

## Responding to the Needs of Adolescent Girls in Foster Care

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### INTRODUCTION

As child welfare systems across the country become trauma-informed, a shift must occur in understanding how gender and trauma intersect.<sup>1</sup> Girls and boys experience different kinds of trauma and are impacted differently by trauma.<sup>2</sup> Girls are victimized at higher rates than boys and are more likely to be victims of sexual abuse and sexual assault. Girls tend to internalize their response to trauma by harming themselves and abusing drugs and alcohol and are more likely to suffer from depression and post-traumatic stress disorder (PTSD). Girls' experiences and responses place them at significant risk of numerous negative outcomes, including continued victimization, teen pregnancy, and juvenile justice system involvement.

Understanding the relationship between girls' trauma and girls' long-term outcomes opens new avenues for meeting their needs in the child welfare system. Very little is currently known about girls in the system and what happens to them after they leave the system. The available research indicates that too many girls

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1. Throughout this Article, the term "child welfare system" refers to the courts, public child welfare agencies, private providers, and attorneys responsible for protecting and/or working with alleged or confirmed child maltreatment victims and their families.

2. Throughout this Article, the terms "girl" and "boy" are used to refer to children and youth who meet the legal definition of child in the child welfare context—that is, a person under the age of eighteen, or, in states that extend foster care beyond age eighteen, a person under the age at which foster care services end. The Authors acknowledge that terminology matters greatly, and there are many opinions about the words that should be used in discussions about both gender and age ranges (female, male, child, youth, adolescent, young adult, gender, sex, etc.).

who are in foster care as teenagers experience school failure, violence, homelessness, financial difficulties, and early parenthood, as well as physical and mental health ailments.<sup>3</sup> They also become involved with other public systems, including the criminal justice system.<sup>4</sup>

Averting these outcomes by addressing the myriad and complex needs of girls in the child welfare system has to start with a first step—acknowledging that girls have gender-specific needs. The next step is initiating a comprehensive effort to understand girls in the child welfare system and their needs. While collecting and analyzing information about girls, systems need to simultaneously change some of their approaches to provide gender-responsive and trauma-informed services. A comprehensive, gender-responsive, and trauma-informed system of care should be created for all ages and genders. This Article, however, focuses on the unique needs of adolescent girls, from the start of puberty until they exit the child welfare system.<sup>5</sup> Puberty is a time of great developmental change and the time when gender-specific needs become more pronounced. This Article explores some of the questions that systems should ask to meet the unique needs of this population and provides suggestions for improving the well-being of girls.

### I. UNDERSTANDING GIRLS' NEEDS

Adolescent girls and boys differ biologically, developmentally, socially, and emotionally.<sup>6</sup> Societal expectations for girls and boys also differ, and the combination of gender-based external and internal factors results in different circumstances causing their entry into the child welfare system, different experiences of the system while in it, and different pathways when they leave the system.

With few exceptions, most child welfare systems do not approach their service delivery with the acknowledgement that boys and girls have different developmental needs. Most systems struggle just to meet the basic needs of children in their

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3. *E.g.*, MARK COURTNEY ET AL., MIDWEST EVALUATION OF THE ADULT FUNCTIONING OF FORMER FOSTER YOUTH, OUTCOMES AT AGE 23 AND 24 (2010); PETER PECORA ET AL., ASSESSING THE EFFECTS OF FOSTER CARE: EARLY RESULTS FROM THE CASEY NATIONAL ALUMNI STUDY (2003).

4. *E.g.*, COURTNEY ET AL., *supra* note 3; PECORA ET AL., *supra* note 3.

5. This is a wide range of time, given that many girls in the United States begin puberty at around age seven, and youth in many states can remain in foster care until age twenty-one. Frank M. Biro et al., *Pubertal Assessment Method and Baseline Characteristics in a Mixed Longitudinal Study of Girls*, 126 *PEDIATRICS* 583, 583 (2010). It is important to note that, even though adolescence is when the gender-specific needs of boys and girls become most pronounced, systems, caregivers, and youth can start preparing for the impending changes well before adolescence. The Fostering Connections to Success and Increasing Adoptions Act of 2008, PL 110-351, allows states to receive federal reimbursement for caring for youth who remain in foster care until they turn twenty-one years old.

6. *See generally* AM. PSYCHOLOGICAL ASS'N, DEVELOPING ADOLESCENTS: A REFERENCE FOR PROFESSIONALS (2002).

care—they are focused on keeping children safe, fed, housed, and in school and have not yet considered looking at the system through a gender lens.<sup>7</sup>

It is undeniable, though, that boys and girls are different. Biology, physiology, medicine, psychology, and the social sciences have extensively documented the differences, which range from brain development to how they cultivate and value relationships to how they experience and respond to trauma. These gender-specific differences dictate different approaches and responses to meeting the needs of each gender. Therefore, the care and services that child welfare systems are required to provide must be understood within the context of gender—specifically, how gender affects the expression, meaning, priority, and satisfaction of seemingly gender-neutral needs.

### A. *What is Known About Girls in the Child Welfare System*

Girls in foster care have special needs arising out of their life circumstances. Along with the typical challenges of adolescence, these girls' lives usually include histories of abuse or neglect; unstable, dangerous, or non-existent family environments; interpersonal violence; sexual victimization; frequent moves; inconsistent school attendance; lack of control over decisions affecting daily life; limited financial resources; and unmet physical, developmental, and mental health needs. These risk factors increase the probability that girls will suffer harm.<sup>8</sup>

Publicly available child welfare data generated by the Administration for Children and Families (ACF) of the U.S. Department of Health and Human Services provide little information about girls. The annual Adoption and Foster Care Analysis Reporting System (AFCARS) data state how many girls are in foster care, how many are adopted out of foster care, and how many are waiting to be adopted.<sup>9</sup> On September 30, 2011, there were 190,932 females in foster care in the United States, comprising 48% of the children in foster care.<sup>10</sup> For over a decade, the percentage of girls has remained steady, even while the number of children in the system has declined each year.<sup>11</sup>

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7. Examples of programs and initiatives that are focused on gender-responsive programming for girls in foster care include Crittenton Services, Inc. in Wheeling, WV, Inwood House in New York, NY, and the Delaware Girls Initiative. *Inwood House: We Help Teens Take Charge of Their Lives*, INWOOD HOUSE, <http://www.inwoodhouse.com/> (last visited Jan. 18, 2013); *News from DGI*, DEL. GIRLS INITIATIVE, <http://www.delawaregirlsinitiative.org/> (last visited Jan. 18, 2013); *Programs*, CRITTENTON SERVICES, INC., <http://www.florencecrittenton.net/programs/> (last visited Jan. 18, 2013).

8. CTR. FOR MENTAL HEALTH SERVS., OFFICE OF THE U.S. SURGEON GEN., *YOUTH VIOLENCE: A REPORT OF THE SURGEON GENERAL*, at ch. 4 (2001), available at <http://www.ncbi.nlm.nih.gov/books/NBK44294/>.

9. *E.g.*, CHILDREN'S BUREAU, DEP'T OF HEALTH & HUMAN SERVS., NO. 19, *THE AFCARS REPORT (2012)* [hereinafter *AFCARS REPORT 19*], available at <http://www.acf.hhs.gov/sites/default/files/cb/afcarsreport19.pdf>.

10. *Id.*

11. *Id.*; see also CHILDREN'S BUREAU, DEP'T OF HEALTH & HUMAN SERVS., NO. 12, *THE AFCARS REPORT (2006)* available at <http://www.acf.hhs.gov/sites/default/files/cb/afcarsreport12.pdf>; CHILDREN'S

Among the things that are known about girls in the child welfare system are their rates of victimization as compared to the rates for boys. While the child welfare system does not break down reasons for entry into care by gender, more details about the prevalence and types of abuse girls suffer are available through the three primary sources of information about child victimization, which measure confirmed maltreatment, estimated maltreatment, and crimes.<sup>12</sup> In each of these sources, girls are identified as victims at higher rates than boys. *Child Maltreatment 2010* reported that 51.2% of child maltreatment victims were girls—that number has remained stable for several years.<sup>13</sup> The NIS-4, published in January 2010, found that “girls’ risk of abuse was 1.3 times that of boys . . . due primarily to their significantly higher risk of sexual abuse.”<sup>14</sup> Additionally, “girls’ risk of inferred harm was 2.3 times that of boys,” again because girls are more often victims of sexual abuse.<sup>15</sup> The NIS-4 also looked at victimization trends over time and found that rates of abuse over time have been declining, but the rate of abuse of boys has declined more than the rate of abuse of girls.<sup>16</sup>

In statistics measuring victimization, particularly victimization that is brought to the attention of law enforcement agencies and is committed by perpetrators who are not parents or caretakers, “59% of the juvenile victims of violent crimes known to law enforcement in 2000 and 2001 were female.”<sup>17</sup> Additionally, these statistics show that males and females are victims of different types of violent

BUREAU, DEP’T OF HEALTH & HUMAN SERVS., No. 13, THE AFCARS REPORT (2006); CHILDREN’S BUREAU, DEP’T OF HEALTH & HUMAN SERVS., No. 14, THE AFCARS REPORT (2008); CHILDREN’S BUREAU, DEP’T OF HEALTH & HUMAN SERVS., No. 15, THE AFCARS REPORT (2009); CHILDREN’S BUREAU, DEP’T OF HEALTH & HUMAN SERVS., No. 16, THE AFCARS REPORT (2009); CHILDREN’S BUREAU, DEP’T OF HEALTH & HUMAN SERVS., No. 17, THE AFCARS REPORT (2009); CHILDREN’S BUREAU, DEP’T OF HEALTH & HUMAN SERVS., No. 18, THE AFCARS REPORT (2011).

12. The National Child Abuse and Neglect Data System (NCANDS) of the Children’s Bureau collects official data from child protective services agencies across the country. *E.g.*, CHILDREN’S BUREAU, DEP’T OF HEALTH & HUMAN SERVS., THE NATIONAL CHILD ABUSE AND NEGLECT DATA SYSTEM FACT SHEET (2002), available at [http://www.ndacan.cornell.edu/ndacan/Datasets/Related\\_Docs/NCANDS\\_Fact\\_Sheet.pdf](http://www.ndacan.cornell.edu/ndacan/Datasets/Related_Docs/NCANDS_Fact_Sheet.pdf). The Fourth National Incidence Study of Child Abuse and Neglect is a congressionally mandated report that provides “reliable national estimates of the current incidence of child abuse and neglect and of its distribution and severity.” ANDREA J. SEDLAK ET AL., THE FOURTH NATIONAL INCIDENCE STUDY OF CHILD ABUSE AND NEGLECT: REPORT TO CONGRESS (NIS-4), at 1 (2010), available at [http://www.acf.hhs.gov/sites/default/files/opre/nis4\\_report\\_congress\\_full\\_pdf\\_jan2010.pdf](http://www.acf.hhs.gov/sites/default/files/opre/nis4_report_congress_full_pdf_jan2010.pdf). NIS-4 data include children who were investigated by protective services plus “data on other children who were not reported to CPS or who were screened out by CPS without investigation.” *Id.*; see also HOWARD N. SNYDER & MELISSA SICKMUND, U.S. DEP’T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, JUVENILE OFFENDERS & VICTIMS: 2006 NATIONAL REPORT 32 (2006), available at <http://www.ojjdp.gov/ojstatbb/nr2006/downloads/NR2006.pdf>.

13. CHILDREN’S BUREAU, U.S. DEP’T OF HEALTH & HUMAN SERVS., CHILD MALTREATMENT 23 tbls.3-12 (2010) [hereinafter CHILD MALTREATMENT], available at <http://www.acf.hhs.gov/programs/cb/pubs/cm10/cm10.pdf>.

14. SEDLAK ET AL., *supra* note 12, at 4-2.

15. *Id.* at 3-12 (stating that the Endangerment Standard allows harm to be inferred if the maltreatment significantly endangers the child).

16. *Id.* at 4-3 to 4-4, 8.

17. SNYDER & SICKMUND, *supra* note 12, at 32 (defining violent crime to include murder, violent sexual assault, robbery, and aggravated assault).

crimes: “For juvenile female victims, 72% of the crimes known to law enforcement were sexual assaults, 25% were aggravated assaults, and just 3% were robberies. In contrast, for juvenile male victims, 59% of crimes were aggravated assaults, 16% were robberies, and 24% were sexual assaults.”<sup>18</sup>

The victimization behind these statistics contributes to the higher rates of depression and PTSD among system-involved girls—almost all of them have been exposed to life-altering trauma that affects their emotions, thought processes, behaviors, and health. The types of trauma a girl is most likely to have encountered are violence against herself and family members (most likely her mother and siblings); emotional abuse that has crippled her self-esteem; and sexual abuse.<sup>19</sup> Trauma is an experience that girls in the child welfare system share with girls in the juvenile justice system. Although no national data exist, small studies conducted in various jurisdictions indicate that rates of abuse and neglect among girls in the juvenile justice system are high. In one study, as much as 70% of females in the juvenile justice system had been sexually abused.<sup>20</sup> In another, 81% of girls in a Philadelphia detention center had witnessed violence or had experienced physical abuse, sexual abuse, neglect, or abandonment.<sup>21</sup> Finally, a study of sixty-four juvenile offenders held in a probation hall revealed that 97% of those girls had experienced traumatic events prior to detention.<sup>22</sup>

Another fact that is known about girls in the child welfare system is that they are at extremely high risk for teen pregnancy, juvenile justice system involvement, and repeated victimization through emotional, physical, and sexual violence.<sup>23</sup> The rate of pregnancy before age twenty-one is three times greater for girls in foster care than for girls in the general population.<sup>24</sup> Repeat pregnancies are also far more common for these teens.<sup>25</sup> The Midwest Evaluation study of young adults who were formerly in foster care found that by age twenty-one, 71% of the young women had been pregnant and over half were living with their

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18. *Id.*

19. See generally DAVID FINKELHOR ET AL., OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, CHILDREN'S EXPOSURE TO VIOLENCE: A COMPREHENSIVE NATIONAL SURVEY 1-2 (2009), available at <https://www.ncjrs.gov/pdffiles1/ojjdp/227744.pdf>; CHILD MALTREATMENT, *supra* note 13, at tbls.3-12; SEDLAK ET AL., *supra* note 12; SNYDER & SICKMUND, *supra* note 12, at 32.

20. *Guiding Principles for Promising Female Programming: An Inventory of Best Practices*, OFFICE JUV. JUST. & DELINQ. PREVENTION, [http://www.ojjdp.gov/pubs/principles/ch1\\_4.html](http://www.ojjdp.gov/pubs/principles/ch1_4.html) (last visited Feb. 10, 2013) [hereinafter *Guiding Principles*].

21. ANNE MARIE AMBROSE & SANDRA SIMKINS, PHILADELPHIA'S FEMALE DETENTION PROJECT, WOMEN, GIRLS, & CRIMINAL JUSTICE 53 (2000).

22. Victor G. Carrion & Hans Steiner, *Trauma and Dissociation in Delinquent Adolescents*, 39 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 353, 355 (2000).

23. PATRICIA TJADEN & NANCY THOENNES, NAT'L INST. OF JUSTICE, U.S. DEP'T OF JUSTICE, NCJ 183781, FULL REPORT OF THE PREVALENCE, INCIDENCE, AND CONSEQUENCES OF VIOLENCE AGAINST WOMEN: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY 39-40 (2000); see generally COURTNEY ET AL., *supra* note 3.

24. MARK COURTNEY ET AL., MIDWEST EVALUATION OF THE ADULT FUNCTIONING OF FORMER FOSTER YOUTH: OUTCOMES AT AGE 21, at 50 (2007).

25. *Id.*

young children.<sup>26</sup> Despite the findings from these and other regional and outcome studies,<sup>27</sup> “[n]o one keeps track of how many young women in the foster care system get pregnant or have babies, though it’s clear from scattered studies that the numbers are high.”<sup>28</sup>

In addition to a high risk of teen pregnancy, girls in the child welfare system face a much higher likelihood of subsequent victimization, either as a child or as an adult:<sup>29</sup> “The risk of adult physical, sexual, or psychological victimization has been found to be two to four times greater among [female survey] respondents who had experienced some form of child physical or sexual abuse than among those who had not experienced child abuse.”<sup>30</sup> Girls’ responses to abuse, trauma, and family conflict, which include substance abuse and running away, place them at high risk of being victimized, particularly sexually.<sup>31</sup>

Girls’ involvement in the child welfare system also puts them at higher risk of juvenile justice system involvement.<sup>32</sup> Statistics are not available on the number of girls crossing over from the child welfare system into the juvenile justice system because the study of “crossover youth,” as this group is often called, has not yet focused specifically on girls. However, available data indicate that girls in child welfare systems are more likely to cross over into the juvenile justice system than are boys in child welfare systems. In addition, there is a larger proportion of girls in the crossover population than in the general delinquency population.<sup>33</sup> Girls comprise between 20% to 35% of the general delinquency population, yet they represent 33% to 50% of the crossover population.<sup>34</sup>

26. *Id.* at 50, 55.

27. See generally Heather D. Boonstra, *Teen Pregnancy Among Young Women in Foster Care: A Primer*, 14 GUTTMACHER POL’Y REV. 8 (2011).

28. ABIGAIL KRAMER, CHILD WELFARE WATCH, AGING OUT OF FOSTER CARE WITH BABIES OF THEIR OWN: YOUNG MOMS FACE TOUGH ODDS 19-20 (2009), available at [http://www.newschool.edu/milano/nyc affairs/documents/CWW\\_Vols19and20\\_In\\_Transition.pdf](http://www.newschool.edu/milano/nyc affairs/documents/CWW_Vols19and20_In_Transition.pdf).

29. Lisa Goldblatt Grace & Francine T. Sherman, *The System Response to the Commercial Sexual Exploitation of Girls*, in JUVENILE JUSTICE: ADVANCING RESEARCH, POLICY, AND PRACTICE 331, 334-37 (Francine T. Sherman & Francine H. Jacobs eds., 2011); Ileana Arias, *The Legacy of Child Maltreatment: Long-Term Health Consequences for Women*, 13 J. WOMEN’S HEALTH 468, 470 (2004).

30. *Id.*; see generally TJADEN & THOENNES, *supra* note 23.

31. Meda Chesney-Lind, Merry Morash & Tia Stevens, *Girls’ Troubles, Girls’ Delinquency, and Gender Responsive Programming: A Review*, 41 AUSTL. & N.Z. J. CRIMINOLOGY 162, 164-65 (2008); Kellie J. Hagewen, Lisa A. Melander & Kimberly A. Tyler, *Risk Factors for Running Away Among a General Population Sample of Males and Females*, 43 YOUTH & Soc. 583, 602-03 (2011); see also Grace & Sherman, *supra* note 29, at 334-37.

32. See, e.g., DYLAN CONGER & TIMOTHY ROSS, VERA INST. OF JUSTICE, REDUCING THE FOSTER CARE BIAS IN JUVENILE DETENTION DECISIONS: THE IMPACT OF PROJECT CONFIRM 28-29 (2001); see also DENISE HERZ ET AL., ADDRESSING THE NEEDS OF MULTI-SYSTEM YOUTH: STRENGTHENING THE CONNECTION BETWEEN CHILD WELFARE AND JUVENILE JUSTICE (2012), available at <http://cjjr.georgetown.edu/pdfs/msy/AddressingtheNeedsofMultiSystemYouth.pdf>; JANET WIIG & CATHY SPATZ WIDOM, UNDERSTANDING CHILD MALTREATMENT & JUVENILE DELINQUENCY: FROM RESEARCH TO EFFECTIVE PROGRAM, PRACTICE, AND SYSTEMIC SOLUTIONS (2003).

33. HERZ ET AL., *supra* note 32, at 16-17.

34. *Id.*

Finally, much is known about the health and education of youth in foster care, although information is not disaggregated by gender.<sup>35</sup> Federal laws require state child welfare systems to focus on child well-being, and states are evaluated on their ability to meet specific well-being outcomes.<sup>36</sup> The well-being outcomes, however, are not specific to gender, age, or special needs of groups of children, such as those with developmental delays or those who are themselves parents.<sup>37</sup> Overall, states are not meeting the federal benchmarks for child well-being. In the most recent round of Child and Family Services Reviews, no state met the federal benchmarks for six of the seven child well-being outcomes. Only ten states met the standard for the outcome that “children receive appropriate services to meet their educational needs.”<sup>38</sup>

Although existing research and data about girls in foster care are scarce, there are enough documented concerns, outcome information, and identified gaps in knowledge to support focused efforts toward knowing more and figuring out ways to improve current policies and practices.

### *B. What Needs to Be Known About Girls and Why*

Child welfare systems need accurate information about the girls in their care to design and provide appropriate services for those girls. Policymakers need accurate information to make informed and appropriate policy and funding decisions on behalf of girls. However, an examination of federal reports shows that there has been no wide-scale effort to collect information specifically about girls in the child welfare system.<sup>39</sup> Having baseline information allows systems and policymakers to track trends and assess the impact of variables such as specific interventions, changes in the law, or external forces.

Systems need to understand the who, what, when, where, why, and how of girls’ involvement with the child welfare system and other systems. The many data points that would be helpful include: (1) how old girls are, (2) where they are living, (3) why they are in foster care, (4) how long they have been in foster care, (5) the age at which they entered foster care, (6) their race, (7) what services are being provided to them, (8) whether they have been charged with delinquent or criminal offenses, (9) whether they are parents, and (10) the child welfare

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35. See, e.g., CHILDREN’S BUREAU, DEP’T OF HEALTH & HUMAN SERVS., FEDERAL CHILD AND FAMILY SERVICES REVIEWS AGGREGATE REPORT, ROUND 2, at 2 (2011) [hereinafter FEDERAL CHILD AND FAMILY SERVICES AGGREGATE REPORT], available at [http://www.acf.hhs.gov/sites/default/files/cb/fcfsr\\_report.pdf](http://www.acf.hhs.gov/sites/default/files/cb/fcfsr_report.pdf).

36. E.g., Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews, 45 C.F.R. §§ 1355-57 (2000).

37. *Id.*

38. FEDERAL CHILD AND FAMILY SERVICES AGGREGATE REPORT, *supra* note 35, at 31.

39. See, e.g., FRED WULCZYN ET AL., BEYOND COMMON SENSE: CHILD WELFARE, CHILD WELL-BEING, AND THE EVIDENCE FOR POLICY REFORM (2005); AFCARS REPORT 19, *supra* note 9; CHILD MALTREATMENT, *supra* note 13.

agency's long-term plan for them.<sup>40</sup> The following research recommendations are made with acknowledgement of the difficulties in obtaining data on system-involved youth.<sup>41</sup> Challenges to obtaining information, however, should not deter the effort.

As a starting point, ACF should require all data presented in Adoption and Foster Care Analysis Reporting System (AFCARS) and National Child Abuse and Neglect Data System (NCANDS) reports to be disaggregated by gender. Doing so will provide baseline data about the target population, which will help systems measure the impact of interventions. Analyzing the information in these federal data systems by gender will help identify the strengths and weaknesses of the available data and highlight information gaps.

Disaggregating AFCARS, NCANDS, and other data by gender will provide more information about girls in the child welfare system, but that alone is unlikely to provide enough information to identify and understand the needs of these girls. Some studies examining information in these data sets focused specifically on gender and found that gender had no significant interaction effects. For example, one multi-year study of NCANDS data that looked at the recurrence and re-reporting of child maltreatment found no significant difference in recurrence of maltreatment rates based on either gender or race.<sup>42</sup> However, this study—as with most studies looking for the interaction effect of gender or race—did not look at multiple covariates together.<sup>43</sup>

Intersectional analysis provides a framework for exploring the impact of multiple concurrent variables. It looks at how both the expression and experience of discrimination and oppression are affected by the interaction of categories of difference and inequality such as gender, race, class, sexual orientation, and disability.<sup>44</sup> In practical terms, this means that a white girl may experience and be

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40. It should be noted that CAPTA requires state child welfare agencies to annually report, “to the maximum extent practicable, . . . [t]he number of children under the care of the State child protection system who are transferred into the custody of the State juvenile justice system.” 42 U.S.C. § 5106a(d)(14) (2006).

41. Jeffrey A. Butts & John K. Roman, *Better Research for Better Policies*, in JUVENILE JUSTICE: ADVANCING RESEARCH, POLICY, AND PRACTICE 505, 525 (Francine T. Sherman & Francine H. Jacobs eds., 2011) (describing “the strengths and weaknesses of the evidence-generating process as applied to juvenile justice” and “providing recommendations for designing and implementing real-world policy research and program evaluation”).

42. JOHN D. FLUKE ET AL., REPORTING AND RECURRENCE OF CHILD MALTREATMENT: FINDINGS FROM NCANDS 16 (2005).

43. “Few systems routinely disaggregate their data by race and ethnicity and cross-reference them by gender. . . . [T]hey miss the intersection of race and gender entirely.” Francine T. Sherman, *Justice for Girls: Are We Making Progress?*, 59 UCLA L. REV. 1584, 1617 (2012); E-mails from Andrew Barclay, Statistician, Fostering Court Improvement, to authors (Aug. 8, 2012) (on file with authors); see also Johanna K. P. Greeson et al., *Complex Trauma and Mental Health in Children and Adolescents Placed in Foster Care: Findings from the National Child Traumatic Stress Network*, 90 CHILD WELFARE 91, 105-06 (2011).

44. See Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1243-44 (1991); *Gender-Responsive Theories*, NAT'L GIRLS INST., <http://www.nationalgirlsinsitute.org/i-work-with-girls/resources-best-practices/gender->



impacted by sexism and a black boy may experience and be impacted by racism, but a black girl is likely to be impacted by the intersection of both sexism and racism. If she is poor, she may experience and be impacted by classism as well. Furthermore, each of these person's experience of and response to an "ism" is influenced in part by the number of categories of difference that are ascribed to him or her.<sup>45</sup> This research approach is a useful tool for understanding the needs of girls because multiple categories "converge to produce distinct outcomes for individuals."<sup>46</sup> Existing research on girls has not adequately teased out differences among girls who share many characteristics and may have similar interventions but have different outcomes.<sup>47</sup> A better understanding of the differences among girls and "the recognition of within-girl differences . . . could help distinguish subgroups of girls for whom particular programs are effective."<sup>48</sup> In addition to providing information that will help child welfare systems tailor services, placements, and interventions to the needs of girls, exploring the intersection of race and gender and other variables such as age and placement type may provide new insights into racial disproportionality and disparities.<sup>49</sup>

Among the girls in the child welfare system are subgroups of girls who are at especially high risk for long-term negative outcomes. The special vulnerabilities of these girls warrant gathering additional information specific to them. These subgroups include girls who are involved in multiple systems—among the information needed on these girls is the prevalence of and reasons for their involvement in multiple systems and where they are placed. Subgroups also include girls who are pregnant or are already parents—much more information is needed about whether pregnant girls give birth and, if so, what happens to the baby while the girl-mother is in the system, as well as after she exits the system. Information is needed about where the mother and baby are placed and what happens to the baby over time. It is important to know how many babies born to

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responsive-theories/ (last visited Jan. 25, 2013) (linking intersectionality theory to research on system-involved girls). See generally Kathy Davis, *Intersectionality as Buzzword: A Sociology of Science Perspective on What Makes a Feminist Theory Successful*, 9 FEMINIST THEORY 67 (2008).

45. *Id.*

46. Jyoti Nanda, *Blind Discretion: Girls of Color & Delinquency in the Juvenile Justice System*, 59 UCLA L. REV. 1502, 1507 (2012).

47. See generally Jacob C. Day, Sharon F. Mihalic, Lisa Tichavsky & Margaret A Zahn, *Determining What Works for Girls in the Juvenile Justice System*, CRIME & DELINQ. 55 (2009); *OJJDP Model Programs Guide: Gender-Specific Programming*, OFFICE OF JUV. JUST. DELINQ. PREVENTION, <http://www.ojjdp.gov/mpg/progTypesGenderSpecificProgramming.aspx> (last visited Jan. 23, 2013). *OJJDP Model Programs Guide: Gender-Specific Programming*, *supra* note 47.

48. *Id.*

49. For examples of intersectionality theory and analysis, see generally Kimberle Crenshaw, *Marginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139 (1989); Davis, *supra* note 44.

girls in foster care will also enter foster care, as well as the reasons why these babies are brought into care, and when and why they exit foster care.

Yet another subgroup of girls in the child welfare system is girls who have been victims of human trafficking.<sup>50</sup> Unlike girls who experience sexual abuse at the hands of a single perpetrator, this growing population of girls has experienced “torture, rape, drug abuse, trafficking and physical abuse.”<sup>51</sup> Although these girls are eligible for services under the Trafficking Victims Protection Act, most child welfare systems have not developed ways to identify these girls as they enter foster care. These girls are often caught between the juvenile justice and child welfare systems, with neither system being properly equipped to meet their needs.<sup>52</sup> Very few if any placement settings and treatment options have been thoroughly evaluated. While there is a growing list of promising practices, there are no evidence-based approaches or best practices to guide child welfare systems.<sup>53</sup> Identifying this subgroup, understanding their needs, tracking outcomes, and working across systems are all necessary to develop appropriate system responses and realize positive outcomes for these girls.

Ideally, all of the above information would be linked to outcome data on all girls. Intersectional analysis would be particularly useful with the outcome data because so many variables affect the lives and outcomes of girls in the child welfare system. There is no doubt that obtaining this data would be extremely difficult. Once youth in foster care age out of the system, many do not have further contact and may not wish to participate in such research. However, difficulty should not prevent effort, because the lives of girls are at stake. Thus, innovative approaches should focus on engaging girls in participatory research while they are still in care—perhaps through independent living programs.<sup>54</sup> By starting with existing data sets and moving toward a more deliberate inclusion of girls in the data collection and research process, information about girls in foster

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50. Rowena Fong & Jodi Berger Cardoso, *Child Human Trafficking Victims: Challenges for the Child Welfare System*, 33 EVALUATION & PROGRAM PLANNING 311, 311 (2010). While incidents of boys who are victims of trafficking are often underreported, UNICEF and the International Labor Organization estimate that 98% of all commercial sexual exploitation is with girls.

51. *Id.* at 315.

52. See generally EVA KLAIN & AMANDA KLOER, AM. BAR ASS’N, MEETING THE LEGAL NEEDS OF CHILD TRAFFICKING VICTIMS: AN INTRODUCTION FOR CHILDREN’S ATTORNEYS & ADVOCATES (2009), available at [http://www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/Child\\_Trafficking.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/Child_Trafficking.authcheckdam.pdf); KATHERINE KAUFKA WALTS ET AL., CTR. FOR THE HUMAN RIGHTS OF CHILDREN, LOYOLA UNIV. CHI. & INT’L ORG. FOR ADOLESCENTS, BUILDING CHILD WELFARE RESPONSE TO CHILD TRAFFICKING (2011), available at <http://www.luc.edu/media/lucedu/chrc/pdfs/BCWRHandbook2011.pdf>.

53. Fong & Cardoso, *supra* note 50, at 314.

54. The W.K. Kellogg Foundation defines participatory research as a “collaborative approach to research that equitably involves all partners in the research process and recognizes the unique strengths that each brings. CBPR begins with a research topic of importance to the community, has the aim of combining knowledge with action and achieving social change to improve health outcomes and eliminate health disparities.” *Community Track*, KELLOGG HEALTH SCHOLARS, <http://www.kellogghealthscholars.org/about/community.cfm> (last visited Jan. 14, 2013).

care will increase, leading to systems more effectively meeting their needs and improving ultimate outcomes.

## II. DESIGNING A GENDER-RESPONSIVE, TRAUMA-INFORMED CHILD WELFARE SYSTEM

Gender-responsive programs and trauma-informed care share many core elements. A significant difference, however, is that, while gender-responsive programs for girls include a strong focus on trauma and its effect on girls, trauma-informed care does not necessarily take into account the effect of gender on trauma response. Since the national movement to provide trauma-informed care in child welfare systems is still emerging, systems have an opportunity to move forward with the understanding that “not all traumas are equal,” that trauma histories must be understood in context, and that a significant component of the context of trauma is gender.<sup>55</sup>

Many things affect a child’s reaction to trauma, including the severity and duration of the trauma, the type of trauma, the support that is put in place for the child during and after the traumatic event, and the child’s gender.<sup>56</sup> For all children, complex trauma<sup>57</sup> impairs their development in multiple domains, including attachment, biology, affect regulation, disassociation, behavioral control, cognition, and self-concept.<sup>58</sup> For many children, especially boys, the disruptions in these domains often present as aggression.<sup>59</sup> For girls, the disruptions are much more likely to present as internalizing behaviors such as self-harm, anxiety, substance abuse, and risky sexual activity.<sup>60</sup> As a result of exposure to trauma, girls are more likely than boys to develop PTSD, and their rates of depression are much higher.<sup>61</sup> For those girls who react to trauma with externalizing behaviors, such as defiance and aggression, their behavior is often misdiagnosed, leaving the trauma unaddressed.<sup>62</sup> In addition, aggression, sub-

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55. Keith Cruise, Jorja Leap, Robert Listenbee & Abbe Smith, *Complex Trauma: Pitfalls & Opportunities*, Presentation at the 2012 National Juvenile Defender Center Leadership Summit, San Juan, Puerto Rico (Oct. 27, 2012) [hereinafter *Complex Trauma: Pitfalls & Opportunities*].

56. Greeson et al., *supra* note 43, at 105-06; Alexandra Cook et al., *Complex Trauma in Children and Adolescents*, FOCAL POINT (Research & Training Ctr. on Family Support & Children’s Mental Health, Portland, O.R.), Winter 2007, at 4-8, available at <http://www.rtc.pdx.edu/PDF/fpW07.pdf>.

57. The National Child Traumatic Stress Network states that “[t]he term *complex trauma* describes the problem of children’s exposure to multiple or prolonged traumatic events and the impact of this exposure on their development.” *Complex Trauma in Children and Adolescents*, NAT’L CHILD TRAUMATIC STRESS NETWORK, <http://www.nctsn.org/trauma-types/complex-trauma> (last visited Jan. 18, 2013).

58. *Complex Trauma: Pitfalls & Opportunities*, *supra* note 55.

59. *Id.*

60. Greeson et al., *supra* note 43, at 106.

61. Judith A. Cohen & Daniel S. Pine, *Trauma in Children and Adolescents: Risk and Treatment of Psychiatric Sequelae*, 51 *BIOLOGICAL PSYCHIATRY* 519, 531 (2002).

62. E-mail from Marty Beyer, Child Welfare and Juvenile Justice Consultant, to authors (Dec. 14, 2012) (on file with authors) (“The vast majority of these girls have mental health disorders, many as a result of exposure to sexual and physical abuse. Although their behavior often leads to a misdiagnosis of

stance abuse, and self-harm put them at greater risk of involvement with the juvenile justice system and frequently lead to involvement with mental health systems and failure in the educational system.<sup>63</sup>

Careful screening of girls for trauma is necessary in all systems that serve girls in order to properly identify and treat trauma. This is especially needed because the child welfare system is not always the first system child abuse and neglect victims encounter. By the time girls come to the attention of a social service system, most of them have been exposed to multiple traumas and have not received support for coping with the trauma,<sup>64</sup> highlighting the need for more resources and a stronger focus on effective child abuse prevention, detection, and early intervention.

Current outcomes for youth aging out of foster care indicate that existing models of care and service delivery are not successful in the broader sense of meaningfully improving girls' lives.<sup>65</sup> In addition to the negative outcomes discussed above in Part I.A, research on girls in the juvenile justice system has led many experts to conclude that girls often enter the juvenile justice system because the child welfare system failed to meet their needs.<sup>66</sup> As professor Fran Sherman has said, "many girls in the delinquency system are essentially formed by the child protection system."<sup>67</sup> These poor results demand a new focus on the unique needs of girls.

#### A. Elements of Gender-Responsive Programming

Research on girls in the juvenile justice system has not only identified some of the pathways into the system, but has examined what prevents and interrupts those pathways. When the Office of Justice and Delinquency Prevention (OJJDP) first began looking at the needs of girls at the end of the 1990s, experts identified several things that girls need for healthy development:

- Physical safety and healthy physical development;

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oppositional defiant disorder, behind the behavior of many of these girls are trauma-related needs that must be identified and responded to with effective trauma treatment.”).

63. Marty Beyer, *Delinquent Girls: A Developmental Perspective*, 9 KY. CHILD. RTS. J. 17, 20 (2001).

64. See generally JESSICA R. KENDALL & LISA PILNIK, SAFE START CTR., OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, VICTIMIZATION AND TRAUMA EXPERIENCED BY CHILDREN AND YOUTH: IMPLICATIONS FOR LEGAL ADVOCATES (2012), available at [http://www.safestartcenter.org/pdf/issue-brief\\_7\\_courts.pdf](http://www.safestartcenter.org/pdf/issue-brief_7_courts.pdf); Sorrel Concodora, *Responding to Girls' Needs*, CHILDREN'S VOICE Sept./Oct. 2009, available at <http://www.cwla.org/voice/0909girls.htm>.

65. E.g., COURTNEY ET AL., *supra* note 3; PECORA ET AL., *supra* note 3.

66. See, e.g., Melissa Jonson-Reid & Richard Barth, *From Placement to Prison: The Path to Adolescent Incarceration from Child Welfare Supervised Foster or Group Care*, 22 CHILD. & YOUTH SERVICES REV. 493 (2000); Joseph Ryan et al., *Juvenile Delinquency in Child Welfare: Investigating Group Home Effects*, 30 CHILD. & YOUTH SERVICES REV. 1088 (2008).

67. Francine T. Sherman, *Justice for Girls: Are We Making Progress?*, 59 UCLA L. REV. 1584, 1602 (2012).

- Trust, love, respect, and validation from caring adults to promote healthy emotional development and form positive relationships;
- Positive female role models to develop a healthy identity as a woman;
- Safety to explore sexuality at one's own pace for healthy sexual development; and
- A feeling of belonging, competency, and worthiness.<sup>68</sup>

The research also identified challenges that reduced the likelihood of girls having those needs met and therefore put them at greater risk of delinquent behavior. Since that research, social scientists have focused much attention on protective and risk factors that affect whether and how girls' developmental needs are met. Generally speaking, "protective factors" are things that "decrease the potential harmful effect of a risk factor," and "risk factors" are things that increase the probability that the girl will suffer harm.<sup>69</sup> The interaction of protective and risk factors is especially important for developing resiliency in girls, which is the ability to adapt and succeed despite exposure to negative situations and risk factors.<sup>70</sup> Girls in the child welfare system have more risk factors than protective factors in their lives. This imbalance occurs during adolescence—a chaotic time of individual development often accompanied by risk-taking behaviors—and creates unique vulnerabilities that impact girls' physical and mental health, relationships, and social and emotional well-being.

Gender-responsive programming provides an avenue for child welfare systems to create and optimize protective factors and minimize risk factors or diminish their impact. Gender-responsiveness is most commonly defined as:

creating an environment through site selection, staff selection, program development, content, and material that reflects an understanding of the realities of women's lives and addresses the issues of the participants. Gender-responsive approaches are multidimensional and are based on theoretical perspectives that acknowledge women's pathways into the criminal justice system. These approaches address social (e.g. poverty, race, class, gender inequality) and cultural factors, as well as therapeutic interventions. These interventions address issues such as abuse, violence, family relationships, substance abuse, and co-occurring disorders. They provide a strength-based approach to treatment and skills-building. The emphasis is on self-efficacy.<sup>71</sup>

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68. *Guiding Principles*, *supra* note 20.

69. Office of the U.S. Surgeon Gen. et al., *Youth Violence: A Report of the Surgeon General*, NAT'L CENTER FOR BIOTECHNOLOGY INFORMATION (2001), <http://www.ncbi.nlm.nih.gov/books/NBK44294/>.

70. STEPHANIE R. HAWKINS ET AL., DEP'T. OF JUSTICE, RESILIENT GIRLS—FACTORS THAT PROTECT AGAINST DELINQUENCY 2 (2009), *available at* <https://www.ncjrs.gov/pdffiles1/ojjdp/220124.pdf>.

71. Barbara Bloom, Barbara Owen & Stephanie Covington, *A Summary of Research, Practice, and Guiding Principles for Women Offenders*, GENDER RESPONSIVE STRATEGIES FOR WOMEN OFFENDERS (U.S. Dep't of Justice, Nat'l Inst. of Corrections, Wash., D.C.), May 2005, at 2, *available at* <http://static.nicic.gov/>

What this means at the practice level is that gender-responsive programming:

- Provides a safe space, physically and psychologically;
- Stems from an understanding of girls' psychological, emotional, spiritual and physical development;
- Promotes relationships;
- Addresses the root causes of behavior (asking, "What happened to you?" instead of, "What's wrong with you?");
- Provides girls with a sense of control and includes them in decision-making; and
- Comprehensively addresses the multiple issues impacting girls' lives by integrating care across systems and utilizing trauma-informed providers and services.<sup>72</sup>

While these elements were designed to address the needs of girls in the juvenile justice system, they can inform the development of gender-responsive programming in child welfare.

### *B. Elements of Trauma-Informed Care*

Child welfare systems should respond appropriately to children's trauma. At the very least, systems should strive to minimize any additional trauma that may be caused by the system. Entry into the child welfare system should not add additional risk factors or trauma to the lives of children, but unfortunately it often does. Trauma-informed child welfare systems are more likely to help children overcome the impact of trauma and avoid creating additional traumatic experiences. In a trauma-informed system, programs, agencies, and service providers:

- Routinely screen for trauma exposure and related symptoms;
- Use culturally appropriate, evidence-based assessment and treatment for traumatic stress and associated mental health symptoms;

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Library/020418.pdf; *see also Gender-Responsive Definitions*, NAT'L GIRLS INSTITUTE, <http://www.nationalgirls.org/i-work-with-girls/resources-best-practices/gender-responsive-definitions/> (last visited Jan. 18, 2013) (presenting additional definitions of gender-responsiveness).

72. Francine T. Sherman & Jessica H. Greenstone, *The Role of Gender in Youth Systems: Grace's Story*, in *JUVENILE JUSTICE: ADVANCING RESEARCH, POLICY, AND PRACTICE* 131, 137-39 (Francine T. Sherman & Francine H. Jacobs eds., 2011); Barbara E. Bloom & Stephanie S. Covington, *Effective Gender-Responsive Interventions in Juvenile Justice: Addressing the Lives of Delinquent Girls 7-9* (Annual Meeting of the American Society of Criminology, 2001), available at <http://centerforgenderandjustice.org/pdf/7.pdf>; *see generally* ANA JENNINGS, NAT'L ASS'N OF STATE MENTAL HEALTH PROGRAM DIRS. (NASMHPD) & NAT'L TECHNICAL ASSISTANCE CTR. FOR STATE MENTAL HEALTH PLANNING (NTAC), *MODELS FOR DEVELOPING TRAUMA-INFORMED BEHAVIORAL HEALTH SYSTEMS AND TRAUMA-SPECIFIC SERVICES* 15, 59-60 (2004), available at <http://www.theannainstitute.org/MDT.pdf>.

- Make resources available to children, families, and providers on trauma exposure, its impact, and treatment;
- Engage in efforts to strengthen the resilience and protective factors of children and families impacted by and vulnerable to trauma;
- Address parent and caregiver trauma and its impact on the family system;
- Emphasize continuity of care and collaboration across child-service systems;
- Maintain an environment of care for staff that addresses, minimizes, and treats secondary traumatic stress, and that increases staff resilience;
- Make appropriate referrals for mental health care and respond appropriately when behaviors may be symptomatic of underlying trauma; and
- Place greater emphasis on stabilizing placements and limiting disruptions in order to prevent further trauma.<sup>73</sup>

Although great emphasis is placed on foster care and the child welfare agency, judges, attorneys, and other stakeholders must also become aware of and implement trauma-informed processes and decision-making.

### *C. Foundational Elements of Gender-Responsive, Trauma-Informed Care*

When designing an initiative or a system, it is important to start with the end goal in mind. For the child welfare system, this means that when a girl enters through the front door, the system should have a vision of what that girl or young woman will be like when she exits the system. The ultimate goal—regardless of whether a girl is reunified with her birth family or ages out of foster care—is a healthy, productive, connected, and financially independent adult. Therefore, child welfare systems should provide supports, services, and opportunities to provide adolescent girls leaving the system with:

- Skills to develop healthy relationships;
- Optimal physical and dental health;
- Optimal social and emotional health;
- Educational success; and
- A pathway to economic independence.

Stating the desired end result of system involvement guides the design of the framework to get to that end result. This framework begins with foundational

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73. *Creating Trauma-Informed Systems*, NAT'L CHILD TRAUMATIC STRESS NETWORK, <http://www.nctsnct.org/resources/topics/creating-trauma-informed-systems> (last visited Nov. 21, 2012); JENNINGS, *supra* note 72, at 59-60.

elements that must be in place before a system can comprehensively address girls' needs through policy and practice. The building blocks described below are not static elements that can be established and then checked off a to-do list. Instead, stakeholders must strive to make each component an integral part of the child welfare system with continuous and deliberate quality improvement. This foundation can only be effectively established in systems that recognize that girls have different needs than boys and that meeting those needs will require different and often additional efforts and resources.

### 1. Adapting Knowledge and Lessons Learned from Research and Programming in Other Systems

Becoming a gender-responsive, trauma-informed system first requires understanding what that means and how to make the transformation. The child welfare system as a whole has not yet examined its practices and policies through a gender lens—this is uncharted territory in the child welfare field. Therefore, child welfare systems need to look at research and recommendations for girls in other systems and apply that knowledge and programmatic approach to child welfare systems.<sup>74</sup> The juvenile justice system has devoted large amounts of time and resources to understanding and meeting the needs of girls. The profiles of girls in that system are similar to those of girls in the child welfare system, so that body of work is a natural starting point for child welfare systems.<sup>75</sup> Given the two systems' structural differences and different missions and goals, the specifics of implementing reforms in the child welfare system will be different. Nevertheless, the research and programmatic changes within the juvenile justice system can inform work on behalf of girls in the child welfare system and many of the lessons learned can translate to the child welfare system, thereby expediting the process of reform.

ACF is uniquely situated to lead a national initiative focused on the needs of girls in the child welfare system, beginning with convening a multidisciplinary group of national experts to explore issues facing these girls and disseminate information to the field.<sup>76</sup> Effective approaches and programs should be identified, studied, and replicated. This group should make recommendations for a research-informed continuum of care for girls, highlighting evidence-based and promising programs. This body of experts should also explore the need for and efficacy of creating gender-responsive and trauma-informed standards of care for

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74. See e.g., *Girls Study Group: Understanding and Responding to Girls' Delinquency*, GIRLS STUDY GROUP, <http://girlsstudygroup.rti.org/> (last visited Jan. 18, 2013), NAT'L GIRLS INSTITUTE, <http://www.nationalgirlsinitiative.org> (last visited Jan. 31, 2013)

75. See *Girls Study Group: Understanding and Responding to Girls' Delinquency*, *supra* note 74.

76. See *id.*; CTR. FOR JUVENILE JUSTICE REFORM, <http://cjjr.georgetown.edu/> (last visited Jan. 18, 2013). The Girls Study Group, the Center for Juvenile Justice Reform at Georgetown University Law School, and the Delaware Girls Initiative are examples of this strategy in the juvenile justice field.



child welfare systems and providers. Girls currently in foster care, as well as girls who have exited foster care, should be included at the start as well as throughout this process. In addition, ACF should consider working with the Office of Juvenile Justice and Delinquency Prevention, the Justice Department Defending Childhood Initiative, and other federal agencies that are currently looking at the needs of system-involved girls or the relationships among violence, trauma, and system involvement.

## 2. Conducting Gender-Responsive Assessments

A second preliminary step to becoming gender-responsive is an understanding by the system of its strengths and weaknesses in serving adolescent girls. Examining the system through a gender lens means examining practices and policies to see how they may or may not be healthy for girls. One way to start this process is by conducting a gender-responsive assessment.<sup>77</sup> This process identifies gaps in knowledge, services, or policies.<sup>78</sup>

In all aspects of research, training, practice, and policy, systems need to ask what they are doing beyond the bare minimum to meet the needs of girls. Policies and practices need to be evaluated to determine whether they inadvertently exacerbate risk factors by, for example, interfering with what a girl sees as sources of strength and protective factors in her life. This is not a one-time process that happens before major system changes. In order to improve system operations and outcomes, continuous reflection and assessment must be embedded into the culture of the organization. Girls and their families should participate in assessment and quality improvement activities, including process and policy improvements, as well as the design of new programs.

## 3. Preparing the Workforce, Service Providers, and Stakeholders

A third step is ensuring that the people who make up “the system” have mastered the competencies required to provide gender-responsive and trauma-informed care. Competence is acquired through training and practice. Educational opportunities must cover a wide variety of topics, particularly adolescent girl development, how girls experience and respond to trauma, and how to create an emotionally and physically safe environment for girls. All participants in the system must be trained, including judges, lawyers, case workers, contracted

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77. See *Protocols*, NAT'L GIRLS' INST., <http://www.nationalgirlsinststitute.org/i-work-with-girls/tools/protocols> (last visited Jan. 23, 2013); *Training & Technical Assistance*, NAT'L GIRLS INST., <http://www.nationalgirlsinststitute.org/i-work-with-girls/training-technical-assistance/> (last visited Jan. 23, 2013). The National Girls' Institute provides assessment tools, training, and technical assistance for conducting gender-responsive programs and policy assessments.

78. *Protocols*, *supra* note 77; *Training & Technical Assistance*, *supra* note 77.

service providers, volunteers (like CASA and Citizen Review Boards),<sup>79</sup> and foster parents. Professional development opportunities should include cross-training so that stakeholders can gain a better understanding of the role that each plays in building and sustaining a system that meets the needs of adolescent girls.

To ensure that training leads to improved practice and service delivery, responsibilities, incentives, and job requirements should align with training requirements, performance on post-training assessments, and demonstrated mastery of desired competencies. In addition, systems should examine the process of recruiting, training, credentialing, retaining, supporting, rewarding, and compensating caregivers for youth in foster care. Ongoing educational opportunities should be developed to improve the quality and responsiveness of care and decision-making. Employees change, research progresses, and laws and policies evolve—a solid training program helps systems adjust to fluctuations in the system and the external environment by keeping employees and all stakeholders current on developments in the field and in their system.

#### 4. Communicating and Coordinating Among Systems

Another preparatory step to gender-responsiveness is cross-system coordination. System-involved girls and their families are often involved with multiple public systems, and, sometimes, the first system they encounter is not the one that is best suited to address their needs. Regardless of which system they become involved with, victimized girls should receive the individualized support and services that they need. Rather than moving girls between systems to overcome barriers to funding or service provision, systems should explore flexible funding models such as wraparound services.<sup>80</sup> Systems should also explore creative uses of Title IV-E dollars to better meet the needs of girls, including expanding the use of Title IV-E funds for girls involved in multiple systems, especially the juvenile justice system.<sup>81</sup>

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79. Court Appointed Special Advocates (CASA) are trained volunteers who represent the best interests of children in child welfare cases. Citizen Review Boards, also called Foster Care Review Boards, are teams of trained citizen volunteers who regularly review the cases of children in foster care and make recommendations to the judge about the child and the case. *See generally ACF Child Welfare Information Gateway: Foster Care Review Boards*, ADMIN. FOR CHILD. & FAM., U.S. DEP'T HEALTH & HUM. SERVS., <https://www.childwelfare.gov/management/administration/governance/oversight/foster.cfm> (last visited Feb. 1, 2013); CASA, <http://www.casaforchildren.org> (last visited Feb. 1, 2013).

80. "Wraparound" is "an intensive, individualized care planning and management process" for children and families with complex needs. The services provided through a wraparound approach are holistic and tailored to meet the specific needs of the child and family while safely keeping the child at home and in the community. *Wraparound Basics*, NAT'L WRAPAROUND INITIATIVE, <http://nwi.pdx.edu/wraparoundbasics.shtml> (last visited Jan. 31, 2013).

81. 42 U.S.C. § 670 (2003). Title IV-E of the Social Security Act provides federal matching funds to states to help pay for out-of-home placements of children who meet specific eligibility criteria. The criteria include things like a judge's finding that reasonable efforts were made to prevent the removal of the child and whether the child is financially eligible under the AFDC "lookback" provisions. IV-E eligible children for whom the state receives payments are categorically eligible for Medicaid.

If a girl is involved in multiple systems, practitioners working with her need to share information with each other and coordinate services. This is particularly important when girls are involved with both the juvenile justice system and the child welfare system because, more often than not, there is a direct correlation between the reasons for the girl's involvement in both systems. Communication among lawyers, case workers, mental health providers, detention staff, and probation officers can prevent girls from moving deeper into systems that are not designed to meet their underlying needs and that create greater risks of poor outcomes.

Federal law encourages communication and coordination between the child welfare and juvenile justice systems. Both the Child Abuse Prevention and Treatment Act (CAPTA) and the Juvenile Justice Delinquency Prevention Act (JJDPA) allow federal funds from those grant programs to be used to address the needs of youth who are involved with both systems.<sup>82</sup> In addition, CAPTA requires states to annually report, "to the maximum extent practicable, . . . [t]he number of children under the care of the State child protection system who are transferred into the custody of the State juvenile justice system."<sup>83</sup> JJDPA conditions federal funding on states implementing policies and systems to share certain child welfare and child protective services records with courts having jurisdiction over a child's juvenile justice system involvement, as well as incorporating some of the child welfare records into juvenile justice records for disposition purposes.<sup>84</sup> JJDPA also requires that, if states use Title IV-E funds for children in the juvenile justice system, those youth have all the protections provided under Title IV-E, including case plans and case plan reviews.<sup>85</sup> States should use the discretionary provisions in CAPTA and JJDPA to increase collaboration among systems. Mandatory provisions should be fully implemented at the state and local level, and the federal government should enforce compliance with these requirements.

#### *D. Practical Approaches to Meeting the Needs of Girls*

As more becomes known about girls in the child welfare system, services and approaches will evolve to better meet girls' specific needs. Information that currently exists, however, highlights several areas in which immediate child welfare system changes have the potential to improve both the quality of life and outcomes for girls. These practice and policy changes are summarized below.

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82. 42 U.S.C. § 5106a(a)(12) (2006 & Supp. 2011); 42 U.S.C § 5633(a)(9) (2006) (allowing states to use CAPTA funds to enhance collaboration for prevention, placement and treatment services).

83. 42 U.S.C. § 5106a(d)(14) (2006).

84. 42 U.S.C. §§ 5633(a)(26)-(27) (2006) (listing provisions that must be included in state plans which states are required to create in order to receive federal funds through this act).

85. 42 U.S.C. § 5633(a)(28) (2006).

## 1. Promote Positive Relationships

“Connection with others is the central organizing feature of development in girls,” so people working with girls must not underestimate the importance of relationships.<sup>86</sup> Unhealthy and inappropriate relationships are often at the core of trauma that girls are dealing with, so teaching relationship skills and promoting healthy relationships should be among the primary tasks of the child welfare system.

Girls need to see healthy relationships in action and need opportunities to learn and practice effective communication skills. This is one reason it is so important for caregivers such as relatives, foster parents, and congregate care staff to be well-trained—they are the primary adults who will model respectful behavior and help girls appropriately resolve conflicts and navigate relationships.

All girls need education about healthy and unhealthy relationships, dating violence, family violence, and Internet safety, but this information is especially important for girls in the child welfare system, who, because of their backgrounds, are particularly vulnerable in intimate partner relationships and are at greater risk for victimization through sexual trafficking.<sup>87</sup>

During early adolescence, peer relationships and friendships become increasingly important to girls.<sup>88</sup> While these relationships can be a great source of support, they can also be a source of hurt, pain, and power struggles. When conflict arises, girls may be less likely to demonstrate physical aggression than boys, but some studies have found that they are more likely to engage in relational aggression. Relational aggression involves withholding friendships and spreading gossip and rumors in an attempt to isolate girls from meaningful and close relationships.<sup>89</sup> The ubiquity of the Internet and social media has increased the severity and impact of relational aggression.<sup>90</sup>

Recent research has also indicated a direct correlation between maltreatment and aggression and the need to develop a gender-informed approach,<sup>91</sup> finding that girls who have been victims of sexual abuse exhibited higher levels of

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86. Beyer, *supra* note 63, at 17.

87. Arias, *supra* note 29, at 470; Grace & Sherman, *supra* note 29, at 334-37.

88. See, e.g., Lindsay C. Matheison et al., *Hostile Intent Attributions and Relational Aggression: The Moderating Roles of Sensitivity, Gender, and Victimization*, 39 J. ABNORMAL PSYCHOL. 977 (2011). See generally E. H. ERICKSON, *IDENTITY: YOUTH AND CRISIS* (1968); Urie Brofenbrenner, *Ecology of the Family as a Context for Human Development*, 22 DEVELOPMENTAL PSYCHOL. 723-42 (1986).

89. Matheison et al., *supra* note 88, at 977.

90. Social media allows these tactics to reach a wider audience in a shorter amount of time and enables the creation of long-lasting records of the relational attacks. See, e.g., Christian Ng, *Bullied Teen Amanda Todd's Death Under Investigation*, ABC NEWS (Oct. 16, 2012), <http://abcnews.go.com/US/bullied-teen-amanda-todds-death-investigation/story?id=17489034#.UKHsOeTLcxE> (providing stories documenting Amanda Todd's bullying and suicide).

91. Crystal Cullerton-Sen et al., *Childhood Maltreatment and the Development of Relational and Physical Aggression: The Importance of a Gender-Informed Approach*, 79 CHILD DEV. 1736, 1747 (2008).

relational aggression than any other group.<sup>92</sup> While further research is needed, this may have significant implications for the types of services and placements offered for this subgroup of girls in child welfare systems.

Placement in foster care often disrupts important friendships in girls' lives. It also requires girls to navigate new peer relationships in unfamiliar surroundings. When placed in settings with other girls, girls are forced to navigate peer relationships at "home" as well as at school, an emotionally taxing endeavor. Caregivers, social workers, and others need to be aware of the dynamics of peer relationships among girls, the emotional drain of navigating those relationships in multiple settings (school, community, and home), and they must be equipped to help girls learn relationship and communication skills to build supportive relationships.

Even though peer relationships become increasingly important for adolescent girls, maternal figures continue to be a primary source of support and information for most girls through adolescence.<sup>93</sup> Child welfare systems must, while addressing safety concerns, facilitate girls' relationships with their mothers and other maternal figures girls identify as important to them. Systems need to respect relationships that girls value and must examine rules or practices that interfere, even unintentionally, with girls' relationships with their families and other adults who are important to them. In other words, when system practices disrespect or devalue the role and presence of mothers, this could be detrimental to the mother-daughter relationship and could impact how the girl views herself.

## 2. Provide Comprehensive, Gender-Specific Screening and Health Care

Comprehensive physical and behavioral health screens, including trauma screening, should be conducted when girls enter the system and at regular intervals during their stay in foster care. Any concerns identified through the screens should be addressed or the girl should be referred for additional assessment.<sup>94</sup> There is some evidence that screening and assessment tools that are specifically designed for girls more effectively identify health issues such as

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92. *Id.* at 1749.

93. LAWANDA RAVOIRA ET AL., NCCD CTR. FOR GIRLS & YOUNG WOMEN, VOICES FROM THE FIELD: FINDINGS FROM THE NGI LISTENING SESSIONS 20, 27 (2012), *available at* <http://www.nationalgirlsinsitute.org/wp-content/uploads/2012/09/NGI-Listening-Sessions-report.pdf>; Telephone Interview with Judge Karen Radius, Founder, Haw. Girls Court (June 27, 2012).

94. An example of a validated, developmentally appropriate comprehensive health screen designed specifically for adolescent girls is the "Girls Health Screen," developed by Leslie Acoca and the Juvenile Law Center. LESLIE ACOCA, JUVENILE LAW CTR., INTRODUCTION TO THE NATIONAL GIRLS HEALTH SCREEN PROJECT (2005), *available at* [http://www.njjn.org/uploads/digital-library/resource\\_247.pdf](http://www.njjn.org/uploads/digital-library/resource_247.pdf). It is being used in juvenile justice facilities in a few jurisdictions around the country. It identifies and prioritizes girls' physical and behavioral health problems and "was designed to serve girls in the juvenile justice, child welfare, homeless, and community and alternative school systems." E-mail from Leslie Acoca, Founder of the Nat'l Girls Health & Justice Inst., to authors (July 30, 2012, 6:07 EST) (on file with authora).

pregnancy, sexual victimization, or intimate partner violence than instruments that are not designed solely for girls.<sup>95</sup>

Early identification of trauma exposure is especially important for girls because of the way they react to trauma, because of the level of untreated trauma that has been identified in girls in the juvenile justice system, and because, once a girl is victimized, there is a higher likelihood that she will experience additional victimization.<sup>96</sup>

Comprehensive health care includes sexual and reproductive health, mental health, and vision and dental care. An estimated 30% to 60% of children in foster care have chronic health conditions, and up to a third have identified but unmet health needs.<sup>97</sup> Reproductive and sexual health care is particularly important for girls in foster care because of their many risk factors, including high rates of sexual victimization, early puberty, participation in risky sexual activity, and inconsistent gynecological and medical care.<sup>98</sup> Girls need holistic health care at regular intervals with a nonjudgmental health professional who takes time to talk to the girl about her overall health and provides access to information and services about sexual development and reproduction.

### 3. Understand and Reduce System-Induced Trauma

Understanding trauma—including types, causes, and responses to trauma—is an essential precursor to working with girls who have been exposed to trauma. Not everyone in the system needs to be an expert in trauma, but everyone needs to interact with girls being served in the context of that girl's experience with trauma. Systems often inadvertently cause additional trauma to those they are serving. Practice and policy improvements must be grounded in an understanding of (1) how this can occur, (2) what might trigger trauma responses in girls, and

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95. See generally LESLIE ACOCA, BLUEPRINT FOR THE FUTURE: LINKING GIRLS IN THE NEW MEXICO JUVENILE JUSTICE SYSTEM TO HEALTH, MENTAL HEALTH, SUBSTANCE ABUSE, FAMILY SUPPORT, PARENTING AND OTHER COMMUNITY SERVICES (2012), available at [http://www.leslieacoca.org/images/Leslie\\_Acoca\\_s\\_Blueprint\\_for\\_Future.pdf](http://www.leslieacoca.org/images/Leslie_Acoca_s_Blueprint_for_Future.pdf).

96. DAVID FINKELHOR ET AL., OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, CHILDREN'S EXPOSURE TO VIOLENCE: A COMPREHENSIVE NATIONAL SURVEY 7-8 (2009), available at <https://www.ncjrs.gov/pdffiles1/ojjdp/227744.pdf>.

97. *Foster Children and the Health Care System: Hearing on H. Ways and Means Subcomm. on Income Security and Family Support 2-3* (statement of David Rubbin, MD MSCE FAAP, American Academy of Pediatrics), available at <http://www.aap.org/en-us/advocacy-and-policy/federal-advocacy/Documents/FosterChildrenandtheHealthCareSystem.pdf>; ADMIN. FOR CHILDREN & FAMILIES, U.S. DEP'T OF HEALTH & HUMAN SERVS., NAT'L SURVEY OF CHILD AND ADOLESCENT WELL-BEING, NO.7: SPECIAL HEALTH CARE NEEDS AMONG CHILDREN IN CHILD WELFARE 1 (2007), available at [http://www.acf.hhs.gov/programs/opre/abuse\\_neglect/nscaw/reports/special\\_health/special\\_health.pdf](http://www.acf.hhs.gov/programs/opre/abuse_neglect/nscaw/reports/special_health/special_health.pdf); *Frequently Asked Questions, Healthy Foster Care America*, AM. ACAD. PEDIATRICS, <http://www2.aap.org/fostercare/FAQ.html> (last visited Jan. 18, 2013).

98. SCHUYLER CTR. FOR ANALYSIS & ADVOCACY, RISKING THEIR FUTURE: UNDERSTANDING THE HEALTH BEHAVIORS OF FOSTER CARE YOUTH 4-5 (2009), available at [https://www.scaany.org/resources/documents/risking\\_their\\_future\\_report\\_000.pdf](https://www.scaany.org/resources/documents/risking_their_future_report_000.pdf).

(3) how to create physical and interpersonal environments that both minimize the likelihood of this and successfully engage girls in services. Systems must also be aware of the emotional trauma that is caused simply by a family's involvement with the child welfare system.

The first step in minimizing system-induced trauma is recognizing causes of trauma in the system. Examples include frequently changing a girl's placement with little or no notice or emotional support for the transition; sexually active girls being shamed in foster homes that believe that sexual activity outside of wedlock is sinful; lesbian, gay, bisexual, transgender, or questioning (LGBTQ) and gender non-conforming youth being shamed in court or isolated or verbally and physically harassed by staff and residents in group homes;<sup>99</sup> and the use of behavior management techniques that create situations and dynamics that are perceived by the girl as threatening or traumatic.<sup>100</sup>

Existing research suggests that girls who run away from foster care placements and girls who are moved from the child welfare system into the juvenile justice system may be reacting to trauma. Very little is currently known about girls in these two categories—data are not kept on the number of these girls, their backgrounds and circumstances, and why they run away or are moved into the juvenile justice system. Learning more about these two groups of girls may reveal important information about how the child welfare system addresses (or causes) trauma.<sup>101</sup> One example of research suggesting that running away from foster care is a coping mechanism is the findings of listening sessions with system-involved LGBTQ youth.<sup>102</sup> These youth, along with gender-nonconforming youth, report that they often feel safer on the streets than in the child welfare system.<sup>103</sup> One action that would force systems to develop new approaches to runaways is for systems to disallow the use of runaway status as a reason for discharging youth from the system.

Another area that is likely to cause trauma and therefore merits closer study is the number of and reasons for girls' placement changes and the types of placements involved in the changes (such as foster, relative, or group homes). Systems need to study the reasons why changes are made and look for

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99. See MIMI LAVER & ANDREA KHOURY, AM. BAR ASS'N, *OPENING DOORS FOR LGBTQ YOUTH IN FOSTER CARE: A GUIDE FOR LAWYERS AND JUDGES* 9 (2008).

100. E.g., Marty Beyer, *Developmentally-Sound Practice in Family and Juvenile Court*, 6 NEV. L.J. 1215, 1218-19 (2006).

101. A third group of girls whose circumstances may be instructive for child protection systems are girls who are in the juvenile justice system for running away from their homes. These girls are not within the jurisdiction of the child welfare system, so this group is not discussed in this Article, but this group is likely to include many unidentified victims of abuse and neglect.

102. JODY MARKSAMER, CAITLIN RYAN & SHANNON WILBER, CHILD WELFARE LEAGUE OF AM., *CWLA BEST PRACTICE GUIDELINES FOR SERVING LGBT YOUTH IN OUT-OF-HOME CARE* 6 (2006), available at <http://www.ncrights.org/site/DocServer/bestpracticeslgbtyouthpdf?docID=1322>.

103. ROB WORONOFF ET AL., CHILD WELFARE LEAGUE OF AM. & LAMBDA LEGAL, *OUT OF THE MARGINS, A REPORT ON REGIONAL LISTENING FORUMS HIGHLIGHTING THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUESTIONING YOUTH IN CARE* 35 (2006).

relationships between placement changes, girls' trauma histories, girls' behavior, the quality and stability of placements, and mental health and juvenile justice system involvement. Placement stability is an important protective factor for adolescent girls, and multiple moves interfere with important relationships in their lives. Multiple moves can also result in school changes and consequently cause trauma because school may be the one safe and stable anchor in their chaotic lives. Maintaining school stability is critical because changes in academic settings are likely to result in children falling behind in their academic progress.<sup>104</sup>

As systems begin to eliminate causes of unintended trauma, they should also monitor how the changes are working. Systems should develop ways to track incidents and actions in foster care placements that do not rise to the federal definition of repeat maltreatment but which, nevertheless, are harmful to girls in care.<sup>105</sup> Federal benchmarks require systems to monitor and address maltreatment that occurs after youth are in the child welfare system, but the definition of incidents that are tracked for that purpose is so limited that it does not capture the range of daily activities that girls may consider abusive toward them.<sup>106</sup> Thus, systems should clearly define what actions by whom are considered incidents of "reabuse" or repeat maltreatment for purposes of federal reporting, and what actions not meeting this definition still need to be addressed and tracked for system quality improvement.

#### 4. Support Pregnant and Parenting Girls

Girls who become pregnant or are parents comprise subgroups of girls in the child welfare system with distinct sets of needs.<sup>107</sup> Pregnant girls need information and support so they can make informed choices about their futures. They also need access and autonomy regarding options. Law and practice regarding minors' reproductive rights vary from state to state, as do the barriers that girls in foster care encounter in meeting their sexual and reproductive health needs. If a girl does not want to continue her pregnancy, access to financial, legal,

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104. NAT'L WORKING GRP. ON FOSTER CARE & EDUC., RESEARCH HIGHLIGHTS ON EDUCATION AND FOSTER CARE 2 (2011). Children in foster care experience an average of one or two placement changes a year, which greatly increases their risk of changing schools.

105. "For the Child and Families Services Reviews (CFSR), recurrence of child maltreatment is defined as the percentage of children who were victims of a substantiated or indicated child abuse report during the first half of the calendar year who had a subsequent substantiated or indicated maltreatment report within six months of the first report." NAT'L RES. CTR. ON CHILD MALTREATMENT, CHILD MALTREATMENT RECURRENCE: A LEADERSHIP INITIATIVE OF THE NATIONAL RESOURCE CENTER ON CHILD MALTREATMENT 17 (2003), available at <http://www.nrcaps.org/PDF/MaltreatmentRecurrence.pdf>.

106. *Id.*

107. See generally Katherine Moore, Comment, *Pregnant in Foster Care: Prenatal Care, Abortion, and the Consequences for Foster Families*, 23 COLUM. J. GENDER & L. 29 (2012).



emotional, logistical, and medical support should be provided for her to access services to terminate her pregnancy. If a girl decides to carry her pregnancy to term, she needs support and services for deciding whether to raise the child or allow the child to be adopted. She also needs prenatal care and access to choices regarding her prenatal care and childbirth.

During pregnancy and after birth, physical and mental health supports are critical for young mothers. The trauma endured by girls in the child welfare system can make it difficult for them to meet their own needs and the needs of their babies without a great deal of support. Providing an appropriate living situation for the mother and child is a key component of that support. Foster care generally has few options for mothers and their children, but it is essential that placements be available that keep mothers and children together and provide the supports and services needed for healthy bonding, attachment, and parenting to occur. Increasing the number of appropriate placements for young mothers and their babies in the child welfare system is one of the most significant changes systems can make to improve the likelihood of positive outcomes for both the mothers and their children.<sup>108</sup>

Important components of sexual and reproductive health care that are essential for all girls in foster care are prevention of sexually transmitted infections (STIs) and early pregnancy. The high rate of pregnancy among girls in foster care and the likelihood of poor outcomes from those pregnancies have led to a specific focus on this population. The National Campaign to Prevent Teen and Unplanned Pregnancy established an initiative and partnered with agencies and organizations to raise awareness and develop strategies focused on decreasing pregnancy rates for girls in foster care.<sup>109</sup> In addition, President Obama's Fiscal Year 2013 budget plan includes a proposal to create new competitive funding streams for state and local child welfare agencies to employ innovative and effective approaches to decrease pregnancy rates for youth in foster care.<sup>110</sup>

Sometimes girls' caregivers are so concerned about pregnancy that reliable hormonal birth control is provided but barrier protection that can prevent STI transmission is not discussed or provided.<sup>111</sup> Equal attention should be paid to

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108. See CTR. FOR THE STUDY OF SOC. POLICY, PREGNANT AND PARENTING YOUTH IN FOSTER CARE: PART I: A GUIDE TO SERVICE IMPROVEMENTS, available at <http://www.cssp.org/publications/child-welfare/pregnant-and-parenting-youth/Pregnant-and-Parenting-Youth-in-Foster-Care-Service-Recommendations-Guide.pdf>. See generally AMY DWORSKY & JAN DECOURSEY, PREGNANT AND PARENTING FOSTER YOUTH: THEIR NEEDS, THEIR EXPERIENCES (2009), available at [http://www.chapinhall.org/sites/default/files/Pregnant\\_Foster\\_Youth\\_final\\_081109.pdf](http://www.chapinhall.org/sites/default/files/Pregnant_Foster_Youth_final_081109.pdf) (describing what is being done and what is needed for pregnant and parenting girls in foster care in some jurisdictions).

109. See *Why Child Welfare & Juvenile Justice?*, NAT'L CAMPAIGN TO PREVENT TEEN & UNPLANNED PREGNANCY, <http://www.thenationalcampaign.org/fostercare/why.aspx> (last visited Jan. 18, 2013).

110. DEP'T OF HEALTH & HUMAN SERVS., FISCAL YEAR 2013, at 87 (2012), available at <http://www.hhs.gov/budget/budget-brief-fy2013.pdf>.

111. See, e.g., Kym R. Ahrens et al., *Laboratory-Diagnosed Sexually Transmitted Infections in Former Foster Youth Compared With Peers*, 126 PEDIATRICS 97, 101 (2010).

disease prevention because of the potential life-long impact of STIs, including permanent damage to the reproductive tract and fertility.<sup>112</sup>

### 5. Reduce Crossover into the Juvenile Justice System

More information is needed about girls who cross over from the child welfare system into the juvenile justice system. However, enough is known about the links between the child welfare and juvenile justice systems for child welfare systems to begin looking at how their practices and policies contribute to girls' involvement with the juvenile justice system.

The first step for child welfare systems is to try to understand the magnitude of the issue. This begins with tracking the filing of status and delinquency complaints and petitions by child welfare system participants against girls in their care. This also includes tracking information about girls' involvement with the juvenile justice system when the complainant is not someone from the child welfare system. For all child welfare system placements, information should be collected on disciplinary infractions and disciplinary incidents, calls to law enforcement related to the behavior of girls in placements, and court referrals for status or delinquent behavior occurring in or related to placements. With this information, systems can look for patterns that indicate that policies and practices may be driving girls into the juvenile justice system because of trauma-related behavior or girls' sexual orientation, gender identity, or sexual activities.

Research on trauma is advanced enough that those working with traumatized girls can reasonably predict the range of behaviors that girls are likely to exhibit. Therefore, providers such as group homes and foster parents should be prepared to handle this expected range of behaviors without further traumatizing the girls or moving them into the juvenile justice system. Agencies and court systems contracting with care providers should clearly establish the expectation that, whenever possible, girls' behavior should be managed in ways that do not re-traumatize girls and do not involve law enforcement or the juvenile justice system. Two ways to do this include: (1) contracts with private service providers, child welfare agencies, and courts should include provisions that limit providers' ability to file status or delinquency complaints and petitions against youth in their care and limit providers' use of law enforcement to respond to fights, petty theft, and other misbehavior in placements; and (2) child welfare agencies and courts should include "no reject" and "no eject" provisions in contracts with service providers. If providers are approved to care for girls with particular behavioral and emotional needs and a girl with those needs meets the providers' eligibility criteria, providers should not be allowed to reject girls based on their behaviors, personal characteristics, or other reasons.

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112. See, e.g., CTRS. FOR DISEASE CONTROL & PREVENTION, 10 WAYS STDs IMPACT WOMEN DIFFERENTLY FROM MEN (2011), available at <http://www.cdc.gov/nchstp/newsroom/docs/STDs-Women-042011.pdf>.

At the policy level, jurisdictions should explore creating a process that is similar to the educational system manifestation determination for youth with Individualized Education Programs (IEPs)<sup>113</sup> and use that process when providers seek assistance from police or courts and before making placement changes for youth with mental health diagnoses, IEPs, or disabilities.<sup>114</sup> In addition, policymakers should consider whether it would be appropriate to require child welfare systems to make reasonable efforts to keep children out of the juvenile justice system, just as they must make reasonable efforts to prevent the removal of a child from her home.<sup>115</sup>

Despite agencies' proactive steps to reduce the number of girls who move from the child welfare system to the juvenile justice system, some girls will still be involved with both systems. When that happens, child welfare systems should remain involved with the girl through communication with her lawyer(s), guardian ad litem, probation officer, police, court, detention staff, and anyone else who works with the girl. Child welfare system involvement may also include working on the girls' disposition plan, helping arrange creative placement options for the girl, or assisting with placement and services after the girl is released from detention.

## 6. Let Girls Be Girls

Many of the core elements required for a gender-responsive and trauma-informed system do not demand mass restructuring or new funding streams. In fact, many of them can be accomplished through training and deliberately involving the girls themselves. For example, engaging child development experts in agency, judicial, attorney, foster parent, and volunteer training can assist stakeholders in understanding the unique needs and strengths of adolescent girls. Including girls in decision-making and involving them in the process can occur within their placements, in independent living programming, and within the court setting while working with attorneys and judges. Such involvement teaches

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113. Before a school can "change the placement of a child with a disability because of a violation of a code of student conduct," a review must occur "to determine—(I) if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or (II) if the conduct in question was the direct result of the local educational agency's failure to implement the IEP." 20 USC § 1415 k(E)(i) (2006). The final regulations explaining the language used in this provision state, "We believe the Act recognizes that a child with a disability may display disruptive behaviors characteristic of the child's disability and the child should not be punished for behaviors that are a result of the child's disability." 71 Fed. Reg. 46720 (2006).

114. See Marsha L. Levick & Robert G. Schwartz, *Looking Back and Moving Forward: New Approaches to Legal Advocacy in the 21<sup>st</sup> Century: Changing the Narrative: Convincing Courts to Distinguish Between Misbehavior and Criminal Conduct in School Referral Cases*, 9 UDC/DCSL L. REV. 53, 60-64 (2007) (discussing how to apply a manifestation defense to unruly or delinquency charges in juvenile court).

115. 1321 C.F.R. 1356.21(b) (2012); 42 U.S.C. 672(15)(B)(i) (2006).

valuable life skills and bolsters girls' confidence in themselves, the process, and the court and child welfare systems.

Promoting positive youth development can be incorporated into existing activities. For instance, physical health and development can be promoted through extracurricular activities and independent living programming. Opportunities for girls to develop relationships with caring adults can be provided through mentoring programs that already exist in many agencies. These programs can be strengthened by deliberately involving positive female role models, which is particularly important because being female in a male-dominated society is difficult for every adolescent girl. Mass media plays a disproportionately influential role in the socialization of girls, and personal relationships with positive women can help mediate the impact of negative media messages about being female. Knowing successful women can also provide role models for girls to navigate educational settings and places of employment, which are still challenged by unfair and inequitable treatment toward women.

Overall, if systems begin to view their work from the perspective of the children they serve, that will go a long way in supporting and nurturing the healthy development of girls in foster care. As substitute parents, it is imperative that every adult strive to surpass the minimum requirements of providing food, shelter, and clothing. Systems and caregivers should create opportunities for girls to participate in activities such as sports, slumber parties, school field trips, age-appropriate dating,<sup>116</sup> and family vacations. These are examples of activities that are currently minimized by many systems and could provide meaningful experiences that promote positive development and allow girls to enjoy being girls.

#### CONCLUSION

The needs of adolescent girls in foster care are immense. These girls' increased exposure to trauma and victimization exacerbates their risk factors. Without careful, deliberate implementation of gender-responsive and trauma-informed interventions, these girls are in jeopardy of life-impacting, negative results such as school failure, homelessness, involvement in the criminal justice system, teen pregnancy, and repeated victimization, just to name a few.

Although not a lot is currently known about adolescent girls in foster care, the outcomes of youth who age out of care indicate that systems must focus more attention on understanding and dealing with underlying trauma. Greater focus on preparing girls for independence and self-sufficiency is also needed, beginning in early adolescence. Thus, in order to improve outcomes for girls in the child welfare system, more must be learned about the girls, the programs and

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116. Child welfare system or placement rules that exist around dating and relationships must be equally applied to girls in same-sex relationships and opposite-sex relationships.

interventions currently serving them, and the responses that will best address their needs.

The child welfare system lags behind other child-serving systems in exploring gender-responsive strategies. Much can be learned from the ongoing work in juvenile justice and mental health, as well as the rapidly evolving areas of adolescent brain development and positive youth development. While this paper has endeavored to outline some of the practice, policy, and legal implications, caution should be taken against the knee-jerk reaction of creating a girls' track and a boys' track for foster care. Each adolescent needs and deserves an individualized case plan with culturally competent strategies and approaches. Through data collection, more in-depth research, and surveying current practices—all through a gender lens—stakeholders, caseworkers, and policymakers have the opportunity to better understand the needs of all adolescents in foster care. For girls, the needs are great, and the life-long consequences are greater. This is a call to action.