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Victimization and Homelessness: How Collaborative Court Models are Addressing the Needs of Commercially Sexually Exploited Youth

*Jessica Valadez**

“The early reformers . . . believed that society’s role was not to ascertain whether child was ‘guilty’ or ‘innocent,’ but ‘What is he, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career.’”¹

INTRODUCTION

M.V. is a fifteen-year-old girl who was arrested for loitering and intent to commit prostitution.² At the time of her arrest, she was a ward of the dependency court and had run away from her foster care placement.³ M.V. had a history of 5150 hospitalizations, and at the time of her arrest, had been hospitalized four times in two years.⁴ Her mother suffered from bipolar disorder, borderline personality disorder, and substance abuse issues and her father had a history of incarceration and substance abuse as well.⁵ M.V. came into contact with the dependency system after her mother refused to take her back home following her last hospitalization, stating that she would rather go to jail than bring M.V. home.⁶

After three arrests in one year, four foster homes and one group home placement, M.V. took to living on the streets and trading sex for money.⁷ She felt abandoned by her mother and had suffered serious trauma from the

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1. Application of Gault, 387 U.S. 1, 15 (1967).
2. *In re M.V.*, 225 Cal. App. 4th 1495, 1502 (2014).
3. *Id.* at 1504.
4. *Id.* at 1502.
5. *Id.*
6. *Id.* at 1503.
7. *Id.* at 1505.

time she was a child, including being molested by an adult sibling, the passing of her brother when she was seven years old, and being present when her father dealt drugs out of their home.⁸ This history of trauma, family breakdown, and systems failure ultimately led to M.V.'s re-victimization and sexual exploitation.

The commercial sexual exploitation of children is defined by the Office of Juvenile Justice and Delinquency Prevention as "crimes of a sexual nature committed against juvenile victims for financial or other economic reasons."⁹ This includes prostitution, performance in sexual venues such as strip clubs, as well as those who in engage in "survival sex," or engaging in sex acts in exchange for money, food, shelter, or other basic necessities.¹⁰ One of the largest contributing factors to commercial sexual exploitation for youth is being homeless, or being a "thrown away" youth,¹¹ as in M.V.'s case. Youth who flee situations where they have been abused or neglected must find a way to support themselves on the streets.¹² Because homeless youth lack trusted connections and a support system, they are more vulnerable to exploitative techniques used by traffickers.¹³ Consequently, it is estimated that 70% of youth living on the street engage in commercial sex work to meet their basic needs.¹⁴

M.V.'s case is not isolated. Traditionally, the juvenile delinquency system has criminalized behaviors linked to past trauma, including running away and prostitution. However, through the federal Trafficking Victims Protection Act of 2000 (TVPA), states are shifting their approaches towards youth "prostitution" and trafficking away from criminalization and towards interventions that divert girls from justice system involvement.¹⁵ This has led to a rise in alternative court models, such as "Girls Courts" which are a form of community-based treatment aimed at providing trauma and gender-informed responses that promote safety, empowerment, and relationship continuity.¹⁶

This essay seeks to evaluate the role that Girls Courts models have played in addressing the needs of commercially exploited girls in the delinquency system. Part I highlights the role victimization and abuse play

8. *In re M.V.*, 225 Cal. App. 4th at 1503.

9. Roya Ijadi-Maghssoodi, et al., *Understanding and Responding to the Needs of Commercially Sexually Exploited Youth: Recommendations for the Mental Health Provider*, 25 CHILD ADOLESCENT PSYCHIATRIC CLINIC N. AMER. 107, 108 (2016).

10. *Id.*

11. *Id.* at 111.

12. *Id.*

13. *Id.*

14. *Id.*

15. FRANCINE T. SHERMAN & ANNIE BALCK, GENDER INJUSTICE: SYSTEM-LEVEL JUVENILE JUSTICE REFORM FOR GIRLS, NAT'L WOMEN'S L. CTR. 43 (2015), http://www.nationalcrittenton.org/wp-content/uploads/2015/09/Gender_Injustice_Report.pdf [<https://perma.cc/8QCU-KJHV>].

16. SHERMAN & BALCK, *supra* note 15, at 10.

in later delinquency. Part II reviews two county's Girls Court models that target girls' needs holistically, evaluates these programs, and recommends ways in which the existing models can be improved to better serve the needs of girls vulnerable to exploitation.

I. THE SCOPE OF THE PROBLEM: THE ROLE OF VICTIMIZATION IN YOUTH HOMELESSNESS AND LATER DELINQUENCY

Youth often become homeless due to family breakdown or systems failure.¹⁷ Homelessness is considered the most direct contributing factor leading to the commercial sexual exploitation and sex trafficking of minors.¹⁸ In general, children who are victimized on an ongoing basis have an increased risk of losing the fundamental capacity for normal development, successful learning, and a productive adulthood.¹⁹ Research suggests that people who experience any sort of child maltreatment—sexual abuse, physical abuse, or neglect—are more likely to be arrested later in life than people who did not experience maltreatment as children.²⁰ Moreover, being victimized increases the likelihood of committing later offenses, engaging in aggressive and/or assaultive behavior, and increases the likelihood of being victimized again.²¹

While there has been a steady decline in youth arrests in the preceding twenty years, girls' share of arrests increased by 45% from 1992-2012.²² There are several reasons for this, including: the over-surveillance and policing of girls of color, contact with the child welfare system, harsh penalties for status offenses, school referrals to court and excessive truancy laws, violence in the home, housing instability, mental health issues and a lack of access to health coverage, etc.²³ These systems fail to meet girls' needs and instead criminalize the very behavior they should be addressing.

Girls in the juvenile justice system have an above average number of exposure to mental and emotional problems, and traumatic experiences: 42% report past physical abuse, 44% report past suicide attempts, and 35%

17. NAT'L ALLIANCE TO END HOMELESSNESS, HOMELESS YOUTH & SEXUAL EXPLOITATION: RESEARCH FINDINGS AND PRACTICE IMPLICATIONS 2 (2009), <https://doi.org/10.17226/18358> [<https://perma.cc/S94G-BHLK>].

18. INST. OF MED. & NAT'L RES. COUNCIL, CONFRONTING COMMERCIAL SEXUAL EXPLOITATION AND SEX TRAFFICKING OF MINORS IN THE UNITED STATES 85 (2013), <https://doi.org/10.17226/18358> [<https://perma.cc/M63X-R4KP>].

19. ISAAH B. PICKENS, ET AL., VICTIMIZATION AND JUVENILE OFFENDING, NAT'L CHILD TRAUMATIC STRESS NETWORK 3 (2016), https://www.nctsn.org/sites/default/files/resources/victimization_juvenile_offending.pdf [<https://perma.cc/G6WW-UBS8>].

20. *Id.* at 5.

21. *Id.* at 6.

22. SHERMAN & BALCK, *supra* note 15, at 5.

23. *Id.* at 16-18.

report past sexual abuse.²⁴ Girls also experience victimization at higher rates than their male counterparts, with 69% reporting caregiver violence, 81% reporting sexual violence, and 90% reporting that they have witnessed violence.²⁵ This exposure to violence and subsequent trauma can lead to violence and aggression in retaliation to the violence they experienced themselves or witnessed in their communities.

II. ADDRESSING THE NEEDS OF COMMERCIALY EXPLOITED GIRLS: GIRLS COURTS ,AND COMMUNITY-BASED TREATMENT MODELS

To effectively address the needs of commercially sexually exploited girls in the juvenile justice system, there has been a nationwide trend toward building a community system of care that integrates services across mental health providers, child protection, education, and juvenile justice agencies.²⁶ Because research has shown that incarcerating youth negatively impacts their education, health, mental health, and ultimately, their likelihood of recidivism, counties are moving away from an institutionalized camp model of detention to non-punitive multidisciplinary approaches to addressing holistically the needs of commercially sexually exploited girls.²⁷ This section will review two Girls Court models that California has implemented.

A. THE RISE OF GIRLS COURTS

Girls Courts were developed to address the specialized needs of sex trafficked minors. The first Girls Court was established in Hawaii in 2004, but since then, Girls Courts have been established nation-wide. While there is no uniform model, the goal of Girls Courts is to provide gender-responsive and community-based wraparound services for girls involved in commercial sexual exploitation.²⁸ Girls Courts have generally been favorably received. They are also far less expensive than traditional incarceration, costing an average of \$75 per day, or \$27,375 per year (compared to an average institutional cost of \$407.58 per day or over

24. *Id.* at 16.

25. DANA DEHART, CTR. FOR CHILD & FAMILY STUDIES, POLY-VICTIMIZATION AMONG GIRLS IN THE JUVENILE JUSTICE SYSTEM: MANIFESTATIONS & ASSOCIATIONS TO DELINQUENCY 12 (2009), <https://www.ncjrs.gov/pdffiles1/nij/grants/228620.pdf> [<https://perma.cc/NPZ5-M568>].

26. Lee A. Underwood & Aryssa Washington, *Mental Illness and Juvenile Offenders*, INT. J. ENVIRON. RES. PUBLIC HEALTH, Feb. 2016, at 3, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4772248/pdf/ijerph-13-00228.pdf> [<https://perma.cc/C7ZV-RDY9>].

27. Brandi D. Liles, et al., *A California Multidisciplinary Juvenile Court: Serving Sexually Exploited and At-Risk Youth*, 34 BEHAVIORAL SCIENCES & L. J. 234, 245-36 (2016).

28. SHERMAN & BALCK, *supra* note 15, at 12.

\$148,000 per year), and more effective, yielding far lower recidivism rates than incarceration.²⁹ Alameda and Los Angeles Counties have each implemented Girls Courts, outlined below.

B. ALAMEDA COUNTY'S GIRLS COURT MODEL

In 2011, Alameda County established a "Girls Court" as a gender-responsive way to address the unique needs girls face in the juvenile justice system.³⁰ The goal of this court is to provide mental health treatment to female youth charged with prostitution offenses.³¹ The court is a collaborative agency between the Alameda Public Defender's office, the District Attorney's office, the bench, probation, and several community-based agencies.³² The Girls' Court mission is to provide a non-adversarial, trauma-informed court focused on addressing the trauma these girls have been through, helping them heal, and implementing individualized case plans.³³

Typically, girls in this program remain in their communities, attending school and receiving services locally.³⁴ As part of their case plans, they may be required to receive mental health services, such as assessments, or ongoing therapy.³⁵ Stakeholders and providers involved in each case meet weekly to discuss the girls' progress and examine their particular needs, identifying the agencies that can best provide the necessary services for each girl. This holistic model of care is crucial in ensuring youth are being rehabilitated and diverted from incarceration.

C. LOS ANGELES' "STAR" COURT: SUCCEED THROUGH ACHIEVEMENT AND RESILIENCE

Los Angeles' Succeed Through Achievement and Resilience ("STAR") Court is a voluntary program that girls who have been arrested and found to

29. SHERMAN & BLACK, *supra* note 15, at 56.

30. Patricia Leigh Brown, *A Court's All Hands Approach Aids Girls Most at Risk*, N.Y. TIMES, Jan. 28, 2014, <https://www.nytimes.com/2014/01/29/us/a-courts-all-hands-approach-aids-girls-most-at-risk.html> [<https://perma.cc/U54U-VXFM>].

31. THOMAS CARROLL, GENDER AND JUVENILE JUSTICE: NEW COURTS, PROGRAMS ADDRESS NEEDS OF GIRLS, NAT'L CENT'R FOR YOUTH L. (2009), <https://youthlaw.org/publication/gender-and-juvenile-justice-new-courts-programs-address-needs-of-girls/> [<https://perma.cc/8M8Z-Y3EK>].

32. ALAMEDA COUNTY PUB. DEFENDER, *What is Girls Court?*, (last visited Dec. 11, 2017), <http://www.co.alameda.ca.us/defender/services/juvenile.htm#juv14> [<https://perma.cc/5WUW-R7AP>].

33. *Id.*

34. CARROLL, *supra* note 31.

35. DANNA BASSEN, ET AL., RESEARCH TO ACTION: SEXUALLY EXPLOITED MINORS' (SEM) NEEDS AND STRENGTHS, WEST COAST CHILDREN'S CLINIC 22 (2012), https://www.westcoastcc.org/WCC_SEM_Needs-and-Strengths_FINAL.pdf [<https://perma.cc/9RZV-27RX>].

have engaged in prostitution can participate in during their probation.³⁶ This goal of this court is rehabilitative and aimed at addressing underlying family or personal issues that precipitated the youth's systems involvement.³⁷ Similarly to Alameda County's Girls Court, STAR Court also uses an interdisciplinary team consisting of the minor's attorney, the District Attorney, Probation Officer, and advocates from several community-based organizations to address the needs of sex-trafficked youth.³⁸ Recognizing that unhealed trauma and ongoing victimization can make it difficult for these girls to stay in school, stay out of trouble, or complete probation successfully; STAR Court aims to ensure that girls have a secure place to live, are enrolled in school, receive adequate medical care and mental health services, and receive ongoing supervision from a treatment team.³⁹ This treatment team provides the youth counseling, drug treatment (if required), and services to parents.⁴⁰

In practice, the youth's probation officer is tasked with supervising the youth and gathering information about the youth's progress from caregivers, school representatives, therapists, and other service providers.⁴¹ Youth are typically supervised by the treatment team for eighteen months or until the curriculum has successfully been completed.⁴²

While these two models are a step in the right direction in targeting girls' needs, they are not a panacea. For girls' courts to be more effective, commercial sexual exploitation needs to be decriminalized and the potential for net-widening through participation in these programs needs to be addressed.

D. EVALUATION AND RECOMMENDATIONS

When properly designed, Girls Courts may be a way for systems to better respond to the needs of commercially exploited girls. However, without policy change and a way to account for the potential net-widening effect of participating in Girls Courts, there is a risk of expanding the number of girls in the system and increasing system intervention to girls' detriment.

36. LOS ANGELES SUPERIOR CT., *Succeeding through Achievement and Resilience (STAR) Court – Los Angeles Superior Court, Program Outline 1* (Jan. 15, 2014) [hereinafter California Courts] https://www.courts.ca.gov/documents/LosAngeles-STARCourt-ProgramOutline_ikc.pdf [<https://perma.cc/B6K8-84GK>].

37. *Id.*

38. California Courts, *supra* note 36, at 1.

39. *Id.* at 3.

40. *Id.* at 8.

41. *Id.* at 6.

42. *Id.*

E. POLICY CHANGE

On a large scale, one of the most effective ways to help girls escape involvement within the juvenile justice system is to decriminalize offenses common to girls living in traumatic social contexts, such as prostitution, non-violent school-based offenses, and verbally disruptive behavior.⁴³ Though many jurisdictions recognize that sexually exploited youth are victims and not criminals and have consequently moved towards decriminalizing prostitution, the majority of states still inflict criminal punishment on survivors of exploitation.⁴⁴ Likewise, schools should be held responsible for handling all nonviolent, school-based offenses, such as verbally disruptive behavior, or status offenses, such as truancy. Keeping these offenses within the school district and not involving the delinquency system and its punishment mechanisms could ensure that youth are not punished for typical adolescent behavior.

In addition to mass policy change, it is critical to provide youth with a safety net to prevent homelessness before conflict renders them vulnerable to exploitation. One possible pathway to preventing youth homelessness within the trafficked youth population would be to expand community outreach to assist youth in identifying kin or other family with whom the youth can stay when a conflict arises. While both the Alameda and Los Angeles County Girls Court models do have a family engagement component, it is unclear whether this includes putting a contingency plan in place to help youth have an alternate placement available should conflict arise in their currently placement. Having an advocate or community worker assist the youth in identifying an alternate placement, then engaging the youth in conflict management strategies could prove effective in ensuring the youth does not end up on the street.

F. NET-WIDENING EFFECT

Girls Courts can have the effect of isolating necessary services to the courts, making accessing services outside of the system difficult. For example, access to therapy and other mental health services is crucial to properly addressing the effects that ongoing victimization and exploitation have had on youth. Many times, exploited youth are only able to access therapy and other services through their participation in court-mandated community-based treatment or through probation. Because receiving treatment is frequently court-ordered and the Girls Court system is an inter-agency collaboration, protections need to be put in place to ensure that girls maintain their access to mental and medical healthcare once they complete their probation.

43. SHERMAN & BALCK, *supra* note 15, at 38.

44. *Id.*

CONCLUSION

Youth often become homeless through family or systems failure, leading to an increased risk of being commercially sexually exploited. While some states have moved to decriminalize sexually exploited youth, most states still treat youth as criminals rather than victims. In the last twenty years, states have moved to address this problem by creating Girls' Courts that implement holistic treatment models targeted at rehabilitating youth. However, these models could be made more effective with policy changes that implement support systems and address the potential for net-widening. Until these measures are implemented, youth are at risk for further incrimination.