



## Arresting the entry of women into the criminal justice system

### Key points

- Far too many women are drawn into the criminal justice system. Arrests of women, which are the first point of contact with the criminal justice system, fell by 1,785 to 97,117 in the year ending 31 March 2019. This is a welcome start, but police forces should do more to reduce the unnecessary criminalisation of women
- The APPG received original and detailed evidence from five police forces in England and Wales providing anonymised data on more than 600 arrests of women over specified periods of time
- Analysis of the data provided by forces showed that 40 per cent of arrests of women resulted in no further action. This suggests that thousands of women each year are arrested, held in police custody and then released without charge, which is an unnecessary and wasteful use of police resources
- There were 50,374 arrests of women for non-violent incidents in the year ending 31 March 2019
- There were more than 43,000 arrests of women for alleged violence in the year ending 31 March 2019. Evidence provided by police forces showed that around half of arrests of women for alleged violence resulted in no further action. Further investigation is needed to explain the high number of arrests of women for alleged violent offences. Police need to be responding to incidents of alleged violence in a gender-informed way
- Black and ethnic minority women are more than twice as likely to be arrested as white women. A reduction in the arrests of women must also lead to a reduction in disproportionality
- All forces should adopt a set of principles for policing women taking into account the factors that bring women into contact with the police and preventing criminalisation when it is unnecessary and inappropriate
- Some women come into conflict with the police when they need support. Rather than arresting them, police should be diverting them to services that can address their needs
- There are examples of good practice where forces are doing things differently and not making arrests, providing women with a way out of – rather than a way into – the criminal justice system.

## Introduction

The All Party Parliamentary Group (APPG) on Women in the Penal System launched an inquiry in May 2019 to investigate what could be done to reduce arrests of women in England and Wales and stem the flow of women into the criminal justice system. The APPG is chaired by Jackie Doyle-Price MP, Debbie Abrahams MP, and Baroness Corston. It receives administrative and research support from the Howard League for Penal Reform.

As part of its inquiry, the APPG has held oral evidence sessions with expert witnesses, investigating examples of good practice in reducing arrests of women. An initial briefing paper was published in 2019. This is the inquiry's second briefing paper.

The APPG inquiry is complemented by a programme of work by the Howard League for Penal Reform, which is conducting a three-year programme, supported by Lloyds Bank Foundation, to arrest the entry of women into the criminal justice system.

### 1. Too many women are being drawn into the criminal justice system

Far too many women are being drawn into the criminal justice system when it is inappropriate and unnecessary. Women account for about one in seven adult arrests. Arrests of women, which are the first point of contact with the criminal justice system, fell by 1,785 to 97,117 in the year ending 31 March 2019. This is a welcome start, but police forces could do more to reduce the unnecessary criminalisation of women.

There were more than 50,000 arrests of women for non-violent offences in the year ending 31 March 2019, including more than 20,000 arrests for theft and almost 7,000 arrests for public order offences.

Evidence provided by police forces showed that many arrests of women resulted in no further action. Thousands of women are being arrested and held in police custody then released with no further action. As the examples that follow demonstrate, police forces could be dealing with women differently

and do not need to always arrest. Current practice is expensive, a waste of police time, and abusive towards women.

## 2. Evidence on arrests

The Howard League has held a series of meetings with senior police officers as part of its programme to reduce the arrests of women. Following these meetings, five forces agreed to provide anonymised data on arrests of women to inform the APPG inquiry on reducing arrests. The forces varied in terms of size, population and geography:

- *Police force A:* A large police force policing an ethnically diverse metropolitan area with a population of almost 3 million
- *Police force B:* A large force policing a population of more than 1 million living in urban and rural areas, including areas of high deprivation
- *Police force C:* A medium-sized police force policing a population of about 600,000 living in both rural and urban areas
- *Police force D:* A large police force policing an economically diverse population of more than 1 million in rural and urban areas
- *Police force E:* A large police force policing a population of more than 1 million in rural, urban and metropolitan areas.

The forces provided anonymised data on more than 640 arrests of women and girls. It included information on more than 300 arrests of women for alleged violent offences and more than 200 arrests for alleged incidents involving a partner or close family member. Some forces provided data on incidents flagged by officers as alleged domestic abuse.

The anonymised information included the circumstances of the incident that resulted in arrest, the reasons given for making the arrests and the outcomes that followed. The APPG on Women in the Penal System is extremely grateful to the forces who provided this unique resource of evidence to the inquiry.

### 3. Analysis of arrests

The anonymised data provided by the five police forces showed that 40 per cent of the arrests of women and girls resulted in no further action (NFA). The percentage was even higher for arrests for alleged violent offences, with more than half resulting in no further action. For incidents which involved a partner or close family member it was more than 60 per cent.

While the forces did not provide standardised snapshots of arrests, the pattern of extensive NFAs can be seen in all the evidence provided.

*Police force A* provided information on 37 cases of arrests of females for alleged violence in the month of January 2020. This revealed that 18 arrests resulted in NFA. Nineteen of the arrests were in relation to an alleged assault on a partner or a family member, of which 12 resulted in NFA.

*Police force B* provided information on 100 arrests of females for a range of alleged offences in the month of February 2020. Fifty-five arrests were for non-violent offences, including 12 for alleged theft. Forty-two arrests were for allegations of violence against the person, of which 23 resulted in NFA. Twenty-nine arrests were flagged as 'DA' – domestic abuse related incidents – of which 17 resulted in NFA.

*Police force C* provided information on 55 arrests of females for alleged assaults in the month of January 2020 of which 28 arrests resulted in NFA. Twenty-four arrests were in relation to alleged domestic violence incidents, of which 20 resulted in NFA.

*Police force D* provided information on 64 arrests of females for alleged offences of violence in the month of January 2020, of which 17 arrests resulted in release without charge. Thirty arrests were in relation to alleged assault on a partner or family member, of which 14 resulted in release without charge.

*Police force E* provided information on 401 arrests of females for a range of offences in the month of January 2020, of which 169 resulted in NFA.

There were 172 arrests for non-violent offences, including theft and being drunk and disorderly in a public place. There were 131 arrests for alleged violent offences, 77 of which resulted in NFA. Eighty-three of the 119 arrests tagged as domestic-related incidents resulted in NFA.

Every year, thousands of women are arrested for alleged offences that are non-violent. Fifty-two per cent of the arrests of women in the year ending 31 March 2019 were for non-violent offences. There were 20,928 arrests for theft and 6,959 arrests for public order offences. A further 6,475 arrests were for alleged miscellaneous crimes against society.

The evidence submitted by the five police forces provided numerous examples where women were arrested for alleged non-violent offences. For example:

- A woman was arrested for being drunk and disorderly. She was allegedly shouting and swearing in the street after her friend refused to let her stay in her house
- A woman was arrested after she walked into a main road repeatedly
- A woman was arrested for trespassing on railway property. She was allegedly drunk and was known to have mental health problems
- A woman was arrested for begging outside a supermarket
- A woman was arrested for allegedly stealing cleaning products from a shop

Police have operational discretion over the decision to arrest. There are still too many women being arrested when they do not need to be. Women who are drunk, behaving badly or putting themselves at risk could be sent – or even taken – home and do not need to be arrested or diverted to other services.

Police forces are often being asked to deal with problems which other public services have failed to resolve, such as mental ill-health, drug and alcohol addiction, homelessness or



unstable accommodation. Women facing a mental health crisis are likely to be a danger to themselves rather than others and do not need arresting.

If women do need support, arresting them for begging or shop theft will not tackle underlying issues causing poverty and may even drive women further into the criminal justice system if they end up with fines which they have no means to pay.

Evidence from police forces showed that some forces were conducting more than 400 arrests in a month. Forces should examine their own data on arrests of women, including outcomes, to see where arrest decisions were unnecessary.

#### **4. Arrests for alleged violence**

Too many women are being drawn into the criminal justice system after being arrested for alleged violent offences. There were more than 43,000 arrests for alleged violence in the year ending 31 March 2019. A large proportion of arrests of women for alleged violence result in no further action and around 1,300 women will go on to receive a court-ordered supervision or custodial sentence for violence in a year, a tiny percentage of all those arrested for alleged violent offences. Further investigation is needed to explain the anomaly of the high number of arrests of women for violence.

Data obtained by the Howard League showed that at least 19,000 of the arrests of women for alleged violence resulted in no further action. As outlined above, the evidence received from the five police forces supports this finding.

The five forces provided data on 317 arrests of women for alleged violent incidents. More than half of the arrests for alleged violence (163) resulted in no further action or release without charge.

There were 221 arrests tagged as an alleged domestic abuse incident or in relation to an alleged assault of a partner or close family member. They included arrests for common assault and criminal damage. Of the 221 arrests, more than 60 per cent (146) resulted

in no further action or release without charge. It seems little has changed since a study on domestic abuse and gender (Hester, 2013) found that women were three times more likely than men to be arrested in domestic violence cases.

Women's organisations working with women arrested for violent offences reported that many were victims of domestic abuse themselves. Evidence provided by the five police forces showed that sometimes when women contacted the police regarding a domestic incident it resulted in their own arrest. Examples from the evidence included:

- A woman had called the police. Her partner had returned home after losing all his money. The partner alleged she had pushed him and thrown his belongings out the house, damaging his glasses and tearing his jumper. She was arrested for alleged common assault and criminal damage to property under £5,000. Both arrests resulted in no further action.
- A woman called the police about domestic abuse. When the police arrived, her partner alleged she had threatened to kill him and she was arrested. She was released with no further action.

The importance of this for police forces should be clear. In addition to the data-gathering exercise with the five police forces detailed above, the Howard League asked a police force to conduct an analysis of its data on arrests of women and girls over a two-year period. This found that almost three quarters of the women arrested by the force had previously come to the attention of the police as a victim of violence or sexual violence. More than half of them had been victims of domestic abuse.

One senior police officer described women's use of violence as 'defensive violence', used when women felt threatened by their partner or by the police.

Police forces have taken steps to prioritise their response to alleged domestic abuse. The College of Policing's authorised professional practice on domestic abuse (College of Policing, 2020) states:

*'Police officers have a duty to take positive action when dealing with domestic abuse incidents. Often this means making an arrest, provided the grounds exist and it is a necessary and proportionate response. Officers must be able to justify the decision not to arrest in those circumstances.'*

Forces should investigate whether the duty to take positive action in alleged domestic violence incidents is unnecessarily driving up arrests of women. Officers do not have to arrest and can take alternative positive action, such as finding somewhere safe for the woman to go, where she is not in the same house as the other party.

If officers arrive at the scene and have no or limited knowledge of the background to the incident, they may arrest women when it is not necessary or proportionate. An unnecessary arrest can be distressing and damaging for women and it is important that officers have the skills to make the right decision quickly.

Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services (HMICFRS 2019) published an update report on the police response to domestic abuse. It stated: *'The way officers behave when they arrive at the scene of domestic abuse is vital. It can be the first face-to-face contact the victim has had with the police, even if the abuse has been going on for some time.'*

For too many women, contact with the police results in their criminalisation rather than a recognition that they might be victims of domestic abuse. Women may not feel safe to disclose that they are a victim of domestic abuse. Presence or lack of physical injury is not always an indicator of who is the victim and who is the perpetrator.

One force had looked at the decision-making in domestic incidents after an officer raised concerns that a woman was arrested as an alleged perpetrator at the scene but, when in police custody, was found actually to be a victim of violence. She had not disclosed her injuries when officers first arrived. Senior police officers should support a culture of gender-informed decision-making around arrests in domestic incidents.

There has been a rise in the number of women prosecuted for assault on an emergency worker. Evidence provided by police forces showed that incidents of alleged assault on an emergency worker were often related to incidents of alleged domestic abuse. Further investigation is needed to determine the factors driving this increase and to ensure that incidents of heightened stress involving women are not resulting in their unnecessary criminalisation.

## **5. Arrests and race**

Officers must have an understanding of the experiences of Black, Asian and ethnic minority women. Black and ethnic minority women are more than twice as likely to be arrested as white women. A reduction in the arrests of women must also lead to a reduction in disproportionality.

A study published by the Ministry of Justice (2016) found that 'a statistically significant difference exists between the experiences of BME women and those of white women at the arrest, charging and prosecution stages and that BME women are more likely to receive custodial sentences on conviction'.

Annual data is published on arrests by gender and by ethnicity but not by both characteristics together. The intersection of gender and ethnicity on arrests needs further investigation. An analysis of disaggregated data on gender and ethnicity is needed to determine if Black and ethnic minority women are more likely than white women to be arrested for certain offences for example.

The Lammy Review (2017) found that Black women were less likely to be charged than white women. There should be greater challenge to prevent arrests of women when it is unnecessary and inappropriate. This would help to prevent the disproportionate criminalisation of Black and ethnic minority women. There is a need for more specialist support services for these women and for secure funding to ensure services are sustainable. Clinks (2020) found that charities working with Black and ethnic minority people in contact with the criminal justice system had been disproportionately affected by the impact of coronavirus.

Police forces should be aware of specialist services for women in their area and should work with them to ensure Black and ethnic minority women with complex needs are kept out of the criminal justice system.

## **6. Principles and good practice for policing women**

The Ministry of Justice female offender strategy in 2018 (Ministry of Justice, 2018) identified a number of factors which brought women into contact with the criminal justice system including mental health problems, domestic abuse, housing, employment and financial issues. It also outlined the clear benefits for intervening earlier to reduce the number of women coming into contact with the criminal justice system.

The accompanying police fact pack for managing vulnerable outlined key principles for policing women, including:

- Ensuring police officers take a gender-informed approach to all women with whom they come into contact, whether or not they are arrested
- Identifying and building partnerships with other organisations, both statutory and in the third sector, to whom women can be referred for support
- Ensuring that the cultural and practical changes required for this approach to women are led by senior police officers.

Despite the government strategy and the recognition of gender-specific needs, women continue to be drawn into the criminal justice system, often repeatedly. Police forces can and should police women differently, in line with the government strategy.

Some women come into conflict with the police when they need support.

Rather than arresting women, police forces could be diverting them to services which can address their underlying needs. The APPG found examples of good practice where forces were diverting women who needed support, without arresting them first.

### **Retail Triage Scheme, Wakefield**

West Yorkshire Police are piloting a retail triage scheme, working in partnership with the West Yorkshire Liaison and Diversion Service, Well Women centre in Wakefield and local retailers. If a woman is detained in a store for shop theft, the store can call a dedicated police phone line for the retail triage scheme. Women who are eligible for the scheme are not arrested by the police but instead diverted to Liaison and Diversion's female specialist practitioner based within the women's centre for full holistic assessment to look at what may be contributing to committing shop theft. A programme of intervention, including using a restorative approach, will be developed with the woman to address any specific needs. Once completed, the police are notified and no further action is taken.

However, in too many police forces, women could only be diverted to appropriate support after arrest. Arresting women should not be a necessary gateway to diversion.

Women's centres were key in delivering gender-specific services for women. Police forces such as Avon and Somerset, Surrey, Thames Valley and West Yorkshire had developed close links with their local women's centres and were diverting women with unmet needs who came into contact with the police to the centres for assessment and support. However, in some areas of the country, police officers were unaware of services available locally for women and some forces did not have a local women's centre. Specialist services for women should not be a postcode lottery. The APPG found that forces which had a 'champion' or dedicated lead for women were more likely to know about the specialist services available in their area and therefore more likely to make use of them.

Some forces were developing gender-informed police practice. As part of Cleveland Police and Crime Commissioner's equality, diversity and inclusion strategy, Cleveland Police had established a women's

staff network. The network brought together female police officers at a range of levels to look at responses to women in contact with the police and to explore what could be done differently to improve outcomes for women.

### **Checkpoint plus scheme, Surrey Police**

Building on previous work to prevent the criminalisation of young people and women, Surrey Police has developed Checkpoint and Checkpoint plus, based on Durham Police's Checkpoint scheme.

Checkpoint plus was set up in recognition of the need to treat vulnerable people in the criminal justice system differently. If a woman or care leaver comes into contact with the police for low-level offences, their case is put before a multi-agency panel, which decides whether they can receive a Checkpoint outcome or a conditional caution or a charge.

Specialist navigators or case workers from the local women's centre support women with complex needs. Once a women's needs have been assessed, she is offered a contract with interventions designed to tackle the reasons for their offending. It includes a restorative element agreed with the victim, such as an apology, or compensation. If the woman completes the contract, she receives a community resolution.

## **Conclusions**

Thousands of women are being arrested and held in police custody for alleged offences which often result in no further action. This is a drain on police time and resources and leads to worse outcomes for women.

The data provided by police forces to the APPG showed that hundreds of women were being arrested for alleged violent offences, often in relation to domestic incidents.

There is widespread recognition of the factors that bring women into contact with the

police yet women continue to be criminalised for experiencing disadvantage, poverty or abuse. If women need support, they should be able to receive it without receiving a police record at the same time.

Police forces need to consider how they are dealing with women and use different responses where appropriate.

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## About the APPG on Women in the Penal System

The APPG on Women in the Penal System was set up in July 2009 with administrative support from the Howard League for Penal Reform.

The APPG comprises MPs and Members of the House of Lords from all parties and works to increase knowledge and awareness of issues around women in the penal system.

The APPG has conducted inquiries into the sentencing of women, the treatment of women in the criminal justice system, preventing the unnecessary criminalisation of women and on girls in the penal system.

The following APPG reports are available on the Howard League website:

[www.howardleague.org](http://www.howardleague.org)

*Arresting the entry of women into the criminal justice system*

*Sentencers and sentenced: exploring knowledge, agency and sentencing women to prison.*

*Is this the end of women's centres?*

*Report on the Inquiry into preventing unnecessary criminalisation of women*

*Keeping girls out of the penal system*

*Inquiry on girls: from courts to custody*

*Women in the penal system: second report on women with particular vulnerabilities in the criminal justice system*

## About the Howard League for Penal Reform

The Howard League is a national charity working for less crime, safer communities and fewer people in prison.

We campaign, research and take legal action on a wide range of issues. We work with parliament, the media, criminal justice professions, stakeholders and members of the public, influencing debate and forcing through meaningful change.

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