DISRUPTING THE MYTH OF THE DANGEROUS GIRL: MOVEMENT LAWYERING FOR GENDER-RESPONSIVE DECARCERATION

Doreen Govari[*]

INTRODUCTION

Trisha was first incarcerated in a youth detention facility when she was just thirteen years old.[1] Her first case, which occurred at age twelve while she was living in a group home, followed a diagnosis of post-traumatic stress disorder resulting from years of sustained sexual, physical, and emotional abuse. Her charge, aggravated battery, stemmed from an altercation with an adult male staff member who tried to stop her as she attempted to leave the facility. Since then she has cycled in and out of group homes and placements, running away from shelters at least twenty times. In 2022, while absent from the home without leave, Trisha was living in a downtown tent encampment with adult men who reportedly demanded sexual favors in exchange for drugs.

Two years later, Trisha was arrested for robbery after she was identified, alongside two male companions, in a car that matched a police description. Her boyfriend and another man allegedly committed the robbery while Trisha sat in the backseat of the car parked a block away. When reflecting on her experience of detention, Trisha recalled being strip-searched "over and over." She described the isolation: "They kept me in a room separated from everybody, and I wasn't allowed to come out. I was eating inside a room by myself with no clothes on and only a nightgown, a blanket, and just a plastic

* Senior Program Associate, Ending Girls' Incarceration Initiative, Vera Institute of Justice. This Essay would not have been possible without the Juvenile Law Center. Thank you to Susan Mangold, Riya Shah, Jessica Feierman, and Marsha Levick not only for their edits but for providing a platform that elevates youth voices and centers movement lawyering in the fight against gendered and racialized punishment. I am also deeply grateful to Alicia Virani, Darya Larizadeh, and Sarah Derrigan for their feedback, thought partnership, and support. Lastly, thank you to the *Temple Law Review* staff for completing edits in the midst of finals and winter break. This Essay is dedicated to all the "difficult" girls whose stories remain unheard.

1. This story is not based on a specific case. It is a fictional vignette based on my discussions with system-impacted girls, local stakeholders, public reports, and coding information from case file reviews of California Welfare and Institutions Code section 707(b) offenses. *See* SARAH DERRIGAN, DOREEN GOVARI, MIKAYLA GREEN & NINA SIULC, VERA INST. OF JUST., ENDING GIRLS' INCARCERATION ACTION NETWORK, SAN DIEGO COUNTY DATA REPORT, INDIVIDUAL LEVEL DATA 2018 TO 2022, at 32–33 (2025) [hereinafter S.D. MEMO] (on file with author); HANNAH GREEN, LINDSAY ROSENTHAL, BECCA DIBENNARDO, DEINYA PHENIX, ANALISA RUIZ & ABIGAIL RICHARDS, VERA INST. OF JUST. & YOUNG WOMEN'S FREEDOM CTR., FREEDOM AND JUSTICE: ENDING THE INCARCERATION OF GIRLS AND GENDER-EXPANSIVE YOUTH IN CALIFORNIA 10 (2024), https://vera-institute.files.svdcdn.com/production/downloads/Vera-YWFC-Freedom-and-Justice.pdf [https://perma.cc/AY3A-E3P4]; THE SOC. CHANGERY & OFF. OF YOUTH & CMTY. RESTORATION, PLEASE DON'T GIVE UP ON US: STORIES FROM CHILDREN AND YOUTH INCARCERATED IN CALIFORNIA 15–17 (2025) [hereinafter OYCR REPORT], https://oycr.ca.gov/wp-content/uploads/sites/346/2025/06/OYCR-Report_Part_1-3_Accessible_6_16_25.pdf [https://perma.cc/NL3E-VXQY].

pillow."[2] Despite the harsh realities she has endured, Trisha is resilient. She dreams of a different life, of going to school to become a veterinarian. She enjoys art and reading and longs to heal, to grow, and to build a different future for herself.

Approximately thirteen hundred youth, with stories similar to Trisha's, are currently incarcerated in girls' units within secure juvenile detention facilities across California.[3] Amid a broader recognition of the harms of incarceration and the small number of girls[4] in the system, as well as a growing commitment to developmentally appropriate, trauma-informed responses to youth law violations, there has been increasing momentum to end girls' incarceration in California.[5] A major barrier to decarceration, however, lies in the current statutory framework of California's Welfare and Institutions Code, namely section 707(b).[6] This provision prevents youth aged fourteen and older who are charged with section 707(b) offenses from being eligible for alternatives to detention or diversion programming.[7] Beyond these legal constraints, these young people must also contend with entrenched narratives, rooted in gendered stereotypes, that frame them as irredeemable or dangerous. Overcoming these legal and cultural barriers requires sustained advocacy to shift public perception and challenge the stigma surrounding this population. Although girls charged with serious offenses are often excluded from broader decarceration efforts, it is imperative that they are not forgotten or abandoned in a movement that centers liberation and freedom for all.

This Essay uncovers how paternalistic justifications, purportedly aimed at protecting girls, serve as a pretext for their continued incarceration. Section I provides a brief history of the gendered and paternalistic logic underpinning the juvenile justice system.[8] Section II examines how California's transfer and mandatory custody laws[9] codify and reinforce implicit sexist biases, highlighting how these carceral responses overlook the lived realities of girls. Finally, Section III calls for action and discusses how movement lawyering can transform these narratives and outcomes by tailoring youth advocacy decarceration strategies toward trauma-informed collaboration, shifting power

2. GREEN ET AL., *supra* note 1, at 40.

3. *See id.* at 10. The most recent statewide figures are from 2022. *See id.*

4. In this Essay, "girl" refers to all young people processed on the girls' side of the juvenile justice system. It is inclusive of all cis girls, trans girls, and other gender expansive youth.

5. *See, e.g.*, Jule Pattison-Gordon, *How One California County Rethought Girls' Incarceration*, GOVERNING (Apr. 9, 2025), https://www.governing.com/policy/how-one-california-county-rethought-girls-incarceration [https://perma.cc/79VJ-QP5W]; Annie Sciacca, *Los Angeles County Renews Pledge To Stop Incarcerating Girls*, THE IMPRINT (Feb. 7, 2023, at 17:57 ET), https://imprintnews.org/top-stories/los-angeles-county-renews-pledge-to-stop-incarcerating-girls/238309 [https://perma.cc/J6T8-465W]; Julio Arroyo & Nicole Brown, *Ending the Incarceration of Girls Is Well Within Reach in California*, CAL. WELLNESS FOUND., https://www.calwellness.org/stories/ending-the-incarceration-of-girls-is-well-within-reach-in-california/ [https://perma.cc/E9M4-PC4M] (last visited Apr. 15, 2026).

6. For the purposes of this Essay, when subsection 707(b) is referenced, unless otherwise noted, the author is discussing both the creation of section 707 and the later amendment that created subsection 707(b).

7. *See* CAL. WELF. & INST. CODE §§ 625.3, 629.1 (West 2025).

8. In this Essay, "juvenile justice system" denotes the juvenile delinquency system, and "juvenile legal system" encompasses both the delinquency and dependency court systems.

9. California's transfer and mandatory custody laws are often referred to as mandatory detention statutes. However, although there exists a practice of detaining youth charged with a section 707(b) offense, felony firearm offense, or attempted felony firearm offense in juvenile hall, there is no legal requirement that these youth must be detained in a secure facility. *See* WELF. & INST. §§ 625.3, 629.1.

to youth experts in decision-making spaces, and committing to long-term structural change.

I. BACKGROUND: THE PATRIARCHAL ROOTS OF THE JUVENILE JUSTICE SYSTEM

The hallmark of the juvenile court system, in contrast to the adult criminal legal system, is its original emphasis on rehabilitation rather than punishment.[10] Although the modern juvenile court system has increasingly deviated from these founding principles,[11] the system originated as a novel reform model, recognizing that youth—both boys and girls—should be treated differently due to their developmental, psychological, and cognitive differences from adults.[12] This original theory of the juvenile court system's purpose is captured by Judge Mack's following statement, which justified the establishment of the nation's first juvenile court with the passing of the Illinois Juvenile Court Act of 1899[13]:

> Why is it not just and proper to treat these juvenile offenders, as we deal with the neglected children, as a wise and merciful father handles his own child whose errors are not discovered by the authorities? Why is it not the duty of the state, instead of asking merely whether a boy or a girl has committed a specific offense, to find out what he is, physically, mentally, morally, and then if it learns that he is treading the path that leads to criminality, to take him in charge, not so much to punish as to reform, not to degrade but to uplift, not to crush but to develop, not to make him a criminal but a worthy citizen.[14]

Judge Mack's words, while introducing a seemingly new and ambitious model for the state's response to violations of the law by youth—in the form of a court system that does not define young people by their mistakes but deems them worthy of second chances—also reflect the paternalistic attitude embedded in the foundation of the juvenile justice system. This outlook is rooted in the common law doctrine of *parens patriae*, or "parent of the country," which served as the primary legal justification for the juvenile court system.[15] Under this doctrine, the state assumes a parental role and exercises its sovereign authority so as to act in the best interest of the child.[16] This

10. *See, e.g.*, *In re* Gault, 387 U.S. 1, 15–16 (1967); Migueyli Aisha Duran, *Of the Least of These: The Case Against Juvenile Confinement in America*, 68 HOW. L.J. 375, 382 (2025).

11. Madalyn K. Wasilczuk, *For Their Own Good: Girls, Sexuality, and State Violence in the Name of Safety*, 59 CAL. W. L. REV. 1, 3 (2022) ("Despite the imagination that courts will reform mischievous children through sanction-backed social services without the stigma of criminalization, the reality is that children charged with status offenses experience the juvenile legal system in much the same way as those charged with delinquent offenses—stop, arrest, detention, trial, probation, incarceration. This is punishment.").

12. Shana Conklin, *Juveniles Locked in Limbo: Why Pretrial Detention Implicates a Fundamental Right*, 96 MINN. L. REV. 2150, 2153 (2012). Namely, youth were understood to differ from adults in their innocence, immaturity, and capacity for change. *Id.*

13. Matthew Razo, *Fair and Firm Sentencing for California's Youth: Rethinking Penal Code Section 190.5*, 41 W. ST. U. L. REV. 429, 434 (2014).

14. Duran, *supra* note 10, at 382–83 (quoting Julian W. Mack, *The Juvenile Court*, 23 HARV. L. REV. 104, 107 (1909)).

15. Emily Dennis, *Aim Higher: Expanding Procedural Protections at Intake for California Youth*, 55 U.C. DAVIS L. REV. 2659, 2667 (2022); Thomasina F. Moore, *History and Philosophy of the Juvenile Court*, *in* FLORIDA JUVENILE LAW AND PRACTICE § 1.2(C) (17th ed. 2023).

16. Dennis, *supra* note 15, at 2667; Moore, *supra* note 15, §§ 1.1, 1.2(C).

doctrine is employed to legitimize the notion of a "fatherly" family court judge who assesses each child's unique circumstances and prescribes what they believe to be the most appropriate remedy, resting on the implicit assumption that the arbitrarily assigned judge knows what is best for the child.[17] These overt aims appear, on the surface, to be benevolent, but the discretionary power of this doctrine as used in the juvenile court system places significant and concentrated control over the lives of young people into the hands of individual judges, who themselves are humans inherently shaped by personal and societal biases. This discretion often results in unequal outcomes along race, disability, class, and gender lines. In particular, gendered assumptions and stereotypes about morality, sexuality, and domestic roles have historically influenced how girls are perceived and treated within the system.[18] These outcomes, however, are not solely the result of individual prejudicial decision-making, but are also the natural consequence of a structural gender bias embedded in the very design and function of the juvenile justice system.

Though the origins of today's carceral and prison systems are commonly, and importantly, traced to slavery and colonialism, insufficient attention has been paid to the state's interest in regulating femininity and the role of sexism in these systems.[19] Incarceration has historically served as a means to not only eliminate and control Indigenous, Black, and "vagrant" populations,[20] but also to impose normative gender roles, particularly on young women and LGBTQ+ youth who deviate from these respective social performances.[21] Legal scholar India Thusi underscores this point, noting that girls in the justice system "face . . . conditions that are empirically and normatively distinct from those facing incarcerated boys," and that these differences demand attention to the uniquely gendered dimensions of their incarceration.[22] Three distinct events in the system's early history illustrate how the roots of the juvenile justice system constructed gendered bias and institutionalized sexism into the system's very foundation.

17. Dennis, *supra* note 15, at 2667.

18. Wasilczuk, *supra* note 11, at 16–19.

19. *See, e.g.*, MICHELLE ALEXANDER, THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS 25–77 (2010) (examining the historical evolution of racial control from slavery to Jim Crow and mass incarceration); KELLY LYTLE HERNÁNDEZ, CITY OF INMATES: CONQUEST, REBELLION, AND THE RISE OF HUMAN CAGING IN LOS ANGELES, 1771–1965, at 7 (2017); SALLY E. HADDEN, SLAVE PATROLS: LAW AND VIOLENCE IN VIRGINIA AND THE CAROLINAS 6–137 (2001) (tracing the origins of Southern policing institutions to slave patrols).

20. *See generally* HERNÁNDEZ, *supra* note 19 (documenting how histories of Native elimination, immigrant exclusion, and Black disappearance drove the rise of incarceration in Los Angeles).

21. Michael J. Leiber & Kristin Y. Mack, *The Individual and Joint Effects of Race, Gender, and Family Status on Juvenile Justice Decision-Making*, 40 J. RSCH. CRIME & DELINQ. 34, 60 (2003) ("[F]emales are perceived as particularly 'problematic' by decision-makers. Consequently, they appear to be treated more punitively in the latter stages of court processing than their male counterparts.").

22. India Thusi, *Girls, Assaulted*, 116 NW. L. REV. 911, 921–22 (2022).

A. Ex Parte Crouse *(Pennsylvania, 1839)*

The landmark case, *Ex parte Crouse*, marked the first articulation of the *parens patriae* doctrine in a U.S. court.[23] The doctrine was used to justify the detention of a young girl, Mary Ann Crouse, in a "reformatory" facility known as the Philadelphia House of Refuge.[24] The object of the Philadelphia House of Refuge, as established by the Pennsylvania legislature in 1826, was to reform girls "by training [them] to industry; by imbuing their minds with principles of morality and religion; . . . and, above all, by separating them from the corrupting influence of improper associates."[25] A justice of the peace committed Mary Ann to the Philadelphia House of Refuge on the grounds of her "incorrigible or vicious conduct,"[26] and determined that her alleged "moral depravity" warranted removing her from the custody of her parents and into that of the managers at the house of refuge to safeguard her "morals and future welfare."[27] The *Ex parte Crouse* court subsequently rejected her father's habeas corpus petition, reasoning that Mary Ann's detention was constitutional under the commonwealth's *parens patriae* power:

> It is to be remembered that the public has a paramount interest in the virtue and knowledge of its members, and that, of strict right, the business of education belongs to it. That parents are ordinarily entrusted with it, is because it can seldom be put into better hands; but where they are incompetent or corrupt, what is there to prevent the public from withdrawing their faculties, held, as they obviously are, at its sufferance? The right of parental control is a natural, but not an unalienable one.[28]

Ex parte Crouse not only formally introduced the doctrine of *parens patriae* into the U.S. legal system, but also established precedent for the utilization of courts as tools of paternalistic social regulation by the state. Mary Ann did not commit a crime but was placed into secure detention because she was a young girl that was, in the court's view, difficult to control.[29] In this way, *Ex parte Crouse* established a practice in the United States of criminalizing girls for violating patriarchal expectations of obedience and domestic conformity, rather than for violating the law.

B. The State Industrial School for Girls (Massachusetts, 1856)

The first state-run carceral institution for girls in the United States was established in Lancaster, Massachusetts in 1856.[30] This "correctional facility," which was intended

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23. *Ex parte* Crouse, 4 Whart. 9, 11 (Pa. 1839) (per curiam); Francine T. Sherman, *Justice for Girls: Are We Making Progress?*, 59 UCLA L. REV. 1584, 1589 (2012).

24. *See Ex parte Crouse*, 4 Whart. at 9. Mary Ann's age is unknown. The opinion states only that the Philadelphia House of Refuge admits females exclusively under the age of eighteen years. *Id.* at 10.

25. *Id.* at 11.

26. *Id.* at 10. The court never describes Mary Ann's "incorrigible or vicious conduct," but as elaborated in Section III below, this broad and vague discretionary category was used to detain girls for a wide array of conduct. This conduct ranged from riding in a closed automobile, loitering in a department store, and inhabiting a furnished room with a young man, to shimmying on a dance floor. ANNE MEIS KNUPFER, REFORM AND RESISTANCE: GENDER, DELINQUENCY, AND AMERICA'S FIRST JUVENILE COURT 2 (2001).

27. *Ex parte Crouse*, 4 Whart. at 10.

28. *Id.* at 11.

29. *Id.* at 10.

30. Wasilczuk, *supra* note 11, at 8.

to function as a moral reformatory, focused on domestic training for and the sexual surveillance of its occupants, reflecting a societal belief that girls needed to be "rescued" from vice and molded into ideal wives, mothers, and workers.[31] Authors Chaim M. Rosenberg and Herbert James Paine examined records from the Industrial School for Girls in Lancaster, Massachusetts and found that between 1856 and 1861 the most common reasons for commitment were (1) "stubbornness and disobedience," (2) "larceny," and (3) "leading 'an idle and vicious life.'"[32] The first girl committed to the facility, thirteen-year-old Maria F., was incarcerated not for any criminal conviction but for "chronic disobedience."[33] This "disobedience" included petty thefts for which she was not convicted, absences from the homes where she worked as a servant, and being seen as a "potential prostitute."[34] Authorities attributed her perceived moral failing to her upbringing by a poor and single mother, which had "diverted [her] from the path of obedience and truth, through the want of proper home cultivation," thereby criminalizing Maria F. not solely because of her gender, but due to the intersection of her gender and class background.[35]

C. The First Juvenile Court (Chicago, 1899)

The first juvenile court in the United States was established in Chicago, Illinois in 1899.[36] An analysis of historical records revealed that in a three year period 80% of the girls brought before the Chicago court faced charges of "immorality" or "incorrigibility," which were not separated from delinquency as their own category.[37] These charges were disproportionately applied to girls, particularly girls of color, and allowed the state to penalize girls for perceived promiscuity, defiance, or noncompliance with family or school rules.[38] In contrast, boys made up only 2% of these charges, and when they were charged, it was often for "homosexuality."[39] Today, these "immorality" and

31. *Id. at* 8–9; Lisa Pasko, *Damaged Daughters: The History of Girls' Sexuality and the Juvenile Justice System*, 100 J. CRIM. L. & CRIMINOLOGY 1099, 1101 (2010).

32. Alison S. Burke, *Girls and the Juvenile Court: An Historical Examination of the Treatment of Girls*, 47 CRIM. L. BULL. 117, 119 (2011) (quoting C. M. Rosenberg & H. J. Paine, *Female Juvenile Delinquency: A Nineteenth-Century Follow-Up*, 19 CRIME & DELINQ. 72, 73 (1973)).

33. Wasilczuk, *supra* note 11, at 8.

34. *Id.*; Pasko, *supra* note 31, at 1101 ("Sexual purity became the ultimate marker of femininity, as mothers and fathers believed it solidified their daughters' chances of leaving the home, of maintaining a good reputation for the family, and of becoming a good wife and mother.").

35. Wasilczuk, *supra* note 11, at 9 (alteration in original) (quoting BARBARA M. BRENZEL, DAUGHTERS OF THE STATE: A SOCIAL PORTRAIT OF THE FIRST REFORM SCHOOL FOR GIRLS IN NORTH AMERICA, 1856–1905, at 3 (1983)). Indicting her mother for struggling with poverty instead of resourcing her unaddressed needs is a state practice that continues today, namely through the family policing system. *See* Dorothy Roberts, *Abolishing Policing Also Means Abolishing Family Regulation*, THE IMPRINT (June 16, 2020, at 05:26 ET), https://imprintnews.org/child-welfare-2/abolishing-policing-also-means-abolishing-family-regulation/44480 [https://perma.cc/6WJ7-DJ42].

36. Wasilczuk, *supra* note 11, at 8.

37. KNUPFER, *supra* note 26, at 92; Wasilczuk, *supra* note 11, at 11.

38. Pasko, *supra* note 31, at 1102; KNUPFER, *supra* note 26, at 2–3.

39. KNUPFER, *supra* note 26, at 92.

"incorrigibility" offenses have largely been eliminated and repackaged as status offenses, which girls are disproportionately charged with.[40]

Together, these developments show how the juvenile justice system did not emerge as a gender-neutral institution but was fundamentally shaped by patriarchal gender norms. It targeted girls for "correction" not only as young people but as future women. This legacy continued throughout the twentieth century to the present, as girls, particularly Black, Indigenous, and Latina girls, remain vulnerable targets for the state's criminalization of behaviors that reflect trauma, poverty, or resistance to oppression—rather than genuine public safety threats.

II. SECTION 707(B) AND THE ROLE OF GENDERED NARRATIVES DRIVING GIRLS' INCARCERATION TODAY

The danger of this approach should be clear: by campaigning for the relatively innocent, advocates reinforce the assumption that others are relatively or absolutely guilty and do not deserve political or policy intervention.

– Ruth Wilson Gilmore[41]

The movement to end girls' incarceration is closer than ever to achieving its goal: zero girls in detention facilities.[42] This progress is largely due to the efforts of grassroots advocates, movement lawyers, and system-impacted youth who have exposed the profound harms of confinement, including its psychological, physical, and developmental tolls, even when such detention is brief.[43] In keeping with principles of positive youth development, many jurisdictions have embraced alternatives to incarceration, leading to significant declines in the number of detained girls and gender-expansive youth.[44] While most girls in the juvenile justice system continue to be incarcerated for low-level offenses, bench warrants, or technical probation violations, a smaller yet still significant group are detained for more serious offenses. In California, a state with one of the largest populations of detained youth,[45] these serious offenses are outlined in California Welfare and Institutions Code section 707(b) and have their own distinct set of statutory requirements that constrain police discretion and mandate

40. Wasilczuk, *supra* note 11, at 11. A status offense is conduct by a minor that is unlawful because of the youth's age. CAREN HARP, NINA HYLAND & CHARLES PUZZANCHERA, U.S. DEP'T OF JUST., OFF. OF JUV. JUST. & DELINQ. PREVENTION, GIRLS IN THE JUVENILE JUSTICE SYSTEM 14 (2019), https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/251486.pdf [https://perma.cc/WU2A-NKU5]. Modern status offenses include underage drinking, curfew laws, and others that define crimes only for minors. *Id.*

41. RUTH WILSON GILMORE, ABOLITION GEOGRAPHY: ESSAYS TOWARDS LIBERATION 333 (2022).

42. Between 2012 and 2022, girls' arrests declined by 81% and girls' detention admissions declined by 72%—from 4,924 to 1,364 admissions. GREEN ET AL., *supra* note 1, at 26–27.

43. *See* YOUTH L. CTR. & EAST BAY CMTY. L. CTR., CALLING OUT THE HARMS OF INCARCERATION: USING RESEARCH TO FIGHT CONFINEMENT OF YOUTH 1–8 (2022), https://www.ylc.org/wp-content/uploads/2022/09/Calling-Out-the-Harms-of-Incarceration-Handout.pdf [https://perma.cc/YM3R-4CJ2].

44. *See* HARP ET AL., *supra* note 40, at 6–14.

45. *See generally* C. Puzzanchera, T.J. Sladky & W. Kang, *Number of Detained Youth in Placement, 2023*, OFF. OF JUV. JUST. & DELINQ. PREVENTION (Mar. 17, 2025), https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/State_Adj.asp?state=57&topic=State_Adj&year=2023&percent=count&maplink=link2&maps=yes&print=no [https://perma.cc/F9AG-7KTU] (revealing from 2023 that 1,101 youths were detained in California, the second-highest total after Texas, which detained 1,356).

custodial responses.[46] Youth aged fourteen and older who are arrested for section 707(b) offenses must be held in custody until they appear before a judicial officer.[47] In addition to being subject to this mandatory custody, youth aged sixteen and seventeen charged with these serious offenses can be transferred and tried in adult court upon a request by the prosecuting attorney and a final determination by a judge.[48] While the list of section 707(b) offenses includes expected charges such as murder, arson, and rape, it also encompasses offenses that are not typically perceived as violent or serious, such as witness tampering and misdemeanor battery charges.[49]

Understanding this statutory framework is important; however, the law itself is not necessarily a prohibitive barrier to girls' decarceration—section 707(b) only functionally detains youth for forty-eight hours.[50] The greater challenge lies in the underlying assumption embedded in section 707(b)'s narrative: that youth charged with its listed offenses are inherently violent and dangerous. This belief reinforces a harmful and enduring narrative, often gendered and racialized, that some youth who are presumed to be irredeemable require a wholly separate and harsher system of control. These two key barriers stand in the way of meaningful decarceration: first, the powerful and pervasive narrative that releasing these incarcerated girls is tantamount to unleashing "murderers and rapists" into the community,[51] and second, the rigid legal constraints that are embedded in current California law.[52] This creates an irreconcilable tension: On one hand, county officials and advocates alike are pushing for a shift from "cages" to "care"; while on the other, state and local government actors often reach an impasse when it comes to actually reducing detention numbers.

This pattern is not new. In the 1990s, a select few sensational media stories gave rise to the "super-predator" theory, lending legitimacy to pseudoscientific claims and entrenched fears of Black criminality.[53] This racist trope pathologized youth of color as inherently violent and irredeemable threats to public safety, thereby fueling a national moral panic targeting young people that laid the groundwork for a wave of deleterious "tough-on-crime" policies, the devastating consequences of which we are still grappling with decades later.[54] Importantly, a critical chapter in the history of section 707(b) took place within, and was impacted by, this era.

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46. CAL. WELF. & INST. CODE § 707(b) (West 2025).

47. *Id.* §§ 625.3, 629.1.

48. *Id.* § 707(a)(1).

49. *Id.* § 707(b) (enumerating the full list of 707(b) offenses); *see also* CAL. PENAL CODE §§ 136.1, 137(c), 243(d), 245(a)(1), 417(a)(2) (West 2025) (defining 707(b) offenses such as carjacking, perjury, and battery).

50. *See* WELF. & INST. § 629.1.

51. *See* Richard Winton & James Queally, *Gascón Gave Teen Killer Second Chance—Now She's Charged Again*, L.A. TIMES (Oct. 3, 2024, at 07:41 PT), https://www.latimes.com/california/story/2024-10-03/george-gascon-juvenile-offenders-los-angeles-county-district-attorney-election [https://perma.cc/9JSJ-YVA2].

52. *See* WELF. & INST. §§ 625.3, 629.1.

53. Carroll Bogert & LynNell Hancock, *"Superpredator": The Media Myth That Demonized a Generation of Black Youth*, THE MARSHALL PROJECT, https://www.themarshallproject.org/2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth [https://perma.cc/FZ5Q-WT5L] (last visited Apr. 15, 2026).

54. *See id.*

A. The Politics of Fear: Examining the Legislative Intent Behind Section 707(b)

Although California juvenile courts had routinely exercised transfer practices, it was not until the passage of the 1961 Arnold-Kennick Juvenile Court Act that formal procedures for transferring youth to adult criminal court were codified.[55] This legal framework, the newly created section 707 of the California Welfare and Institutions Code, solidified a twentieth-century practice of accelerated punishment for certain crimes that had been disproportionately applied to boys.[56] In doing so, the law implicitly framed these accused young men as fundamentally different from other youth: more dangerous, more culpable, and more "adultlike" in their criminal behavior.

By the 1990s, during the "tough-on-crime" era, the statute was subject to several amendments aimed at increasing the number of transfers of youth to adult court by expanding the list of section 707(b) offenses, decreasing the age for eligibility, and making the necessary findings for retention in juvenile court more stringent.[57] These legislative shifts emerged within a growing public discourse that distorted juvenile crime statistics and stoked racialized fears of youth violence. In his 1995 cover story, for example, Dr. John DiIulio infamously warned of a coming generation of "super-predators," a new "breed" of young person so "morally impoverished" that rehabilitation was impossible.[58] "We're not just talking about teenagers," he stated, "We're talking about boys whose voices have yet to change. . . . The surge in violent youth crime has been most acute among black inner-city males."[59] Rhetoric in California media perpetuated similar imagery: "Many of the crimes fit a pattern. . . . [P]erpetrator and victim are young males, are [B]lack or Hispanic and are somehow involved in drugs."[60]

Against this backdrop, Assembly Bill 560, which amended section 707 to expand transfer eligibility by lowering the minimum age at which a young person could be

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55. Gus Tupper, *Breaking California's Cycle of Juvenile Transfer*, 15 CAL. LEGAL HIST. 207, 219 (2020), https://www.cschs.org/wp-content/uploads/2020/11/Legal-Hist-v.-15-Articles-Juvenile-Transfer.pdf [https://perma.cc/7DPY-6FMY].

56. *Id.* at 214–16. Although direct, numeric comparisons of juvenile waiver rates by gender in California from 1909 to 1961 are not available, these broader findings indicate a system that disproportionately impacted boys: Between 1920 and 1950, data from case files drawn from the archives of the Los Angeles Juvenile Court indicate that the overwhelming majority of girls charged with delinquency continued to be status and moral offenders, in line with the history outlined in Section II. Mary E. Odem & Steven Schlossman, *Guardians of Virtue: The Juvenile Court and Female Delinquency in Early 20th-Century Los Angeles*, 37 CRIME & DELINQ. 186, 196–97 (1991), https://www.cmu.edu/dietrich/history/people/faculty/guardians-of-virtue.pdf [https://perma.cc/JKK8-KT35] ("Of the 220 girls in court in 1920, 90% were charged with status or other noncriminal offenses. Only 6% were alleged to have committed criminal offenses (and these were relatively minor, such as petty theft and assault without a weapon). Four percent of the girls' offenses did not clearly fit into a status or criminal offense category."); *see also* Pasko, *supra* note 31, at 1102 (explaining that the majority of juvenile females in multiple jurisdictions during the 1920s were similarly charged with crimes related to sexual delinquency or immorality).

57. Brief of Amici Curiae in Support of Petitioner O.G. at 21, O.G. v. Super. Ct. of Ventura Cnty., 481 P.3d 648 (Cal. 2021) (No. S259011), 2020 WL 7683230.

58. *See* John DiIulio, *The Coming of the Super-Predators*, WKLY. STANDARD, Nov. 27, 1995, at 23, 26.

59. *Id.* at 23–24.

60. Brian Dickinson, Opinion, *Angry Kids Need Heroes' Talk About Crime*, RECORD SEARCHLIGHT, Feb. 6, 1994, at A-5.

prosecuted as an adult to as young as fourteen, was introduced.[61] The author of the bill, California State Senator Steve Peace, echoed Dr. DiIulio's language:

> [T]he public is legitimately concerned that crimes of violence committed by juveniles are increasing in number and in terms of the level of violence . . . . There are a finite number of [fourteen] to [sixteen] year olds who do not belong in the juvenile court and are infecting other juveniles. . . . AB 560 is a rational response to the legitimate public desire to address what is a serious problem. . . . AB 560 attempts to protect the public and those youngsters who we can save. . . .[62]

At the news conference where then-Governor Pete Wilson signed the legislation into law, he asserted: "When young violent offenders kill, rape, or rob, they must be given the same penalty as adults, because it doesn't matter to their victims how old they are."[63] Predicated on super-predator imagery, these statements were rooted in a mindset that cast certain young boys as inherently violent, irredeemable, and outside the bounds of rehabilitation. They stoked voters' fears by evoking an image that is not only racially charged but also deeply gendered.

Legislators also invoked the need to protect women and girls as a justification for expanding the statute. This rhetorical strategy capitalized on sensationalist media coverage of high-profile sexual assault cases involving teenage boys, which were widely reported during this period.[64] For instance, one headline read, "Police: Chico Teen Named as Attacker in Several Sex Assaults."[65] Other articles described the rape of a fourteen-year-old girl in Modesto[66] and an assault near a high school in Barstow.[67] These cases were used to advance legislative proposals like Assembly Bill 136, which was introduced by California Assemblyman Charles Quackenbush in response to a highly publicized killing in San Jose.[68] The fifteen-year-old perpetrator had planned to break into a neighbor's home with the intent to rape and murder the woman living there.[69] In

61. Assemb. B. 560, 1993–1994 Reg. Sess. (Cal. 1994).

62. CALIFORNIA BILL ANALYSIS ASSEMBLY BILL 560, STAFF OF S. COMM. ON JUDICIARY, 1993–1994 REGULAR SESSION, at cmt. 1 (1994) (first and fourth omissions in original) (quoting Senator Steve Peace's statement).

63. Jerry Gillam, *Bills Allow 14-Year-Olds To Be Tried as Adults in Some Crimes*, L.A. TIMES (Sep. 10, 1994, at 00:00 PT), https://www.latimes.com/archives/la-xpm-1994-09-10-mn-36915-story.html [https://perma.cc/6S4G-RD9S].

64. *See, e.g.*, Elaine Gray, *Police: Chico Teen Named as Attacker in Several Sex Assaults*, CHICO ENTERPRISE-RECORD, May 11, 1993, at 2A; Daryl Farnsworth, *Girl, 14, Reports Rape by Teen Boy*, THE MODESTO BEE, Dec. 18, 1994, at B-2; *Girl Assaulted Near High School*, DESERT DISPATCH (Barstow), May 18, 1993, at 3.

65. Gray, *supra* note 64, at 2A.

66. Farnsworth, *supra* note 64, at B-2.

67. *Girl Assaulted Near High School*, *supra* note 64, at 3.

68. Barry Krisberg, *The Politics of the War Against the Young*, *in* AFTER THE WAR ON CRIME: RACE, DEMOCRACY, AND A NEW RECONSTRUCTION 187, 194 (Mary Louise Frampton, Ian Haney López & Jonathan Simon eds., 2008).

69. Miles Corwin, *Increase in Youth Crime Brings Push for Tougher Laws*, L.A. TIMES (Nov. 22, 1993, at 00:00 PT), https://www.latimes.com/archives/la-xpm-1993-11-22-mn-59664-story.html [https://perma.cc/856B-A3DJ].

backing the bill, then-Attorney General of California Dan Lungren stated: "If you do a man's crime, you should do a man's time."[70]

Although these amendments were promoted as mechanisms to shield women from violence, these legislators overlooked a significant population the statute would ultimately affect: girls with different pathways into the system who end up being charged with the enumerated offenses. In this framework, the need to protect women and girls becomes a powerful pretext for expanding carceral policies even when those policies ultimately target and harm girls themselves, reflecting the long-standing tradition of paternalism within the juvenile justice system.[71] This Essay's argument is not that only girls are unfairly targeted by the statute or that they alone deserve freedom from incarceration while it remains acceptable for boys. Rather, because boys have historically been the primary focus of these punitive statutes, their experiences and the injustices they have endured are more extensively documented.[72] In contrast, girls, transgender youth, and nonbinary youth often face additional hardships in juvenile detention and are too often overlooked in these discussions; meanwhile, they too are entangled in these narratives—that youth charged with section 707(b) offenses need to be locked up because they are an irredeemable threat to society—that result in their criminalization.[73] This Essay's aim is not solely to argue for their liberation but to elevate their stories, which lie at the intersections of violence, poverty, and racial and gender injustice, and within a system that was never built for them.

B. Modern Section 707(b) Rhetoric and Narratives

Today, the tough-on-crime policies of the 1990s have long since been repudiated, yet the enduring gendered narratives surrounding section 707(b) offenses remain. On November 21, 2021, the Los Angeles County Board of Supervisors ("the Board") unanimously supported a motion entitled "Decarceration of Girls and Young Women."[74] The Board acknowledged that many of the thirty-five girls incarcerated within Los Angeles County at the time "have polytraumas, [and] are victims and survivors of

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70. *Id.*

71. *See* BARRY C. FELD, THE EVOLUTION OF THE JUVENILE COURT: RACE, POLITICS, AND THE CRIMINALIZING OF JUVENILE JUSTICE 32 (2017); Sherman, *supra* note 23, at 1586; Pasko, *supra* note 31, at 1112; Wasilczuk, *supra* note 11, at 16. The sexist assumptions underlying these stereotypes also impose constraints on boys. They reflect long-standing social narratives in which masculinity is linked to aggression, danger, and a lack of emotional depth. *See* Russell K. Robinson, *Masculinity as Prison: Sexual Identity, Race, and Incarceration*, 99 CAL. L. REV. 1309, 1314 (2011). Under this logic, boys must be restrained through punitive measures and physical control, i.e., incarceration. As a result, this narrative upholds patriarchal norms that equate masculinity with toughness and punishment and leaves no room for understanding the structural and social conditions, such as trauma, poverty, systemic racism, and abuse, that often underlie the actions of young men in the juvenile justice system. *See id.*

72. *See supra* note 56 and accompanying text.

73. *See generally Women's Justice: A Preliminary Assessment of Women in the Criminal Justice System*, COUNCIL ON CRIM. JUST. (July 2024), https://councilоncj.org/womens-justice-a-preliminary-assessment-of-women-in-the-criminal-justice-system/ [https://perma.cc/KA4T-G89A] (discussing women and girls' additional risk factors).

74. Hilda L. Solis & Janice Hahn, *Decarceration of Girls and Young Women: Addressing the Incarcerated Youth Population in the Los Angeles County Camps and Halls*, CNTY. OF L.A. (Nov. 30, 2021), https://file.lacounty.gov/SDSInter/bos/supdocs/164026.pdf [https://perma.cc/J2E9-J47T].

domestic violence, sexual, physical, and mental abuse, and trafficking."[75] Since then, Los Angeles County has been ordered to depopulate its juvenile hall due to unsafe and illegal facility conditions.[76] In response, the chief of probation has denied any "indiscriminate mass release of youth," citing public safety concerns, asserting that youth incarcerated at Los Padrinos Juvenile Hall (LPJH) are booked on offenses of murder, attempted murder, or manslaughter.[77] The Board has echoed this rhetoric. In response to the potential depopulation of LPJH, the Board issued a motion proclaiming "a local emergency" and justified the continued incarceration in the following statement:

> [A] very high percentage of the youth in LPJH have a history of serious, violent offenses—such as murder, attempted murder, sexual assault, kidnapping, robbery, and carjacking . . . . This unfortunately creates extreme and imminent risks to the safety and security of the youth themselves, and of the community more broadly.[78]

Despite multiple strong incentives to decarcerate the roughly forty girls and gender-expansive youth in these dangerous facilities, the county has failed.[79] Why? The

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75. *Id.*

76. *Los Angeles County Probation – Facilities Timeline 2020 – Present*, PROB. OVERSIGHT COMM'N OF L.A. CNTY. 1–4 (Dec. 2025), https://file.lacounty.gov/SDSInter/bos/commissionpublications/internal/1158743_Timeline.pdf [https://perma.cc/JT2T-V6QY] (stating that Los Angeles County's unsafe and illegal facility conditions stem from the county's long-standing history of noncompliance with the state's minimum title 15 standards); *see also History of Suitability at the Central, Barry J. Nidorf, and Los Padrinos Juvenile Halls, Los Angeles County Probation Department 2018 – Present*, BSCC CAL., https://www.bscc.ca.gov/news/nidorf-los-padrinos-suitability-timeline-2018-present/ [https://perma.cc/5VWX-9T3S] (last visited Apr. 15, 2026) (providing a timeline of inspections and administrative actions at the Central, Barry J. Nidorf, and Los Padrinos Juvenile Halls).

77. *Los Angeles County Probation Department's Statement on Judge Michael Espinoza's Ruling Regarding Depopulation of Los Padrinos*, CNTY. OF L.A. (May 16, 2025), https://lacounty.gov/2025/05/16/los-angeles-county-probation-departments-statement-on-judge-espinozas-ruling-regarding-depopulation-of-los-padrinos/ [https://perma.cc/8UCD-2YRS]; *see also* PROB. OVERSIGHT COMM'N OF L.A. CNTY., PROBATION DATA SNAPSHOT FROM DECEMBER 1, 2024: A PROBATION OVERSIGHT COMMISSION ANALYSIS OF THE BOOKING CHARGES OF YOUTH DETAINED AT LOS PADRINOS JUVENILE HALL, at 2 (Feb. 2025), https://file.lacounty.gov/SDSInter/bos/supdocs/POC25-0011.pdf [https://perma.cc/R6Z2-GZZG] (last visited Apr. 14, 2026) (describing the reasons why juveniles are detained).

78. Kathryn Barger & Hilda L. Solis, *Proclaiming a Local Emergency Resulting from the Suitability Issues at Los Padrinos Juvenile Hall*, BD. OF SUPERVISORS CNTY. OF L.A. (Dec. 17, 2024), https://file.lacounty.gov/SDSInter/bos/supdocs/198568.pdf [https://perma.cc/DB86-YL77]. This motion passed with the following amendment to the language: "[D]irect county counsel to pursue all legal strategies to prevent the youth with serious and violent offenses housed in Los Padrinos Juvenile Hall from being released to the public or transferred to our L.A. county jails or placed in alternate housing that fails to protect the public and provide the youth with the appropriate services." BD. OF SUPERVISORS, BOARD MEETING TRANSCRIPT 30 (2024), https://lacounty.granicus.com/DocumentViewer.php?file=lacounty_08bce83fa5e8a06884fb6d2dab385013.pdf&view=1 [https://perma.cc/Q7D7-QPRP].

79. *See* Hilda L. Solis, *Applying for the Ending Girls' Incarceration Initiative in Support of Los Angeles County's Efforts To Decarcerate Girls and Young Women*, CNTY. OF L.A. (Feb. 7, 2023), https://file.lacounty.gov/SDSInter/bos/supdocs/177508.pdf [https://perma.cc/BHC3-FVHD]; *see* Letter from Esteban Rodriguez, Esq., to Aaron Maguire, Appeal of the Cnty. of L.A. and the L.A. Cnty. Prob. to the Bd. of State and Cmty. Corr. Dep't, Ex. A at 2 (Mar. 20, 2025), https://www.bscc.ca.gov/wp-content/uploads/2025/04/2025.03.20-Appeal-to-BSCC-Board-with-Exhibits.pdf **[**https://perma.cc/QKW5-NNVK**]** ("[F]orcing the County to uproot and relocate almost two hundred fifty youth . . . is not only virtually impossible but potentially catastrophic. It would endanger the youth in the

subtext is clear: By alluding to their "violent offenses," despite longstanding commitments to remove youth, especially girls, from the harmful and degrading conditions of confinement, the county is now saying the quiet part out loud. The justification for continued detention hinges on the claim that these youth are too dangerous to be released, a notion that implicitly echoes the harmful super-predator stereotype. But in doing so, the rhetoric returns to a deeply gendered and racialized fear, a fear of releasing uncontrollable violent young men back into the community. And in this fear, girls and gender-expansive youth become collateral damage—still confined, still harmed, and still denied the very "protections" the system once promised to provide.

C. Disrupting the Myth: Grounding Reality and Humanizing System-Involved Girls

Legislators, like Senator Peace, may claim that mandatory detention of all youth charged with such serious and violent offenses as those listed in section 707(b) is a rational response to legitimate public safety concerns, but recall Trisha's story. Her experience is not an anomaly: It reflects a broader reality on the ground. The majority of girls detained with 707(b) offenses have suffered significant abuse and trauma. Some 707(b) offenses do not involve violent felonies, but rather misdemeanors or nonviolent conduct.[80] Others are swept into the system as a result of systemic racism, gender bias, or overpolicing, not because they committed the allegations or pose a serious threat to public safety.[81] The 707(b) classification is overinclusive, disproportionately affects youth of color, and erases the complex, often mitigating circumstances behind each case.[82] These girls are not a threat to public safety, and in fact, are not always guilty.

1. Racial Disparities in Section 707(b) Charging

Racial disparities in the application of section 707(b) charging practices are stark and deeply alarming. In Los Angeles County from 2018 to 2022, 40% of dismissed cases were related to Black girls who were arrested and detained on felony charges.[83] These girls were not only unnecessarily criminalized but also subjected to the trauma of preadjudication detention for charges that never should have advanced in the first place. Similar patterns can be seen in San Diego County, where over a third (37%) of section 707(b) or felony firearm cases were dismissed, terminated, or rejected by the district

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County's care as well as the community, as the majority of youth confined at Los Padrinos await adjudication on serious violent felonies, including rape and murder.").

80. *See supra* note 49 and accompanying text.

81. *See* FRANCINE T. SHERMAN & ANNIE BALCK, GENDER INJUSTICE: SYSTEM-LEVEL JUVENILE JUSTICE REFORMS FOR GIRLS 6–12 (2015), https://www.albany.edu/sites/default/files/2022-05/7_Gender%20Injustice.pdf [https://perma.cc/K46H-4WHR].

82. *See* Edward P. Mulvey & Anne-Marie R. Iselin, *Improving Professional Judgments of Risk and Amenability in Juvenile Justice*, 18 FUTURE CHILD. 35, 39 (2008) ("Restricting an adolescent's freedom based on a tallying of empirical data is antithetical to viewing each adolescent as a work in progress whose life chances may remain intact with developmentally appropriate intervention.").

83. SARAH DERRIGAN, BECCA DIBENNARDO, DOREEN GOVARI & MIKAYLA GREEN, VERA INST. OF JUST., ENDING GIRLS' INCARCERATION ACTION NETWORK, LOS ANGELES COUNTY DIAGNOSTIC DATA REPORT: INDIVIDUAL LEVEL DATA 2018 TO 2022, at 35 (2025) [hereinafter L.A. MEMO] (on file with author).

attorney's office.[84] Notably, Black and Latina girls made up 74% of these cases.[85] These figures reflect more than individual errors in judgment; they reveal a systemic pattern of racialized overcharging and overdetention, particularly for girls of color.

2. Public Safety Is a Pretext, Not a Reality

Data from Los Angeles County between 2018 and 2022 also reveals a clear disconnect between the public safety rhetoric weaponized by political actors and any actual risk. During this five-year period, 99% of all girls admitted to juvenile detention, including those charged with section 707(b) offenses, received Los Angeles Detention Screener[86] scores recommending release.[87] According to the county's own risk assessment tool, these girls were *not* a public safety threat requiring detention: Data analysis also shows that the most common section 707(b) charges for girls were not kidnapping, rape, or murder like the cases Senator Peace initially targeted or the Board claimed in their motion; instead, they were aggravated assault charges.[88] Girls' exposure to violent trauma and subsequent traumatic stress reactions may play a role in many of these "assaults" because they often take place in the context of ongoing family or intimate partner violence; nevertheless, girls, often survivors, are the ones who become involved in the legal system.[89] In California, 81% of girls in the juvenile justice system have experienced such abuse, with 40% having been raped or sodomized at least once and 45% having been burned or beaten.[90] Framing these girls as inherently violent not only misrepresents the reality of their lived experiences but also erases the structural and interpersonal trauma driving many of their actions. Yet rather than addressing these systemic failures and investing in interventions that transform the structural conditions

84. S.D. MEMO, *supra* note 1, at 11.

85. *Id.*

86. The Los Angeles Detention Screener (LADS) is the risk assessment tool used by the Los Angeles County Probation Department to determine whether a youth should be booked at intake. L.A. MEMO, *supra* note 83, at 22 n.22. The assessment is independent of a youth's charge; thus, discrepancies between risk score and legal mandates result in an override that leads to detention. *Id.*

87. *Id.* at 22–23 ("Of the 820 first time new arrest admissions for which we know the charge severity (which constitute 55 [%] of the total number of admissions), 40 [%] (324/820) did not include a 707b or felony firearm offense . . . . Among the admissions that did include a 707b or firearm offense, 99 [%] (491/496) received LADS scores that would have recommended release or supervised release." (emphasis omitted)).

88. HARP ET AL., *supra* note 40, at 3; *see also* L.A. MEMO, *supra* note 83, at 46 (outlining the most common charges at detention admission); S.D. MEMO, *supra* note 1, at 15 (listing the top charges for girls' pre-adjudication bookings). Robbery charges are also common. *See* L.A. MEMO, *supra* note 83, at 46; S.D. MEMO, *supra* note 1, at 74. These charges often arise out of self-preservation or survival tactics and in many cases out of trauma responses to long-standing challenges, including unstable housing, family issues, involvement in child welfare, sexual abuse, exploitation, domestic violence, and historical trauma. OYCR REPORT, *supra* note 1, at 17–23.

89. *See* PATRICIA K. KERIG & JULIAN D. FORD, NAT'L CHILD TRAUMATIC STRESS NETWORK, TRAUMA AMONG GIRLS IN THE JUVENILE JUSTICE SYSTEM 4 (2014), https://www.nctsn.org/sites/default/files/resources/trauma-among-girls-in-the-jj-system.pdf [https://perma.cc/S2BJ-WHD7].

90. MALIKA SAADA SAAR, REBECCA EPSTEIN, LINDSAY ROSENTHAL & YASMIN VAFA, HUM. RTS. PROJECT FOR GIRLS, GEORGETOWN L. CTR. ON POVERTY & INEQ. & MS. FOUND. FOR WOMEN, THE SEXUAL ABUSE TO PRISON PIPELINE: THE GIRLS' STORY 11 (2015), https://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf [https://perma.cc/W24N-R7MU].

in girls' lives,[91] government agencies frequently focus on the outward expressions of distress—disruptive behavior—and respond with criminalization and incarceration, which often mirrors the same violence these girls have already suffered in their personal lives.[92] When seen in full context, these actions are expressions of unmet needs, a cry for help from girls the system has consistently failed. Yet, once labeled with a section 707(b) offense, they are placed into a punitive legal track from which it is extremely difficult to escape.

At the front end of the juvenile justice system, girls facing section 707(b) charges are statutorily disqualified for diversion and other community-based alternatives—specifically police diversion, probation diversion, and deferred entry of judgment[93]—that could otherwise redirect their life trajectories while still holding them accountable.[94] Once the section 707(b) label is applied, it then follows them throughout the rest of the legal process, shaping perceptions and decisions at every critical juncture. District attorneys and judges retain discretion to choose alternatives to detention programming,[95] but the label itself often overshadows the circumstances or contexts of the case. It casts these girls into an inherently criminal category—one with a propensity for violence, less amenable to rehabilitation, and, ultimately, not worth investing in. This narrative then becomes a self-fulfilling prophecy. With few opportunities for diversion or community-based programming, and often out of fear of releasing them back into the community, these girls are instead subjected to state violence through incarceration. Upon release, they return to the same unstable environments that contributed to their initial system involvement. Now retraumatized and without adequate support, unsurprisingly, they struggle. They act out. And they get pulled right back into the system. At every turn, opportunities to address the root causes of their behavior through less restrictive alternatives would yield better outcomes. Yet rather than being met with support, these girls are locked up, thus reinforcing cycles of harm and systemic control.

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91. Such interventions include connecting the young person and their families with needed resources.

92. Shabnam Javdani, *Gender Matters: Using an Ecological Lens To Understand Female Crime and Disruptive Behavior*, *in* PERCEPTIONS OF FEMALE OFFENDERS: HOW STEREOTYPES AND SOCIAL NORMS AFFECT CRIMINAL JUSTICE RESPONSES 9, 13 (Brenda L. Russell ed., 2013). In a 2020 discussion, "Prison Is Abuse," Activist Monica Cosby described how her firsthand experiences of abuse and incarceration felt the same to her: "[P]risoners are forced to yield to the rules and regulations of prisons lest they are punished with violence, just as survivors of violence . . . 'find themselves at the mercy of their abusive partner.'" ANGELA Y. DAVIS, GINA DENT, ERICA R. MEINERS & BETH E. RICHIE, ABOLITION. FEMINISM. NOW. 113 (2022).

93. *See* CAL. WELF. & INST. CODE §§ 653.1, 653.5, 654.3, 790 (West 2025).

94. These programs have documented rates of success. *See* CHARLENE TAYLOR, STEPHANIE DURIEZ, SONIA URQUIDI, PENELOPE FERGISON & TAYLOR KIDD, L.A. CNTY. DEP'T OF YOUTH DEV., RDA CONSULTING, LA COUNTY DEPARTMENT OF YOUTH DEVELOPMENT—DIVERSION PROGRAM: OUTCOME AND EQUITY ASSESSMENT -&- COST BENEFIT ANALYSIS 13 (2024), https://dyd.lacounty.gov/wp-content/uploads/2024/07/DYD_Outcome-Equity-Report_Final-Report.pdf [https://perma.cc/QW6E-JDXU] (finding that 95% of youth formally enrolled in diversion did not recidivate after a year, showcasing the program's success in mitigating further justice involvement).

95. *See, e.g.*, CAL. GOV'T CODE § 26500 (West 2026); WELF. & INST. CODE §§ 653.5(e), 654.2, 725(a).

III. FROM LABELS TO LIBERATION: USING MOVEMENT LAWYERING TO RECLAIM YOUTH NARRATIVES AND DRIVE CHANGE

The dominant group creates its own stories . . . . The stories or narratives told by the ingroup remind it of its identity in relation to outgroups, and provide it with a form of shared reality in which its own superior position is seen as natural. The stories of outgroups aim to subvert that ingroup reality.

– Richard Delgado[96]

A. In Their Own Words: Stories from Impacted Youth

1. Tracey

Tracey was defending her sister from her mother's boyfriend the first time she was arrested.[97] She explained, "I got into a physical altercation with my mom and she called the police on me. [But] it was basically self-defense—[my mom] was with a guy that liked my little sister and they was doing inappropriate things in the same room as me and my sister."[98]

2. Alexis J.

> When I was [fifteen], my parents kicked me out, because I refused to keep giving them money. I really started to steal and I got caught up with these people who sold drugs. I was nervous because I didn't want to hurt anyone, but I didn't know how else to survive. I started selling drugs, because I had no other way to provide for my brothers. I did what I had to do to put shoes on their feet and food on the table.
>
> I got arrested for a robbery . . . . The whole time I was just worried about my brothers. How were they going to eat? Who was going to protect them from my dad?
>
> I think there is a stigma that kids who get in trouble with the law are bad, when we are just missing that guidance and navigation. I didn't get involved in crime because I wanted to. I did it because I didn't see another way out. The people who were supposed to protect me didn't help. Instead of asking why I was acting out, they labeled me a bad kid and pushed me deeper into trouble. Instead of trying to help me when I asked, they just pushed me away so I wasn't their problem anymore. We don't need punishment—we need understanding.[99]

B. Strategies in Movement Lawyering: Shifting Power Structures To Build Sustainable Change

The prevailing narrative around youth confined in the juvenile justice system, particularly those confined based on section 707(b) offenses, is one of "moral depravity."

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96. Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2412–13 (1989).

97. GREEN ET AL., *supra* note 1, at 37–38.

98. *Id.* (alterations in original).

99. OYCR REPORT, *supra* note 1, at 17 (emphasis omitted).

This framing, or ingroup storytelling as Professor Richard Delgado describes, is constructed and repeated by those in power to justify punitive policies.[100] In contrast, attorneys working in the movement to end girls' incarceration have an opportunity to subvert this narrative—not by speaking over youth, but by centering their voices and amplifying their lived experiences.

Movement lawyering, also called community lawyering, is lawyering that supports and advances social movements, led by the most directly impacted, to achieve systemic institutional and cultural change.[101] The central tenet of movement lawyering is the building and exercising of grassroots power.[102] In the context of policy advocacy, transformative social change arises not merely through changes in laws or policies, but through the redistribution of power to communities most harmed by oppressive structures, such as mass incarceration, to disrupt their continued reproduction. Who leads and shapes the direction and goals of the movement is just as important as how the movement is carried out.

There are five key strategies for movement lawyers partnering with directly impacted youth. First, lawyers, and other well-intentioned advocates, must resist the urge to speak for directly impacted young people, as doing so risks reproducing the same paternalistic harms the system has inflicted. Second, lawyers should not tokenize or pressure youth into sharing their stories. Their presence alone challenges dominant narratives. Third, adults must respect youth autonomy, maintain confidentiality, and recognize that impacted youth are the experts in the room. Their knowledge, not their trauma, must be the foundation of advocacy. Fourth, movement lawyers should provide the resources and support necessary for young people to lead. Fifth, young people must have opportunities to testify at legislative hearings, engage with media, take seats on policy-making commissions, and drive solutions.

Collectively, these strategies create a foundation for relationships rooted in mutual trust rather than dependency, shifting power from the traditional authority of lawyers to young people. This work is already being led by youth leaders across California who are at the forefront of the movement to end girls' incarceration.

The Young Women's Freedom Center, an organization led by directly impacted individuals, partners with movement lawyers to decriminalize and decarcerate young women, girls, and transgender and gender-nonconforming people through movement building, place-based advocacy, a statewide policy agenda, and participatory research.[103] Through this multipronged approach these partnerships have contributed to major victories, such as zeroing out the number of girls in juvenile hall in Santa Clara and San Francisco counties.[104] The California Alliance for Youth and Community Justice also

100. *See supra* note 96 and accompanying text.

101. Betty Hung, *Movement Lawyering as Rebellious Lawyering: Advocating with Humility, Love and Courage*, 23 CLINICAL L. REV. 663, 664 (2017).

102. Charles Elsesser, *Community Lawyering – The Role of Lawyers in the Social Justice Movement*, 14 LOY. J. PUB. INT. L. 375, 384 (2013).

103. Youth L. Ctr. & Young Women's Freedom Ctr., *Restoring Childhood: A Movement-Based Legal Advocacy Campaign*, YOUTH L. CTR., https://ylc.org/wp-content/uploads/2019/07/YLC-Restoring-Childhood.pdf [https://perma.cc/9YPJ-D2E3] (last visited Apr. 15, 2026).

104. Nell Bernstein, *California's Santa Clara County Aims To Keep Girls Out of Juvenile Lockups*, THE IMPRINT (Jan. 18, 2023, at 09:01 ET), https://imprintnews.org/justice/juvenile-justice-

convenes young leaders through its All Youth Are Sacred Fellowship to develop a narrative strategy framework as a proactive strategy and organizing tool for coordinated legislative advocacy.[105] Their fellows include representation from counties across California who are shaping statewide strategies for youth decarceration.

These leaders, collectively, are organizing to communicate a universal message: Youth charged with serious crimes are often reduced to the worst thing they've ever done, but they are not monsters. They are young people who are resilient, complex, and capable of transformation. With consistent, intentional outreach and investment, they can reclaim the narrative around their lives, not as threats to be feared, but as individuals shaped by systemic failures who deserve support, healing, and opportunity. In doing so, they not only reframe and improve community safety outcomes, but begin to liberate themselves from the oppressive conditions they have encountered throughout their lives, and move closer towards realizing justice and freedom.

IV. CONCLUSION

At its core, the juvenile justice system was not intended to be punitive. All young people, regardless of the offenses they are charged with, are capable of growth and change. Yet today's legal structures, especially statutes like section 707(b), have drifted far from that original vision. Instead of centering care and development, these rules often reflect deeply ingrained racial, gendered, and sexualized biases that punish youth for who they are perceived to be, and the trauma they have endured, rather than what they have done.

Broad categorical labels like 707(b) may promote administrative efficiency, but they do so at the expense of proportionality and justice. Every young person deserves an individualized and holistic assessment. Instead, what we see in practice is the use of blanket statutes that obscure nuance, ignore lived experience, and sweep the most marginalized youth, particularly girls of color, into carceral systems where their needs go unmet and their futures jeopardized. What emerges is not a system grounded in the core principles of dignity, reform, and healing, but a reactionary system governed by fear. The pervasive narratives that arise out of this fear distort perceptions of public safety risk, drown out the voices closest to harm, and push our youth into the dangerous conditions of confinement.

Movement lawyers often focus on legal, data, research, and policy priorities, but the narrative battle must also be won for meaningful reform to take hold. And they cannot win it alone. Advocates must uplift the voices of those most directly impacted, girls and gender-expansive youth themselves, without excluding those with some of the most complex lives. Girls charged with 707(b) offenses are pushed into a system that fails to ask *why* harm occurred or what healing might look like. If we are truly committed to justice, we must extend compassion, advocacy, and structural change to *all* youth—especially those the system has deemed beyond saving.

2/californias-santa-clara-county-aims-to-keep-girls-out-of-juvenile-lockups/237692 [https://perma.cc/8MSX-8VNC].

105. Bria Woodland, *What Is "All Youth Are Sacred"?*, CAL. ALL. FOR YOUTH & CMTY. JUST. (May 20, 2019), https://www.transformjusticeca.org/all-youth-are-sacred-news-feed/what-is-all-youth-are-sacred [https://perma.cc/VM83-CYQE].