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## THE JUVENILE JUSTICE SYSTEM AND DOMESTIC CHILD SEX TRAFFICKING

### **WHAT IS DOMESTIC CHILD SEX TRAFFICKING?**

**Domestic Child Sex Trafficking (DCST)** occurs any time a U.S. citizen or lawful permanent resident under the age of 18 exchanges sex for anything of value (e.g., food, shelter, money, etc.).<sup>i</sup> Unfortunately, due to a lack of understanding about DCST, survivors are often criminalized and placed behind bars when they are in fact victims of crime.

### **WHAT MAKES A YOUTH VULNERABLE TO TRAFFICKING?**

The following factors make youth vulnerable to sex trafficking and exploitation.<sup>ii</sup> Many of these characteristics are also risk factors for girls' involvement in the juvenile justice system.<sup>iii</sup>

- A history of sexual and/or physical abuse
- Community or family instability and dislocation
- Child welfare involvement, especially out-of-home foster care placement
- Being a runaway or homeless youth
- Disconnection from the education system and being off-track for achievement
- Poverty

### **JUVENILE JUSTICE INVOLVEMENT**

Though they are often too young to legally consent to sex and are considered victims under most state and federal laws, victims and survivors of DCST are often charged with prostitution, prostitution-related offenses or other offenses resulting from their victimization. Girls are disproportionately affected by these practices as they comprise 76% of all juvenile arrests for prostitution.<sup>iv</sup> Racial and ethnic disparities also cannot be ignored as nationally, 57% of all juvenile prostitution arrests involve Black children, which is more than any other racial group.<sup>v</sup>

Victims of child sex trafficking are also frequently arrested for non-violent status offenses directly related to their exploitation, like truancy and running away.<sup>vi</sup> A study on “juvenile prostitution”<sup>vii</sup> found that of cases involving a third-party exploiter, victims were almost exclusively female. Of these girls, 84% had a history of running away and 43% had a history of prior arrests or detentions; including 45% who were detained or arrested as part of the current offense.<sup>viii</sup> There is currently no mandate that juvenile justice agencies or law enforcement screen children upon intake for possible victimization. Consequently, victims are not clearly identified. Instead they are funneled through the Sexual Abuse to Prison Pipeline,<sup>ix</sup> where they are arrested for their victimization, unable to receive appropriate services, and returned to communities or placements that do not contemplate their unique vulnerabilities and needs as trafficking victims.

### **CONDITIONS OF CONFINEMENT**

Once trafficked and exploited girls are remanded to the justice system, they are forced to maneuver a system that does not address the specific needs of girls or take into account the complex trauma and violence they have endured. Upon intake, victims are subject to invasive searches and physical



restraints including shackling that can be especially damaging for children with extensive histories of sexual abuse.<sup>x</sup> One study demonstrated that 22% of girls entering juvenile hall had been sexually assaulted within seven days of their arrest.<sup>xi</sup> For trafficking victims, many have been sexually assaulted within hours or even minutes of arrest, and yet they are rarely screened for this trauma. Instead, they are treated as criminals and denied the necessary mental and physical health interventions afforded other child abuse victims. Once inside the system, girls are also susceptible to further sexual victimization at the hands of staff and/or other youth.<sup>xii</sup>

### **NEED FOR IMPROVED IDENTIFICATION AND SERVICE DELIVERY**

To combat this growing problem, DOJ has encouraged law enforcement agencies nationwide to change policies that once treated youth exploited in the sex trade as offenders, and to instead view such children as victims of child sexual abuse and sex trafficking.<sup>xiii</sup> Several jurisdictions have implemented first responder protocols that mandate responders to refer identified victims to child welfare or community-based services rather than rely on punitive measures.<sup>xiv</sup> Rights4Girls and the National Council of Juvenile and Family Court Judges have also developed a National Judicial Institute to train judges to better identify and respond to child sex trafficking victims when they appear in their courtrooms.

Other recommendations include:

- **Shift from Criminal to Victim Status** – All juvenile justice systems and law enforcement agencies must implement policies and procedures that ensure that children who fall victim to domestic child sex trafficking are readily identified and treated as other victims of crime and child abuse.
- **Improved Screening, Assessment, and Documentation** – New efforts must be put into place across systems that are focused on developing and implementing screening and assessment tools and protocols for accurate documentation of children at-risk for or who are victims of domestic child sex trafficking. Assessments must include all forms of possible abuse, including specific indicators of domestic child sex trafficking, and assess the youth's strengths, needs, and risks to determine how to allocate resources and plan a strategy for service delivery.
- **Cross-System, Multi-Disciplinary Approach** – All victims of domestic child sex trafficking must be viewed and treated as survivors of child sexual abuse. Therefore, a cross-system approach between the juvenile justice and child welfare system is imperative. It is equally necessary to engage other stakeholders including community-based agencies, healthcare providers, placements, families and guardians, defenders, prosecutors, and courts to develop interagency protocols and a continuum of care that addresses the specific needs of each victim.

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<sup>i</sup> As defined in the Trafficking Victims Protection Act, DCST is the "recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act" where the victim is a U.S. citizen or lawful permanent resident under the age of 18. 22 U.S.C. §§ 7102(9)-(10). A commercial sex act is defined as "any sex act on account of which anything of value is given to or received by any person." § 7102(4).

<sup>ii</sup> Kate Walker, California Child Welfare Council, [Ending the Commercial Sexual Exploitation of Children: A Call for Multi-System Collaboration in California](#) (2013), pp.18-20.

- <sup>iii</sup> Rebecca Epstein, Lindsay Rosenthal, Malika Saada Saar, & Yasmin Vafa, Georgetown Law Center on Poverty and Inequality, Ms. Foundation for Women & Rights4Girls, [The Sexual Abuse to Prison Pipeline: The Girls' Story](#) (2015).
- <sup>iv</sup> Federal Bureau of Investigation, [Crime in the United States 2015](#), Tables 38, 40.
- <sup>v</sup> Federal Bureau of Investigation, [Crime in the United States 2016](#), Tables 21B.
- <sup>vi</sup> Coalition for Juvenile Justice, Safety Opportunity & Success (SOS): Standards of Care for Non-Delinquent Youth, [Girls, Status Offenses, and the Need for a Less Punitive and More Empowering Approach](#) (2013), p.3.
- <sup>vii</sup> Though this is the term used in the study, Rights4Girls believes there is no such thing as a juvenile prostitute, see our [No Such Thing Campaign](#) fact sheet for more information.
- <sup>viii</sup> David Finkelhor, Kimberly J. Mitchell, & Janis Wolak, University of New Hampshire, *Conceptualizing Juvenile Prostitution as Child Maltreatment: Findings from the National Juvenile Prostitution Study* (2009).
- <sup>ix</sup> Federal Bureau of Investigation, [Crime in the United States 2016](#), Tables 21B.
- <sup>x</sup> Stephanie Covington, National Girls Initiative Webinar Series, *Trauma: A Recurring Theme in Girls' Lives* (June 7, 2016).
- <sup>xi</sup> Leslie Acoca & Mana Golzari, *Girls Health Screen Validation Study* (2013).
- <sup>xii</sup> Bureau of Justice Statistics, [Sexual Victimization Reported by Juvenile Correctional Authorities, 2007-2012](#) (2016).
- <sup>xiii</sup> Jessica Ashley, Illinois State Bar Association, [Child sex exploitation study probes extent of victimization in Illinois](#) (June 2008).
- <sup>xiv</sup> Peter Edelman & Rebecca Epstein, Georgetown Law Center on Poverty & Inequality, [Blueprint: A Multidisciplinary Approach to the Domestic Sex Trafficking of Girls](#) (2014); See also County of Los Angeles, [Los Angeles County Law Enforcement First Responder Protocol for Commercially Sexually Exploited Children](#) (2015); See also Hennepin County, [No Wrong Door Protocol](#).