

United States Senate
Committee on the Judiciary

Improving Outcomes for Youth in the Juvenile Justice System

Testimony of

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Thank you, Chairman Grassley, Ranking Member Feinstein, and Members of the Committee for the invitation to speak to you today. My name is Yasmin Vafa and I am the Executive Director of Rights4Girls, a human rights organization working to end gender-based violence against young women and girls in the U.S. I want to thank this Committee for continuing to be a champion for our nation's most vulnerable children, and in particular, youth who find themselves in our juvenile justice system.

In recent years, there has been growing interest around issues of over-criminalization, the “school to prison pipeline”, and the need to adopt criminal and juvenile justice reform—but in all of these important conversations, girls' lives remain invisible. These discussions fail to consider the distinct pathways of girls into the justice system, when in fact girls represent the fastest growing segment of the juvenile justice population.ⁱ

What is troubling is that this increase is not due to girls becoming more violent or delinquent. Instead, girls are being funneled into the juvenile justice system as a direct result of suffering violence and trauma. Girls all across this country are experiencing an “Abuse to Prison Pipeline” that essentially punishes them for their own victimization.ⁱⁱ

At Rights4Girls, we work to confront the alarming rates of sexual violence facing young girls in the United States. Nationally, one in four girls will experience sexual violence by the age of eighteen,ⁱⁱⁱ and all too often this occurs at the hands of a caregiver. When girls with stable homes or economic means experience violence, they can more easily access the services and support they need to help them heal. But for marginalized girls, the experience of sexual abuse can actually land them behind bars.

Take Sandra, who ran away from home at the age of twelve because her mother's boyfriend was sexually abusing her. Desperate to escape the violence, Sandra ran, but when the police found her, they arrested her for the status offense of running away. In court, the judge ordered Sandra to return home and to stop running. At no point was Sandra ever screened for possible abuse. At no point did anyone ever bother to ask Sandra what she was running from.

Sadly, Sandra's story is not uncommon. Research demonstrates that sexual abuse is actually a *primary predictor* for girls' involvement in the juvenile justice system.^{iv} But when girls exhibit natural reactions to trauma or run away to escape abusers at home, at school, or in foster care, they are arrested as status offenders. In 2015, Rights4Girls co-authored a report detailing the devastating link between sexual

abuse and justice-involvement for girls. Data reveals that nationally, seventy-three percent of girls in the juvenile justice system have experienced physical and sexual violence,^v but this figure is even higher in certain states. Take for instance South Carolina, where over eighty percent of girls in the juvenile justice system reported experiencing childhood sexual abuse prior to ever being involved in the system,^{vi} or Oregon where over ninety percent of girls in the system reported past histories of sexual and physical violence.^{vii}

When considering these high rates of trauma together with the types of offenses for which girls are most commonly arrested, it becomes painfully clear that girls are being criminalized precisely *because* of their victimization. The most common offenses for girls are running away, truancy, prostitution, and substance abuse—all behaviors that are strongly correlated with trauma or exploitation.^{viii} Our report ultimately revealed that our most vulnerable, our most wounded girls are the ones most likely to end up behind bars.

Girls like Melissa, a victim of domestic child sex trafficking who at age 14 was trafficked throughout New York State, marketed and sold to grown men for profit. Instead of being seen or treated as victim of trafficking, Melissa was arrested and charged with prostitution. Despite the fact that federal law is clear that there is no such thing as a child prostitute^{ix} because children cannot consent to sex, let alone to their own exploitation, more than 700 children are arrested for prostitution each year.^x In most states and jurisdictions throughout the country, trafficked and exploited girls face the added trauma and indignity of incarceration when they are in fact victims of child rape.

Another survivor of child sex trafficking explained that her time in detention, “wasn’t all too different than the mental confinement I endured from my pimp. I was interrogated for hours on end, reminded that my opinions didn’t matter, and locked in like a dog in a kennel...I was re-traumatized every day in detention while having to be watched, fully nude, while I showered. No one assessed me or ever even asked me what got me there, no rehabilitation services were offered. I just sat locked in a box while being interrogated and talked-down to.”^{xi}

As this account makes clear, our juvenile facilities are not always safe places for girls—especially girls who have survived trauma. When youth like Melissa and Sandra are arrested or detained, they are rarely screened to determine if they might be victims of violence or exploitation. Instead, they are subjected to harmful and sometimes degrading conditions of confinement that can exacerbate existing trauma.

In the worst cases, children endure physical and even sexual abuse at the hands of staff or other youth.^{xii}

Gynnya McMillen, a sixteen-year-old girl from Kentucky died in custody just one day after her arrest from just this sort of violence. Gynnya had been removed from her mother's care by the child welfare system and was on an approved home visit with her mother when an altercation occurred. When police arrived, they arrested Gynnya for a domestic dispute and took her to a detention facility where she was subjected to a search by male staff. When Gynnya resisted removing her sweater, she was forcefully and physically restrained. The next morning, Gynnya was found dead in her cell. After her death, investigations revealed that facility staff inappropriately restrained Gynnya and failed to conduct the mandatory room checks to ensure her safety.

Clearly, girls' pathways into detention and their needs once inside deserve our collective and urgent attention. Thankfully, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has prioritized reducing girls' involvement in the juvenile justice system through the work of the National Girls' Initiative (NGI) as well as the National Judicial Institute on Domestic Child Sex Trafficking (NJDCST). We are proud to serve on the Core Advisory Team for NGI which brings together experts, researchers, and advocates from around the country to develop innovative solutions to keep vulnerable girls out of the system and better serve those girls already inside. We are also proud to serve as faculty for the National Judicial Institute on Domestic Child Sex Trafficking with our partners the National Council of Juvenile and Family Court Judges to help train judges across the country on ways to improve our response toward trafficked youth who are court-involved.

It is critical to ensure that NGI, NJDCST, and similar efforts continue to receive the support necessary to provide training and technical assistance to jurisdictions seeking to end the incarceration of girls and other vulnerable youth, and to promote programming that is gender-responsive, developmentally appropriate, culturally-sensitive, and trauma-informed.

But perhaps the most pressing priority today is the need to reauthorize a strengthened Juvenile Justice and Delinquency Prevention Act (JJDP). The JJDP has not been reauthorized in over ten years, despite the fact that this past decade has seen groundbreaking research on the most effective evidence-based methods to keep children out of the juvenile justice system, in school, and on a path towards rehabilitation.

Last year, this Committee supported a strong bipartisan bill addressing many of the issues that I have raised today and more. The Senate bill, led by Chairman Grassley and Senator Whitehouse, included provisions requiring state juvenile justice facilities to screen youth upon intake for trafficking and divert those children into appropriate programs for treatment, restricted the use of restraints on pregnant girls behind bars during labor, delivery, and post-partum to ensure the safety of both mother and child, and called for a much needed phase-out of the harmful and costly Valid Court Order exception—a loophole that not only leads to the incarceration of abused and neglected children but too often, victims of child trafficking.

Today, as our nation and our leaders on both sides of the aisle express a strong interest in enacting thoughtful juvenile justice reform, we must ensure that our girls are not forgotten. It is vital that we update current law to address the distinct needs of girls and other survivors unnecessarily committed to the system. Armed with the latest research and bipartisan and bicameral support, we can finally dismantle this unjust pipeline and bring meaningful and much needed change to our nation’s juvenile justice system.

We are grateful to this Committee for its longstanding commitment to this issue and for holding this important hearing today. We ask that you and your colleagues in the Senate please take up and swiftly pass this vital reauthorization to improve our current juvenile justice response toward all youth and better protect vulnerable children across this country.

It is what Sandra, Melissa, and Gynnya so desperately needed then, and what so many youth across this country so urgently need today.

Thank you.

ⁱ Rebecca Epstein, Lindsay Rosenthal, Malika Saada Saar and Yasmin Vafa, *The Sexual Abuse to Prison Pipeline: The Girls’ Story* (2015), available at https://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf

ⁱⁱ Id.

ⁱⁱⁱ Centers for Disease Control and Prevention. (2005). Adverse Childhood Experiences Study: Data and Statistics. Atlanta, GA: Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Retrieved January 12, 2009 from: <http://www.cdc.gov/nccdphp/ace/prevalence.htm>

^{iv} Epstein et al., *The Sexual Abuse to Prison Pipeline: The Girls’ Story*, at 5.

^v Francine T. Sherman and Annie Balck, *Gender Injustice: System-Level Juvenile Justice Reform for Girls* (2015), available at http://nationalcrittenton.org/wp-content/uploads/2015/09/Gender_Injustice_Report.pdf

^{vi} Epstein et al., *The Sexual Abuse to Prison Pipeline: The Girls' Story*, at 10.

^{vii} Epstein et al., *The Sexual Abuse to Prison Pipeline: The Girls' Story*, at 10.

^{viii} Epstein et al., *The Sexual Abuse to Prison Pipeline: The Girls' Story*, at 9.

^{ix} Rights4Girls, *No Such Thing Campaign*, available at <http://rights4girls.org/wp-content/uploads/r4g/2015/03/No-Such-Thing-one-pager11.pdf>

^x U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *OJJDP Statistical Briefing Book*. Online. Available at <http://www.ojjdp.gov/ojstatbb/crime/qa05101.asp?qaDate=2014>. Released on December 13, 2015.

^{xi} Epstein et al., *The Sexual Abuse to Prison Pipeline: The Girls' Story*, at 19.

^{xii} Rights4Girls, *Domestic Child Sex Trafficking and the Juvenile Justice System*, available at <http://rights4girls.org/wp-content/uploads/r4g/2015/02/JJ-Trafficking-July-2016.pdf>