

The Initiative to End Girls' Incarceration in North Dakota
Findings and Recommendations

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Initiative to End Girls' Incarceration, Vera Institute of Justice
in partnership with New York University's RISE Team led by Drs. Javdani and Godfrey

Executive Summary

The Vera Institute of Justice’s (“Vera”) Initiative to End Girls’ Incarceration (“Initiative”) has set an ambitious but achievable goal of working with national leaders to end the incarceration of girls by 2030. After launching the work in New York City in 2016, the Initiative expanded through a competitive process in 2018 and North Dakota was chosen amongst four sites in total to receive technical assistance towards ending girls’ incarceration in their jurisdiction. This Initiative focuses on all youth in the “girls’ side” of the juvenile justice system, meaning that it is inclusive of transgender girls and non-binary (commonly referred to as “gender nonconforming”) youth who are confined in girls’ facilities.

While the primary goal of the Initiative is to eliminate the use of juvenile justice detention and placement for girls, this goal is not separate from and cannot be achieved without the commitment to ensure that girls are healthy and safe in their communities. As the justice system closes its doors, alternative strategies must be deployed to meet youth needs outside of confinement. This Initiative works to advance girls’ freedom by simultaneously preventing their confinement and safeguarding their rights to love, housing, healthcare, education, safety, and joy.

In service of informing the critical work that North Dakota is currently engaged in around juvenile justice reform, this report summarizes the preliminary findings of the Initiative’s diagnostic assessment, offers “biggest picture” recommendations based on our learning to date, summarizes evidence supporting recommended reforms, and includes an appendix with examples of approaches utilized in other jurisdictions to address gaps highlighted here.

Summary of Findings:

Justice Population by Gender and Race Across System Points

- Compared to national statistics, girls in North Dakota saw higher rates of arrest and detention. As a result, they comprised much higher percentages of arrest and detention populations compared to national averages.
- Girls of color—particularly Native American and Black girls—were disproportionately represented across all system points when compared to their white counterparts. For Native American girls, these disparities worsened as they progressed deeper into the system.
- For North Dakota stakeholders, these findings suggest that, while ending girls’ incarceration will require that North Dakota address girls’ entry into each system point, the state’s greatest challenges lie in the early points of arrest, attendant care, and detention, where girls’ proportion is highest. Reform efforts must include a strong focus on unpacking the systemic biases and inequities that are leading to the disproportionate arrest and incarceration of Native American and Black girls.

Charge Analysis by Gender and Race

- In North Dakota, girls enter the justice system for low-level and status offense charges. Compared to their proportion of the juvenile justice system, girls were over-represented in status offense and status offense-like charges.
- Native American and Black girls were particularly overrepresented.
- Addressing girls’ incarceration in North Dakota will require the state to better respond to status offense-like behaviors with community-based supports that are not linked to juvenile justice involvement.

County Analysis by Gender and Race

- The most alarming disparities arrest rates for Native American girls were found in Devils Lake, Bismarck, and Grand Forks. Fargo, West Fargo, and Grand Forks led in disparities among Black girls’ arrests.
- Native American girls’ admissions were most disproportionately represented in Burleigh and Ramsey counties. For Black girls’ admission into attendant care and detention, Cass County not

only led the state, but it was also the primary contributor for their admission at every system point.

- To have the greatest impact on eliminating the incarceration of girls', primary efforts should be focused on the counties with high racial disparities. As North Dakota develops new alternative strategies for girls with or at-risk for justice involvement, flexible gender-responsive programming options must be developed and made available throughout the state, including rural areas.

Trends Over Time: 2014 to 2017

- A noteworthy spike in arrests across gender was seen throughout the state between 2014 and 2017. This spike was significantly greater for girls than for boys—particularly for Native American and Black girls.
- Much of the spike was associated with an increase in arrests for unruly/ungovernable and “All Other Offense” charges, which Native American and Black girls were disproportionately represented in.
- Ending the incarceration of girls will require a review and undoing of policy and practice changes that occurred primarily between 2016 and 2017 and that led to the increased arrests, detention, and attendant care admissions of youth who engage in status offense-like behaviors.

DJS Placement Analysis by Gender and Race

- Girls and boys spend an average of 1.3 to 1.5 years in DJS custody. During that time, majority of placement admissions are to residential and detention facilities.
- Racial disparities persist both in length of time in custody and in length of stay in individual placements, with Native American youth spending the most time in custody and in placements.
- More exploration is needed to better understand the use of foster care placements through DJS custody and why it is being used for more Native American youth than for youth of other races.

Summary of Key Takeaways and Recommendations for Continued Work

This section provides a summary of initial recommendations based on our assessment, stakeholder interviews and discussions, and publicly available reports that helped to identify the state's current continuum of resources available to girls in North Dakota.

- *Reform Area 1:* Decriminalize status offense-like behaviors and hold standard that youth should only be confined if a true public safety risk is present.
- *Reform Area 2:* Ensure that gender-responsive approaches are embedded across the community-based continuum of care, particularly in preventive and early diversion programs.
- *Reform Area 3:* Ensure that all juvenile justice reform efforts, as well as other child-servicing agencies and cross-agency collaborations, examine data by both gender and race, including data on sexual orientation, gender identity, and gender expression (SOGIE).

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Gender, Youth Development and Juvenile Justice

A 13-year-old girl runs away because her mother's boyfriend makes her feel uncomfortable, and her mother fights with her about "trying to get his attention."

A 16-year-old girl is living on the street. Her parents will not let her live in their home because she is a lesbian. Her father wants her to stop "dressing like a boy."

A 15-year-old girl repeatedly runs away from her foster home and misses school. She is pregnant and says everyone calls her a "ho."

A 14-year-old transgender girl does not want to go to school because the other kids call her names and bully her.

A 15-year-old gender nonconforming child is skipping school. They don't fit into sex-segregated peer groups or activities since they are not only a boy or girl. They don't know who to talk to and are worried even their family won't understand.

The scenarios above illustrate some common ways that gender can profoundly shape the circumstances leading girls and lesbian, gay, bisexual, transgender, and gender nonconforming (LGB/TGNC) children into court and the juvenile justice system. All children have a gender identity that informs the way they live—from the ways they are expected to behave, to how they relate to their peers and their families, to how they see themselves and their roles in their communities.

The Vera Institute of Justice (Vera) embraces a broad and inclusive vision of gender-responsiveness, one that informs its work with all children, not just girls. Indeed, masculine social norms play as much of a role in the over-criminalization of boys as feminine social norms do of girls. Research has also shed light on the overrepresentation of children who are LGB/TGNC in court and detention facilities for status offenses compared to their straight and gender-conforming peers, which previously had gone unrecognized.

Within this comprehensive gender-responsive framework, it is especially urgent to focus explicitly on girls and LGB/TGNC youth, whose experiences have been left behind in a reform field focused largely on boys, and for whom the toll of sexism, racism, and misogyny is often exacerbated by justice involvement. It is critical for the juvenile justice field to invest in reform for girls and LGB/TGNC children as part of a comprehensive gender-responsive reform strategy that works to transform the gendered adversities that:

- shape the lives of children at home, in school, and in the community;
- funnel them into the justice system; and
- define their experiences once they are inside.

Excerpt from Vera's publication [Girls Matter: Centering Gender in Status Offense Reform](#)

Introduction: North Dakota's Initiative to End Girls' Incarceration

Through the Initiative to End Girls' Incarceration ("Initiative"), the Vera Institute of Justice ("Vera") is partnering with leaders across the country to build a national movement to end the incarceration of girls within 10 years. The initiative began in 2016 in New York City and expanded in 2018 through a competitive RFP process. North Dakota's application was led by the Division of Juvenile Services (DJS), and the state was selected alongside three additional sites—Hawaii, Maine, and Santa Clara County, CA. These sites comprise the first national cohort for the Initiative, working to fully eliminate the incarceration of girls.

"Girls" Incarceration

This Initiative focuses on all youth in the "girls' side" of the juvenile justice system, meaning that it is inclusive of transgender girls and non-binary (commonly referred to as "gender nonconforming") youth who are confined in girls' facilities. Throughout this and all of our products, we use the term "gender expansive" to encapsulate the range of gender identities and expressions that exist outside of the gender binary, and we use the term "girl" in reference to the cisgender and transgender girls and gender expansive youth that are held in girls' facilities. As we do this work, it is important to remember that sexual orientation and gender identity vary greatly among the girls and gender expansive youth in justice system: Nationally, about 40 percent of youth in girls' juvenile justice facilities identify as LGBTQ/TGNC, compared to only 13 percent in boys' facilities. (These numbers are likely underestimates on both sides.)

Goals, Objectives, and Values of the Initiative

While the primary goal of the Initiative is to eliminate the use of juvenile justice detention and placement for girls, this goal is not separate from and cannot be achieved without the commitment to ensure that girls are healthy and safe in their communities. As the justice system closes its doors, alternative strategies must be deployed to meet youth needs outside of confinement. This Initiative works to advance girls' freedom by simultaneously preventing their confinement and safeguarding their rights to love, housing, healthcare, education, safety, and joy.

Core Values Behind Vera's Initiative to End Girls' Incarceration

Our efforts drive towards the following rights of girls' and gender expansive youth:

Justice and Equity: The right to equitable access to resources within their communities, as well as equal protection of the law. Public systems, families and communities are accountable to youth, regardless of their identities.

Self Determination and Freedom: The right to self-determination—to be treated with dignity and respect, and to be valued as experts in their own lives. Gender-responsive reform means recognizing girls' resistance as strength, celebrating their power, and promoting their freedom.

Safety and Safe Spaces: The right to grow up in places where they feel safe, where they are free from emotional, physical, and sexual abuse, and other threats to their safety. Systems must focus efforts on preventing and addressing the harm girls and gender expansive youth experience, rather than criminalizing girls' defenses against harm.

Childhood and Adolescence: The right to a healthy and supported childhood and adolescence. This includes the freedom to develop, experience, and express their identity and sexuality without judgment or consequence, as well as their right to love and be loved, to have meaningful and lasting connections with family, friends, and community.

With these values and goals, Vera holds its sites to a high standard for "getting to zero". Technical fixes that are not advancing freedom are inadequate:

- *Ending incarceration means no mandated out-of-home confinement as a result of justice involvement. We do not consider community-based alternatives that only include residential models to be "getting to zero," especially if those residential alternatives are mandated by the justice system.*

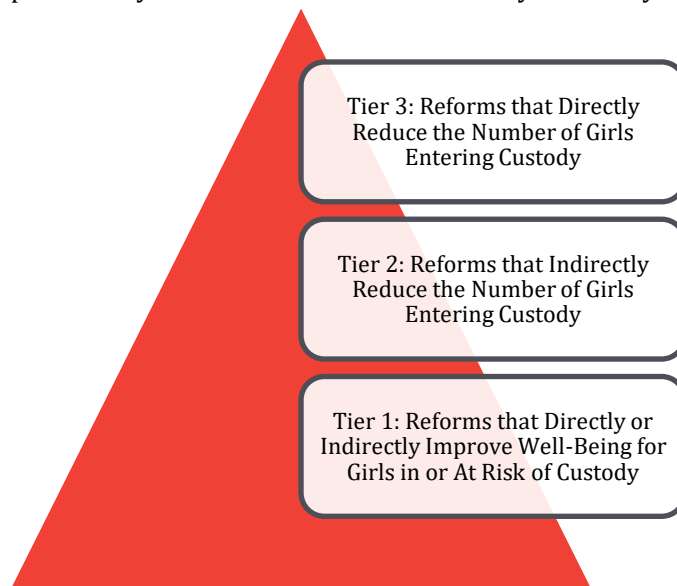
- *“Bringing back the asylum” is not ending girls’ incarceration.* We do not consider a 1:1 swap of prisons to psychiatric facilities to be a strategy for zero. Psychiatric facilities may be needed for a small number of girls but not all girls. When psychiatric facilities are used, they should never be mandated as a consequence of justice involvement, but instead accessed through the health system in alignment with medical standards.
- *Shuffling girls into other parts of the justice system is not ending incarceration.* Transferring girls with more serious charges to the adult system, or sending young people to out-of-state juvenile justice facilities is not getting to zero, even if jurisdictions close their own facilities.
- *No round-the-clock surveillance in the community.* Girls may be on probation and have probation check-ins, but sites cannot get to zero by surveilling all girls using GPS trackers and ankle monitors.

Reducing the reach of the juvenile justice system also entails focusing investments on prevention and early diversion. If effective youth and family programs are only accessible through justice involvement—requiring a call to police, probation or court referrals, or a juvenile justice placement—then stakeholders will be encouraged to push girls into the system.

Our Approach to Finding Solutions

Triangle Framework – Prevention, Intervention, Diversion

Throughout our work, we ask that stakeholders and agencies consider the tiered framework diagrammed below as they think about developing recommendations towards ending girls’ incarceration (recognizing that these categories—particularly tier 1 and tier 2—are not always mutually exclusive).



Intersectionality

The concept of intersectionality maintains that when people experience discrimination and adversity based on two or more aspects of their identity (such as being black and a girl), the detrimental effects are multiplied.¹ For example, when the African American Policy Forum analyzed school discipline disparities for girls in New York City and Boston using data from the Department of Education’s Office of Civil Rights, it found that although boys constituted the majority of children who were formally disciplined, the disparity between Black girls and White girls was significantly greater than between Black boys and White boys. In New York and Boston, respectively, formal discipline disparities were 10 and 11 times higher for Black girls

¹ Lindsay Rosenthal, *Girls Matter: Centering gender in Status Offense Reform Efforts* (New York: Vera Institute of Justice, 2018), <https://www.vera.org/girls-matter>.

than for White girls; while the rate for Black boys was six and eight times higher than that of White boys.² In addition, analysis of data from the National Longitudinal Study of Adolescent Health showed that lesbian and bisexual girls are between 1.25 and three times as likely as their heterosexual peers to experience school expulsion, juvenile arrest, and conviction.³ Without an intersectional approach, these disparities would be overlooked.

Intersectionality is core to how we approach our work across sites, and race and gender equity assessments are integrated into each piece of our diagnostic systems assessment, including data analysis and resource mapping.

The Initiative in North Dakota

Over the past year, Vera staff has partnered with Lisa Bjergaard, Director of DJS, and Lisa Jahner, Assistant Director of Research and Programs at North Dakota Association of Counties (NDACo), to connect with North Dakota’s leadership—including the state’s Juvenile Justice State Advisory Group and the Dual Status Youth Initiative—to examine girls’ incarceration throughout the state.

As Vera considers any form of juvenile justice out-home-placement to be a form of confinement, ending girls’ incarceration in North Dakota would include the state’s full continuum of confinement options for girls and LGB/TGNC youth in the juvenile justice system:

1. Attendant care – a non-secure facility where youth who engage in status offense behaviors are detained for short periods of time
2. Detention
3. Residential treatment centers (if mandated as a consequence of juvenile justice involvement)
4. In-patient facilities (if mandated as a consequence of juvenile justice involvement)
5. Therapeutic and family foster care (if mandated as a consequence of juvenile justice involvement)
6. Time-out placements in ND’s Youth Correctional Center (YCC)
7. YCC treatment

During our diagnostic assessment, Vera staff conducted two site visits to North Dakota, including in-person interviews with and program visits to courts, facilities, schools, community-based service providers, and residential service providers. Vera and our research partners at New York University (NYU) also obtained and analyzed administrative data, including data on the state’s juvenile arrests, court referrals and dispositions, detention admissions, attendant care admissions, and YCC shock sentence, assessment, and treatment admissions.

We hope that the information provided in this report demonstrates the importance of and urgent need for North Dakota’s juvenile justice reform efforts to focus on girls—a population that has historically been forgotten in the field nationally. Over the next six months, Vera will continue to partner with DJS and NDACo in engaging key government, tribal, service provider, and community leadership—including youth who have been directly impacted by the state’s juvenile justice system—in using this and additionally gathered information to develop tailored policy and practice reforms and build out the state’s community-based continuum of gender-responsive programs and interventions.

Understanding This Report

In service of informing the critical work that North Dakota is currently engaged in around juvenile justice reform, this report summarizes the preliminary findings of the Initiative’s diagnostic assessment, offers “biggest picture” recommendations based on our learning to date, summarizes evidence supporting

² Kimberlé Williams Crenshaw, Priscilla Ocen, and Jyoti Nanda, *Black Girls Matter: Pushed Out, Overpoliced and Underprotected* (New York: African American Policy Forum and Columbia University Center for Intersectionality and Social Policy Studies, 2015), 19-20, <https://perma.cc/MEG4-F4PF>.

³ Kathryn E. W. Himmelstein and Hannah Brückner, “Criminal-Justice and School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study,” *Pediatrics* 127, no. 1 (2011), 48-56, 54, <https://perma.cc/NAE2-38B6>.

recommended reforms, and includes an appendix with examples of approaches utilized in other jurisdictions to address gaps highlighted here.

The below findings are from an analysis conducted by NYU on girls' representation across five datasets that covered various points of contact within North Dakota's juvenile justice system:

1. Arrest data provided by the North Dakota Bureau of Criminal Investigations (years 2014-2017)
2. Attendant Care data from the North Dakota Association of Counties Juvenile Detention Record System (years 2014-2018)
3. Detention data from the North Dakota Association of Counties Juvenile Detention Record System and the Division of Juvenile Services for detention (years 2017-2018)
4. YCC admissions data from the Division of Juvenile Services for placement (years 2014-2018)
5. Placement data from the Division of Juvenile Services Placement (years 2014-2018)

Methodology

For all datasets reviewed, NYU conducted a series of descriptive and comparative analyses to understand racial and gender disparities. In Appendix A, we describe each of these datasets, as well as the variables used to analyze each dataset and a list of tables that reference data from each dataset.

Notes on Race

Given that arrests and admissions of White, Black, and Native American youth were most common among all datasets, all analyses of interest pertain solely to them. Arrests and admissions of Asian, Native Hawaiian or Pacific Islander, and Other youth were also examined but were too few in number to suitably analyze.

Notes on Year

Because 2017 was the most recent year available across all dataset, it was used as the primary analysis year to track experiences across system points. Where available, analyses were also conducted to examine change between 2014 and 2017. Where available, 2018 findings are also included.

Notes on YCC Assessment Admissions vs. Admissions into DJS Custody

According to DJS, all youth who entered DJS custody were admitted to YCC for assessment through 2017. (Starting in 2018, DJS began to assess some youth within the community.) Therefore, through most of the 2017 cross-dataset analysis, we use YCC assessment admissions as a proxy for admissions to DJS custody in that year and note this assumption where appropriate. However, we recognize that YCC admissions are not a perfect stand-in for admissions into DJS custody, as even prior to 2018, the dataset included multiple instances of youth admitted to DJS custody without initial YCC assessment.

Comparisons to the General Population

Throughout the report, the race demographics of arrests and admissions of girls and boys within North Dakota's juvenile justice system are compared to the race demographics of the state's general population of youth ages 11-17. Comparing to the state's youth population is useful in demonstrating where there may be a disproportionately high number of girls of specific races at various system points. See Table 1a. below for North Dakota youth ages 11-17 by race:⁴

⁴ Retrieved from census data microdata: <https://data.census.gov>

Table 1. Race Demographics of North Dakota Youth Ages 11-17, 2014-2017	
Race	Percent
White	81.0%
Native American or American Indian	8.4%
Hispanic	4.2%
Two or more races	3.1%
Black	2.3%
Asian	1.0%
Native Hawaiian or Pacific Islander	0.0%

While there may be some variability in gender breakdowns across racial/ethnic groups in a given jurisdiction, we use a reference point of 50% as a general comparison when examining gender and race/gender differences in the juvenile justice systems.

Justice Population by Gender and Race Across System Points

Overview of findings:

- While North Dakota has a high number of girls’ admission to detention and attendant care, girls’ DJS custody numbers are much smaller.
- Compared to national statistics, girls in North Dakota represented a much higher percentage of arrest and detention populations.
- Native American girls were consistently overrepresented across all system points, and this disparity worsened as they progressed deeper into the system.
- Black girls were also overrepresented across all system points in 2017, but their proportion slightly dropped deeper into the system.
- In line with the disparities above, White girls were underrepresented across all system points, and their proportion of all girls’ cases decreased as they moved deeper in the system.

While North Dakota has high numbers of girls’ attendant care and detention admissions, there are a smaller number of girls’ admissions into DJS custody.

In 2017, there were 1,795 girls’ arrests, 324 girls’ admissions to attendant care, and 232 girls’ admissions to detention. Given that attendant care functions as a non-secure detention option, North Dakota’s combined total of girls’ secure and non-secure detention admissions is 556. For points of comparison within the Initiative to End Girls’ Incarceration cohort of sites, New York City (which has roughly 10 times the population of children as North Dakota⁵) had 425 girls’ admission to secure and non-secure detention, while Maine (which has a more comparable population size of children) had only 6 girls’ admissions in 2017.⁶ However, there were only 19 girls’ admissions into North Dakota DJS custody, indicating that, while the state is reliant on police response and early system involvement to address youth behaviors, courts have been able to divert the majority of girls’ cases before they reach long-term incarceration.

⁵ Citizens’ Committee for Children of New York, *Keeping Track Online* (New York: CCCNY, 2018). <https://data.ccnyny.org/data/map/98/child-population#98/a/6/148/40/a/a>; Joe Cicha, *North Dakota’s Child Population Growing*, (North Dakota: North Dakota Legendary, 2015). <https://commerce.nd.gov/uploads/8/CensusNewsletterNov2015.pdf>.

⁶ New York City data provided by the New York City Administration of Children’s Services, May 8, 2018. *Note:* In 2018, New York City’s girls’ admissions to secure and non-secure detention dropped even lower to 298 and Maine data provided by Maine Department of Corrections, November 18, 2019.

Compared to national statistics, girls represented a higher percentage of North Dakota’s arrest and detention populations.

In North Dakota, girls’ arrests represented 41.1% (1,795) of all juvenile arrests and girls’ admissions represented 59.2% (324) of attendant care admissions, 36.6% (232) of detention admissions, 27.1% (19) of DJS custody admissions, and 12.9% (8) of placement admissions in 2017. (See Table 2.)

The most recent national data puts girls at 30% of juvenile arrests and 18% of youth in detention.⁷ North Dakota is significantly above these national averages in arrest, attendant care (which serves as a non-secure detention option), and secure detention. (See Table 2 below.) North Dakota’s high proportion of girls’ admissions is likely due to the nature of the charges across the juvenile justice population in North Dakota, as girls tend to be disproportionately represented among status offense (or related) cases.⁸ (Please find the charge analysis in the following section, p.9, and the text box on girls and status offenses on p.15.)

According to national data, girls account for around 13% of committed youth.⁹ However, while this national average aligns with girls’ proportion of YCC treatment admissions in North Dakota, many states also include youth placed in other types of placement facilities in their reported numbers. An examination of other forms of ND DJS placement (such as residential treatment centers) will allow for a truer comparison between girls’ national juvenile justice placements and girls’ DJS placement in North Dakota.

Table 2. Admissions Across System Points by Gender, 2017					
	Girls		Boys		Total
	Number	% of all Cases	Number	% of all Cases	Number
Arrests	1,795	41.1%	2,572	58.9%	4,367
Attendant Care Admissions	324	59.2%	223	40.8%	547
Detention Admissions	232	36.6%	402	63.4%	634
DJS Custody Admissions (YCC Assessment Admissions)	19	27.1%	51	72.9%	70
YCC Treatment Admissions	8	12.9%	54	87.1%	62

Native American girls were consistently overrepresented across all system points—with an arrest rate that was 3.5 time higher than White girls and a detention rate that was a staggering 6.5 times higher than White girls. Disparities worsened as they progressed deeper into the system.

Although Native American youth comprise around only 8.8% of North Dakota’s youth population ages 5-17, Native American girls accounted for a much higher proportion of girls’ cases across system points.¹⁰ In 2017, Native American girls’ accounted for 21.4% (385) of all girls’ arrests, 34.6% (112) of girls’ admissions to attendant care, 27.2% (63) of girls’ admissions to detention, 36.8% (7) of girls’ admissions to DJS custody, and 50.0% (4) of girls’ YCC treatment admissions. (See Table 3 below.)

Native American girls’ arrest rate is 3.5 times that of White girls in North Dakota (with an arrest rate of 14,382 arrests per 100,000 Native American girls compared to 4,343 arrests per 100,000 White girls). (See Chart 1 below.) When looking at secure and non-secure detention together (detention and attendant care

⁷ Charles Puzzanchera and Sarah Hockenberry, *Trends and Characteristics of Youth in Residential Placement, 2017* (Washington, D.C.: The Office for Juvenile Justice and Delinquency Prevention, 2019). https://www.ojjdp.gov/ojstatbb/snapshots/DataSnapshot_UCR2018.pdf.

⁸ Rosenthal, *Girls Matter*, 2.

⁹ Charles Puzzanchera, *Arrests of Juveniles in 2018 Reached the Lowest Level in Nearly 4 Decades* (Washington D.C.: The Office for Juvenile Justice and Delinquency Prevention, 2019). https://www.ojjdp.gov/ojstatbb/snapshots/DataSnapshot_UCR2018.pdf.

¹⁰ Diversity Data Kids, 4.

admissions combined), Native American girls' detention rate is 6.5 times that of White girls (6,537 admissions per 100,000 Native American girls compared to 1,038 admissions per 100,000 White girls). The rate of detention for Native American girls was even higher than that of Native American boys.

Furthermore, while the overall proportion of girls' cases decreased from arrest to placement, Native American girls accounted for a higher proportion of all girls as they progressed along system points. This ends in staggering disparity: The rate at which an arrest translates to detention for Native American is 1.5 times greater than the arrest to detention conversion rate for Black girls, and 2 times greater than the rate for White girls. In fact, Native American girls were 6% of the general population of girls, but made up 50% of the 8 girls in the state's most secure long-term placement option.

Table 3. Girls' Admissions Across System Points by Race, 2017			
System Point	Race	Number of Girls' Admits	% of All Girls' Admits
Arrest	All	1,795	100.0%
	White	1,197	66.7%
	Native American	385	21.4%
	Black	179	10.0%
	Asian	9	0.5%*
	Unknown	25	1.4%
Attendant Care	All	323	100.0%
	White	151	46.7%
	Native American	112	34.6%
	Black	31	9.6%
	Mixed or Other	30	9.3%
Detention	All	232	100.0%
	White	135	58.2%
	Native American	63	27.2%
	Black	19	8.2%
	Other/Mixed	15	6.5%
DJS Custody (YCC Assessment)	All	19	100.0%
	White	9	47.4%
	Native American	7	36.8%
	Black	2	10.5%*
	Other	1	5.3%*
YCC Treatment	All	8	100.0%
	White	3	37.5%
	Native American	4	50.0%
	Black	1	12.5%
	Other	0	0.0%

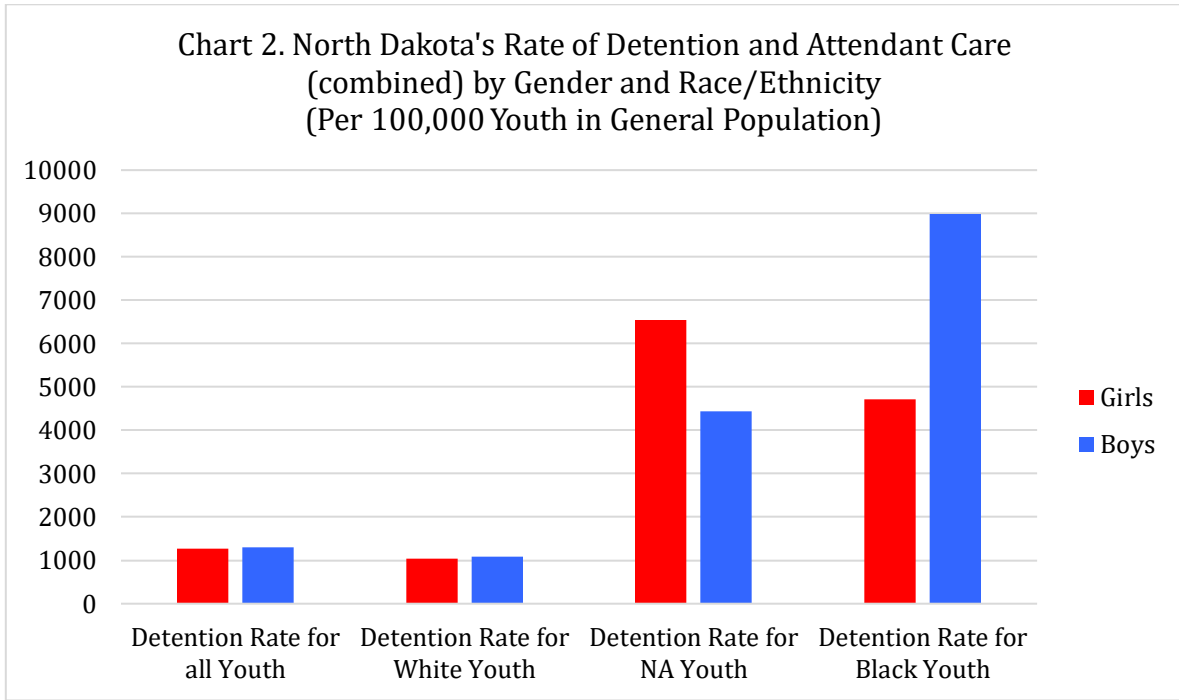
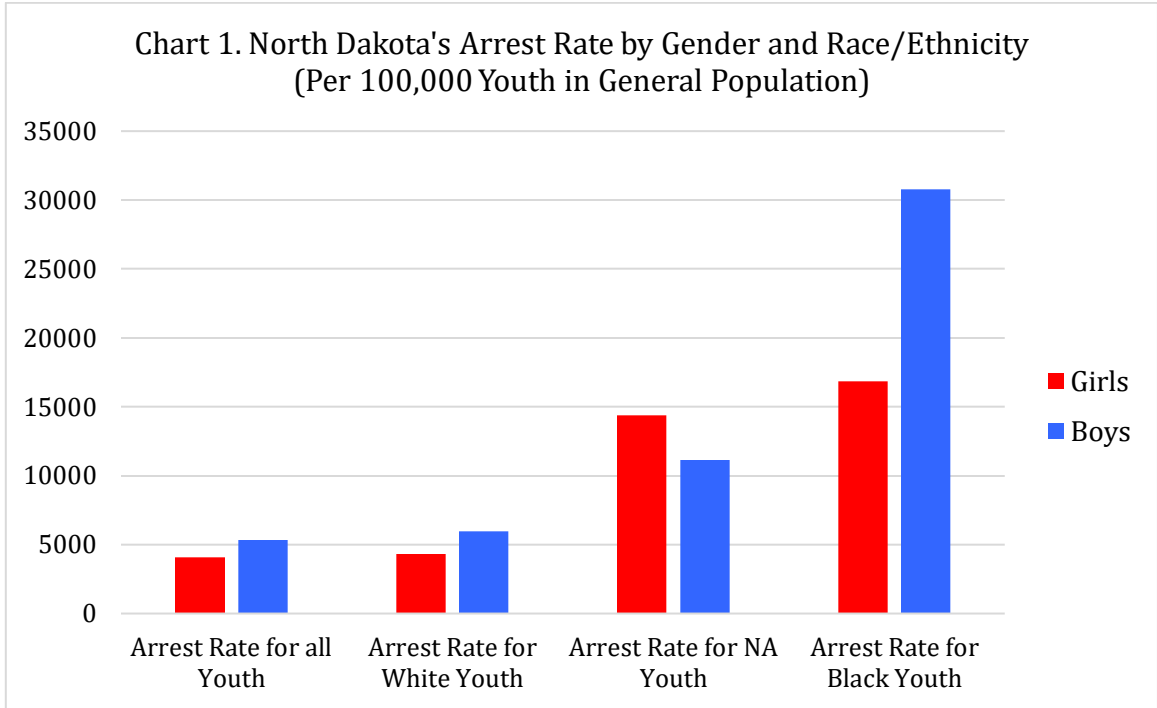
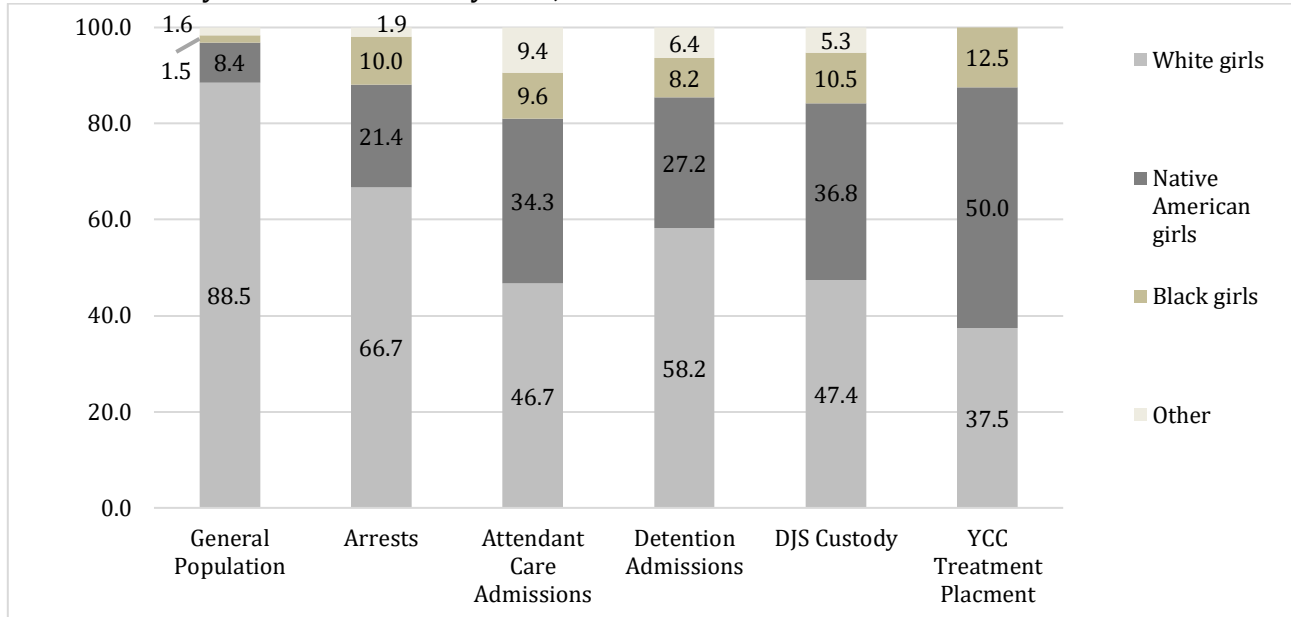


Chart 3. Girls' System Involvement by Race, 2017



Black girls were also overrepresented across all system points in 2017—with arrest and detention rates that were 3.9 and 3.4 times (respectively) that of White girls. However, their proportion slightly dropped as they moved deeper into the system.

Black youth comprised 2.6% of the youth population (ages 5-17) of North Dakota from 2013-2017,¹¹ yet they accounted for 10% (179) of all girls' arrests, 9.6% (31) of girls' attendant care admissions, 8.2% (19) of girls' detention admissions, 10.5% (2 out of 19) of girls' DJS custody admissions, and 12.5% (1 out of 8) of girls' YCC treatment admissions in 2017. (See Table 3 above.)

Black girls' arrest rates were 3.9 times that of White girls (16,871 arrests per 100,000 Black girls, compared to 4,343 arrests per 100,000 White girls), and their detention rates (detention and attendant care admissions combined) were 3.4 times that of White girls (4,713 admissions per 100,000 Black girls, compared to 1,038 admissions per 100,000 White girls). (See Charts 1 and 2 above.) (Note: Black boys' rates of arrest and detention were shockingly higher than any of their peers and worth further investigation and attention.)

However, unlike Native American girls, Black girls' proportion of girls' admissions decreased slightly from arrest through placement, more closely resembling the overall flow of girls' cases through the system. (See Chart 3 above.)

In line with the disparities above, White girls were underrepresented across all system points, and their proportion of all girls' cases decreased as they moved deeper in the system.

While White youth comprised 81.6% of the youth population (ages 5-17) in North Dakota from 2013-2017,¹² White girls comprised only 66.7% (1,197) of all girls' arrests, 46.6% of girls' attendant care admissions, 58.2% (151) of girls' detention admissions, 47.4% (9 out of 19) of girls' DJS custody admissions, and 37.5% (3 out of 8) of girls' YCC treatment admissions in 2017. (See Table 3 and Chart 3 above.) Their arrest and detention rates were lowest compared to their Native American and Black peers. (See Charts 1 and 2.)

¹¹ Diversity Data Kids. 4.

¹² Ibid.

Takeaways:

- While ending girls’ incarceration will require that North Dakota address girls’ entry into each system point, the state’s greatest challenges lie in the early points of arrest, attendant care, and detention, where girls’ proportion is highest.
- Reform efforts must include a strong focus on unpacking the systemic biases and inequities that are leading to the disproportionate arrest and incarceration of Native American and Black girls.

Charge Analysis by Gender and Race

Overview of findings:

- For girls and boys, most charges that came in across all system points were for low-level and status offense charges.
- However, consistent with national trends, girls were over-represented in status offense and status offense-like charges compared to their proportion of the juvenile justice system, as well as other low-level charge categories.
- Native American and Black girls were particularly overrepresented.

For girls and boys, most charges that came in across all system points were for low-level and status offense charges. However, consistent with national trends, girls were over-represented in these low-level charge categories, particularly among the status offense and status offense-like charges.

Among both girls’ and boys’ charges, the most frequent categories across North Dakota’s system points included Disorderly Conduct, Unruly/Ungovernable, Runaway, Simple Assault, Shoplifting, Drug, and Liquor Law Violations.

However, in accordance with national trends (see textbox on p.15, “Girls Matter: Centering Gender in Status Offense Reform Efforts”), girls in North Dakota were often disproportionately affected by these status offense and minor misconduct categories across all system points. In particular, girls’ charges were regularly over-represented (compared to their proportion of all youth admissions at a given system point) in Family-Non Violent (a charge category at arrest that includes unruly and ungovernable cases), Liquor Law Violations, Runaway, and Low-Level Theft charge categories:

- **Arrest:** In 2017, girls’ arrests made up 41.1% of all arrests in 2017, yet they accounted for 56% of Family-Non Violent charges (92 girls’ arrests vs 71 boys’ arrests) and 49% of Liquor Law Violations charges (235 girls’ arrests vs. 244 boys’ arrests).¹³
- **Attendant care:** In 2017, girls’ admissions made up 59% of all attendant care admissions, yet girls accounted for 69% of Runaway charges that came into attendant care.
- **Detention:** in 2017, girls accounted for 37.5% of all charges associated with youth detention admissions, but they account for 57.4% of all Runaway charges that came into detention. In 2018, girls were also disproportionately represented (compared to their proportion of all youth detention admissions) among drug charges at detention admission: Girls accounted for 34.4% of all charges at detention admissions, but 41.8% of the drug charges specifically.

¹³Because North Dakota law enforcement agencies do not report runaway arrests to the North Dakota Bureau of Criminal Investigations, this information was not available for analyses of gender disparities. However, given that runaway shows up as a charge of concern for girls at every other system points, we anticipate that gender disparities would exist among runaway arrests as well.

- DJS custody (YCC assessment admissions): In 2017, girls accounted for 26.3% of all charges associated with youth DJS admissions, but they account for 37.0% of all Runaway charges and 33.3% of all Ungovernable Behavior charges that came into DJS custody.
- YCC treatment admissions: In 2017, girls accounted for 13.9% of all charges associated with youth YCC treatment admissions, but they account for 20.0% of all Ungovernable and 26.7% of all Simple Assault (Non-Family) charges that came into YCC treatment.

Conversely, many high-level charge categories (including Weapons, Burglary/Breaking and Entering, Aggravated Assault, and Sex Offenses) almost exclusively consisted of boys' charges across system points.

Table 4. Girls' Top 5 Charges Across System Points, 2017			
System Point	Top 5 Charges	# of Girls' Charges	% of All Girls' Charges
Arrest	1 All Other Offenses ¹⁴	431	24.0%
	2 Disorderly Conduct	256	14.3%
	3 Liquor	235	13.1%
	4 Shoplifting	165	9.2%
	5 Drug	159	8.9%
	5 Simple Assault	149	8.3%
Attendant Care	1 Ungovernable	154	38.9%
	2 Runaway	120	30.3%
	3 Drug	22	5.6%
	4 Disorderly Conduct	22	5.6%
	5 Liquor	18	4.5%
Detention	1 Drug	52	15.4%
	2 Ungovernable	44	13.1%
	3 Runaway	31	9.2%
	4 Simple Assault (NonFamily)	26	7.7%
	5 Disorderly Conduct	24	7.1%
DJS Custody (YCC Assessment)	1 Ungovernable	10	17.9%
	2 Drug	8	14.3%
	3 Simple Assault (NonFamily)	6	10.7%
	4 Runaway	4	7.1%
	4 Low-Level Theft	4	7.1%
YCC Treatment	1 Ungovernable	5	17.9%
	2 Simple Assault (NonFamily)	4	14.3%
	3 Drug	3	10.7%
	3 Assault – Terrorizing	3	10.7%
	4 Runaway	2	7.1%
	4 Disorderly Conduct	2	7.1%
	4 Reckless Endangerment	2	7.1%

¹⁴ According to the North Dakota Bureau of Criminal Investigations, the charge category of "All Other Offenses" at arrest includes arrests for interfering with law enforcement practices (such as "preventing arrest", "hindering law enforcement", and "escape"), disobeying court orders or procedures (such as "disobedience of a judicial order", "attempted failure to appear", and "failure to serve as a witness"), a number of miscellaneous charges (such as "criminal street gang"), and a number of "conspiracy to", "accomplice to", and "facilitation to" charges.

Table 5. Boys' Top 5 Charges Across System Points, 2017			
System Point	Top 5 Charges	# of Boys' Charges	% of Boys' Charges
Arrest	1 All Other Offenses	437	24.0%
	2 Disorderly Conduct	402	15.6%
	3 Drug	289	11.2%
	4 Liquor	244	9.5%
	5 Simple Assault	200	7.8%
	5 Shoplifting	185	7.2%
Attendant Care	1 Ungovernable	117	41.6%
	2 Runaway	53	18.9%
	3 Disorderly Conduct	21	7.5%
	4 Drug	18	6.4%
	5 Theft – Low-Level	16	5.7%
Detention	1 Drug	81	14.4%
	2 Ungovernable	71	13.0%
	3 Court Offenses	50	8.9%
	4 Disorderly Conduct	41	7.3%
	5 Assault – Simple (Family)	32	5.7%
DJS Custody (YCC Assessment)	1 Drug	22	13.8%
	2 Ungovernable	20	12.6%
	3 Liquor Law Violation	13	8.2%
	4 Theft-Other	12	7.5%
	5 Disorderly Conduct	12	7.5%
YCC Treatment	1 Drug	32	17.5%
	2 Ungovernable	20	10.9%
	3 Theft-Other	17	9.3%
	4 Criminal Mischief	13	7.1%
	5 Traffic	12	6.6%

“Girls Matter: Centering Gender in Status Offense Reform Efforts”

Girls typically comprise 25% of the overall juvenile justice system, but make up 40% of youth who are taken to court for status offenses—and 55% of youth who are taken to court specifically for running away. In 2013, status offenses and technical violations of probation accounted for a combined 37% of girls’ total detentions nationwide, compared to 25% of boys’ detentions. These disparities are even worse among girls of color, poor youth, and LGB/TGNC youth. Vera’s [Girls Matter: Centering Gender in Status Offense Reform Efforts](#) report provides a guide to jurisdictions to understand and address how their status offense systems negatively and differently impact girls.

The Historical Sexism of Status Offenses

The early juvenile courts (dating back to the late 1800s) created the categories of “immorality” and “incorrigibility” delinquency offenses, and used them almost exclusively for girls. These offenses included “associations with immoral persons, frequent attendance at saloons or pool halls, the use of indecent language, nonviolent altercations with parents, and changes in a girl’s appearance that indicated the possibility of sexual intercourse”, and they were used to criminalize girls—especially girls of color—for their disobedience and resistance to strict gender norms, which courts perceived to be indicative of immorality.

Gender and Racial Inequities Continue in Today’s Status Offense Systems

This inequity continues today. Compared to boys, girls are more likely to be detained and for a longer period of time. For girls of color, gender biases are further compounded by racialized gender stereotypes, such as those that label Black girls as promiscuous, aggressive, and angry. One study found that adults view Black girls as young as five years old to be more adult and in need of less protection or nurturing than their White peers. Further compounding these prejudices is the court's treatment of girls who are victims of sexual abuse. In earlier courts girls were classified as immoral for seducing men to rape them or was imprisoned as a safety precaution to avoid additional sexually abuse. Today, the practice of detaining girls for their own safety is still in effect, which helps to explain the high rates of sexual violence among girls in the justice system. For instance, although federal law prohibits sex trafficking of anyone under the age of 18, many girls who are trafficked still end up in court for status offenses and delinquency charges.

The Need to Decriminalize Status Offenses to End Girls' Incarceration

Applying a universal punitive approach to girls behavior does very little to address the reasons why they engage in delinquent behavior in the first place. For example, girls who runaway may do so to evade sexual abuse in the home or conflicts related to their sexual orientation. Girls of color, for whom sexism is further magnified by racism and classism, are disparately impacted by criminalization of girls' responses to violence and trauma in their lives. Understanding how gender influences girls behavior can allow for stakeholders to address the biases embedded in policies and practices that lead to negative outcomes and disparities for girls.

The *Girls Matter* report, as well as Vera's [Status Offense Toolkit](#), can be a helpful tool as North Dakota works to end its reliance on law enforcement and juvenile justice involvement for status offense and other minor misconduct.

Native American and Black girls were disproportionately affected by low-level offenses across all system points.

As referenced above, Native American and Black youth made up roughly 8.8% and 2.6% respectively of North Dakota's general population of girls, but were disproportionately represented across most system points.¹⁵ They were even more disproportionately represented in key status offense and low level offense charge categories. For Native American girls, these charge categories included Family Non-Violent arrest charges (unruly/ungovernable), runaway, and disorderly conduct. For Black girls, categories included misdemeanor larceny, runaway, and disorderly conduct charges.

- **Arrest:** While Native American girls made up 21.4% of all girls' arrests in 2017, they accounted for 46.7% of all girls' arrests for Family Non-Violent (including unruly/ungovernable) charges; While Black girls made up 10.0% of all girls' arrests, they accounted for 33.3% of girls' arrests for "All Other Larceny" (misdemeanor) charges
- **Attendant Care:** Native American and Black girls made up 34.6% (112) and 9.6% (31) of girls' attendant admissions respectively. Yet, among girls' admissions to Attendant Care, 63.5% of all Runaway charges were of Native American and Black girls combined (specifically, 37.8% (59) were of Native American girls' admissions and 25.7% (9) were of Black girls' admissions).
- **Detention:** In 2017, 38.7% of girls' Runaway charges at admissions were of Native American girls. This proportion increased to 50.0% in 2018.
- **DJS custody (YCC assessment admissions):** While charges of Native American girls made up 49.1% of all girls' charges in YCC assessment admissions in 2017, they accounted for 66.7% of all girls' charges for Simple Assault (Non-Family) charges.¹⁶

¹⁵ Diversity Data Kids, 4.

¹⁶ Note: Charge comparisons could not be made for Black girls' DJS custody admissions or for YCC treatment admissions due to the low number (2 Black girls' DJS custody admissions and 1 Black girls' YCC treatment admissions.)

- **YCC Treatment:** While charges of Native American girls made up 70.0% of all girls' charges in YCC treatment admissions, they accounted for 100.0% of all girls' Simple Assault (Non-Family) charges, 100% of all girls' Reckless Endangerment charges, 100% of girls' Disorderly Conduct charges, 100% of girls' Runaway charges, and 80.0% of all girls' Ungovernable charges.

Takeaways:

- Despite national research and guidance promoting the decriminalization of status offenses, North Dakota continues to rely on police and juvenile justice system response to youth minor misconduct.¹⁷
- In accordance with national research, North Dakota's girls, particularly girls of color, are more likely to be subject to such punitive responses to status offense-like behaviors.
- These findings help explain why girls in North Dakota represent such a higher proportion of juvenile arrests and detentions compared to national statistics, as status offense reform efforts have driven down numbers across the country.
- Ending girls' incarceration will require that North Dakota better respond to status offense-like behaviors with community-based supports that are not linked to juvenile justice involvement.

County Analysis by Gender and Race

Overview of findings:

- The Fargo and Bismarck areas, followed by Grand Forks and Devils Lake, were the largest contributors and girls' arrests.
- There were alarming race disparities in girls' arrests within these jurisdictions, with Native American girls' disparities in Devils Lake, Bismarck, and Grand Forks, and Black girls' disparities in Fargo, West Fargo, and Grand Forks.
- Cass County stood out as a top contributor to all girls' attendant care and detention admissions, while Burleigh County did not.
- Rolette was the top contributor to Native American girls' attendant care admissions. Native American girls' attendant care admissions were most disproportionately represented in Burleigh and Ramsey counties, where Native American girls accounted for most or all girls' admissions.
- Cass was the primary contributor to Black girls' admissions to attendant care and detention.
- Williams County may be another county of interest, as the county seems to be a greater contributor to girls' incarceration than to girls' arrests—suggesting a higher rate of confinement.

The Fargo and Bismarck areas, followed by Grand Forks and Devils Lake, were the largest contributors to girls' arrests.

Not surprisingly, Fargo and Bismarck accounted for the largest proportions of all juvenile arrests. In 2017, almost half of all girls' arrests took place in these two areas. (See Table 7 below.) Together, Bismarck Police Department (PD), Burleigh Sheriff's Office, and Morton County Sheriff's Office accounted for 23.6% (423) of girls' arrests, while Fargo PD and Cass Sheriff's Office accounted for 21.8% of girls' arrests, with another 4.8% in West Fargo.

¹⁷ Mahsa Jafarian and Vidhya Ananthkrishan, *Just Kids: When Misbehaving is a Crime* (New York: Vera Institute of Justice, 2017), <https://www.vera.org/when-misbehaving-is-a-crime>; Development Services Group, *Status Offenders* (Washington DC: Office of Juvenile Justice and Delinquency Prevention, 2015), https://www.ojjdp.gov/mpg/litreviews/Status_Offenders.pdf

Grand Forks and Devils Lake were also at the top of the list for girls, with Grand Forks PD and Sheriff's Office accounting for 9.2% (166) of girls' arrests, and Devils Lake Police Department accounting for another 5.1% (92).

These were also some of the areas where girls made up the highest proportion of juvenile arrests. (See Table 7 below.) While girls accounted for 41.1% of juvenile arrests across the state in 2017 (an already high proportion relative to national trends), they made up between 43.1% and 47.6% of juvenile arrests by Fargo PD, Bismarck PD, Jamestown PD, and Cass Sheriff's Office.

Table 7: Top 10 Girl-Arresting Law Enforcement Depts, 2017		
Law Enforcement Dept.	# Girls' Arrests	% of All Girls' Arrests
Fargo	371	20.7%
Bismarck	366	20.4%
Grand Forks	154	8.6%
Devils Lake	92	5.1%
West Fargo	86	4.8%
Minot	85	4.7%
Mandan	74	4.1%
Burleigh (Sheriff's Office)	51	2.8%
Jamestown	48	2.7%
Cass (Sheriff's Office)	20	1.1%

Table 8: Top 10 Boy-Arresting Law Enforcement Depts, 2017			
Law Enforcement Dept.	# Girls' Arrests	# Boys' Arrests	Girls' Proportion of Juvenile Arrests
Fargo	371	490	43.1%
Bismarck	366	445	45.1%
Grand Forks	154	228	40.3%
Devils Lake	92	152	37.7%
West Fargo	86	134	39.0%
Minot	85	132	39.2%
Mandan	74	119	38.3%
Burleigh (Sherriff's Office)	51	106	32.5%
Jamestown	48	55	46.6%
Cass (Sherriff's Office)	20	22	47.6%

There were alarming race disparities in girls' arrests within these areas: In Devils Lake and Bismarck, Native American girls were disproportionately arrested. In Fargo and West Fargo, Black girls were disproportionately arrested. In Grand Forks, both groups were disproportionately arrested.

As stated, Native American youth account for roughly 8.8% of the general population of youth across the state.¹⁸ In areas such as Devils Lake, the population of Native Americans is higher than the state average (26.0% in Devils Lake vs. 8.8% across the state), but the higher concentration of Native Americans still does not account for the disparities that exist in juvenile arrests. (See Table 9 below.) While Native American youth account for around 26.0% of the youth population in Devils Lake, Native American girls accounted for a staggering 87% of girls' arrests in 2017. In Bismarck, Native American youth account for around 4.5% of

¹⁸ Diversity Data Kids, 4.

the youth population, but Native American girls accounted for 32% (117) of girls’ arrests. In Grand Forks, where Native American youth are only around 6% of the youth population, Native American girls accounted for 23.5% (39) of girls’ arrests.¹⁹

For Black girls, the localities of concern are West Fargo, Fargo, and Grand Forks. While only 2.9% of West Fargo’s youth population and 9.2% of Fargo’s youth population are Black, Black girls account for 29.1% (25) and 19.1% (71) of girls’ arrests in those areas, respectively. In Grand Forks, where only 4.3% of the youth population is Black, Black girls’ account for 11.4% (19) of girls’ arrests.²⁰ (See Table 9).

Table 9. Race Disparities in Girls’ Arrests by County, 2017				
Law Enforcement Dept.	Native American Girls’ Proportion of All Girls’ Arrests	Proportion of Local General Population that is Native American	Black Girls’ Proportion of All Girls’ Arrests	Proportion of Local Youth Population that is Black
Bismarck	32%	4-6%	1.9%	1.5%
Fargo	8.1%	1.2% ²¹	19.1%	9.2%
Grand Forks	24.1%	3%	12.0%	4.3%
West Fargo	7.0%	1.2% ²²	29.1%	2.9%
Devils Lake	87.0%	14%	0.0%	0.0%

Cass County stood out as the top county of residence among girls’ attendant care admissions and the top county of residence among girls’ detention admissions. Meanwhile, in contrast to girls’ arrest trends, Burleigh County was not a top contributor to girls’ attendant care and detention admissions. Almost one third of all girls’ attendant care admissions (27.5%, 89) and of all girls’ detention admissions (29.7%, 69) were of girls who lived in Cass County. In contrast, while Bismarck was almost equal to Fargo in frequency of girls’ arrests, Burleigh County accounted for only 5.6% (18) of girls’ attendant care admissions and was not a top county for girls’ detention admissions, suggesting that, compared to Cass County, Burleigh County may have a lower rate of detaining girls who are arrested. (See Table 10.)

Table 10. Top Counties of Residence among Girls’ Attendant Care and Detention Admissions, 2017			
Attendant Care		Detention	
Cass	(27.5%, 89)	Cass	(29.7%, 69)
Grand Forks	(12.0%, 39)	Grand Forks	(16.4%, 38)
Williams	(10.8%, 35)	Ward	(14.7%, 34)
Rolette	(10.8%, 35)	“Other State”	(5.6%, 13)
Burleigh	(5.6%, 18)	Ramsey	(5.2%, 12)
Stark	(5.6%, 18)	Minnesota	(5.6%, 11)

Rolette, Cass, Burleigh, and Grand Forks were top contributors to Native American girls’ attendant care admissions. Native American girls’ admissions accounted for most or all of girls’ attendant care admissions from Rolette, Ramsey, and Burleigh counties.

More than one third of Native American girls’ attendant care admissions were from Rolette, which is located on a Native American Reservation. Cass, Burleigh, and Grand Forks followed with 14.3% (16), 12.5% (14), and 12.5% (14) of all Native American girls’ attendant care admissions, respectively. However,

¹⁹ Diversity Data Kids, 4

²⁰ Ibid.

²¹ 2019 Census data, <https://www.census.gov/quickfacts/fact/table/fargocitynorthdakota/PST045219>

²² Ibid.

when comparing the proportion of Native American girls' admissions to other girls, Burleigh and Ramsey were of great concern, as Native American girls' attendant care admissions accounted for 100% (8 out of 8) of girls' attendant care admissions from Ramsey and 78% (14 out of 18) of girls' admissions from Burleigh. (See Tables 10 and 11.)

A majority of Black girls' admissions to attendant care and detention were from Cass County. 54.8% of Black girls' attendant care admissions and 57.9% of Black girls' detention admissions came from Cass County, making it the primary county of concern for Black girls' overall detention.

Table 11. Top Counties of Residence among Native American Girls' Attendant Care and Detention Admissions, 2017			
Attendant Care		Detention	
Rolette	(31.3%, 35)	Cass	(17.5%, 11)
Cass	(14.3%, 16)	Grand Forks	(15.9%, 10)
Burleigh	(12.5%, 14)	Ramsey	(14.3%, 9)
Grand Forks	(12.5%, 14)	Ward	(11.1%, 7)
Ramsey	(7.1%, 8)	Burleigh	(7.9%, 5)
South Dakota	(4.5%, 5)	"Other State"	(6.3%, 4)

Table 12. Top Counties of Residence among Black Girls' Attendant Care and Detention Admissions, 2017			
Attendant Care		Detention	
Cass	(54.8%, 89)	Cass	(57.9%, 11)
Grand Forks	(19.4%, 6)	Grand Forks	(15.8%, 3)
Williams	(16.1%, 5)	"Other State"	(10.5%, 2)
Rolette	(3.2%, 1)	Williams	(5.3%, 1)
Burleigh	(3.2%, 1)	Ramsey	(5.3%, 1)
Stark	(3.2%, 1)	"Other State"	(5.3%, 1)

There was a stark disproportionately in Native American girls' attendant care and detention admissions in Burleigh County.

77.8% (14 out of 18) of all girls' attendant care admissions from Burleigh County were of Native American girls, while only 22.2% were of White girls. Native American boys' attendant care admissions were also disproportionately represented in Burleigh County (40% of boys' admissions were of Native American boys), but less so than girls.

While Williams County did not show in the top girl-arresting jurisdictions, it was among the top counties of residence among girls' attendance care, detention, and YCC treatment admissions, suggesting that there may be a higher rate of confinement among girls who are arrested in Williams County.

While Minot only accounted for 4.7% (85) of girls' arrests in 2017, Williams County accounted for 10.8% (35) of girls' attendant care admissions, 5.6% (19) of girls' detention admissions, and 1 of the 8 girls' admissions to YCC treatment. (See Tables 7 and 13.)

Table 13: Top 3 Counties of Residence among Girls' DJS Custody and YCC Treatment Admissions, 2017			
DJS Custody		YCC Treatment	
Morton	(15.8%, 3)	Burleigh	(25.0%, 2)
Cass	(15.8%, 3)	Morton, Williams, Ward, Stutsman, Logan, and Ransom (12.5% each, 1 each)	
Ward	(10.5%, 2)		
Burleigh	(10.5%, 2)		

Takeaways:

- For greatest impact, efforts to reduce and eliminate girls' system involvement should focus on the four key areas of Bismarck, Fargo and West Fargo, Grand Forks, and Devils Lake.
- Key jurisdictions of concern for Native American girls include Ramsey, Burleigh, and Grand Forks counties. For Black girls, Cass is the key county of concern, followed by Grand Forks.
- However, the deepest end of the system includes girls from a range of counties, some of which are more rural. In addition to the high volume jurisdictions, North Dakota will need to explore gender-responsive program options that are flexible and can have greater reach throughout the state.
- Across efforts, programmatic investments and policy and practice reforms must be tailored to address the particular drivers of incarceration for Native American and/or Black girls.

Trends Over Time: 2014 to 2017

Overview of findings:

Spike in arrests:

- Between 2014 and 2017, there was a notable spike in juvenile arrests across genders. However, this spike was starkly greater for girls than for boys.
- The bulk of this increase in girls' arrests occurred between 2016 and 2017.
- Arrests of Native American and Black girls disproportionately contributed to the spike in girls' arrests.
- Much of the spike was associated with an increase in arrests for unruly/ungovernable and "All Other Offense" charges, which Native American and Black girls were disproportionately represented in.
- The greatest surges in girls arrests during this time were in West Fargo, Fargo, Devils Lake, and Bismarck, which are already the key jurisdictions of interest. In these jurisdictions, boys' increase in arrests was not nearly as large.

Spike in attendant care:

- Between 2014 and 2017, there was also a large increase in girls' admissions to attendant care. Like arrests, this surge was greatest between 2016 and 2017.
- Admissions of Native American and Black girls were disproportionately represented in this increase as well.
- The surge in girls' attendant care admissions was tied to status offense charges.

Other system points:

- Meanwhile, there was a decrease in girls' DJS custody and YCC treatment admissions during this time.

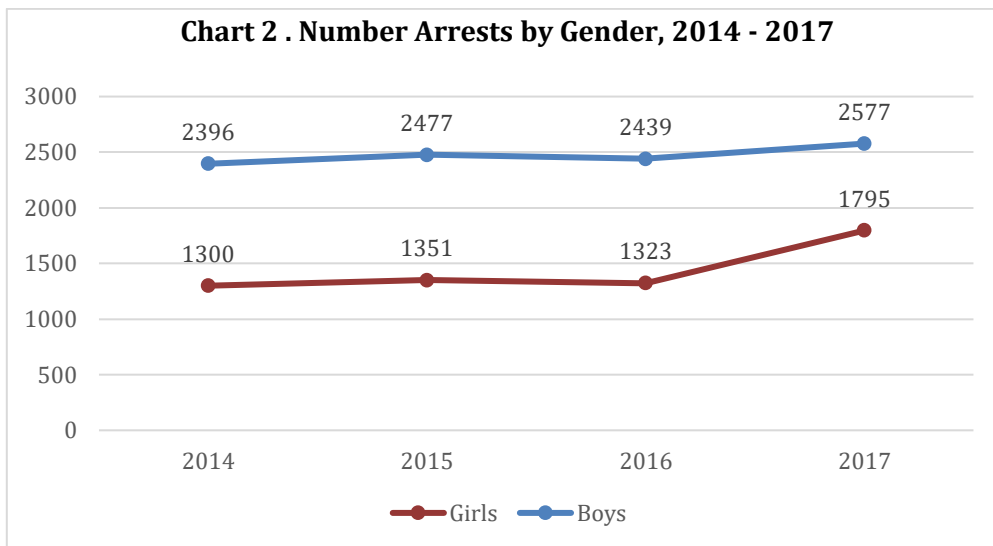
A Spike in Girls' Arrests

Between 2014 and 2017, there was a notable spike in juvenile arrests across gender. This spike was greater for girls than for boys.

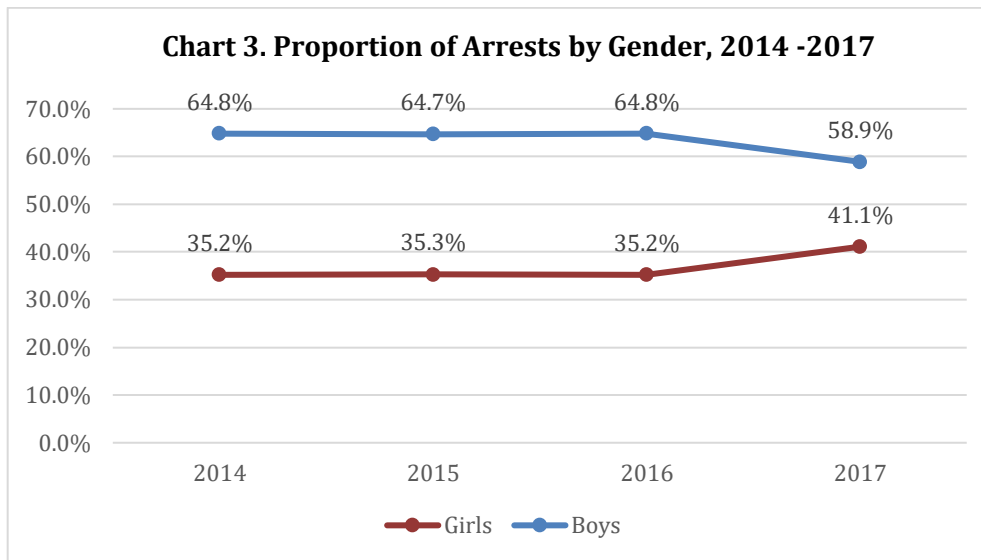
Between 2014 and 2017, the number of overall youth arrests increased 18.2% (from 3,696 to 4,367 arrests). A majority of this spike was due a surge in girls' arrests. Between 2014 and 2017, the number of girls' arrests increased 38.1% (from 1,300 to 1,795 arrests). Because there was only a 7.3% increase among boys' arrests during this time (from 2,396 to 2,572 arrests), girls' proportion of all juvenile arrests increased from 35.2% in 2014 to 41.1% in 2017. (See Chart 2 below.) Crime trends between 2014 and 2017 examined to see if any trends could account for this increase. While there was a small increase in violent crimes in North Dakota during this time, this increase cannot account for the spike in girls' arrests.²³

The bulk of the increase in girls' arrests occurred between 2016 and 2017

Between 2016 and 2017, there was a 37.5% increase in girls' arrests (from 1,323 to 1,795). Further investigation is needed to identify any policy or practice changes that occurred in the key arresting jurisdictions or across the state during that time. Boys only saw a 5.7% increase in arrests during this time.



²³We examined the number of youth (ages 10-19) Violent Crimes in North Dakota between 2014 and 2017 to determine whether youth in North Dakota had an increase in violent crime during that period that could account for the large increase in girls' arrests. According to the NIBRS FBI Crime Data Reporter for North Dakota, violent crimes did, in fact, increase 29% between 2014 and 2017 (from 207 violent crime offenses to 267 in 2017).²³ However, because this information cannot be disaggregated by gender and the small relative numbers of violent crimes are unlikely to inflate arrests statistics, this increase in violent crime does not account fully for the disproportionate increase in girls' arrests. Further, when examining other data and long term trends on violent crimes nationally, spikes in violent crime have not coincided with a disproportionate increase in girls' arrest compared to that of boys', and the spike in violent crimes from 2014 to 2017 is much smaller than spikes observed earlier when girls' arrests did not disproportionately increase. Sources: <https://crime-data-explorer.fr.cloud.gov/explorer/state/north-dakota/crime/>, as well as (see <https://www.statista.com/statistics/477466/number-of-serious-violent-crimes-by-youth-in-the-us/>)



Arrests of Native American and Black girls disproportionately contributed to the large spike in girls’ arrests.

In 2014, White girls accounted for 73.5% of all girls’ arrests, while Native American and Black girls accounted for 17.4% and 6.8% respectively (even though Native American and Black youth were only 8.8% and 2.6% of the general population of youth, respectively). While arrests for Native American and Black girls were already disproportionate relative to the general population in 2014, this disproportionality worsened over the next few years. (See Table 14 below.) Between 2014 and 2017, arrests of Native American girls increased 70.4% (from 226 arrests in 2014 to 385 in 2017) and arrests of Black girls increased 101.1% (from 89 arrests in 2014 to 179 arrests in 2017). Thus, by 2017, White girls’ proportion of all girls’ arrests dropped to 66.7%, while the proportion of Native American and Black girls’ arrests jumped up to 24.1% and 10.0% respectively.

In accordance with trends among all girls, the spike in Native American and Black girls’ arrests was largest between 2016 and 2017. In this time, arrests of Native American girls increased by 38.5% (from 278 arrests in 2016 to 385 arrests in 2017) and arrests of Black girls increased by 72.1% (from 104 arrests in 2016 to 179 arrests in 2017).

Table 14: 2014 & 2017 Girls’ Arrests by Race

	Native American Girls		Black Girls		White Girls	
	# of Arrests	% Change 2014-2017	# of Arrests	% Change 2014-2017	# of Arrests	% Change 2014-2017
2014	226 arrests	+70.4%	89 arrests	+101.1%	956 arrests	+25.2%
2017	385 arrests		179 arrests		1,197 arrests	

Charges Contributing to Girls’ Spike in Arrests

Much of the 2014-2017 spike in girls’ arrests was associated with an increase in arrests for Family-Non Violent (unruly/ungovernable) and “All Other Offense” charges. Boys also saw an increase in these charge categories.

Between 2014 and 2017, there was a jump in juvenile arrests for unruly and ungovernable behaviors: There was a 253.8% increase (from 26 to 92) in girls’ arrests and a 173.1% increase (from 26 to 71) in boys’ arrests for Family-Non Violent charges.

During this time, girls also saw a 134.2% increase (from 184 to 431) in arrests for “All Other Offense”, which, as noted above, encompass a range of charges related to disobeying court orders and processes, as well as attempts to commit a number of offenses. There was a 35.7% (from 322 to 437) increase in boys’ arrests for this charge category.

Simple Assault and Drug/Narcotic Violations also contributed to the increase in girls’ arrests, with a 60.2% (from 93 to 149) and 62.2% (from 98 to 159) increase in those categories, respectively. For boys, arrests for Simple Assault increased by 19.8% (from 167 to 200) and arrests for Drug/Narcotic Violations decreased by 3.7% (from 300 to 289).

Native American and Black girls were disproportionately represented in the increase in girls’ Family-Non Violent (unruly/ungovernable) and “All Other Offense” arrests.

While all girls saw a 253.8% increase in arrests for Family-Non Violent charges between 2014 and 2017 (from 26 to 92 arrests), Native American and Black girls’ arrests for these charges increased 975% (from 4 to 43) and 700.0% (from 1 to 8), respectively.²⁴ Native American boys’ arrests for Family-Non Violent charges also increased greatly during this time, though not to the nearly same degree (increase of 400.0%*; from 3 in 2014 to 15 in 2017).

The disparity is also evident among “All Other Offenses”. While there was a 134.2% increase in all girls’ arrests for “All Other Offenses” between 2014 and 2017, Native American girls experienced a 221.4% increase (from 28 to 90) and Black girls a 176.9% (from 13 to 36) increase in arrests for these charges during that time. Black boys also saw a staggering increase of 161.1% (from 18 to 47), but there was only a 41.3% increase (from 46 to 65) among Native American boys.

Counties Contributing to Girls’ Spike in Arrests

The greatest surges in girls’ arrests between 2014 and 2017 were in West Fargo, Fargo, Devils Lake, and Bismarck, with Fargo and Bismarck being the most significant contributors to the overall spike due to volume.

Cass County experienced a staggering increase in girls’ arrests between 2014 and 2017. Specifically, there was a 145.7% (35 arrests in 2014 to 86 arrests in 2017) increase in West Fargo and a 105.0% (181 arrests in 2014 to 371 arrests in 2017) increase in Fargo. (See Table 15 below.) Devils Lake and Bismarck followed, with a 87.8% (49 arrests in 2014 to 92 arrests in 2017) and 57.1% (233 arrests in 2014 to 366 arrests in 2017) increase in girls’ arrests, respectively.

Table 15. Top Girl-Arresting Law Enforcement Departments, 2014 - 2017			
Law Enforcement Departments	# of Girls’ Arrests in 2017	% of All Girls’ Arrests in 2017	% Change 2014 - 2017
Fargo	371	20.7%	105.0%
Bismarck	366	20.4%	57.1%
Grand Forks	154	8.6%	36.3%
Devils Lake	92	5.1%	87.8%
West Fargo	86	4.8%	145.7%
Minot	85	4.7%	-22.0%
Mandan	74	4.1%	-14.0%

²⁴ Despite the small sample sizes, these numbers are still important to analyze and interpret because they accurately represent the experiences of girls in North Dakota at placement. However, there is a wider margin of error for proportions of smaller sample size and therefore should be noted if making cross-site comparisons.

Burleigh (Sheriff's Office)	51	2.8%	27.5%
Jamestown	48	2.7%	-14.3%
Cass (Sheriff's Office)	20	1.1%	5.3%
All Other	436	24.3%	22.5%

While boys also saw an increase in arrests in some of these jurisdictions, the percentage increase was not nearly as large.

While there was a 145.7% and 105.0% increase in girls' arrests in West Fargo and Fargo respectively, there was only a 15.8% and 21.9% increase in boys' arrests during this time. Similarly, boys saw a 39.2% and 33.3% increase in arrests in Bismarck and Devils Lake, compared to 57.1% and 87.8% increases in girls' arrests.

Table 16. Change in Arrests Among Top Law Enforcement Departments by Gender, 2014 - 2017		
Law Enforcement Department	% Change in Girls' Arrests 2014 - 2017	% Change in Boys' Arrests 2014 - 2017
Fargo	105.0%	21.9%
Bismarck	57.1%	39.2%
Grand Forks	36.3%	7.4%
Devils Lake	87.8%	33.3%
West Fargo	145.7%	15.8%
Minot	-22.0%	-43.2%
Mandan	-14.0%	-8.8%
Burleigh (Sheriff's Office)	27.5%	-24.7%
Jamestown	-14.3%	11.8%
Cass (Sheriff's Office)	5.3%	-41.0%

2014-2017 Change at Other System Points

The 2014-2017 increase observed in girls' arrests was similarly observed in girls' admissions to attendant care. Like arrests, the increase was also greatest between 2016 and 2017.

While there was an overall decrease of 5.1% in attendant care admissions for all youth between 2014 and 2017, this decrease was driven by a 26.6% drop in boys' attendant care admissions (from 304 boys' admissions in 2014 to 223 in 2017). In contrast, there was an 18.7% increase in girls' attendant care admissions during that time, bringing girls' proportion of all attendant care admissions up from 47.3% in 2014 to 59.2% in 2017 (see Table 17). This increase was concentrated between 2016 and 2017, when girls' attendant care admissions spiked 24.3% (from 260 to 323), while boys' attendant care admissions dropped by 23.6% (from 292 to 233).

In accordance with girls' arrests trends, the increase in girls' attendant care admissions was worse among Native American and Black girls.

Between 2014 and 2017, Native American and Black girls saw higher increases in admissions to attendant care: a 34.9% spike (from 83 to 112) in Native American girls' admissions and a 34.7% spike (from 23 to 31) in Black girls' admissions. However, there was no change in attendant care admissions for White girls during the same time. (See Table 17 below.)

Table 17: 2014 & 2017 Girls' Attendant Care Admissions by Race

	Native American Girls		Black Girls		White Girls	
	# of Admits	% Change 2014-2017	# of Admits	% Change 2014-2017	# of Admits	% Change 2014-2017
2014	83 admits	+34.9%	23 admits	+34.7%	151admits	+0.0%
2017	112 admits		31admits		151 admits	

Also in accordance with girls' arrest trends, the increase in girls' attendant care admissions were rooted in status offense charges.

Ungovernable and Runaway remained top charges among boys' and girls' admissions to attendant care between 2014 and 2017. However, there was a notable increase in girls' admissions for these two charge categories, compared to a decrease in boys' related admissions. Specifically, there was a 25.2% increase (from 123 to 154) in girls' attendant care admissions for Ungovernable behavior and a 30.4% (from 92 to 120) increase in girls' admissions for runaway charges, while boys saw a 12.0% decrease (from 133 to 117) in admissions for Ungovernable charges and a 30.3% (from 76 to 53) decrease in admissions for runaway charges.

Meanwhile, there was a decrease in girls' DJS custody and YCC treatment admissions between 2014 and 2017. (Note: 2014 detention data was not available for analysis.)

Between 2014 and 2017, there was a 38.7% decrease in girls' admissions into DJS custody (from 31 to 19 admissions). (See Table 18 below.) However, because boys saw a 52.7% decrease in DJS admissions during this time (from 108 to 51), girls' proportion of all DJS custody admissions actually increased from 22.3% to 27.1%. Girls' YCC treatment admissions also dropped (from 18 to 8 admissions), bringing their proportion of YCC treatment admissions down from 21.7% to 12.9%. Boys' YCC treatment admissions went from 78.1% to 87.1% (from 65 to 54) admissions in this time.

Table 18. Girls' Proportion of All Arrests and Admissions, 2014 and 2017

Year	Proportion of Arrests	Proportion of Attendant Care Admissions	Proportion of Detention Admissions	Proportion of DJS Custody Admissions	Proportion YCC Treatment Admissions
2014	35.2% (1,300)	47.3% (273)	<i>Data unavailable</i>	22.3% (31)	21.7% (18)
2017	41.1% (1,795)	59.2% (324)	36.6% (232)	27.1% (19)	12.9% (8)

Takeaways:

- Within the past 4-6 years, North Dakota has increased its punitive responses to status offense-like behaviors and other minor misconduct. This shift in approach has been the primary contributor to girls' current and unusually high proportion of the early system points and the stark disproportionality seen in the arrest and confinement of Native American and Black girls, particularly in the key jurisdictions of interest.
- Ending girls' incarceration will require a review and undoing of policy and practice changes that occurred primarily between 2016 and 2017 and that led to the increased arrest and detention (including attendant care) of youth who engage in status offense-like behaviors and other low-level charges.

DJS Placement Analysis by Gender and Race

Overview of findings:

- Girls composed 18.6% of youth who were in DJS custody in 2017²⁵, while accounting for 21.7% of all DJS placement admissions in that year.
- Girls who were in DJS custody in 2017 spent an average of 572 days in custody—an average similar to that of boys. However, girls spent slightly less time in each individual placement than boys, suggesting that girls were in more placements than boys during their DJS custody.
- Native American youth spent the most time in both DJS custody and in individual placements. Accordingly, among girls, Native American girls spend the most time in DJS custody and in individual placements.
- For both girls and boys, residential and detention facilities made up the largest category of placement admissions.²⁶
- Foster care as a DJS placement was predominantly used for Native American youth, particularly among girls.

In 2017, girls composed 18.6% of youth in DJS custody, while accounting for 21.7% of all DJS placement admissions.

Of the 231 youth who were in DJS custody in 2017, 43 (18.6%) were girls and 188 (81.4%) were boys. In 2017, those 43 girls had a total of 84 admissions to various DJS placements, while the 188 boys had a total of 303 admissions to DJS placements—meaning that girls accounted for 21.7% of all DJS placement admissions in 2017.

Girls who were in DJS custody in 2017 spent an average of 523 days in custody—an average similar to that of boys. However, girls spent slightly less time in each individual placement than boys, suggesting that girls were in more placements than boys during their DJS custody.

There was no statistical difference in girls' and boys' length of time in custody. Girls who were in DJS custody during 2017 spent, on average, 572 days in custody, while boys spent an average of 646 days in DJS custody. It is important to note that there was a small handful of girls and boys who spent over 1000 days in custody, which drove up the mean average for both groups.

Meanwhile, girls spent an average of 75.4 days in each DJS placement, which was approximately 20 days less than boys (who spent an average of 96 days in DJS placements). Girls' and boys' similar length of time in custody coupled with girls' shorter stay than boys in individual placements implies that girls were in more placements than boys during their DJS custody.

Native American youth spent the most time in both DJS custody and in individual placements. Accordingly, among girls, Native American girls spent the most time in DJS custody and in individual placements.

Native American girls spent longest average length of time in DJS custody (667 days), followed by White girls (540 days), Black girls (396 days), and "Other" girls (168 days). This places Native American girls as having the second highest average length of custody among all youth—following only Native American boys, who had the highest length of custody (746 days) among all youth with specified race (i.e., not including youth listed as "other" race).

²⁵ We define 'youth in DJS custody in 2017' as all youth admitted to DJS custody in 2017, plus all youth admitted to custody in an earlier year who were still in custody in 2017.

²⁶ Reasons for temporarily holding DJS-custody youth in detention facilities seem to vary and can include instances where youth runaway from a placement or have been arrested for a new charge. More exploration is required to fully understand this use of detention facilities.

Native American girls also had the highest average length of stay in placement (90.4 days) among girls, followed by White girls (66 days), Black girls (45 days), and “Other” girls (13 days). The most significant outliers across all girls included a Native American girl’s admission to foster care that lasted 601 days and a Native American girl’s admission to YCC treatment that lasted 293 days. Native American boys had the highest length of stay among all boys (108 days), followed by White boys (100 days), Black boys (70 days), and then “Other” boys (63 days).

For both girls and boys, residential and detention facilities (used for a temporary placement hold) made up the largest category of placement admissions.

Admissions to residential facilities accounted for 17.9% of all girls’ placement admissions in 2017, while admissions to detention facilities accounted for 16.7% of placement admissions. (See Table 19 below.) Compared to boys, a higher proportion of DJS girls’ placement admissions were to shelters, detention facilities, foster care placement, and psychiatric facilities. (Note: Given that all youth who entered DJS custody in 2017 were admitted to YCC for assessment, YCC assessment admissions was also a large category for all youth.)

Table 19. DJS Placement Admissions by Type of Placement and Gender, 2017		
	Girls’ Admissions	Boys’ Admissions
Independent Living	5 (6.0%)	14 (4.6%)
Foster Care	6 (7.1%)	13 (4.3%)
In-Patient Drug/Alcohol Facility	1 (1.2%)	5 (1.7%)
In-Patient Psychiatric Facility	5 (6.0%)	2 (0.7%)
Detention (Job Corp)	14 (16.7%)	35 (11.6%)
Jail (Job Corp)	3 (3.6%)	10 (3.3%)
Shelter Care/Homeless Shelter	3 (3.6%)	--
Job Corp (Job Corp)	1 (1.2%)	5 (1.7%)
Regional Treatment Center (Job Corp)	--	1 (0.3%)
Residential Facility²⁷	15 (17.9%)	63 (20.8%)
YCC Assessment	19 (22.6%)	51 (16.8%)
YCC Time Out	--	3 (1.0%)
YCC Treatment	8 (9.5%)	54 (17.8%)
AWOL	4 (4.8%)	31 (10.2%)
Total Admissions	84 (100%)	303 (100%)

²⁷ Residential facility combines data from Residential Child Care Facility (RCCF) and Residential Treatment Facility (RTF) given setting type. Most youth however, across boys and girls, were in RCCF.

Foster care as a DJS placement was predominantly used for Native American youth, particularly among girls.

In 2017, all of the 6 girls' DJS foster care placements were of Native American girls. Meanwhile, 7 (53.8%) of the 13 boys' DJS foster care placements were of Native American boys (with White boys constituting the other 6 foster care placements). This means that 68.4% of all DJS foster care placements were of Native American youth.

Takeaways:

- Girls and boys spend an average of 1.3 to 1.5 years in DJS custody. During that time, majority of placement admissions are to residential and detention facilities.
- Racial disparities persist both in length of time in custody and in length of stay in individual placements, with Native American youth spending the most time in custody and in placements.
- More exploration is needed to better understand the use of foster care placements through DJS custody and why it is being used more for Native American youth than for youth of other races.

Discussion: Summary of Key Takeaways and Recommendations for Continued Work

This section provides a summary of initial recommendations based on the data described above, numerous stakeholder interviews and discussions, and publicly available reports that were utilized to glean a greater understanding of the challenges facing and current continuum of resources available to girls in North Dakota. In particular, these recommendations build off of the Center of State Governments' (CSG) recent findings from their "Preliminary Assessment of North Dakota's Juvenile Justice System". While these recommendations will provide direction for the solutions development of the Initiative to End Girls' Incarceration in North Dakota, we hope that these recommendations can also inform the broader juvenile justice reform work that is currently underway throughout the state.

Reform Area 1: Decriminalize status offense-like behaviors and hold standard that youth should only be confined if a true public safety risk is present.

CSG wrote, "Families, school personnel and resource officers, law enforcement, and others refer youth that are young, unruly, and/or that have committed low-level offenses to the juvenile justice system, not because these young people are a public safety risk, but to get them services."²⁸ This is supported by the data findings above showing that majority of charges resulting in youth arrests and further system involvement are related to status offense-like behaviors, including runaway and conflict with family, as well other minor misconduct that pose no risk to public safety, such as low-level theft. It also comports with information shared by stakeholders in discussions with Vera staff.

In accordance with CSG's report, Vera recommends that North Dakota prevent the arrest and court-involvement of youth who engage in such noncriminal acts, which usually stem from adolescent developmental changes and/or service needs that have gone unmet. Punitive and criminalizing responses to such behaviors are:

- *Subject to unchecked biases, and perpetuate systemic inequities* – How a child's "acting out" is interpreted and responded to is largely dependent on the understanding (of youth development and ideas about acceptable social norms) and biases (including racial, cultural, and gender biases) of the adults and systems responding to them, as well as the availability of community-based supportive service for youth and families. As CSG identified in their review of resources, many children are unable to access services without juvenile justice system involvement, and service challenges in North Dakota are most acute in rural, poor, and tribal communities.

²⁸ Josh Weber, Jacob Agus-Kleinman, and Emily Rogers, *Preliminary Assessment of North Dakota's Juvenile Justice System* (New York: Justice Center The Council of State Governments, 2020), 4. *Note:* This is a draft version.

- *Harmful to youth and lead to worse outcomes* – Punitive and court-based responses to status offenses fail to provide youth with proper supports and, instead, expose them to the damaging effects of the justice system. Even the experience of being in court has been shown to increase the likelihood that youth will engage in future criminal activity, and the negative impacts of out-of-placement have been long established.²⁹
- *A misuse of expensive resources* – Community-based prevention and diversion programs, especially non-residential options, are generally much less expensive than the cost of court resources and incarceration, as well as indirect long-term cost of punitive responses (such as recidivism and loss of future earnings).

See Vera’s reports, “[Just Kids: When Misbehaving Is a Crime](#)” and “[Girls Matter: Centering Gender in Status Offense Reform Efforts](#)”, for more information.

Although it appears that there are gaps in the current continuum of community-based services particularly for girls of color (discussed further below), justice system stakeholders should work to continue to divert girls who are coming into contact with the justice system by rigorously applying the standard that girls and all youth should only be arrested or confined if a public safety risk is present.

In 2017, North Dakota had 1,795 girls’ arrests and 556 girls’ admissions to detention and attendant care combined, but only 19 girls’ admissions into DJJ custody. This, combined with the low severity of charges, suggests that many girls are being unnecessarily arrested and detained, which is harmful even if they are not making their way into long-term, out-of-home placements. Communities across the country are successfully implementing alternative responses to arrest for young people by creating connections between police departments and community-based organizations.

Research by North Dakota’s Dual Status Youth (DSY) Initiative showed that many girls who enter the state’s juvenile justice system are also involved in the child welfare system. While girls account for roughly 41% of juvenile arrests, they make up a slightly higher proportion of DSY: 45.6% of DSY in foster care and 46.4% of DSY in in-home programs.³⁰ As status offense and minor misconduct behaviors are often a child’s response to underlying problems, it is important that efforts to decriminalize status offenses and divert other low-level cases pay close attention to DSY girls and how their histories, experiences (including the contexts created by the child welfare system itself), and resources contribute to their pathways into the juvenile justice system. (This an important area for further exploration towards ending girls’ incarceration. See p.30.)

The juvenile justice system is an inappropriate and harmful means of providing services to youth to pose no risk to public safety. What’s more, if the juvenile justice system continues to take on these low-risk cases, allowing other systems to use the juvenile court as a last resort, community-based providers and other child-serving systems are not required to develop alternative responses.

In North Dakota, the decriminalization of status offenses, along with the prearrest and early diversion of other low-level offenses, would not only drastically reduce the overall size and footprint of the juvenile justice system, but would nearly end girls’ incarceration.

Potential Solutions:

1. **Decriminalize status offense-related behaviors and charges**, restricting all arrests and court-referrals for such charges.

²⁹ Jafarian and Ananthakrishnan *Just Kids*, 14.

³⁰ Robert F. Kennedy Children’s Action Corps, *North Dakota Dual Status Youth Initiative: Final Report* (Boston: RFK Children’s Action Corps, 2018).

2. **Eliminate confinement for status offense-related charges and other low-level and low-risk cases, as well confinement intended to ensure girls' own safety and well-being.** To advance girls' freedom and maintain the standard of keeping and supporting youth at home and in their communities, this includes:
 - a. **Eliminating the use attendant care as a mandated, justice system option and considering shifting the program to a voluntary, preventive resource.** While stakeholders describe attendant care to have some benefits for youth, the program requires police/justice involvement and involuntary removal from home. Program models such as attendant care should be revisited to find ways to provide any beneficial program elements without these foundations.
 - b. **Eliminating the use of confinement to conduct assessments.** All efforts should be made to conduct assessment in the community and within the shortest amount of time as possible.
 - c. **Eliminating the use of juvenile justice-mandated out-of-home placements to residential and treatment facilities, as well as re-examining the use of DJS custody to place youth in foster care and other options that may be best determined separate from their justice involvement and by other systems.** While the Initiative must further examine the use of and legal mechanisms behind various DJS placement options, advancing young people's freedom would require that North Dakota separate decisions around youth treatment, housing, and permanency from their offenses and justice involvement. Juvenile justice-mandated out-of-home placements are criminalizing, and such placements and services should generally be accessed through health, child welfare, housing, and other supportive systems. Given findings around the use of DJS foster care placements among Native American youth compared to other youth, it is imperative that the use of these placements be examined with an analysis of both race and gender.

3. **Develop specific, written criteria for diversion eligibility, including defining cases that should always be diverted.** As North Dakota looks to revise its juvenile justice statute and provide clearer guidance to courts and system actors across the state, it is important that status offenses and other low-level cases that pose no risk to public safety be clearly articulated as cases that should not enter the juvenile justice system, detention facilities, or DJS placements.

4. **Review policy and practice changes that may have contributed to the spike in girls' arrests around 2016-2017 and work to reduce arrests for low-level offenses.** The state's reliance on police and punitive responses to girls' misconduct has become increasingly problematic. It is important that the efforts explore changes in policy and practice that have led to this change in order to identify the reforms and service gaps that need to be addressed, including developing alternative, community-based responses that can be used in place of calls to police (see Reform Areas #2). These efforts should include focus on preventing the arrests of Native American and Black girls, as well as on the key jurisdictions of Fargo/West Fargo, Bismarck, Grand Forks, and Devils Lake.

5. **Facilitate cross-systems discussions around definitions of risk, safety, and well-being, as well as the overall goal and objectives of the juvenile justice system.** As noted by CSG, North Dakota stakeholders share different understandings of the juvenile justice system and there is little to no state-wide guidance around juvenile justice standards. Facilitated discussions could create greater alignment in overall strategy for achieving well-being and safety, as well as help to clarify the role of each system in responding to girls in or at risk of entering the justice system.

Reform Area 2: Ensure that gender-responsive approaches are embedded across the community-based continuum of care, particularly in preventive and early diversion programs.

While North Dakota's juvenile justice system has an extensive array of diversion programs, these services are not accessible to youth outside of court. As the DSY Initiative and CSG both stated in their findings, families and systems believe that they must rely on courts to get access to services for youth, encouraging

system involvement and incarceration where it could have been avoided.³¹ To reduce the state’s reliance on police response, court involvement, and the use of attendant care and detention for girls, programmatic investments must be made to develop a continuum of community-based, gender-responsive, preventive and pre-arrest diversion programs that girls and families can access for support early on to avoid court involvement altogether.

Further, while the juvenile justice system’s current continuum of diversion resources is effective for many of the young people referred to court, it does not currently include explicitly gender-responsive resources, especially around complex gendered issues like sexual abuse and trafficking. The girls that are still entering DJS custody and placement have needs that were unable to be met by existing community-based services and diversion options. For most girls still entering detention and placement, there either wasn’t a program deemed appropriate to allow them to succeed in the community, or the current continuum of programs has been tried but failed to meet their needs. Providers report the need and desire to better understand and develop gender-responsive programming and that there are particularly clear gaps in programming for Native American, Black, and New American girls, as well as LGB/TGNC youth.

For background on gender-responsiveness and more information on developing an effective continuum of gender-responsive programming, see Appendix B.

Potential Solutions:

1. **Require training on gender-responsive, culturally responsive, and trauma-informed care for contracted providers, including training on the role of gender as a social determinant of health for all young people—girls, boys, and LGB/TGNC youth.** Trainings would include curriculum explaining the ways that gender factors into family and social relationships within children’s lives, shaping young people’s access to community resources and informing the context of trauma and trauma treatment (i.e. the type of harm people experience, who inflicts the harm, and the response to that harm). Training should be delivered in a manner that attends to the intersection of gender with culture, ethnicity, race, and economic status.
2. **Explore opportunities for shifting programs to serve as preventive and early diversion options that prevent rather than require court involvement.** Doing so not only avoids the harm of unnecessary court involvement, but makes it easier for young people and families to establish and retain relationships over time, rather than disrupting relationships contingent on the life of a court case.
3. **Ensure that current diversion programs are supported to implement gender-responsive approaches within their models.** North Dakota has successfully built an array of diversion options, including restorative justice programs, day reporting, youth court, and Youth Cultural Achievement Program (YCAP), to name a few. However, it is important that staff are also well trained in how gender is a factor in family and social relationships within children’s lives, shaping young people’s access to community resources, and also informing the context of trauma and trauma treatment.
4. **Invest in developing new programs that are both gender-responsive and culturally competent, particularly for better serving and developed in collaboration with Native American, Black, and New American girls and LGB/TGNC youth.** There is an array of model programs that could greatly benefit girls and LGB/TGNC youth in North Dakota (see Appendix B), and providers, such as Lutheran Social Services, have already indicated interest in developing new gender-responsive programs. For example, an advocacy-based program similar to the [ROSES](#) model, which could be referred to or implemented by credible messenger mentors or advocates in a community-based program, is both flexible and low cost, making it an ideal program options for jurisdictions struggling to provide support

³¹North Dakota Dual Status Youth Initiative: Final Report, 2018; CSG’s Preliminary Assessment of North Dakota’s Juvenile Justice System, 2020.

services to youth in rural areas. A program such as SOUL Sister Leadership Collective's Circles Not Cells program uses restorative practices to resolve conflict and heal relationships between girls and non-binary youth and the adults in their lives. This program could be an important resource for North Dakota families who are struggling with conflict and children's status offense-like behaviors.

However, as shown throughout the findings in this memo, the experiences of Native American and Black girls differ from that of White girls, and those disparities also differ from those that exist for Native American and Black boys. To effectively reduce girls' system involvement, North Dakota will need to tailor solutions for specific populations, and youth input and partnership is important to ensuring that programs successfully meet their unique needs.

Reform Area 3: Ensure that all juvenile justice reform efforts, as well as other child-serving agencies and cross-agency collaborations, examine data by both gender and race, including data on sexual orientation, gender identity, and gender expression (SOGIE).

Potential Solutions:

1. **Ensure that any statewide or local juvenile justice reform work—including that of DJS, the Dual Status Youth Initiative, Juvenile Justice State Advisory Group, the Commission on Juvenile Justice, and/or the Interim Judiciary Committee—systematically consider gender alongside race in their analysis and solution development to ensure that all youth are best served.**
2. **Ensure that all agencies improve data collection and reporting on LGB/TGNC and Gender expansive youth.** Accurate data is essential to understanding the experiences of young people in public systems and making appropriate investments in subpopulations. Most jurisdictions across the country lack consistent data collection methods to capture young people's SOGIE. North Dakota could invest in a cross-systems approach to standardize SOGIE collection that would allow policy makers to better understand the disproportionalities across systems and clearly show the ways that LGBTQ youth are pushed between systems. Before implementing a system, special attention must be paid to developing policies that protect young people from retaliation or poor treatment based on disclosure of SOGIE information and investing in training for staff completing the intake forms. Some probation agencies in California have been focused on improving data collection in partnership with Impact Justice and the National Center for Lesbian Rights. For more information on collecting data and responding to LGB/TGNC children involved with the juvenile justice system—including a suggested questionnaire for collecting sexual orientation and gender identity data—see their toolkit: [Lesbian, Gay, Bisexual, Questioning and/or Gender Non-Conforming and Transgender Girls and Boys in the Juvenile Justice System: A Practice Guide](#)

Areas for Future Exploration

As described above, this report describes a broad range of recommendations that could be explored but it is not a prioritized or exhaustive list of recommendations to be provided through our Initiative. Areas for further exploration include but are not limited to:

- Girls' crossover between the child welfare, behavioral health, and juvenile justice systems, including North Dakota's use of residential treatment centers, foster care, and other out-of-home placement options through DJS custody
- North Dakota's state of commercial sexual exploitation of children (CSEC) and continuum of services for trafficked youth, including housing resources, survivor-led interventions, and peer-based supports for girls and LGB/TGNC youth who have been trafficked
- Effective community-based resources that currently specialize in serving Native American, Black, or New American girls and LGB/TGNC youth, and that have potential to build upon their capacity or to support North Dakota improve its continuum across the state
- School-based arrest practices across the state

Appendix A: Description of Datasets

Below, we describe each of these datasets, as well as the variables used to analyze each dataset and a list of tables that reference data from each dataset.

1. Arrest data provided by the North Dakota Bureau of Criminal Investigations (years 2014-2017):
 - a. **Dataset description:** this dataset included information of all arrests of youth in North Dakota between 2014-2018. Specifically, this included all arrests, along with the arrest charge, arresting law enforcement department (LED), and demographic information (race/ethnicity and gender) of each arrest. This dataset was provided in aggregated form, and was provided at the **arrest level**, meaning that each row represented one arrest. Because the information was provided in aggregate form, we were not able to restructure the data at the charge or individual level.
 - b. **Variables:**
 - i. **County of arrest:** County of arrest was analyzed through the *Jurisdiction (Agency)* variable based on location of agency, which captured the arresting law enforcement agency including police departments and sheriff's offices. Where appropriate (as defined by local stakeholders), data from some sheriff's offices were combined with the police department in that locality.
 - ii. **Charge:** Charge was analyzed through a *Charge* variable. Because top charge could not be determined from the aggregated dataset, these analyses examined all charges associated with an arrest.
 - c. **Tables:**
 - i. **Table 2:** Admissions Across System Points by Gender, 2017
 - ii. **Table 3:** Girls' Admissions Across System Points by Race, 2017
 - iii. **Table 4:** Girls' Top 5 Charges Across System Points, 2017
 - iv. **Table 5:** Boys' Top 5 Charges Across System Points, 2017
 - v. **Table 7:** Girls' Top 10 Girl-Arresting Law Enforcement Depts, 2017
 - vi. **Table 8:** Boys' Top 10 Girl-Arresting Law Enforcement Depts, 2017
 - vii. **Table 9:** Race Disparities by Girls' Arrests by County, 2017
 - viii. **Chart 2:** Number of Arrests by Gender, 2014-2017
 - ix. **Chart 3:** Proportion of Arrests by Gender, 2014-2017
 - x. **Table 14:** 2014 & 2017 Girls' Arrests by Race
 - xi. **Table 15:** Top Girl-Arresting Law Enforcement Departments, 2014-2017
 - xii. **Table 16:** Change in Arrests Among Top Law Enforcement Departments by Gender, 2014-2017
 - xiii. **Table 18:** Girls' Proportion of All Arrests and Admissions, 2014 and 2017
2. Attendant Care data from the North Dakota Association of Counties web-based application (years 2014-2018)
 - a. **Dataset description:** this dataset included all admissions to nine attendant care facilities across North Dakota between 2014-2018. Specifically, this included all attendant care admissions, county of admission, and reason for detention. This dataset was provided at the **admission level**, meaning that each row represented an admission to attendant care. To understand all charges associated with admissions to attendant care and because top charge could not be determined, the data was restructured to the **charge level** to understand all charges associated with a given admission.
 - b. **Variables:**
 - i. **County:** County as analyzed through the variable *ResidenceCode*.
 - ii. **Charges:** Charges were analyzed through the variables *ReasonforDetention1* and *ReasonforDetention2*.
 - iii. **Facility:** The variable *Facility* was used to understand admissions for each of the nine available facilities,
 - c. **Tables:**
 - i. **Table 2:** Admissions Across System Points by Gender, 2017

- ii. **Table 3:** Girls' Admissions Across System Points by Race, 2017
 - iii. **Chart 2:** North Dakota's Rate of Detention and Attendant Care (combined)
 - iv. **Chart 3:** Girls' System Involvement by Race, 2017
 - v. **Table 4:** Girls' Top 5 Charges Across System Points, 2017
 - vi. **Table 5:** Boys' Top 5 Charges Across System Points, 2017
 - vii. **Table 10:** Top Counties of Residence Among Girls' Attendant Care and Detention Admissions
 - viii. **Table 11:** Top Counties of Residence Among Native American Girls' Attendant Care and Detention Admissions
 - ix. **Table 12:** Top Counties of Residence Among Black Girls' Attendant Care and Detention Admissions
 - x. **Table 17:** 2014 & 2017 Girls' Attendant Care Admissions by Race
3. Detention data from the Division of Juvenile Services for detention (years 2017-2018)
- a. **Detention description:** this dataset included all admissions to YCC and non-YCC detention admissions between 2017-2018. While originally two different datasets, admissions to YCC and non-YCC were merged to fully understand all youth admissions and charges to detention in 2017 and 2018. Specifically, this dataset included all non-YCC and YCC detention admissions, county of residence, entry into and out of detention, and admission charges. The YCC detention dataset was originally provided at **the level of charges**, meaning that each row represented a charge associated with a detention admission. The non-YCC detention dataset was originally provided at the **level of admission**, meaning that each row represented an admission of a youth. To understand charges and admissions associated with girls' and boys' detention admissions, the merged non-YCC and YCC detention dataset was restructured at both the admission and charge level, meaning that there were two final merged datasets encompassing all admissions and charges to detention in 2017 and 2018. Charge analyses similarly include all charges associated with a given admission because top charge could not be determined.
 - b. **Variables:**
 - i. **Admissions length of stay:** To generate length of stay in the final merged dataset, the time between the in and out dates were calculated. In the original non-YCC dataset, these variables were *TimeDateReceived* and *TimeDateReleased*. In the original YCC dataset, these variables were *In_Date* and *Out_Date*.
 - ii. **Admission:** The *Booking_NO* variable from the original YCC detention dataset was used to aggregate the charge level data, to the admissions level data.
 - iii. **County:** County was analyzed through the *ResidenceCode* variable from the original non-YCC dataset, and *County_Residence* variable from the original YCC datasets.
 - iv. **Charge:** Charge was analyzed through the *ReasonforDetention1* and *ReasonforDetention2* variables from the original non-YCC dataset, and the *Description* variable from the original YCC dataset.
 - c. **Tables:**
 - i. **Table 2:** Admissions Across System Points by Gender, 2017
 - ii. **Table 3:** Girls' Admissions Across System Points by Race, 2017
 - iii. **Chart 2:** North Dakota's Rate of Detention and Attendant Care (combined)
 - iv. **Chart 3:** Girls' System Involvement by Race, 2017
 - v. **Table 4:** Girls' Top 5 Charges Across System Points, 2017
 - vi. **Table 5:** Boys' Top 5 Charges Across System Points, 2017
 - vii. **Table 10:** Top Counties of Residence Among Girls' Attendant Care and Detention Admissions
 - viii. **Table 11:** Top Counties of Residence Among Native American Girls' Attendant Care and Detention Admissions
 - ix. **Table 12:** Top Counties of Residence Among Black Girls' Attendant Care and Detention Admissions

Two datasets were used to understand confinement (YCC admissions data and placement data, both from Division of Juvenile Services). These datasets provided some overlapping information and some distinct information about confinement. This report uses data from the YCC admissions dataset to provide information about number of admissions, charges, and length of stay for each admission for YCC assessment, treatment and timeout. We use data from the Placement dataset to describe admissions to family placement, residential facilities, in-patient psychiatric facilities, drug and alcohol facilities, foster care, independent living and job corps facilities.

4. YCC admissions data from the Division of Juvenile Services for placement (years 2014-2018).
 - a. **Dataset description:** this dataset included information of all YCC charges and admissions between 2014-2018. Specifically, this included all charges and admissions to YCC assessment, treatment, and timeout over the four-year period. This dataset was initially provided at the **charge level**, meaning that each row represented a charge associated with an admission. To understand charges associated with girls and boys YCC admissions, as well as admissions trends by gender, analysis were conducted at the **charge level**, and then restructured to understand **admissions to YCC assessment, treatment, and timeout**. Charge analyses included all charges associated with a given admission, because top charge could not be determined. Finally, the structure of this dataset did not allow us to examine individual youth.
 - b. **Variables:**
 - i. **Admissions length of Stay:** To generate length of stay, the time between variables *IN_DATE* and *OUT_DATE* for each admission were calculated.
 - ii. **Admission:** The *Booking_NO* variable was used to aggregate the charge level data, to the admissions level data
 - iii. **Charge:** Charge was analyzed through the variable *Description*
 - iv. **Type of charge:** Type of charge was analyzed with the *Type* variable
 - c. **Tables:**
 - i. **Table 2:** Admissions across system points by gender, 2017
 - ii. **Table 3:** Girls' admissions across system points by race, 2017
 - iii. **Table 4:** Girls' top charges across system points, 2017
 - iv. **Table 5:** Boys' top charges across system points, 2017
 - v. **Table 13:** Top 3 counties of residence among girls' DJS custody and YCC treatment admissions, 2017
 - vi. **Chart 3:** Girls' system involvement by race, 2017
5. Placement data from the Division of Juvenile Services Placement (years 2014-2018)
 - a. **Dataset description:** this dataset included information on all Placement admissions to DJS between 2014-2018. Specifically, this included all admissions to family placement, as well as residential facilities, YCC assessment, treatment, and timeout, in-patient psychiatric facilities, drug and alcohol facilities, foster care, independent living, and job corp facilities. This dataset was originally provided at the **admission** level, meaning that each row represented an admission to placement. While most analyses were conducted at the admissions level, the data was also restructured to understand the length of time **individual youth had throughout custody**. Therefore, a single youth has one custody term, that can (and often did) encompass multiple placement admissions.
 - b. **Variables:**
 - i. **Admissions length of stay:** To generate length of stay for each placement admission, the time between variables *OFFENDER_START_DATE* and *OFFENDER_END_DATE* were calculated.
 - ii. **Placement category:** To identify patterns of admissions to different placement types by gender, the variables *OMS_OWNER_PROGRAM_SERVICES_DESCRIPTION* and *OMS_OWNER_COURSE_ACTIVITIES.DESCRPTION* were used. This included the

placement category (e.g, residential facility, job corp) and the specific location of the youth.

1. We note that all family placements were excluded, and only institutional placements (job corp, AWOL, residential facilities, in-patient treatment, foster care, and independent living) were used. This was done because many family placements included home visits, and there were no way to identify which in particular represented family visits back home.
 - iii. **Custody length of stay:** To generate length of stay for each custody admission, the time between variables *CustodyIN_DATE* and *CustodyOUT_DATE* were calculated.
 - iv. **Individual:** The *UniqueOffender* was used to aggregate the admission level data, to the individual level data.
- c. **Tables:**
- i. **Table 19:** DJS placement admissions by type of placement and gender, 2017. Please note: although most of Table 19 incorporates data from the placement dataset, the numbers for YCC assessment, treatment, and timeout were taken from the YCC admissions dataset. This decision was made because the YCC assessment data was deemed a higher quality indicator of YCC admissions.³²

³² Because of the different structure of the YCC assessment and placement datasets, the only point of comparison across the two is for admissions to YCC assessment. These numbers were similar (within 5 youth), but not identical, across the two datasets. This is likely due to differences in the way the data was captured and stored, and to idiosyncrasies in system flow.

Appendix B: Developing an Effective Continuum of Gender-Responsive Programming

This appendix includes descriptions of model programming and best practices from around the country as well as links to reports with additional information on programming or practice.

Background on Gender-responsive Approaches

Despite the fact that girls now make up an increasing proportion of the country's juvenile justice population, there are few effective, evidence-based interventions that are targeted to girls. Research that does exist has shown that gender-neutral programs are significantly less effective than gender-responsive programs for girls. As of 2015, only 13 programs were in existence for girls in the juvenile justice system, comprising a proportion of 6% of all programming for youth in the justice system.³³ Recent reviews, research, and government-led study groups examining effective gender-responsive programming suggest that the most promising elements in programming for girls include the following:

- Relational (e.g. attention to health romantic and non-romantic relationships)
- Restorative (e.g. scaffold skills for navigating the justice system with attention to trauma histories)
- Socio-culturally anchored (e.g. attention to the intersectional identities of girls)
- Individualized (e.g. tailored to meet a variety of needs)
- Multi-level (e.g. girls' individual, peer, family, community, and multiple systems of involvement are targeted)
- Community-based (e.g. provided flexibly in youth's natural communities)
- Strengths-based (e.g. orientation on positive development, resisting deficit-orientation and promoting skills and assets in the child.)

According to a review of the literature on gender responsive programs compared to gender-neutral programs by researchers at New York University³⁴, there are two theoretical underpinnings that broadly explain the shared strengths of gender-responsive programming compared to programs that are not gender-responsive:

1. *Ecological theory*: stresses the importance of understanding a child and his/her behavior in the context of the many environments or ecosystems surrounding them—from proximal social environments (such as family, school, and community) to more distant environments (such as socio-cultural and economic realities). To effectively mitigate the risk factors and increase the protective factors that contribute to girls' delinquency or other behavioral challenges, interventions must focus on changing the conditions of girls' lives by actively intervening in their proximal social environments.
2. *Empowerment theory*: asserts that people experience greater well-being when they have greater control over their lives. Yet, youth often lack decision-making control over important areas of their lives. Empowerment theory underpins the success of strengths-based elements of effective gender-responsive programming, which allow decision-making authority regarding the focus and direction of the intervention to be driven by the girls being served, empowering them to advocate for themselves and drive the change of their environments

An effective continuum of gender-responsive programming should include programming options rooted in the following approaches:

³³ Shabnam Javdani and Nicole E. Allen, "An Ecological Model for Intervention for Juvenile Justice-Involved Girls: Development and Preliminary Prospective Evaluation," *Feminist Criminology* 11, no. 2 (2016), 135-162.

³⁴ Ibid.

Advocacy-based Approaches

Interventions targeted at girls in the juvenile justice system are often rooted in common conceptualizations of girls' delinquency that focus on girls' individual personality differences (e.g. deviance)³⁵ and risky proximal contexts (e.g. abuse histories, poor parenting),³⁶ which has resulted in system responses and interventions that are person-centered (e.g. behavioral modification) and/or person-mediated (e.g. family therapy) in their orientation. Overall these approaches are referred to as "medical model" styles of interventions because they locate and treat the problem within the individual.

However, research suggests that personal characteristics and immediate environment only account for about 50 percent of factors associated with behavior deemed delinquent.³⁷ Institutional, community, and societal factors also play a large role in shaping girls' physical and mental health, their behaviors, and how others and systems respond to them. Race, gender, and class, in this view, are not merely identity traits but social systems that shape youth's development, well-being, access to resources, and, in turn, justice involvement.

An alternative approach to interventions, referred to as an "advocacy model" takes into consideration the power-dynamics and gendered experiences that exist independently of girls' individual characteristics (e.g. identifying obstacles to and developing strategies for accessing housing services).³⁸ Rather than exclusively targeting girls' behaviors or interpersonal relationships, this more holistic approach is centered around promoting girls' overall well-being by uplifting their resilience towards and building their capacity to directly change contexts and available resources.

In advocacy-based models, girls meet with advocates who support them in outlining and meeting their self-determined goals. Giving girls full agency over the focus of intervention in their lives validates their expertise as it relates to their own lived experience. Meanwhile, advocates support girls by demystifying strategies for obtaining resources and helping them recognize their strengths, assets, and capacity for self-advocacy. Rather than looking inward as medical model interventions do, this type of approach takes into consideration the impact that girls' environments have on their behaviors and development and promotes their rights to break down oppressive contexts in their lives. See below for some key differences between the two approaches:

Medical Model³⁹	Advocacy Model
Centrality of diagnosis	Centrality of rights
Need for Symptom Reduction	Need for strength enhancement
Doctor as "expert"	Advocate as "collaborator"
Patient as compliant	Patient as expert
Location of the problem: the person	Location of the problem: the context

Advocacy-based interventions have more commonly been applied in the context of victim services for survivors of domestic and sexual violence, but new program models that emphasize this framework within delinquency prevention and juvenile justice alternatives are emerging. Research is currently underway to evaluate their effectiveness. The preliminary findings that have been released demonstrate their success at increasing resilience and self-efficacy, while reducing delinquent behaviors, internalizing symptoms (e.g. anxiety and depression), substance use, sexual risk taking, and state and trait anger.⁴⁰

³⁵ Nicole M. Hochhausen, Amanda R. Lorenz, and Joseph P. Newman, "Specifying the Impulsivity of Female Inmates with Borderline Personality Disorder," *Journal of Abnormal Psychology* 111, no. 3 (2002), 495-501.

³⁶ Ronald L. Mullis, Thomas A. Cornille, Ann K. Mullis, and Jessica Huber, "Female Juvenile Offending: A Review of Characteristics and Contexts," *Journal of Child and Family Studies* 13, no. 2 (2004), 205-218; Shabnam Javdani, "Gender Matters: Using an Ecological Lens to Understand Female Crime and Disruptive Behavior," In: Russell B. (eds) *Perceptions of Female Offenders*. Springer, New York, NY (2013).

³⁷ Ibid.

³⁸ Ibid.

³⁹ Javdani, S. and Allen, N., *Ecological Modell*, 35

⁴⁰ Javdani and Allen, *Ecological Model*, 35.

Importantly, these models achieve symptom reduction in mental health and reduce delinquency *without* directly targeting behavior, but by focusing purely on supporting the girl to define the environmental contexts and root causes that underlie the challenges she may be facing or to exercise power in seeking solutions. In that way, this approach aligns with social determinants of health models in public health.

Advocacy-based models should be emphasized as part of the continuum of services offered to girls, but this is not to suggest that treatment-based interventions or family therapy models are not important. The advocacy-based approach offers an alternative that can be utilized for girls who may not have had success in traditional treatment-based programs, don't require or are not ready to engage in traditional mental health treatment, or as a complement to treatment for girls receiving mental health services. Additionally, advocacy approaches can offer essential flexibility and individualized support that highly structured treatment models often can't offer.

Social Justice and Collective Leadership as Healing

Many gender- and culturally-responsive programs for girls and gender expansive youth of color hold as a core value that education in social justice is a practice of freedom and that learning about social justice is a key part of the healing journey for systems involved girls. According to the definition of gender-responsiveness above, gender-responsive programming must recognize and attend to the ways in which girls' deeply oppressive environments have impacted their lives and contributed to the behaviors that led them to the justice system.

Many, if not most, system-involved girls disclose not only abuse, particularly sexual abuse, but the complicity of public systems in either perpetuating the abuse or failing to respond in a way that they feel was meaningful. Therefore, for these girls, it is insufficient to use traditional social service tools of mental health treatment and case-planning that do not begin by first addressing the way that systems have caused harm. Rapport has to be developed by acknowledging not just trauma and abuse, but naming that sexual and intimate partner violence reflect larger systems of control over women and girls (largely, though not exclusively by men) and that public systems can have and have had a role in exacerbating these harms.

Frequently, girls have not developed the language to articulate the ways in which systemic and institutional racism and sexism have intersected with their individual lives. This understanding is crucial to developing the skills they need to pursue their individual freedom from these systems of oppression. Services must offer the opportunity to name and recognize these harms—alleviating a sense of shame and pathology that many girls hold—by allowing them to connect their experiences to a broader system and set of systems that have contributed to their experience, to see their own healing as part of a larger struggle. Some of the most effective programs we have seen build on this shared experience to develop a sense of community and sisterhood, which combats girls' feelings of isolation, and foster collective leadership by providing a space and opportunities for girls to come together and organize towards dismantling shared systems of oppressions.

Economic Justice as Healing

Girls in the juvenile justice system require support with economic sustainability that is gender-responsive. These supports must be able to attend to the symbiotic relationship between girls' experiences of trauma, abuse, and marginalization and their economic opportunities. When girls lack economic and/or familial stability, they may be forced to find ways to care for themselves and turn to activities—including sex trafficking—that put them at risk of harm and system involvement. Vera's Youth Advisory Council members described how the need to subsist forced them to grow up and into dangerous situations. One member who grew up in the child welfare system and was trafficked said: "I had to take care of myself at the age of 11. It was really hard. I was out there doing things that I didn't want to do but I was basically forced to do."

Although trauma can limit girls' educational or economic opportunities and push them into street economies, conversely, cultivating economic opportunity can be one of the strongest factors in freeing girls from street economies and protecting them from future trauma and system involvement.

Restorative Justice and Practices

Rather than focusing on laws and rules that are broken or the punishment that should be imposed on people who broke them, restorative justice practices center and attend to the harms done and the people who are affected by those harms. Restorative circles are opportunities for collective healing and learning, where involved parties come together to talk through problems, assign responsibility, and repair harms. Circles and other programming rooted in restorative practices offer girls safe spaces in which they can be supported and heard, transform their relationships and build community with those around them, and to grow as individuals. Meanwhile, by empowering girls and adults to peacefully problem solve and mend relationships, restorative programs equip adults with the tools they need to shift their responses to everyday conflicts and harms and reduce their reliance on police and justice system interventions.

Peer-Based Supports

Providing girls with the opportunity to be supports or mentors to their peers around shared experiences is another effective approach to empowering girls by reinforcing their expertise and sense of self-worth, helping them develop important life skills, and strengthening their support networks. Despite literature across fields pointing to the effectiveness of peer-based supports, peer support movements have been slow to catch on within the juvenile justice context. Programs often prohibit anyone with criminal records from volunteering or working with justice-involved youth and fears about so-called "peer contagion" have prevented many justice systems from investing in peer support models. Evaluations of credible messenger programs within the justice context, however, have shown these models to be effective.⁴¹ Some programs operate on models that promote youth leadership by developing a track for participants to administer programming after they've completed the program. This simultaneously developed and fosters youth leadership and sense of community while also creating an economic opportunity for young people.

Model Programs

Vera has identified the following as models of effective, gender-responsive programs rooted in the above principles:

1. Young Women's Freedom Center

Location: San Francisco, San Jose, Oakland, and Los Angeles, California

A national stand-out in serving girls in the deep-end of the justice system, Young Women's Freedom Center (YWFC) is a leadership and advocacy organization developed and led by cis and trans women of color involved in the justice system. YWFC incorporates research-informed components of ecological and empowerment theory into its infrastructure and programming, building a community of healing and empowerment for girls. The program combines site-based work with street outreach to engage young people who "have grown up in poverty, experienced incarceration, worked in the underground street economy, and who have been criminalized by social services such as foster care, welfare, public education, and the mental health system."

YWFC describes their work as follows:

We work to build our personal and collective power, to heal from trauma, to advocate on behalf of ourselves and our sisters, and to change the systems, policies, services, and narratives that ensnare young women of color, poor young women, and queer and transgender young women in cycles of violence, economic marginalization, incarceration, and self-destruction.

⁴¹ Ruben Austrian and Julie Peterson, "Credible Messenger Mentoring for Justice-Involved Youth," *The Pinkerton Papers* (2017).

This description is operationalized in the core elements of the YWFC model, including:

- Inclusivity in terms of sexual orientation, as well as gender identity and expression;
- Individual personal empowerment, advocacy, and healing;
- Group work with girls and gender-expansive youth and opportunities for peer leadership;
- Economic opportunities coupled with progressive leadership development through stipends for program participation, internships, employment and engagement in advocacy and organizing work;
- Assertive outreach that meets young women where they are: on the streets, in jail, and in the community and works with them over an extended period of time to provide support, advocacy, and opportunities for healing.
- Life-coach style mentoring to help girls build skills in life-planning and goal-setting;
- Restorative relationships with peers and other women and gender-expansive people;
- Education as a practice of freedom: YWFC offers social justice education, asserting that to heal, young women need to recognize, understand and be prepared to dismantle the systems of oppression that affect their lives and to fight for social justice.
- The community created by YWFC is available to girls and gender expansive youth throughout their lives and does not extinguish as they move on from daily participation in the programming, offering a sustainable community of support.

These core elements represent best practice in gender-responsive programming described above, combining aspects of ecological and empowerment theory to promote individual empowerment while building skills and collective power to understand and influence the proximal and systemic environments that have impacted girls' lives.

Learn more here: <https://www.youngwomenfree.org/>

2. NYC's First Alternative to Incarceration Program for Girls' and Gender Expansive Youth

Location: New York City

Overall, New York City has been successful in diverting young people whose charges do not present a serious risk away from detention, including for many girls. However, data show that despite the success of the current continuum, the majority of girls admitted to NYC detention centers and placement facilities are charged with misdemeanors. They often linger in the juvenile justice system even though they do not pose a public safety risk and commonly experience longer lengths of stay in detention for misdemeanors than boys in New York City, a trend that is consistent with national research. For many girls still entering detention and placement, there either was not a program deemed appropriate to allow them to succeed in the community or the current continuum of programs has been tried, but failed to meet their needs.

To fill this gap, Vera partnered with NYC's Administration for Children's services to imagine a new resource, resulting in the development of a new pilot program designed to be responsive to the unique needs of girls and LGB/TGNC youth who are either currently involved or at risk of becoming involved with the juvenile justice system. Grounded in gender-responsive practice, including economic sustainability and healing from trauma and abuse, the program will blend assertive community outreach strategies with effective and engaging site-based programming, and will be surrounded and supported by a network of community-based organizations focused on serving girls and gender-expansive youth. Participants will be offered a range of group-based activities and supports that are designed to assist girls in developing and refining their understanding of the world and their role in it, promote growth and self-reliance, develop a sense of sisterhood and community, and cultivate girls' individual and collective leadership.

As this project is designed to fill a substantial gap in gender-responsive programming for justice-involved youth; there was no single organization that emerged with the ability to provide the full range of services. As such, the program will merge two established community organizations: *Steps to End Family Violence* (STEPS), a program that works extensively in and has deep expertise with the dynamics and impact of gender-based violence, and *Girls for Gender Equity* (GGE), an intergenerational organization that is committed to the physical, psychological, social, and economic development of girls and women of color and that works to

remove barriers and create opportunities through education, organizing, and physical fitness. The program is slated to open in early 2020.

3. ROSES (Resilience, Opportunity, Safety, Education, Strength) Program

Location: New York City

The ROSES Program is pioneering the advocacy-based approach within the juvenile justice system. Based out of New York University, this community-based, gender-responsive, trauma-informed, advocacy program serves girls who are either involved in the juvenile justice system or at risk of legal system involvement through a strength-based and skill-building approach. Each girl in the ROSES program is paired with a paraprofessional advocate who, over the course of 10-12 weeks, works to support her in identifying her own goals and develop strategies to navigate systems, tackle obstacles, and obtain resources to meet those goals.

Specifically, Advocates work with clients by:

- Providing access to resources and education
- Helping girls define individual goals
- Supporting the development of self-efficacy skills
- Encouraging girls' engagement with multiple social contexts (school, family, peer, etc.)
- Promoting contextual competence to reduce justice system involvement

Learn more here: <https://wp.nyu.edu/rise/interventions/roses/>

4. S.O.U.L. Sister Leadership Collective

Location: Miami and New York City

S.O.U.L Sisters (SSLC) empowers new leaders that have “lived and breathed” the inequalities of our justice, educational, and economic systems. Their mission is mobilize systems-involved girls and non-binary youth of color to interrupt cycles of violence, poverty, and oppression through youth programming, community organizing, and policy advocacy that is centered around their four pillars of leadership, healing, social justice, and the arts. Their programming aims to provide girls with a powerful community of mentors, activists, educators, and healers that support young women, femmes, and gender non-conforming/gender non-binary youth of color blossoming into leaders with political and self awareness, creative problem solving skills, and strong ethics. They are sensitive to the needs of youth in the foster care, juvenile legal, special education, shelter, and mental health systems.

In addition to their leadership development programming, they have created a new program called Circles Not Cells can be key to supports that allow for girls at risk of justice involvement to remain in the community. Circles Not Cells aims to build relationships and community among youth and the adults in their lives through healing and peacekeeping circles, as well as training and coaching to the adults who care for them. SOUL Sisters will also provided crisis response services that would be crucial in reducing family and child welfare staff's reliance on calling police when there is conflict with a girl in their care.

Learn more here: <https://soulsistersleadership.org/>

5. Project Kealahou

Location: Oahu, Hawaii

Project Kealahou is a SAMHSA-funded program developed in Hawaii to serve girls with complex trauma. The model is community-based and gender-responsive and relies on a combination of clinical professionals specially trained on the practical components of TF-CBT as well as intensive and peer-delivered community-based supports. An evaluation found reductions in caregiver strain and participant depression, anxiety, and behavioral problems.

Learn more here: <https://projectkealahou.org/>