

Criminalization Risks & Incarceration Rates of Black Girls Aging Out of Foster Care



National
Black Women's
Justice Institute

When children are placed in foster care, it exposes them to conditions and risks that make them more susceptible to experiencing various poor outcomes as adults, including but not limited to physical and mental health issues, homelessness, unemployment, and coming into contact with law enforcement and risk of incarceration.¹

On any given day, more than 360,000 of our most vulnerable children are in foster care, and Black children are overrepresented among them.² Black girls make up 23% of girls in foster care while only making up 13% of girls in the general population.³ This means that the negative impacts of being placed in foster care, including risk of incarceration, has an outsized impact on Black girls.

To get a clearer look at this, the National Black Women's Justice Institute analyzed data from the National Youth in Transition Database, which tracks outcomes for youth who have aged out of foster care. This analysis, broken down by race & ethnicity and age, shows the cumulative rate that girls who have aged out of foster care reported having been incarcerated at least once up to age 21.

Through this factsheet and analysis, we aim to better understand the factors that put Black girls in foster care at risk of criminalization. With this, we aim to support the development of evidence-informed, healing-centered solutions, interrupt the foster-care-to-prison pipeline, and ensure that Black girls and all foster youth receive the safety and support they deserve.

What does it mean to “age out” of foster care?

“Aging out” means youth reach the legal age of adulthood (18 or 21, depending on the state) and transition out of the care of foster care.

OUR ANALYSIS

Incarceration rates of Black girls who have aged out of foster care

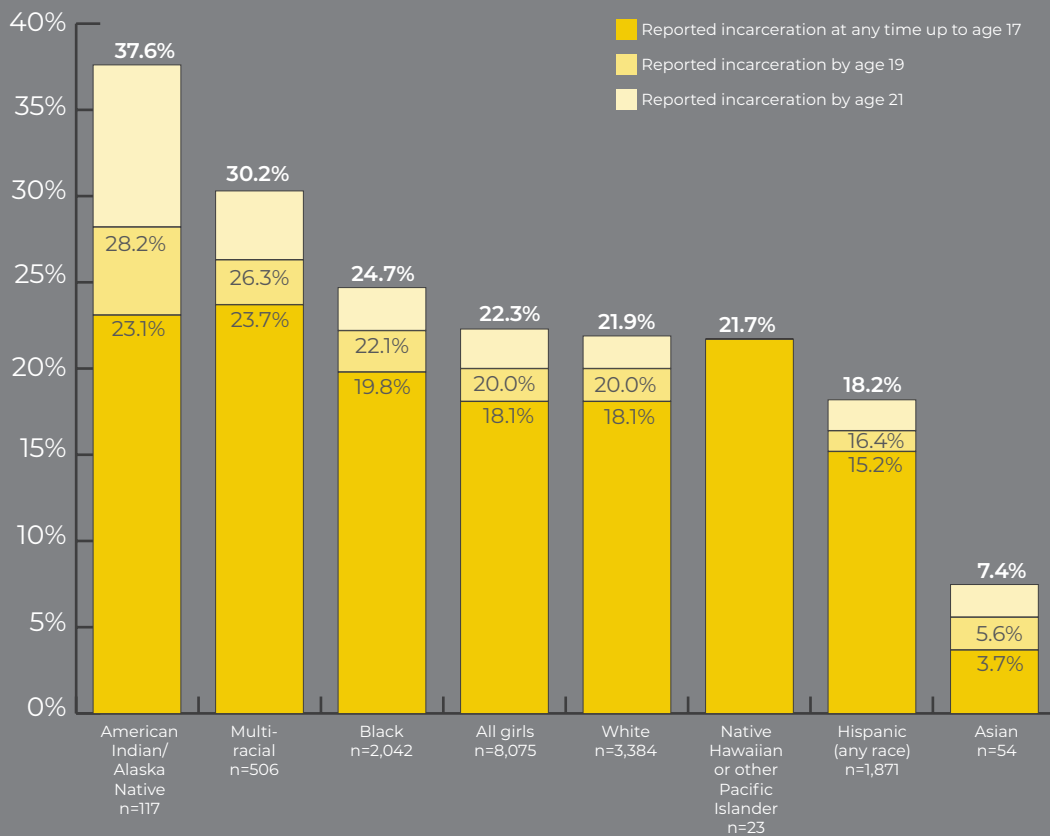
Our analysis of data from the National Youth in Transition Database, which tracks outcomes for youth aging out of foster care, shows that girls in foster care have higher rates of incarceration compared to the general population:

- Our analysis showed that 18.1% of girls transitioning out of foster care reported having been incarcerated at least once by age 17. (See figure 1.)
 - This number is even higher for Black girls: **19.8% of Black girls aging out of foster care reported experiences with incarceration by age 17.**⁴ For comparison, an analysis by the National Longitudinal Study of Adolescent to Adult Health showed that, by age 32, 16.5% of young adult respondents reported having ever been incarcerated.⁵
 - This means that a greater percentage of Black girls in foster care have had experiences with incarceration by age 17 than people in the general population, even by people nearly twice their age.

- By age 21, 22% of all girls who have aged out of foster care, and **nearly 25% of Black girls, reported having been incarcerated at least once.**
- The majority (81%) of girls, including the majority of Black girls (81%), who aged out of foster care who reported incarceration by age 21 had their first experience of incarceration by age 17.
- The already high incarceration rate at age 17 increases as youth enter early adulthood. By the age of 21, 22.3% of all girls that responded had reported at least one experience of incarceration.
- This percentage is even higher for Black girls: **by age 21, 24.7% of Black girls who aged out of foster care reported at least one experience of incarceration, compared to 19.8% at 17—an increase of nearly five percentage points in only four years.**⁶

Figure 1: Percent of girls who aged out of foster care who reported being incarcerated* at least once by age 21

By age 21, nearly 25% of Black girls who aged out of foster care reported having been incarcerated at least once, up from 20% at age 17. Black girls were among the top 3 groups with the highest rates of reporting incarceration experiences up to age 21 (after American Indian girls and multiracial girls).



*A youth was considered to have been incarcerated if the youth was confined in a jail, prison, correctional facility, or juvenile or community detention facility in connection with allegedly committing a crime (misdemeanor or felony).

Black girls in foster care face risks of criminalization

Being in the foster care system exposes girls to conditions and risks that make them more susceptible to coming into contact with law enforcement.⁷

- **Instability:** Youth in foster care may experience many disruptions to their daily life, including changing foster care placements, changing schools, family separation, living with strangers, and leaving behind friends and caring adults. Without stability and social connections, the risk is greater that children in foster care may turn to survival strategies and trauma-coping behaviors, such as substance use, truancy, or running away from foster homes, which can lead to contact with law enforcement and the juvenile-legal system.⁸
- **School discipline:** Children in foster care experience school discipline at disproportionately higher rates than children not in foster care.⁹ Punitive school discipline—such as suspensions, expulsions, or referrals to law enforcement—weakens students' connection with school and is associated with poor student achievement and a failure to complete school. These students are then at risk of coming into contact with the juvenile and criminal legal systems. Our previous analysis of school discipline shows that Black girls are overrepresented across all discipline sanctions, including referrals to law enforcement and arrests.¹⁰ This means Black girls in foster care are particularly vulnerable to school pushout and criminalization.
- **Unmet mental health needs:** Many foster youth have mental health needs: they are 2 to 4 times more likely to experience mental health disorders at some point in their lifetime compared to youth in the general population.¹¹ Yet there is often a lack of culturally competent mental health services tailored to address the specific needs of Black girls. When these needs go unmet, it can make it difficult to cope with parts of daily life. This can ultimately lead to poor performance in school, job loss, homelessness, and more.¹² This can make people more vulnerable to victimization and contact with the criminal legal system.¹³
- **Trafficking:** Girls in foster care, particularly Black girls, are at risk of becoming victims of sex trafficking because they are vulnerable youth, making them targets of traffickers.¹⁴ Additionally, traffickers have admitted that they believe trafficking Black women would land them less jail time.¹⁵ Sex trafficking victims, and disproportionately Black youth, are often arrested on prostitution charges and punished rather than served and supported as victims: 30% of Black youth are characterized as victims versus 60% of white youth.¹⁶

Foster youth risks for

CRIMINALIZATION



Instability, loss of social connections



School discipline



Unmet mental health needs



Trafficking



Education outcomes



Housing instability



Unemployment



Involvement in juvenile legal system

BLACK GIRLS WHO HAVE AGED OUT OF FOSTER CARE CONTINUE TO FACE RISKS FOR CRIMINALIZATION

Around 20,000 children in foster care will “age out,” which means they transition out of the care of foster care when they reach the age of 18 (or age 21 in some states).¹⁷

- **Housing instability:** For young people aging out of foster care, 20%–33% experience homelessness within the first two years of aging out.¹⁸ Homelessness can lead to encounters with the law enforcement due to activities such as loitering, theft, or substance use, which are often survival strategies.¹⁹
- **Unemployment:** Unemployment is a significant risk factor for involvement in the criminal legal system, particularly among vulnerable groups such as youth aging out of foster care.²⁰ The housing instability that young people who have aged out of foster care experience can limit employment opportunities.
- **Education outcomes:** Young people’s education outcomes can also impact employment opportunities. Approximately 65% of foster youth complete high school by age 18 compared to 84% of non-foster youth.²¹ For Black girls, their connection to school and education outcomes are negatively impacted by the instability that young people experience while in foster care, including changing schools, along with truancy, running away, and being pushed out of school through school discipline.
- **Involvement in juvenile legal system:** Previous involvement in the juvenile or criminal legal system is a risk factor for future involvement in the criminal legal system as adults. This means that the 18% of girls aging out of foster care—including nearly 20% of Black girls—who leave the foster care system having been incarcerated at least once (see figure 1) are at greater risk of involvement in the criminal legal system.²²

Black girls are overrepresented in the foster-care-to-prison pipeline

The foster-care-to-prison pipeline refers to the trend of foster youth becoming involved in the juvenile or criminal legal systems.²³ Children who have been involved in both the foster care and juvenile legal systems are often referred to as “dual-system-involved youth” or “crossover youth.”

- Girls make up between 37% and 47% of children who are dual-system involved.²⁴
- Approximately 30% of all youth who have aged out of foster care report having been incarcerated at some point by age 17.²⁵
- Among the subset of girls who age out of foster care, our analysis shows that slightly more than 18% of girls, and nearly 20% of Black girls, who aged out of foster care reported having been incarcerated at least once by age 17 before they left foster care. (See figure 1.)²⁶

By age 17, nearly



1 in 5 Black girls who aged out of foster care reported having been

INCARCERATED

at least once.

By age 21, nearly



1 in 4 Black girls who aged out of foster care reported having been

INCARCERATED

at least once.

About the data

To examine the incarceration numbers of girls who have aged out of foster care, we used the “National Youth in Transition Database” from the National Data Archive on Child Abuse and Neglect, September 2024, <https://www.ndacan.acf.hhs.gov/>.

The data surveyed one cohort of youth three times: first at age 17 (while they were still in foster care), again at age 19, and again at age 21.

At age 17, the survey asked, “Have you ever been confined in a jail, prison, correctional facility, or juvenile or community detention facility, in connection with allegedly committing a crime?”

At ages 19 and 21, the survey asked “In the past two years, were you confined in a jail, prison, correctional facility, or juvenile or community detention facility, in connection with allegedly committing a crime?”

Response options were “Yes,” “no,” or “declined.”

The NDACAN provided the following definition of incarceration for the purposes of its survey:

- A youth is considered to have been incarcerated if the youth was confined in a jail, prison, correctional facility, or juvenile or community detention facility in connection with allegedly committing a crime (misdemeanor or felony).
- For a 17-year-old youth in the baseline population, the data element relates to a youth’s lifetime experience.
- For a 19- or 21-year-old youth in the followup population, the data element relates to the youth’s experience in the past two years.

Endnotes

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