

We would like to submit as evidence, the findings from our research report, 'Short but Not Sweet: A Study of the Impact of Short Custodial Sentences on Mothers and Their Children'.

Full report available here: <https://www.dora.dmu.ac.uk/handle/2086/14301>

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The small-scale study, kindly part-funded by the Oakdale Trust, was undertaken by Lucy Baldwin, Senior Lecturer in Criminology, of De Montfort University and Rona Epstein, Honorary Research Assistant, of Coventry University.

Introduction -Following in the footsteps of the Corston Report, we wanted to specifically explore the impact and harm caused to mothers and their children, by short custodial sentences. It is well known amongst scholars, practitioners, and indeed women affected by the CJS themselves, that despite the 43 recommendations of the Corston report being widely accepted, they have not been widely implemented, or sufficiently adhered to as to make the difference they were intended. This evidence serves to highlight the harms caused to women, children wider families and indeed society, by the continued use of largely unnecessary short prison sentences. Although not specifically researched for this report, the impact of short, again unnecessary remands of similar periods, can be assumed to have a similar impact. Despite widespread misgivings about short sentences, their use has continued to rise; in 1993 only a third of women entering custody were sentenced to 6 months or less. More recent figures reveal, most women in prison are serving short, or very short, sentences, or periods of remand. Seventy-two per cent are serving sentences of six months or less, over 67%, are serving 12 months or less, 56% three months or less (Ministry of Justice figures 2016). The Criminal Justice Act 2003, states that imposing a custodial sentence must only occur when an offence is 'so serious' that no other alternative can be justified. Despite this, most women in prison, (over 80%), are convicted of nonviolent offences, most often shoplifting, fraud or breach. For many, (over 25%), it will be their first offence. Many women are in prison on remand, not yet found guilty of anything, most of these women (over 70%), then go on to be given a non-custodial sentence, bringing into question the logic or necessity of their remand. The Association of Prison Governors has frequently questioned the use of short sentences and asked for courts to substitute community orders for short custodial sentences. The All Party Parliamentary Group (APPG), on Women in the Penal System, presented its 'Report on the Inquiry into Preventing Unnecessary Criminalisation of Women' (2015). It highlighted the severe damage' inflicted by short prison sentences on women, suggesting that short sentences were wasteful and plunged women into further chaos, as even a brief spell in custody often leads to loss of accommodation, employment and custody of children. The findings of this research highlight the, in the main, devastating effects these short sentences can have on mothers and their children.

A.The main aims of this research: hearing the voices of mothers who have experienced prison - We wished to give mothers who had experienced prison an opportunity to recount what had happened to them and their children. We wanted to hear the voices of women who are too often silent. We aimed to explore the experiences of mothers who had served short custodial sentences (12 months or less), we were interested in their views from before their sentence, during their sentence and post release. We wished to explore the pre-existing circumstances of mothers who served short periods in custody, enquire into their experiences while in prison and to seek the mothers' view of the impact of their sentence on their children. We hoped to acquire information on the post-custodial period, how did they experience supervision after custody, what had they found helpful in coping with life after imprisonment? We sought information on how the children 'left behind' were cared for in the absence of their mother and how they coped with the separation. We wished to learn about support for these mothers and their children, both while they were in prison and after. We hoped to learn something about the effects of such short sentences, both on the women who serve them and the children from whom they are separated. We wanted to know what were the mother's own views of the short-term and the long-term effects, on themselves and their children? Finally, we hoped to add valuable

information to the existing research on mothers and imprisonment and to offer contributions and recommendations for positive change and future research.

B. Context Significantly, currently there are no accurate, up to date figures representing the actual number of mothers in custody (Baldwin 2015, Prison Reform Trust 2015). The figure most commonly referred to, suggests 66% will be mothers of children under 18 (Caddle and Crisp 1997). However, it is acknowledged this figure is over twenty years old. There are variations and contradictions in more recent figures, as identified by the Prison Reform Trust (PRT) in their 2015 paper, 'Sentencing of Mothers',¹ which reports the MOJ had 'more recently' estimated the figure conservatively, as between 24%-31%. This figure was ascertained by matching police national computer (PNC) data, against the Department of Work and Pensions data, thereby apparently identifying accurate figures of mothers in custody, by highlighting who had an active child benefit claim at that time (MOJ, 2012). There are many reasons why this figure would not be accurate, not least because it may not include foreign national mothers, mothers who have children in care, or mothers reluctant to disclose details about their children, also in cases where mothers are not the claimant. Furthermore, as with the Caddle and Crisp figures, the PNC/MOJ acquired figures do not include mothers of older children. Nor do they include grandmothers who may have been a significant or primary carer; who incidentally, are also still mothers, therefore affected by many of the same issues as younger mothers (Baldwin 2015, see also ²). The loss of their care and support, as mothers *and* grandmothers, may have devastating effects on a vulnerable family, which already may be facing multiple challenges (Baldwin 2015). To date, grandmothers have often been 'invisible' in both research and literature about women and imprisonment (ibid). The United Nation Bangkok Rules on Women Offenders and Prisoners, give guidance on gender-sensitive responses about remand, sentencing and post-conviction. Further, they state that '*non-custodial sentences for pregnant women and women with dependent children shall be preferred where possible and appropriate*'. Further suggesting that custodial sentences are given in only the most serious of offences, and only after taking into consideration of the best interests of the child. The Bangkok rules also request '*ensuring that appropriate provision has been made for the provision of such children*'. However, Judicial discretion allows the direction regarding the 'balancing exercise', to be ignored, something both Epstein (2012) and Minson (2014)³ found evidence of in their research. Epstein and Minson both highlight how, on Appeal, Judges did consider the children and reduce the sentence. However, the point is, and as this report highlights, '*disruption and damage occur with a sentence of any length, and the ideal outcome, would not be shorter custodial sentences, but fewer*' (Baldwin 2015).

C. Overview of the findings. (see full report and appendix tables for more details) -Tables 1-3.

The Participants -Perhaps one of the most striking features of this research, is that even though there were *only* 17 mothers involved in the research, these 17 were mothers to a total of **fifty children**. The children were aged between 18 months -19 years. All but one of the mothers reported being a single parent; most had more than one dependent child (82%). All had at least one of their children living with them before their sentence, 43 of the fifty children were in their mother's care at the point of sentence (86%). Participants were given pseudonyms to preserve confidentiality. The participants were from diverse backgrounds; their make up being

¹ Minson S., Nadine R., Earle, J. Sentencing of Mothers: Improving the sentencing process and outcomes for women with dependent children. Prison Reform Trust. http://www.prisonreformtrust.org.uk/Portals/0/Documents/sentencing_mothers.pdf

² Baldwin L. (2018), 'Grandmothering in the Context of Criminal Justice: Grandmothers in Prison and Grandmothers as Carers when a Parent is Imprisoned'. (Forthcoming)

³ Minson, S. (2014) Mitigating Motherhood: A study of the impact of motherhood on sentencing decisions in England and Wales. Available at <http://howardleague.org/wp-content/uploads/2016/03/mitigating-motherhood.pdf>

self-described as, 47% white British, 17% black British, 17% white Irish, and 6% each Welsh, Mixed Race and 'not stated'.

The mothers in the study were sentenced for periods ranging from 2 weeks to 34 weeks, all for non-violent offences. The mothers' offences included breach of a previous order, nonpayment of fines, theft, fraud, public order offences, theft from an electricity meter, and minor criminal damage. Two were civil debtors (they owed council tax), and therefore had not committed any offence, and ought not in fact have been sentenced to custody at all (see Appendix 2). In only one case in this study was the most recent offence breach of a previous order, although two women had previously been imprisoned for breach, and another had her hearing for breach of a previous order pending. For five mothers (29%), this was their first offence. It is important to note that most women had served their sentence pre-TR – we feel certain the picture about breach would be very different had we interviewed post TR women, prisoners. All the participants reported preexisting challenges, disadvantages and vulnerabilities. Mothers reported issues concerning poverty, addiction, and physical and mental health. Fourteen of the 17 mothers (82%), told us they were experiencing mental health issues before their sentence, predominantly depression and anxiety. Apart from Melissa, who had additional physical health needs, all the mothers who were previously prescribed antidepressants experienced delays in receiving medication; which several mothers felt left them feeling 'worse' or even 'suicidal'. The longest delay reported was 3 ½ weeks. It is worrying that at their lowest ebb many women are without their previously prescribed medication. Many also suffered physical ill health; one has epilepsy, one suffered troubling menopausal symptoms, three were pregnant, and one was diabetic. Two mothers miscarried in prison, one after bleeding in her cell for *'hours'*, eventually miscarrying in an ambulance on the way to the hospital, *'in handcuffs'*.

Participants described to us both good and bad examples of healthcare and emotional support in prison, one described the nursing staff as *'angels'*, other credits a *'good'* probation officer with saving her life. Others told us, *'staff weren't bothered'*, this view was contradicted by another mother, however, who told us she found the prison staff, *'supportive and kind'*. Post custodial staff and supervision staff were described in both positive and negative terms, one supervisor, for example, was heavily praised, described as *'wonderful'*, and helpful regarding preparing a mother for work. However, another was described as *'useless and not bothered'*. It became very clear; there was little consistency in the mothers' feedback about their experiences of prison and supervisory staff. It was also clear that the support and compassion of prison staff is a significant factor in relation to the coping (sometimes survival), of vulnerable women in prison. Staff from the Prison Advice and Care Trust (PACT), received glowing and consistently positive feedback from the mothers who engaged with them.

Poverty was a feature in several of the mothers' lives, with some stating it had a **direct** impact on their offending, with at least two mothers describing offending to meet their children's needs or expectations. For example, Michelle stated, *'I was struggling, really struggling to pay my bills – there needs to be more support for single mums. I knew loads of mums in prison who were just trying to find ways to manage'*. Another mother shoplifted nappies and formula. Lily and Clare were both imprisoned for council tax debt, neither had ever encountered the criminal justice system (CJS) before and found the whole experience particularly difficult.

Almost all the mothers in the study described finding some aspect of their period in custody as *'traumatic'*, *'painful'* and *'heartbreaking'*. This was fundamentally due to being separated from their children, some for the first time, and some for the whole prison term, either because they received no visits, one visit only or few visits. Many of the mothers felt that the distance and cost of travelling, what were in the main long distances, prohibitive. Declaring them *'too far'*, *'too expensive'*, and *'too difficult'* regarding their emotions. Some mothers reported their children were afraid of the prison dogs. Only one mother alluded to attempting to claim travel expenses by an assistance scheme, but reported her family abandoned it as *'too complicated'*. Where visits did

occur, mothers described them as *'painful'*, *'very upsetting'* and *'emotionally exhausting'*, sometimes for the children as well as themselves. For these reasons, several mothers made the decision not to allow further visits. Ethel stated she felt that the visits *'were like hospital visits'*, she felt guilty *'bringing them to a prison'*. She goes on to say that she was *'heartbroken'* when her children left and suggested it might be easier on a short sentence *'not to see them'*. However, she stated this feeling made her feel *'torn because you miss them, and they miss you'*. Sandra, a mother of 5, and mother to the youngest child attached to the study (3 months when sentenced) did not receive any visits while she was in prison, *'not even the baby'*. This she felt had resulted in their mother/child bond being broken. Another mother, of a four-year-old boy, described visits as *'ok'*, she felt she was lucky as she was *'local'*, and told her son mummy was *'at work'*, which was accepted by the child; who fared well in the visits, although the mother stated she did not. One mother who was *'relying on social services to manage the visits'* told us she waited 5 months for a visit, and *'even then, only two came because social services failed to make arrangements'*. Several mothers described issues with contact other than visits, particularly those whose children were separated and located with different carers. Although all managed to stay in contact with their children, many found it challenging, expensive and stressful. PACT facilitated visits for two mothers. It was clear that simple, inexpensive changes to the way in which visits are set up and managed would make a significant difference to family contact.

Care of the Children -As previously found by Corston and others, the mothers in this study too, were pre-occupied and anxious about the welfare of their children. Even the mothers who were content with their childcare arrangements felt anguish and anxiety at being away from them. For the mothers, this did not appear diluted by the shortness of the sentence. One mother stated, *'being away from my kids broke my heart, I knew they'd be ok with their dad, but you still worry as the mum, don't you?'*. Such preoccupation has implications for engagement with sentence planning and ultimately desistance (Baldwin 2015).

All the mothers had at least one child living with them before their sentence; seven were already in care. Most of the children in the study were displaced to various carers, which included aunts, fathers, elder siblings, friends, and paternal and maternal grandmothers. Several sibling groups were split up between multiple fathers and grandparent carers; this was a particular source of great anxiety to the mothers: one group, left in the care of an aunt, were latterly placed in care. Mothers spoke about the *'lack of support'*, for those caring for their children, a further source of anxiety and guilt. Particularly for the three mothers whose 17-year-old daughters were caring for their younger siblings – two of whom left full-time education to do so. Mothers of at least two older children (16, and 17), felt their older children were left without formal support or supervision. One of the mother's 16-year-old daughter became pregnant while her mother was in prison, something the mother *'felt sure'* would not have occurred if she had been *'home'* to supervise her. The baby was adopted. We believe the Findings about the older children of mothers in the study are particularly striking, interesting and worthy of further study.⁴

Effects on mothers and children -All the mothers felt their *'punishment'* would have been more effective if it was a community-based punishment; several felt that *'had there been support earlier'*, they might *'never have ended up' in prison'*. Mothers talked about the value of women's centres and how they thought they were better equipped to meet their needs than prison.

A few of the mothers described positive aspects of being in prison; two mentioned good medical care and caring staff, one reported *'eating regular meals and having a routine'* as a positive, stating her anxiety was *'reduced'* as a result. Another spoke of being able to access support for domestic abuse, enabling her to make

⁴ Baldwin's ongoing Doctoral Research *'Motherhood Disrupted: Exploring the Emotional Impact of Imprisonment on Mothers'*, is revealing similar findings described by mothers in relation to older children. De Montfort University, 2014-ongoing. Older children and adult children of imprisoned mothers are also discussed in Baldwin's forthcoming research on grandmothers affected by the CJS.

a life-changing decision to leave an abusive partner. Two others felt the prison sentence assisted them in becoming *'clean and sober'*. Several mothers spoke warmly of the friendships they had made with each other, some stating their paths would not otherwise have crossed *'outside'*, but now considered women they had met in prison, *'friends for life'*. Mothers spoke of now being more appreciative of their relationships with their children and for some, that because of their absence, their children were closer to their fathers, (for some closer relationships to replacement primary carers was also a negative, as they felt this resulted in distance from them as mothers). However, it is perhaps important to note, without exception these mothers stated, *'it didn't need to be prison' to achieve this* – with none of them feeling like the prison sentence was more positive than negative. One mother, in particular, described her experience as *'traumatic'* and felt she would *'never entirely recover'*. She goes on to say, *'I know that as a family we have all been deeply affected'*. Another wrote, *'prison changes you, and not in a good way'*. About the children, the mothers described both short and long-term effects on their children (most of our mothers had been out of prison for some time, all but one before the changes introduced under the Transforming Rehabilitation (TR) legislation). Several described younger ones as *'clingy' and 'insecure'*, and conversely older children as *'more independent', 'distanced' or 'aloof'*. Mothers reported their children experienced, bedwetting, nightmares, and anxiety. Older children were described as *'angry' and 'resentful'*, less amenable to maternal discipline and *'quietly judging'*, and *'as though they were punishing me for leaving them'*. Some children experienced bullying at school because of having a mother in prison. One sibling group were instructed to keep their mother's whereabouts a secret to avoid stigma, for the whole of the mother's five-month prison sentence.

Post-release -Four mothers, (Anna, Delia, Debbie, and Ethel), were evicted from their homes during their time in prison, another (Jade), has *'eviction pending'*. This devastating consequence of a short sentence was described by Debbie; *'I lost my house and had to start again. I found it impossible because I couldn't get a house because I was under 35 and my 18-month-old daughter wasn't living with me. I hoped that someone would help me with that. But they didn't'*. Anna, highlighting the tautological issue many evicted mothers post-release face, wrote, *'being evicted means landlords won't give me a chance and the council don't make a priority because I don't have my kids yet, but I can't get them because I don't have a home. So, I'm stuck.'* For those not evicted, many faced leaving prison to accumulated debt and rent arrears, rendering the women vulnerable to future eviction and re-offending. Which of course also renders children vulnerable to disruption and homelessness. Time and again, post-release families, especially grandmothers, were reported as the greatest source of support. One mother described her probation officer as extremely helpful and having supported her with access to work. Others described supervision as *'pointless', 'costly' and 'annoying'*. As previously stated, all but one mother was released pre-TR and so not subject to the 12-month period of supervision. A larger scale repeat of the study, post-TR would be very interesting and illuminating, both regarding the perception of supervision and breach. Women in the study who attended women's centres as part of their supervision found them incredibly helpful, two women continued to attend long after her release, with one subsequently going on to, initially volunteer at the centre, and later become a full-time employee. Interestingly two other mothers expressed the desire to *'use their experience for the good'* and wished to seek work or to volunteer with organizations working with women affected by the CJS. Several mothers felt that support they received as a result of their prison sentence, ought to have been available to them sooner. Although grateful for the women's centre, one mother said, *'I'm sad that I had to go to prison to access any support for myself and my children'*.

It was clear that despite the fact that these women had spent only short periods in custody, the mothers in the study remained troubled by their experiences. All the mothers described challenges that had carried on for them long after their release. One mother, in fact, felt she had PTSD, and found herself *'unable to do even the simplest of things, such as post a letter'*.

Recommendations - We conclude the report with recommendations for the future. We echo and reiterate the Prison Reform Trust recommendations about the sentencing of mothers, adding a further **ten** of our own (please see full report for details). We highlight the need for mothers to be supported in their mothering role, pre, during and post-custody to secure better outcomes for themselves and their children. We acknowledge this will require consistent and permanent funding and investment, which is of paramount importance. We suggest a renewed and invigorated return to the Corston Report and its 43 recommendations, with commitment, matched by investment, to achieve its aims.

We call for a formal process for systematically securing accurate statistics about the *actual* numbers of mothers in custody, the numbers of children affected, and their subsequent whereabouts. We call for recognition and formal support of the temporary primary carers, with an emphasis on research to establish the needs of carers and indeed the children in their care. We suggest a presumption against short sentences and a presumption against sentencing pregnant women; we suggest some Mother and Baby Units (MBU's) for vulnerable mothers could and should be located in the community (while incorporating all of the principles of good practice as suggested by Birth Companions⁵). Ideally with consideration also being given to the development and funding of community-based residential support for mothers and their children.

We, like many before us, would like to see fewer women sentenced to custody in the first instance, with significant revision of the sentencing framework to achieve this. We urge sentencers to be consistently mindful of EU guidance and the Bangkok Rules. We acknowledge that revision of the sentencing framework may be a longer-term goal.

We recommend the development of specific training about the need to factor into sentencing decisions information about primary care responsibilities and the best interests of children,⁶ but importantly, we also recommend the urgent development of gender-specific sentencing guidelines. We feel that gender-specific guidelines are an achievable aim that will facilitate equal and fair treatment, without the uniformity that currently disadvantages women, meaning both their and their children's needs are compromised.

For additional relevant reading around the author's research, please see:

<https://www.nicco.org.uk/directory-of-resources/lucy-baldwin-works-on-maternal-imprisonment>

⁵ Birth Companions is a unique charity which supports women experiencing severe disadvantage during pregnancy, birth and early parenting to overcome the inequalities they face and fulfil their potential in prisons and the community. <http://www.birthcompanions.org.uk/>

⁶ We note that the ESRC has funded a project, led by Shona Minson, Oxford University Centre for Criminology, to develop such training materials, also supported by the Prison Reform Trust. <https://www.law.ox.ac.uk/centres-institutes/centre-criminology>