

All Party Parliamentary Group on Women in the Penal System



Report on the Inquiry into Preventing Unnecessary Criminalisation of Women

Key points

- Far too many women are brought into the justice system unnecessarily. Thousands of women are inappropriately criminalised every year to the detriment of individuals, families and communities
- For many women it is their repeated victimisation which has led to involvement in the justice system
- A large number of the women involved in the justice system have acute and multiple unmet needs. It is crucial that services in the community for these women are prioritised
- Services and support for women are needed but the criminal justice system must not be the gateway to access services
- Gender-informed policing of women is key to preventing unnecessary criminalisation
- Money is not being spent in the right places. Thousands of women are sentenced each year to serve expensive and destructive short term prison sentences, yet successful women's centres and diversion schemes are poorly and insecurely funded
- There is a danger that the Transforming Rehabilitation agenda will pull more women into the criminal justice system and keep them there for longer. Effective scrutiny of the impact of this policy change on women over the next few years is crucial.

The All Party Parliamentary Group (APPG) on Women in the Penal System was set up in July 2009 with Baroness Corston as chair and administrative support from the Howard League for Penal Reform.

The group works to increase knowledge and awareness of issues around women in the penal system as well as push for the full implementation of the recommendations of *The Corston Report: A review of women with particular vulnerabilities in the criminal justice system* (Home, Office 2007).

The Inquiry into Preventing Unnecessary Criminalisation of Women stemmed from the conclusions of previous APPG inquiries and reports by the Howard League that the majority of women involved in the criminal justice system do not need to be there, women are criminalised too quickly and easily and the problems they face ought to be addressed by other agencies at a much earlier stage. The inquiry therefore aimed to look at what criminal justice and non-criminal justice related agencies were doing to reduce unnecessary criminalisation and any barriers to their work.

The inquiry took place at a time of intense public scrutiny of the policing of young women who were victims of sexual abuse but who had not been seen as victims and had been blamed for their plight.

The inquiry received oral and written evidence from a variety of organisations and practitioners including police forces, Police and Crime Commissioners (PCCs), NHS England and voluntary sector organisations working in criminal justice and women's rights. The then Minister of State with responsibility for women in the justice system, Simon Hughes MP, gave evidence to the inquiry.

Women in the justice system

Women are a minority in the criminal justice system. They commit far fewer crimes than men and the offences committed are of a less serious nature.

Women accounted for 16 per cent (162,000) of all arrests in 2013/14. Arrests of men fell by 4 per cent between 2012/13 and 2013/14 while arrests of women did not change (Home Office,

2015). Over 100,000 arrests of women resulted in no further action.

37,300 police cautions were issued to women in the 12 months ending September 2014, representing 22 per cent of all cautions issued (Ministry of Justice, 2015a).

6,529 fines were handed down to women in the 12 months ending September 2014, a 5 per cent increase since 2012. In addition, 9,822 women were sentenced to a community sentence in the year ending September 2014 (Ministry of Justice, 2015b).

Rates of pre-trial remand for women are high. Approximately 40 per cent of women who enter prison in any one year are unconvicted, with 3,754 remanded in the 12 months ending June 2014. Few of these women go on to be convicted or receive a custodial sentence with 71 per cent of those remanded in the Magistrates' Courts and 41 per cent of those remanded by the Crown Courts not receiving a prison sentence (Howard League, 2014).

The number of women in prison has slowly fallen from 4,350 in March 2007 to 3,889 in May 2015 (Ministry of Justice, 2015c). However, this is still almost double the number twenty years ago when the female prison population stood at 1,979 (Ministry of Justice, 2013).

As the vast majority of the women sentenced to prison serve very short sentences, the female prison population on any one day masks the high level of use of imprisonment for women in England and Wales. In the 12 months ending June 2014, 9,204 women entered custody either on remand or under sentence (Ministry of Justice, 2015d). Of those serving a sentence, 77 per cent were sentenced to less than twelve months, 71 per cent less than six months and 52 per cent less than three months (Ministry of Justice, 2015e).

Findings

The importance of preventing criminalisation

There was a consensus among those who gave evidence to the APPG that too many women were pulled into the criminal justice system unnecessarily. In particular, tens of thousands of women were arrested when no involvement from criminal justice agencies was needed.

The APPG heard that many women involved in the criminal justice system had been victimised and had significant and multiple unmet needs. Criminalisation only exacerbated problems and stigmatised women. Diversion away from the criminal justice system and into health and support services was the appropriate response for the many women with significant need who came into contact with the police and courts.

Evidence submitted showed that many women involved in the criminal justice system were victims of abuse, manipulation and violence and that their offending behaviour was often related to this. In particular, sexual exploitation and abuse had a large role to play in the criminalisation of many women. Women and girls came to the attention of authorities due to offences committed as a result of sexual exploitation. Some women used crime as a means to escape their exploiters or as a cry for help. Too often, instead of being recognised as victims and supported, women were brought into the justice system and punished.

A Chief Constable reported that many women who came into contact with the police were 'trapped in a cycle of multiple disadvantage and where domestic violence was a common occurrence.' Women were often coerced into committing offences by abusive and controlling partners. In addition, research shows that almost half of women involved in the justice system report committing offences to support another person's drug habit, compared to a fifth of men (Light et al., 2013). Those working in liaison and diversion schemes told the inquiry that more services were needed in the community to help women in violent relationships, with drug addictions and with housing problems, who frequently ended up being criminalised.

The APPG heard that poverty had a role in bringing women into the justice system. The example of non-payment of television licences was repeatedly highlighted. Women account for a disproportionate number of prosecutions because they are more likely to be home when an inspection takes place and tenancies are more likely to be registered in their name. Women are fined for this offence and if they cannot afford to pay, face further and more

serious criminal sanctions for the non-payment of fines.

It was noted that single mothers living in poverty are disproportionately impacted by their children's truancy. Mothers are criminalised for their inability to pay fines instead of being supported to deal with the problems that lead to non-attendance at school. Again, this type of offence dragged poor women further into the justice system.

At the oral hearings witnesses argued that problems with public service provision contributed to women coming into contact with the justice system. As well as inadequate mental health services and the closure of safe residential facilities for those fleeing violence, the absence of a non-criminal justice related 24-hour service for those in difficulty, such as women struggling with mental ill health or women requiring help with a difficult family issue, was reported as a key problem. A leading women's safety organisation noted that due to funding cuts it had had to stop providing many out-of-hours services and the police had stepped in to pick up the pieces. Police representatives echoed the view that some social and health crises often became criminal justice matters simply because the police were always available to respond, whereas the agencies best placed to deal with the issues were not.

It was reported that magistrates and judges tend to over-sentence women, adding multiple and onerous criteria to community orders in a misguided attempt to help women turn their lives around. These sentences were often disproportionate to the offence committed and set women up to fail, requiring them to address several complex problems at once with the threat of a custodial sentence if they were unable to comply. It became clear that too often the criminal justice system is the gateway to accessing support services and treatment despite the fact that criminalisation exacerbated the problems women faced.

What works to prevent unnecessary criminalisation

Women's centres were repeatedly referenced as one of the best models for reducing

unnecessary criminalisation. The inquiry heard that there was a strong evidence base for the effectiveness of women's centres in preventing offending and reoffending and helping women turn their lives around. Respondents noted that the centres provided value for money. Several respondents added that women's centres were most successful when they were able to provide services to all women who needed them, rather than only those involved in the criminal justice system.

Partnership working was seen as key to preventing unnecessary criminalisation. As the criminalisation of women is so often affected by housing problems, poor physical and mental health, poverty, debt and problem relationships it was seen as crucial that organisations and different government departments were able to work together to divert women from the justice system and commission the right services for women at risk.

The APPG heard about some promising projects, including the Thames Magistrates' Court diversion project and the Greater Manchester Pathfinder for Women (see box). The latter was bringing together staff and budgets from Greater Manchester Police, the local authority, Styal prison and the PCC to divert women away from the justice system and help them desist from crime. The involvement of the PCC meant the project could access budgets to provide victims services for the many women who were victims of violence and abuse. The Justice Minister praised the approach of Greater Manchester and detailed his plan to extend the scheme to other major urban areas.

Building on positive changes to the way women are policed is essential in reducing unnecessary criminalisation. Evidence submitted to the APPG showed that many police forces had made significant progress in recent years to understand the issues around gender and the justice system and recognise the need to limit and prevent involvement. Police forces are now at the heart of several innovative and successful schemes to reduce criminalisation. However, policing of women is inconsistent across different forces and not

Example of best practice: Manchester whole system approach to women in the justice system project

The many agencies involved in this project are working closely together with shared values and a vision to treat women coming into contact with the justice system as individuals and provide them with a service that will help them improve their lives and not damage them further.

Central to the project is the recognition that Manchester is home to some excellent women's centres, which are best placed to provide individualised and flexible services and support to women. The initiative, which has now been running for several years, has helped develop new women's centres and supported existing ones to ensure all areas of Manchester have this type of facility. All agencies working with women involved in or at risk of involvement in the justice system are made aware of the local centres and the services they provide and are encouraged to refer all eligible women to them.

The governing board has built data collection and analysis into the project from the beginning so it is able to track the use and impact of services, as well as quickly become aware of and respond to any unintended consequences such as bringing more women into the system unnecessarily or making sentences for women more onerous.

Transforming Rehabilitation creates a financial incentive to bring women who have committed very low-level offences into the system in order to maximise profits. This is in contrast to the Manchester project which prevents women coming into the justice system unnecessarily and keeps those within it at the lowest level.

Overall it is an impressive project which ought to be financially and politically supported and used as a model for other areas.

all police leadership teams prioritise diverting women from the justice system.

Spending money in the right places

Funding for women involved in or at risk of involvement in the justice system is dysfunctional. During the oral hearings, frustration was expressed that despite extensive evidence about what works to prevent the widespread unnecessary criminalisation of women, preventative initiatives were poorly and insecurely financed. Funding of the

majority of women's centres, for example, is precarious and resources have to be expended on constantly reapplying for contracts and grants. Other services that women at risk of involvement in the justice system commonly used, such as debt management, housing and protection from domestic violence services had been subject to large budget cuts.

Evidence suggests that it is possible to make progress in preventing unnecessary criminalisation despite austerity and cuts to public services. Money needs to be spent in the right places. Witnesses criticised successive governments for spending huge sums on short-term imprisonment despite evidence that it is highly damaging and wasteful. The majority of those who submitted both oral and written evidence argued that funding should be diverted away from the prison system and towards services for women in the community. The re-role of Downview prison from a women's to a men's facility was a missed opportunity. The budget for Downview should have been reallocated to women's services in the community and not simply absorbed by the male estate. It was argued that governments ought to divert both budgets and people from the justice system if progress is to be made.

Quality services for women are sporadic, with many areas in England and Wales left without women's centres, diversion schemes or partnership projects to reduce criminalisation. This limits options for magistrates, judges and police officers and inhibits effective communication about available services and the importance of diversion. All those involved in diversion and providing services for women, including the police, should have a responsibility to ensure that sentencers do not feel they have no other choice but to send a woman to custody. Partnerships were important in achieving this as was making sure budgets were spent in the right areas.

The new landscape: Transforming Rehabilitation

The new criminal justice landscape generated by Transforming Rehabilitation is structured to bring more women into the justice system rather than prevent unnecessary criminalisation. The Justice Committee found that the reforms

were not designed with women in mind and they feared the quantity and quality of services would decline as a result (2014). There is no protection for existing services under Transforming Rehabilitation and women's centres, diversion projects and women's pathfinders could all cease to operate if private providers fail to fund or cooperate with them. This would undo years of work that developed evidence-based services for women. Those who gave evidence to the APPG expressed hope that Community Rehabilitation Companies (CRCs) would support their ongoing work but were deeply concerned about the lack of guarantees.

The private companies now running the majority of community sentences lack knowledge and experience about the importance of gender and providing gender-specific services. Evidence was submitted to the inquiry that several CRCs had not responded well to efforts made by experts to provide information and advice about successful and appropriate services for women. The gender-specific provisions contained in the Offender Rehabilitation Act 2014 are weak and will offer little protection for women-only services in practice. In addition, there is no robust system to hold companies to account for the quality of services they provide for women.

Respondents feared that one of the unintended consequences of Transforming Rehabilitation would be increased criminalisation of women for very low-level offences at an early stage. Women can be seen as easy targets who are unlikely to reoffend and can be provided with cheap, unnecessary services, allowing companies to hit targets and thereby increase profits. Some organisations had begun exploring the option of developing non-criminal justice related early intervention programmes funded by social impact bonds as they were worried these services would not otherwise be available under the new system.

Strong leadership on the importance of high-quality gender-specific services for women will be essential under the Transforming Rehabilitation system. Robust systems must be put in place rapidly to ensure women are not unnecessarily brought into the justice system, and services for women who are involved are successful and evidence-based.

Women in prison

The criminal justice system fails catastrophically when women end up in prison. Currently the majority of women in prison are being held on remand or for low level acquisitive offences, with only a tiny number having committed serious offences and presenting a danger to the public. Most of these women have acute and multiple needs, many related to mental health. Simon Hughes told the APPG that he wanted the numbers of women in custody to fall by at least half as well as the introduction of a presumption against short term prison sentences.

The severe damage inflicted by short prison sentences on women was highlighted during the inquiry. A Chief Constable told the APPG that 'after women go to prison, their offending often goes up a notch.' He highlighted that short sentences were wasteful and plunged women into further chaos as even a brief spell in custody often led to loss of accommodation, employment and custody of children. Evidence presented to the inquiry demonstrated the need to implement the Corston report recommendations to close women's prisons and replace them with a few small, local custodial units for the very few women for whom imprisonment is necessary.

A full list of references is available on our website at

www.howardleague.org/publications-women/.

About the Howard League for Penal Reform

The Howard League for Penal Reform is a national charity working for less crime, safer communities and fewer people in prison. It is the oldest penal reform charity in the world. It was established in 1866 and is named after John Howard, the first prison reformer.

We work with parliament and the media, with criminal justice professionals, students and members of the public, influencing debate and forcing through meaningful change to create safer communities.

We campaign on a wide range of issues including short term prison sentences, real work in prison, community sentences and youth justice.

Our legal team provides free, independent and confidential advice, assistance and representation on a wide range of issues to young people under 21 who are in prisons or secure children's homes and centres.

By becoming a member you will give us a bigger voice and give vital financial support to our work. We cannot achieve real and lasting change without your help.

Please visit www.howardleague.org and join today.

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the Howard League for Penal Reform

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