



Fact Sheet

Girls in the Juvenile Justice System

1. The proportion of girls caught up in the juvenile justice system is increasing.

In New York

- More than 2,000 children are placed in the custody of New York's juvenile justice agency every year.¹
- The proportion of girls among incarcerated children has grown from about 14 percent in the mid-nineties to almost 19 percent in 2003 and 2004.²

Nationally

- More than 96,000 juveniles are in the custody of juvenile justice agencies.³
- The proportion of girls among incarcerated children has grown from about 12 percent in the mid-nineties to 15 percent in 2003.⁴

2. Girls of color are locked up in disproportionate numbers.

In New York

- In the general population, 54 percent of children are Caucasian, 20 percent are Latino, 18 percent are African American and six percent are Asian.⁵
- In contrast, of the girls incarcerated in New York's higher security juvenile prisons over the last three years, 54 percent are African American,⁶ 19 percent are Hispanic,⁷ 23 percent are Caucasian⁸ and none are Asian.⁹
- Since 1995, African American boys and girls have consistently accounted for close to 60 percent of imprisoned children.¹⁰

Nationally

- In 2003, 61 percent of all juveniles in custody were minority and 39 percent were Caucasian.¹¹
- Of the minority juveniles in custody, 38 percent were African American, 19 percent were Hispanic and two percent were Asian.¹²
- Among female juvenile offenders in custody, 45 percent were Caucasian, 35 percent African-American, 15 percent Hispanic and one percent Asian.¹³

3. Girls experience abuse and neglect when they are confined in juvenile facilities.

In New York

- New York’s juvenile prisons employ a forcible face-down restraint procedure in which one or more staff members seize a girl from behind and push her to the floor, face down.
- The use of physical force against incarcerated children is strictly prohibited by international standards, except “in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property.”¹⁴
- The restraint is used often in New York’s juvenile prisons in violation of domestic and international law.¹⁵
- At one girls’ facility, the number of forcible face-down restraints per month between January 2004 and January 2006 ranged from 35 to 108 and averaged 65. The average population for these months was 81 girls, meaning an average of 10 restraints per child per year.¹⁶

Nationally

- In 2004, authorities reported nearly 1,000 allegations of sexual violence in state-operated juvenile facilities, about 25 percent of which were confirmed to be substantiated.¹⁷
- Staff-on-youth sexual violence accounted for 56 percent of reported incidents in state-operated facilities.¹⁸
- Approximately 34 percent of confirmed sexually violent offenses in state-operated facilities were against girls, although girls only accounted for 11 percent of the juveniles in custody.¹⁹

4. Incarceration is linked to poverty and other disadvantage.

In New York

- Of children taken into OCFS custody in 2004, about 63 percent came from New York City, especially the poorer Bronx and Kings Counties.²⁰

Nationally

- Poverty is a major risk factor for delinquency, and often is accompanied by other risk factors related to family disruption.²¹

5. Most incarcerated girls have suffered physical or sexual abuse in their homes prior to being confined, and many suffer from trauma and other mental health problems.

In New York

- An informal survey of incarcerated

Nationally

- Research into childhood sexual

- girls conducted in the 1980s by agency officials found that more than 70 percent of incarcerated girls had experienced physical or sexual abuse prior to their incarceration.²²
- Of children taken into custody in 2004, 52 percent were identified as having mental health needs.²³
 - Research suggests that girls and women with histories of childhood abuse or neglect are more at risk to be involved in property, alcohol, drug and misdemeanor offenses.²⁵
 - The majority of girls entering the juvenile justice system suffer from post-traumatic stress disorder, other mental health problems, substance abuse and physical ailments.²⁶
- abuse suggests a higher percentage of girls in the general population tend to experience such abuse. The indicators are that the abuse also tends to start at a younger age and endure over a longer period of time.²⁴

¹ In 2004, 2,104 children were taken into Office of Children and Family Services (OCFS) custody; 392 of these were girls. New York State Office of Children and Family Services, Division of Rehabilitative Services, "Youth in Care: 2004 Annual Report," ii, 2 (Table 2) ("OCFS Annual Report (2004)"). This figure includes children remanded for residential services as well as a relatively small number remanded for non-residential services.

² Percentages calculated from OCFS Annual Report (2004), p. 2 (Table 1). OCFS did not release its 2004 Annual Report until 2006, and no further reports have been released to date.

³ United States Office of Juvenile Justice and Delinquency Prevention (OJJDP), "Juvenile Offenders and Victims: 2006 National Report," p. 201 ("OJJDP, '2006 National Report'"): <http://ojjdp.ncjrs.org/ojstatbb/nr2006/index.html>.

⁴ OJJDP, "2006 National Report," p. 206.

⁵ Kids Count Database.

⁶ The OCFS classification is "non-Hispanic African-American."

⁷ This figure includes girls categorized as Hispanic African-American, Hispanic-White and Hispanic-Other.

⁸ The OCFS classification is "non-Hispanic White."

⁹ These figures are calculated from "Table 1: Characteristics of Admissions to Selected OCFS Facilities, 2003-2005," obtained through the New York Freedom of Information Law and on file with HRW and the ACLU.

¹⁰ OCFS, "2004 Annual Report," p. 4.

¹¹ OJJDP, "2006 National Report," p. 211.

¹² OJJDP, "2006 National Report," p. 211.

¹³ OJJDP, "2006 National Report," p. 209.

¹⁴ Riyadh Guidelines, paras. 63, 64; U.N. Rules, rules 66-67. Even the standard applied to adults is very restrictive, permitting physical force only in "self-defense or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations." United Nations Standard Minimum Rules for the Treatment of Prisoners, U.N. ECOSOC Res. 663C and 2076, adopted July 31, 1957 and May 13, 1977, para. 54(1); American Correctional Association, "Standards for Juvenile Correctional Facilities," 3-JTS-3A-31 (Feb. 2003) ("Use of Force: Written policy, procedure, and practice restrict the use of physical force to instances of justifiable self defense, protection of others, protection of property, and prevention of escapes, and then only as a last resort and in accordance with appropriate statutory authority. In no event is physical force justifiable as punishment. . ."); 9 NYCRR §§ 168.3(a), 168.2(b).

¹⁵ Human Rights Watch and the American Civil Liberties Union, *Custody and Control: Conditions of Confinement in New York's Juvenile Prisons for Girls*, September 2006.

¹⁶ Calculated from Monthly Reports prepared by each girls' facility. For more information, see Human Rights Watch and the American Civil Liberties Union, *Custody and Control: Conditions of Confinement in New York's Juvenile Prisons for Girls*, September 2006.

¹⁷ OJJDP, "2006 National Report," p. 230.

¹⁸ OJJDP, "2006 National Report," p. 230.

¹⁹ OJJDP, "2006 National Report," p. 231.

²⁰ Percentage calculated from OCFS Annual Report (2004), p. 6 (Table 2).

²¹ See, for example, OJJDP, "2006 National Report," 7 (describing the association between juvenile poverty, family disruption and juvenile crime). An overview of girls' pathways to delinquency is provided in Marty Beyer, "Delinquent Girls: A Developmental Perspective," *Kentucky Children's Rights Journal*, pp. 9, 17-25 (2001).

²² Inez Nievez, Associate Deputy Commissioner for Programs and Services for the Division of Rehabilitative Services, in HRW and ACLU meeting with OCFS senior administrators, Albany, New York, April 18, 2006. According to the information made available to HRW and the ACLU, OCFS has not collected information on this feature of the girls in its care since the 1980s. In response to an April 21, 2006 Freedom of Information Law request for "[a]ny and all documents relating to or arising from data collection conducted by any government agency on the rate of past abuse (physical, sexual, or otherwise) experienced by girls, boys, and/or girls and boys in OCFS custody," OCFS responded that it "does not maintain records in the manner you request." Letter from Sandra A. Brown, Assistant Commissioner, Public Affairs, to HRW and the ACLU, June 28, 2006.

²³ OCFS, "2004 Annual Report." This official figure is not disaggregated by gender. This figure may be low, as OCFS does not necessarily perform screening on every child it takes into custody.

²⁴ Meda Chesney-Lind, *The Female Offender: Girls, Women and Crime* (Thousand Oaks, California: SAGE Publications, 1997), pp. 25-26.

²⁵ Cathy S. Wisdom and Michael G. Maxfield, "An Update on the 'Cycle of Violence,'" in *Research in Brief*, U.S. Department of Justice, Office of Justice Programs, National Institute of Justice (2001).

²⁶ National Mental Health Association, "Mental Health and Adolescent Girls in the Justice System," (1999); Nancy Rosenbloom, Legal Aid Society, testimony before the Council of the City of New York, Committee on Women's Issues and Youth Services and Subcommittee on Juvenile Justice, April 18, 2000 ("Legal Aid Society Testimony (2000)"); HRW/ACLU telephone interview with Legal Aid Society attorney, September 28, 2005. Leslie Acoca, "Investing in Girls: A 21st Century Strategy," p. 5. (describing "serious physical health problems" and need for "psychological services" in 88 percent and 53 percent respectively of a sample of "girls in the California juvenile justice system").