

CRIMINALIZED SURVIVORS: TODAY'S ABUSE TO PRISON PIPELINE FOR GIRLS

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CENTER ON
**GENDER JUSTICE
& OPPORTUNITY** 
GEORGETOWN LAW

Acknowledgments

We are indebted to many who contributed their time, resources, and expertise to this report:

- **Annie Balck**, Annie Balck Consulting, who provided invaluable research;
- The law firm **Baker McKenzie**, which, through the efforts of Colin Murray, William Devaney, and JeanMarie Campbell, generously supported Law Associate **Chehak Gogia** in providing us critical assistance in completing the report;
- And the dedicated staff of the Georgetown Center on Gender Justice & Opportunity, all of whom are students at (or, by time of publication, alumnae of) Georgetown University:
 - Research Assistants (Georgetown University Law Center): **Sierra Campbell, Nabintou Doumbia, Elizabeth Hadley, Natalie Jean, Eva Niedmeyer, Kaitlyn Powell; and Rhea Shinde**
 - Interns (Georgetown undergraduate programs): **Emily Gorny and Maddi Larmore; and**
 - Youth Engagement Coordinator **Toella Pliakas**.

We also extend special gratitude to the **Ms. Foundation for Women**, whose support made this report possible, as well as the Skoll Foundation for providing additional resources; and to **Richard Ross** for providing such powerful photos.

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ABOUT THE AUTHORS' ORGANIZATIONS

The Center on Gender Justice & Opportunity works to uncover and eliminate gender and racial disparities across public systems — including education, healthcare, and the legal system. Their work starts with the root causes of injustice and is directly informed by girls and women—ensuring that the Center’s groundbreaking research and innovative policy recommendations are rooted in lived experiences. The Center’s work is in service of a just world where all girls experience a childhood that is truly free. In 2022, the Center was honored to be named as a champion of gender equity by Prince Harry and Meghan’s Archewell Foundation. See more at www.genderjusticeandopportunity.georgetown.edu.

Rights4Girls is a national human rights organization that advocates for the dignity and rights of young women and girls so that every girl can be safe and live a life free of violence and exploitation. We work to change the narrative and policies that allow girls to be criminalized when they experience violence and advocate for approaches that provide girls and young women with safety, justice, and support. Our work includes policy development and advocacy at the federal and state levels as well as public education campaigns, coalition building, research, and training and technical assistance. We center the voices and needs of our most marginalized girls to ensure that all of our work is far-reaching and intersectional. See more at www.rights4girls.org.

Suggested citation: **YASMIN VAFA & REBECCA EPSTEIN, CRIMINALIZED SURVIVORS: TODAY’S ABUSE TO PRISON PIPELINE FOR GIRLS (2023).**

Table of Contents

Introduction	4
State of the Pipeline: Girls who Survive Abuse Are Still Pushed Into the Legal System	7
• Girls are Blamed and Criminalized for Being Sex Trafficked	8
• Girls are Criminalized for Acting in Self-Defense Against Abusers	9
• Girls are Criminalized for Reporting Abuse	13
Disrupting the Abuse to Prison Pipeline: Progress in Policy and Legislation Since 2015	17
• The White House and Federal Agencies	18
• Federal Policy and Leadership	18
• States' Safe Harbor Laws: Eliminating Prostitution Charges for Children	21
• Survivor Justice in the States: Protecting Survivors Who Commit Offenses in Connection with Sexual Abuse	22
Recommendations	24
Endnotes	28



Introduction

“My spirit has been burned but still glows through the flames. Hear me roar, see me glow, and watch me grow.”

These are the words of Pieper Lewis, who, at 15 years old, was sold to a 37-year-old man. Pieper’s statement was made in court; not as a plaintiff, a complainant, a survivor, or even a victim, but as a defendant. She was charged with first-degree murder of the man she killed after he drugged and repeatedly raped her over the course of three days while she faded in and out of consciousness.¹

Pieper’s criminalization is just one example of the abuse to prison pipeline for girls, a cycle we identified in 2015—and, as this report establishes, still persists. In this cycle, girls—especially girls of color—are punished for the gender-based violence they endure, sent into the prison system without access to critical support.

The roots of this cycle reach far and run deep. Public systems, entrusted with authority over girls’ lives, not only fail to protect the safety of survivors; they affirmatively criminalize them. This injustice is particularly egregious when viewed against the backdrop of the sheer scale of sexual violence against girls in the US: girls aged 16-19 are four times more likely than the general population to be victims of rape, attempted rape, or sexual assault.² And according to data released by the Centers for Disease Control and Prevention in 2022, one in four women in the United States (26.8 percent, or 33.5 million) reported “completed” or attempted rape at some point in their lifetime.³ The Covid pandemic has served as an exacerbating factor, causing marked increases in domestic violence⁴ and severity of child abuse.⁵

These rates are even higher for women and girls of color,⁶ resulting in inequitable patterns of impact.⁷ According to the Rape, Abuse, Incest National Network (RAINN), the nation’s largest anti-sexual violence organization, Native girls run the highest risk of sexual violence of all girls. On average, Native people aged 12 and older experience 5,900 sexual assaults per year. They are twice as likely to be raped and/or sexually assaulted compared to all other races/ethnicities.⁸ Meanwhile, the Youth Risk Behavior Survey (YRBS) revealed that 13.9 percent of Native Hawaiian high schoolers in that state reported that they had been forced to engage in sexual acts by someone they were dating within the past 12 months, compared to 6.8 percent of white high schoolers.⁹ Black girls also face extremely high rates of sexual violence. Ujima, the National Center on Violence Against Women in the Black Community, reported that one in four Black girls are sexually abused before the age of 18. In a study Ujima conducted on a national sample of high school students, 11 percent of Black girls reported having been raped.¹⁰

One cause of the high rates of sexual violence against girls of color—as well as the disproportionate degree of punishment imposed on them in response to that violence—is the adults who dehumanize them. In previous reports, we have documented the distorted lens through which adults view Black girls, perceiving them as older than white girls of the same age, more promiscuous, and undeserving of the same protection.¹¹ Further, we have exposed a pattern of disproportionate sexual exploitation of girls of color by white men, as well as inequitable rates of arrests on prostitution charges.¹²

To elevate awareness of the criminalization of survivors, our organizations, together with the Ms. Foundation, published *The Sexual Abuse to Prison Pipeline: The Girls’ Story* in 2015,¹³ which highlighted the hidden pattern that routes survivors like Pieper—who are often girls of color—into the legal system despite the fact that they present little, if any, risk to public safety.¹⁴

Since that time, the concept of the abuse¹⁵ to prison pipeline for girls has spread widely, influencing policy, research, and the public narrative—most notably championed by President Obama in 2015. The *Sexual Abuse to Prison Pipeline* report has been cited in hundreds of peer-reviewed journals, law review articles, and reports; and it has been referenced in support of legislation and policies designed to decriminalize survivors and increase the use of trauma-informed practices and community-based programs for survivors of gender-based violence.¹⁶

Subsequent research, too, has produced findings that substantiate the correlation between girls' and women's experience of sexual violence and their involvement in the legal system.¹⁷ This body of work points to the need for a range of further studies, including examinations of the specific factors at play in the cycle, as well as the pipeline's effects on subgroups of girls and women.¹⁸

The press has also widely recognized the abuse to prison pipeline in the wake of our report. Articles about gender-based violence have increasingly questioned why girls who have histories of sexual victimization are sent into the prison system¹⁹ and shined a light on the harms of incarcerating survivors.²⁰

These developments have taken place against a cultural backdrop that has changed considerably since our report was published. Seismic points of inflection include the rise of the Black Lives Matter movement, the Covid pandemic, the #MeToo movement, and the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*,²¹ which eliminated the constitutional right to abortion.

Of these touchpoints, the rise of the #MeToo movement has been uniquely influential in expanding mainstream recognition of the prevalence of sexual violence against women and girls, challenging conventional biases against claims of sexual abuse and prompting us to do better in hearing, believing, and supporting survivors. As more and more women and girls have publicly acknowledged their survivorship, the hashtag #MeToo has stood for a movement to end the nation's complicity in perpetuating sexual harassment and abuse.²²

Although the #MeToo movement continues to evolve, its focus has changed from the original intent, which was to provide safe spaces for women and girls of color to connect and heal from sexual violence.²³ Its explosion into the mainstream was marked by increased attention to the experiences of affluent white women—a focus that persisted despite the disproportionately higher rates of sexual violence against girls and young women of color.²⁴ Tarana Burke, the founder of #MeToo, recognized this phenomenon as part of a historical pattern, noting that “sexual violence knows no race, class, or gender—but the response to it does.”²⁵

In light of the changes that have taken place since the publication of our 2015 report, we set out to examine the current state of the pipeline for girls. Here, we provide new analyses of the most significant paths that funnel survivors into the system, points of progress made in law and policy reform, and the challenges that persist. Finally, we offer a set of principles to guide systemic change.

Solutions are possible, if only we choose to act. The top priority must be the prevention of gender-based violence itself. But as long as that violence persists, we must end the criminalization of victims. Through systemic, structural change, we can achieve justice for survivors.





**State of the Pipeline:
Girls who Survive
Abuse Are Still Pushed
Into the Legal System**

Despite clear evidence and increasing awareness of the prevalence of gender-based violence, girls are still pushed into the legal system in three main ways as a direct result of the violence they experience:

- Girls are blamed and criminalized for being sex trafficked;
- Girls are criminalized for acting in self-defense against abusers; and
- Girls are punished or criminalized for reporting abuse.

These categories are not intended to represent an exhaustive list of all routes into the system for survivors of gender-based violence. As we highlighted in our original report, there are many other unique pathways into the system for girls, such as the criminalization of status offenders who run away from home to escape abuse or are forced to be truant because they are being sex trafficked. We highlight the three paths above as among the most urgent to address.

Girls are Blamed and Criminalized for Being Sex Trafficked

Awareness of the prevalence of child sex trafficking and the injustice of criminalizing survivors has grown tremendously in recent years. Arrests of children on charges related to prostitution and “commercialized vice”²⁶ have declined at rates that exceed the decline in total juvenile arrest rates.²⁷ In addition, thanks to the leadership of survivors, use of the term child prostitute—itself a legal oxymoron, since children cannot legally consent to sex—has begun to wane in recent years.²⁸ In an influential development, the Associated Press revised its Stylebook—the foundational guideline for journalists and other writers on language, usage, style, spelling, and punctuation—to discourage use of the term when referring to child victims of sexual exploitation.²⁹ This trend, as well as the legal reforms we detail in the next section, are helping re-shape perceptions of child survivors in ways that are more legally accurate and ethically just.

Yet the criminalization of child survivors continues. The US Department of Justice has reported that 110 children were arrested nationwide on prostitution charges and commercialized vice in 2020,³⁰ but local reports indicate that number is a vast underestimate.³¹ In states that report a reduction in arrests of children related to prostitution, survivors may simply be arrested on different charges—a practice known as proxy or masking charges³²—including loitering; trespass; drug possession; or status offenses, such as truancy or running away.³³ These arrests are overwhelmingly of girls: in 2019, 71 percent of youth arrested on charges of prostitution and commercialized vice were girls, far exceeding their proportion of the population.³⁴ The arrests are also disproportionately of Black youth: According to the US Department of Justice, in 2019—the latest year for which data has been released—Black children were over five times more likely to be arrested for prostitution and commercialized vice than white children. Overall, children of color were over three and a half times more likely to be arrested on these charges than white children.³⁵

As we emphasized in our original report, the arrest and criminalization of child sex trafficking victims, whether on prostitution charges or other charges related to their exploitation, is both ethically and legally wrong. Under federal law, any child under the age of 18 engaged in a commercial sex act³⁶ is a victim of a “severe form” of human trafficking.³⁷ Criminalizing child victims as if they were offenders undermines that legally protected status; it also perpetuates abuse by directing focus away from adult exploiters and masking structural, systemic failures to provide community safety and accountability. And the failure to screen youth who come into contact with the system upon intake to identify whether they are victims of trafficking—a common failure in many states—is inconsistent with federal guidance set forth in the Juvenile Justice Reform Act.³⁸ As a result, many child trafficking victims remain unidentified, without critical services or support, and without the benefit of context when placement and treatment options are assessed.

Still deeper criminalization occurs when more serious charges are brought against survivors. One example: child sex trafficking victims who are charged with recruiting other victims.³⁹ This practice, which holds child victims liable as traffickers or co-conspirators, fails to recognize the broader circumstances: that is, the violence, coercion, threats, manipulation, and other forms of control that traffickers use to force their victims to exploit other children. It also discounts the harmful effect of survivors’ ongoing trauma on their sense of agency and decision-making.

An example in Florida provides a case in point:

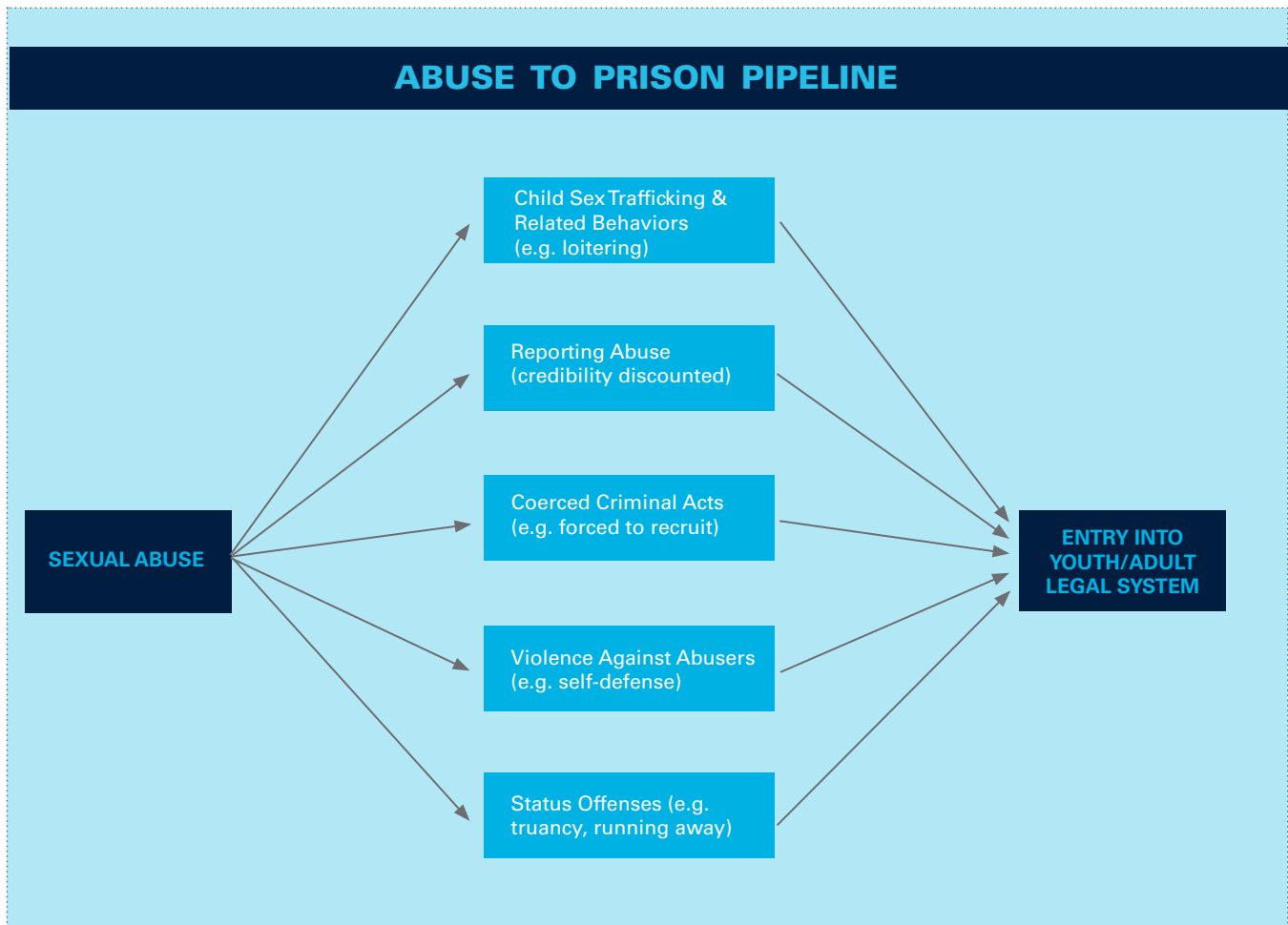
Multiple traffickers were recently arrested and tried for running a drug and human trafficking ring. At trial, prosecutors identified one witness as a victim.⁴⁰ Yet to force that survivor to cooperate, they charged her as a co-conspirator, offering her a plea deal that required her to testify against her exploiters and attend a program for victims.⁴¹

Treating survivors as offenders—even if they are simultaneously acknowledged as victims—reveals a fundamental disregard of the effects of being charged as a criminal after surviving a human rights violation, as well as the burden of living with a criminal record.

Girls are Criminalized for Acting in Self-Defense Against Abusers

Despite the emergence of reforms, samples of which we discuss in the next section, girls continue to be funneled into the youth—and sometimes adult—legal system for acts that are rooted in attempts to escape the men who rape, sell, and abuse them, including acts of self-defense that sometimes require violence. In these cases, police, prosecutors, and judges often fail to consider the role of underlying victimization. As a result, victims often face a catch-22: they can comply with their exploiter and run the risk of arrest on prostitution or related offenses, or they can use the force necessary to escape, which risks criminal punishment for harming their abusers.

Sentencing girls to years, even decades, of imprisonment for acting in self-defense against abusers is common across the country. But punishing survivors for acting against their exploiters without considering the trauma they have endured or the context of traffickers' coercion is not only unjust; it deprives girls of their freedom and the treatment and support needed to heal and end cycles of violence and harm.



INCREASING PROTECTIONS FOR CRIMINALIZED CHILDREN

Until the 21st century, American children could be sentenced to die or spend the rest of their lives behind bars. Through a series of holdings over the last two decades, the US Supreme Court has gradually increased legal protections for children accused of serious crimes:

- In 2005, the Court ruled that sentencing children to death for crimes they committed before the age of 18 violates the Eighth Amendment's prohibition against cruel and unusual punishment.⁴²
- In 2010, the Court abolished the sentence of life without the possibility of parole for children convicted of crimes other than homicide.⁴³
- In 2012, *Miller v. Alabama* held that mandatory sentences of life without parole for children convicted of homicide are unconstitutional.⁴⁴ While life sentences could be imposed, Justice Kagan wrote: "Although we do not foreclose a sentencer's ability to make that judgment in homicide cases, we require it to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison."⁴⁵ The decision invalidated mandatory life sentencing provisions in 29 states.⁴⁶
- In 2016, *Montgomery v. Louisiana* held that *Miller* applies retroactively, requiring states to allow individuals to be considered for parole for crimes they committed as children.⁴⁷

According to the Equal Justice Initiative, which argued the *Miller* case before the Supreme Court, more than one thousand people who had been sentenced to die behind bars for acts committed as children have been resentenced pursuant to that holding, and hundreds released.⁴⁸

These cases represent important progress. However, children—including, as demonstrated by the case studies outlined in this report, child survivors of exploitation—are still being tried as adults and sentenced to *decades* in adult prison for acts of self-defense against exploiters. The federal government and states have the authority—and, we would argue, the duty—to enact legislation that provides greater protection to children than the standard established by the Constitution, as the Supreme Court has noted.⁴⁹ Yet, as this report makes clear, bills have often failed to pass even when they prohibit sentences of life without parole for children only after youth have served at least 20 years.⁵⁰



CASE STUDIES OF PROSECUTED SURVIVORS: THE PIPELINE IN THE REAL WORLD

Below, we describe a handful of representative cases of the criminalization of girls who act in self-defense. Significantly, the defendant in every incident is a girl of color. What makes these cases unusual is that they are known at all. Only the most egregious cases garner national attention and outrage,⁵¹ and even then, awareness is raised only because of heroic efforts by families, friends, lawyers, advocates, and journalists—and, in some cases, the extraordinary involvement of public figures.⁵² Although most of these survivors were ultimately released, far more often, survivors—especially girls of color—stay in the shadows of the system.

CYNTOIA BROWN (TENNESSEE)

Cyntoia Brown was 16 years old when she was imprisoned for killing a 43-year-old man who paid to rape her.⁵³ According to a court opinion in her case, “the victim showed [Cyntoia] some guns, and they got into bed together. The victim whispered to and touched [Cyntoia] and reached underneath the bed. [Cyntoia] thought the victim was reaching for a gun, so she pulled a ... handgun out of her purse and shot him.”⁵⁴

Cyntoia was tried as an adult; the jury rejected her claim of self-defense. She was found guilty of first-degree premeditated murder, first-degree felony murder, and aggravated robbery, and she was sentenced to 51 years to life in prison.⁵⁵

After a documentary was aired about her case, Cyntoia was granted clemency by Governor Bill Haslam and released, having served 15 years.⁵⁶

CHRYSTUL KIZER (WISCONSIN)

At 17, Chrystul Kizer shot and killed Randall Volar, who had previously been charged—then released without bail—for sexually exploiting numerous Black girls. According to the *Washington Post*, police had seized videos in Volar’s home showing him abusing several underage Black girls, including Chrystul, and “hundreds” of other videos of child sexual abuse.⁵⁷ According to Chrystul, after a year of complying with his demands, she finally rejected Volar, and he tried to rape her. She shot him with a gun her boyfriend had given her. Chrystul was charged with first-degree intentional homicide, which carries a mandatory sentence of life in prison.⁵⁸

In July 2022, the state Supreme Court ruled that Wisconsin’s affirmative defense law, which applies to victims of sex trafficking for any offense committed as a direct result of trafficking,⁵⁹ could provide a complete defense to Chrystul’s charge of first-degree homicide.⁶⁰ Now, after the delay that stretched on for years as her case made its way through the courts, Chrystul may present evidence to support the application of this defense to her case, which would allow her to be released.⁶¹

PIEPER LEWIS (IOWA)

Pieper Lewis, a 15-year-old girl, was trafficked by a 28-year-old man claiming to be her boyfriend. In 2020, her trafficker forced her to go home with a 37-year-old sex buyer who drugged and raped her multiple times over a three-day period. She used a knife on the nightstand to kill him.

Charged with his murder, she faced 20 years in prison. She pled guilty to voluntary manslaughter and willful injury. After being held in a juvenile detention facility for two years, prosecutors recommended probation. Pieper was sentenced to five years’ probation in women’s transitional facility without the possibility of early release and was required to wear an ankle monitor. The court warned her: “[T]his is the second chance you asked for. You don’t get a third.” The judge ordered her to serve 200 hours of community service, pay more than \$4,000 in civil penalties, and pay \$150,000 in restitution to the rapist’s estate.⁶² But Pieper, who has said that she plans to become a youth justice advocate,⁶³ broke her ankle monitor and fled the center soon after her trial. She was returned to jail; in March 2023, she pled guilty to an escape charge. A hearing to determine if she will be forced to go to prison is pending.⁶⁴

ALEXIS MARTIN (OHIO)

Alexis Martin, 15, helped plan a robbery of her 36-year-old trafficker, Angelo Kerney, who had forbidden her from attending school. According to news reports, Martin said

she had agreed to participate in the robbery to escape Kerney and go to school: “[Education] was my only hope that I ever would leave behind the ghettos—that abuse.”⁶⁵ Things went wrong, and the robbery turned into a homicide.

Alexis was charged with felony murder, despite her status as a child victim. Prosecutors argued that Alexis was a “manipulator;” that she had played a key role in the robbery; and that she should be tried as an adult. Her lawyer, three years out of law school, was unaware of the safe harbor law that had been enacted 17 months earlier.⁶⁶ As a result, the availability of safe harbor protections was not raised.

The judge characterized Alexis as “working” for Kerney, stating: “It is almost beyond comprehension to think that a 15-year-old child would be involved in that kind of work.”⁶⁷ Tried and convicted, Alexis was sentenced to 21 years to life in adult prison.⁶⁸

Governor Mike DeWine later commuted Alexis’ sentence—after advocates raised awareness about her case—as part of a broader effort to limit the spread of Covid in prisons. In a statement about his decision, the governor noted: “Alexis was 15 years of age when she committed the crime; 17 when she went to prison. She is a child sex trafficking survivor. She will be sent to an appropriate group home and she will be under supervision for an extensive period of time.”⁶⁹ Alexis had already served seven years. As a condition of the commutation, she was required to wear an ankle monitor, forbidden from leaving the state, and placed on parole—which included being subjected to random checks by parole officers—for the remainder of her sentence: 14 years.⁷⁰

In 2021, a parole officer conducted an unscheduled visit of Alexis’ apartment and found drugs and weapons in moving boxes belonging to her boyfriend. Although her lawyers argued that Alexis was not aware of them, she was held to have violated the terms of her parole. In response, the parole board chose the harshest punishment possible: it revoked Alexis’ commutation and reinstated her prior sentence in its entirety. The governor did not intervene. Alexis is now scheduled to be released in November 2034.⁷¹

BRESHA MEADOWS (OHIO)

Bresha Meadows ran away twice to escape her home, where she had witnessed her father repeatedly and violently abusing her mother and threatening the rest of the family. At the age of 14, after she was forced to return home, she shot him, and was charged with aggravated murder. She pled guilty to involuntary manslaughter. She served a year in a juvenile detention center, then another six months in a residential treatment center. Amid public outcry and with the support of advocates, Bresha was released under her family’s supervision for two more years.⁷²

PATRICE SMITH (NEW YORK)

Patrice Smith was a 15-year-old girl when, according to court records, she was repeatedly raped by a 71-year-old man in exchange for money and gifts. In an incident in which she refused his demand for sex, he threatened to kill her and began pushing her toward the bedroom. A physical fight ensued in which Patrice feared she would be killed. She fought back, ultimately killing him. She was charged with homicide and robbery.⁷³ She was convicted and sentenced to concurrent indeterminate terms of 25 years to life on two second-degree murder counts and 10 years on a robbery count. The conviction was unanimously affirmed on appeal.⁷⁴

Decades later, while Patrice was still incarcerated, New York enacted the Domestic Violence Survivors Justice Act.⁷⁵ The law provides discretion to judges to depart from mandatory minimum sentences in cases of domestic violence if those sentences would be “unduly harsh” in light of the nature and circumstances of the crime and the defendant’s history, character, and condition. The law defines domestic violence broadly to include acts committed by anyone in an “intimate relationship” with the victim.⁷⁶ A related provision of criminal procedure establishes that the law can serve as a basis for resentencing survivors who are serving at least eight years for offenses committed before the effective date of the law.⁷⁷ Patrice requested resentencing under this provision, which the district attorney opposed. The court held that the law applied to Patrice’s case, based on its finding that Patrice had been subjected to substantial physical, sexual, and psychological abuse that significantly contributed to her committing the offense. Patrice had served over 20 years before her sentence was vacated; she was released in 2020.⁷⁸

Girls are Criminalized for Reporting Abuse

Law enforcement officers are charged with protecting victims of crime; but they, themselves, perpetuate the abuse to prison pipeline when they file false reporting charges against girls who report assault or trafficking.⁷⁹ Charging survivors with false reporting reflects the lack of credibility often afforded to victims of gender-based violence.⁸⁰ A recent ethnographic study found that detectives' determination that a survivor has filed a false report involves a complex combination of factors, including "the institutional frames of the department and the individual-level attitudes of the detective including adherence to rape myths." It concluded:

[W]e found that detectives' construction of false reports is not only an individual-level phenomenon, but speak[s] to wider structural issues such as policing culture and societal views about rape....

The findings do not suggest that detectives believe all sexual assault cases are false reports, but they do hold the belief that false reporting occurs more frequently than the statistics indicate, suggesting that the rape myth of the lying victim/false report continues to be salient in [the jurisdiction], and potentially policing culture. Adherence to the myth of the lying victim continues to shape how detectives view, understand, and respond to sexual assault and victims.⁸¹

Despite guidance issued by the FBI and the International Association of Chiefs of Police recommending against filing false reporting charges in these cases,⁸² women and girls are significantly vulnerable to this form of criminalization. According to Deborah Tuerkheimer, former assistant district attorney and author of *Credible: Why We Doubt Accusers and Protect Abusers*:

Most women who come forward with an abuse allegation against a man will confront the credibility discount. Judging credibility is a mighty power—because credibility is itself a form of power. Whenever we judge credibility, we are in a position to value, or to devalue, the speaker. ... The most vulnerable women experience credibility discounting at its most extreme, while men who are protected by greater status or position are the beneficiaries of massive credibility boosts.⁸³

A leading researcher on the prosecution of rape victims has observed that "the vulnerability of the complainant is a key factor in determining who gets charged with falsely reporting a rape. Vulnerable complainants are easier targets because they have fewer resources—both social and financial—with which to challenge the police's treatment of them."⁸⁴



Girls are a particular target of the “credibility discount.” Research shows that interviewers often engage in “characterological victim blaming” of girls.⁸⁵ In fact, adolescent girls, who experience particularly high rates of sexual assault, paradoxically are also more likely to be discredited than *both* older and younger victims. Research has shown that adults view teenagers who allege sex abuse as less credible than younger children “in part because ... adults view children as losing their sexual naiveté, and thus become capable of instigating lies about sexual abuse, at around 12 years old.”⁸⁶ At the same time, adolescents are viewed as less credible than adult survivors: “Adult stereotypes of adolescents may lead them to perceive adolescents’ stories as less credible than adults’, particularly when the victim was involved in illegal or experimental adolescent behavior (e.g., drinking alcohol).”⁸⁷ According to the authors of a study on police refusal to submit sexual assault kits:

Adolescents are often singled out by police as being particularly less credible, as law enforcement believe that their claims of rape are fabricated to cover up for “bad behavior” (being out late, drinking) and to try to avoid getting into trouble with their parents for those behaviors.⁸⁸

Treating victims with undue skepticism and hostility creates disincentives for victims to report abuse which, in turn, reduces opportunities for them to receive critical forms of support.⁸⁹ It can also bias investigations and thwart the investigation of gender violence—and, by extension, place more women and girls in the community at risk of harm.⁹⁰

In addition, disbelieving survivors can traumatize them as victims⁹¹ in what has been described as “secondary victimization”: insensitive, victim-blaming treatment that makes survivors feel as though they are being [re-victimized] by the systems that are supposed to help them.⁹² This treatment can exacerbate girls’ culturally imposed tendency to blame themselves for the abuse they experience, which, studies show, can lead to anxiety, depression, PTSD, and suicidal ideation.⁹³

SIDEBAR

MARIE’S STORY

The story of Marie, an 18-year-old resident of Washington State, illustrates police officers’ tendency to doubt the accounts of young people who report sexual assault and investigate cases in ways that confirm their bias.

Marie reported that she had been bound, gagged, and raped at knifepoint by a man who had secretly surveilled her. Within a week, police picked her up and took her to the station, where they confronted her with inconsistencies in her story—a common occurrence among victims who experience trauma.⁹⁴ Marie recanted her claim under pressure by the detectives. She then reinstated it, and again recanted, in circumstances that she later characterized as duress. She was charged and pled guilty to filing a false report.⁹⁵ After agreeing to a sentence of a year of probation and \$500 in court costs, the charges were dropped.⁹⁶

In the next several years, the same person raped five other women.⁹⁷

The police chief later requested reviews of the investigation. These reviews determined that the detectives had “bullied,” “hounded,” and “coerced” Marie; ignored evidence of the crime; and focused on “minor inconsistencies” in her story, despite the well-established frequency of such inconsistencies among sexual assault survivors. The conclusion: the detectives had purposely elicited a confession of false reporting. According to a sex-crimes unit supervisor, their actions amounted to “nothing short of the victim being coerced into admitting that she lied about the rape,” which compounded the trauma of her assault.⁹⁸

The case gained national attention when a Pulitzer Prize-winning article was published in 2015 by Pro Publica and The Marshall Project; it also became the subject of a Netflix documentary.⁹⁹ As of the time of this publication, the detectives have not been disciplined.¹⁰⁰

Many survivors have attested to the profound harm inflicted by authorities' hostile responses to their pursuit of accountability.¹⁰¹ Chanel Miller describes her decision to press charges against Brock Turner, who raped her behind a dumpster while she was unconscious, as naive:

I didn't know that if a woman was drunk when the violence occurred, she wouldn't be taken seriously. I didn't know that if he was drunk when the violence occurred, people would offer him sympathy.... I didn't know that being a victim was synonymous with not being believed.¹⁰²

Women and girls who are viewed as promiscuous—a common gender stereotype that is often levied against marginalized girls—are even less likely to be perceived as credible. One study, for example, found that detectives “dismissed rape allegations by women they believed were involved in [the sex trade] as ‘economic crimes.’” In other words, they believed that the women only “alleged rape when they were not paid.”¹⁰³

Discrediting survivors is especially common for girls with intersectional identities.¹⁰⁴ According to Tuerkheimer:

When women belong to groups that are marginalized, subordinated, or otherwise vulnerable, their allegations are even less likely to be credited. Class matters. Line of work matters. Immigration status matters. Drug and alcohol use matters. Sexual history matters. Sexual orientation matters. Nowhere are the particulars more important than when it comes to race, which is ‘inextricable from gender’....¹⁰⁵

Black girls, in particular, are targeted by stereotypes that portray them as hypersexualized, seductive, and exploitative of men's weaknesses.¹⁰⁶ These deeply racist perceptions are firmly ingrained in American culture. Anita Hill described her experience testifying before the Senate Judiciary Committee in 1991 about being sexually harassed by now-Justice Clarence Thomas: “Falsely casting me as an erotomaniac ... fit neatly within the myth of [B]lack women's sexuality.”¹⁰⁷

Age matters too. Stereotypes of Black girls warp adults' perception of them; they tend to view Black girls as young as 5-9 years old as more adult-like and more knowledgeable about sex than their white peers.¹⁰⁸ In the context of sexual abuse, this adultification bias may translate into authorities' dismissal of Black girls' reports. In fact, one study showed that in some circumstances, “even 6-year-old Black girls are perceived as less credible (and perhaps more sexual) than 6-year-old [w]hite girls,” and less traumatized by their victimization than white girls.¹⁰⁹

[I]nterrogators fail to recognize [Black girls] as ... [victims], but instead see them as mature, competent, and self-reliant ... [because] of adultification bias. The dominant narrative depicting [Black girls] as mature women, competent about sex and capable of consent, provides a readily available explanation for their traumatic experience.¹¹⁰

Ultimately, the practice of retaliating against women and girls who report sexual abuse excuses—and in so doing, perpetuates—gender-based violence.¹¹¹ In the words of Chanel Miller:

Victims are often, automatically, accused of lying. ... Why is it that we're wary of victims making false accusations, but rarely consider how many men have blatantly lied about, downplayed, or manipulated others to cover their own actions?¹¹²

GIRLS ARE CRIMINALIZED OR PUNISHED AT SCHOOL FOR REPORTING SEXUAL HARASSMENT AND ABUSE

Schools should function as safe havens that nurture and protect youth; but they contribute to the abuse to prison pipeline for girls when they punish students who report sexual abuse and harassment. In an echo of police officers' discounting of girls' claims of sexual abuse, schools sometimes discipline girls who report harassment or abuse despite the protections offered by Title IX, the federal law that bans sex discrimination in federally funded schools. Schools have been shown to have suspended, expelled, and otherwise disciplined girls who have reported sexual assault, turning blame for the abuse onto the victims.¹¹³ And exclusion increases survivors' risk of involvement in the legal system.¹¹⁴

This pattern ripples across the country. In Georgia, for example, a 16-year-old Black girl was suspended and then expelled in 2017 for "sexual impropriety" after reporting sexual assault.¹¹⁵ That same year, a 14-year-old Latina girl was suspended in Florida for "inappropriate sexual behavior" after reporting that she was raped. In New Jersey, a Black high-school girl was suspended for "disorderly conduct" in 2016 after reporting she was sexually assaulted on a bus.¹¹⁶

Racial bias further increases the risk of punishment for students of color who report abuse. According to Shiwali Patel of the National Women's Law Center,

[D]iscriminatory responses from schools are far too common, particularly towards girls of color and especially [B]lack girls, who—because of harmful race and sex stereotypes—are too often disbelieved, misperceived as the initial aggressor when they defend themselves against harassment, face minimization of their harm, or are blamed for their victimization.¹¹⁷

The role of schools in the sexual abuse to prison pipeline points to the need for policies that end school pushout for girls who experience sexual violence and harassment. Instead, schools must meet their obligation to students by investigating claims fairly; providing support to young people who experience sex discrimination, harassment, and abuse; and providing opportunities for healing and safety to girls and youth.¹¹⁸





Disrupting the Abuse to Prison Pipeline: Progress in Policy and Legislation Since 2015

Progress in developing systemic reform to end the criminalization of survivors has been slow.¹¹⁹ Still, in the last several years, policies and laws adopted at both the federal and state level have begun to meaningfully reduce the criminalization of sexual abuse survivors.

The White House and Federal Agencies

In 2015, the White House adopted the language of the abuse to prison pipeline report and called for reducing its harms. In President Obama’s speech to the Congressional Black Caucus that year, for example, which showcased his administration’s commitment to expanding its youth-justice work, he recognized that work to reduce youth pipelines into the prison system should not focus only on Black boys:

[A]lthough in these discussions a lot of my focus has been on African American men and the work we’re doing with My Brother’s Keeper [an initiative launched in 2014 to support boys and young men of color], we can’t forget the impact that the system has on women, as well. The incarceration rate for [B]lack women is twice as high as the rate for white women. Many women in prison ... have been sexually assaulted, both before they got to prison and then after they go to prison. ... **[W]hile boys face the school-to-prison pipeline, a lot of girls are facing a more sinister sexual abuse-to-prison pipeline.** ... So we’re focusing on boys, but we’re also investing in ways to change the odds for at-risk girls—to make sure that they are loved and valued.¹²⁰

President Obama later emphasized his administration’s prioritization of disrupting the pipeline for girls when he proclaimed January as National Slavery and Human Trafficking Prevention Month, noting, “[W]e have worked to address the sexual abuse to prison pipeline that disproportionately affects those especially vulnerable to sex trafficking—including young women and girls of color.”¹²¹ His administration convened a meeting entitled “Girls of Color and Intervening Public Systems: Interrupting the Sexual Abuse to Prison Pipeline,” which invited young women and girls and national experts to discuss strategies to dismantle the sexual abuse to prison pipeline and promote better outcomes for girls of color.¹²² Further, in 2015, the White House Council on Women and Girls acknowledged the role that status offenses—violations that often are indicators of underlying abuse—play in increasing girls’ routes into the system:

The most common offenses for which girls are arrested include running away and truancy. These behaviors are also the most common symptoms or outcomes of trauma and abuse. Once in the system, girls may be treated as offenders rather than girls in need of support, perpetuating a vicious cycle that is increasingly known as the ‘sexual abuse to prison pipeline.’¹²³

Other federal agencies, including the US Department of Justice’s Office on Violence Against Women¹²⁴; its Office of Justice Programs;¹²⁵ and its Office of Juvenile Justice and Delinquency Prevention (OJJDP),¹²⁶ as well as the Federal Interagency Reentry Council,¹²⁷ have also recognized the pipeline and taken action to break the cycle. In discussing funding directed at increasing the availability of programs focused on girls in the youth legal system, OJJDP highlighted that trafficked girls often become caught up in the system and that 73 percent of girls in the system “had past histories of physical and sexual abuse.”¹²⁸

Federal Policy and Leadership

Federal lawmakers have addressed—and continue to address—the pipeline through legislation and leadership. We describe below some of the most promising and noteworthy examples.

In 2015, former Congresswoman and current Los Angeles Mayor Karen Bass hosted a congressional briefing on Capitol Hill on legislative strategies to help curb the abuse to prison pipeline and better protect survivors of violence and exploitation.¹²⁹ Several current and former Members of Congress made remarks at the briefing, including Representatives Barbara Lee, Bonnie Watson Coleman, Judy Chu, Hank Johnson, Bobby Scott, and Ted Poe.¹³⁰ In 2017, the Senate Judiciary Committee held a hearing in which formerly incarcerated girls and experts on the abuse to prison pipeline testified about the need for federal and state reform to dismantle the harmful cycle for girls.¹³¹ The hearing contributed to the introduction and eventual passage of bipartisan legislation explicitly addressing the criminalization of girls and survivors of abuse and exploitation: the *Juvenile Justice Reform Act of 2018 (JJRA)*.¹³²

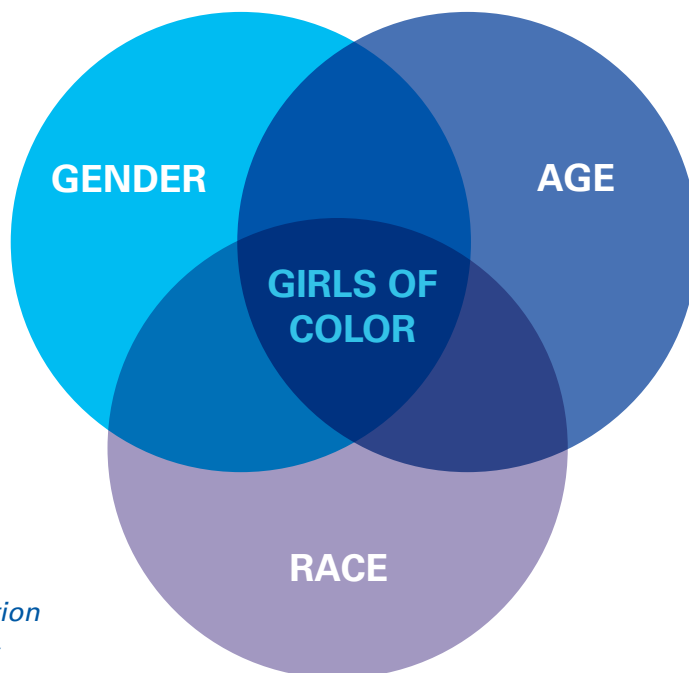
The JJRA includes several provisions that align with recommendations in our 2015 report. For example, it requires states to develop policies and procedures to screen all youth upon intake at juvenile justice facilities for human trafficking, document the number identified, and refer those children to appropriate services.¹³³ The law also follows two of our recommendations to reduce inappropriate treatment of pregnant girls in the system. First, it requires facilities to collect data on the number of pregnant girls in secure detention and, perhaps most critically, it requires states to implement plans to eliminate the use of restraints on pregnant girls in correctional facilities during labor, delivery, and post-partum recovery, barring evidence of an immediate and serious threat to hurting herself or others.¹³⁴ In addition, the law echoes our report's call for states to create "a plan to provide alternatives to detention for status offenders [and] survivors of commercial sexual exploitation . . . such as home-based or community-based services or treatment."¹³⁵ Finally, the JJRA follows our recommendation that at least one member of each State Advisory Group have expertise in sexual abuse and sexual exploitation.¹³⁶

More recently, in 2022, President Biden signed the *Violence Against Women Reauthorization Act (VAWA)* into law, which includes several important provisions that will help prevent the pipeline for survivors. After years of advocacy, the law expands tribal courts' jurisdiction over non-Natives who commit crimes—including sexual assault, child abuse, sex trafficking, and stalking—against Native people.¹³⁷ The law also increases support and services to survivors of gender-based violence from marginalized communities, among other important updates.¹³⁸

Also of note, the Senate passed a resolution in 2015 to promote the principle that trafficked children should not be viewed as prostitutes. Senate Resolution 81 expresses "the sense of the Senate that children trafficked for sex in the United States should not be treated or regarded as child prostitutes because there is no such thing as a 'child prostitute'— only children who are victims or survivors of rape and sex trafficking" and encourages federal agencies to treat them as such.¹³⁹

Other bills related to the pipeline have been introduced but have not passed. For example, the *First Step Implementation Act of 2021* sought to retroactively end juvenile life sentences and *de facto* life sentences without parole. The legislation would have allowed individuals who

THE CREDIBILITY DISCOUNT FOR GIRLS OF COLOR



* *Girls of color stand at the intersection of anti-credibility bias against youth, women, and people of color.*

were convicted of crimes as minors to petition the court for sentencing review after serving at least 20 years.¹⁴⁰ The bill also outlined a process for sealing and expunging certain nonviolent juvenile records.¹⁴¹ When deciding whether to reduce prison terms, the bill instructed courts to consider “the family and community circumstances of the defendant at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system.”¹⁴²

In addition, the *Childhood Offenders Rehabilitation & Safety Act* was introduced in 2021 to limit the transfer of youth into the adult legal system.¹⁴³ The legislation established a minimum age of 12 to hold children criminally liable and the minimum age for a child to be tried as an adult to 16.¹⁴⁴ The bill also sought to eliminate the felony murder rule—which allows defendants accused of committing a violent felony to be charged with murder if the felony resulted in death—for minors, and it forbid placing children in federal adult correctional facilities.¹⁴⁵ The legislation also required data to be collected on children who are adjudicated in federal criminal courts or detained in federal custody.¹⁴⁶ Finally, the bill established a grant program to promote greater collaboration between child welfare and juvenile justice systems to improve outcomes for at-risk youth, including victims of commercial sexual exploitation.¹⁴⁷

Also in 2021, legislation was introduced in Congress that would allow trauma-informed sentencing for young survivors accused of harming their abusers. The bill provided discretion to federal judges to deviate from mandatory minimum sentencing guidelines to reduce sentences in cases where the defendant was under 18.¹⁴⁸ This bill, known as *Sara’s Law and the Preventing Unfair Sentencing Act*, sought to provide important protections for child sex crime survivors by allowing judges to take into account a defendant’s age, trauma history, and reduced culpability in sentencing.¹⁴⁹ It was named in honor of Sara Kruzan, who was 16 years old when she shot and killed a man 20 years her senior who began sexually abusing and exploiting her at the age of 13.¹⁵⁰ She was tried as an adult and was prohibited from presenting evidence about her abuse. Sara was sentenced to life without parole. After a campaign was launched in her behalf, Sara was released after serving 18 years and later pardoned.¹⁵¹ If passed, the bill would represent significant progress at the federal level for survivors of sexual abuse. In Sara’s words:

I was an 11-year-old child when I was approached by a man I thought was safe. He exploited my innocence, and he set into motion a two-year process of grooming defined by repeated physical, psychological and sexual violence. When I turned 13, he began sex-trafficking me. Three years later, I shot and killed my abuser while he was again attempting to rape me in a hotel room. I was only 16. I was arrested and prosecuted, and by the time I was 17, I had been sentenced to life without the possibility of parole plus four years. I was wounded by an abusive system, incarcerated for almost 20 years and relegated to the shadows of our society.¹⁵²

Finally, the *Prohibiting Detention of Youth Status Offenders Act of 2022* was designed to ban the “valid court order” (VCO) exception, a legal loophole that allows children who commit noncriminal status offenses, like running away or truancy, to be incarcerated in juvenile detention facilities.¹⁵³ The bill included the finding that the VCO has led to “thousands of youth being placed in secure detention” for these nonviolent violations.¹⁵⁴ It further found that girls are more often sent into the legal system for these acts than boys, and that girls often commit these offenses in response to abuse or trauma.¹⁵⁵

States' Safe Harbor Laws: Eliminating Prostitution Charges for Children

In recent years, more states have enacted “safe harbor” laws, which protect youth from arrest or prosecution on prostitution and related charges. While approximately 12 states had safe harbor laws in 2015, a majority of states have some form of this legislation today.¹⁵⁶ The provisions of these laws range from prohibiting the arrest of any minor on a charge of prostitution—the most protective mechanism¹⁵⁷—to permitting youth to assert an affirmative defense to a prostitution charge, to proscribing or mandating diversion for children prosecuted on charges of prostitution in lieu of adjudication.¹⁵⁸

Some state laws go further, protecting survivors from a broad array of charges so long as the acts were committed while the child was being trafficked or was directly related to their exploitation. Ohio, for example, enacted a series of protections for child victims charged with crimes during the period of exploitation. The Ohio Supreme Court has directed juvenile courts to interpret these protections broadly regardless of the child’s criminal history or the charges filed against them.¹⁵⁹

Despite the progress that safe harbor statutes represent, they offer little practical protection from criminalization if unaccompanied by mechanisms that support implementation. Data on safe harbor implementation is limited, but studies have found limited improvement in the rates of arrests of trafficked children after many of these laws have gone into effect.¹⁶⁰ According to the *Washington Post*, for example, in Nevada alone, at least 110 children were arrested on prostitution-related offenses in 2019, despite the state’s safe harbor law.¹⁶¹

Robust implementation of safe harbor laws can be limited by many factors, such as failure to commit to enforcement or lack of awareness, cross-system communication, training, or effective screening tools for first responders and other system actors.¹⁶² Minnesota provides an example: according to a 2017 evaluation of the implementation of its safe harbor law, the legislation increased awareness of sexual exploitation among service providers, school officials, and law enforcement, resulting in greater understanding of what constitutes child sex trafficking and how to identify and respond to victims.¹⁶³ The law also led to expansion in available services, including housing beds. Despite these gains, however, enforcement varied widely,¹⁶⁴ in part due to communications challenges when coordinating services across agencies.¹⁶⁵

Limited resources and intervention options can also undermine enforcement of safe harbor laws. Often, authorities decide to detain survivors because they believe it is the only means of keeping them safe. This approach sacrifices victims’ freedom in the name of “protection,” despite their status as crime victims.¹⁶⁶ To create grounds to justify locking them up, sexually



exploited children are brought into the system on prostitution or proxy charges.¹⁶⁷ The injustice inherent in this treatment of child survivors was recognized by the Nevada Supreme Court in 2016, when it decried the practice of charging youth with offenses “just to get the child off the street.”¹⁶⁸

In addition to depriving young people of their liberty, this approach also operates on the false premise that detention necessarily offers children safety. Detention is far from safe, especially for girls who have experienced abuse: according to one study, children who had experienced prior abuse were 52 percent more likely to experience sexual violence in detention. Meanwhile, those who have been previously abused in another detention center were 697 percent more likely to experience sexual abuse in subsequent facilities.¹⁶⁹

Enforcement and application of safe harbor laws are also vulnerable to authorities’ race and gender bias,¹⁷⁰ which can contribute to the disproportionate punishment of exploited Black girls as criminals rather than victims of sexual violence.¹⁷¹ Studies show that Black girls are more likely to be arrested for prostitution, more likely to be adjudicated, and more likely to be detained in a locked facility than white girls, even after being identified as victims of trafficking.¹⁷²

Survivor Justice in the States: Protecting Survivors Who Commit Offenses in Connection with Sexual Abuse

Growing recognition of the injustice of criminalizing trafficking survivors for coerced criminal acts has led to the adoption of vacatur and expungement laws in almost every state.¹⁷³ Though most states provide some degree of criminal-record relief for trafficking survivors, the extent of the support they provide varies widely. In some states, for example, vacatur laws only apply to minor victims of trafficking.¹⁷⁴ Despite the variance among these statutes, their widespread adoption across the country is a promising step toward addressing the harms of the pipeline for survivors of trafficking by clearing criminal records and allowing victims the chance to move forward with their lives. Of course, vacatur laws represent a limited form of justice because they are premised on victims’ having entered the legal system; ideally, survivors would not have a criminal record in the first place.

More “upstream” protection has come in the form of state laws that protect child survivors of sexual abuse from being charged, sentenced, or incarcerated for extreme periods for crimes stemming from their exploitation, including for harming their abusers. Below, we highlight four examples of state approaches to reduce the criminalization of child survivors:

- In California, the *Justice for Survivors Act*¹⁷⁵ went into effect on January 1, 2022. This law provides an affirmative defense to defendants charged with non-violent offenses¹⁷⁶ for actions that were committed as a direct result of trafficking and sexual violence.¹⁷⁷ The law requires prosecutors to consider the impact of sexual violence and trafficking on victims and their age in plea negotiations. It also encourages judges to consider whether trauma, age, or sex trafficking contributed to the offenses when sentencing and re-sentencing.

The law was inspired by a Black teenage girl who was sentenced as an adult to almost 10 years for offenses committed while she was being trafficked. According to State Assemblywoman Sydney Kamlager, who introduced the bill, the legislation represents “an opportunity to correct unjust outcomes of the past and provide full context of the experiences that might impact a person’s actions and use a more humanizing and trauma-informed response to criminal adjudication.”¹⁷⁸ When the bill passed committee, Assemblywoman Kamlager stated: “[T]oday brings us closer to acknowledging the role sexual abuse plays in criminal behavior and ending the abuse to prison pipeline.”¹⁷⁹

- In Virginia, a child sex-crime victims protection act was passed in 2020 that prohibits all mandatory minimum sentences for children and requires judges to consider adverse childhood experiences, childhood trauma, child welfare involvement, and the differences between children and adults in sentencing youth.¹⁸⁰ The legislation's lead sponsor, Delegate Vivian Watts, explained the drive behind the legislation: "A life sentence for a young girl who kills her sex trafficker is anything but trauma-informed or age-appropriate. Under our new law, after the judge considers the child's exposure to trauma, he or she can depart from any mandatory minimum and suspend any sentence that would otherwise be required for an adult....[W]e've created a paradigm shift that should prevent tragic injustices...from ever happening in Virginia."¹⁸¹
- In New York, the *Domestic Violence Survivors Justice Act (DVSJA)*,¹⁸² passed in 2019, authorizes courts to impose alternative sentences for survivors of domestic violence—broadly defined to include any intimate relationship—if the underlying offense was committed against the abuser and was influenced by abuse when offense was committed.¹⁸³ Though the law does not specifically mention youth, courts have applied the law to adults who were convicted as minors: Patrice Smith, for example, whose case is detailed above, was released in 2020 pursuant to the law.¹⁸⁴
- In Wisconsin, an affirmative defense law enacted in 2018 protects trafficking survivors from being prosecuted for "any offense" committed as a direct result of trafficking.¹⁸⁵ Child trafficking survivor Chrystul Kizer, whose story is outlined above, successfully argued before the Wisconsin State Supreme Court that this statute can apply to her case and provide a complete affirmative defense to the murder charges pending against her.¹⁸⁶

These efforts represent significant progress in reducing the abuse to prison pipeline for girls; but much work remains to end it. Whenever a child is charged with offenses against his or her abuser, courts should have the information, resources, and authority to respond in a manner that is trauma-informed and developmentally appropriate for youth survivors.





Recommendations

Below, we offer a set of principles to guide action to end the pipeline. In all cases, reform must be informed by survivors' own experiences, perspectives, and input. We hope these concepts will move researchers, policymakers, and others to engage in the critical systems change needed to build a world where all girls can live their lives to their full potential without fear of violence or exploitation.

1. **Prevent Gender-Based Violence.** Gender-based violence in the US remains pervasive. In fact, a recent survey by Thomson Reuters revealed that the US was the only Western nation to rank in the top ten most dangerous countries for women, measured by the risk of sexual violence and harassment.¹⁸⁷ And violence starts early for many. Childhood abuse, in turn, increases the risk of poorer long-term health and wellness.¹⁸⁸ We must invest in preventing gender-based violence so that all girls and young women can live in freedom and safety.

“The abuse of women and girls is the most pervasive and unaddressed human rights violation on earth.”

—President Jimmy Carter¹⁸⁹

2. **End the Credibility Discount Against Girls and Hold Law Enforcement Accountable for Disregard of Abuse Claims.** In light of the evidence that unambiguously shows the pervasiveness of sexual violence against young women and girls,¹⁹⁰ it is time to end the discrediting of girls who report sexual abuse. This cultural change must be anchored in structural, systemic reform that treats claims fairly and provides girls with safety, accountability, and healing.

This means ending the practice of filing false reporting charges against survivors who report abuse. Unwarranted suspicion of girls who report abuse creates disincentives to seek justice, interferes with fair investigations, sows mistrust in the legal system, and perpetuates a culture in which rape is normalized. Most importantly, it exacerbates survivors' existing trauma, compounding the harm they have already experienced and depriving them of the resources needed to heal.

“[O]ne of the most overlooked yet effective ways to create social change is to just believe the stories that girls and young women of color tell us.”

— Salamishah Tillet & Scheherazade Tillet¹⁹¹

3. **Decriminalize and Support Girls who have been Sexually Abused and End the Punishment of Children Who Act Against Abusers in Self-Defense.** The abuse to prison pipeline is driven by behavior that is rooted in responses to sexual violence—including violent or defensive behaviors to protect against sexual violence or exploitation. Girls who survive gender-based violence should be recognized as victims of crime and protected from prosecution and harsh sentences for acts related to their victimization. Punishing victims reinforces the message that survivors receive from their abusers: that they are responsible for what has happened to them; that no one will believe them if they try to escape or seek help; that they will be punished for the abuse they survived; that their lives do not matter. Reforms must be enacted to expressly ban the arrest and incarceration of victims for offenses related to the gender-based violence they have survived; to educate and train authorities about the pipeline; and to build systems of support to address the trauma inflicted by sexual abuse.¹⁹²

“I can’t tell you how many times I was arrested. And I’m standing there in handcuffs and the ‘john’... has a little talk with the police and they say, ‘Go on home now, let’s not see you out here anymore tonight.’ And I go to jail. You know, as a young person, I’m standing there with handcuffs on looking at the situation thinking, ‘Why am I the criminal? Why isn’t he getting in trouble?’”

—Noel¹⁹³

4. **Address the Disproportionately High Rates of Sexual Abuse Against Girls with Intersecting Identities.** Girls of color, girls with disabilities, LGBTQI+ and gender expansive youth, immigrant girls, and other girls who experience adversity continue to experience violence at disproportionate rates and are more likely to be blamed and punished for the abuse they have survived. While all youth who experience violence deserve to be supported as child victims of crime, inequities rooted in discrimination and bias merit special consideration.

“Everybody loves to throw around the term intersectionality. And for valid reason...we need to have an intersectional approach and an intersectional lens when we talk about any form of gender-based violence, especially when it’s on the premise of race. But what I want people to understand is that many of our current, what I call the injustice systems, they don’t have that intersectional lens. And if you don’t understand the intersectionality between race, between capitalism, between patriarchy and misogyny, specifically when it comes to sexual violence, you’re not going to understand why our system isn’t working.”

—Melanie Thompson¹⁹⁴

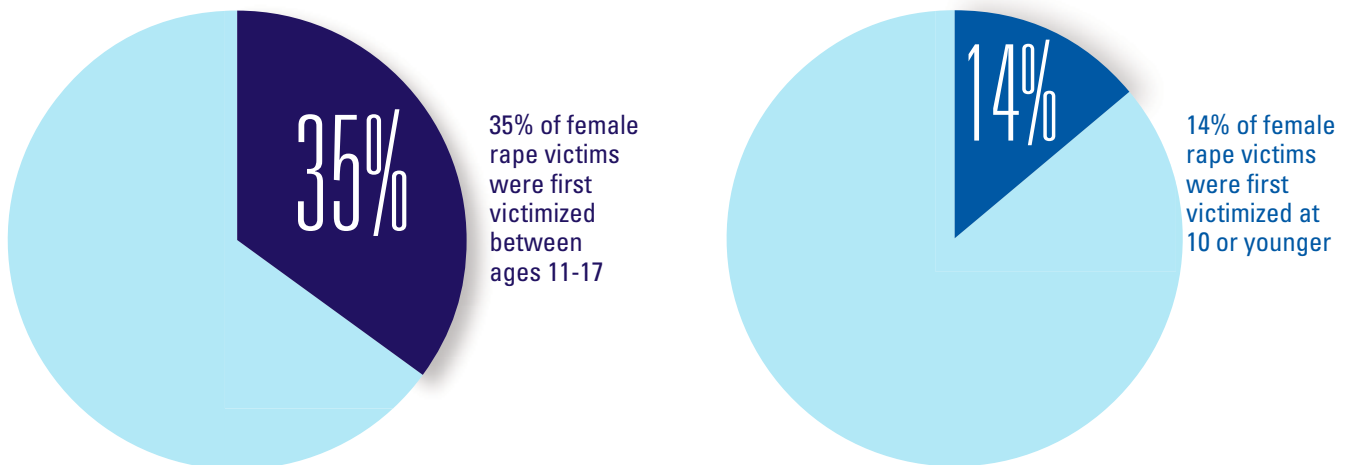
5. **Ensure that Efforts to Address Gender-Based Violence Account for the Unique Experiences and Vulnerabilities of Adolescent Girls.** Gender-based violence is committed against even the youngest girls.¹⁹⁵ According to the CDC, nearly 35 percent of female rape victims were first victimized between ages 11 and 17; 14 percent were age 10 or younger.¹⁹⁶ The impact is long lasting and generational, tending to repeat in future patterns of adversity.¹⁹⁷ Yet despite the unique factor of age, children, and particularly adolescent girls—who experience the highest rates of sexual violence—are often grouped with women in research, reports, and policy reform. Young girls and adolescents must be recognized as distinct and explicitly protected against sexual abuse.

“My stepdad was an abusive person. Both to my mom and to me and my sister. Physically and sexually to me and my sister. I would say when I look back now there was a pattern going on. Little patterns, you know, starting out with the bathing at six; ‘Don’t worry I have the kids, you can go to the store’. At eight, there were road trips that my mom didn’t come on. So the pattern started building. I know that my sister protected me a lot of the times, and she endured more than I did just to protect me. So, growing up in it, I assumed it was normal.”

—Bobette¹⁹⁸

Acting on these principles can help bridge remaining gaps in ending the abuse to prison pipeline. It is our hope that this report will illuminate harmful patterns of unjust criminalization and provide guidelines that promote action in eliminating this inequitable treatment of girls.

GIRLS ARE RAPED AT YOUNG AGES



First Victimization of Female Rape Victims by Age

* KATHLEEN C. BASILE ET AL., CTNS. FOR DISEASE CONTROL & PREVENTION, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2016/2017 REPORT ON SEXUAL VIOLENCE 3-5 (2022).

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- ¹² RIGHTS4GIRLS, RACIAL & GENDER DISPARITIES IN THE SEX TRADE (2019), <https://rights4girls.org/wp-content/uploads/2019/05/Racial-Disparities-FactSheet-Jan-2021.pdf>.
- ¹³ SAAR ET AL., *supra* note 7. Because we do not view the juvenile justice system as just, and because we seek to humanize young people rather than label them as "juveniles," we do not use the term juvenile justice system except where strictly necessary. Instead, we use the term youth legal system.
- ¹⁴ See, e.g., Nina Papalia, James R. P. Ogloff, Margaret Cutajar & Paul E. Mullen, *Child Sexual Abuse and Criminal Offending: Gender-Specific Effects and the Role of Abuse Characteristics and Other Adverse Outcomes*, 23 CHILD MISTREATMENT 399 (2018); Terri Lewis, Erika McElroy, Nicole Harlaar & Desmond Runyan, *Does the Impact of Child Sexual Abuse Differ from Maltreated but Non-Sexually Abused Children? A Prospective Examination of the Impact of Child Sexual Abuse on Internalizing and Externalizing Behavior Problems*, 51 CHILD ABUSE & NEGLECT 31 (2016); Jessica J. Asscher, Claudia E. Van der Put & Geert Jan J. M. Stams, *Gender Differences in the Impact of Abuse and Neglect Victimization on Adolescent Offending Behavior*, 30 J. FAM. VIOLENCE 215 (2015); Nicole Traubold, Marc T. Swogger, Zach Walsh & Catherine Cerulli, *Childhood Sexual Abuse and Perpetration of Violence: The Moderating Role of Gender*, 24 J. AGGRESSION, MALTREATMENT & TRAUMA 381 (2015), <https://doi.org/10.1080/10926771.2015.1022288>. Shortly after the *Sexual Abuse to Prison Pipeline* report was published in 2015, the Department of Justice Office on Violence Against Women convened a roundtable meeting of "survivors, scholars, advocates, and community activists who focus on sexual assault and intimate partner violence against women" to "examine how criminalization policies impact the lives of African American women and girls . . . [because] they are disproportionately survivors of gender-based violence and also are over-represented among women in criminal and juvenile carceral facilities." U.S. DEP'T OF JUST. OFF. ON VIOLENCE AGAINST WOMEN, THE IMPACT OF INCARCERATION AND MANDATORY MINIMUMS ON SURVIVORS: EXPLORING THE IMPACT OF CRIMINALIZING POLICIES ON AFRICAN AMERICAN WOMEN AND GIRLS (2017), <https://www.justice.gov/ovw/page/file/926631/download>.
- ¹⁵ We use the word "abuse" throughout this report to refer to the spectrum of violence that girls experience at disproportionately high rates, including sexual violence, gender-based violence, and sexual abuse.
- ¹⁶ See, e.g., DeAnna Baumle, *Creating the Trauma-to-Prison Pipeline: How the U.S. Justice System Criminalizes Structural and Interpersonal Trauma Experienced by Girls of Color*, 56 FAM. CT. REV. 695, 695-708 (Oct. 2018); Jeremy Thompson & Chanelle Artilles, Note, *Dismantling the Sexual-Abuse-to-Prison Pipeline: Texas's Approach*, 41 T. MARSHALL L. REV. 239 (2016); Marjory Anne Henderson Marquardt, Note, *Fallacious Reasoning: Revisiting the Roper Trilogy in Light of the Sexual-Abuse-to-Prison Pipeline*, 72 STAN. L. REV. 749 (2020); Lisa Rapp, *Delinquent-Victim Youth—Adapting a Trauma-Informed Approach for the Juvenile Justice System*, 13 J. EVIDENCE-INFORMED SOC. WORK 492 (2016); Mekeila C. Cook, Ryan D. Talbert & Breanna Thomas, *A Longitudinal Study of Justice Characteristics among Girls Participating in a Sex Trafficking Court Program*, 9 HEALTH AND JUST. 1 (2021).
- ¹⁷ See, e.g., Cook et al., *supra* note 16 (finding that the younger the age of the first citation received significantly increases the amount of bench warrants and citations while youth participate in specialty, anti-trafficking court programs); Patricia K. Kerig, *Polyvictimization and Girls' Involvement in the Juvenile Justice System: Investigating Gender-Differentiated Patterns of Risk, Recidivism, and Resilience*, 33 J. OF INTERPERSONAL VIOLENCE 5, 789-809 (2018) (identifying gender differences related to polyvictimization as girls may have higher sources of risks and youth outcomes); Veena Subramanian, *Beyond Detention-as-Protection for Child Sex Trafficking Victims*, 35 U.C. BERKELEY J. GENDER, L. & JUST. 1, 137-167 (2020) (arguing that detaining child sex trafficking victims as a method of protection from outside harms exacerbates trauma and imposes lasting consequences; instead, a public health approach can target the cause of child trafficking and prevent court involvement); Jessica J. Asscher, Claudia E. Van der Put, and Geert Jan J. M. Stams, *Gender Differences in the Impact of Abuse and Neglect Victimization on Adolescent Offending Behavior*, 30 J. OF FAM. VIOLENCE 2, 215-225 (2015) (finding a relationship between sexual abuse and sexual

offenses and physical abuse to violent offenses); Krystel Tossone, Madison Wheeler, Fredrick Butcher & Jeff Kretschmar, *The Role of Sexual Abuse in Trauma Symptoms, Delinquent and Suicidal Behaviors, and Criminal Justice Outcomes among Females in a Juvenile Justice Diversion Program*, 24 *VIOLENCE AGAINST WOMEN* 8 973-993 (2018) (finding that female juvenile justice-involved youth experience more sexual abuse than non-juvenile justice-involved youth and their male juvenile justice-involved youth counterparts, yet despite this, sexually abused females have the same odds of successfully completing behavioral health diversions than non-sexually abused females); Shannon D. Chaplo, Patricia K. Kerig, et al., *Gender Differences in the Associations Among Sexual Abuse, Posttraumatic Stress Symptoms, and Delinquent Behaviors in a Sample of Detained Adolescents*, 10 *J. OF CHILD & ADOLESCENT TRAUMA* 1 29-39 (2017), <https://psycnet.apa.org/doi/10.1007/s40653-016-0122-z> (studying the effects of post-traumatic stress symptoms in detained youth with histories of sexual abuse); Jasmyn Sanders, Alexandra R. Hershberger, et al., *PTSD Symptoms Mediate the Relationship between Sexual Abuse and Substance Use Risk in Juvenile Justice-Involved Youth*, 23 *CHILD MALTREATMENT* 3 226-233 (2018) (determining that high sexual abuse rates in juvenile justice involved youth increases the risk of post-traumatic stress disorder and substance abuse, which decreases long-term outcomes); DeAnna Baumle, *Creating the Trauma-to-Prison Pipeline: How the U.S. Justice System Criminalizes Structural and Interpersonal Trauma Experienced by Girls of Color*, 56 *FAM. CT. REV.* 4 695-708 (2018) (describing how the juvenile justice system criminalizes girls because of their experiences with trauma, including racism and poverty related trauma); Jeremy Thompson & Chanelle Artiles, *Dismantling the Sexual-Abuse-to-Prison Pipeline: Texas's Approach*, Note, 41 *T. MARSHALL L. REV.* 2, 239-269 (2016) (analyzing Texas's reduction in prostitution related arrests after implementing alternatives for sex trafficked juveniles); Marjory Anne Henderson Marquardt, Note, *Fallacious Reasoning: Revisiting the Roper Trilogy in Light of the Sexual-Abuse-to-Prison Pipeline*, 72 *STAN. L. REV.* 749, 749-790 (2020) (arguing that criminal culpability standards should be altered to better account for girls with histories of sexual abuse); Valerie R. Anderson & Brinn M. Walerych, *Contextualizing the Nature of Trauma in the Juvenile Justice Trajectories of Girls*, 47 *J. PREVENTION & INTERVENTION IN THE CMTY.* 2, 138-153 (2019), <https://doi.org/10.1080/10852352.2019.1582141> (indicating that trauma, family violence, neglect, and sexual abuse are connected to juvenile justice trajectories).

¹⁸ See, e.g., Cook et al., *supra* note 16.

¹⁹ Hannah Critchfield, *Raped, Then Thrown in Jail: A Teen's 'Abuse-to-Prison Pipeline'*, PHOENIX NEW TIMES (Sept. 26, 2019, 10:34 AM), <https://www.phoenixnewtimes.com/news/raped-then-thrown-in-jail-a-teens-abuse-to-prison-pipeline-11357497>.

²⁰ See e.g., Char Adams, *These Women Survived Abuse and Assault. Now They're Behind Bars. Should They Be?*, VOX (Aug. 30, 2019, 11:36 AM), <https://www.vox.com/the-highlight/2019/8/23/20828367/cyntoia-brown-sexual-domestic-abuse-prison-pipeline>.

²¹ 142 S. Ct. 2228 (2022).

²² See STEPHANIE R. LARSON, *WHAT IT FEELS LIKE: VISCERAL RHETORIC AND THE POLITICS OF RAPE CULTURE* 136-54 (2021).

²³ Tarana Burke, *#MeToo Was Started for Black and Brown Women and Girls. They're Still Being Ignored.*, WASH. POST (Nov. 9, 2017, 8:04 PM), <https://www.washingtonpost.com/news/post-nation/wp/2017/11/09/the-waitress-who-works-in-the-diner-needs-to-know-that-the-issue-of-sexual-harassment-is-about-her-too/> ("I founded the 'me too' movement in 2006 because I wanted to find a way to connect with the black and brown girls in the program I ran." (citing to Me Too., <https://metoomvmt.org/>).

²⁴ Jamillah Bowman Williams, *Maximizing #MeToo: Intersectionality & The Movement*, 62 *B.C. L. REV.* 1797, 1836 (2021) ("[T]he phrase 'Me Too' went from having an intersectional focus on the unique issues facing women of color to becoming mainstream, more elite, and overwhelmingly white."); Gillian B. White, *The Glaring Blind Spot of the 'Me Too' Movement*, THE ATLANTIC (Nov. 22, 2017), <https://www.theatlantic.com/entertainment/archive/2017/11/the-glaring-blind-spot-of-the-me-too-movement/546458/>.

²⁵ Burke, *supra* note 23 ("What history has shown us time and again is that if marginalized voices—those of people of color, queer people, disabled people, poor people—aren't centered in our movements then they tend to become no more than a footnote.").

²⁶ The Department of Justice's Office of Juvenile Justice & Delinquency Prevention defines prostitution and commercialized vice as "sex offenses of a commercialized nature, such as prostitution, keeping a bawdy house, procuring, or transporting women for immoral purposes. Attempts are included." U.S. DEP'T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION, GLOSSARY, <https://www.ojjdp.gov/ojstatbb/glossary.html>.

²⁷ Youth arrest rates on these charges declined 51 percent overall between 2015 and 2019. CHARLES PUZZANCHERA, U.S. DEP'T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION, *JUVENILE ARRESTS 2019*, 3 (2021). <https://ojjdp.ojp.gov/publications/juvenile-arrests-2019.pdf>.

²⁸ Yasmin Vafa, *We Changed The Language, Now Let's Change the Laws!*, HUFFINGTON POST (Apr. 6, 2016, 12:37 PM), https://www.huffpost.com/entry/we-changed-the-language-n_b_9624534 (advocating to eliminate the phrase "child prostitute" and "child sex worker" in both language and law as it unfairly implies children are able to consent to sell sex).

²⁹ Merrill Perlman, *A Matter of AP Style*, COLUM. J. REV. (Apr. 4, 2016), http://www.cjr.org/language_corner/a_matter_of_ap_style.php (announcing that the AP Stylebook recommends avoiding using phrases like "child prostitute" and "teenage prostitute" as it implies a child is voluntarily trading sex for money, which a child cannot do); see also ASSOCIATED PRESS STYLEBOOK (56th ed. 2002) ("Avoid terms like child prostitute, underage prostitute or teenage prostitute. . . . [t]he phrasing can suggest that a child is voluntarily trading sex for money. Minors are not able to consent.").

³⁰ *Estimated Number of Juvenile Arrests, 2020, OJJDP Statistical Briefing Book*, U.S. DEP'T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION (2022), <https://www.ojjdp.gov/ojstatbb/crime/qa05101.asp>.

³¹ See, e.g. Jessica Contrera, *Sex-Trafficked Kids Are Crime Victims. In Las Vegas They Still Go to Jail.*, WASH. POST (Aug. 26, 2021), https://www.washingtonpost.com/dc-md-va/interactive/2021/vegas-child-sex-trafficking-victims-jailed/?itid=ap_jessicacontrera.

³² See Brendan M. Conner, *In Loco Aequitatis: The Dangers of 'Safe Harbor' Laws for Youth in the Sex Trades*, 12 *STAN. J. CIV. RIGHTS & CIV. LIBERTIES* 43 (2016).

- ³³ According to OJJDP, “[t]rafficked girls also become involved in the juvenile justice system for offenses other than prostitution that are committed as a direct result of their exploitation, such as trespass or loitering or for status offenses such as truancy and running away.” U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION, OJJDP FY 2019 SPECIALIZED SERVICES & MENTORING FOR CHILD & YOUTH VICTIMS OF SEX TRAFFICKING & SEXUAL EXPLOITATION, FY 2019 COMPETITIVE GRANT SOLICITATION 11 (2019), <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/OJJDP-2019-14988.PDF>.
- ³⁴ See PUZZANCHERA, *supra* note 27; KIDS COUNT DATA CTR., CHILD POPULATION BY GENDER IN THE U. S., 2019 (2021), <https://datacenter.kidscount.org/data/tables/102-child-population-by-gender#detailed/1/any/false/1729/14,15,65/421,422>.
- ³⁵ U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION, JUVENILE ARREST RATES BY OFFENSE & RACE, 2019 2020, https://www.ojjdp.gov/ojstatbb/special_topics/qa11501.asp?qaDate=2019&text=yes.
- ³⁶ Under the definition of “commercial sex act” in 22 U.S.C. § 7102(4), sex trafficking does not require proof of a third-party exploiter; nor proof of force, fraud or coercion; nor proof of monetary transaction.
- ³⁷ 22 U.S.C. § 7102 (11)(a).
- ³⁸ Juvenile Justice Reform Act of 2018, Pub. L. No. 115-385, 132 Stat. 5123 (2018) (aiming to assist governments in reducing juvenile crime rates through research, training, and enacting evidence-based programming).
- ³⁹ Thomas Kika, *Teen Girl Charged with Kidnapping, Trafficking of 13-Year-Old: Police*, NEWSWEEK (June 25, 2022, 12:13 PM), <https://www.newsweek.com/teen-girl-charged-kidnapping-trafficking-13-year-old-police-1719184>.
- ⁴⁰ Spencer Norris & Brittany Wallman, *Innocence Sold: Florida’s Legal System Blurs The Line Between Sex Trafficking Survivor And Criminal, Leaving Lives Ruined*, SOUTH FLORIDA SUN SENTINEL, (Dec. 4, 2022, 6:00 a.m.), <https://www.sun-sentinel.com/local/trafficking-investigation/fl-ne-sex-trafficking-investigation-revictimizing-vic-tims-20221204-ut7qpyppgfdbrbn4vax3o6ahi-story.html>
- ⁴¹ *Id.*
- ⁴² *Roper v. Simmons*, 543 U.S. 551, 578 (2005).
- ⁴³ *Graham v. Florida*, 560 U.S. 48, 82 (2010).
- ⁴⁴ *Miller v. Alabama*, 567 U.S. 460, 479 (2012).
- ⁴⁵ *Id.* at 480.
- ⁴⁶ *Id.* at 486.
- ⁴⁷ *Montgomery v. Louisiana*, 577 U.S. 190, 197-98 (2016).
- ⁴⁸ See Equal Justice Initiative, *Ten Years After Miller v. Alabama*, (Jun. 24, 2022), <https://eji.org/news/ten-years-after-miller-v-alabama/>.
- ⁴⁹ *Jones v. Mississippi*, 593 U.S. ____ , 21 (2021).
- ⁵⁰ See, e.g., First Step Implementation Act of 2021, H.R. 3510, 117th Cong. (2021); see also H.R. 2858, 117th Cong. (2021).
- ⁵¹ A series of articles in *The Washington Post*, for example, has examined the criminalization of girls who are sex trafficked and cases in which girls have been criminally charged for acts of violence committed in self-defense against sexual abusers. See, e.g., Jessica Contrera, *He Was Sexually Abusing Underage Girls. Then, Police Said, One of Them Killed Him*, WASH. POST (Dec. 17, 2019), <https://www.washingtonpost.com/graphics/2019/local/child-sex-trafficking-murder/>; Contrera, *supra* note 31; Jessica Contrera, *The State of Ohio vs. a Sex-Trafficked Teenager*, WASH. POST (June 1, 2021), <https://www.washingtonpost.com/dc-md-va/interactive/2021/child-sex-trafficking-alexis-martin-ohio/>.
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- ⁵³ Ron Allen, *Cyntoia Brown, Sentenced at 16 to Life in Prison, to Plead for Leniency in Federal Court*, NBC NEWS (June 10, 2018, 4:49 PM), <https://www.nbcnews.com/news/us-news/cyntoia-brown-sentenced-16-life-prison-plea-leniency-federal-court-n881586>.
- ⁵⁴ *Brown v. Tennessee*, 2014 Tenn. Crim. App. LEXIS 1014*, No. M2103-00825-CCA-R3-PC, at *2 (Nov. 6, 2014).
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- ⁷⁶ N.Y. CRIM. PROC. LAW § 530.11(1)(e) (Consol. 2020).
- ⁷⁷ N.Y. CRIM. PROC. LAW § 440.47 (Consol. 2019).
- ⁷⁸ *Smith*, 132 N.Y.S.3d at 257.
- ⁷⁹ See, e.g., Shannon Malone Gonzalez, *Making it Home: An Intersectional Analysis of the Police Talk*, 33 GENDER & SOC'Y 3 (2017) (an intersectional analysis of interviews with Black mothers discussing role of policing and socialization and determining the need for structural reform to combat police violence against Black women and girls); JOANNE ARCHAMBAULT, KIMBERLY A. LONSWAY & LISA AVALOS, *END VIOLENCE AGAINST WOMEN INT'L, RAPED, THEN JAILED: THE RISKS OF PROSECUTION FOR FALSELY REPORTING ASSAULT* (2022), https://evawintl.org/wp-content/uploads/2019-5_TB_Raped-Then-Jailed.pdf; Megan R. Greeson, Rebecca Campbell, and Giannina Fehler-Cabral, *'Nobody Deserves This': Adolescent Sexual Assault Victims' Perceptions of Disbelief and Blame from Police*, 44 J. OF CMTY. PSYCH. 90 (2016) (finding that negative treatment by police when reporting rape leads to feelings of skepticism, blame, judgment, and disbelief).
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- ⁸¹ STACEY DEWALD, KATHERINE LORENZ, *Lying About Sexual Assault: A Qualitative Study Of Detective Perspectives On False Reporting*, 179–199 at 179, 193, 194 (Mar. 5, 2021) <https://doi.org/10.1080/10439463.2021.1893725>.
- ⁸² INT'L ASSOC. OF CHIEFS OF POLICE, NAT'L LAW ENF. LEADERSHIP INIT. ON VIOLENCE AGAINST WOMEN, *SEXUAL ASSAULT RESPONSE POLICY & TRAINING CONTENT GUIDELINES* (2015), <https://evawintl.org/wp-content/uploads/IACP-Sexual-Assault-Response-Policy-and-Training-Content-Guidelines.2017.3.23.pdf>.
- ⁸³ DEBORAH TUERKHEIMER, *CREDIBLE: WHY WE DOUBT ACCUSERS AND PROTECT ABUSERS* 3, 11 (2021).
- ⁸⁴ Avalos, *supra* note 80, at 486.
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Influence Ratings of Child Victims in Sexual Abuse Cases, 2 INT'L J. ON CHILD MALTREATMENT: RESEARCH, POLICY & PRACTICE 287, 300 (2019).

⁸⁷ Greeson et al., *supra* note 85 (showing how police interact with youths after sexual assault cases impacts adolescents' emotional well-being and engagement in the criminal justice system).

⁸⁸ Rebecca Campbell & Giannina Fehler-Cabral, *Why Police "Couldn't or Wouldn't" Submit Sexual Assault Kits for Forensic DNA Testing: A Focal Concerns Theory Analysis of Untested Rape Kits*, 52 L. & SOC'Y REV. 73, 78 (2018).

⁸⁹ See Greeson et al., *supra* note 85 (revealing that interpersonal interaction with police directly impacts emotional well-being and criminal justice system engagement amongst adolescent sexual assault victims); Avalos, *supra* note 80, at 503-506 (explaining that charging victims with false reporting discourages victims from reporting, focuses police efforts elsewhere, and contributes to poor investigatory practices).

⁹⁰ *Id.*

⁹¹ See Deborah Epstein & Lisa Goodman, *Discounting Women: Doubting Domestic Violence Survivors' Credibility And Dismissing Their Experiences*, 167 U. PENN LAW REV. 399-461, at 446-453 (2019) (outlining the psychological harms and harms related to access to justice and safety created by the credibility discount); T. Christian Miller and Ken Armstrong, *An Unbelievable Story of Rape*, PROPUBLICA & THE MARSHALL PROJECT (Dec. 16, 2015), <https://www.propublica.org/article/false-rape-accusations-an-unbelievable-story>; Catalina Carpan, *The Adultification of Black Girls as Identity-Prejudicial Credibility Excess*, 25 ETHICAL THEORY & MORAL PRAC. 793, 1 (2022), <https://doi.org/10.1007/s10677-022-10324-6> ("The identity-prejudicial credibility excess denies the victims a meaningful opportunity to make sense of their traumatic experiences of sexual assault.").

⁹² Campbell & Fehler-Cabral, *supra* note 88 at 79.

⁹³ See Stephanie Alix, Louise Cossette, Martine Hebert, Mireille Cur, and Jean-Yves Frappier, *Posttraumatic Stress Disorder and Suicidal Ideation Among Sexually Abused Adolescent Girls: The Mediating Role of Shame*, 26 J. CHILD SEX ABUSE 158 (2017) (stating that show that child sex abuse leads to depressive symptoms, PTSD, and suicidal ideation, especially during adolescence); see also Rochelle F. Hanson et al., *Relations Among Gender, Violence Exposure, & Mental Health: The National Survey of Adolescents*, 78 AM J. ORTHOPSYCHIATRY 313 (2008) (stating that sexual abuse was significantly associated with a Major Depressive Episode or PTSD, with adolescents at greater risk for both).

⁹⁴ See Epstein & Goodman, *supra* note 91, at 410 ("Psychological trauma can operate similarly to neurological trauma in undermining the internal consistency of a survivor's story...it commonly produces memory lapses or dissociative states. Research shows that a majority of survivors meet diagnostic criteria for Post-Traumatic Stress Disorder (PTSD), and many more women exhibit serious symptoms of psychological trauma, though not enough to reach the threshold of a formal diagnosis.") (internal citations omitted).

⁹⁵ Marie's case and the five subsequent rapes of other women took place between 2008 and 2011; however, the case didn't gain national attention until a Pulitzer Prize-winning article was published in late 2015 by *ProPublica* and *The Marshall Project*. Miller and Armstrong, *supra* note 91.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*; T. CHRISTIAN MILLER AND KEN ARMSTRONG, A FALSE REPORT: A TRUE STORY OF RAPE IN AMERICA (2018); UNBELIEVABLE (Netflix 2019).

⁹⁹ UNBELIEVABLE (Netflix 2019); Miller and Armstrong, *supra* note 91.

¹⁰⁰ *Id.*

¹⁰¹ See, e.g., CHANEL MILLER, KNOW MY NAME: A MEMOIR, 170-74 (2019).

¹⁰² *Id.* at 167, 171.

¹⁰³ Campbell & Fehler-Cabral, *supra* note 88, at 78 (2018).

¹⁰⁴ Laura L. Rubino, Valerie R. Anderson & Nicole C. McKenna, *Examining the Disconnect in Youth Pathways and Court Responses: How Bias Invades Across Gender, Race/Ethnicity, and Sexual Orientation*, 16 FEMINIST CRIMINOLOGY 4, 480-503 (2021) (finding that biases affect ways courts respond to girls with intersectional identities); Kim Taylor-Thompson, *Girl Talk—Examining Racial and Gender Lines in Juvenile Justice*, 6 NEV. L. J. 1137, 1137-1164 (2006) finding that girls of color make up nearly two thirds of the juvenile justice population and receive the most severe sentences); FRANCINE T. SHERMAN & ANNIE BALCK, GENDER INJUSTICE: SYSTEM-LEVEL JUVENILE JUSTICE REFORMS FOR GIRLS (2015) (advocating for the importance of reforming the juvenile justice system to account for gender justice); Francine T. Sherman, *Justice for Girls: Are We Making Progress?*, 59 UCLA L. REV. 1584, 1584-1628 (2012) (noting that policymakers must better account for intersectionality's effect on why girls enter the juvenile justice system); BARBARA M. BRENZEL, DAUGHTERS OF THE STATE: A SOCIAL PORTRAIT OF THE FIRST REFORM SCHOOL FOR GIRLS IN NORTH AMERICA, 1856-1905 (1983) (exploring institutional biases towards young, poor women in nineteenth century Massachusetts); ANNE MEIS KNUPFER, REFORM & RESISTANCE: GENDER, DELINQUENCY, AND AMERICA'S FIRST JUVENILE COURT (2001); Jill Leslie Rosenbaum & Meda Chesney-Lind, *Appearance and Delinquency: A Research Note*, 40 CRIME & DELINQUENCY 2, 250-261 (1994) (finding that appearance, physical attractiveness, and masculine or racialized characteristics affect judges and juvenile courts' perception of girls); Mary E. Odem & Steven Schlossman, *Guardians of Virtue: The Juvenile Court and Female Delinquency in Early 20th Century Los Angeles*, 37 CRIME & DELINQUENCY 2, 186-203 (1991) (finding that girls with intersectional backgrounds were not adequately protected by 20th century laws surrounding "sexual deviancy"); Meda Chesney-Lind, *Girls' Crime and Woman's Place: Toward a Feminist Model of Female Delinquency*, 35 CRIME & DELINQUENCY 1, 5-29 (1989) (arguing that existing delinquency theories inadequately address girls' victimization in a class and race context, thereby reinforcing historical oppression).

¹⁰⁵ TUERKHEIMER, *supra* note 83, at 15.

¹⁰⁶ EPSTEIN, *supra* note 11, at 5.

¹⁰⁷ TUERKHEIMER, *supra* note 83, at 19.

¹⁰⁸ EPSTEIN, *supra* note 11, at 8; Alley, et al., *supra* note 86, at 300 ("Our results ... shed light on how a negative sexual stereotype that is generally associated with Black adult females may be generalized to young Black girls.").

¹⁰⁹ Alley et al., *supra* note 86, at 300-01.

¹¹⁰ Carpan, *supra* note 91.

¹¹¹ See TUEKHEIMER, *supra* note 83, at 11 (“In a patriarchal society where male sexual prerogatives are at stake, discounting operates with special potency.”)

¹¹² MILLER, *supra* note 101, at 191.

¹¹³ See, e.g., Caroline Kitchener, *She Reported Her Sexual Assault. Her High School Suspended Her for ‘Sexual Impropriety.’* THE LILY & WASH. POST (Aug. 26, 2019), <https://www.thelily.com/she-reported-her-sexual-assault-her-high-school-suspended-her-for-sexual-impropriety/>; Press Release, NAT’L WOMEN’S L. CTR., NWLC Sues Georgia High School for Expelling Student Who Reported She Was Sexually Assaulted After School, (Aug. 23, 2019), <https://nwlc.org/press-release/nwlc-sues-georgia-high-school-for-expelling-student-who-reported-she-was-sexually-assaulted-after-school/>. Some school districts have tackled this problem; Seattle Public Schools and the Seattle Police Department agreed to an MOU in 2018 supporting “effective, timely, and cooperative response to incidents of sexual abuse and assault.” The MOU recognizes “the severity and impact that an incident of sexual abuse and/or assault can have on the life of a student and the school community, and the need for an effective, timely, and cooperative response in these situations.” The MOU includes a “response protocol” to be followed by the district Title IX coordinator upon receipt of information about a possible sexual assault involving a student. SEATTLE SCH. DIST. NO. 1 & SEATTLE POLICE DEP’T, MEMORANDUM OF UNDERSTANDING (2021), https://www.seattleschools.org/wp-content/uploads/2021/07/4-Memorandum-of-Understanding-SPS-and-SPD_Sexual-Assault-Investigations.pdf.

¹¹⁴ MINER P. MARCHBANKS III, JAMILIA J. BLAKE, U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION, ASSESSING THE ROLE OF SCHOOL DISCIPLINE IN DISPROPORTIONATE MINORITY CONTACT WITH THE JUVENILE JUSTICE SYSTEM: FINAL TECHNICAL REPORT 34 (2018), <https://ojjdp.ojp.gov/library/publications/assessing-role-school-discipline-disproportionate-minority-contact-juvenile> (noting research that shows that “school discipline is associated with both higher juvenile justice encounters”).

¹¹⁵ Kitchener, *supra* note 113 (detailing how a girl who was sexually assaulted and coerced into performing oral sex on a male classmate was expelled after reporting the incident to administrators).

¹¹⁶ Tyler Kingkade, *Schools Keep Punishing Girls—Especially Students of Color—Who Report Sexual Assaults, and the Trump Administrations Title IX Reforms Won’t Stop It*, 74 MILLION (Aug. 6, 2019), <https://www.the74million.org/article/schools-keep-punishing-girls-especially-students-of-color-who-report-sexual-assaults-and-the-trump-administrations-title-ix-reforms-wont-stop-it/>.

¹¹⁷ *Id.*

¹¹⁸ KAYLA PATRICK & NEENA CHAUDHRY, NAT’L WOMEN’S L. CTR., LET HER LEARN: STOPPING SCHOOL PUSHOUT FOR GIRLS INVOLVED IN THE JUVENILE JUSTICE SYSTEM (2017), <https://nwlc.org/resource/stopping-school-pushout-for-girls-involved-in-the-juvenile-justice-sytem/#> (highlighting that girls in the juvenile justice system face additional barriers, how lack of access to education affects girls, and how to help them receive necessary educational services); KAYLA PATRICK & NEENA CHAUDHRY, NAT’L WOMEN’S L. CTR., LET HER LEARN: STOPPING SCHOOL PUSHOUT FOR GIRLS WHO HAVE SUFFERED HARASSMENT AND SEXUAL VIOLENCE (2017), https://nwlc.org/wp-content/uploads/2017/04/final_nwlc_Gates_HarassmentViolence-1.pdf (examining how higher rates of sexual harassment and violence in girls impacts their education).

¹¹⁹ TUEKHEIMER, *supra* at note 83 (explaining how hidden biases distort perceptions of credibility, which harms survivors by continuing to marginalize them); see also BRITTANY DAVIS, CTR. FOR CT. INNOVATION, CRIMINALIZATION OF BLACK GIRLS IN THE JUVENILE LEGAL SYSTEM: OVERVIEW OF PATHWAYS TO CONFINEMENT AND STRATEGIES FOR SUPPORTING SUCCESSFUL REENTRY (2020), https://www.courtinnovation.org/sites/default/files/media/documents/2020-11/Monograph_Criminalization_Black_Girls_09092020.pdf (noting that Black girls are the fastest growing population in the juvenile justice system).

¹²⁰ President Barack Obama, *Remarks by the President at the Congressional Black Caucus 45th Annual Phoenix Awards Dinner*, (Sept. 20, 2015), (transcript available at <https://obamawhitehouse.archives.gov/the-press-office/2015/09/21/remarks-president-congressional-black-caucus-45th-annual-phoenix-awards>).

¹²¹ Proclamation No. 9561, 82 Fed. Reg. 3 (Jan. 5, 2017).

¹²² Press Release, U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION, OJJDP Releases Policy Guidance on Girls and the Juvenile Justice System (Oct. 2015), https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/newsletter/archives/249506/sf_1.html.

¹²³ WHITE HOUSE COUNCIL ON WOMEN AND GIRLS, ADVANCING EQUITY FOR WOMEN AND GIRLS OF COLOR (2015), https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/ADVANCING_EQUITY_FOR_WOMEN_AND_GIRLS_OF_COLOR_REPORT.pdf.

¹²⁴ U.S. DEP’T OF JUST. OFF. ON VIOLENCE AGAINST WOMEN, *supra* note 14, at 11 (“[A]nalysis also needs to consider the victimization that occurs prior to adulthood that places many girls and young women on pathways to detention and incarceration, such as the heightened risks of commercial sexual exploitation.”).

¹²⁵ *From Child Welfare to the Juvenile Justice System: Disrupting the Abuse to Prison Pipeline for Girls (Webinar)*, U.S. DEP’T OF JUST. OFF. OF JUST. PROGRAMS (Oct. 3, 2019), <https://www.ojp.gov/events/child-welfare-juvenile-justice-system-disrupting-abuse-prison-pipeline-girls-webinar>.

¹²⁶ U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION, *supra* note 122.

¹²⁷ FED. INTERAGENCY REENTRY COUNCIL, A RECORD OF PROGRESS AND A ROADMAP FOR THE FUTURE (2016), <https://www.cdfifund.gov/sites/cdfi/files/documents/firc-reentry-report.pdf> (“[M]any justice-involved women struggle with both mental health and substance use disorders—often linked to histories of physical or sexual abuse that may start in childhood and continue through adolescence into adulthood, and trauma histories that often played a significant role in the pathway to the criminal or juvenile justice system.”).

¹²⁸ The OJJDP noted that “[g]irls and young women constitute a majority of youth [arrested for prostitution and commercialized vice]. In 2016, 73 percent of the estimated 500 juveniles arrested for prostitution and commercialized vice were girls. Trafficked girls also become involved in the juvenile justice system for offenses other than prostitution that are committed as a direct result of their exploitation, such as trespass or loitering or for status offenses such as truancy and running away.” U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION, *supra* note 122.

¹²⁹ Congressmember Karen Bass, *Justice for Girls, October 8, 2015*, YOUTUBE (Oct. 8, 2015), <https://www.youtube.com/playlist?list=PL2rWKKCMFOOFZs2aZrgqPiafnepvQAOx>.

¹³⁰ *Id.*

¹³¹ *Improving Outcomes for Youth in the Juvenile Justice System: Hearing on H.R. 6964 Before the S. Comm. On the Judiciary*, 115th Cong. (2017).

¹³² The Juvenile Justice Reform Act of 2018 was sponsored by Rep. Jason Lewis (R-MN-2) and Rep. Robert Scott (D-VA-3) and enacted on December 21, 2018. H.R. 6964, 115th Cong. (2018) (codified as Pub. L. No. 115-385).

¹³³ SAAR ET AL., *supra* note 7, at 16; Juvenile Justice and Delinquency Prevention Act Reauthorization of 2018, Pub. L. No. 93-415, §26, 88 Stat. 1109.

¹³⁴ SAAR ET AL., *supra* note 7, at 16, 17; the JJRA provides: “(K) the number of juveniles in the custody of secure detention and correctional facilities operated by a State or unit of local or tribal government who report being pregnant.” Juvenile Justice and Delinquency Prevention Act Reauthorization of 2018, *supra* note 132, § 207(1)(G).

Further, the JJRA provides that “(ix) not later than 1 year after the date of enactment of the Juvenile Justice Reform Act of 2018, a plan which shall be implemented not later than 2 years after the date of enactment of the Juvenile Justice Reform Act of 2018, to— “(l) eliminate the use of restraints of known pregnant juveniles housed in secure juvenile detention and correction facilities, during labor, delivery, and post-partum recovery, unless credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others; and “(ll) eliminate the use of abdominal restraints, leg and ankle restraints, wrist restraints behind the back, and four-point restraints on known pregnant juveniles, unless— “(aa) credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others; or “(bb) reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method;”; (F) in paragraph (8), by striking “existing” and inserting “evidence-based and promising”); Juvenile Justice and Delinquency Prevention Act Reauthorization of 2018, *supra* note 133, § 204(2)(B)(5).

¹³⁵ See SAAR ET AL., *supra* note 7, at 20; see also Juvenile Justice and Delinquency Prevention Act Reauthorization, *supra* note 133, § 7(A)(iv).

¹³⁶ See SAAR ET AL., *supra* note 7, at 15; see also Juvenile Justice and Delinquency Prevention Act Reauthorization, *supra* note 133, § 223(5).

¹³⁷ S. 3623, 117th Cong. § 813 (2022).

¹³⁸ *Id.* § 201.

¹³⁹ S. Res. 81, 114th Cong. (2015).

¹⁴⁰ First Step Implementation Act of 2021, H.R. 3510, 117th Cong. (2021).

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ H.R. 2908, 117th Cong. (2021).

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ H.R. 2858, 117th Cong. (2021).

¹⁴⁹ The bill would also codify the prohibition on life without parole for minors as decided in *Miller v. Alabama*, 567 U.S. 460 (2012). *Id.* The bill was referred to the Subcommittee on Crime, Terrorism, and Homeland Security in October of 2021. *Id.*

¹⁵⁰ Sara Kruzan, *Woman Who Killed Pimp in 1994 When She Was a Teen, Pardoned By California Gov. Gavin Newsom*, CBS NEWS (July 4, 2022, 7:01 AM), <https://www.cbsnews.com/news/sara-kruzan-pardoned-woman-killed-pimp-1994-california/>.

¹⁵¹ Advocates brought attention to her case, and in 2011, then-Governor Arnold Schwarzenegger commuted her prison term to 25 years with the possibility of parole. In 2013, after Sara had served over 18 years, Governor Jerry Brown allowed her to be released from prison. In July 2022, Governor Gavin Newsom issued a formal pardon of Sara. Libor Jany, *Newsom Pardons Sara Kruzan, Imprisoned as a Teen for Killing Man Who Trafficked Her*, L.A. TIMES (July 2, 2022, 8:03 PM), <https://www.latimes.com/california/story/2022-07-02/newsom-pardons-sara-kruzan-woman-sent-to-prison-for-killing-man-who-sex-trafficked-her>; Johnny Diaz, *California Woman Pardoned 27 Years After Killing Abuser as a Teen*, N.Y. TIMES (July 5, 2022), <https://www.nytimes.com/2022/07/05/us/gavin-newsom-pardons-kruzan.html?smtyp=cur&smid=tw-nytimes>.

¹⁵² Sara Kruzan, *Opinion: Why Wisconsin Should Drop Murder Charges Against a Sex Trafficking Victim*, WASH. POST (Aug. 1, 2022, 1:49 PM), <https://www.washingtonpost.com/opinions/2022/08/01/chrystul-kizer-wisconsin-sex-trafficking-victims/>.

¹⁵³ S. 4362, 117th Cong. (2022).

¹⁵⁴ *Id.* at § 2(2).

¹⁵⁵ *Id.* at § 2(6)-(7).

¹⁵⁶ CHRISTINE RAINO, SARAH ROBERTS, SARAH BENDTSEN & SAMANTHA HEALY VARDAMAN, SHARED HOPE INT’L, REPORT CARDS ON CHILD AND YOUTH SEX TRAFFICKING: 2021 TOOLKIT (2021), <https://reportcards.sharedhope.org/wp-content/uploads/2021/10/2021Toolkit.pdf>.

¹⁵⁷ See, e.g., ALA. CODE § 13A-12-123 (2019) (providing that a “sexually exploited child” alleged to have committed a violation of prostitution or solicitation may not be prosecuted); 720 ILL. COMP. STAT. 5/11-14 (2015) (providing that a child under age eighteen is immune from a charge of prostitution and will be subject to temporary protective custody and an investigation into potential child abuse or neglect must occur within 24 hours from when an officer takes the minor into custody). See generally Safe Harbor Laws: What is Safe Harbor?, SHARED HOPE INT’L, <https://reportcards.sharedhope.org/safeharbor/>.

¹⁵⁸ RAINO ET AL., *supra* note 156.

¹⁵⁹ SUP. CT. OF OHIO, JUVENILE HUMAN TRAFFICKING, OHIO LAWS & SAFE HARBOR RESPONSE (2017), <https://www.supremecourt.ohio.gov/JCS/CFC/resources/juvenileHumanTrafficking.pdf>.

¹⁶⁰ Priscila Borges Marques dos Santos, Thesis, “*Safer Harbor: The Impact of Different Models of Safe Harbor Laws on the Criminalization of Commercially Sexually Exploited Children in the United States*,” MARSHALL U. (Aug. 2016) (finding in an analysis of juvenile arrest data between 1995 and 2014 after the implementation of safe harbor laws in 18 states that the laws had little to no discernible effect on juvenile arrest rates for prostitution-related offenses); Kimberly B. Mehlman-Orozco, *Safe Harbor Legislation for Juvenile Victims of Sex Trafficking: A Myopic View of Improvements in Practice*, 3 SOC. INCLUSION 52, 58 (2015). See also Brendan M. Conner, *In Loco Aequitatis: The Dangers of ‘Safe Harbor’ Laws for Youth in the Sex Trades*, 12 STANFORD J. C.R. & C.L. 43, 52 (2016), <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2968&context=facpubs> (noting that arrests of children for prostitution-related offenses increased almost tenfold in the first year of the law’s implementation, from 14 arrests in 2010 to 136 arrests in 2011). This study also found a small reduction in the number of children arrested for prostitution after the bill was signed into law in 2008 but before it went into effect in 2010, suggesting a possible “announcement effect.” *Id.*; Alexa Bejinariu et al., “*They said they were going to help us get through this ...*”: *Documenting Interactions Between Police and Commercially Sexually Exploited Youth*, J. CRIME & JUST. 2, 59 (2020); Jennifer Cole & Ginny Sprang, *Post-Implementation of a Safe Harbor Law in the U.S.: Review of State Administrative Data*, 101 CHILD ABUSE & NEGLECT 4-5 (2020) (finding that fewer children were charged with prostitution-related offenses in the years immediately after Kentucky enacted its first anti-human trafficking law in 2007, but declines did not follow the enactment of the state’s safe harbor law in 2013), <https://www.sciencedirect.com/science/article/abs/pii/S014521341930496X>.

¹⁶¹ Bejinariu et al., *supra* note 160.

¹⁶² *Id.*

¹⁶³ LAUREN SCHAUBEN ET AL., WILDER RSCH., SAFE HARBOR: EVALUATION REPORT 13-20 (2017), https://www.wilder.org/sites/default/files/imports/SafeHarbor_EvaluationReport_10-17.pdf.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ E.g. Elizabeth S. Barnert et al., *Identifying Best Practices for ‘Safe Harbor’ Legislation to Protect Child Sex Trafficking Victims: Decriminalization Alone is Not Sufficient*, 51 CHILD ABUSE & NEGLECT 249, 251, 258 (2016) (in study of jurisdictions with limited placement, diversion programs, or service options, 32 experts were interviewed; findings revealed the common perception that the only means of keeping child sex trafficking victims safe was to detain them).

¹⁶⁷ *Id.* at 258.

¹⁶⁸ A.J. v. Eighth Jud. Dist. Ct., 394 P.3d 1209, 1214 (Nev. 2017).

¹⁶⁹ Eileen M. Ahlin, *Risk Factors of Sexual Assault and Victimization Among Youth in Custody*, 36 J. INTERPERSONAL VIOLENCE 2164 (2021). See also U.S. DEP’T OF JUST., BUREAU OF JUST. STATS., PRISON RAPE ELIMINATION ACT OF 2003: PREA DATA COLLECTION ACTIVITIES, 2022 (2022), <https://bjs.ojp.gov/content/pub/pdf/pdca22.pdf>; see also U.S. DEP’T OF JUST., BUREAU OF JUST. STATS., NATIONAL SURVEY OF YOUTH IN CUSTODY, 2018: SEXUAL VICTIMIZATION REPORTED BY YOUTH IN JUVENILE FACILITIES, 2018 (2019), <https://bjs.ojp.gov/content/pub/pdf/svryjf18.pdf> (finding that 6.6% of incarcerated girls reported sexual victimization in juvenile facilities within the prior 12 months.).

¹⁷⁰ See e.g., *State v. Martin*, 116 N.E.3d 127, 134 (Ohio 2018) (affirming a lower court’s conviction and sentence of a juvenile and holding that the juvenile court did not commit plain error by failing to appoint a guardian ad litem to the juvenile who experienced childhood abuse and was involved in the child welfare system, attempted suicide at age 12, was trafficked around age 14, and pled guilty in adult court to aggravated murder related to a burglary she was part of at age 15, after finding that the juvenile failed to raise an objection in juvenile court and failed to show that her aggravated murder charge was related to her status as a human trafficking victim); *In re Bobby P.*, 907 N.Y.S.2d 540, 545-49 (N.Y. Fam. Ct. 2010) (denying motion to substitute a PINS petition for a juvenile delinquency petition filed by a juvenile in the foster care system who was forced into the sex trade beginning at age 12 and charged with committing acts which would have constituted crimes of prostitution and other charges at age 15, relying on the lower court’s finding that the child expressed a current unwillingness to cooperate with specialized services for sexually exploited youth, and finding the court was within its discretion under Family Court Act § 311.4, which provides that courts have discretion to proceed with delinquency proceedings rather than PINS petition when the respondent “expresses a current unwillingness to cooperate with specialized services for sexually exploited youth”); cf. OHIO REV. CODE ANN. § 2152.021(F)(1)-(4) (2021) (requiring the appointment of a guardian ad litem when a juvenile court has reason to believe that the child is a victim of trafficking and that the charge is related to the child’s victimization and permitting the juvenile court to “make any orders regarding placement, services, supervision, diversion actions, and conditions of abeyance, including, but not limited to, engagement in trauma-based behavioral health services or education activities, that the court considers appropriate and in the best interest of the child”).

¹⁷¹ Priscilla A. Ocen, *(E)rasing Childhood: Examining the Racialized Construction of Childhood and Innocence in the Treatment of Sexually Exploited Minors*, 62 UCLA L. REV. 1586, 1639 (2015); see also, EPSTEIN, *supra* note 11, at 8.

¹⁷² SENTENCING PROJECT, INCARCERATED WOMEN AND GIRLS (2022), <https://www.sentencingproject.org/app/uploads/2022/11/Incarcerated-Women-and-Girls.pdf> (finding Black girls are more than three times likely as their white peers to be incarcerated).

¹⁷³ ERIN MARSH, BRITTANY ANTHONY, JESSICA EMERSON, KATE MOGULESCU, *State Report Cards: Grading Criminal Record Relief Laws for Survivors Of Human Trafficking* (Mar. 2019), 10 <https://polarisproject.org/wp-content/uploads/2019/03/Grading-Criminal-Record-Relief-Laws-for-Survivors-of-Human-Trafficking.pdf>.

¹⁷⁴ *Id.*

¹⁷⁵ ASSEMB. BILL 124, 2021-2022 Reg. Sess. (Cal. 2021).

¹⁷⁶ The original bill would have allowed affirmative defenses for violent acts committed as a direct result of trafficking and/or sexual violence as well as non-violent acts, but it was amended to apply only to non-violent offenses.

¹⁷⁷ *Id.*

¹⁷⁸ Katie Licari, *New Bill Protects Abuse Survivors Who Fight Back — But Experts Warn It’s Not Enough*, BLACKVOICENEWS (Jan. 23, 2022), <https://blackvoicenews.com/2022/01/23/new-bill-protects-abuse-survivors-who-fight-back-but-experts-warn-its-not-enough/>.

- ¹⁷⁹ Sydney Kaplan and Genesis Guzman, *California Senator Creates Reform Legislation to Aid Those Childhood Trauma Victims*, DAVIS VANGUARD (Aug. 5, 2021), <https://www.davisvanguard.org/2021/08/california-senator-creates-reform-legislation-to-aid-those-childhood-trauma-victims/>.
- ¹⁸⁰ VA. CODE ANN. § 16.1-272 (2020).
- ¹⁸¹ Del. Vivian Watts, *Justice System Reforms Will Protect Children*, THE VIRGINIAN PILOT (May 6, 2020), <https://www.pilotonline.com/opinion/columns/vp-ed-column-watts-0506-20200506-huanalzapfehxfyfyk3rakou4-story.html>.
- ¹⁸² S. 1077, 2021-2022 Reg. Session (N.Y. 2021).
- ¹⁸³ N.Y. CRIM. PROC. LAW § 530.11(1)(e) (Consol. 2020).
- ¹⁸⁴ *Smith*, 132 N.Y.S.3d at 257. Smith was 37 years old when resentencing was requested and served over 20 years upon her release in 2020. Ashley Rowe, *Judge Grants Patrice Smith Freedom After Serving 21 Years for Murder, Thanks to New Law*, ABC 7 BUFFALO (Sept. 17, 2020, 11:23 AM), <https://www.wkbw.com/news/local-news/judge-grants-patrice-smith-freedom-after-serving-21-years-for-murder-thanks-to-new-law>.
- ¹⁸⁵ WIS. STAT. § 939.46(1m) (2018) (“A victim of a violation of [human trafficking or child trafficking] has an affirmative defense for any offense committed as a direct result of the violation of [human trafficking or child trafficking] without regard to whether anyone was prosecuted or convicted for the violation of [human trafficking or child trafficking]”).
- ¹⁸⁶ *Kizer*, 963 N.W.2d at 136; see also Contrera, *supra* note 51 (detailing Wisconsin Supreme Court ruling).
- ¹⁸⁷ Ellen Wulffhorst, *Exclusive: U.S. Among 10 Most Dangerous Countries for Women Amid #MeToo Campaign - Poll*, REUTERS (June 25, 2018, 8:39 PM), <https://www.reuters.com/article/us-women-dangerous-poll-usa-exclusive/exclusive-u-s-among-10-most-dangerous-countries-for-women-amid-metoo-campaign-poll-idUSKBN1JM02G>.
- ¹⁸⁸ See generally VJ Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults. The Adverse Child Experiences (ACE) Study*, 14 AM. J. PREV. MED. 245 (1998).
- ¹⁸⁹ The Elders, *Women live in a profoundly different, more dangerous world*, (Nov. 25, 2013), <https://theelders.org/news/women-live-profoundly-different-more-dangerous-world>.
- ¹⁹⁰ “More than 80% of female victims (83.4%, or nearly 49.5 million victims) of unwanted sexual contact reported that it first occurred before age 25, including 1 in 2 (56.9% or 33.8 million) who first experienced unwanted sexual contact before turning 18.” BASILE ET AL., *supra* note 6.
- ¹⁹¹ Salamishah Tillet & Scheherazade Tillet, *After the ‘Surviving R. Kelly’ Documentary, #MeToo Has Finally Returned to Black Girls. Let’s Keep It There.*, N.Y. TIMES (Jan. 10, 2019), <https://www.nytimes.com/2019/01/10/opinion/r-kelly-documentary-metoo.html>.
- ¹⁹² E.g., ALISA BIERRIA ET AL., SURVIVED & PUNISHED, DEFENDING SELF-DEFENSE: A CALL TO ACTION BY SURVIVED AND PUNISHED (2022), <https://survivedandpunished.org/wp-content/uploads/2022/03/DSD-Report-Mar-21-final.pdf> (identifying problems in criminalizing survivors in self-defense cases, providing recommendations to end the practice, and sharing legal resources for survivors).
- ¹⁹³ Noel, *Law Enforcement*, LIFE STORY, <https://thelifestory.org/law-enforcement>.
- ¹⁹⁴ Skoll.org, *Melanie Thompson - The Importance of an Intersectional Approach to Gender Based Violence*, YOUTUBE (May 11, 2021), <https://www.youtube.com/watch?v=XYipBjAdhBo>.
- ¹⁹⁵ BASILE ET AL., *supra* note 6.
- ¹⁹⁶ BASILE ET AL., *supra* note 6, at 11.
- ¹⁹⁷ Ayanna Runcie, *#MeToo for Youth: #GirlsToo Focuses on Teens’ Sexual Trauma*, CBS NEWS (Apr. 2, 2019, 4:43 PM), <https://www.cbsnews.com/news/girlstoo-movement-metoo-for-young-women-girls-inc/> (“There hasn’t been a lot of discussion in the media about how this really affects our kids and how young this starts, and what we can do as a society to change that trajectory so we don’t end up repeating these cycles over and over again” (quoting Laura Kaufmann, Girls Inc.)).
- ¹⁹⁸ Bobette, *Child Sexual Abuse: Childhood Sexual Abuse Can Prime Girls for Future Exploitation*, LIFE STORY, <https://thelifestory.org/child-sexual-abuse>.

To learn more about our organizations, please visit
www.genderjusticeandopportunity.georgetown.edu
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