

UNINTENDED CONSEQUENCES:

Addressing the Impact of Domestic Violence Mandatory and Pro-Arrest Policies and Practices on Girls and Young Women

Summary Report

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OJJDP'S NATIONAL **Girls** INITIATIVE

About this Report

On March 10-11, 2016, the Office on Violence Against Women (OVW) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) brought together a group of advocates representing the violence against women and juvenile justice reform for girls communities.² The Roundtable was convened by OJJDP's National Girls Initiative to:

- Begin a conversation about the unintended consequences and impact of mandatory and pro-arrest domestic violence policies on girls, young women, and women, as well as the disproportionate impact on communities of color; and
- Identify areas for future policy and practice reform through collaboration between juvenile justice advocates, advocates for girls, and domestic violence advocates.³

This paper arose from that Roundtable and provides background information and describes the issues discussed, a set of principles identified by participants, and research gaps. Additionally it highlights promising future federal, state, and local directions to ensure that girls and young women are not criminalized for behaviors resulting from experiences of trauma and that they are able to access services and support to help them experience a safe, violence-free passage to adulthood.

The National Girls Initiative acknowledges that adolescent boys and girls can be violent in their families with serious consequences and at times that their behaviors must be understood and addressed so family members are safe. However, to address in-home adolescent violence, it is important to understand its developmental context and guard against unintended consequences that result from a single criminal justice system response to a complex and nuanced situation. It is our hope that this paper will serve as the foundation for a broad and ongoing conversation aimed at addressing all forms of gender violence, developmentally, across the life span.

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NATIVE AMERICAN GIRLS AND WOMEN: THE IMPACT OF HISTORICAL OPPRESSION AND TRAUMA.

One profound illustration of the multi-generational and pervasive impact of this oppression is the struggle of girls and women in Tribal communities:

- At each stage of the juvenile justice process, Native American girls enter and move through the juvenile justice system at rates dramatically disproportionate to white girls and to their presence in the population.
- Adult Native American women are also disproportionately represented among women who experience intimate partner violence and sexual assault.

Shared Principles

Advocates and policy-makers representing the violence against women and juvenile justice reform for girls communities who attended the Roundtable found that they had much in common. These shared principles can help frame and further organize the ongoing conversation and response.

1 Acknowledging the role of oppression

Layers of structural oppression—race, gender, sexual orientation, gender identity, ability, and socio-economic level—play an enormous role in policing, prosecuting, and processing cases of in-home violence and conflict. These intersecting forms of oppression shape the social context for girls and women throughout the life span. The unintended consequences of mandatory and pro-arrest policies on girls, like the policing of sexuality and history of violence against both girls and women of all ages, exist within and are shaped by this larger social context. Promoting relationships and autonomy for girls and young women by confronting layers of structural oppression is a framework shared by the violence against women and juvenile justice reform for girls communities.

2 Inclusion and collaboration with girls and young women of color

The leadership and experiences of cis and trans girls and young women of color in the juvenile justice system who have experienced arrest and detention for intra-family in-home assaults must be central to all efforts to develop promising practices and solutions.

3 Rejecting paternalism

The Violence Against Women Act (VAWA) was passed in partial response to historic paternalism and sexism that characterized domestic violence and sexual assault as “private” family matters tacitly condoned by the community and official systems. Today, forces of paternalism often result in juvenile justice systems that funnel low-risk girls into detention for domestic battery, ostensibly to “keep girls safe” when there is an intra-family conflict in the home.

4 Recognizing the impact of abuse

Girls charged with in-home assault report experiencing high rates of violence in their homes or communities, including high rates of sexual abuse.⁴ Vulnerability to these experiences and the resulting trauma is shared by girls and women and extends over the life span. Indeed, many girls in the justice system grow up to experience intimate partner violence or sexual assault as adult women.

5 Changing our language

Reduced criminalization and a more robust, integrated, and youth-specific, community-driven response to violence against girls are promising policy directions. This reduced emphasis on the criminal justice response and expansion of the community response will require that language used to describe youth in-home assault and battery become less criminal-focused, using less “adult” terms (e.g. “domestic violence”), and more focused on addressing the needs of youth and their families.

6 Balancing the need for objective rules with the need for discretion

The tension between objective and discretionary decision-making in the adult and juvenile justice systems is a struggle for both the violence against women and the juvenile justice reform for girls communities. In both cases that tension has revolved around the complicated ways in which the design and exercise of decision-making has driven increased gender, racial, and ethnic disparities in the juvenile and criminal justice systems.

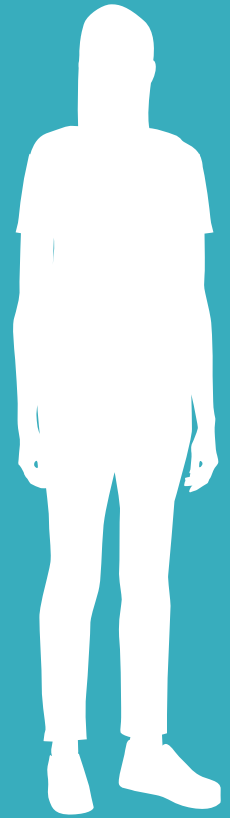
It is our hope that this paper will serve as the foundation for a broad and ongoing conversation aimed at reducing the criminalization of girls’ reactions to the violence in their lives by addressing all forms of violence against women and girls and childhood adversity, developmentally, across the life span.

Issue Statement

Girls, and particularly girls of color, are arrested and detained for intra-family in-home assaults at rates disproportionate to their overall share of the juvenile justice system.⁵

A significant number of these arrests and the girls' consequent justice system involvement are one unintended consequence of state laws and policies favoring mandatory arrest⁷ of domestic violence offenders. Mandatory arrest laws were initially enacted by some states in the 1980s in response to growing concerns about an inadequate response by law enforcement to domestic violence offenses involving intimate partners. In the decade following passage of the Violence Against Women Act (VAWA, 1994), more states enacted mandatory arrest laws for domestic violence crimes.⁸ Whereas the federal VAWA definition of domestic violence is more narrowly focused on intimate partner violence,⁹ in many states the definition of domestic violence or family violence is so broad that it includes intra-family disputes between parent and child.¹⁰ In this paper we consider the impact of arrest in cases where no or little injury is reported. The arrests of girls and young women from intra-family conflict often result in the criminalization of behaviors by girls in their homes that are reactions to their experiences of in-home violence and resulting trauma.

VAWA has provided critical protection and support for women experiencing intimate partner violence and sexual assault as well as teens experiencing dating violence. VAWA, however, was never intended to address intra-family disputes between parents and children. However, under state domestic violence laws, many law enforcement officers, arriving in homes in which girls are fighting with their parents or caregivers (including foster parents), often respond by making an arrest.¹¹ Indeed, the majority of states have either mandatory or pro-arrest domestic violence laws (22 states have mandatory arrest laws and 8 states have pro-arrests laws), while 21 states have laws that rely on officer discretion.¹²



SHEILA

Sheila⁶ is 15 years old with a history of diagnosed ADHD and behavior problems at school and at home. Her parents recently split up and she's been living primarily with her mother, who is dating a man she does not like. Sheila frequently argues with her mom about the boyfriend, household jobs, and school behavior. One evening, she throws her cell phone at her mother and runs to her room where she begins to tear things off the wall, threatening to hurt herself and her mother.

While the majority of arrests for intra-family violence are of boys, in-home conflict is a significant pathway for girls' involvement in the justice system and many of girls' arrests are for simple assault of their mothers or caregivers with no or minor injury.¹³ In 2012 girls were 38% of youth arrested for domestic offenses and 37% of youth arrested for simple assault, while they comprised 29% of all arrests nationally.¹⁴ Consequently, this type of arrest deserves serious scrutiny as a gender-relevant policy while also noting the large number of boys similarly affected. The unavailability of data or lack of data coordination among law enforcement, courts' and juvenile justice systems, as well as the range of possible charges make it impossible to fully assess the scope of the issue and its impact nationally. As a result, the scale of the issue is likely greater than can be known from available data.¹⁵



WASHINGTON STATE'S DOMESTIC VIOLENCE STATUTE

Washington state's legislative experience illustrates the tensions for states trying to address this complex issue and avoid unintended consequences and over-reliance on a criminal justice response. Over the last few years, Washington State legislators have worked to find a political balance in addressing juvenile arrest for in-home violence. The original statute mandated arrest (in-custody) for any 16- and 17-year-old suspected of assault towards a family member. Advocates for mandatory arrest in these situations argue that parents (most often mothers) have little recourse for demanding that the legal system respond to threats to their safety without the legal authority for arrest. However, state data from police records show that over 85% of all juvenile arrests for in-home violence do not involve serious injury and girls were disproportionately charged and detained for assault toward a family member. Further, arrests for in-home violence are a primary contributor to detention stays with these youth making up one third of the detained population. Attempts to modify the statute by raising the age of arrest to 18 were proposed but did not pass in 2014 and 2015. In 2016, HB5605 raised the age of mandatory arrest to 18 while requiring that officers take 16- and 17-year-olds into custody if requested by a parent. The bill further required detention facilities to book (but not necessarily detain) a youth of any age if brought to the facility for in-home assault. The bill was signed by Governor Inslee and went into effect June 9, 2016.¹⁶



Photo courtesy of The National Crittenton Foundation.

The Data

At the Roundtable, four jurisdictions¹⁷ presented data describing the course of the juvenile justice process for girls charged with in-home violence. That data portrait, across the four jurisdictions, tells a national story:

Domestic battery and assault charges¹⁸ arise out of intra-family disputes in birth, foster (including kinship care), and group homes.

These charges often arise from in-home fights between a daughter and her mother or other caregiver. Injury to the parent by the youth in these cases is rare.¹⁹

Domestic Assault and/or Battery are among the most common charges resulting in detentions of girls.

Nationally, intersectional disparities exist throughout the juvenile justice system—61% of girls confined or incarcerated for all offenses are girls of color,²⁰ and of detained girls nationally, 40% identify as lesbian, bisexual, questioning, gender non-conforming, or transgender (LBQ/GNCT).²¹ Race and ethnic disparities also exist among girls charged and detained for in-home assault.²²

In jurisdictions using objective risk assessment instruments, the majority of girls charged for in-home assault or battery score low as public safety risks, yet they are “overridden” into detention because they are from homes in which there is domestic violence.²³ As a result of these overrides, girls are detained as perpetrators of domestic battery when they are also the victims.

Domestic violence charges, like many other charges in the juvenile justice system, often lead to secure detention from 24 hours to one month as the formal case moves through the justice system.

Relative to the number of arrests and detentions, few domestic battery cases are adjudicated or result in commitment or longer-term incarceration for the girl, often because the case is minor with no injury. Nonetheless, the girl is traumatized by arrest, handcuffing, and in some cases shackling, routine strip searches upon entry into detention, and the perception that she is being blamed for what is a family problem.

Research shows that in states with mandatory or pro-arrest laws, both boys and girls are more likely to be arrested for in-home assault than in states with discretionary arrest.²⁴

Because girls are detained and incarcerated disproportionately to boys for technical violations of probation and warrants, once girls enter the formal justice system, they are at risk of increased juvenile justice system involvement for failing to comply with system rules that often misunderstand their needs.²⁵

Responses

Juvenile justice systems are struggling to develop responses that reduce formal juvenile justice involvement and its collateral consequences and that do not punish the girl (youth) for behavior that may be a reaction to in-home violence and the resulting trauma.²⁶ Responses that engage and support girls and their families are among the most promising and include:²⁷

- Anti-violence initiatives focused on reducing girls and women’s interactions with the juvenile and adult criminal justice systems, increasing respect for their rights and dignity and reshaping responses to violence to uphold young women’s agency and resilience (e.g., New York City Young Women’s Initiative).²⁸
- Alternatives to formal court processing that avoid a juvenile record (e.g., FIRS Program, King County, WA).
- Short-term non-secure shelter care to provide respite for the family and safety for the girl (e.g., Hennepin County, MN; Florida Domestic Violence Respite Care Services Program).
- Pre-petition diversion programming that engages the family in solutions including family programming, restorative justice processes, or family mediation (e.g., Step-Up curriculum).
- Reception Centers where police bring youth for assessment, triage, and referral to services (e.g., Pima County, AZ, Domestic Violence Alternative Center).
- Using validated tools to differentiate types of adolescent domestic violence developmentally, in light of the family context (e.g., the Adolescent Domestic Battery Typology Tool (ADBTT), which categorizes adolescent domestic battery into: Isolated, Defensive, Family Chaos, and Escalating—each type corresponding to service options.)²⁹



JOANNE

Between the ages of 12 and 16, Joanne was booked into detention four times for Battery, Domestic Violence, Assault, Threats/Domestic Violence, and Battery on a Household Member. The Fourth time she entered detention, at age 15, she reported being sexually abused and the detention center made a referral to protective services. She had run away from home a few times in her 15th year. At her fifth booking at age 16 she reported stress and depression and again reported sexual and physical abuse. Joanne ran from placements and so would end up back home or in detention. Her sixth detention booking was for a warrant for failing to appear in court. The intake worker reported that she was withdrawn and quiet and stated that she was in a lot of pain and tired. She was found to have two broken bones, which she said were from “being jumped” by her mother and uncle. At age 16 her grandmother became her temporary guardian. She went on to a transitional living program and never returned home.

Joanne, a victim of in-home sexual abuse and violence, was charged with 12 domestic violence–related crimes from ages 12-16. Her case was treated as delinquency rather than child welfare for all those years. The juvenile justice system frame blamed her rather than protected her and the child protective system wasn’t even aware of her case until very late. The justice system re-traumatized rather than helped Joanne.

However promising, these responses are almost exclusively developed by and located within state and county juvenile justice systems. What is almost universally missing, yet much needed, is a coordinated response with the involvement of the juvenile justice, child welfare and violence against women communities of advocates, as well as educational institutions, culturally specific organizations, service-providers, and policy-makers.



Photo by Tanya Robinson, The Whispers of Storytelling Documentary Photography



PIMA COUNTY'S DOMESTIC VIOLENCE ALTERNATIVE CENTER (DVAC)

The Pima County Domestic Violence Alternative Center (DVAC) was created in 2007 to provide an alternative to arrest and detention for youth who might otherwise have been charged with domestic violence and processed in the formal juvenile justice system. Consistent with national data, early DVAC data showed that from 2007-2010 girls comprised 39% of youth referred to the center.³⁰ Under the DVAC model, law enforcement responding to domestic violence involving youth bring the youth to the center rather than to detention. At DVAC, youth are screened and assessed, and the family is connected to health, mental health, and family support services including parenting support groups. From 2010 to 2013, DVAC resulted in an 89% reduction in detention referrals along with a 359% increase in DVAC referrals, signaling the need for this community-based response to in-home chaos and violence involving youth. Reception centers like DVAC can be operated by community-based non-profit organizations or by juvenile court probation, but data should be monitored to ensure they do not widen the net of girls entering the justice system, but rather provide an “off-ramp” to formal system involvement and an opportunity for families to engage with community-based services.³¹

Questions and Future Directions: Continuing the Conversation

Roundtable participants identified research gaps and promising directions for the continuing conversation and addressing the problem. These suggestions are necessarily general, representing a starting point and general directions that federal, state, and local responses might take.

Research Gaps

- 1** Targeted data collection and analysis are needed to fully understand the ways youth across the gender spectrum are arrested and move through the justice system for in-home assault, and the extent to which that varies in mandatory, pro-arrest, or officer discretion jurisdictions. Identification and research evaluation of effective programs and alternatives to arrest are also needed. This research should be supported federally and be designed to generate program and practice models that can be applied and brought to scale in a range of communities.
- 2** Research is needed on the ways family and community violence and the resulting trauma are a determinant of health for youth across the gender spectrum. This research should help develop a public health frame to address the issue of criminalizing youth for in-home abuse and assault.
- 3** Recent research shows that Lesbian, Gay, Bisexual, Questioning, Gender Non-conforming and Transgender youth comprise a significant share of arrested and detained youth and that many of these youth have experienced family rejection, homelessness, and running away.³² Research is needed, however, on the role arrests for domestic battery or assault resulting from in-home chaos and violence plays in their arrests, detentions, and presence in the juvenile justice system.

Promising Directions

1 Vertically and horizontally coordinated responses are critical. Child welfare, juvenile justice, law enforcement, the courts, educational systems, domestic violence and sexual assault programs, housing, and public health sectors are all essential to an effective response, which must occur at the federal, state, and local levels.

2 Increased awareness is needed among policy-makers, advocates, service providers, culturally specific organizations, and the public, of the ways in which girls and all youth are criminalized for behaviors that are often the result of experiencing in-home violence as well as the resulting harms and alternative supportive solutions.

3 The criminalization of girls for in-home violence and the role of state mandatory or pro-arrest laws should be included in policy discussions at the local, state, tribal, and national levels, and should include advocates and service providers in the fields of both domestic and sexual violence, as well as juvenile justice. Additionally, these issues should be taken into consideration in the implementation and reauthorization of federal legislation, including the Violence Against Women Act, the Family Violence Prevention and Services Act, the Juvenile Justice Delinquency Prevention Act, and the Child Abuse Prevention and Treatment Act, among others.

4 Law enforcement responses to in-home violence involving minors play a prominent role in the criminalization of girls and they should be fully engaged in discussions about how the current response has driven increased gender, racial, and ethnic disparities in the juvenile and criminal justice systems as well as the design of a more developmentally appropriate and community-based response.³³

5 OJJDP's Girls Policy supports collaboration among "[S]tate and national juvenile justice advocates, state and national law enforcement agencies, and state and national domestic violence coalitions...to amend mandatory arrest policies for domestic violence, increasing discretion, and ensuring those policies focus on intimate partner violence and adults, not on youth and intra-family conflict."³⁴ This focus area is part of a recent OJJDP program announcement to fund states and local communities to reform juvenile justice systems for girls and is one example of how federal agencies can use their convening and funding authority to support local change on this issue.

6 Consistent with a coordinated response, there are potential opportunities for federal legislative, programmatic, and funding initiatives to demonstrate leadership and stimulate effective responses to this issue in the following federal laws and agencies:

- Child Abuse Prevention and Treatment Act (CAPTA)
- Adoption Assistance and Child Welfare Act (AACWA/ASFA)³⁵
- Fostering Connections and Adoption Assistance Act
- Victims of Crime Act (VOCA)³⁶
- Substance Abuse and Mental Health Services Administration (SAMHSA)³⁷
- Department of Housing and Urban Development (support for housing for teens)³⁸
- Department of Education (ESSEA)

7 Further analysis is required to identify and develop model state domestic violence legislation that prioritizes officer discretion and alternative approaches in dealing with youth involved in intra-family conflict.³⁹ Law enforcement and justice system training on research on adolescent domestic battery, gender disparities and biases, and appropriate responses should be developed.

8 State Domestic Violence and Sexual Assault Coalitions are necessary partners on this issue and should be encouraged to work with state and county juvenile justice systems

to analyze the issue in each state, identify funding, develop collaborative programming, and advocate for system and legislative reforms to reduce girls arrests' and divert them from the justice system.

9 Trauma and experiences of in-home violence and sexual assault are significant determinants of health for young women making state Medicaid and public and community health systems a logical resource for wrap-around services that could target this population and create responses other than formal juvenile justice processing.

10 Among Roundtable participants there was discussion that the most effective solutions are truly “ground up.” In local communities, cultural values shape robust, community-focused solutions. Local solutions are also critical to frame the particular violence girls and young women experience in local terms.

11 All effective policy and programmatic solutions must include developing girl and young women leaders to speak out and play leadership roles in the development of policy, and influencing policy-makers in improving domestic violence and juvenile justice policies and laws. That genuine leadership must be cultivated on a local level.

Conclusion

The Roundtable convened by the National Girls Initiative for the Office of Juvenile Justice and Delinquency Prevention, in collaboration with the Office on Violence Against Women, was a historic conversation between advocates representing the violence against women and juvenile justice reform for girls communities. These communities are united in a shared commitment to creating safe and violence-free lives for girls from birth through adulthood. Roundtable participants agreed that girls should not be criminalized for behaviors resulting from experiences of in-home violence and/or sexual assault and that coordinated, supportive services at the local and state levels, with federal leadership, are essential ingredients of an effective response. Through the conversation, participants identified shared principles and explored possible directions for research and policy. The Roundtable was the beginning of a conversation and we hope this paper will serve as a foundation for that conversation to continue and expand.

Sources

1 This Summary Report was written in collaboration with NGI team members Jeannette Pai-Espinosa and Samantha Lopez, and Roundtable participants Denise Gamache, Kelly Miller, Karma Cottman, Sarah Cusworth Walker, and Wendy Nussbaum.

2 See Appendix A for a full list of attendees.

3 See Appendix B for the Roundtable Agenda.

4 Wendy Nussbaum, "Adolescent Domestic Battery: Why So Many Girls?" (presentation, Unintended Consequences Roundtable, Washington DC, March 10, 2016). "event": "Unintended Consequences Roundtable", "event-place": "Washington DC", "author": [{"family": "Nussbaum", "given": "Wendy"}], "issued": {"date-parts": [{"2016", "3", "10"}]}, "schema": "https://github.com/citation-style-language/schema/raw/master/csl-citation.json"

5 Francine T. Sherman and Annie Balck, "Gender Injustice: System-Level Juvenile Justice Reforms for Girls," 2015, <http://www.nationalcrittenton.org/gender-injustice/>. See generally, OJJDP Statistical Briefing Book. Online. 2015, <http://www.ojjdp.gov/ojstatbb/corrections/qa08209.asp?qaDate=2013>.

6 This and other illustrations used in this paper are real cases. In all cases the girls' names have been changed.

7 The term "mandatory arrest" refers to any state or local law or police policy that requires a police officer to make an arrest when responding to a domestic violence call if there is probable cause to believe domestic violence has occurred.

8 VAWA 1994 and its 2000 reauthorization offered grant funding to encourage states and local jurisdictions to implement mandatory or pro-arrest policies or programs regarding domestic violence offenders. The 2005 VAWA reauthorization changed the statute, amending this grant-program purpose area and recommending only "pro-arrest" policies or programs. See 42 U.S.C. § 3796hh(b)(1) as amended.

9 VAWA defines domestic violence as follows: "The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as

a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction." 42 U.S.C. § 13925(8).

10 Many states do not have specific "domestic" assault or battery statutes (see Battered Women's Justice Project National Center on Protection Orders and Full Faith & Credit, "State Statutes: Misdemeanor Crimes of Domestic Violence," 2015, <http://www.bwjp.org/assets/documents/pdfs/ncpoffc-state-statutes-misdemeanor-crimes-of-domesti.pdf>). These statutes are obviously very broad (e.g., WI Stat. sec. 940.19). Some states do define "domestic assault" but almost always include family and household members (see e.g. MN 609.2242). Statutory definitions of "domestic abuse" in civil statutes (e.g., Protection From Abuse statutes) typically include family and household members, e.g., WI Stat. sec. 813.12 (see, Battered Women's Justice Project National Center on Protection Orders and Full Faith & Credit, "Protection Order Definition Matrix," 2015, <http://www.bwjp.org/ncpoffc-protection-order-definition-matrix.pdf>).

11 There is a need for law enforcement training on adolescent development, gender and trauma informed approaches and family engagement in cases of in-home violence involving adolescent girls and boys. This training would be consistent with the principles detailed in: Office on Violence Against Women, "Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence," Policy Guidance (Washington DC: US Department of Justice, 2015), <https://www.justice.gov/opa/file/799366/download>.

12 Fifty states and the District of Columbia have domestic violence laws, the majority of which reflect pro-arrest or officer discretion policies; 29 of these have primary aggressor provisions in their laws. Only 7 states except or limit pro-arrest policies so they do not apply with the same force to minors. See American Bar Association Commission on Domestic & Sexual Violence, "Domestic Violence Arrest Policies," March, 2014, http://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/Resources/statutorysummarycharts/2014DomesticViolenceArrestPolicyChart.authcheckdam.pdf.

13 See Kevin J. Strom et al., "Policing Juveniles Domestic Violence Arrest Policies,

Gender, and Police Response to Child-Parent Violence," *Crime & Delinquency* 60, no. 3 (April 1, 2014): 427-50.

14 Charles Puzanchera, "Juvenile Arrests 2012," (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2014): 3, <http://www.ojjdp.gov/pubs/248513.pdf>.

15 Some national data do exist. Research estimates the number of adolescents who have hit their parents at least once as ranging anywhere from 3-20%. See Claire Pedrick Cornell and Richard J. Gelles, "Adolescent to Parent Violence," *Urban and Social Change Review* 15, no. 1 (1982): 8-14; Arina Ulman and Murray A. Straus, "Violence by Children against Mothers in Relation to Violence between Parents and Corporal Punishment by Parents," *Journal of Comparative Family Studies*, 2003, 41-60. Nationally, 7% to 13% of all juvenile arrests are for alleged violence on a parent. Gregory Routt and Lily Anderson, "Adolescent Violence towards Parents," *Journal of Aggression, Maltreatment & Trauma* 20, no. 1 (2011): 1-19.

16 Wash. Rev. Code. Ann §10.31.100(2) (c) (West, 2014), amended by 2016 Wash. Legis. Serv. Ch. 113 (S.B. 5605) (West).

17 The jurisdictions providing data analysis at the Roundtable were Washington State, Massachusetts, Hennepin County, Minnesota, and Bernalillo County, New Mexico. These jurisdictions were chosen because they have strong juvenile justice data capacities, histories of juvenile justice girls reforms, and work on disparities in girls arrests for domestic violence, and are geographically diverse.

18 The definitions and nomenclature for behavior constituting domestic violence broadly varies by state. In this paper we use domestic battery, domestic assault, and domestic violence as shorthand but youth are often charged with other criminal conduct arising from intra-family disputes (e.g., threats).

19 See, e.g., Sarah Cusworth Walker, "Female Juvenile Arrests for Violence: Washington State Data 2011-2013," (presentation, Unintended Consequences Roundtable, Washington DC, March 10, 2016).

20 "Minority Proportion of Female Juveniles in Residential Placement, 2013," in *OJJDP Statistical Briefing Book*. Online. 2015, <http://www.ojjdp.gov/ojstatbb/corrections/qa08207.asp?qaDate=2013>.

21 Angela Irvine and Aisha Canfield,

“The Overrepresentation of Lesbian, Gay, Bisexual, Questioning, Gender Nonconforming and Transgender Youth Within the Child Welfare to Juvenile Justice Crossover Population,” *Journal of Gender, Social Policy & the Law* 24, no. 2 (2016): 243–61.

22 For example, one presenting jurisdiction noted that the majority of detained girls in the past three years came from three zip codes which were the most economically challenged areas and contained the highest populations of girls of color. Another presenting jurisdiction, found that while White youth comprised the majority of arrests for domestic violence, Black and American Indian youth arrest rates were 3.6 and 1.2 times that of white youth respectively. All four presenting jurisdictions struggle to address race and gender disparities in their juvenile justice systems.

23 Jurisdictions that use a risk assessment instrument to guide detention decisions typically allow that risk score to be overridden by the decision maker based on discretionary factors such as, in this case, the belief that there is domestic violence in the home or a parent refusing to take the child back home. In one jurisdiction presenting at the Roundtable, 24% of overrides of low-risk girls into detention were for domestic violence as compared with 12% of boys’ overrides. Based on their risk scores, none of these youth required secure detention.

24 Strom et al., “Policing Juveniles Domestic Violence Arrest Policies, Gender, and Police Response to Child-Parent Violence.” *Crime & Delinquency* 60, no. 3 (April 1, 2014): 427–50. The same pattern of increased arrests in mandatory arrest jurisdictions holds true for adults. David Hirschel et al., *Explaining the Prevalence, Context, and Consequences of Dual Arrest in Intimate Partner Cases: Final Report Submitted to US Department of Justice*, 2007.

25 Sherman and Balck, “Gender Injustice: System-Level Juvenile Justice Reforms for Girls.”

26 Collateral consequences of formal juvenile justice processing (arrest, detention, formal petition, adjudication, disposition) vary by state but include: disclosure of delinquency records for employment, housing, and education; school suspension and disruption; secondary trauma from strip searches (routine on admission to juvenile detention) and other punitive conditions of confinement; separation from family, schools, community and peer and other support systems; and disruption of physical and mental health care.

27 See generally Gene Siegel and Gregg Halemba, “Promising Practices in the Diversion of Juvenile Domestic Violence Cases” (Pittsburgh, PA: National Center for Juvenile Justice, March 2015), http://www.ncjj.org/pdf/Gene_Gregg_report/PromisingPracticesJuvenileDVdiversion2015.pdf.

28 The Initiative web site solicits recommendations from girls and young women and describes the initiative: <http://www.shewillbe.nyc/>.

29 The ADBTT is consistent with the trend in juvenile justice toward objective risk and re-offense measures to assist systems to match youth to services. The ADBTT is a validated tool that assigns youth charged with domestic assault and/or battery to four distinct typologies: Isolated, Defensive, Family Chaos, or Escalating. By assigning youth to distinct typologies, the ADBTT provides the basis for recognizing that all youth who commit domestic battery are not the same, do not have the same risk level to reoffend, and therefore should be given different responses. The tool’s classification methodology provides the foundation for a structured framework to effectively match intervention level to risk level, thus providing a much greater likelihood for successful treatment outcomes. For example, a youth classified as an “isolated case” would not be appropriate for an intensive long-term treatment program but would likely benefit from some form of educational programming through a diversion contract.

30 Francine Sherman, Richard Mendel & Angela Irvine, “Making Detention Reform Work for Girls,” *A Guide to Juvenile Detention Reform*, #5 (Annie E. Casey Foundation, 2013), <http://www.aecf.org/m/resourcedoc/AECF-MakingDetentionReformWorkforGirls-2013.pdf>.

31 Siegel and Halemba, “Promising Practices in the Diversion of Juvenile Domestic Violence Cases.”

32 Irvine and Canfield, “The Overrepresentation of Lesbian, Gay, Bisexual, Questioning, Gender Nonconforming and Transgender Youth Within the Child Welfare to Juvenile Justice Crossover Population.”

33 See, e.g., Office on Violence Against Women, “Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence.”

34 Office of Juvenile Justice and Delinquency Prevention (OJJDP), “Girls and the Juvenile Justice System - Focus Area #3 for States, Tribes and Local Communities”,

Policy Guidance (Washington, DC: Office of Justice Programs, US Department of Justice, November 2015), <http://www.ojjdp.gov/policyguidance/girls-juvenile-justice-system/>.

35 For example, these child welfare laws may present opportunities to address the issue of youth arrests for in-home violence in foster and group care or to expand reporting of in-home abuse for teens.

36 Juveniles are eligible for support as Victims of Crime and so state VOCA funds may be a vehicle to support girls who experience in-home violence.

37 This issue might be a part of more general SAMHSA policies on trauma-informed responses for girls, women, youth, and families.

38 As with adult women victims of intimate partner violence for whom the availability of housing can create or tragically limit options, the paucity of housing options for older adolescent girls experiencing in-home violence causes them to stay in the homes and can lead to behaviors for which they are charged with domestic battery.

39 Additional research on model approaches and legislation making civil Orders of Protection available to youth unsafe in their homes might also be helpful.

APPENDIX A

Participant List

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APPENDIX A

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APPENDIX B

Agenda

A COLLABORATION OF THE NATIONAL GIRLS INITIATIVE, OJJDP AND THE OFFICE ON VIOLENCE AGAINST WOMEN, DOJ

GOALS

- 1** Begin a conversation about the unintended consequences and impact of mandatory and pro-arrest domestic violence (DV) policies on girls, young women, and women, particularly on girls, young women, and women of color.
- 2** Identify areas for future practice and policy reform through collaboration between juvenile justice advocates, advocates for girls, and domestic violence advocates.
- 3** Work collaboratively to develop and release a white paper that describes the issue, proposes shared terminology, summarizes the current situation/practice, and offers policy and practice reform recommendations and considerations.

MARCH 10, 2016 – DAY 1

8:30 am – 5:00 pm

**Meet at 8:00 am in the lobby at OJJDP – 810 7th Street, N. W.
to be admitted through security**

I. OPENING

Welcome

- Robert Listenbee, Administrator OJJDP, USDOJ
- Bea Hanson, Principal Deputy Director, Office on Violence Against Women, USDOJ

Introduction of Facilitators and Participants

- Mary Bissell, ChildFocus
- Jeannette Pai-Espinosa, Co-Director NGI; President, The National Crittenton Foundation

History and Goals

- Catherine Pierce, Senior Advisor to the Administrator, OJJDP, USDOJ

II. SETTING THE CONTEXT

Across the Lifespan: Criminalization of Trauma and Intersectional Oppression of Girls and Women – Jeannette Pai-Espinosa, NGI

The Voice of Experience – Z. Ruby White Starr, Chief Strategy Officer, Casa de Esperanza; Director, National Latino Network

Overview and Background: Domestic Violence – Denise Gamache, Director, Battered Women's Justice Project

- History and Framing of the Domestic Violence Movement
- Development and Impact of Mandatory/Pro-Arrest Policies and Practices in Domestic Violence Situations

Overview and Background: Girls and Juvenile Justice – Francine Sherman, Clinical Professor; Director, Juvenile Rights Advocacy Program, Boston College Law School

- Theoretical Framework of Juvenile Justice Reform for Girls
- Understanding the Juvenile Justice Process for Girls

Adolescent Domestic Violence: What Does the Research Tell US? – Wendy Nussbaum, Executive Director, DuPage Family and Youth Services

Discussion: Opportunities for Change – Jeannette Pai-Espinosa

III. GIRLS, ASSAULT AND DOMESTIC VIOLENCE

A Composite Case Study – Francine Sherman

- **Sarah Cusworth Walker** – Research Assistant Professor, Department of Psychiatry and Behavioral Sciences, University of Washington School of Medicine and President, Justice for Girls Coalition, WA
- **Barbara Morton** – Regional Director, Central Region, Department of Youth Services, MA
- **Kristi Cobbs** – Girls Service Coordinator for Hennepin County Juvenile Services Department of Community Corrections and Rehabilitation, MN
- **Gerri Dupree Bachicha** – Juvenile Detention Alternatives Initiative (JDAI) Site Coordinator, Bernalillo County, NM

- How do girls enter and move through the juvenile justice process for assault and other charges arising out of domestic violence?
- What are the common themes in cases of in-home violence and distress resulting in girls' arrests and detentions?
- How do jurisdictions modify the justice process, using programs and practices to divert girls from formal processing and detention?

Moving to Solutions: Identifying and Addressing Unintended Consequences: Response Panel

- **Karma Cottman** – Executive Director, DC Coalition Against Domestic Violence
- **Paula Gómez-Stordy** – Consultant for Jane Doe, The Massachusetts Coalition Against Sexual and Domestic Violence.
- **Kelly Miller** – Executive Director, Idaho Coalition for Domestic and Sexual Violence

Group Discussion – Jeannette Pai-Espinosa

IV. CLOSING: REVIEW OF THE DAY

MARCH 11, 2016 – DAY 2

8:30 am – 2:30 pm

**Meet at 8:00 am in the lobby at OJJDP – 810 7th Street, N. W.
to be admitted through security**

Opening – Catherine Pierce, OJJDP, USDOJ

This half-day will be dedicated to ensuring that we have met each goal and to begin to craft the elements of the white paper including policy and practice recommendations. This may include small group work and the agenda for this half-day will flow from what we have learned during Day 1.

Closing – Rosie Hidalgo, Deputy Director for Policy, Office on Violence Against Women, USDOJ