

Addressing Housing-Related Drivers of Girls' Incarceration

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Ending the incarceration of girls—and addressing the over-incarceration of youth generally—requires that communities have services and supports that can prevent incarceration due to unmet housing needs. In its work, the Vera Institute of Justice (Vera) has identified extremely high levels of past housing instability—sometimes for many years prior to system contact—among girls and gender expansive youth who experience incarceration.

Lack of a safe and stable home may set in motion an initial law enforcement contact (for example, when a girl has run away from home or a child welfare placement) or may impact decisions about whether to detain or release a young person (for example, when a parent refuses to take their daughter home after an arrest).

Defining housing instability in the context of youth incarceration

In its work to end girls' incarceration, Vera uses the term "housing instability" to encompass a range of situations and scenarios in which young people lack access to safe, stable, and supportive housing. This expansive definition includes youth who are:

- unsafe in their homes because of conflict or violence;
- experiencing unsheltered ("street") homelessness, with or without their families;
- couch surfing or staying temporarily with friends or chosen family;
- forced to move multiple times because of their family's inability to pay rent;
- living in overcrowded conditions for economic reasons;
- running away from home or child welfare placements;
- moving frequently between multiple placements; or
- cycling between child welfare, mental health, and juvenile justice placements.

Because many of these scenarios do not fall under strict legal definitions of homelessness or housing instability, these youth have limited access to certain resources, programming, and funding streams.

National research indicates that nearly half of young people experiencing homelessness have been incarcerated in a juvenile detention center, jail, or prison. Vera's case file reviews and work with stakeholders at sites across the country suggest this figure could be even higher among girls and gender expansive youth. At one site, 80 percent of case files showed a history of homelessness or housing instability, with the most common reasons being child welfare instability, family conflict, and financial difficulties. Findings from case file reviews and system-provided data also included the following:

- At one site, system-provided data showed that approximately 7 percent of girls' admissions
 to detention were due to an inability to return home ("parent/guardian cannot be located;
 parent/guardian refused to accept youth; family or domestic violence in the home; or youth
 refused to return home").
- At another site:

- Seventy-two percent of youth experienced prolonged absence from school ranging from one week to a year, which was often directly connected to housing instability disrupting educational continuity.
- Ninety-six percent of girls in our case file review experienced family poverty, and theft, possibly stemming from survival needs, was a common charge.³

Girls' experiences of housing instability and justice system involvement may also be linked with or compounded by past abuse, neglect, violence, exploitation, and/or child welfare system involvement.⁴ Girls, particularly Black girls, are overrepresented among youth who cross over from child welfare to youth justice systems compared to the overall youth justice population.⁵ Black children are also more likely to experience homelessness, youth incarceration, and placement in foster care.⁶ Additionally, lesbian, gay, bisexual, and transgender or gender nonconforming (LGB/TGNC) youth also disproportionately experience homelessness and justice system involvement.⁷

In Vera's site work, past abuse or neglect was common across case files reviewed, including alarmingly high instances of past sexual assault or exploitation. Across multiple sites, case file reviews found that the majority of incarcerated girls had experienced child welfare system involvement (80 percent at two sites; 64 percent at another). At another site, at least 53 percent of girls admitted to detention in 2016 were involved in one or more parts of the child welfare system at the time of arrest (for example, receiving preventive services, subject to an open child protective investigation, and/or in foster care). Thirty percent of girls admitted to one facility in 2016 came directly from foster care.8

Since 2017, Vera has worked toward ending the incarceration of girls and gender expansive youth in jurisdictions across the country, including Hawai`i, Maine, New York City, North Dakota, and multiple counties in California. These efforts have included learning about girls' pathways to incarceration through case file reviews, stakeholder interviews, and analysis of data provided by probation and other agencies. In several communities, Vera identified housing-related issues as a top driver of incarceration, and Vera's team and partners conducted additional landscape analysis, discussions with stakeholders, and collaborative solutions development. Vera's work on this issue was informed by its own staff and consultant expertise, the expertise and insights of stakeholders in the communities it worked in, and national guidance on the intersections among young people's experiences of juvenile justice system involvement, homelessness, and child welfare system involvement, including the work of the Coalition for Juvenile Justice, the National Network for Youth, and the Georgetown University Center for Youth Justice.

Pathways to Criminalization

Vera's work with communities nationwide has revealed consistent patterns linking housing instability to the incarceration of girls and gender expansive youth. Stakeholder input, case file reviews, and local data show that many young people come into contact with the justice system because of unresolved family conflict, unsafe living conditions, and unaddressed basic needs. Placement disruptions—such as institutional placements in the child welfare system, frequent placement changes, and running away from placements—also contribute to justice involvement by exacerbating instability and limiting access to supportive, stable housing.

Family discord.

Youth, particularly girls, who are incarcerated have most likely experienced abuse, neglect, or other adverse experiences before coming into contact with the youth justice system. These experiences may have led to trauma-related behaviors in youth and/or disrupted relationships

with parents. Youth who have been kicked out of their homes or who have run away from unsafe homes may also have experienced the trauma of homelessness. Young people may face detention after an altercation with a parent or caregiver leads to an arrest, or because a caregiver refuses to take them home after an unrelated arrest (often termed "parental refusal" by youth justice agencies). Youth, particularly LGB/TGNC youth, who may have experienced abuse, neglect, or rejection by family members for years, may find themselves labeled as aggressors and arrested for defending or standing up for themselves.

Concerns about youth safety and unmet needs.

Juvenile justice agencies and courts may also incarcerate girls, gender expansive youth, and boys because of concerns for a young person's safety, including concerns about violence in the home or commercial sexual exploitation, or because the young person is experiencing homelessness or has a history of running away. These fears often lead to "overrides" of risk assessment instruments and other measures that are meant to objectively determine when youth should be incarcerated, subjecting youth, as a result, to the well-documented harms of incarceration. (In this context, an override occurs when a young person's numerical score on a risk assessment instrument indicates that they should not be detained, but a justice agency intake officer or other decision-maker chooses to detain the young person despite the score.) Unmet behavioral health needs of youth or their caregivers may also lead to system involvement when appropriate community supports are not available.

Placement issues.

Youth may be arrested and incarcerated directly from a child welfare group home, behavioral health facility, or other institutional out-of-home placement if program staff call law enforcement. Youth may also be arrested in the community but end up incarcerated because they cannot return to a placement afterward (for example, if their bed has already been given away). Youth may become involved with the juvenile justice system after a long history of placement changes that lead to trauma and disconnection from healthy adults, resulting in behaviors that others may perceive as "disruptive," "combative," or "dangerous." Research has shown that youth involved in child welfare systems who undergo frequent placement changes and youth in group (congregate) care settings are more likely to experience justice system involvement. Youth who run away from placements may be detained automatically as part of court or agency policies.

Homelessness and poverty.

Housing issues and economic pressures can also be a more direct cause of the young person's incarceration; for example, when youth experiencing poverty or homelessness are arrested for stealing food or for "loitering" or camping in public spaces when they have no safe home, or when parents or relatives are unable to provide a safe and adequate home for the young person because of their own financial and housing situations.

Housing-related solutions or services that can prevent or divert youth away from incarceration

Ensuring that a community has an appropriate array of housing-related resources is essential to keeping youth out of detention centers, jails, and prisons—and ending girls' incarceration completely. Youth justice stakeholders must understand what is available locally and work with youth homelessness, child welfare, and other service providers and public agencies to address any gaps. 12

Justice systems should always support youth in remaining with parents or guardians whenever that is the young person's choice and is safely possible. Accomplishing this may require providing services such as individual or family counseling aimed at reunification or prevention, parent peer support, credible messenger mentoring, or economic supports (for example, "flex funds") as needed.¹³ If the young person cannot or does not want to stay with their parent or guardian temporarily or long-term, systems should support them in being with other family members or natural supports. The specific services or supports needed will vary from family to family, so flexibility is key. Justice agencies may not need to directly provide services, identify relatives, or locate housing, but they should ensure that they have relationships with community-based service providers or other public agencies that will do so for the youth they serve. (Some youth justice agencies have developed their own competencies around family mediation, family finding, and motivational interviewing, while others collaborate with providers or systems that routinely offer these services, such as youth homelessness or child welfare.)¹⁴

Promoting family care for youth involved in the justice system

As communities prioritize family settings when youth cannot safely return home, additional efforts may be necessary to ensure that family homes are available as an alternative to incarceration. Vera has learned of several promising practices for recruiting and retaining caregivers for adolescents:

- conducting population-specific recruitment, such as outreach efforts that explicitly address care for adolescents and/or youth with specific needs and experiences like commercial sexual exploitation;
- recruiting current, experienced foster parents who may be open to "leveling up" to serve a higher-needs population;
- using separate funding and contracts to ensure that homes/beds are retained specifically for youth with justice involvement rather than serving any youth in foster care, including paying families to hold empty beds open so they are available when needed and amending agency policies to allow families to hold beds for longer if a young person leaves the home for any reason;
- ensuring that families have the training on topics like trauma and de-escalation that they need to support higher-needs youth and helping them get appropriate licensure and pay rates:
- offering 24/7 access to emergency/crisis support and highly responsive support from program staff generally;
- offering foster caregivers respite care and peer support (for example, in "hub models" of care, there is always another family that the primary foster caregiver can call for support and with whom the young person can stay if the primary family needs to travel or just needs a break); and
- providing housing for caregivers, particularly in areas with very difficult housing markets.

Programming that can house youth when needed.

Research shows that children, including teenagers, do best in families rather than in institutions. Although decision-makers may prioritize family settings less as youth approach adulthood, living in families allows youth to transition to adulthood in the most developmentally healthy setting possible, mastering skills and developing independence in a safe environment with caring adults. If staying with a relative is not an immediate possibility, jurisdictions should have an array of options in place to still allow youth to live in family settings. This should include short- and longer-term options where parents provide care in a home rather than options involving staff working shifts in an institutional/group setting. For youth who are older.

independent living options, such as their own apartment, may also be an appropriate alternative. Once a full list of options is available, the young person's preferences should always drive the decision-making. In cases where the young person prefers congregate care—or it is otherwise necessary—those working with youth should regularly check back in to see if it is still preferred/necessary.

Focus on short-term solutions.

All communities need a comprehensive continuum of care to respond to youth and family needs. Vera's site work has highlighted that short-term or temporary housing is often one of the most challenging gaps in services. When available, these options can allow girls and gender expansive youth to avoid incarceration and stay in their communities. The programs that can fill these gaps may be called respite care, emergency shelter, crisis housing, or host homes, depending on the system and community. Communities may also need multiple types of programs to meet different needs and circumstances (for example, if the parent is willing to consent or if the young person has specific needs). Communities should have family-based options even for short stays,

Learning from programs that provide housing

As part of its work to end girls' incarceration, Vera has learned from programs across the country that provide housing as part of their services for young people involved with or at risk of involvement with youth justice systems or for girls who have experienced exploitation and/or trauma. Some elements of these programs that can be particularly responsive to these youth's needs include:

- recruiting caregivers and program staff from the same communities as youth clients;
- enabling youth to stay in their community and school and to engage in counseling and other services with their families even while living temporarily away from home;
- offering gender-responsive programming, including programming specifically for girls even when girls are a minority of the overall population of system-involved youth;
- recognizing that running away is a common and expected behavior among girls who have experienced trauma or exploitation and should be safely planned for and responded to with support rather than punishment, including holding beds open as needed:
- using a "hub" or "shared caregiving" model, in which a young person is living with
 one caregiver but has another designated caregiver they can access for additional
 support and stay with if necessary rather than needing to run away to a potentially
 unsafe location;
- providing intensive training and support for caregivers, including support from
 organizational staff that is available 24/7, access to respite care, and access to
 flexible funding to meet young people's basic and developmental needs, as well as
 payment at levels that allow caregivers to devote sufficient time to youth and/or pay
 for additional housing costs associated with welcoming a young person into their
 home;
- delivering programming that helps youth build or strengthen relationships, skills, and connections, including social and economic capital that will help them avoid future system involvement and housing instability; and
- delivering programming that responds to circumstances that often drive girls into the
 justice system, such as family conflict or charges stemming from a young person's
 exploitation, poverty, or homelessness.

Some models that share one or more of these features include Beloved Village's Beloved Youth, San Diego Youth Services' <u>Cool Beds</u>, Freedom Forward's <u>Family and Me (FAM)</u>, CoLab's <u>Housing Stability for Youth in Courts (H-SYNC)</u>, and Sasha Bruce Youthwork's <u>alternative to arrest and prosecution programming</u>.

but when youth prefer non-family settings or they are necessary for other reasons, programs should still be small, home-like, and staffed by people with training in trauma, de-escalation, and other relevant topics and practices.

Policy and practice changes that can prevent youth from being detained for housing-related issues

Ensuring that girls and gender expansive youth are not incarcerated as a result of housing-related issues may require systems to change their practices and policies. As with service-based solutions, there is no one policy or practice that will address this issue in all communities. Stakeholders must work together to identify how housing-related barriers are driving youth into systems or why youth are not able to successfully access alternatives to incarceration or system involvement. (For a list of guiding questions that can help identify housing-related pathways or barriers, see the Appendix.)

The following are strategies one or more of the jurisdictions Vera worked with is using or working toward to address housing-related pathways to incarceration:

Changing warrant practices.

In some jurisdictions, youth who are missing from home or placements typically face detention after they are found. Stakeholders can work together to add flexibility to policies or procedures so that youth can return to their placement or stay in another safe location rather than remaining in detention until their hearing. Jurisdictions can also specify the necessary steps to locate young people before issuing warrants or taking other punitive measures.

Agreeing on—and memorializing—shared values, expectations, and policies prohibiting unnecessary incarceration.

In order to end girls' incarceration, communities need to commit to not detaining girls in order to protect them or provide care or for other reasons unrelated to public safety. Accomplishing this end may involve educating decision-makers and other stakeholders about the harms of incarceration, the impacts of trauma, and other related topics. Ultimately, however, the relevant agencies and organizations should agree, in writing, on their commitment to meeting the needs of girls and gender expansive youth and their communities without resorting to incarceration. (See "Spotlight on Santa Clara County, California" on page 7.)

- Agencies should regularly analyze their data about overrides of risk assessment scores. If
 girls are disproportionately being detained despite low to medium scores, stakeholders
 should dig deeper to understand why this is happening and make changes. Does the
 community need more housing resources? Do staff who are overriding the score need
 additional education? Should overrides require supervisor approval?
- If youth are frequently incarcerated after "failing" electronic monitoring or probation, communities should consider whether housing instability is playing a part. If so, decisionmakers should ensure that probation and monitoring orders are individualized and do not set youth up for failure.

Instituting a multidisciplinary, immediate response when youth present at detention intake with housing-related barriers.

Even when appropriate community-based services exist to help youth avoid detention, mechanisms must be in place to ensure that youth and families are adequately connected to them. As a final off-ramp for young people who do not encounter these services early enough, justice system agencies should partner with community providers and other public agencies to

respond to youth within hours if family conflict or other housing-related issues are endangering the young person's chances of release after an arrest.

These are examples of potential barriers and solutions repeatedly seen in Vera's work, but each community should investigate the drivers of girls' incarceration locally and deploy appropriate policies and services to address them.

Spotlight on Santa Clara County, California

Santa Clara County established its Juvenile Justice Gender Responsive Task Force in 2015 and began working with Vera in 2019 to end girls' incarceration. Housing-related issues have been a significant part of their efforts. Many of their existing and new policies are captured in their *Gender Responsive Best Practice Guide for Juvenile Justice Stakeholders*. The document states that "Juvenile justice stakeholders in Santa Clara County have committed to working together to avoid detention and incarceration due solely to the following:

- concerns for the safety of the young person, including concerns due to a young person's gender identity;
- inability to locate parents, guardians, or counsel;
- lack of support from parents, guardians, or counsel;
- · lack of stable housing;
- truancy or lack of school attendance;
- concerns regarding trafficking or sexual violence;
- as a means to stabilize or receive treatment or services, including substance use treatment; and
- nonviolent family conflict, including tensions between the young person and their mother, father, siblings, or guardians."

The guide also states that "if Probation determines that admission to Juvenile Hall is not warranted, but housing is a barrier to release, intake and screening officers should work to expedite a family finding process and work to locate an alternative location" and reminds stakeholders that "if no family is located, a 241.1 [dual status youth petition] must be ordered as required by law."

The practice guide also directs stakeholders to relevant protocols and policies on discretionary warrants, dually involved youth, housing for transgender youth, and response to commercial sexual exploitation of youth, all of which have relevance to ending girls' incarceration due to housing instability.

Key steps communities can take to address housingrelated drivers of incarceration

Pathways to incarceration look different in each community, so the first step any jurisdiction must take is to look at data on girls' incarceration and go beyond numbers and charges to learn about common experiences prior to system contact. These can be uncovered through case file reviews and/or discussions with stakeholders, including young people and their families, judicial officers and attorneys, service providers, agency staff, and others. (For more information, see the guiding questions in the Appendix.) If housing-related barriers are a driver of incarceration, communities should map their continuum of care with an emphasis on family support and youth homelessness services to identify gaps and barriers to access. ¹⁶ Finally, communities need to address the pathways to incarceration they uncover by investing in resources where gaps exist and changing policies and practices as needed.

Appendix: Guiding Questions on Local Housing-Related Pathways to Incarceration

Pathways Involving Family Conflict and "Parental Refusal"

- How often are girls or gender expansive youth detained or released later than planned because their parent/guardian refuses to pick them up or to allow them to come home?
- What are the most common reasons given by parents or the most common circumstances driving these refusals? For example:
 - parents' concerns about youth behavior (for example, feeling that the young person is "disrespectful");
 - concerns about people surrounding the young person (for example, friends, romantic partners, or people possibly involved with trafficking or gangs) and related concerns about the safety of other family members, including younger siblings;
 - parents' nonacceptance of the young person's sexual orientation, gender identity, or gender expression;
 - logistical/practical concerns, such as a parent's inability to take off work to come
 take custody of the young person or lack of space or resources to house them (for
 example, a young person exiting incarceration after a family has moved, lost
 housing, or had a new child).
- What is the agency's process for learning why parents will not take the young person home and for offering potential solutions or services?
- What services are available to address this issue when it arises?
 - Stakeholders should be able to identify one or more services appropriate to each of the common reasons for parental refusal listed. Asking about each circumstance raised will allow systems to identify the gaps in the community's service continuum.
 - Follow-up questions may be needed, such as, "You mentioned that some families do not want to take youth home because they are concerned about drawing trafficking to their home; what programming or services do you offer to those families?"
- What barriers exist to accessing these services or using the appropriate protocols or procedures (in other words, why are youth still detained/incarcerated despite these services existing in the community or protocols/practices being in place)?

Many of these guiding questions will require follow-up queries, particularly the questions about barriers. For example, if the barrier identified for the previous question is, "Staff don't follow policies or protocols that are in place," follow-up questions could include:

- How and when are staff trained on the policy/protocol? Was there just a single training or several? Was it a standard part of onboarding or an optional training?
- How are staff held accountable for following the policy? Are judges asking about
 whether the protocol was followed at detention hearings, or is a supervisor reviewing
 cases to ensure the protocol was used properly?
- Do staff support using the policy? What barriers do they face in following it? Do they not believe it will work or feel there is no point in completing it because the services needed are unavailable?

If the barrier identified is "lack of services to refer to/willing to take youth," follow-up questions could include:

- Do the services not exist at all, are there just not enough spots to meet the need, or are youth not able to access open spots?
- If there are not enough spots, why not? Is there a perception that there is not enough need for more spots, is there a lack of resources/funding, or is the provider facing capacity/staffing limitations?
- If youth aren't able to access open spots, is this a result of not meeting objective requirements such as age or location, or are programs rejecting youth based on subjective concerns? Are youth referred by the justice system frequently being turned away, despite no stated exclusion of justice-involved youth?
- Who decides which youth can access open spots? Are there guidelines included in contracting documents if the service providers have agreements with public systems? Which system holds the contract? When is it up for renewal?
- If the service doesn't exist at all, are there providers offering similar services who might be able to expand their offerings? Does the jurisdiction's contracting process allow for flexibility in partnering with providers to co-develop new programming or expand services to meet identified needs?

Pathways Involving Institutional Placements and Running Away

- How often are youth entering detention directly from a child welfare group home, behavioral health facility, or other institutional out-of-home placement after running away from home or a placement or while experiencing homelessness?
- What are the most common circumstances that lead to this happening? What is the
 agency's process for learning about these circumstances? Do they ask youth about why they
 ran away, interview placements after a youth arrest, or track which placements have the
 most law enforcement contact?
- What policies, protocols, or circumstances, including service gaps, does the jurisdiction have that may contribute to incarceration under these circumstances, including contributing to initial arrests that result in incarceration?
- What policies, protocols, or services does the jurisdiction have that can help prevent incarceration under these circumstances, including preventing initial arrests?

 What barriers exist to preventing incarceration in these circumstances? Why are youth still detained/incarcerated despite the existing policies, protocols, and services?

Pathways Involving Concerns About Youth Safety and Unmet Needs

- How often are youth in the jurisdiction ever detained—or released later than planned—because of considerations related to the young person's safety?
- What are the most common concerns raised? For example, are there concerns about commercial sexual exploitation of children or safety in the home or about the young person experiencing homelessness or potentially running away? Who most commonly raises these concerns?
- What services or processes are available in the jurisdiction to address this issue when it arises, including any training for decision-makers?
- What barriers exist to addressing this occurrence, including policy barriers and service limitations?

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This brief is part of a multi-part publication that addresses various aspects of ending girls' incarceration. The complete set is available at vera.org/ending-girls-incarceration-how-to.

Endnotes

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² Hannah Green, Lindsay Rosenthal, Abigail Richards, et al., *Freedom and Justice: Ending the Incarceration of Girls and Gender-Expansive Youth in California* (New York: Vera Institute of Justice, 2024), 53, https://vera-institute.files.svdcdn.com/production/downloads/Vera-YWFC-Freedom-and-Justice.pdf.

³ These quotes and all other uncited information in this paragraph are taken from unpublished technical assistance documents Vera staff shared with jurisdictions they worked with to end girls' incarceration.

⁴ See for example Sarah Cusworth Walker, Asia Bishop, and Estaban Valencia, "Developing a Coordinated Youth Housing Stability Program for Juvenile Courts," Cityscape: A Journal of Policy Development and Research 20, no. 3 (2018), https://www.researchgate.net/publication/328900662 Developing a Coordinated Youth Housing Stability Program for Juvenile Courts. See also research collected in Alexandra Miller and Lisa Pilnik, Never Too Early: Moving Upstream to Prevent Juvenile Justice, Child Welfare, and Dual System Involvement (Washington, DC: Georgetown University, McCourt School for Public Policy, and Center for Juvenile Justice Reform, 2021), https://georgetown.app.box.com/s/u8lznq3kuyw4kpjqzqpdl2ar7wuma701.

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- ¹⁰ Richard Mendel, "Why Youth Incarceration Fails: An Updated Review of the Evidence," The Sentencing Project, March 1, 2023, https://perma.cc/27DR-8Y9K.
- ¹¹ Joseph P. Ryan, Jane Marie Marshall, Denise Herz, and Pedro M. Hernandez, "Juvenile Delinquency in Child Welfare: Investigating Group Home Effects," *Children and Youth Services Review* 30, no. 9 (2008), 1088–1099, https://doi.org/10.1016/j.childyouth.2008.02.004; and Joseph P. Ryan and Mark F. Testa, "Child Maltreatment and Juvenile Delinquency: Investigating the Role of Placement and Placement Instability," *Children and Youth Services Review* 27, no. 3 (2005), 227–249, https://doi.org/10.1016/j.childyouth.2004.05.007.
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- Service providers and funders can help develop a list of what exists in the community (and where the gaps are), including eligibility and capacity for different programs. It is also important to speak to the professionals who would connect youth to these services (such as public defenders and youth justice system staff) to ensure that they are aware of all the appropriate programs and that those programs are regularly accepting clients who have system involvement. When considering programming, service providers should ensure that all options exist for girls and gender expansive youth and that programs are gender responsive.