

A BETTER WAY TO SPEND \$500,000: HOW THE JUVENILE JUSTICE SYSTEM FAILS GIRLS

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INTRODUCTION

During the past twenty years, society has become increasingly willing to incarcerate women and girls, both violent and non-violent. Meanwhile, there remains a pronounced absence of public debate on

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the subject, as well as a paucity of scholarship. Professionals in criminal justice, mental health, medicine, and child advocacy have recognized that they must enhance and combine their efforts to meet the new challenges posed by the increasing involvement of females in the criminal justice system. Moreover, advocates for children working at all vertical levels—from theory and policy formation to clinical and court practice—must remain in constant conversation, so that theory and policy can connect better with the real lives of these young women. It is only recently that scholars and policy makers have begun to address the need for reform of the juvenile justice system and to attend to the pervasive increase in the incarceration of female juveniles into a system designed for males.

Several studies of females in the juvenile justice system provide insight into girls' life experiences prior to involvement with the juvenile justice system.¹ Studies document that a vast majority of girls who are later labeled delinquent have experienced past trauma and abuse. Girls are three times more likely than boys to have been sexually abused. An estimated 70% of females in the juvenile justice system have experienced prior sexual abuse.² In a recent study of girls from Philadelphia's Youth Study Center, 81% were survivors of either physical or sexual abuse, neglect and abandonment, or were witnesses to violence.³ In another study of sixty-four juvenile offenders held in a probation hall, 96.8% endured a history of traumatic events.⁴

It has been hypothesized that responding punitively to symptoms which are a result of prior trauma is likely to exacerbate psychological and emotional distress, making successful rehabilitation less feasible.⁵ A follow-up study of a sample of delinquent girls previously incarcerated in a juvenile correctional facility found that these women were much more likely to be drug-addicted, alcoholic, enmeshed in violent relationships, suicidal, or unable to provide care for their children.⁶

1. See SYBILLE ARTZ, *SEX, POWER & THE VIOLENT SCHOOL GIRL* 10 (1998); MEDA CHESNEY-LIND, *THE FEMALE OFFENDER* 10 (1997); MEDA CHESNEY-LIND & RANDALL G. SHELLEN, *GIRLS: DELINQUENCY & JUVENILE JUSTICE* 32-53 (1992); Marty Beyer, *Delinquent Girls: A Developmental Perspective*, 9 KY. CHILD. RTS. J. 17 (2001); Francine T. Sherman, *Effective Advocacy Strategies for Girls: Promoting Justice in an Unjust System*, 187 PLI/CRIM 151 (2001).

2. GREENE ET AL. IN COLLABORATION WITH THE NORTHWEST REGIONAL EDUCATION LABORATORY, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, OFFICE OF JUSTICE PROGRAMS, U.S. DEPARTMENT OF JUSTICE, *GUIDING PRINCIPLES FOR PROMISING FEMALE PROGRAMMING: AN INVENTORY OF BEST PRACTICES* (1998), available at http://ojjdp.ncjrs.org/pubs/principles/ch1_4.html.

3. Anne Marie Ambrose & Sandra Simkins, *Philadelphia's Female Detention Project*, WOMEN, GIRLS, & CRIMINAL JUSTICE, June/July 2000 at 53.

4. Victor G. Carrion & Hans Steiner, *Trauma and Dissociation in Delinquent Adolescents*, 39 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 353 (2000).

5. Sherman, *supra* note 1, at 158.

6. Dorothy Otnow Lewis et al., *A Follow-up of Female Delinquents: Maternal Contributions to the Perpetuation of Deviance*, 30 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 197 (1991).

This article argues that placement in detention facilities may not only fail to address greater issues in the girls' lives, but may actually cause them further damage. In the case study we will present, the juvenile justice system spent hundreds of thousands of dollars over four and one-half years of placements for one girl. In the end, she experienced no positive rehabilitative outcome. Since the current system lacks long term disposition planning and program accountability, without radical change, continued failure to address the needs of these young women is certain.

The majority of girls in the juvenile justice system have histories of abuse, neglect, trauma and victimization, and have significant emotional needs. This article offers a legal and clinical analysis of one young woman's experience, and examines the manner in which the system, as it currently exists, fails girls. Part I traces the legal framework that creates the backdrop for the arrest, adjudication and disposition of girls in the justice system. Part II uses the case study of "Jeanne"⁷ to examine aspects of the juvenile justice system that lead to failed dispositions for girls. Part III is devoted to exploring the clinical perspective of Jeanne in greater detail. Part IV proposes a model that will address the institutional flaws identified in Parts I and II.

I. THE LEGAL FRAMEWORK FOR GIRLS IN THE JUVENILE JUSTICE SYSTEM

A. *Why Girls?*

Girls in the juvenile justice system are quickly becoming an issue of national importance. Girls represent the fastest growing segment of the juvenile justice population, despite an overall drop in juvenile crime.⁸ Although girls represent one in four juvenile arrests in the United States, the stereotypical juvenile offender is a violent, young male.⁹ As a result, theories about delinquent behavior are based on male behavior, and programming within the juvenile justice system has been developed to meet boys' needs.¹⁰

A growing body of literature¹¹ suggests that the juvenile justice system is ill-equipped to address the specific needs of girls, from the

7. The facts of the case study are from an actual case from the authors' caseload. While the facts are true, the names have been changed to protect identity.

8. AMERICAN BAR ASSOCIATION & NATIONAL BAR ASSOCIATION, JUSTICE BY GENDER: THE LACK OF APPROPRIATE PREVENTION, DIVERSION AND TREATMENT ALTERNATIVES FOR GIRLS IN THE JUSTICE SYSTEM 1 (2001), available at <http://www.abanet.org/crimjust/juvjus/justicebygenderweb.pdf>.

9. Laura Barnickol, *The Disparate Treatment of Males and Females Within the Juvenile Justice System*, 2 WASH. U. J. L. & POL'Y 429, 429 (2000); CHESNEY-LIND, *supra* note 1.

10. Barnickol, *supra* note 9, at 429; CHESNEY-LIND, *supra* note 1, at 10; Anne Bowen Poulin, *Female Delinquents: Defining Their Place in the Justice System*, 1996 WIS. L. REV. 541, 541-42.

11. See generally *supra* note 1.

point of arrest through disposition. Girls experience the juvenile justice system differently than boys during arrests,¹² detention,¹³ and disposition.¹⁴ Recent "pathways" research shows there is a unity of experience for girls entering the system,¹⁵ and once in the system, there is a lack of gender-appropriate disposition alternatives to meet these girls' needs.¹⁶ To the extent gender-appropriate programming exists, there is a lack of reliable outcomes research to determine the efficacy of such programs.¹⁷

Despite a growing body of literature documenting gender bias in the juvenile justice system in the pre-trial phases, much less attention has been paid to the possibility of bias in the post-trial, or disposition phase. Not only is the justice system failing to account for girls' specific needs in the processing of their cases, it is failing to provide appropriate rehabilitation and treatment—the stated goals of the juvenile justice system. It is not unusual, as in the case of Jeanne discussed later in this paper, for a girl to leave the system with little formal education and scant attention paid to her mental health needs, specifically issues of neglect, abuse and victimization.

B. *Juvenile Court and the Female Delinquent*

1. The Historic Roots of *Parens Patriae*

The modern juvenile court has a history of paternalism toward girls.¹⁸ Until the late eighteenth century, children and adults were adjudicated by the same criminal court system.¹⁹ The first juvenile court was founded in Chicago in 1899.²⁰ The progressive reformers who pushed the Illinois legislature to create such a court in this state and others, envisioned a new juvenile justice system that would protect the children's best interests by focusing on treatment rather than

12. AMERICAN BAR ASSOCIATION & NATIONAL BAR ASSOCIATION, *supra* note 8, at 16-17. Girls are disproportionately charged with status offenses, which are crimes such as running away—crimes that are not in the adult system. Even in states like Pennsylvania that have eliminated status offenses, "changes in police practices may lead to the re-labeling of girls' family conflicts as violent offenses, with a particularly serious impact on minority girls." *Id.* at 26.

13. *Id.* at 17-19. Girls are more likely to be detained than boys and are often detained for lesser offenses than boys.

14. *Id.* at 22-23. There are a limited number of programs that specifically focus on girls' needs and as a result, girls are "increasingly being placed in programs that fail to meet their unique developmental, physiological and emotional needs."

15. Joanne Belknap, *THE INVISIBLE WOMAN: GENDER, CRIME & JUSTICE* (2001); Sherman, *supra* note 1, at 155-57.

16. AMERICAN BAR ASSOCIATION & NATIONAL BAR ASSOCIATION, *supra* note 8, at 22.

17. *See id.* at 29.

18. Cheryl Dalby, *Gender Bias Toward Status Offenders: A Paternalistic Agenda Carried Out Through the JJDPA*, 12 LAW & INEQ. 429, 434 (1994).

19. ANTHONY M. PLATT, *THE CHILD SAVERS* 10 (1969).

20. *Id.* at 9.

punishment, and avoid the stigma of adult prosecution.²¹ The system developed the notion of *parens patriae*, enabling the court to act on behalf of parents unwilling or unable to care for and discipline their children.²² Applying a positivist ideology to criminology, the progressive reformers believed that if the court could identify the external societal forces that were leading the child to deviant behavior, then the court itself could craft a diagnosis and a cure.²³ An informal court structure, combined with broad judicial discretion, allowed the court "to investigate the problematic child's background, identify the sources of the misconduct at issue, and develop a treatment plan to meet the child's needs."²⁴

Concerns about girls' immoral conduct were at the center of the progressives' concerns in establishing the juvenile court.²⁵ The child-savers allied themselves with the more conservative social purity movement on issues of regulation of prostitution and the age of consent.²⁶ Acting in its role as judicial parent, and guided by the early nineteenth century image of the ideal woman as belonging in the private sphere,²⁷ the juvenile court's inquiry focused on the girl's lifestyle and character, rather than the offense committed.²⁸ The court's broad discretion gave it jurisdiction over an array of "status offenses," such as "sexual immorality" and "waywardness," which would otherwise have been ignored by the adult criminal system.²⁹

2. The Modern Juvenile Court

By the 1960s, it was clear to many who worked within the juvenile courts that the system had failed to live up to the ideals which had inspired its creation.³⁰ The court's broad discretionary powers and lack of constitutional due process guarantees left delinquent children

21. Barry Feld, *The Juvenile Court Meets the Principle of Offense: Punishment, Treatment and the Difference It Makes*, 68 B.U. L. REV. 821, 824-25 (1988).

22. Neil Howard Cogan, *Juvenile Law, Before and After the Entrance of "Parens Patriae,"* 22 S.C. L. REV. 147, 149 (1970).

23. Feld, *supra* note 21, at 823-25.

24. *Id.* at 825.

25. Meda Chesney-Lind, *Will the Juvenile Court System Survive? Challenging Girls' Invisibility in Juvenile Court*, 564 ANNALS 185, 190 (1999).

26. CHESNEY-LIND & SHELDEN, *supra* note 1, at 108.

27. *Id.* at 109. The early nineteenth century gave rise to the white middle-class "cult of domesticity" which envisioned women as the moral guardian of the home and reserved the public sphere for men. *Id.*

28. Feld, *supra* note 21.

29. *Id.*; Dalby, *supra* note 18, at 437. The juvenile court has jurisdiction over three categories of offenses. The first is the juvenile delinquent, a child who has committed an offense that would be a crime if the child were an adult. The second is dependent, a child deemed to be abused or neglected and in need of protection from an unfit parent. The third is status offender, a child who has committed an offense which would not be a crime if committed by an adult. *Id.*

30. ELLEN RYERSON, *THE BEST LAID PLANS: AMERICA'S JUVENILE COURT EXPERIMENT* 137-62 (1978).

powerless to contest the court's judgments.³¹ Although rehabilitation and treatment had been the hallmarks of the juvenile justice system since its inception, reform efforts began to incorporate a number of features of the adult criminal system into juvenile proceedings. These reforms were intended to protect the rights of children and prevent abuses of authority by the juvenile courts. However, they were not accompanied by a concomitant set of reforms to ensure that the system could achieve its rehabilitative goals. The result was a system that held the children accountable but did not hold itself responsible to the children it served.

One area of reform provided juvenile delinquents with due process rights. In *Kent v. United States*, the Supreme Court guaranteed juveniles the constitutional due process right to a full and fair hearing.³² In the landmark decision of *In re Gault*, the Supreme Court declared that children had constitutional rights to notice, counsel, confrontation of witnesses, cross examination, and the right against self-incrimination.³³ The Supreme Court went a step further in *In re Winship*, holding that similar to a finding of guilt in adult criminal law, a finding of delinquency required an evidentiary determination of proof beyond a reasonable doubt.³⁴ However, one year later in *McKeiver v. Pennsylvania*, the Court stopped short of providing juveniles the full array of constitutional rights accorded adults, and held that minors charged in a delinquency proceeding did not have the right to a trial by jury.³⁵ The *Kent*, *Gault*, *Winship*, and *McKeiver* decisions represented an effort by the Supreme Court to protect the rights of children through some fundamental constitutional protections, without sacrificing the informal rehabilitative approach that was the hallmark of the juvenile court.³⁶

Another primary concern of reformers was the abuse of status offense categories by the juvenile courts.³⁷ The 1970s witnessed a fundamental shift in the disposition alternatives available to the juvenile court. The Juvenile Justice and Delinquency Prevention Act (JJDP), adopted by Congress in 1974, provided for an increase in delinquency prevention programs, and alternative treatment options for juveniles adjudicated delinquent.³⁸ The legislation mandated that all states receiving federal delinquency prevention support release all status offenders held in detention centers and prevented the future incarceration of status offenders.³⁹ Although not necessarily the in-

31. *In re Gault*, 387 U.S. 1, 4-11 (1967).

32. 383 U.S. 541, 562 (1966).

33. *Gault*, 387 U.S. at 36, 41, 55, 56.

34. *In re Winship*, 397 U.S. 358, 368 (1970).

35. *McKeiver v. Pennsylvania*, 403 U.S. 528, 545 (1971).

36. *Id.*

37. CHESNEY-LIND & SHELDEN, *supra* note 1, at 115.

38. 42 U.S.C. §§ 5601-5785 (2002).

39. *Id.* § 5633(a)(12)-(13).

tent of Congress, girls were the clear beneficiaries.⁴⁰ Because girls most often entered the justice system as status offenders, the JJDP A is credited with reducing the overall incarceration of girls in the last twenty-five years.⁴¹ Additionally, the JJDP A explicitly tried to prevent increasing female delinquency by calling for gender-specific diversion programs.⁴² While many of these programs were implemented immediately, others were not created until the 1990s.⁴³

This drastic de-institutionalization resulting from the JJDP A did not last long. In 1980, Congress passed an amendment to the Act known as the "valid court order" amendment.⁴⁴ The amendment allows juvenile judges to order detention for juveniles who violated a valid court order.⁴⁵ It circumvents the requirement that status offenders (and the non-institutional services they required) be distinguished from delinquents. Judges can thereby thwart the de-institutionalization component of the JJDP A by ordering detention when a child fails to comply with a court order as simple as attending school every day or meeting a curfew.⁴⁶ For girls who often enter the system as first time offenders for non-violent misdemeanors, the amendment drives them further and further into the system each time they run from a placement or fail to comply with a treatment plan.⁴⁷ The lack of jurisdiction over status offenses, changes in police practices, re-labeling of interfamilial conflicts and gender bias in the processing of misdemeanor cases have resulted in the juvenile justice system's recent "discovery" that girls also commit crimes.⁴⁸

3. "Justice by Gender"

Although the control of girls' sexual impropriety may have been at the center of the juvenile justice system's ideological underpinnings, girls' needs have long been invisible within the modern system.⁴⁹ Traditionally, gender differences in delinquent behavior have not been analyzed by criminologists, and to the extent they have, they have not been incorporated into the system's understanding of how to

40. Chesney-Lind, *supra* note 25, at 191.

41. *Id.*

42. *Id.* § 5633(a)(7)(B)(i)-(ii).

43. Jennifer Thibodeau, *Sugar and Spice and Everything Nice: Female Juvenile Delinquency and Gender Bias in Punishment and Behavior in Juvenile Courts*, 8 WM. & MARY J. WOMEN & L. 489, 495 (2002); Robert E. Shepard, Jr., *Girls in the Juvenile Justice System*, 15 CRIM. JUST. 44, 44 (2001) ("States have been slow to develop gender-specific programming for juvenile female offenders.").

44. Dalby, *supra* note 18, at 440-46.

45. § 5633(a)(12)(a).

46. Thibodeau, *supra* note 43, at 494.

47. *Id.*

48. AMERICAN BAR ASSOCIATION & NATIONAL BAR ASSOCIATION, *supra* note 8, at

17.

49. Chesney-Lind, *supra* note 25, at 191.

address girls' needs.⁵⁰ There is limited understanding as to why the numbers of girls entering the justice system has vastly increased over the last two decades.⁵¹ While it is beyond the scope of this article to address the underlying question of whether girls are becoming more violent, it is clear from the existing research that girls in the justice system share many characteristics that separate them from their male counterparts.⁵² The existing research paints a portrait of the typical girl in the delinquency system that is different from her male peers in the system.⁵³ These national patterns are mirrored in the juvenile justice population in Philadelphia.⁵⁴

Histories of physical and/or sexual victimization are common characteristics of girls in the justice system.⁵⁵ A 1987 American Correctional Association study of girls in juvenile correctional facilities found that 61.8% had experienced physical abuse and that 54.3% had experienced sexual abuse.⁵⁶ Despite an overwhelming exposure to family violence, and specifically the experience of physical or sexual abuse, many girls in detention do not consider themselves criminals, despite the offenses committed, and do not see crime as a major part of their lives.⁵⁷ Rather, abuse is a particularly prevalent reason given by girls in the justice system for their behavior, more so than reported by boys.⁵⁸

A variety of the girls' behaviors stem from the abuse they experienced. First, as victims of abuse and neglect, the girls often respond to interpersonal problems with aggressive behavior.⁵⁹ Aggression "is a common defense against helplessness among traumatized delinquent girls who often say they had no choice but to defend themselves when they felt threatened."⁶⁰ The vast majority of these girls have mental health disorders, many as a result of exposure to sexual and physical

50. Meda Chesney-Lind, *Girls, Violence, and Delinquency*, in HANDBOOK OF YOUTH AND JUSTICE 135 (Susan O. White ed., 2001).

51. From 1987-1996 arrests of girls for violent offenses was up 118.1% and arrests of girls for "other assaults" was up 142.6%. See FED. BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, CRIME IN THE UNITED STATES 1996, at 219 (1997), available at http://www.fbi.gov/ucr/Cius_97/96CRIME/96crime4.pdf.

52. AMERICAN BAR ASSOCIATION & NATIONAL BAR ASSOCIATION, *supra* note 8, at 6.

53. *Id.*

54. Sandra Simkins & Sarah Katz, *Criminalizing Abused Girls*, 8 VIOLENCE AGAINST WOMEN 1474, 1481 (2002).

55. CHESNEY-LIND & SHELDEN, *supra* note 1, at 90.

56. AMERICAN CORRECTIONAL ASSOCIATION, THE FEMALE OFFENDER: WHAT DOES THE FUTURE HOLD? 56-57 (1990).

57. CHESNEY-LIND & SHELDEN, *supra* note 1, at 98.

58. *Id.* at 90 (citing A. McCormack et al., *Runaway Youths and Sexual Victimization: Gender Differences in an Adolescent Runaway Population*, 10 CHILD ABUSE & NEGLECT 387-95 (1986)).

59. Beyer, *supra* note 1, at 20.

60. *Id.*

abuse.⁶¹ Although often misdiagnosed as an oppositional defiant disorder, many of these girls may, in fact, be suffering from Post-Traumatic Stress Disorder (PTSD).⁶² A 1998 study found that 50% of the girls interviewed in the justice system met the diagnostic criteria for PTSD.⁶³ To deal with the trauma and chaos in their lives, or possibly to self-medicate, many of the girls consistently use drugs and alcohol.⁶⁴

There are several elements in the portrait of a typical girl in detention. Race is one of those elements. At least half of the girls in the justice system are from ethnic minority backgrounds.⁶⁵ School failure is another powerful predictor of delinquency in girls.⁶⁶ Truancy, suspension, poor grades or expulsion are "almost universal among delinquent girls interviewed."⁶⁷ More than 80% of the girls have run away from home, 39% have run away ten or more times, and 53.8% have attempted suicide.⁶⁸ Due to the girls' histories of victimization, the typical girl in the justice system is likely to have been previously adjudicated as a dependent.⁶⁹ Multiple and serious stressors such as poverty, death of a friend or relative, violence, and a multi-generational pattern of incarceration also typify the girls in the justice system.⁷⁰ The case we will discuss later in this article, "Jeanne," exemplifies the trauma and stressors, as well as the historical course of events that precede and follow detention.

II. ASPECTS OF THE JUVENILE JUSTICE SYSTEM THAT LEAD TO FAILED DISPOSITIONS FOR GIRLS

As discussed above, the stated goal of the juvenile justice system is the rehabilitation of youth. Because the progressives wanted every child to receive a full palette of services that would address the causes of their behavior, courts were granted broad discretion in terms of

61. Marty Beyer, *Delinquent Girls: A Development Perspective*, 9 KY. CHILD. RTS. J. 17, 20 (2001).

62. Marty Beyer, *Recognizing the Child in the Delinquent*, 185 PLI/CRIM 277 (2000).

63. Elizabeth Cauffman et al., *Post-traumatic Stress Disorder Among Female Juvenile Offenders*, 37 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 1209-16 (1998).

64. Meda Chesney-Lind, *Girls, Delinquency, and Juvenile Justice: Toward a Feminist Theory of Young Women's Crime*, in THE CRIMINAL JUSTICE SYSTEM AND WOMEN: OFFENDERS, VICTIMS AND WORKERS 71-88 (B.R. Price & N.J. Sokoloff eds., 3d ed. 1994).

65. AMERICAN CORRECTIONAL ASSOCIATION, *supra* note 56, at 47; Greene et al., *supra* note 2.

66. AMERICAN BAR ASSOCIATION & NATIONAL BAR ASSOCIATION, *supra* note 8, at 7; Sherman, *supra* note 1, at 156 (citing Philip W. Harris & Peter R. Jones, Crime & Justice Research Institute & Division of Juvenile Justice Services, Department of Human Services, Philadelphia, PA, *The Female Delinquent, ProDES: The Program Development and Evaluation System* (1998)).

67. AMERICAN BAR ASSOCIATION & NATIONAL BAR ASSOCIATION, *supra* note 8, at 7.

68. AMERICAN CORRECTIONAL ASSOCIATION, *supra* note 56, at 53, 55.

69. Sherman, *supra* note 1, at 156.

70. AMERICAN BAR ASSOCIATION & NATIONAL BAR ASSOCIATION, *supra* note 8, at 6,

disposition. Unlike the adult criminal system which has determinate sentences, Pennsylvania, like most states, has juvenile courts with indeterminate sentences or dispositions.⁷¹ In urban areas such as Philadelphia, the large volume of cases combined with indeterminate sentences creates a nightmare situation for girls. In the case described below, Jeanne spent four-and-one half years in custody, and six years under the supervision of the juvenile court for one misdemeanor. An adult would have served a considerably shorter sentence for a similar offense.

This part of the article will use the case study as an example to demonstrate specific ways in which the juvenile justice system fails girls in the disposition process. First, this section will explore the system's fragmentation and how it leads to a lack of accountability. Second, this section will address the issues of delay, the lack of programming, and aftercare for girls.

A. *Aspects of Fragmentation in Juvenile Court*

1. Judges

In Philadelphia, most girls in the juvenile justice system do not have judicial continuity. This means that most girls must go before several judges during their involvement with the system. There is a judge or master at the pretrial level, another judge to determine guilt and the need for treatment, rehabilitation or supervision, and yet another judge to handle review hearings while the juvenile remains under the court's supervision.⁷²

Since Jeanne was only arrested once, she had one trial judge. However, throughout the six years of her court involvement she saw four different juvenile court judges and several masters. Each time she was returned from a placement she went in front of a different judge or master. The reality is that since she remained in a "disposition" status for so long, she may not have even seen a judge or master at all. She could have been negatively discharged from her first placement, held in the Youth Study Center, and recommitted to her second placement without having a judge or master have a face to face conversation with her.

This fragmentation, or lack of continuity, often makes it difficult to determine whether a child is actually receiving the services ordered by the court. For the girl, dealing with different judges is similar to dealing with a substitute teacher. She can either try to meet changing expectations, or attempt to manipulate the system. At the same time judges are expected to dispose of, or try, a certain number of cases each day, so there is a disincentive for judges to get involved in children's lives. This focus on trial dispositions rather than comprehen-

71. Juvenile Act of Pennsylvania, 42 PA. CONS. STAT. § 6301 (2002).

72. Some judges do attempt to alleviate this problem by ordering that all future court hearings be listed in front of them, but this is a discretionary practice.

sive disposition planning and service provider accountability produces a system not suited to measuring outcomes.

2. Lawyers

In Philadelphia, the Public Defender's office operates in a zone system.⁷³ Despite good training and the support of a social service department, this zone system means that a girl will meet a different lawyer at each stage of the process.⁷⁴ Typically, girls facing adjudication in juvenile court will be interviewed by one lawyer, have a second lawyer for the "trial" (if the case gets continued there may be more than one lawyer for this phase), and then yet another lawyer for the disposition or review hearings.⁷⁵

The probability is that Jeanne, like most girls in juvenile court, would have had a different lawyer at each of her court hearings (typically at least six). If her case was listed in the review courtroom, the lawyer would have had up to sixty children with multiple petitions on the court list. The time available to talk with Jeanne would have been minimal.

With so many lawyers involved in her case, it is difficult for a child to establish a trusting relationship with her attorney. Because "connection with others is the central organizing feature of development in girls,⁷⁶ girls have high expectations from counsel and are disappointed when those expectations are not met."⁷⁷ The familial impact on trust will be discussed later in this article.

If a child is not appointed a public defender and cannot afford to hire her own lawyer, the court will appoint counsel. While this may seem preferable, since the same lawyer will represent the girl from the moment of appointment to trial, court-appointed counsel often fail to appear for disposition hearings.⁷⁸ Since court-appointed counsel are paid at the conclusion of trial, there is little incentive to make multiple trips to work out a good disposition plan for the girl. Therefore, it

73. DEFENDER ASSOCIATION OF PHILADELPHIA, JUVENILE UNIT TRAINING MANUAL (2002).

74. The Juvenile Unit represents approximately 7,000 children in delinquency court each year. Since there are not enough resources to provide vertical representation to each child, in order to provide the best possible representation in a zone system a "special assignment program" has been developed. Children who are charged with serious crimes or have complex special needs are assigned an individual attorney to provide vertical representation. In addition, there is the Juvenile Special Defense Unit which provides vertical representation to all children who are charged as adults.

75. The Juvenile Unit of the Defender Association tries to bridge some of this gap with our social service staff. There are nine full-time social workers who handle approximately 800 cases per year.

76. Beyer, *supra* note 1, at 17.

77. Sherman, *supra* note 1, at 1554.

78. AMERICAN BAR ASSOCIATION, A CALL FOR JUSTICE: AN ASSESSMENT OF ACCESS TO COUNSEL & QUALITY OF REPRESENTATION IN DELINQUENCY PROCEEDINGS (1995).

is not uncommon for the public defender's office to assume many court-appointed counsel cases at the disposition stage.

3. Program Advocates and Probation Officers

Once a girl is arrested, she may be assigned an advocate to work with her to ensure school attendance and involvement in appropriate activities, and to provide overall supervision.⁷⁹ However, some of these programs are contracted to work with the juvenile only during the pretrial process. If the juvenile forms a relationship with her advocate, this is just one more loss she must experience. Once adjudicated delinquent, the pretrial advocate is removed, and a new advocate may be assigned.

A probation officer is not assigned to work with a child until the child is adjudicated delinquent and placed on probation. There is no guarantee that a juvenile will be supervised by the same probation officer during her involvement with juvenile court. Again the juvenile is faced with feelings of abandonment and the need to forge a new relationship. If a girl is placed on probation and allowed to remain at home, a probation officer is assigned based on her geographical location. If the juvenile is later removed from the home, she is assigned a different probation officer. Simply put, with any change of placement, the juvenile can be assigned to a new probation officer. Should the juvenile require mental health treatment or other special needs assessment, yet another probation officer has responsibility for her case.

Jeanne had at least three probation officers.⁸⁰ Many have more. This significant fragmentation in the probation department prevents a girl from forming a constructive bond with someone from the court. Ideally, probation officers should be a constant in the lives of girls under the supervision of the courts. However, many probation officers find working with girls to be overly-demanding and draining, and prefer not to take their cases.⁸¹

B. *A Fragmented System Creates a Lack of Accountability*

Even skilled staff with decades of experience struggle to navigate the twists and turns of paperwork and bureaucracy in order to provide a child with appropriate services. Holding a particular judge, attorney, or agency responsible for all services is an unrealizable goal due to the volume of cases and complexity of the system. For example,

79. The Detention Diversion Alternative Program (DDAP) is a program in which an advocate is assigned to a child. The DDAP program is only contracted to work with the child during the pre-trial stage and cannot continue the relationship after the trial proceeding. See CENTER ON JUVENILE AND CRIMINAL JUSTICE, DETENTION DIVERSION ALTERNATIVE PROGRAM, at http://www.cjg.org/programs/detention_diversion.php (last visited June 9, 2003).

80. On file with author Simkins.

81. Sherman, *supra* note 1, at 154.

juveniles can remain in secure detention for five months awaiting placement. Certainly the probation departments have caseloads that are too high. Is it reasonable or realistic to expect a probation officer to handle 100 'deep end' children? Are probation officers being set up for failure?

The irony is that while the juvenile justice system is not accountable (there are no recidivism statistics from placements or outcome based research), the system holds the juvenile accountable for her behavior. The court requires juveniles to pay restitution in full, keep all court mandated appointments, and perform every hour of community service. In Jeanne's case, the probation officer focused on the need for accountability and restitution after she had successfully completed an out-of-state placement. However, the residential treatment facilities where juveniles are sent are not held accountable for the adequacy of the services they provide.

C. *Long Delays Awaiting Placement*

It is well documented that girls spend more time in detention than boys.⁸² This excessive detention applies to the pre-trial phase, and post-trial disposition delays. There are several reasons why girls face long delays before they are placed. First, there are few resources for girls.⁸³ Many residential facilities are out of state, which causes further delays. In fact, there are no residential treatment facilities for girls in Pennsylvania. In addition to travel arrangements, placement in a residential treatment facility (RTF) requires a psychiatric evaluation (updated every thirty days that the juvenile awaits transfer), a commitment from a judge, a team meeting, and a completed interstate compact agreement. The interstate agreement alone can take over two weeks. Thus, this complicated process can span weeks, if not months.

For Jeanne, this process occurred each time she went to a new placement, and usually while she was waiting for her next placement she was in a maximum security detention center.⁸⁴ These long delays

82. See Gillian Porter, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, *Detention in Delinquency Cases, 1988-1997*, OJJDP FACT SHEET, Nov. 2000, at 1, available at <http://www.ncjrs.org/pdffiles1/ojjdp/fs200017.pdf>.

83. A study of girls in the San Francisco juvenile justice system found that girls frequently languish in detention centers while boys are released or put in placement. See LAURIE SCHAFFNER ET AL., SAN FRANCISCO CENTER FOR JUVENILE & CRIMINAL JUSTICE, *OUT OF SIGHT, OUT OF MIND: THE PLIGHT OF GIRLS IN THE SAN FRANCISCO JUVENILE JUSTICE SYSTEM* (1996).

84. After the first placement, every other placement transition involved custody. When she was returned from her first RTF she was held in secure detention until she went to her second RTF. When she was picked up after running away from her second RTF she was held in secure detention until she went to her third RTF. When the third RTF was closed, Jeanne returned to secure detention for several more months until her ultimate discharge.

are particularly frustrating, because the girls know that their time in detention prior to placement transfer, "does not count."⁸⁵ In the adult system, every day in custody counts toward the sentence. However, in juvenile court, the goal is rehabilitation, and since no "treatment" is provided while the girls wait for placement, every delay in their transfer adds time to their "sentence".

D. *The Lack of Effective Programming*

Once girls are placed, there are no outcome measures to document efficacy of the programs. In part this lack of accountability occurs because no specific treatment goals are identified at the time of placement. The residential facility determines the treatment provided and is not monitored as to the appropriateness or quality of any interventions. As argued in the next section, the programs are potentially exacerbating the existing psychological damage. Ironically, although a placement can cost over \$300 per day, outcome data is sparse. There is no accountability to show that "treatment" has effected positive change in the juvenile's life or behavior. After six years of involvement with the juvenile justice system and more than four years in placement, at a conservative cost estimate of \$500,000, Jeanne had no high school diploma, nor had she completed her GED. This situation is not uncommon.

Under the principles of Balanced and Restorative Justice (BARJ) the Commonwealth of Pennsylvania has articulated the objective of providing "competencies" to juveniles who come into the juvenile justice system.⁸⁶ These competencies include education, job, and life skills. While much progress has been made toward making the victims of crimes more whole, by holding adjudicated youth accountable for restitution etc., little progress has been made on the equally important goal of enhancing youth competencies.

85. One girl interviewed by The Female Detention project in Philadelphia stated:

I know I messed up and I deserve what I get, but I'm not learning anything while I'm here. I'm just sitting here. I've been held for 40 days with no information. My PO [probation officer] says she was going to send me to boot camp . . . so send me. I hear it's so overcrowded I can't even get to be interviewed. I am just waiting. And this time doesn't count.

Simkins & Katz, *supra* note 54, at 1492.

86. 42 PA. CONS. STAT. § 6301(b)(2) (amended 1995). Balanced and Restorative Justice was adopted in Pennsylvania in 1995 as Act 33. "[C]onsistent with the protection of the public interest" the purpose of the Act is to "provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community." *Id.*

E. *The Lack of Continuing Services*

Once a girl is released from a placement, there is little available in the way of continuing services. Even though the girl may have received therapy and counseling to address anger issues or drug and alcohol problems during placement, her family remains unchanged and no intervention services are provided. Reintegration into the old community while retaining the new values inculcated during placement is an unrealistic expectation for these young women.

Girls returning from placement face myriad obstacles in the community as they try to reintegrate into the community. For example, many public schools are reluctant to accept juveniles returning from placement. Ensuring continuity of education after discharge from placement requires the dedicated services of a skilled advocate familiar with the terrain. Without this degree of support, girls remain out of school. This often violates the conditions of their release, and increases the risk that they will be placed again without incurring further criminal charges.

Jeanne's story illustrates how such a fragmented system can impede a girl's rehabilitation. She exemplifies not only the multiple problems that girls commonly face before entry, but also the substantial barriers to success that they encounter once involved with the juvenile justice system. Her childhood was marked by physical abuse, sexual abuse, and family fragmentation. As a young teenager, gang membership, marijuana and alcohol use, and truancy prevailed. Aggressive at home, she first tried to commit suicide just months before she was arrested for misdemeanor theft at fourteen years of age. While committed to the juvenile justice system, she experienced further abuse by staff and peers at various placements, was repeatedly seen and misdiagnosed, and attempted suicide on several occasions. At the age of twenty, she was released from the system. She left with her mental health needs largely untreated and without a plan for her transition to adulthood.

III. "JEANNE": A CASE STUDY

A. *Jeanne's Story*

Jeanne was the youngest of three girls raised by both her mother and father for the first eight years of her life. Jeanne's father had a history of alcohol dependence and domestic violence prevailed. In addition to violent acts against her mother, Jeanne and her older sister also experienced abuse at his hands. He left the home when Jeanne was eight years old.

Despite the foregoing, Jeanne attended school regularly, and did not have behavior problems. When she was six years old, a favorite aunt died, and Jeanne reportedly received brief outpatient services to address her adjustment and grief. When Jeanne was eleven, her mother gained custody of Jeanne's sister's three children because

their parents were incarcerated for abuse. It was at this time that Jeanne began to exhibit behavior problems. At age thirteen she moved in with her father and his girlfriend. During her time with them, Jeanne reported being sexually abused by her father and his friend. Charges were filed and the case dragged on for years. Jeanne remained terrified of the consequences of testifying against her father. Six years later, the case against him was discharged.

On return to her mother's home, Jeanne's behavior spun out of control. At age fourteen she was chronically truant, sexually promiscuous, and abused both alcohol and marijuana. Her behavior at home became increasingly aggressive and defiant. Jeanne was involved with a gang, and was also the victim of a gang rape. She was eventually arrested for theft and placed out-of-state. Although she successfully completed the residential treatment program, upon her return home Jeanne lapsed into maladaptive patterns of behavior. No interventions had been offered to Jeanne and her mother to assure that she was returning to an environment that would support improved communication and lessen the tension and conflict-laden relationships at home.

The summary of Jeanne's next six years is grim. She was held in secure detention on five occasions, placed in four residential facilities for forty-two months, and admitted four times to psychiatric hospitals for suicidal behavior. At the time of her first and only arrest, a court-ordered psychiatric evaluation diagnosed her with a conduct disorder. No mention was made of her significant social history and psychiatric problems, despite a psychiatric admission for a suicide attempt a few months prior to the arrest. During her first placement in a residential treatment facility, Jeanne was diagnosed with bipolar disorder and Post-traumatic Stress Disorder.⁸⁷ She was provided with medication and individual and group psychotherapy. Jeanne successfully completed the treatment program, and returned home with a court order stipulating her need for extensive therapeutic support services at home, in school, and in her community. However, this did not occur

87. AMERICAN PSYCHIATRIC ASSOCIATION, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (DSM-IV) 463-68 (4th ed. 2000). The essential feature of Post-traumatic Stress Disorder is the development of a pattern of symptoms following exposure to an extreme event that involved either actual or threatened death or bodily injury or witnessing such an event, in which the response was one of fear, helplessness or horror. Characteristic symptoms include reexperience of the trauma through dreams, intrusive thoughts, reenactment, psychological distress and physiological reactivity. Avoidance of stimuli associated with the trauma, numbing and emotional detachment occur, along with increased arousal, such as irritability, sleep disturbance, impaired concentration, and hypervigilance. *Id.* Bipolar disorder is a mood disorder in which there are distinct episodes of major depression and mania. Mania is defined as abnormally and persistently elevated, expansive or irritable mood. Manic individuals may be grandiose, have little need for sleep, exhibit pressured speech, display psychomotor agitation, engage in high risk behaviors, have racing thoughts and are distractible. *Id.* at 382-97.

for a number of months, and due to a multitude of psycho-social stressors, Jeanne's behavior deteriorated. Her deterioration was ignored by the probation officer who focused on Jeanne's failure to make restitution, and argued that this signaled her lack of responsibility. She was detained again, beginning another cycle of residential placement and secure detention that would last for another three-and-a-half years.

During these various placements, Jeanne attempted suicide several times and was hospitalized for crisis stabilization. She was discharged from residential treatment facilities several times because of her "failure to adjust." The RTF did not recognize her discharges as related to her suicide attempts and previous hospitalizations.

After one discharge, the court committed her to a drug and alcohol RTF, although drug and alcohol abuse was not an active therapeutic issue. After several months, Jeanne ran away from the facility. Subsequently, the court committed her to another RTF where she remained for eighteen months, and was discharged, again for "failure to adjust." Jeanne reported that she was abused by staff at this facility. (The facility was subsequently closed down because of numerous allegations of abuse by the staff).⁸⁸ Jeanne was eventually released home to the custody of her mother, and received outpatient psychiatric care—after four-and-one-half years in custody.

During her evaluation, Jeanne cooperated and engaged readily with interviewers. She appeared younger than her age, as well as needy, immature, and desirous of impressing her evaluators. Her level of grooming and hygiene varied according to her mood. Her mood varied and often included anxiousness and an undercurrent of anger. She admitted to mood swings but denied experiencing mania, racing thoughts, or insomnia. While Jeanne was often articulate, at times she was dramatic and excitable, and misused words. There was no evidence that she suffered from hallucinations, paranoia, or other delusions. On the contrary, she seemed coherent and goal-directed. She did not seem cognitively impaired though her educational experience was substandard. She acknowledged harboring suicidal thoughts in the past, but denied ever contemplating killing others. She denied experiencing symptoms of PTSD, particularly nightmares or flashbacks of past traumatic events. However, she acknowledged that she had suffered these symptoms in the past.

Jeanne's diagnostic picture was complex. In addition to her past PTSD diagnosis, doctors diagnosed her with and administered psychopharmacological treatment for bipolar disorder. During interviews with therapists, Jeanne wanted to please and tended to minimize her symptoms. Her sessions were characterized by themes of abandonment, unstable relationships, impulsivity, affective reactivity, diffi-

88. *Pa. Juvenile Detention Center To Close After Abuse Cases*, PHILADELPHIA INQUIRER, Sep. 24, 2002, at B4.

culty controlling feelings of anger, and fluctuating perceptions of self. She also suffered episodes of suicidal and self-mutilating behavior during those meetings.

Abandonment and betrayal were recurrent themes in Jeanne's life. After her aunt died when she was six years old, there was no nurturing or emotionally-attuned adult in her life. Jeanne's father physically abused her and forced her to witness his abuse of her mother. He then physically abandoned her. Jeanne's mother also emotionally and physically abandoned her. Her father betrayed her by his later sexual abuse of her. Finally, society failed her though its failure to prosecute him.

Jeanne learned to expect nothing from others and to trust no one. Yet as an adolescent, she still yearned for and needed the support and love of a caretaker, and became enraged when her needs were not met. This created an unfortunate cycle of relationship failures, in which she experienced perpetual emptiness.

Jeanne's early life attachments were marred by her abuse and the emotional instability of her caregivers. Neither of her parents were able to provide safety or a nurturing environment for her. Her parents' admixture of alcohol abuse, depression and domestic violence left neither parent available for the development of a healthy attachment. Without this essential foundation, it is no surprise that Jeanne had difficulty in forming and sustaining relationships. Although she reported a strong and close relationship with her mother in the period after her father left and before her mother took on the care of additional children, the bond was tenuous and could be characterized as an anxious, insecure attachment.

B. *Understanding Jeanne*

When the court made decisions about Jeanne's disposition, it did not address her developmental needs. While the record suggests that Jeanne's first placement may have had some positive impact, the observed treatment gains were not sustained in the community. This was most likely because the court system failed to address her problems in the relevant context of her family to whom she would return. The juvenile justice system paid scant attention to her emotional and social development, even after the court scrutinized her behavior. Furthermore, therapists conducted no examination of Jeanne from a strength-based perspective. Rather, they always focused on her negative behaviors. In fact, Jeanne directed most of her negative behaviors inward. While Jeanne could be disrespectful to authority figures, she turned her anger and rage on herself in self-mutilation, suicide attempts, and high risk behaviors that made her vulnerable to abuse. Without guile, and desperately wanting to be loved, Jeanne did not possess the skills to protect herself from the unscrupulous. Her behaviors evidenced a profound compulsion to re-enact the victimization scenario.

The criminalization of relatively minor offenses for girls increases the probability that there will be many others like Jeanne in the future. Indeed, there are many “Jeannes” in the system; her case is neither unique nor particularly dramatic.⁸⁹ The system discriminates against juveniles, particularly females, who have mental health problems, and/or traumatic histories of abuse or neglect. Society criminalizes their behavioral transgressions and they are held by a punitive system for longer periods of time than their peers without the psychiatric diagnosis or abuse histories. In the absence of mental health service delivery systems, these girls are subject to a systemic diversion of cost and responsibility, and this translates into poor prognoses for their futures. While some juveniles clearly derive some benefit from court-mandated residential treatment, repeated placement in numerous facilities is detrimental to the development of the adolescent. Repeated placement is also not cost effective, and it is ultimately damaging to the community to which the adolescent will return. Furthermore, uninterrupted patterns of abuse are transmitted inter-generationally, as already demonstrated by Jeanne’s sister, incarcerated for the neglect and abuse of her own three children.

In Jeanne’s case, six years of court supervision did not meet her needs for the following reasons:

1. The court did not address Jeanne’s insecure attachment to her mother. This will have profound implications for Jeanne’s ability to develop trusting and healthy relationships with other adults, and with her own children in the future.
2. No court-ordered intervention focused on Jeanne’s experiences of loss, violence, sexual abuse, and rape. Additionally, charges of sexual abuse against her father were discharged, and there was no investigation into her allegations that staff members at her last residential placement abused her. Without effective treatment, Jeanne will carry these deep scars throughout her life. The abuse will profoundly affect her relationships with others and her ability to be successful.
3. Perhaps ironically, Jeanne was sent to a drug and rehabilitation program four years after her only arrest. Jeanne abused alcohol and marijuana to numb her feelings at times, but her primary problem was not substance abuse. Instead, because of her history of trauma, she required services designed to address her depression and anxiety. Education about the connection between her victimization and her substance abuse would have been helpful as a component of treatment.
4. After six years in the system, Jeanne remained lost. Emotionally, she was a young girl masquerading as a twenty-year-old woman. Additionally, she was not helped to complete school. Her fragile sense of self did not enable her to visualize or articulate a realistic view of a positive future.

89. The authors of this article are also aware of many cases in which boys who have mental health issues suffer the same fate as “Jeanne.”

5. Jeanne's arrested emotional development does not augur well for her ability to parent effectively. Unfortunately, a strong need to be loved and wanted may result in her becoming a parent before she possesses the emotional capacity to raise children.
6. The ability to care for herself and to seek out medical attention when necessary will be a function of Jeanne's emotional reactivity. Thus, when she needs help the most, she may be unlikely to seek it out.

IV. A STRENGTHS/NEEDS-BASED APPROACH TO DESIGNING SERVICES TO MEET THE NEEDS OF DEPENDENT/DELINQUENT GIRLS

Currently, the juvenile is perceived as "failing," although conceptually it is the system's services that have failed her. Most rehabilitative plans, particularly those that send girls off to "placements," start with the services available in a "one size fits all" approach. For example, using punishment or behavior management to address a girl's running away or self-mutilating behaviors will not work. Services, particularly placement, and court sanctions are only effective when they are designed specifically to address the underlying needs that cause the behavior.⁹⁰

Service plans that do not engage the juvenile in her treatment are doomed to failure. Each girl, herself, must be empowered to articulate the changes she wants to make in her life and accept treatment from professionals. If young girls do not accept treatment that professionals think they need, little will change in their lives. Furthermore, with no role in the decision-making process, the often self-defeating and already victimized girls have no vested interest in positive outcomes. At the same time, girls who feel ignored by service providers are likely to engage in self-destructive behaviors, such as eloping from placement or making suicidal threats or gestures, in attempts to be heard. A girl who is included in the treatment planning is more likely to participate meaningfully, reducing the risk that the services fail.

V. APPLYING THE STRENGTHS/NEEDS-BASED APPROACH TO JEANNE

In order to improve disposition planning and achieve long-term success for girls, the juvenile justice system must be developmentally-sound and provide services designed to meet girls' unique needs. Reform must focus on the harmful systemic diversion of girls from mental health and schools to juvenile justice, as well as the fragmentation and lack of accountability which characterize these systems. Sending girls off to a "placement" is destined to fail because this "cookie-cutter" approach does not offer services that build on girls'

90. These are not needs such as "the need for counseling," but instead, they are fundamental needs such as the "need to like herself"—needs that are caused by abuse and contribute to self-destructiveness.

strengths or meet their individual needs. Furthermore, with no role in the decision-making process, the often self-defeating and already victimized juvenile has no vested interest in a positive outcome.

The model above proposes the provision of needed services for female juveniles who do not have the benefit of an involved parent advocate.⁹¹ Just as a parent would purchase services tailored specifically to meet each of the girl's needs, such as instruction on managing conflict without hurting herself or math tutoring, services would be arranged by a designated individual who agrees to look after the welfare of the child. Payment for the services might come from a variety of state, federal or private funds, sometimes through interagency pooling of dollars. Once the girl's strengths and needs are identified and services are designed to build on her strengths and meet particular needs, the individual (e.g., a case manager or foster parent) would commit to coordinating the services. This deceptively simple concept strives to do nothing less than replicate what works in functional families.

Dependent/delinquent girls require effective strengths/needs-based services to:

1. Facilitate the development of a healthy attachment relationship
2. Help them recover from sexual and physical abuse
3. Help them manage their anxiety and depression without substance abuse
4. Be successful in school
5. Have positive self-esteem and a sense of the future
6. Learn effective parenting
7. Learn to take care of themselves and access good medical care

The strengths/needs-based approach to designing effective services is implemented during a three-part meeting. The facilitator begins by helping the girl identify her strengths, an activity which usually empowers her. Then, the facilitator encourages the girl to identify her needs by soliciting input from her therapist, probation officer, parents and others in her life who are present at the meeting. During this part of the meeting, the facilitator will help everyone reach genuine agreement about very specific underlying needs. This is hard work and requires a strong facilitator; if the needs list is vague, it will not guide the design of an effective services plan. If a prospective service provider, such as a representative from a therapeutic foster home program, is present he or she will learn about the girl by listening to the group develop the girl's needs list. In the third part of the meeting, the goal is to design an effective service plan to meet the girl's identified needs. The prospective provider and the girl collaborate in listing the characteristics of a therapeutic foster parent who

91. This model has been presented by author Beyer at various conferences including the Juvenile Defender National Leadership Summit in Houston, Texas (2002).

could meet her needs. For each need agreed upon, the facilitator asks, "What would it take to meet this need?" The various meeting attendees offer whatever services they can to meet each need.

A specific, agreed-upon needs list unique to each girl holds every person working with her accountable for taking steps to meet her needs where she lives — in the classroom, on the basketball court, in therapy. Initially, it is difficult for professionals accustomed to examining a girl's deficiencies to carefully list her underlying needs. That is why it is essential for everyone involved with the adolescent (clinicians, family members, foster parents, coaches and teachers) to contribute.

In terms of continuity of services and caregivers, it is advantageous for every system provider with whom a girl is involved (residential and nonresidential) to have the same strengths/needs-based service plan in use. If all systems — mental health, dependency, juvenile justice and school — used this approach, a meeting could be convened at any point (including when a girl makes a transition from one level of care to another) to refine the needs list or change the services. Service providers can implement the strengths/needs-based approach to designing services at any point in a girl's life, the earlier the better.

The strengths/needs-based approach seeks to provide needed services to juvenile girls who do not have the benefit of an involved parent advocate. The goals of a juvenile justice system are to rehabilitate adolescents and to encourage responsible citizenship. To accomplish those goals, the system must model effective parenting skills. Part of being an adequate parent is having a strong sense of self, and being able to anticipate the future. Effective parenting also requires an ability to take care of oneself, and the capacity to access good medical care. For girls who lack these basic skills, observing them is critical. Modeling effective parenting and fostering its development for these girls ensures that the next generation will have a better chance of living trauma-free lives. Just as a parent would purchase services tailored specifically to meet each of her children's needs (e.g., academic tutoring or instruction on managing conflict without hurting oneself), under the strengths/needs-based approach, a designated individual, such as a case manager or foster parent, would agree to look after the welfare of the child and arrange services. Once the girl's strengths and needs are identified and services are designed to build on her strengths and meet particular needs, the designated individual would commit to coordinating the services. This deceptively simple concept strives to replicate the effectiveness of functional families.

Strong and secure attachments to caregivers are a cornerstone to healthy emotional development. Without this foundation, juveniles, particularly girls, cannot hope to form healthy adult relationships. Effective service plans are necessary to address relational issues and to improve communication skills within the family. Positive outcomes are more likely with consistency in the provision of these services.

Girls exposed to the trauma of sexual abuse and other forms of violence require highly specialized treatment so that they can recover and end the cycle of abuse and victimization. For healing to occur, traumatized girls need to learn that it can be safe to trust others. Anxiety and depression are frequent sequela of trauma and abuse, and many victims of abuse use drugs and alcohol as an escape from their negative feelings. An understanding of the connection between trauma and substance abuse may help the young girl to not blame herself for her victimization and allow her to accept treatment to become less anxious and depressed.

A. *Applying the Strengths/Needs-Based Approach to Jeanne*

Jeanne's unmet needs drove her antisocial behavior. For Jeanne, the strengths/needs-based process of designing effective services might have looked like this:

JEANNE'S STRENGTHS

- 1 Knows a lot about herself
 - 2 Speaks up about her feelings
 - 3 Is good at art and writing
-

JEANNE'S NEEDS

SERVICES & NEXT STEPS

- | | |
|---|--|
| 1 To feel in charge of her life, including being able to face her feelings and pain left over from her past | A female therapist who is a good listener, always available, skilled at trauma treatment, and willing to mediate a 'making peace with the past' process with her mother, support her foster parent, and work out suicide precautions |
| 2 To learn to like herself and not expect to be rejected | A therapeutic foster parent who is skilled at helping with depression and tolerant of running away, who will also encourage visits with her mother |
| 3 To learn how to think before she acts and face disappointment without having to run away | A foster mother who will help her keep a self-talk journal that makes her believe in herself and not want to hurt herself or run away |
| 4 To avoid relationships that hurt her | Weekly probation girls group focusing on self-esteem, substance abuse, and positive friends |
| 5 To be successful in school | A school program designed to help her catch up, with art and writing classes, so she can graduate from high school |
-

After having identified Jeanne's needs, an effective package of services would have to be created to meet *her* needs. For example, Jeanne would need a school program designed for success and a living situation where guardians consistently help her feel in charge of her life. She would also need sessions that modify her internal negative and self-defeating dialog. Lastly, she would require positive friends, satisfying visits with her mother and trauma treatment. If each agency would have gone through the process of listing Jeanne's specific needs they would have recognized that a one-size-fits-all program would not, and could not, meet her needs. Then, they would have been more inclined to consider sharing the cost for this with other agencies, contributing the funds for it and designing this unique intensive cluster of services around Jeanne (in a therapeutic foster home or another living situation).

If implemented at the outset, strengths/needs-based services could have improved Jeanne's relationship with her mother, which would have facilitated her recovery from her abusive experiences, enhanced her sense of self-worth and helped her to develop positive relationships with others. Thus, she would have avoided the cycle of instability, violence and emptiness. Individualized services designed to build on Jeanne's strengths and meet her needs would have prepared Jeanne for adulthood and enabled her to develop positive, sustained relationships with others. With therapy, Jeanne would have been able to move beyond her victimization and would have learned to manage her anxiety and depression. Finally, Jeanne would have developed a strong sense of self, and would have been able to anticipate a future for herself that included parenting, finishing school and taking better care of herself.

CONCLUSION

Current juvenile justice practice fails to help significant numbers of girls, and many would argue that a total overhaul of the system is now required. This paper sets out an alternative way to meet the complex needs of these girls. This model designs services to build on the girl's strengths and meet her unique needs. It involves the girl as an active partner with juvenile justice, mental health and education professionals in identifying strengths and needs and designing services that will be effective. While it is promising that child advocates from various levels are now beginning to initiate a much needed dialogue regarding alternative programs for female juveniles,⁹² it is imperative to examine the systemic forces that foster the cost shift from mental health to juvenile justice. It is also critical that we include in this dialogue the experiences and perspectives of the female juveniles themselves regarding the most effective intervention approach. It is only

92. GREENE ET AL., *supra* note 2.

with this necessary exchange that we will envision the path from the current punitive model to a resiliency based, child-centered and family strengthening, truly rehabilitative treatment approach.⁹³

93. Several qualitative studies have been able to ascertain the life experiences and create profiles of the female juvenile offender. *See, e.g.*, CHESNEY-LIND, *supra* note 1; CHESNEY-LIND & SHELDEN, *supra* note 1; Beyer, *supra* note 1. However, to date no studies have been conducted that specifically address the female adolescent's views regarding her own experiences with the juvenile justice system.

