

# Court Processes

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# Gender-Responsivity in the Courtroom

Dr. Nicole McKenna

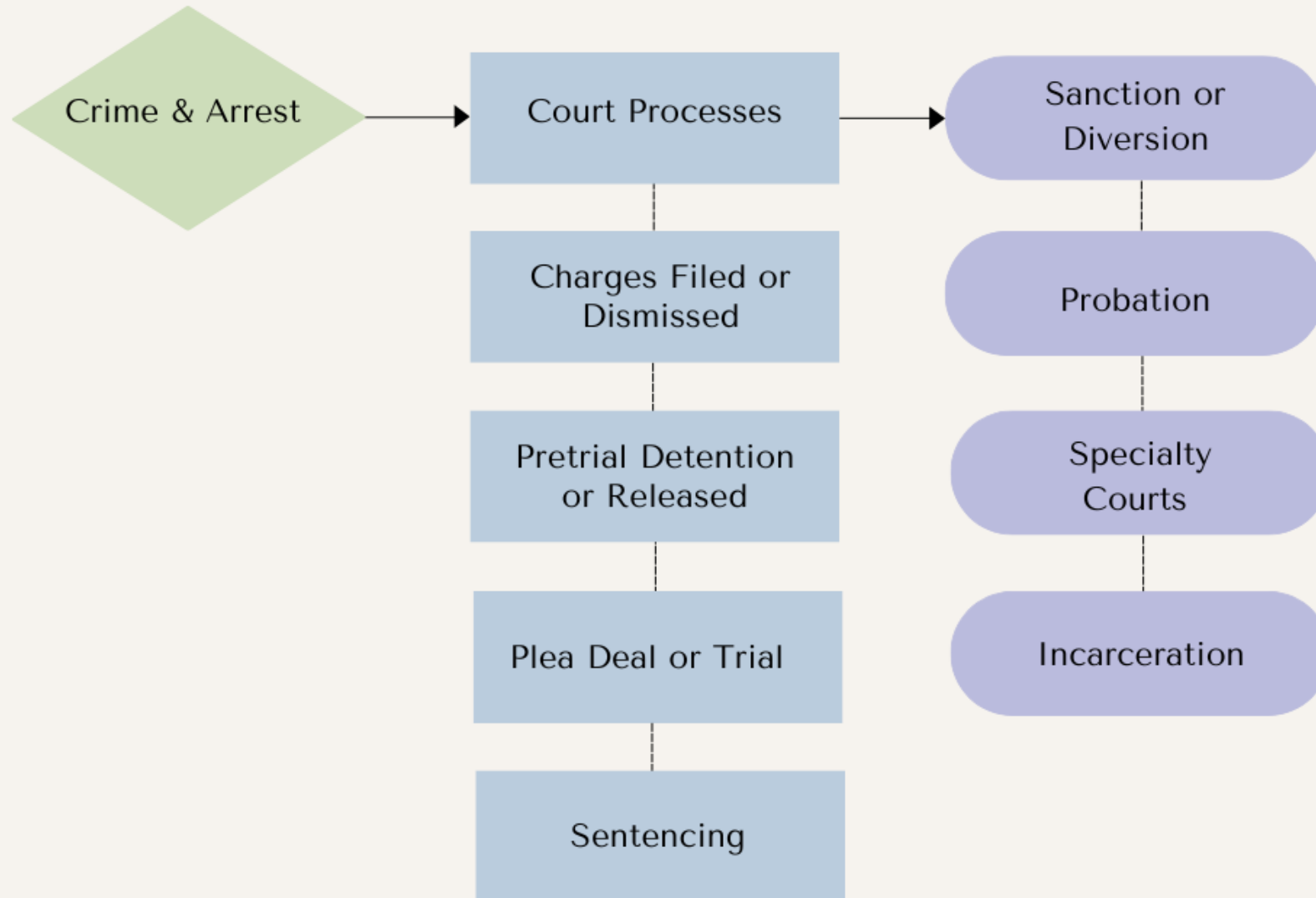
January 16<sup>th</sup>, 2025



# Presentation Overview

- General court trends
- Defining gender responsiveness
- Gender responsiveness in the courtroom
  - Specialty courts
  - Recommendations for Gender Responsive Courts
- The power of the court

## Criminal Justice Process



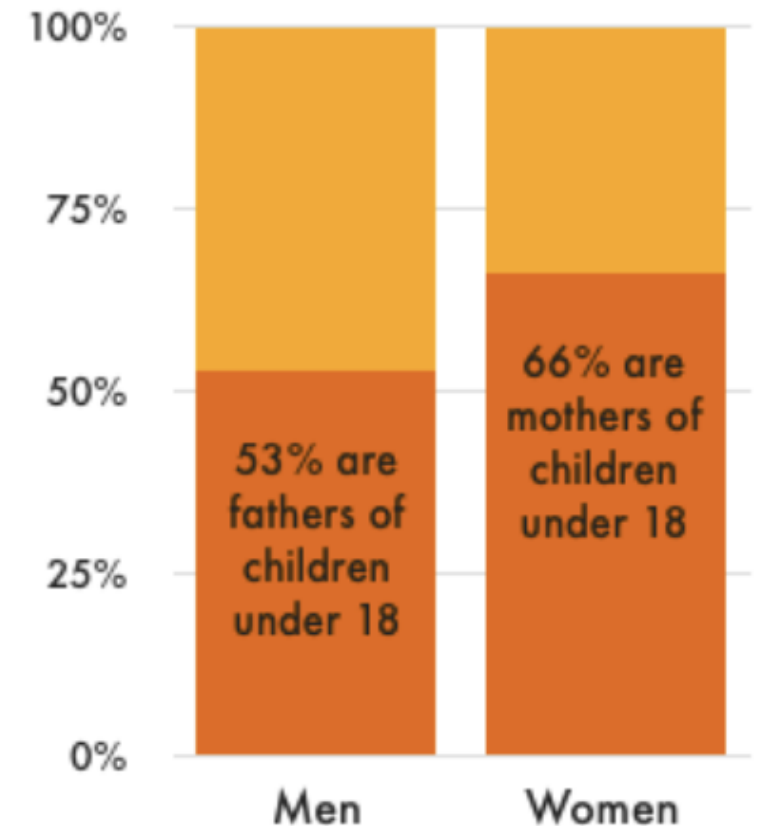
# General Trends in Court Outcomes by Gender

# Pretrial Detention & Bail

51,200 women are detained in jails awaiting final dispositions of their cases

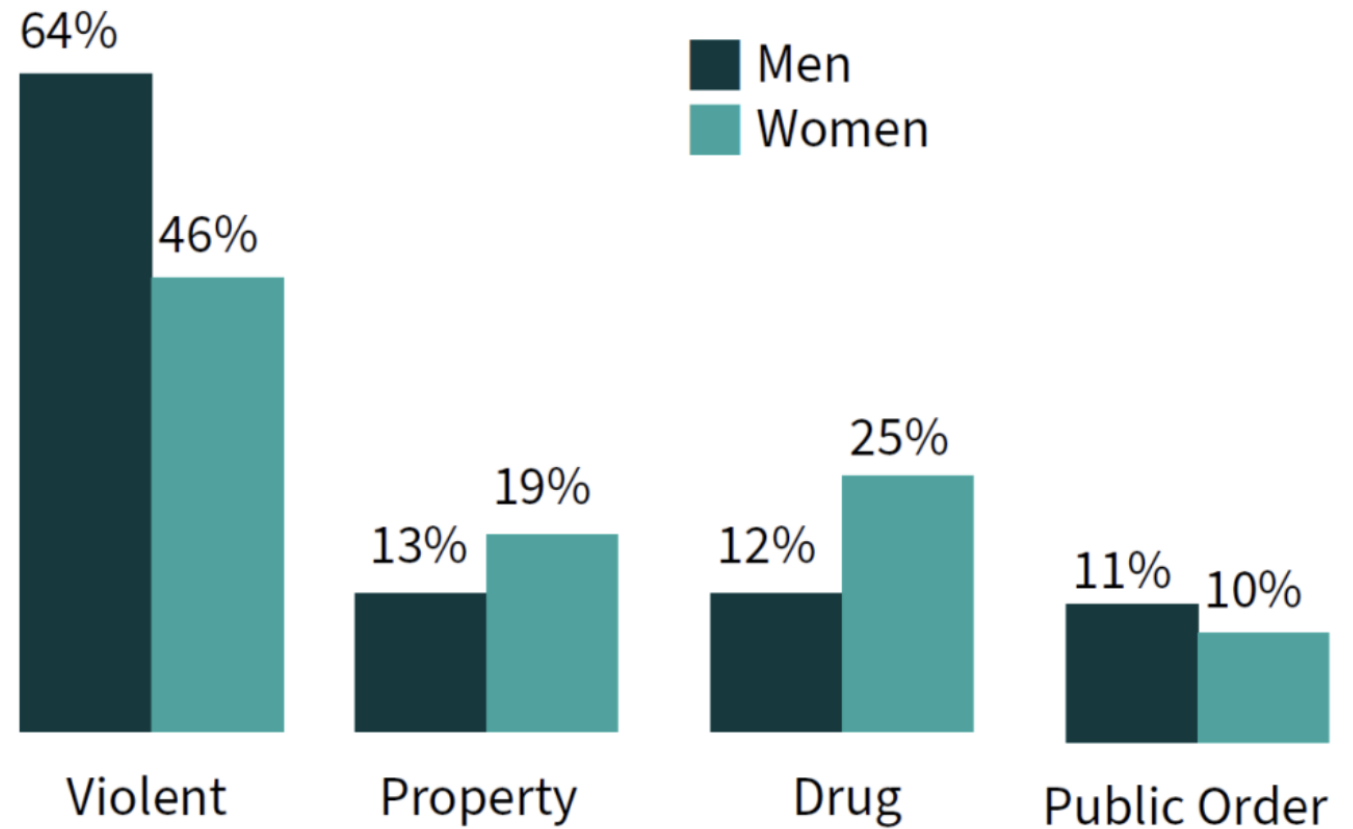
## Parents caught in the trap of unaffordable money bail

Portion of men and women held pretrial because they could not afford bail that are parents of minor children



# Convicted Offenses

## Offense Type by Gender in State Prisons, 2021

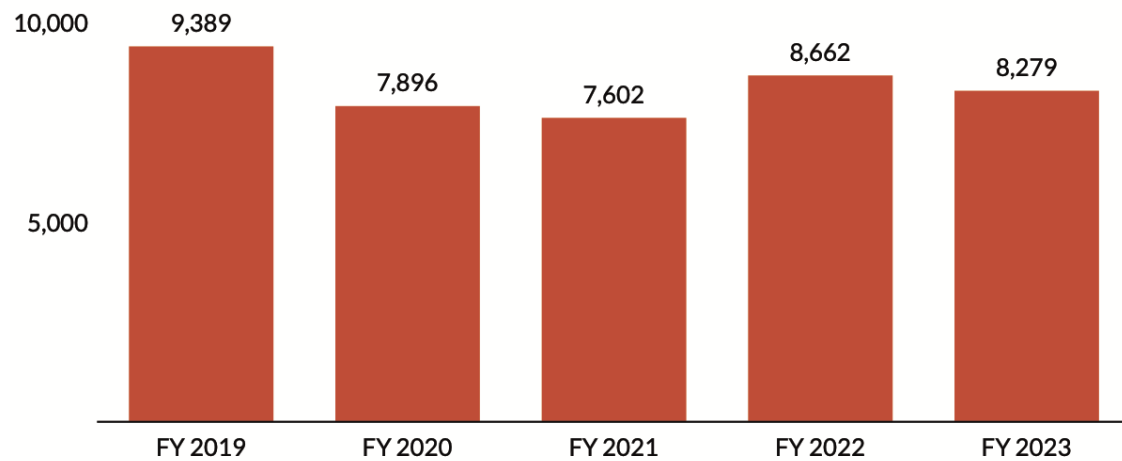


The Sentencing Project, 2024

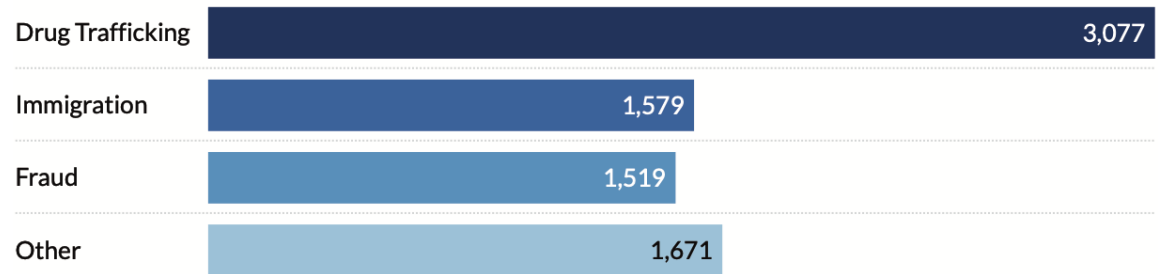
# Federally Sentenced Women



## Number of Federally Sentenced Women



## Most Common Sentencing Guidelines for Women





## Compared to men...

### Women are more likely to:

- Have initial charges reduced<sup>1</sup>
- Have cases diverted<sup>2</sup>
- Be released pretrial<sup>3</sup>
- Receive shorter sentences<sup>4</sup>
- Receive a downward departure from sentencing guidelines<sup>5</sup>

### Women are less likely to:

- Be incarcerated<sup>6</sup>
- Be sentenced to life imprisonment<sup>7</sup>

<sup>1</sup> Metcalfe & Chiricos, 2018; Dagenhardt et al., 2022

<sup>2</sup> Alozie & Johnston, 2000

<sup>3</sup> Demuth & Steffensmeier, 2004; Spohn, 2009

<sup>4</sup> Tillyer et al., 2015

<sup>5</sup> U.S. Sentencing Commission

<sup>5</sup> Steffensmeier et al., 1998; Stemen & Escobar, 2018

<sup>6</sup> Johnson et al., 2021

# Lack of Data on Court Processing

- Limited data on national-level courts
- State Court Processing Data
  - Most recent data is from 2009
- Need for data following women through the entire court process
  - Charges/Prosecution
  - Pretrial bail or release
  - Convictions
  - Sentencing

# Defining Gender Responsivity

# Guiding Principles for Gender Responsive Interventions

Gender	Acknowledging that gender matters
Safety	Prioritizing safety
Relationships	Promoting positive relationships
Mental Health & Trauma	Addressing mental health and trauma
Socioeconomic Conditions	Creating opportunities to improve socioeconomic conditions
Community	Developing comprehensive and collaborative community-based services for women and girls

# Gender Responsive Courts

- Connection to feminist pathways theory
  - Considering why and how gendered trajectories into the system affect experiences in the courtroom
  - Importance of addressing trauma
- Gender-specific: helpful for understanding gender differences, services directed at only one gender (e.g., Girls court, women-only AA group)
- Gender-responsive: approach to create an environment grounded in an understanding of the issues and needs of women and girls

# Gender Responsivity in the Courtroom

# Specialty Courts

- Geared toward a specific population
- Can be diversionary or re-entry focused
- Increased court appearances that decrease over time (i.e., weekly to biweekly to monthly)
- Increased service access & requirements



# Specialty Court Actors

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Judge

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Defense attorney

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Prosecutor

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Probation/Parole

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Social worker

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Therapist (mental health and/or substance use)

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Other professionals



# Specialty/Problem Solving Courts

Drug Courts

Mental Health  
Courts

Child  
Welfare/Family  
Courts

Sex Trafficking  
Courts

Domestic  
Violence  
Courts

Girls Courts

# Drug & Mental Health Courts

- Over 4,000 drug courts in the US
- Tend to be mixed gender & gender neutral
- Fewer service beds in facilities for women, even fewer that have beds for children
- In mental health courts, PTSD and prior emotional abuse are higher among women compared to men

# Family Drug Courts

- Typically reserved for women with child welfare cases
- Court allows inclusion of children or provides childcare
- Avoids sanctions that would separate families
- Improve substance use recovery, keeps families together<sup>1</sup>
- Decrease foster care placements, more frequent reunifications as a permanency outcome<sup>2</sup>
- More likely to enter treatment faster, stay in treatment longer, complete treatment<sup>3</sup>

<sup>1</sup>Brook et al., 2015; Powell et al., 2012

<sup>2</sup>Bruns et al., 2012; Lloyd, 2015

<sup>3</sup>Green et al., 2008; Worcel et al., 2007



# Drug Court Outcomes & Supportive Factors

- Women are more likely than men to complete drug group<sup>1</sup>
- Compared to the mixed gender group, the gender-responsive group had:
  - Reduction in PTSD<sup>2</sup>
  - Gratitude for having the space to safely share histories of trauma & abuse<sup>2</sup>
  - Lower recidivism (new convictions) compared to probation as usual<sup>3</sup>
- Among African American women, felt that judge was their advocate and understood the challenges of motherhood and court involvement<sup>4</sup>

<sup>1</sup>Gray & Saum, 2005

<sup>2</sup>Messina et al., 2012

<sup>3</sup>Myer & Buchholz 2016

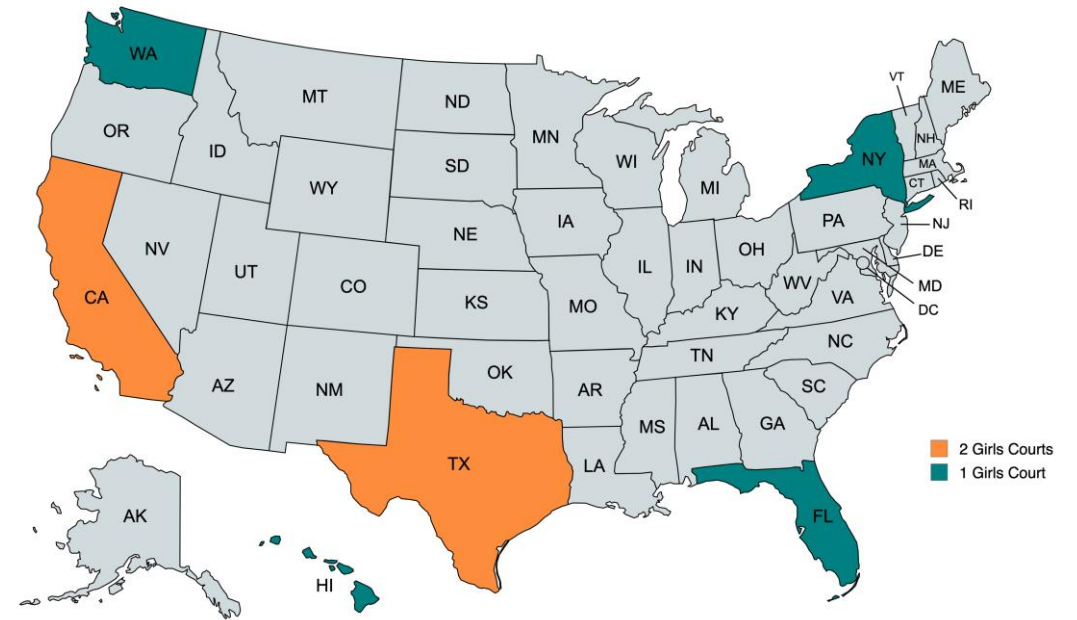
<sup>4</sup>Gallagher et al., 2019

# Girls Courts

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- Outcome data is not reported for many programs
- Programs with outcome data report between 33-90% completion rates
- Lack of discussion/services for reproductive health

Jones et al., 2020



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# Characteristics of Girls Courts

Parenting  
classes/education

Addressing  
reproductive concerns

Yoga & somatic  
practices

Community service

Reconnection to  
education

Therapy

Health  
classes/education

Incorporating family

Mentoring

Additional home visits  
for out-of-home visits

Trauma-informed

Intersectional  
concerns: race,  
immigration, disability,  
crossover youth

# Domestic Violence Courts

- Goal: victim safety & perpetrator accountability
- In 2009, there were 338 DV courts in the US
- Outcomes
  - Recidivism-mixed results<sup>1</sup>
  - Reduced case processing time<sup>1</sup>
  - Positive court experiences for victims<sup>2</sup>
    - These findings are more pronounced in Family Justice Court models<sup>3</sup>

<sup>1</sup>Cissner et al. 2015

<sup>2</sup>Gover et al., 2007

<sup>3</sup>Melton, 2019; Hellmen et al., 2017



# Trafficking Courts

- Goal: Identify “victim-defendants” and address risk factors with services
- Tend to focus on sex trafficking, less on labor trafficking and other forms of human trafficking
- Signifies a shift in how we address prostitution & solicitation charges
  - Viewing people as “victims” rather than “offenders”
- In 2019, only 10 courts had evaluations
  - Courts struggled to identify & label those engaging in commercial sex work as “victims”
  - Lack of outcome data
  - Lack of process data
- Concern that sex work is conflated with human trafficking



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# In general...

- Research is mixed on the effectiveness of specialty courts
- Outcome data is largely focused on:
  - Program evaluation via service utilization & participant perceptions
  - Recidivism
  - Some include presence of mental health symptoms or sobriety
  - Short-term outcomes
- Less research has focused on:
  - A variety of public safety outcomes
  - Community well-being measures
  - Individual well-being measures
  - Long-term outcomes





# Barriers to success in specialty courts

- Lack of intersectional gender responsiveness<sup>1,2</sup>
- Lack of effective trauma therapy<sup>1</sup>
- Balancing parenting responsibilities<sup>1</sup>
- Statutory requirements & application of statutes<sup>3</sup>
- Variations in models, processes, & policies<sup>3</sup>

<sup>1</sup>Gallagher et al., 2013; Gallagher & Nordberg, 2017

<sup>2</sup>Gover et al., 2021

<sup>3</sup>Labriola et al., 2010

# Recommendations for Gender Responsive Courts

# Considering content and context

## Content-related factors

- Neighborhoods
- Delinquency History
- Family relationships
- Mental Health
- Peer relationships
- Physical health
- Pregnancy/parenting
- Romantic relationships
- School issues
- Sexuality & sexual behavior
- Substance abuse
- Trauma

## Context-related factors

- Communication
- Community-based services
- Comprehensive
- Culturally-responsive
- Gender-informed protocols
- Gender matters
- Relationships
- Resources for girls
- Safety
- Strengths-based
- Voice

# Gender Responsive Drug Courts

- Court staff seeing “criminal” behavior as “survival” behavior
- Women’s Risk Needs Assessment (WRNA)
- Promoting healthy connections to children, families, communities
- Avoid sanctions
- Childcare or inclusion of children
- Strong self-concept
- Expand access to medication-assisted treatment
- Gender affirming care
- Educational and vocational opportunities
- Wraparound services
- Community Health Specialists to support system navigation working with probation officers



# Recommendations for Gender Responsive Courts

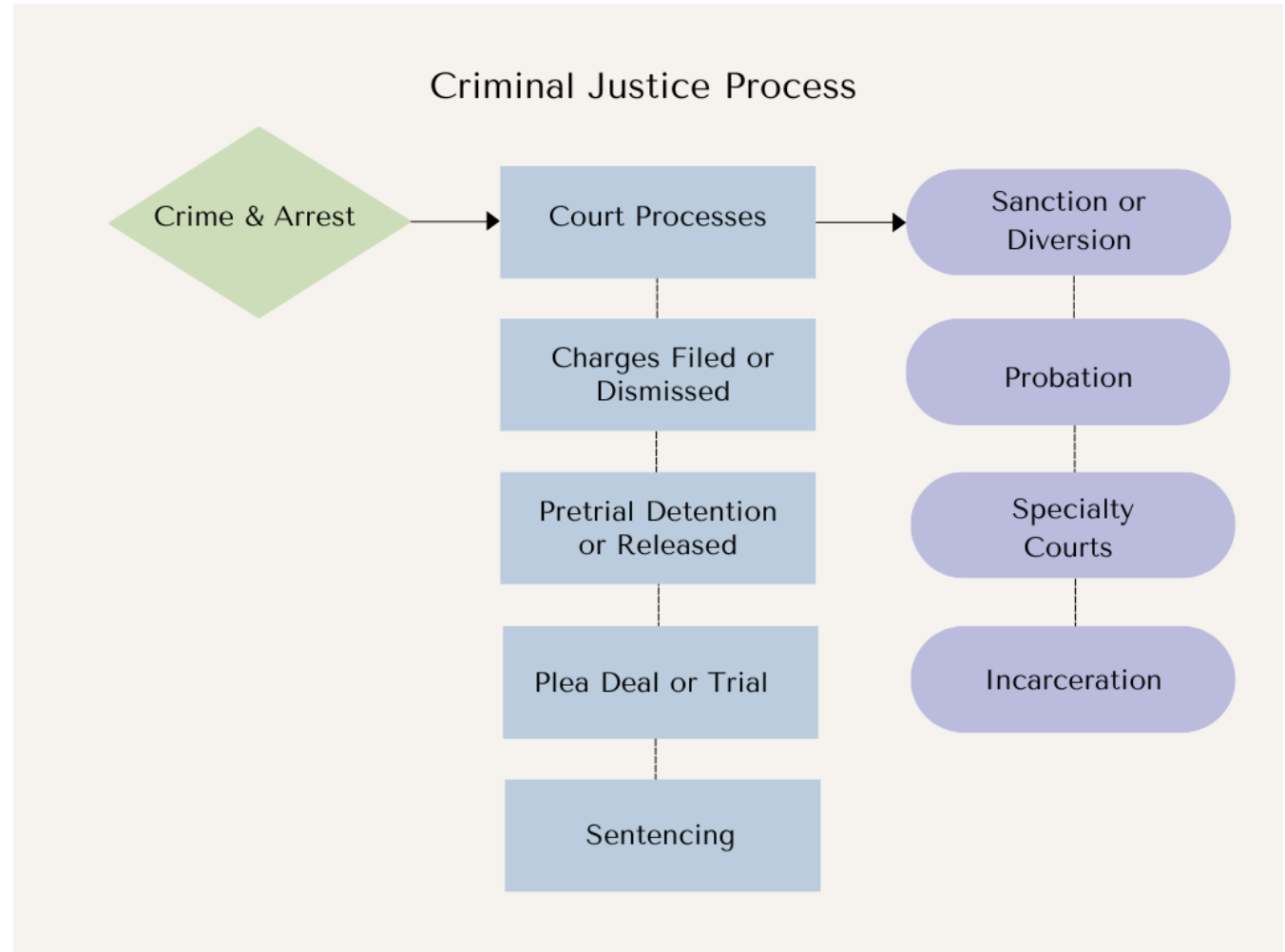
- Support medical and reproductive health of women
  - Pregnancy & STI testing, access to birth control, access to prenatal and postnatal support, parenting classes and support groups
  - Consider the role of post-partum mental and physical health on behavior
  - Particularly important as reproductive rights are being stripped away
- Trauma-informed care training for all court staff and partners
  - Providing opportunities for voice & choice
  - Provide expectations to clients of what will be done and when
  - Provide information about how to report abuse
- Gender-specific programming: women-only dockets & women-only courtroom workgroup

# The Power of the Court

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Decisions made in the courtroom affect what comes next (e.g., incarceration, probation, dismissal)

Consider the court's role in the broader context (e.g., parental rights, strip searches)



# Thank you



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