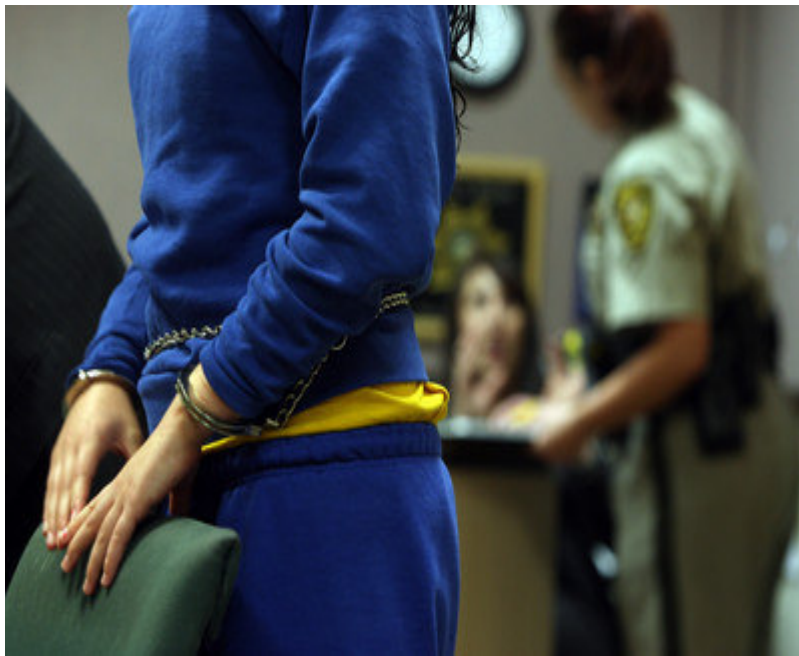


Eliminating the One-Size Fits All Approach in the Juvenile Justice System



**December 17, 2008
Maria Jose Moraga
Professor Jaimes*Guerrero**

Introduction

Over the past decade and a half, admissions of girls into the juvenile justice system have increased nationwide. The table below shows the number of arrests for boys and girls for 1990, 1995, 2000, and 2004 (Schaffner, 2006, p.13). Also, the last column shows the percent increase of arrest for boys and girls from 1990 to 2004. Percent wise, girl cases have increased across all offenses compared to boys. Specifically, girls who have committed simple assault offenses have dramatically increased by 137 percent compared to 44 percent for boys.

Estimated Juvenile Arrests, Selected Offenses, by Gender

	1990	1995	2000	2004	% Increase 1990 to 2004
Boys					
Total Violent Crime	101,082	127,296	80,765	73,701	-26
Aggravated Assault	54,752	67,266	50,450	46,275	-15
Simple Assault	115,571	155,892	163,777	166,847	+44
Prostitution and Commercialized vice	716	648	598	516	-28
Girls					
Total Violent Crime	13,408	21,818	18,101	17,086	+28
Aggravated Assault	9,718	16,368	15,369	14,345	+48
Simple Assault	35,209	59,358	73,241	83,441	+137
Prostitution and Commercialized vice	847	605	724	1,304	+54

In addition, statistics show that drug offenses are one of the top ten reasons for why girls are getting arrested (specific statistics will be shown later in this paper). Proposition 5, Nonviolent Offender Rehabilitation Act, would have provided early intervention programs for youth who are struggling with drug problems. Even though Proposition 5 did not pass, there are some juvenile justice programs that attempt to meet the needs of girls like Girls Court in Santa Clara County. This paper will discuss the reasons why girls are being arrested, the benefits that would have come from Proposition 5, my experience observing the Girls Court, and I will provide potential solutions to address the outstanding issues.

Why girls are being arrested and detained?

In the criminal justice system, simple assault is defined as an assault which is limited to the use of physical force and result in little or no injury to the victim (OJJDP Website, 2008). An example of a simple assault offense is a school fight that does not involve a weapon. Efforts to lower simple assault cases would drastically help girls who have committed non-violent offenses to get out of the juvenile justice system. Ultimately, the goal is to decrease the number of non-violent offenses for girls by connecting them with juvenile justice programs that would help them change their behaviors.

The arrest trends above are disturbing and as a society we can no longer overlook gender-specific needs. The growth of this problem could perhaps be that the juvenile justice system does not know how to respond to girl's behavior. The Justice for Girls Initiative reported that "the types of offenses girls commit generally do not pose the same threat to public safety as those committed by boys" (Ravoira, 2008, p. 9). Boys are far more likely to be arrested for traditional criminal behavior like grand theft or property vandalism or participating in gang activities. Girls, on the other hand, are far more likely to be detained for running away from home, serious trouble with a parent or being promiscuous. The juvenile justice system was not build to address girl's needs; thus, it is unreasonable for the system to hold girls to the same standards as boys.

In recent years, there have also been serious concerns regarding the validity of the Detention Risk Assessment Instrument which could be a reason why detention centers for girls are overcrowded. The Detention Risk Assessment Instrument is designed to evaluate each arrested minor to determine the need for secure, locked confinement. The Justice for Girls Initiative questions "whether this instrument is gender responsive and/or culturally

competent and if this assessment instrument accurately distinguishes between those youth who do not present a public safety or flight risk and those who do pose a public safety or flight risk thus requiring secure detention” (Ravoira,2008, p.9). In order to address all the above issues, the juvenile justice system should create policies and alternative programs for girls who have committed minor offenses so they are not incarcerated.

The juvenile justice system has dramatically failed to address the unique needs of girls and as a society we need to make them accountable to provide appropriate services for girls in this system. The table below shows the ten most non-serious offenses for which girls and boys are arrested.

Rank and Proportions of Selected Offenses, by Gender, 2004

Girls			Boys		
Rank	Offenses	Of all girls arrests, % (#)	Rank	Offenses	Of all boys arrests, % (#)
1	Larceny/Theft	21 (137,299)	1	All other minor offenses	18 (277,897)
2	All other minor offenses	16 (106,026)	2	Larceny/Theft	12 (190,029)
3	Simple Assaults	13 (83,442)	3	Simple Assaults	11 (166,847)
4	Runaway	11 (70,036)	4	Drug Offenses	10 (161,253)
5	Disorderly conducts	10 (66,662)	5	Disorderly conducts	9 (139,662)
6	Liquor law violations	7 (46,242)	6	Curfew and loitering	6 (95,682)
7	Curfew and loitering	6 (42,965)	7	Vandalism	6 (89,084)
8	Drug Offenses	5 (33,594)	8	Liquor law violations	5 (84,385)
9	Vandalism	2 (14,899)	9	Burglary	5 (72,028)
10	Aggravated assault/ Other offenses	2 (14,345)/ 7 (47,974)	10	Runaway/ Other offenses	3 (48,777)/ 15 (233,020)
	Total	100 (662,496)		Total	100 (1,558,664)

As the data shows, girls have been detained for less serious offenses than boys. In 2004, the total arrest for non-serious offenses for girls were 662,496 compared to the total arrest for boys which was 1,558,664. However, research shows that “girls are far more likely to be treated severely by the courts than boys charged with similar contempt offenses” (Chesney-Lind & Pasko, 2004, p.130). This means that gender bias exist in the juvenile justice system and this is unfair because girls are receiving imposing harsher and more punitive sanctions for less serious offenses. Also, girls who are arrested and

incarcerated for minor offenses are placed in overcrowded detention centers, experience poor conditions of confinement, and receive inappropriate services.

Proposition 5

From the data above, we also see that drug offenses are ranked as number eight for girls, while drug offenses for boys are ranked as number four. Although drug offenses are not one of the top three reasons for girls getting arrested, it still becomes a concern because drug offenses can lead to other serious crimes. The literature states that “girls who regularly use alcohol and drug face higher risks for involvement in other self-destructive behavior such as delinquency, crime, and suicide than girls who abstain from or have never used alcohol or drugs” (Flowers, 1995, p.157). More specifically, “White girls comprise the majority of female juveniles arrested for drug and alcohol related offenses” (Flowers, 1995, p.160). However, girls of color are generally likely to be arrested for drug and alcohol related crimes and processed into the juvenile justice system before receiving any form of treatment (Flowers, 1995, p.160). Without early intervention, too many girls get tied up in the juvenile justice system only to graduate to the adult criminal justice system.

In the juvenile justice system in California, there are no life-saving health services that really help young people to rehabilitate from their drug addictions. For that reason, there is a need to build an early intervention system to save lives and stop crimes before they happen. Research shows that “early treatment can give youth a better chance for rehabilitation or, at worst, can interrupt the development of more serious drug abuse careers” (Friedman, 1985, p.62). In this past election, Californians had the opportunity to vote for Proposition 5, the Nonviolent Offender Rehabilitation Act. This measure would

have simultaneously transform youth treatment, reduce adult prison overcrowding, and significantly cut costs to taxpayers (Official Voter Information Guide Website, 2008). Unfortunately, this measure did not pass and there are thousands at-risk California youth under the age of 18 who need drug treatment programs to be rehabilitated.

Proposition 5 would have expanded access to court-supervised treatment and increases accountability for offenders in those programs. Also, this new system would have offered the full spectrum of youth needs, “including drug treatment, mental health medication and counseling, family therapy, educational stipends for higher education, employment stipends, and transportation services” (Official Voter Information Guide Website, 2008). The services provided by Proposition 5 would have sought to address the root of the problem for our youth instead of just treating their symptoms. Meanwhile, it would have also improved public safety by increasing parole supervision of serious and violent offenders. There is no doubt that well run treatment programs cure people of addiction in the long term. Spending on these programs should be an urgent priority because they are cost effective compared to the cost of incarcerating non-violent offenders. We can only hope that in the next elections this measure gets back on the ballot so that our youth can get the treatment and support services that they urgently need.

Observing Girls Court

Historically, girls have become a low priority for the juvenile justice system and the courts. Girls are more often the victims of physical, sexual, and psychological abuse and they are often placed in settings and institutions that are neither designed for, nor proven effective in, their treatment and rehabilitation. According to the National Mental Health Association, programs for girls need to focus on “building healthy relationships,

addressing victimization, and improving self-esteem” (Ravoira, 2008, p.18). Fortunately, there are some programs that do help girls when they break the law. I had the opportunity to observe the Girls Court Program within the juvenile division in Santa Clara County. This Girls Court was designed to meet the unique needs of high risk girls who are in custody and who may be pregnant or have mental health issues.

In court, the first thing that I noticed was that all the staff were women. There was a female judge, female probation officers, female social workers, female child advocates, female therapists, and female attorneys. It was interesting to see this type of court setting because there are no other courts that attempt to create a women-friendly environment. This court has been operating for one year and half and currently has fifteen girls between the ages of 14 to 18 participating in the program. In order for girls to be part of this program, they must first be referred by their social worker or attorney. While in court, I sat through three cases involving three Hispanic girls who were dealing with a variety of issues such as difficulties enrolling in school, not receiving enough money to pay for basic living expenses, placement and housing issues, and finding child care for their children. For the past year and half, Commissioner McCarthy has been responsible for making sure that these girls are receiving the appropriate services that they need to improve their lives. I had the opportunity to ask Commissioner McCarthy a few questions about her court and the services that they provide for these girls.

Commissioner McCarthy told me that she always looks forward to Girls Court because she enjoys seeing the progress that the girls have made over the year. She mentioned that “many of the girls who first start the program have an attitude and are resistant to services; however, within couple of weeks you see changes in them.” In this

specific court, Commissioner McCarthy's role is to help these girls make better decisions in their lives by connecting them with the appropriate services. The literature supports this type of leadership in the court system since it's "the responsibility of a judge to advocate for improvements in the law as well as adjudicate a particular case" (Katzmann, 2002, p.142). Also, she mentioned that Girls Court is intended to empower the girls by giving them the opportunity to exercise their judgment and problem solving skills. It is unclear if Girls Court is effective because it is so new that there is not enough data to analyze it. However, Commissioner McCarthy hopes that in the next couple of months they can begin collecting data to measure the program effectiveness and possibly seek funding to expand the program.

Potential Solutions

The policy of punishing first-time offenders who commit simple assault crimes and drug offenses need to be changed since it is overwhelming the juvenile courts, probation departments, and detention centers. If a girl is caught with a small amount of marijuana for the first time then she should be required to receive counseling instead of being handed a misdemeanor conviction that can severely limit her potential. The literature repeatedly states that "enormous amounts of juvenile justice system resources are wasted on the very large proportion of all juvenile offenders who will never become serious, violent, and chronic offenders" (Howell, 2008, p.312). For that reason, there is a need for smarter and economical interventions for young people.

To better serve girls who find themselves in the juvenile justice system, decision makers need to develop more effective policies and practices and allow for a case by case analysis on individual cases. The National Institute of Crime's report (2005) provides

suggestions for creating and evaluating juvenile justice programs designed for girls. The report mentions the gender-responsive approach, which is a multidimensional and theoretical perspective that acknowledges women's pathways into the criminal justice system. The gender-responsive approach addresses "social and cultural factors, as well as therapeutic interventions" (Ravoira, 2008, p.18). To prevent arrest and incarceration of girls, it's important to understand how girls' problems evolve into delinquent behavior. The literature recommends "the need for programs to be culturally specific as well as gender-specific because girl's lives are shaped by both their cultures and their gender" (Chesney-Lind & Pasko, 2004, p.140). Girls of color have different experiences than White girls and they need programs that are designed to specifically meet their needs. For example, many girls of color from low-income communities receive less favorable treatment than those who are White or middle class. This type of differential treatment needs to change since we are seeing a disproportionate representation of girls of color in the juvenile justice system.

Recently, there has been strong interest to reform the juvenile justice system that focus on rehabilitating youthful offenders rather than locking them up. Many believe that girls have the potential to change, but they need to be given that chance to change by offering them appropriate treatment and services for them to rehabilitate. Incarceration is not the answer for girl offenders so there is a need to redirect government funds from incarceration to counseling, education, and job training program. We need to adopt gender-specific programs for girls within the juvenile justice system and learn to understand the unique developmental issues facing girls today. The Office of Juvenile

Justice and Delinquency Prevention suggest that girls would benefit from gender-specific programs such as the following: (Ravoira, 2008, p.18).

- Programs should be all female whenever possible;
- Girls should be treated in the least restrictive environment, whenever possible;
- Programs should be close to their home so as to help maintain family relationships;
- Programs should be consistent with female development and stress the role of relationship between staff and girl;
- Programs should be prepared to address the needs of parenting and pregnant teens.

Investing in treatment and services is essential to preventing future arrests and incarceration among girls. It would be more cost-effective to treat girls who have the potential to change their behavior than to incarcerate them for committing minor offenses that have no serious threat to the public. We are just now seeing some policy changes and programs that are addressing girl's problems and their experiences in the juvenile justice system. However, there is more work that needs to be done to create a level of awareness about the importance of reforming the juvenile justice and stimulating the interest to improve policies and practices in other jurisdictions.

Conclusions

To meet the challenges identified above, the juvenile justice system should pay closer attention to the problems and experiences that girls face in the system. There are several factors that need to be taken into consideration when creating and evaluating juvenile justice programs designed for girls. First, girls have different needs than boys

and those needs should be addressed by offering them gender-specific programs. Secondly, it's not fair that girls are receiving harsher punishments than boys for committing the same crimes. This issue needs to be addressed by investigating which juvenile justice practices is gender-bias towards girls. Thirdly, there should be early intervention for girls who have drug problems. Untreated drug problems can have lasting impacts far beyond the adolescent years. Lastly, reforming the juvenile justice system will help address the multiplicity and intensity of behaviors and needs of girls currently in the system. As a final point, girl's issues should no longer be ignored and as a society we need to challenge leaders and decision-makers in our community to act in best interest of girls.

Learning Experiences

From this research paper, I have learned a lot about the different pathways that girls get into the juvenile justice system as well as the different outcomes that they experience. Girl's delinquency is often different from that of boys, it was important for me to understand that girl's involvement in delinquency is often connected to conflicts in family and social relationships. The literature kept bringing up the issue that girls in the delinquency system have histories of physical, emotional and sexual abuse. Before doing my research, I was not exactly aware about the kind of abuse that most of these girls experience at an early age. Now that I'm more educated about the topic, I believe that gender-specific programs are desperately needed in the juvenile justice system. However, there was not a lot of information in the literature about the effectiveness of gender-specific programs that address the personal problems of these girls. In the future, I hope to see more qualitative and quantitative data in the literature so that we can measure the

effectiveness of these programs. Also, I would like the juvenile justice system to move from data to action and be accountable for how girls are faring in their system.

It's going to be challenging to eliminate the one-size fits all approach in the juvenile justice system because there are big differences of opinion on how to deal with young offenders. For example, do we punish them or do we treat and rehabilitate them.

To see real change, we need to begin a radical social justice movement to create a level of awareness about the importance of reforming the juvenile justice system. The goal is to address the root of problem and not just treating the symptoms. Girls issues need to be taken more seriously and public and private resources need to be used better to meet their needs. Decision makers need to be informed about best practices and people who care about girls well-being need to speak out for needed change.

Closing Statement

This past semester we have been exposed to a variety of topics related to women and justice issues. First, we have addressed issues involving nationalist public policy which has affected women's status in society. Women generally have had fewer rights and career opportunities than men. Unfortunately, not much has changed because women continue to comprise a disproportionate share of the world's illiterate, poor, underpaid, and underemployed. To change these inequalities, women have stood up for themselves by running for public office, participating in social movements, and advocating for women's rights. Secondly, we have discussed in this course about transnational adoption, which has become a trend in today's society. Hollywood couples make it seem so easy to adopt children from abroad. But in reality, adoptions are nerve-wracking and expensive, especially since they are now big business. The boundary between legal adoption and child-trafficking has become a blur because sometimes corrupt methods are used to adopt children from abroad. To stop the corruptions, many countries have worked together to create laws to protect these children. Lastly, this course has been focused on bridging the gender gaps for social reform. Women have been expected to fulfill the traditional role of nurturer and caretaker as opposed to being placed in leadership roles that deal with issues like foreign policy and finances. The women's movement has changed some of these expectations by pressuring politicians to include gender issues in their national policy agendas and adopt legislation that addresses women's inequality. As a result, sexual harassment, employment discrimination, wife beating, date and marital rape have all become illegal. This semester I learned a great deal about women issues and the role that they have played to improve their status around the world.

References

- Flowers B. Ronald. (1995). *Female Crime, Criminals, and Cellmates: An Exploration of Female Criminality and Delinquency*. McFarland. pp. 157 & 160.
- Friedman S. Alfred. (1985). *Treatment Services for Adolescent Substance Abusers*. DIANE. p.62.
- Howell, C. James. (2008). *Preventing and Reducing Juvenile Delinquency: A Comprehensive Framework*. SAGE Publications. p. 312.
- Katzmann, Gary S. (2002). *Securing Our Children's Future: New Approaches to Juvenile Justice and Youth Violence*. Brookings Institution Press. p.142.
- Lind-Chesney, Meda & Pasko, Lisa. (2004). *Girls, Women, and Crime*. SAGE Publications. pp.130 & 140.
- McCarthy, Kristine. (2008, December 5). Santa Clara County Superior Court. Interview. Office of Juvenile Justice Delinquency and Prevention Website. (2008). Retrieved November 25, 2008 from <http://ojjdp.ncjrs.org>.
- Official Voter Information Guide Website. (2008). Retrieved November 25, 2008 from <http://www.voterguide.sos.ca.gov>.
- Ravoira, Lawanda. 2008. Justice for Girls: Blueprint for Action, Children's Campaign INC. pp. 9 & 18.
- Schaffner, Laurie. (2006). *Girls in Trouble with the Law*. Rutgers University Press. p.13.