

University of Tennessee College of Law

Legal Scholarship Repository: A Service of the Joel A. Katz Law Library

UTK Law Faculty Publications

4-2008

Girls in the Juvenile Justice System

Paula Schaefer

Follow this and additional works at: https://ir.law.utk.edu/utklaw_facpubs



Part of the Law Commons



DATE DOWNLOADED: Fri Mar 25 15:44:26 2022

SOURCE: Content Downloaded from [HeinOnline](#)

Citations:

Bluebook 21st ed.

Paula Schaefer, *Girls in the Juvenile Justice System*, 25 GPSolo 16 (2008).

ALWD 7th ed.

Paula Schaefer, *Girls in the Juvenile Justice System*, 25 GPSolo 16 (2008).

APA 7th ed.

Schaefer, P. (2008). *Girls in the juvenile justice system*. GPSolo, 25(3), 16-21.

Chicago 17th ed.

Paula Schaefer, "Girls in the Juvenile Justice System," GPSolo 25, no. 3 (April/May 2008): 16-21

McGill Guide 9th ed.

Paula Schaefer, "Girls in the Juvenile Justice System" (2008) 25:3 GPSolo 16.

AGLC 4th ed.

Paula Schaefer, 'Girls in the Juvenile Justice System' (2008) 25(3) GPSolo 16

MLA 9th ed.

Schaefer, Paula. "Girls in the Juvenile Justice System." GPSolo, vol. 25, no. 3, April/May 2008, pp. 16-21. HeinOnline.

OSCOLA 4th ed.

Paula Schaefer, 'Girls in the Juvenile Justice System' (2008) 25 GPSolo 16

Provided by:

University of Tennessee College of Law Joel A. Katz Law Library

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at

<https://heinonline.org/HOL/License>

-- The search text of this PDF is generated from uncorrected OCR text.

-- To obtain permission to use this article beyond the scope of your license, please use:

[Copyright Information](#)

Girls in the Juvenile Justice System

By Paula Schaefer



A girl being held in detention works on a classroom project.

Associated Press/Elaine Thompson

Much has been written in recent years about the increase in the detention of girls in the juvenile justice system, and many people from across the country lament that they are seeing more and more girls—and more “violent” girls—enter the system, even though nationally juvenile delinquency is on the decrease.

Detention Reform and Girls

In 2005 the Annie E. Casey Foundation (AECF) published a report entitled “Detention Reform and Girls: Challenges and Solutions,” written by Francine T. Sherman. The report gives a good overview of statistics and research into possible reasons for the increase in the number of girls in the system. The researchers cited by Sherman speak of systemic bias toward girls and of families in chaos who use the juvenile justice system to remove their girls from home or to find and obtain services for their girls. They speak of policy changes related to how we handle girls’ cases in juvenile court, particularly girls’ cases related to assault and intrafamily conflict; they speak of the changes in attitudes toward girls and women, which have resulted in the unintended consequence of more female arrests, both in the adult world and in the juvenile world; and they speak of the enduring problem of courts that use detention in an effort to “protect” girls (even girls who do not end up committed post-adjudication) or to ensure that these girls receive needed services. This last point continues to be a particular problem in our society—we

think the only way we can protect our troubled and traumatized children is to lock them up in a secure correctional facility. To better meet the needs of troubled girls, it is critical that we find alternatives to detention and out-of-home/out-of-community placements.

The report guides us in understanding that any services for girls in the juvenile justice system and any alternatives to detention and disposition should have an intentional focus on family and community and should be comprehensive, empowering, relational, and safe. This notion of safety must not focus solely on physical safety but must also include the emotional and cultural safety for all girls. Cultural safety refers not only to racial/ethnic safety but also to sexual orientation safety and religious/spirituality safety. Girls need to be safe from religious shaming and/or harsh judgment; they need to feel safe to express and explore their own spirituality.

The following are the AECF’s guiding principles for female-responsive detention reform:

- Girls are different from boys.
- Gender-responsive policies and practices are fundamental to a constitutional and individualized juvenile justice system.
- System leaders should examine both decision-making processes and attitudes toward girls, including paternalism among decision makers; use of detention to obtain services; use of detention to protect girls from sexual victimization; fear of teen pregnancy and its social costs; fear of girls’ expressions of sexuality; and intolerance of girls who are non-compliant and non-cooperative.
- Data collection and analysis are critical to effective detention reform.
- Inter-system collaboration is necessary to address gender disparities.
- Detention facility conditions should address girls’ needs and vulnerabilities.
- Gender-responsive strategies should be strengths based not deficit driven.

Data Collection

The current problems regarding data collection and analysis can best be seen with regard to the perceived increase in “violent and aggressive” girls. I would ask each jurisdiction first to examine how they define “violent and aggressive” girls and to determine how many girls *truly* fit this category. Do we really have an influx of “violent and aggressive” girls, or is it a function of

Paula Schaefer is a national consultant for the juvenile justice system, providing technical assistance to state, county, and private agencies to promote female-responsive services for girls. She presents workshops nationally and does consultation for the Federal Office of Juvenile Justice and Delinquency Prevention. She is the former director of the Planning for Female Offender Unit, Minnesota Department of Corrections, and the former program coordinator for St. Croix Girls Camp, a 50-bed private correctional facility for court-ordered placement of adolescent girls. She may be reached at paula@pschaefer.com.

The majority of girls in the juvenile justice system are victims of physical, sexual, and/or emotional abuse.

girls' unrecognized and untreated trauma, misdiagnosis of mental health issues, mishandling of girls' cases, and a woeful lack of appropriate services for girls in the system? If we had female and culturally responsive community- and residential-based services and programs that met girls' needs, would we then see as many "violent and aggressive" girls or seriously "mentally-ill" girls? We need to think about the more likely reality that the majority of the girls in the juvenile justice system are not violent and aggressive and pose only a low risk to public safety; for so many of the girls in the system, the core issue is unrecognized and untreated trauma. Many girls in the system are emotionally and behaviorally troubled because of abuse—sexual and physical abuse and other forms of trauma—and come from troubled family lives. The system has not begun to address these issues or provide adequate support for girls in order for them to stabilize and get the help they need.

We need to create and implement an effective data collection and analysis system, one that breaks out all data by gender and breaks out gender by race to form an accurate profile of girls in the system and do comparative analysis with boys in the system. If we had an accurate profile of girls, we could target our money and resources more effectively and channel them up front into prevention and early intervention (where they should be), particularly community-based services, as opposed to "deep end" services such as closed custody facilities that cost a great deal of money and do very little to interrupt the intergenerational cycle of delinquency and crime.

Abuse and the Culture of Survival

The majority of girls in the juvenile justice system are victims of physical, sexual, and/or emotional abuse. The subsequent trauma experienced by girls who have been abused has far-reaching implications for juvenile justice providers, but the system has not adequately attempted to understand, address, or provide meaningful programming and support services for girls' abuse issues, particularly sexual abuse. Abuse trauma can affect every aspect of girls' lives.

Most of the negative and/or unsafe behavior we see from girls in facilities is trauma related and comes from a culture of survival. People who have experienced abuse—physical, sexual, and emotional abuse, neglect, chaotic home lives, and other forms of trauma—develop adaptation and survival skills that assist them in getting their basic human needs met in whatever ways they can. For example, girls who have been traumatized have huge trust issues and fear authority. They may think, "I'm not letting anybody get close to me or hurt me again." Consequently, they become aggressive and defensive.

It is important for juvenile justice professionals to understand this concept so that they do not judge girls' behavior harshly, take it personally, engage in power struggles with girls, or punish behavior that girls learned in an attempt to adapt to extreme circumstances. If professionals understand girls' culture of survival, they can help them identify which of their existing survival skills are healthy and safe and assist them in learning and practicing new survival skills that are legal and pro-social.

Conditions of Confinement

The conditions of confinement for girls in detention centers, residential treatment, and secure correctional facilities continue to be a major concern of mine as I travel across the country providing technical assistance for juvenile justice providers. Court services send many girls to out-of-home placement without knowing to whom or to what they are sending these girls. The AECF identifies the following conditions of confinement that should be addressed in state regulations:

- separation by gender in housing and programming;
- girls' hygiene needs;
- pregnancy and sexual health counseling and care;
- girls' access to family, including children;
- equal access to gender-responsive programs and services available to boys;
- opportunities for physical exercise and participation in sports;
- gender-responsive training for staff;
- supervision of girls by female staff;

- respect for girls' privacy;
- restraint and isolation practices; and
- protection from abuse in institutions.

Although each of the above issues is important, I will highlight the following from the above list:

Separation by gender in housing and programming. We are still housing boys and girls together in residential services throughout the nation. Jurisdictions do this because they say it is "cost-effective" or because "these kids need to learn how to get along with each other." Both reasons are without merit. Claims of cost-effectiveness make no sense to anyone who has ever worked in co-ed services; they will tell you that staff spend a great deal of time and energy putting out big and little behavioral fires that erupt because of co-ed living, such as real or perceived romantic relationships and incidents of harassment.

Pregnancy and sexual health counseling and care. We need to provide pregnancy and sexual health counseling and services for all girls in facilities. Most facilities attempt to address obvious health issues for girls, but many girls' reproductive health and other health issues go unaddressed in facilities. Many pregnant girls who are in facilities do not receive adequate prenatal education and health care services or support during labor and delivery from facility staff.

Girls' access to family, including children. Girls have the right to and deserve to have reasonable access to family and to their own children. Girls "carry" their families in their heart no matter how functional (or dysfunctional) their families are and regardless of how we judge their families. Oftentimes contact with family is used as a behavior management tool by staff, and this shouldn't be the case. Many facility staff believe that girls' families are the problem and that girls are better off having no contact or only limited contact with them. The truth is unless juvenile justice professionals actively and intentionally work with girls and their families, it will be difficult to interrupt the intergenerational cycle.

Gender-responsive training for staff. Such training is a critical need for facilities

Girls First

What do we know about girls? Girls are relational. This means that relationships are central to girls' lives. The way girls perceive how the important people around them feel about them is the way girls will feel about themselves. People who work with troubled girls can have a great deal of influence on girls' feelings of self-worth. Many who work with girls in the juvenile justice system say they are "too difficult" or "drama queens," and I've heard, "I'll take ten of your boys if you take one of my girls!" I'm afraid to say that many times I have heard staff say, "these girls are criminals and need to be punished for their crimes." We reap what we sow, and if we see girls in negative and derogatory ways then they will respond accordingly. Our views of the girls in the system determine how well we interact with them and the care and treatment they receive from us. It is essential that we take lessons from the positive youth development movement and the restorative justice movement and see the potential in all girls and believe that they can change and grow and work through the difficulties in their lives with our support and guidance.

We need to view girls in the system as, first and foremost, teenage girls. We need to see them as girls who have existing strengths, assets, and wisdom; girls with major life stressors and trauma histories; girls with survival and coping skills, some of which are unsafe, unhealthy, and illegal, and some of which are healthy, safe, and creative.

One of the most important things we can do for any of our young people is to model pro-social and pro-community behavior. The following are some helpful tips for court service staff in connecting with girls in respectful ways no matter how the girls are behaving:

- Listen to girls, hear what they say without judging, assigning motivation, feeling the need to agree or disagree with them, or questioning authenticity.
- Let girls know you care about them, even when they make mistakes and demonstrate poor decision making—remind them that we all make mistakes.
- Acknowledge their strengths and skills—help them to use these in pro-social ways.
- Acknowledge and praise their efforts and the good things they do no matter how small.
- Don't buy into the resistance—oftentimes when girls are acting "tough" and as if they don't care, this is a smoke screen for fear, confusion, and feelings of hurt and shame.
- Don't take what they say and do personally.
- Let them know you have faith in them and provide encouragement every step of the way.
- Be respectful and "real" with girls; don't withhold important information to "protect" them. Ask them what they need and what is in their best interest.

across the nation. The quality and competency of the staff team will determine success or failure. I encourage administrators of facilities to take a close look at their staff recruitment, interviewing, and hiring practices as well as subsequent training, orientation, and supervision. We need to hire people who *want* to work with girls, who care for and have compassion for

Advocate for systemic change among colleagues in your jurisdiction.

girls, particularly girls who have experienced childhood trauma and life stressors. We also need to hire people who are themselves sufficiently healthy and stable emotionally and physically to be able to work with very troubled children.

Respect for girls' privacy. The subject of privacy is tricky because we talk so much in our juvenile facilities about "safety and security." We neglect to understand that if we ensure that girls' basic needs are met—such as their right to reasonable privacy—we actually increase the safety of facilities. We need to do a much better job ensuring girls' confidentiality concerning their personal information, assessment records, intake information, and medical/clinical information and reports.

Another important aspect of girls' privacy includes cross-gender staffing. This is an issue that needs to be addressed in state regulations for juvenile facilities, as it has been addressed in adult institutions. Many facility administrators know it's essential that only female staff provide direct supervision of girls during high vulnerability and privacy times, such as nighttime sleeping hours, toileting, showering, performing personal hygiene, during clothing changes, and for health and medical care. Yet there continue to be many facility administrators across the nation who allow male staff to provide direct supervision of girls during these times. Although male staff may not be in the bathroom with the girls when they're showering and toileting, they have sight supervision, which means the girls can see them and know they are very near. The issue is not that male staff are all potential perpetrators, but rather that the majority of girls in the juvenile justice system have experienced sexual abuse at least one time, and many girls have had multiple abuse experiences by multiple perpetrators, with the majority of perpetrators having been males. Even if girls have not been abused by males, they have a reasonable expectation that male staff will not supervise them while they are sleeping, showering, toileting, and dressing. Unfortunately, in our juvenile facilities, cross-gender supervision is based on the needs and rights of employees, rather than what is in the best interest of youths. How many of you reading this article

would send your daughters to a summer camp where the camp counselors in their cabin are males?

Restraint and isolation practices. When facility staff are not well trained in female psycho-social development, cultural diversity, abuse and trauma, post-traumatic stress disorder, and female and culturally responsive services, they are ill-equipped to develop trusting and respectful relationships with girls, to intervene appropriately with emotional and behavioral issues, and to prevent and provide early intervention on crises. They then rely on power and control and overuse their authority, which leads to a reliance on restraints and isolation. Facilities must do a better job of training staff and examining their policies and procedures, stated and actual, related to the use of isolation and restraint. Use of restraints and locking girls in isolation rooms absolutely can trigger a trauma response, flashbacks, and other symptoms of post-traumatic stress disorder. The Child Welfare League of America (www.cwla.org) has done a great deal of work in this area to assist facilities to intervene with troubled youth without relying on restraints and isolation.

Protection from abuse in institutions. The Prison Rape Elimination Act (PREA) is federal legislation that guides the adult criminal justice system to eliminate inmate-on-inmate rape and assault, as well as staff-on-inmate rape and assault; the PREA also guides the juvenile justice system to eliminate staff-on-youth rape and assault, as well as youth-on-youth rape and assault. PREA will greatly help us to transform the juvenile justice system in a number of significant ways to make it safer for youth and staff. PREA legislation provides assistance with management tools for facilities and also probation/parole units. This initiative is headed up by the National Institute of Corrections (NIC); for more information, go to the NIC website: www.nicic.org.

The Role of Judges, Lawyers, and Other Court Service Personnel

An important question is what can judges and lawyers do to improve the continuum of services for girls in the juvenile justice system and to ensure the creation and

sustainability of a continuum of services model that meets the gender and cultural needs of girls. Some suggestions follow.

Condition of placement facilities. Be intentional about advocating for improved conditions of confinement for out-of-home placements. Download and read the AECF reports on girls from its website (www.aecf.org). Learn what you can about traumatized children and adolescents.

Before you send girls to an out-of-home placement, tour the facility and get a sense of what it is all about and a sense of the administration, the staff who work there, and the effectiveness of the services it provides. Tour each aspect of the facility, such as the housing units/dorms, the school, the kitchen, the cafeteria, health center, the toileting and bathing facilities, and where girls participate in programming and recreational activities.

Once you have toured the facility, take some time to talk with staff and ask them what their organization or facility's mission is, what they like about working with girls, what is difficult about their jobs, and how they think one could improve services and the system for girls. Also ask staff if they have received training on working with traumatized children and specific training on working with girls and with girls from diverse backgrounds. Then take time to talk to the girls who are in the facility; ask them what is and what is not helpful, whether they feel safe in the facility, if they feel that the staff care about them, and how they would change things if they were in charge of the system, both in that facility and the system in general. After this, ask yourselves whether or not you would want your own child to live in this placement for any period of time. You could also put yourself in the shoes of the troubled and wounded children you have authority over—ask yourself if you would feel safe there emotionally, physically, and culturally. If you answer “no” to these questions, don't send girls there. Instead, advocate that facility administrators work to improve their facilities and services and advocate for alternatives to placements within your jurisdiction.

Interagency collaboration and advocacy. Join together with other agencies that deliver services to girls. Ideally, such

collaboration would lead to and sustain an interagency advocacy coalition to address girls' needs and issues in the juvenile justice system. This coalition also could help educate and raise awareness about these issues and create a positive public relations campaign to replace the negative and hostile attitudes about girls in the system. It could push for a community-based, family-focused, and female-responsive continuum of services for girls so they don't have to be sent away from their communities. The coalition also could coordinate funding streams to better use available monies to serve girls, their families, and their communities.

Focus groups with stakeholders. Hold focus groups with girls and their families and other community stakeholders. Ask girls and families what they need from court services. Ask them what is helpful and what is not helpful to them, and then truly and genuinely listen to what they have to say and take action based on their feedback.

Advocacy within court services. Advocate for systemic change among colleagues in your jurisdiction. Ask that girls' issues are on the agenda in your monthly meetings, and when you go to your association meetings, have girls' issues on the agenda for state and national meetings and conferences.

Mentoring. Volunteer to mentor or provide education for girls on probation and/or in detention centers, group homes, or correctional facilities concerning:

- how to navigate the legal system regarding juvenile justice, family court, etc.—how to present themselves in court (and how not to);
- how to obtain restraining orders;
- how to obtain legal help for employment/housing discrimination, sexual harassment, denial of health care, mental health services, etc.;
- how to address employment applications regarding offense history;
- how to retain or restore custody of their children.
- what it's like to be a lawyer/judge/other court service professional—the path you took; and
- how to get into a reputable law school.

Promising new approaches. Promote one of the many new approaches that better address girls' needs and issues in the juvenile justice system:

Girls' court. At least four states have established a girls' court: First Judicial Circuit, Hawaii, Judge Karen Radius presiding; Second Judicial Court, New Mexico, Judge John Romero presiding; El Paso, Texas, Juvenile Drug Court, Judge Sam Medrano Jr. presiding; and Sixth Judicial Circuit Court, Pinellas County, Florida, Judge Irene Sullivan presiding.

Girls-only day treatment. Sending girls to scattered-site day treatment centers is far more cost-effective than sending them away to 24-hour, seven-days-a-week residential services. Girls-only day treatment centers should be female responsive and culturally responsive and can pull together all the “girl-friendly/girl-effective” resources within a community that are relevant to girls' lives and their families. Day treatment centers are a cost-effective way to serve a number of girls in any local community or jurisdiction in far more meaningful ways than sending them long distances away from their family to very expensive residential care.

All-girls probation units. A number of jurisdictions across the country have created and sustain all-girl probation units staffed by probation officers who like working with girls and understand their issues and needs. These specialized probation units have proven very effective in keeping girls from going further into the system. The Annie E. Casey Foundation report gives information on some of these jurisdictions.

Strength-based services and restorative justice in community- and residential-based services. All services should be strength-based for girls and their families and should approach girls with a focus on positive youth development. Restorative justice is very much in keeping with what works for girls because it is about relationships, healing, mutual and shared responsibility, community safety, and meaningful accountability. (For more, see the article “Restoring Juvenile Justice” on page 22.) GPSOLO