Three decades after the publication of “The Crime of Precocious Sexuality” it remains a classic in juvenile justice, criminal justice, and women’s history. At a time when only a handful of scholars had taken interest in the experiences of troubled females in the emerging juvenile justice system of the late nineteenth and early twentieth centuries, Schlossman and Wallach carried out a broad sweep critical of the ideologies and practices shaping the lives of these girls across the United States. As they noted, turn of the century changes brought about by rapid industrialization, urbanization, and immigration as well as transformations in sexual conventions and customs, particularly as they pertained to females, alarmed the middle class, native-born whites known as Progressives. In response, Progressives initiated a series of paternalistic reforms aimed at curbing what Schlossman and Wallach identified as “precocious sexuality,” that is, sexual behavior threatening to bourgeois notions of gender and sexuality. Ultimately, these efforts discriminated against the poor, working class, ethnic females who appeared most frequently in juvenile courts of the day. The reforms also reinforced a sexual double standard that punished girls for even suggesting interest in sexual activity, while nearly exonerating boys from the same. In “Precocious Sexuality” Schlossman and Wallach concluded that girls continued to bear the brunt of sex discrimination, despite transformations in women’s rights and juvenile corrections in the 1960s and early 1970s.1

Thirty years later paternalism continues to guide and inform the juvenile justice system. Scholars have shown that today, as in the past, girls end up in the juvenile justice system primarily for sexually based “crimes,” that is, for status offenses—acts deemed criminal based on the age of the offender. These offenses include running away, staying out late at night, and in other ways engaging in behavior that challenges parental authority. In most cases, status offenses are

(as they have been in earlier periods) euphemisms for sexually related behavior deemed inappropriate both by the court and by parents. Recent scholarship also demonstrates that girls—more so than boys—continue to suffer undue hardships for their transgressions. Juvenile corrections, then, in many ways enforces early twentieth century principles of gender and sexuality.

To say that little has changed in the juvenile justice system in more than a hundred years is arguably ahistorical. Yet the links across time and space are striking and disturbing. The anniversary of “Precocious Sexuality” is an opportune moment to examine and analyze some of the continuities and changes, as well as the benefits and burdens of the system in place for young female offenders. As this discussion demonstrates, Schlossman and Wallach’s study did not, of course, emerge in a vacuum but rather was shaped by contemporary developments in academia and the larger society. To assess those and the more recent trends in the wake of “Precocious Sexuality,” this essay begins by exploring the scholarship and public policies of the 1960s and 1970s that informed Schlossman and Wallach’s study. Next, it probes the impact of their study on writings focusing on the rise of female delinquency, eugenics, and Progressive reform in the early twentieth century and on contemporary developments of the juvenile justice system in the 1980s, 1990s, and 2000s. Finally, the discussion highlights the areas of research that are still lacking and argues that more attention to the intersection of gender, class, race, and ethnicity is needed, especially given the rising proportion of girls of color in the juvenile correctional system in some of the most populous states, including New York, Texas, and California.

FEMALE JUVENILE DELINQUENCY COMES OF AGE

At the time Schlossman and Wallach published “Precocious Sexuality,” public policy pundits and scholars had just begun to take notice of girls’ unique experience—vis-à-vis boys—in the juvenile justice system. Children and youth advocates argued that, whereas boys ended up in the system for property crimes, girls became entangled in the system for status offenses such as staying out late at night with unsavory characters. The passage of the Juvenile Justice Delinquency Prevention Act (JJDP) in 1974, which provided funding for delinquency prevention programs to states who enforced the measure, was partly a response to concerns over the criminalization of girls charged with status offenses and their subsequent detention and institutionalization. The JJDP sought to decriminalize—or divert—them from detention, industrial schools, and jails by placing them in private or public homes where they could receive assistance to deal with the roots of their problems. The immediate impact of the
JJDP proved successful, and the numbers of young girls arrested, detained, and incarcerated dropped dramatically.

Scholars, like public policy advocates of the 1970s, had paid little attention to female—as opposed to male—delinquency in history and in contemporary society. Indeed, the dearth of evidence on girls’ experiences particularly in history motivated Schlossman and Wallach to “call attention to a neglected subject” and “encourage additional research.” Previous studies, though few in number, helped Schlossman and Wallach take on female juvenile delinquency within a broad historical and national context. They relied on the pioneering scholarship of Paul Tappan, Meda Chesney-Lind, Don Gibbons and M. J. Griswold, and Barbara Brenzel, among others, who examined the juvenile court in the Progressive era and present day as well as the gender ideologies and practices shaping the incarceration of young females in the nineteenth and twentieth centuries. This literature, along with Schlossman and Wallach’s “Precocious Sexuality,” later played instrumental roles in the expansion of the study of girls in the juvenile justice system within the fields of women’s history and criminal justice history.

An overview of the literature produced in the wake of “Precocious Sexuality” confirms the study’s widespread influence on the scholarship exploring historical experiences of young females identified as delinquents in the Progressive era. Indeed, dozens of books and articles relied on (and continue to do so as late as 2008) “Precocious Sexuality” for evidence of the gender biases of the juvenile court in the Progressive era, the larger ethnic prejudices that influenced the court, sexual purity movements focused on eliminating white slavery and prostitution, and the eugenicist efforts aimed at controlling presumably sexually perverse, deviant females who threatened the larger moral fabric of society. Undoubtedly the most widespread influence of their work has been the recognition that gender and ethnic prejudices encouraged juvenile courts across the United States to criminalize sexual behavior deemed offensive to white, middle class sensibilities. As they observed, “[i]deas about immigrants and perceived sexual activity led judges and others to see ‘precocious sexuality’ where none existed.”

Arguably, scholars paid less attention to Schlossman and Wallach’s insights on the link between moral crusaders and eugenicists. As they suggested and subsequent work has demonstrated, many juvenile court officials, social workers, and other professionals held memberships in “better breeder” societies and “race betterment” professional organizations. Ultimately, these individuals, who were deeply invested in eugenics, shaped the court’s treatment of delinquent girls and their final disposition. Yet not everyone overlooked Schlossman
and Wallach’s significant finding. Nicolas F. Hahn, Mary Odem, and Angie Kennedy among others, picked up the theme, demonstrating the varying ways in which professionals, including social scientists, social workers, and court officials, classified and identified sexually active women and girls as deviants needing permanent care and, if possible, sterilization.8

The expansion of the historical literature following on the heels of “Precocious Sexuality” accompanied a significant output of scholarship on the contemporary experiences of girls in the juvenile justice system. A cursory examination of those studies in the last thirty years reveals unsettling links between the past, as described by Schlossman and Wallach, and the present. Today, most criminologists, sociologists, and legal scholars working in the field of female juvenile delinquency agree that gender and ethnic biases as well as paternalistic attitudes continue to inform the system, despite the move to decriminalize status offenders in 1974. The passage of new measures altering the JJDP has muted many of the potential long-term gains, however. For instance, an amendment passed in 1980 makes violators of court orders subject to institutionalization. In other words, a runaway girl who is in a private home and fails to show up to a court hearing can be placed in secure detention. Girls who violate such orders, according to John M. MacDonald and Meda Chesney-Lind, receive harsher sentences than boys for doing the same. In Florida, for instance, researchers have found that girls are much more likely to be treated more severely than the boys, suggesting that neither the feminist movement nor the JJDP has brought fundamental changes to the juvenile justice system. Moreover, once referred to court, girls are more likely than boys to be petitioned for formal court processing and to receive detention and incarceration. Years after the passage of the JJDP, MacDonald and Chesney-Lind conclude that girls “are still being harshly sanctioned.”9 Despite the JJDP’s recent mandate to establish gender specific prevention and intervention programs for at-risk girls, only a handful of states across the United States has done so.10

Another disturbing trend scholars have identified is the increasing rates of arrests, detention, and incarceration of girls for assaults and other crimes. In 2002, girls made up twenty-nine percent of all arrests, and though boys still outnumber girls, researchers have found that arrest rates for young females have increased at a faster rate than those of young males. Lori Guevara, Denise Herz, and Cassia Spohn point out that “[b]etween 1980 and 2002, for instance, female arrests for aggravated assault increased ninety-nine percent, compared to fourteen percent for males; for simple assault, the figures were 258 percent for females and nine percent for males; and for weapon charges, the increase was 125 percent for females but only seven percent for males.”11 The increase in
criminal charges suggests that girls are becoming more violent—as the media and conservative politicians have maintained—and that fewer girls are being charged with status offenses. In other words, the logic goes, girls are picking up on boys’ behaviors and, when it comes to status offenses, the courts have become more evenhanded and less paternalistic than in the past. Yet the reality is far from that. Instead, young females charged with assault are brought to the attention of the authorities for essentially the same long-standing issue: conflicts with parents. The difference is that, today, girls are charged with simple assault and similar crimes committed in their struggles with family members, partners, and other persons known to them. As Bishop and Frazier have shown, the police and the courts have redefined and repackaged status offenses as delinquent crimes. The long struggle to reform the juvenile justice system’s treatment of girls, MacDonald and Chesney-Lind argue, shows “the difficulty of having an institution with such a long history of paternalism reform itself.”

Perhaps the least well-known and studied aspect of girls’ experiences in the juvenile justice system in history and the contemporary period is the role of race. Schlossman and Wallach highlighted the ethnic prejudices informing the juvenile courts and related institutions in the Progressive era, but most scholars—with the exception of Randall G. Shelden, Vernetta D. Young, Jennifer Trost, Elizabeth Escobedo, and Catherine Ramirez—have yet to investigate how ideas about race and racist thinking impacted the lives of African American, Mexican American, and Native American girls in the past. In the contemporary era, Vernetta D. Young, Meda Chesney-Lind and Lisa Pasko, and Guevara, Herz, and Spohn, have made important observations on the disparities and over-representation of girls of color, specifically young black females. According to Guevara, Herz, and Spohn, in contrast to their white counterparts, African American girls have significantly higher rates of detention and placements and receive harsher sentences. To what extent these trends apply to other minority girls has yet to be explored fully for either the contemporary or past eras. The lack of information prevents a clear understanding of the meaning and application of justice for all women and girls across the United States.

CONCLUSION

Since the publication of Schlossman and Wallach’s “Precocious Sexuality” scholars have made significant gains in identifying the gender and ethnic biases and highlighting the changes and continuities of the juvenile justice system. Yet less is known about how ideologies and practices of race inform that same system. Although recent scholarship indicates that such questions are beginning
to be investigated, until significant research is carried out on girls of color we
will lack an accurate understanding of young females’ experiences in the cor-
rectional system in the United States.

NOTES
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11. Lori Guevara, Denise Herz, and Cassia Spohn, “Gender and Juvenile Justice Decision


