. Desistance is but one way to measure successful reintegration, however. Beyond preventing recidivism, reentry and reintegration services that provide justice-involved youth returning home from residential facilities with monetary support and housing, as well as educational, vocational, and life-skills training remain vital in helping said youth achieve the autonomy they need to experience fewer or no forms of economic disadvantage in the future. Providing girls with greater access to such programming will allow for improved self-dependence and greater life course outcomes for themselves and future generations. (Stage 5)

## HOW MIGHT WE...?

How might we better support girls in their homes, schools, and communities to prevent them from reentering the juvenile justice system?

## THE RELEVANT STAGES

**Stage 3:** Resource Allocation and Program Referral

**Stage 4:** Provision of Juvenile Justice Services

## HOW MIGHT WE...?

How might we create and use data systems that examine and prioritize girls' justice metrics and outcomes independently of boys' justice metrics and outcomes?

How might we redesign our performance management frameworks to ensure that gender and other lesser considered social identities are appropriately represented in all key performance indicators and used to drive funding decisions accordingly?

## DATA, RESEARCH, AND PERFORMANCE MANAGEMENT PROFESSIONALS

### **EXAMINE GIRLS' JUVENILE JUSTICE TRENDS IN THE CONTEXT OF GIRLS' SPECIFIC EXPERIENCES AND RISK-NEEDS, NOT SOLELY IN COMPARISON TO BOYS' EXPERIENCES AND RISK-NEEDS:**

Research and data exploration in relation to girls must not be undertaken exclusively as part of between-gender comparative exercises. Instead, while such comparative exercises may prove fruitful in some instances, data findings and policy research on both boys' and girls' juvenile justice trends can be undertaken wholly independently from one another, and for the sole purpose of improving services and outcomes for youth of either gender. In some instances, this may require shifts away from academic evaluation frameworks which have traditionally emphasized the use of comparison groups to produce findings with statistical significance, and more towards human-centered design and innovation frameworks that focus data and research efforts on better defining problems, building empathy for system users, and continuously improving upon processes and experiences. [Stage 3]

**EVALUATE GIRLS' PROGRAMS WITH MORE HOLISTIC, NON-RECIDIVISM METRICS:** Evaluations of programs serving girls should move away from assessing success through the lens of recidivism metrics and towards more holistic evaluations utilizing quality-of-life metrics. As girls present to the juvenile justice system with an already lowered risk for recidivism, program evaluations that continue to rely solely on recidivism-based performance indicators may inaccurately classify girls' programs as successful that in fact have very little positive impact on participant behavior. This highlights a conflict between the traditional "what works" and gender-responsive literature, where "what works" researchers are generally more concerned with traditional criminogenic metrics such as recidivism, while gender-responsive scholars are typically more concerned with quality-of-life outcomes, such as mental health and socioeconomic stability. It is often only through this latter lens that increased investment in gender-specific programming will appear to yield value. [Stage 4]

## THE RELEVANT STAGES

**Stage 1:** The Display of a “Delinquent” Behavior

**Stage 3:** Resource Allocation and Program Referral

## HOW MIGHT WE...?

How might we better support girls in their homes, schools, and communities to prevent them from entering the juvenile justice system?

How might we ensure that girls do not unnecessarily penetrate deeper parts of the juvenile justice system due to a lack of available resources or expertise?

## ADVOCATES & THE GENERAL PUBLIC

**ENGAGE CITY AND STATE LEADERS IN DISCUSSIONS SURROUNDING THE STRATEGIC REINVESTMENT OF PUBLIC FUNDS IN PREVENTATIVE SERVICES:** Advocates and members of the general public can encourage local and state elected officials to divert spending from expensive programs and practices that unnecessarily criminalize low-risk youth for trauma-reactive behaviors and invest in preventative youth strategies, be they inclusive or independent of the suggestions outlined in this report. This investment may have an outsized impact on reducing the number of girls who ultimately enter the juvenile justice system, given the high percentage of justice-involved girls whose lone referral to said system follows an arrest for circumstances typical of a trauma reaction, such as lashing out at family members, peers, teachers, or school police officers, often in self-defense or retaliation. [Stage 1]

**EXPLORE THE VIABILITY OF TITLE IX AND EQUAL PROTECTION CLASS ACTION LAWSUITS:** Advocates and civil rights attorneys should explore the viability of class action lawsuits in municipalities where it is determined that justice-involved girls are not afforded the same programming alternatives as justice-involved boys, and that this lack of equal programming alternatives leads to worse outcomes. Proof of such discrimination is likely reliant on the commitment of funders, legislatures, and data and performance management professionals to invest in the sorts of data infrastructure outlined throughout this report as necessary to highlight girls’ juvenile justice experiences despite their lesser share of the total juvenile justice population. [Stage 3]

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