

## **Written evidence from Simon Foster, West Midlands Police and Crime Commissioner**

Thank you for the opportunity to submit evidence. As Police and Crime Commissioner for the West Midlands, my role is to hold the West Midlands Police Chief Constable to account and set the Force's strategic priorities and its budget. I was elected on a commitment to justice, safety and security for the people and communities of the West Midlands, and my election manifesto addressed the need for reform of the Criminal Justice System.

Our criminal justice system all too often fails to adequately and appropriately respond to women; either as victims or offenders and evidence shows that women who offend have often experienced violence, abuse or exploitation in their lifetime. In my manifesto for Police and Crime Commissioner, I pledged to improve the ways in which women are responded to within our criminal justice system. Therefore, I would like to take this opportunity to highlight the importance of sustainable investment in trauma-informed early intervention and prevention which addresses the gender-specific needs of women and girls in the community and adopting a whole systems approach to women and girls who offend in order to reduce the often unnecessary imprisonment of women.

*Please note, references to the West Midlands refer to the police force area, inclusive of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton Local Authorities.*

### **Reducing the number of women in custody**

Whilst women are a minority within the criminal justice system, they have specific and usually more complex needs than men which are "often neglected in a system designed for the majority"<sup>1</sup>.

The vast majority are serving short sentences for non-violent crimes, often situated in the context of trauma and abuse with many women in the CJS victims of domestic abuse<sup>2</sup>.

The Prison Reform Trust shows that in 2019, 406 prison sentences were given to women in the West Midlands and of those, 67% were sentences of less than six months in prison<sup>3</sup>. Crest Advisory's report on female offenders in the West Midlands highlighted that just over three quarters of immediate custodial sentences given to women in 2017 were for less than 12 months. Women also disproportionately receive fines for their offences, both nationally and in the West Midlands context.

This report also shows that in the West Midlands, the offence most frequently resulting in a short custodial sentence for women is theft from shops and that the cost of sending 215 women from the West Midlands to custody for less than three months for this offence in 2017 was £1.3 million.

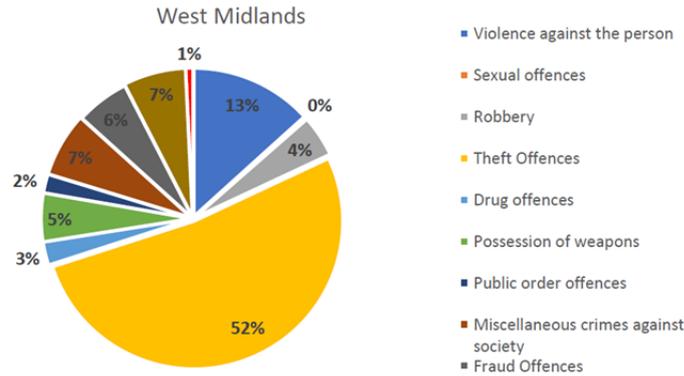
The Prison Reform trust also shows the prevalence of offence types amongst women in prison in 2019, as below, which demonstrates:

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<sup>1</sup> <https://www.clinks.org/our-work/women-criminal-justice-system>

<sup>2</sup> Prison Reform Trust (2017). There's a Reason We're in Trouble. Available at: [http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic\\_abuse\\_report\\_final\\_lo.pdf](http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic_abuse_report_final_lo.pdf)

<sup>3</sup> <http://www.prisonreformtrust.org.uk/Portals/0/West%20Midlands%202020%20Factsheet%20FINAL.pdf>



Evidence shows, which correlates with the prevalent offence types in the chart above, that crimes committed by women are often motivated by financial issues such as debt and/or poverty.

Short sentences and fines are not only ineffective at reducing reoffending (73% of women are reconvicted within one year of leaving prison for sentences of less than 12 months), but exacerbate the circumstances that had driven the women to commit the offence. For example, many women lose their homes, possessions and employment when going to prison and are consequently released homeless and unemployed. The impact on mental health is also significant with the rate of self-harm for women in prison is nearly five times higher than for men<sup>4</sup>.

However, the use of community sentences for women in West Midlands has decreased by 47% since 2009. The use of cautions decreased by 79% between 2008 and 2018<sup>5</sup>. The CJS needs to work to push towards drastically reducing the number of fines and short-term sentences, with holistic and gender-specific rehabilitation services in their place.

### **Do community sentences currently offer a credible alternative to custody?**

I firmly believe that community sentences offer a credible alternative to custody for women and girls who offend, with the exception of those who pose serious danger. The majority of women commit non-violent, low level crimes resulting in ineffective short term custodial sentences or fines which do not address the drivers of offending or enable meaningful rehabilitation. Furthermore, it is known that amongst women, their offending is more likely to be driven by their relationships with nearly half of women prisoners (48%) reported having committed offences to support someone else's drug use, compared to 22% of male prisoners<sup>6</sup>. Specialist women's providers in the community are better equipped to effectively support women with abuse and/or exploitative relationships that underlie their behaviour.

<sup>4</sup> Ministry of Justice (2018). Female Offender Strategy. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/719819/female-offender-strategy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719819/female-offender-strategy.pdf)

<sup>5</sup> Ministry of Justice (2019) Out of Court Disposals Data Tool, Criminal Justice System statistics quarterly: December 2018, London: MoJ

<sup>6</sup> Centre for Justice Innovation (2015). Problem-solving courts: An evidence review Available at:

<https://justiceinnovation.org/sites/default/files/media/documents/2019-03/problem-solving-courts-an-evidence-review.pdf>

Community sentences allow Police and Probation to support women with complex and often gender specific needs in the community in order to address the pathways to offending.

Women are able to receive ongoing support and advocacy from women's service providers who in turn can liaise with and signpost to relevant specialist agencies. By ensuring a whole systems approach with ongoing support, multi-agency partnerships can assist with complex needs, support those who have or are experiencing exploitation and/or abuse, and tackle the root causes of their criminality.

By supporting women in the community, we reduce the number of children being separated from their mother's and mitigate the impact on children who lose a main care giver to the criminal justice system; figures suggest 14% of these children go directly into local authority care<sup>7</sup>.

### **Evidence of successful community responses to women who offend in the West Midlands – The New Chance Project**

New Chance is a diversion scheme for women over 18, operating across the entire West Midlands Police Force area as an out of court disposal. The programme, delivered in Birmingham, Sandwell and Dudley since 2016, was rolled out across the seven West Midlands Local Authority areas in April 2020. Women can be referred by West Midlands Police as part of a conditional caution or community resolution and can be voluntarily referred if they are charged or the case is no further actioned. The referral pathway has recently been extended to women with offending behaviour known through the Multi-Agency Risk Assessment Conference (MARAC). This enables women to address the reasons for the offence in a safe environment, meaning they avoid a damaging criminal record and receive the support they need to live a life away from crime.

New Chance offers one-to-one support, group work, advocacy with other agencies or professionals, provision of information and advice. The providers are trauma-responsive, understanding each woman comes with a different set of experiences and challenges and so each support plan is uniquely built around the individual.

“The project seeks to move past the usual conceptualisation of woman as either a victim or an offender. It recognises the complex reality that many experience both, as a result of trauma and victimisation caused by struggles with domestic violence, poverty, mental health, child safeguarding, homelessness and substance misuse. In 2019, a service provider of New Chance reported that 80% of the women participating in the programme had disclosed victimisation, 20% had experienced sexual violence and 10% had experienced childhood sexual abuse”<sup>8</sup>.

This intervention achieves positive outcomes along the nine offending pathways, and addresses the underlying drivers of women's offending behaviour. It has seen a reduction in reoffending, which in turn reduces harm and the cost to the criminal justice system and tax payer.

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<sup>7</sup> Prison Reform Trust (2018). *What about me?* Available at:

<http://www.prisonreformtrust.org.uk/portals/0/documents/what%20about%20me.pdf> and Lucy Baldwin & Rona Epstein

(2017), *Short but not sweet: A study of the impact of short custodial sentences on mothers and their children*, De Montfort University

<sup>8</sup> <https://justiceinnovation.org/project/new-chance-project>

A service user from Birmingham explains the impact New Chance has had on her life:

*'I started a relationship with a man who became very controlling and violent. With no money and no way of feeding my children, I regret to say I took to stealing food from shops. Before long I got caught. I explained to the police officers what was happening at home and before long I was receiving the right kind of help. Without New Chance I would have either ended up in prison or dead.'*

The University of Birmingham conducted an evaluation to evidence the effectiveness and impact of this programme. On average, New Chance reduced reoffending by 16% but reoffending was reduced by 35-37% amongst New Chance service users with mental health issues and 51-55% amongst those who had substance misuse issues identified.

The programme went on to win a special commendation at The Howard League for Penal Reform's 2020 Community Awards and most recently has been added to The Centre for Justice Innovation's map of "the best of Britain's innovative justice practice"<sup>9</sup>.

Service Leaflet:



New Chance Leaflet  
2020.pdf

**What support is available to ensure that women are successfully resettled into the community upon release and reduce reoffending? And are there any barriers to effective resettlement, and reduced reoffending?**

In the West Midlands, the Women's Justice Partnership, who deliver the New Chance Project, will deliver the new Probation Service's dynamic purchasing framework for women, with Changing Lives as consortium lead. Some of these providers, such as Changing Lives and Black Country Women's Aid have been contracted by the CRC to offer 1:1 or group interventions around all of the pathways to offending as well as advocacy, outreach and emotional support. Prison in reach is utilised in order to support women with a successful entry in to the community and enable them to obtain accommodation prior to release. These specialist organisations have links with domestic abuse, sexual abuse, stalking, modern slavery and trafficking services and have developed relationships with local providers and local authorities in order to accommodate women's needs.

For those repeat offenders who fit an offender management category under an integrated offender management (IOM) scheme, additional support will be offered through an offender manager identifying their needs, developing a plan and working in conjunction with Probation and other services to deliver solutions with the woman to support desistance which will include safeguarding and work to meet the pathway needs. Although, there are clear challenges including the limited availability of suitable temporary and move-on accommodation for women.

West Midlands Police have recognised that prison leavers do not receive adequate post sentence support, so IOM are creating a specific package of support for high risk offenders leaving prison under the IOM scheme, which will include a commitment from partners for

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<sup>9</sup> <https://justiceinnovation.org/project/new-chance-project>

priority interventions. However, pathway needs are mostly geared towards male participants as most prolific offenders are men and the majority of women who offend would not meet this 'high risk' threshold.

Short term custodial sentences do not provide women with opportunity for rehabilitation but rather often exacerbate the issues driving her offending behaviour. For example, many women leave prison having lost their housing, employment and access to their children which has a detrimental impact on successful resettlement.

It is clear that specialist community women's centres are instrumental in the successful resettlement of women and so it is imperative that they are adequately and sustainably resourced<sup>10</sup>. Short term prison sentences within themselves can inhibit successful resettlement in the community and system-wide issues such as lack of housing and under-resourcing of mental health provision can also be identified as barriers.

### **Are there any barriers in achieving a Whole System Approach to female offending?**

Partners have shared that sentencers can be found to block progress toward a whole system approach to female offending. They do this, in large part, because they believe adopting a gender specific response to offending would undermine the principle of equality before the law and sentencers not agreeing that women need a gender specific PSR and needs assessment.

Although some female offenders behave in similar ways to male offenders, their experiences and pathways into criminal behaviour are often very distinct. They thus demand a separate analysis and a specialist approach. This is not about undermining the principle of equality before the law as is seemingly presumed (indeed, that principle is more readily undermined by the prevailing approach which marginalises the female experience, inhibits the use and value of community sentences for women, and denies female offenders the understanding their male counterparts axiomatically receive). Rather, it is about acknowledging the simple fact that different drivers of offending behaviour require different responses.

If women's specialist service providers were able to contribute to pre-sentence information gathering and gender specialist teams could offer recommendations for sentence for all women, a whole system approach to female offending could be within our grasp.

### **The West Midlands Approach**

Every woman deserves to be met with a gender-specific and trauma-informed response when in contact with or navigating through the criminal justice system, recognising the prevalence of violence against women and girls. In July 2020, the former West Midlands Police and Crime Commissioner established the Women in the Criminal Justice System Delivery Group. This is a subgroup of the Local Criminal Justice Board to address the gender-specific needs of women in the CJS in the West Midlands and work towards making this a reality.

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<sup>10</sup> UK Women's Budget Group (2020). *The Case for Sustainable Funding for Women's Centres*. Available at: <https://wbg.org.uk/analysis/the-case-for-sustainable-funding-for-womens-centres/>

This delivery group facilitates the coordination and collaboration of partners to progress work to improve the criminal justice response to women and girls in or at risk of entering the system. The delivery group will help to establish a strategy for a whole system approach to offending by women and girls and embed this across criminal justice agencies; a West Midlands Strategy for Women and Girls in the Criminal Justice System.

The group is responsible for the development and delivery of multi-agency strategies which reflect the complex, gender-specific issues women in the CJS face. These strategies will aim to support women at risk of entering further into the CJS and those further entrenched away from the CJS. They should also be based upon and measured against a local strategic needs assessment.

The multi-agency group has agreed the following priorities:

1. Reducing imprisonment of women and girls from the West Midlands on short prison sentences and on remand.
2. Providing opportunities for women and girls who are victims of domestic abuse, coercion, trafficking or other exploitation to disclose this; ensuring the complex realities of victimisation are identified at an early stage and taken into account when this is a driver of their offending and that they are diverted appropriately into support.
3. Examining and addressing the specific needs and experiences of women and girls in the criminal justice system with experience of local authority care.
4. Examining and addressing any disparities in the experiences of Black, Asian and minority ethnic women and girls, and foreign national women and girls from the West Midlands in the CJS, including those with no recourse to public funds.
5. Examining and addressing the specific needs and experiences of LGBT+ women and girls in the criminal justice system.
6. Maximising opportunities for early intervention and appropriate diversion.
7. Maximising opportunities for community sentencing rather than custody.
8. Aiming for a high quality pre-sentence report to be provided for every woman.
9. Maximising access to safe, suitable accommodation and tailored support for women.
10. Avoid separating children from their mothers due to her involvement in the CJS wherever possible and work to mitigate traumatic impact on children and provide support where their mothers are involved in the CJS.
11. Reducing recall of women through appropriate and tailored license reporting, supervision and support arrangements.

In addition to the Women and Girls Delivery Group and New Chance programme, there are further innovative and effective approaches to prevention, diversion and reducing reoffending that do not require custodial sentences in the West Midlands. Whilst they may not be gender-

specific, the family drug and alcohol courts and Birmingham Pathfinders demonstrate positive outcomes for women and girls.

### **Family Drug and Alcohol Courts**

Family Drug and Alcohol Courts (FDAC) are a therapeutic, problem-solving court approach to care proceedings for parents with drug or alcohol problems. FDACs provide an innovative way of supporting parents to overcome the substance misuse, mental health and domestic abuse problems which lead their children to being at risk of serious harm. FDACs are proven to save money for the taxpayer, £2.30 is saved for every £1 spent. In the West Midlands force area, there are three FDACs operational. The OPCC funds a domestic abuse worker in both the Black Country FDAC and the Birmingham and Solihull FDAC. The problem solving approach helps to identify the drivers behind the use of alcohol and/or drugs which may also lead to reduction in future offending or reoffending.

With six in ten women in prison having dependent children and one-fifth being lone parents prior to imprisonment<sup>11</sup>, problem solving approaches and addressing offending in the community is crucial to reducing the intergenerational impacts that custodial sentencing of mothers has on entire families.

### **Birmingham SEMH Pathfinders**

The Pathfinder is an innovative early help model which has recently received a large investment from Birmingham Children's Trust, as well as other stakeholders such as the PCC's Violence Reduction Unit. It provides multi-agency sustained, relational support to families who have experienced multiple social harms through trusted relationships in high-deprivation Birmingham schools. Support extends to mothers in relationships or living alone, and older female children and young people where relevant, with a whole range of vulnerabilities from exploitation to debt, to unemployment, to mental ill health, to special education needs. In turn, many of their vulnerabilities are addressed and their risk of falling into crime in the short and long term greatly reduced. The programme also aims to transform school cultures and/or generate a greater sense of involvement, empowerment and ownership within the community for many vulnerable women, and in turn helping inspire their self-esteem and longer term opportunities whether as peer workers, as parents or in employment.

If the Justice Committee would like to discuss in any more detail the work being undertaken in the West Midlands, I would welcome the opportunity to do so.

### **Recommendations for the Government and Criminal Justice System:**

- Ensure sustainable funding and investment into women's centres and prioritise investment into proportionate, holistic community responses to women and girls who offend<sup>12</sup>, as set out in The Corston Report<sup>13</sup>.

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<sup>11</sup> Hansard HC, 16 July 2012 c548W

<sup>12</sup> UK Women's Budget Group (2020). *The Case For Sustainable Funding for Women's Centres*. Available at:

- Reallocate the proposed investment for 500 additional prison places into women-centred community responses and improvements to resettlement and through the gate support to reduce reoffending, in line with the MoJ's Female Offender Strategy (2018) and Concordat on women in or at risk of contact with the Criminal Justice System (2021).
- Support relevant criminal justice agencies to maximise the use of pre-sentence reports (PSRs) for women and girls and prevent issues in accessing legal aid becoming a barrier to these being considered in court.
- Promote and increase the use of out of court disposals and community sentence treatment requirements to divert women away from custody and into trauma-informed and gender specific diversion schemes which take a whole systems approach to women's offending.
- Implement gender-specific problem solving courts to meaningfully address the multiple complex needs of women and girls and the root causes of their offending behaviour; reducing reoffending, reducing harm and reducing cost to the system and taxpayers.
- Policy and whole systems approaches to women who offend must also acknowledge the age-specific needs of girls and young women, particularly those transitioning to the adult justice system and who often 'fall through the gaps'<sup>14</sup>.

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<https://wbg.org.uk/analysis/the-case-for-sustainable-funding-for-womens-centres/>

<sup>13</sup> Baroness Jean Corston (2006). *The Corston Report*. Home Office, Available at:

<https://webarchive.nationalarchives.gov.uk/20130206102659/http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>

<sup>14</sup> Agenda & Alliance for Youth Justice Alliance (2021). *Young Women's Justice Project Briefing: Falling through the gaps*. Available at:

<https://static1.squarespace.com/static/5f75bfbbf67fc5ab41154d6/t/6087e2fe7fd4594052df96ee/1619518491620/Falling+through+the+gaps+-+Young+Women%27s+Justice+Project+briefing+paper.pdf>