

Criminalization of Black Girls in the Juvenile Legal System

Overview of Pathways to
Confinement and Strategies for
Supporting Successful Reentry

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According to the Office of Juvenile Justice and Delinquency Prevention, almost 30 percent of youth arrested in the United States are girls or young women, a figure that has consistently increased over the last 20 years.¹ Girls in the juvenile justice system have often faced numerous barriers including poverty, racism, sexism, and histories of domestic violence, sexual assault, and exploitation. Notably, Black girls are the fastest growing population within the juvenile justice system² and are disproportionately represented in many steps throughout the juvenile justice continuum including referral and

detention.³ Additionally, 40 percent of girls in the juvenile justice system identify as lesbian, bisexual, gender non-conforming or transgender.⁴ Though justice-involved girls often pose little to no threat to society, these numbers and disparities persist. This fact sheet will highlight several pathways to prison for Black girls and identify strategies to support their successful reentry into the community.

Pathways to Prison

The **Sex Abuse to Prison Pipeline** refers to one of the ways in which girls are funneled into the juvenile justice system. Similar to their adult counterparts, girls in the juvenile justice system have high rates of previous victimization. Research indicates that anywhere from 31 to 81 percent of justice-involved girls have been subjected to sexual abuse or violence.⁵ Further, their rate of sexual abuse is four times greater than their male justice-involved peers, resulting in higher rates of complex trauma that is often left unaddressed. There is a link between girls' trauma responses and their criminalization. Indeed, girls are often arrested for substance use, truancy, running away, or engaging in prostitution; but considering their trauma, these behaviors can be seen as coping or survival strategies. However, these behaviors are criminalized, causing girls to be imprisoned for their own trauma in a system that is often ill-equipped to support them. One example of the

IN THE NEWS

As a 16-year-old runaway, a man trafficked Cyntoia Brown. When she killed him in an act of self-defense, she was not believed by law enforcement. She was subsequently tried as an adult and sentenced to life in prison. Only in 2019, after significant pressure by activists did Cyntoia receive clemency. Though this crime is more serious than the status and minor offenses girls are often arrested for, this example still highlights that girls are punished for their own victimization. [Click here to read more.](#)

sex-abuse to prison pipeline is the detention of girls involved in commercial sex, who by law are unable to consent to sex and are victims of human trafficking. Nevertheless, they find themselves punished for their own victimization.ⁱ Importantly, according to Malika Saada Saar, “the sexual abuse to prison pipeline’ is really a pipeline for girls of color. It is Black and Brown girls who are disproportionately arrested and incarcerated for their abuse and trauma.”⁶

Harsh school disciplinary policies (e.g., zero tolerance policies) and the presence of police at schools are hallmarks of the **School to Prison Pipeline**, which pushes youth out of the classroom and into the juvenile and criminal justice systems. This **issue significantly impacts Black girls** who are suspended six times more frequently than their White female counterparts, a disparity that is worse for Black girls than their Black male peers.⁷ Further, Black girls represent 43 percent of the girls referred to law enforcement and 38 percent of those arrested at schools even though they constitute only 16 percent of the female student population.⁸ These disparities exist in large part due to the confluence of racism and sexism that affect Black girls daily. Research shows that even as young as five years old, Black girls are seen as older than their age, less in need of support, more knowledgeable about adult topics, and less innocent.⁹ This is known as age compression; young girls are in effect adultified and are punished for age appropriate misbehavior or trauma-based responses. Black girls’ femininity is also questioned in that they are stereotyped as

- i. While states have passed Safe Harbor legislation, there is still evidence of youth facing punitive responses for their involvement in commercial sex.

being too loud, aggressive, defiant, and disrespectful. They are often punished for innocuous things (e.g., chewing gum, natural hair styles) or subjective things (e.g., insubordination) because those in positions of power implicitly believe they are deserving of punishment instead of support.¹⁰ The results of using these severe disciplinary measures against Black girls is devastating. It causes them to lose valuable learning time, increasing their likelihood of dropping out of school and engaging with the juvenile and/or criminal legal systems.

IN THE NEWS

In 2019, four Black girls attending middle school in upstate New York were asked to remove their clothing because school officials suspected they were using drugs. The evidence: the girls appeared “hyper and giddy.” [Click here to read more.](#)

The **Foster Care to Prison Pipeline** refers to the policies and practices of child welfare systems that cause foster youth to be disproportionately represented in the juvenile and criminal justice systems. Research indicates that 25 percent of former foster youth have contact with the justice system within two years of exiting care and that more than 50 percent of foster youth experience an arrest, conviction, or overnight detention by the age of 17.¹¹ Notably, certain populations, including Black youth, girls, LGBT youth, and those with mental illnesses are at a higher risk for criminalization due to their overrepresentation in the system and the

exacerbating effects of discrimination.¹² Issues like placement instability, poor supervision, group home placement, and the inability of child welfare systems to create a nurturing environment that attends to children’s needs and trauma histories lead many youth to engage in “problem behavior.” For some youth, this behavior is subsequently punished harshly, and for others, they fall prey to traffickers or others who may increase their likelihood of justice involvement.

Importance of Understanding Adverse Childhood Experiences and Trauma

These pathways do not operate in a vacuum; they are all connected. So-called problem behaviors observed at home, in school or child welfare settings are often linked to trauma or adverse childhood experiences (ACEs).ⁱⁱ Indeed, 45 percent of girls in the juvenile justice system have five or more ACEs.¹³ More recent research suggests that growing up in poverty and coping with racism and other forms of discrimination can also be considered ACEs,¹⁴ further emphasizing the significant barriers and hardships many Black girls face in society. Indeed, intergenerational trauma and the history of

- ii. According to the Substance Abuse and Mental Health Services Administration, ACEs include physical, emotional, and sexual abuse; physical and emotional neglect; and various forms of “household dysfunction,” including household mental illness, incarcerated household member, parental separation or divorce, household substance misuse, and intimate partner violence. They are linked to various health and social issues throughout the lifespan, including justice involvement.

slavery continue to impact the Black community on a daily basis. They affect how some girls may choose not to report violence to authorities because of a mistrust of the police and how girls are perceived by others in society.

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When Black girls are harmed, or they receive emotionally abusive messaging, it is reasonable that their sense of safety feels threatened and that they might resist or act in ways they believe will help protect themselves. Indeed, this is how the human brain works; it is hardwired to defend the body against a real or perceived threat. This can look like status offenses like running away from home to escape an abuser or low-level crimes such as theft to then support oneself with food or clothing—things needed for survival. For many Black girls, it can also look like fighting with peers or family members, a potential attempt to regain some semblance of control over one's life.¹⁶ Too often, however, Black girls' behaviors are deemed “aggressive” by those who are supposed to help them. Too often Black girls are not believed when they report the harm done to them. Too often Black girls are swept into the juvenile justice system and instead of being asked what happened or how various conditions in their lives contributed to their behavior, they are assumed to be the problem themselves.

Where Do We Go from Here? Strategies for Engaging Justice-Involved Black Girls Experiencing Ongoing Trauma

- Incorporate trauma-informed strategies (including utilizing a trauma screening tool and recognizing that “problem behaviors” are often trauma responses that require support rather than punishment)
- Acknowledge the role of racism, sexism, ableism, heterocentrism, and poverty in girls' lived experiences
- Meet girls where they are—seek safety, wellbeing, and healing as defined by girls
- Tap into girls' resilience—remind them of their strengths
- Use culturally diverse curricula and activities
- Employ staff who relate to girls (e.g., members of the same communities as girls, formerly incarcerated girls, survivor leaders)
- Provide supportive adult figures to help each girl navigate the reentry process (e.g., attorney, teacher, social worker)
- Co-create individualized plans with girls based on their level of strengths, risks and needs (e.g., educational, mental health, employment, housing, childcare)
- Invest in girls' education (consider programs like the National Black Women's Justice Institute's EMERGE program, which seeks to facilitate a “confinement to college and career” pathway for young girls with prior contact with the criminal or juvenile legal system)
- Allow space for social and emotional learning (e.g., storytelling, journaling, drama and art therapy)
- Provide access to adequate sexual and reproductive health education and information

- Support family and community reunification efforts
- Develop strong partnerships with faith-based organizations who may be able to meet the spiritual needs of girls
- Develop partnerships with system players and ensure they receive training on trauma-informed and gender-responsive engagement
- Strengthen their leadership skills—include Black girls in conversations about system reform and the world around them (e.g., S.O.U.L. Sisters Leadership Collective)

Endotes

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