

Women and the Criminal Justice System

Written evidence from Napo

In January 2021 The Minister for Prisons and Probation, Lucy Frazer, announced £2m investment into 38 women's organisations providing support and intervention that rehabilitates women and helps reduce reoffending. There was also an announcement that 500 additional prison places for women would be built. The announcement was immediately challenged by prison reform campaigners and organisations campaigning for women in the CJS. This briefing looks at the facts about women in the CJS, the background to the announcement and what can be done differently to get better outcomes for women.

The facts about women in the CJS

- Women make up around 5% of people in prison, this has remained relatively constant for many years.
- Women make up 15% of people arrested and around ¼ of all people prosecuted, convicted and sentenced.
- TV licence evasion was the most common offence for which women were convicted and women make up 74% of all people convicted for TV licence evasion.
- 34% of women convicted of an indictable offence were convicted for theft from shops compared to 14% of men.
- The average length of a custodial sentence of indictable offences for women is 12.2 months, for men it is 22.4 months. The average sentence length for all offences for women is 11.3 months and for men is 19.7 months.
- 50% of women sentenced to custody receive up to 3 months compared to 31% of men and 6% of women receive 4 years or more compared to 13% of men
- For every 100 women in prison 34 self-harmed, for every 100 men in prison 15 self-harmed.

The above information is from the Ministry of Justice and National Statistics, the source material can be found at <https://www.gov.uk/government/statistics/women-and-the-criminal-justice-system-2019>

The facts about the cost of Prison and Probation

- The average place for a woman in prison costs between £45,565 and £55,411 per year (MoJ statistics, 2019)
- The average cost of a community sentence for 12 months in 2017 was £3,113 (House of Commons Library, CPD 2019/0162).

The facts about mothers in prison

The Prison Reform Trust published a briefing in 2017 that you can find here <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Women/whywomen.pdf>

They found that

- 60% of women in prison have dependant children
- 20% of women in prison were lone parents

- An estimated 17,240 children are separated from their mothers each year due to imprisonment
- Of these children fewer than 1 in 10 are cared for by their other parent and only 5% stay at home
- The impact on children of parental involvement in the criminal justice system, especially prison, can be traumatic: they are twice as likely as their peers to have poor mental health, and are more at risk of poverty, poor health, and insecure housing and finances

Background – The Corston Report, 2007

In 2007 Baroness Corston released her report into women in the CJS. You can read it here <https://webarchive.nationalarchives.gov.uk/20130206102659/http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>

Here are some of the things she said:

“There are many women in prison, either on remand or serving sentences for minor, non-violent offences, for whom prison is both disproportionate and inappropriate. Many of them suffer poor physical and mental health or substance abuse, or both. Large numbers have endured violent or sexual abuse or had chaotic childhoods. Many have been in care. I have concluded that we are rightly exercised about paedophiles, but seem to have little sympathy, understanding or interest in those who have been their victims, many of whom end up in prison.”

“I have, however, concluded that it is timely to bring about a radical change in the way we treat women throughout the whole of the criminal justice system and this must include not just those who offend but also those at risk of offending. This will require a radical new approach, treating women both holistically and individually – a woman-centred approach. I have concluded that there needs to be a fundamental re-thinking about the way in which services for this group of vulnerable women, particularly for mental health and substance misuse in the community are provided and accessed; there needs to be an extension of the network of women’s community centres to support women who offend or are at risk of offending and to direct young women out of pathways that lead into crime.

- Most women do not commit crime;
- Women with histories of violence and abuse are over represented in the criminal justice system and can be described as victims as well as offenders;
- The biological difference between men and women has different social and personal consequences;
- Proportionately more women than men are remanded in custody;
- Women commit a different range of offences from men. They commit more acquisitive crime and have a lower involvement in serious violence, criminal damage and professional crime;
- Relationship problems feature strongly in women’s pathways into crime;
- Coercion by men can form a route into criminal activity for some women;
- Drug addiction plays a huge part in all offending and is disproportionately the case with women;
- Mental health problems are far more prevalent among women in prison than in the male prison population or in the general population;
- Outside prison men are more likely to commit suicide than women but the position is reversed inside prison;

- Self-harm in prison is a huge problem and more prevalent in the women's estate;
- Women prisoners are far more likely than men to be primary carers of young children and this factor makes the prison experience significantly different for women than men;
- Because of the small number of women's prisons and their geographical location, women tend to be located further from their homes than male prisoners, to the detriment of maintaining family ties, receiving visits and resettlement back into the community;
- Prison is disproportionately harsher for women because prisons and the practices within them have for the most part been designed for men;
- Levels of security in prison were put in place to stop men escaping;
- The women's prison population suffers disproportionately because of the rapidly increasing male prison population and the pressure to find places for men, leading to re-rolling of female prisons;
- 30% of women in prison lose their accommodation while in prison; “

Some of the relevant recommendations in the report are listed here:

Alternative Sanctions: the need for a proportionate approach

- Custodial sentences for women must be reserved for serious and violent offenders who pose a threat to the public.
- Women unlikely to receive a custodial sentence should not be remanded in custody.
- Women must never be sent to prison for their own good, to teach them a lesson, for their own safety or to access services such as detoxification.
- More supported bail placements for women suitable to their needs must be provided.
- Defendants who are primary carers of young children should be remanded in custody only after consideration of a probation report on the probable impact on the children.
- Community solutions for non-violent women offenders should be the norm.
- Community sentences must be designed to take account of women's particular vulnerabilities and domestic and childcare commitments.
- Sentencers must be informed about the existence and nature of those schemes that do exist and should support and visit them.
- The restrictions placed on sentencers around breaches of community orders must be made more flexible as a matter of urgency.
- Section 178 Criminal Justice Act 2003 should be implemented more generally.
- Bail information schemes in women's prisons must be properly monitored resourced and used.

Prison without walls – the need For A *holistic, woman-centred* approach

- The Together Women Programme must be extended as quickly as possible and a larger network of community centres should be developed in accordance with a centrally coordinated strategic national plan drawn up by the new Commissioner for women who offend or are at risk of offending.
- Services should be provided based on the one-stop-shop approach of centres like Asha and Calderdale and must be appropriate and coordinated to meet the profiled needs of local women, including minorities such as BME women.
- Regional commissioning must be fully in line with the strategic national plan.
- Women's centres should be used as referral centres for women who offend or are at risk of offending. Referral should be by schools, general practitioners, probation, prisons, police, courts, CPS, self and other individuals.

- Women's centres should also be used as court and police diversions; as part of a package of measures for community sentences; and for delivery of probation and other programmes.
- There must be a strong consistent message right from the top of government, with full reasons given, in support of its stated policy that prison is not the right place for women offenders who pose no risk to the public.

Background – Corston +10

In 2017 Women in Prison released an analysis of the progress on the recommendations in Baroness Corston's original report. You can read it here

<https://www.womeninprison.org.uk/media/downloads/corston-report-10-years-on.pdf>

This report explores each recommendation made by Baroness Corston and categorises it as having no progress, some progress or fully implemented. It further adds indication of 'u-turns' where some progress was initially made but since rolled back, 'warnings' where imminent problems are foreseen and 'viewpoints' where positive developments appeared to be on the horizon.

Of the recommendations I have detailed above none were fully implemented. Four had no progress and the rest had some progress. Three of the recommendations had been subject to u-turns, four were subject to warnings of imminent problems and four had potential positive developments on the horizon.

Background – Transforming Rehabilitation

There was a clear impact on many of the projects and approaches put in place as a result of Baroness Corston's report when 'Transforming Rehabilitation' (TR) privatised much of Probation provision for women in 2014. The former Probation Trusts which were abolished to make way for TR had funded women's centres and worked in partnership with many voluntary and third sector organisations to make progress from 2008 onwards. These partnerships and funding arrangements fell away when the Community Rehabilitation Company (CRC) contracts were sold, many of the contract owners failing to make good on promises to go into sub-contracting arrangements when it became clear they would struggle to make money from the contracts if they did.

With women making up such a small proportion of the Probation caseload and that caseload now being split across two providers (the state operated National Probation service and the privatised CRCs) there was little room for specialism and resources were split.

Conclusions

The recent announcement of £5m in funding for services for women is very welcome but is likely to only just manage to repair the damage done by disinvestment since TR. The announcement of an additional 500 prison places for women, an increase in 15% on the 3,100 places currently available is a deep blow to efforts that have been made since 2007 to reduce the imprisonment of women for non-violent crimes.

Since many of the recommendations made by Baroness Corston have not been implemented in the 13 years since her report was published it would be easy to dismiss them as no longer relevant but the report in 2017 by Women in Prison highlighted that they were as relevant ten years on as they were when written.

Women are still being sent to prison for non-violent offences and are still serving a high proportion of short sentences which have devastating social costs and consequences while offering little in the way of rehabilitation. Minister for Prisons and Probation, Lucy Frazer said when announcing the additional prison places that the impact of the separately pledged additional 20,000 Police Officers would mean more arrests and more imprisonment of women. Time and time again it has been demonstrated and argued that sending women to prison for short periods for non-violent offences increases the likelihood of reoffending rather than decreasing it. There are alternatives and they are cheaper than prison, but they need consistent central funding, like prisons, not to be left to chase scraps of funding from so many sources that their leaders end up spending more time bidding for the funding than overseeing the delivery of a quality service.

The costs to society of imprisoning women go far beyond the cost of policing, prosecuting, sentencing and delivering their sentence. Most of the women in prison are mothers and when they go into prison very few of their children are cared for by another parent and even fewer remain at home. The cost of caring for (or assessing and supporting those who care for) children of imprisoned mothers falls to Local Authorities. Children of mothers who go into prison will be more likely to have specific needs in terms of mental and emotional wellbeing and research shows they are more likely to require intervention by health and social services and to offend themselves in the future all of which has a cost to society.

Women and men are different and have different needs in the CJS. Baroness Corston said in her report “Women and men are different. Equal treatment of men and women does not result in equal outcomes.”

It is crucial that we now take a different approach to women in the CJS and use the wealth of research, experience and expertise that has been amassed since 2007 and divert the funding away from expanding the number of prison places for women to providing quality gender-specific rehabilitation services in the community along with the diversion and prevention services.

Women in Prison in their report on progress 10 years after the Corston report highlighted five key areas for further progress, none of these (listed below) includes 500 additional prison places and a move to imprison more women undermines all of the progress made to respond to Baroness Corston’s report so far.

- Expansion of and sustained funding for women’s centres in the community as “one-stop-shops” to prevent women entering or returning to the criminal justice system
- Liaison and diversion schemes to be extended and rolled out nationally to divert women away from custody into support
- Specialist community support, including mental health support and accommodation for women affected by the criminal justice system
- Sentencing reform with greater use of alternatives to custody and women’s community support services
- Coordinated, joined-up working between all agencies involved in the lives of women affected by the criminal justice system

I previously worked as a specialist Probation Officer co-located in a women's centre in a partnership project set up in 2008 in response to the Corston report. We focussed on giving the women we worked with as much time as possible, and offering them a 'one stop shop' with services (both specialist and generic) visiting the centre to make engagement easy. We had a creche onsite in the early days and even offered the opportunity for a limited number of women to complete their Unpaid Work at the centre. We ran groups and offered gender specific services and interventions in a gender specific setting. I would attend Court if someone I worked with was appearing for a further offence to give Sentencers information on progress. I attended Court whenever I wrote a report in a case where custody was likely but I was offering an alternative.

We saw many women move away from the CJS and some come back around. We saw some women who had been viewed previously as a hopeless case make significant changes to their lives. For most of the women we worked with the result was protection for them, their children or potential victims from further crime. That is what our aims should be and imprisonment is a very expensive, destructive and unsuccessful way to approach those aims for the vast majority of women.

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