



Breaking the Habit? Paradoxes in Helping Women Recover Through Criminal Justice Interventions

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Introduction

Tonight, I'm going to talk about the increasing emphasis given to criminal justice policy as a way of responding to drug issues, and the implications this has for women. I also want to consider some of the more 'holistic' approaches that have been introduced (under the rubric of criminal justice) and I'm going to do this by talking about recent developments for federal prisoners in Canada, and commenting on some of the community-based developments that have been introduced in Scotland. By 'holistic' I am referring to resources that tackle the broader issues which impact on an individuals' whole experience, rather than the resources directed towards the punishment of acts committed.

This is an area that I have had a long-standing interest in, starting with research that examined the experiences of women drug users in custody (in Scotland and England). This research highlighted many of the difficulties and some of the contradictions which arise when drug use is responded to in the prison setting specifically and criminal justice system more broadly. More recently I have been involved with Gill McIvor and other colleagues at Stirling University and elsewhere, in a number of studies which have evaluated new initiatives based within the criminal justice system aimed at responding to drug-related offending (eg the Glasgow and Fife Drug Courts, the SPS Transitional Care Arrangements, and most recently the 218 Time Out Centre for women).

Increased recognition given to problematic substance use by women

When I began my research into women and drug use, I remember searching the literature for material on women's experiences – there was very little. Within sociology and criminology, drug users were often viewed in terms of 'deviance' with various accounts that suggested that drug use was a form of resistance, rebellion or withdrawal from society. There was very little on the subject of women and drug use – and as with other areas of life, medical explanations were often put forward to explain women's involvement in deviant or criminal activities.

Today there has been more research in this area, often conducted by women and with an understanding of gender, patriarchy and the need to understand the broader contexts of women's lives. This has led – within criminology – to a recognition that male and female involvement in crime and deviance differs (ie men commit the majority of recorded offences) and that the reasons behind this often differ too.

Developments in criminal justice responses

There have been many developments in the way that drug use has been represented and responded to over the decades. Throughout the 1990s and onwards, it has seemed that drug policy has been linked to crime (as opposed to disease during the 1980s). Throughout the 1990s there appeared to be some optimism that the prison system could respond to the 'drug problem' by making resources available for drug users in prison – or to enable problem users to access resources following sentence. Increasingly, initiatives have been introduced to enhance the resources available through the criminal justice system (eg Drug Treatment and Testing Orders) which require the individual to be 'sentenced to treatment'. The objective of such initiatives is to enable individuals who may be unwilling or unable to access treatment in any other way to come into contact with services able to address their drug use directly – and often provides a 'fast-track' entry to treatment services.

Increased importance of multi-agency working

One of the important things that has resulted from such developments is the multi-agency approach to service provision – despite some of the practical problems of multi-agency working which a number of research reports have highlighted. Bringing different professionals together (from the criminal justice system, medical and addiction services) has provided the opportunity to gain a much clearer and much broader understanding of drug use and 'addiction' – although there continues to be considerable debate about the nature of addiction and how to respond to it. This joint approach has given court professionals a wider view of the issues which affect drug users, and given drug workers an opportunity to have more input to the court process.

While changes in understanding have been taking place in this direction, academics and practitioners with an interest in doing something for women have been continually trying to ensure that as this knowledge has developed, women's experiences and issues are taken into account. This has not always been easy!

Some Statistics

Male: female attendance rate for 'new' clients of drug services (2004/5) was 2.0: 1

Increasing numbers of women are seeking help for drug/alcohol problems. This rate has remained relatively stable since 2000/2001. But it does vary across age groups with 1.6 males to 1 female in the under-20 age group, and 2.5 males to 1 female in the 40 years and over age group¹.

The number of women in contact with the criminal justice system as a whole is small (women constitute a small number of known offenders) and their offending behaviour is often dealt with in the District rather than Sheriff courts – so their access to court-mandated treatment may be limited. Nevertheless, women accounted for 17% of DTTO's (2004-2005). Over half (54%) of all females compared to 39% of males were aged 25 or under. Women also accounted for 28% of breach applications².

¹ Drug Misuse Statistics Scotland (2005).

² Criminal Justice Social Work Statistics 2004-5.

Women accounted for 5% of the daily prison population in Scotland in 2004-5³. The number of women in prison is proportionally small, but increasing. In Scotland, the average daily female prison population increased by 6% from 2003/2004.

At the same time, internationally, researchers and practitioners are lamenting the high numbers of women in prison who are problematic drug users. At a conference in Italy last year, presentations on women in prison from all over the world highlighted the relationship between problematic drug use by women, and the number of women in prison – either for drug offences, or more likely for offences related in some way to their problematic use of drugs.

Increasing numbers of women are incarcerated in prisons throughout the world. Although the number of women in prison as a percentage of overall prison figures remains relatively small (around 5% in Scotland and Canada; 6% in England and Wales, and New Zealand; 7% in Australia and just under 9% in the United States of America). In most countries the number of women in prison has increased dramatically over the last decades, significantly outstripping increases in the number of male prisoners. In Scotland the female prison population increased by 75% between 1996-2005. By comparison, the male prison population increased during this period by 11%.

Internationally, more women are being sent to prison for drug or drug-related offences and crimes motivated by poverty. Furthermore, in some countries, notably the United States, the introduction of mandatory minimum sentences for specific drug offences has contributed to this increase (Hannah-Moffat, 2000).

98% of prisoners in HMP and YOI Cornton Vale are believed to have addiction issues (at one point this was put at 100%). The number of prisoners with a drug and/or alcohol issue is significant and the rise has been dramatic in the last two decades. Again this is an international trend. In Canada, up to 93% of provincial offenders have serious problems with drug/alcohol use issues, although actual admissions for alcohol or drug related offences constitute less than 4% of total admissions.

In Scotland, prison figures for 2004-5 indicate that of the sentenced prison population, the largest group of female prisoners were those held for drug offences, followed by 'other' theft – and overall women were much more likely to be sentenced for property offences or offences of dishonesty. For men, the largest group of sentenced male prisoners for a specific crime were those convicted of serious assault.

If we examine figures internationally it could be argued that women are imprisoned in much greater numbers, proportionally, for drug-related crimes than for any other, particularly when compared to other crimes which are more likely to be committed by men (such as armed robbery, assault, etc). It has been suggested – most forcefully in relation to current drug policy in the United States - that the war on drugs has constituted a war on women, particularly poor women, and women from black/ethnic communities.

³ Prison Statistics Scotland 2004-5.

This has impacted notably on particular groups. Minority ethnic, Black and aboriginal women constitute disproportionate levels of the female prison populations in several countries notably Canada, Australia, the UK and the USA.

In England and Wales, 1 in 4 of the prison population in 2003 were from a minority ethnic group compared to 1 in 11 of the general population. This includes a high proportion of foreign nationals (Prison Reform Trust, 2005: 10). In the UK, foreign national women sentenced for drug trafficking offences receive some of the longest sentences distributed (including sentences for violent offences).

In Canada, while Aboriginals make up about 3% of the general population, over 20% of women held in federal institutions are Aboriginal (Correctional Services Canada, 2004). Recent developments in Australia and New Zealand show that as well as an over-representation of aboriginal women, there is an increasing over-representation of Vietnamese women in prison – related to issues of asylum and immigration policies.

Within the context of punishment, help is made available to prisoners with the overall intention of reducing future offending and supporting women to change their lives – while they are in effect, a captive audience. However, as I have indicated, the concept of risk is itself gendered and racialised (see Kelly Hannah-Moffat's work).

Key issues for women

- Increased incidence of drug-related offending
- Increase in average sentence length
- Women are not committing more serious offences but are receiving more severe sentences than previously (Hedderman, 2004; Home Office, 2004; Drugscope, 2005).

Prison Services, internationally, have attempted to provide therapeutic and rehabilitative resources – with variable levels of success. There are many issues that need to be considered. While prison systems have been developed primarily to meet the needs of men, there has been a growing recognition that the needs of male and female prisoners differ, as does the most effective approaches to treatment for drug and alcohol use problems between men and women. This recognition clearly needs to inform the provision of resources in prisons, although things do seem to be moving in this direction.

However, the prison, while having the opportunity to come into contact with more drug users than most treatment services, may not be best placed to provide support. Some of the problems that exist relate to the:

- discretionary implementation of policies in relation to medical care
- emphasis accorded to discipline and security as a prime function of imprisonment, which is seen by many prison staff as their main objective.
- relegation of other aims as secondary, reflected in the organisation and operation of penal regimes.

Despite attempts to prevent access to drugs in prison we know that they still get in. Clampdowns seem to do little to recover drugs and are neither deterrent nor preventative. Sentencing women to prison to 'break their habit' is widely recognised as

generally misguided. In a recent Home Office report (Home Office, 2003:2) “over a quarter of the women interviewed said they were still using heroin while in prison, albeit mainly on an occasional basis”. Consequently, many women in prison have access to drugs most of the time, but only limited access to resources and counselling.

International recognition

Many women disclose that they became involved in crime in order to fund a drug habit, nevertheless there has been a tendency to focus on individual ‘criminogenic’ factors to account for women’s offending rather than poverty or other social problems. Indeed women’s offending in reality, is often linked to their material and social situation rather than to other inherent ‘risk’ factors (personal characteristics that can be assessed prior to treatment, and also predict future criminal behaviour).

For example, women’s offending is often related to drug use or poverty and exacerbated by trauma and subsequent mental health issues – accordingly assessments often present women as at high risk of reoffending – on the basis of their needs rather than deeds. Lifestyle and life-challenges are often viewed as indirect pathways to crime for women.

When risk assessments are examined, it becomes apparent that women’s offending tends to reflect ‘cumulative social and emotional disadvantage’ – men appear to be more likely to be influenced in their offending by ‘anti-social’ beliefs and attitudes than women are. Women show increased levels of negative emotions (marked by anxiety, trauma and depression) and a greater experience of poverty than men.

Similarly researchers in this field have uncovered that women are less likely than men to use drugs for the ‘thrill’ and more likely to use them to manage emotional pain ...presumably for the same reasons that women have historically relied upon tranquilisers and anti-depressants to a much greater extent than men.

This has certainly been one thing that I have learnt from my research in this area, and from talking to women who have got caught up in the criminal justice system as a result of their drug/alcohol use. But there is another issue here, which also relates to much of the recent emphasis on programmes located within the criminal justice system – and that is the individualising of structural problems.

Responding to criminogenic factors locates the problem within the individual and takes no account of the structural context, either within the criminal justice system and how that operates, or within broader social structures. So no consideration is given to economic marginalisation, patriarchy or victimisation. Instead, solutions are sought within the individual.

Much research suggests that looking at women’s offending as a primary predictor of risk is of limited value – indeed women’s risk of re-offending may be due more to lack of effective support to reintegrate into communities. Similarly, welfare provisions are increasingly evaluated in terms of their impact on crime rather than in their own right. Critics have argued that the What Works agenda hasn’t accurately reflected what is known about women in the criminal justice system or about what is needed to create gender-responsive programmes for women (as opposed to the ‘add women and stir’ approach).

Issues for women

- More likely to have a partner who uses
- May be required to maintain their partner's supply
- May have experienced violence in their current and/or past relationships
- May suffer from poor mental health and/or low self-esteem
- May have dependent children to provide for

A woman's role as a mother can impact on the likelihood that she will use services – or not, while the lack of child care provisions can hinder access. Similarly fear of children being taken into care, or of encountering judgmental attitudes (especially if pregnant) can prevent women seeking or responding to support. The Scottish Executive guidance set out in *Getting Our Priorities Right*, highlights the recent attention given to drug using parents in Scotland. These issues are exacerbated when women are drawn into the criminal justice system.

Criminalisation of distress?

The increasing criminalisation of drug users and people with mental health problems clearly illustrates the growing complexity of the problems that the criminal justice system is required to respond to, with particular effects on women.

Internationally, there appear to be cut backs in benefits, housing and other welfare services paralleled by the 'war on drugs' and stringent responses to crime and anti-social behaviour which has had an inordinate effect on the female prison population. At the same time the penal- welfare complex described by David Garland (2001) has led to changes in the community that have an impact on sentencing practices overall.

Women may be up-tariffed in order to receive treatment which may be limited in the community but has become more accessible under the auspices of the criminal justice system, and similarly sentencers appear to be reluctant to impose financial penalties on those individuals with few visible means of income or support. However, those given community sentences at an early stage can face increased risk of custody for non-compliance. Underpinning these developments lies the feminisation and racialisation of poverty.

Pat Carlen has suggested that prison programmes and criminal justice policy can operate to reconstruct issues of social exclusion (which she suggests is New Labour talk for issues of class and racial discrimination) as problems of individual psychological and social functioning. Barbara Bloom (an American academic) has indicated that moves towards 'equality in sentencing' alongside the failure to address the realities of the lives of women and to acknowledge the differences that they experience from men in the criminal justice system does not constitute 'equal treatment', but could be considered as 'vengeful equity' (Bloom, 2005).

The experiences that characterise the backgrounds of many women in prison have led to a growing acceptance that a shift has taken place from the medicalisation to the *criminalisation* of distress.

Alternative Approaches

Alternative approaches have been influenced by agencies with varied philosophical approaches coming together. Developments in understanding trauma have started to

inform the development of resources for women in the criminal justice system (Judith Herman's work has been particularly influential), and again this appears to be very much influenced by practitioners and academics from a background informed by practice-based interventions and understanding of programme-delivery.

American activists in this area (Covington and Bloom) have argued that treatment strategies for women have to be underpinned by theories of addiction, women's psychological development and trauma. Putting these together provides an approach that integrates the importance of connection and relationships, using the disease model – responds to addiction as a relationship, and views trauma as a form of disconnection. Recovery correspondingly requires 'safety, remembering and reconnection'. This language is very different to what we associate with the criminal justice system.

Much emphasis is also given to acknowledging the context in which individual choices are made, and to the need for gender-responsive services. Models of intervention based on this approach are being adopted in many countries and even the US Department of Justice has drawn on this approach to provide programmes for women.

I was very fortunate to receive funding to visit Canada last year (funded by the Department of Applied Social Sciences at Stirling University, and the Carnegie Trust) to see some of the developments that have been taking place in Canada in recent years in relation to the criminal justice system for women.

The aim of the research was to examine innovative responses to women in Canada, in conjunction with ongoing work I was doing in Scotland – particularly the evaluation of the 218 centre in Glasgow. I was particularly interested in approaches which claimed to be 'holistic', directed at enhancing the process of 'healing'. And I was curious to see how these resources could be provided by Correctional Services Canada.

There are some interesting similarities between Canada and Scotland in this respect. Women constitute similar proportions of the prison population (about 5%). Women generally represent a comparatively low security risk yet the prison population in both countries, and indeed internationally, consists of high numbers of women with backgrounds characterised by substance misuse, physical and sexual abuse and high levels of social deprivation. Additionally in Canada, both the male and female prison populations consist of a disproportionate number of Aboriginal people.

Canadian developments

Canadian Corrections operate on two levels: the provincial system which is organised and managed by provincial authorities; and the federal system which caters for all prisoners sentenced to more than two years imprisonment. Women make up approximately 4% of the federal prison population. Until the mid-1990's all federal women were held at the Kingston Prison for Women in Ontario. This institution, which closed in 2000, was described by the Parliamentary Sub-Committee on the Penitentiary System in Canada as "unfit for bears, much less women".

A series of damning reports, high levels of self-injury and suicide, and campaigns conducted on behalf of women (notably by the Elizabeth Fry Society) highlighted the issues around this prison, resulting in the creation of a Task Force for Federally Sentenced Women. Similarly, in Scotland a number of agencies were brought together to produce reports on the situation facing women in the criminal justice system following a series of deaths at HMP Cornton Vale (*A Safer Way; A Better Way and the development of the Inter-Agency Forum on Women's Offending*).

The Canadian Task Force consisted of representatives of Correctional Services, the Elizabeth Fry Society and a broad base of community groups and government agencies and resulted in the publication of a far-sighted report 'Creating Choices' in 1990. This report recommended the development of small, community style regional facilities for women, which were intended to enhance healing and wellness and encourage women to take responsibility for their own lives.

A programme strategy which took into account the specific needs of women was developed, intended to be both holistic and women-centred, covering areas including: living skills, substance abuse, literacy and continuous learning, dealing with abuse and trauma, mental health, mother and child programme.

CSC opened five such facilities (now six). While they were initially intended to be low-key in terms of security, a series of events led to increased security measures and the development of Enhanced Units which contained cells for segregation, measures which had not been foreseen by the Task Force. At present, approximately 15% of the female federal prison population are deemed 'not suitable' for community living environments. From the outset, the emphasis given to the implementation of the policy differed from that envisaged by the Task Force.

The Canadian Association of Elizabeth Fry Societies walked out of the implementation process in 1992 in protest at the way that Creating Choices had been interpreted and operationalised – and although they provide services for women in prison, they have continued to campaign to address the broader issues underpinning the imprisonment of women. The organisation has gone so far as to suggest that CSC's woman-centred strategy is in collapse, with profound effects on the efficacy of the Healing Lodge.

I visited several of these prisons during my visit to Canada. The most unique institution was the Okimaw Ohci Healing Lodge. This open facility opened in August 1995 and is located on the Nekaneet Reservation in the Cypress Hills in the prairies. It was designed with and for, First Nation women and has the capacity to accommodate 28 women who meet the criteria of 'high-need/low-risk'. There are a number of Healing Lodges for men in Canada, and indeed the concept was originally developed to meet the perceived needs of aboriginal men.

The operational philosophy of the Healing Lodge differs significantly from other correctional facilities. It is based on aboriginal teachings, spirituality and traditions. Attention is given to the ways in which women's life experiences have affected them physically, emotionally and spiritually.

The full-time services of an Elder are available and ceremonies often include members of the local Nekaneet community. Emphasis is placed on the importance of

community reintegration for the women and links with friends and families are encouraged wherever possible. Women (including non-aboriginal women) can choose to spend all or part of their sentence at the Healing Lodge.

The language of the Healing Lodge emphasises the distinctiveness in practice and philosophy from other correctional facilities. This is characterised on the emphasis given to 'healing' itself through:

- Developing pride in aboriginal heritage and sense of identity
- Self-empowerment
- Creating a healthy life-style through a balance that is
 - o Physical
 - o Spiritual
 - o Emotional
 - o Mental

Elders work with the staff and women to move towards change, understand aboriginal culture and heritage, develop skills in traditional crafts and ceremonies. Innovative programmes based on aboriginal traditions include Spirit of a Warrior, Horse Programme links to the local community through ceremonies such as the Sun Dance and Sweat Lodges.

While this is a very innovative environment, there have been a number of issues which are recognised as problematic:

- The number of women accessing the Lodge has been generally small (15 women were detained there at the time of my visit). This is also affected by the fact that many aboriginal women in the federal system are classified as medium-maximum security. The Lodge is intended for women with a medium-low classification.
- While community reintegration is viewed as important, the location of the Lodge and its distinct approach renders it both geographically and philosophically isolated.
- As with the entire CSC estate, there are ongoing moves towards an emphasis on increased security. In 2005, staff uniforms were reintroduced across the penal estate.
- This has had the effect that although there are designated facilities for women to bring children with them, there have been no children at the Lodge since 2001 following a hostage-taking incident.

Clearly, given the backgrounds of many women in prison, there is a need for any form of support or resources aiming to support women to reduce or end drug and/or alcohol use, addiction, or trauma – to be able to tackle some of the bigger issues. But the points made above illustrate some of the difficulties and contradictions of trying to do this in prison. It has been suggested that the criminal justice system provides an important opportunity to 'change' the individual or to contain the unchangeable. This has particular relevance for drug users who, according to policy, have the ideal opportunity presented by imprisonment to reduce/end their use of drugs.

In Scotland, recent attempts to address the issues facing women as prisoners and drug users in the community, have been introduced through the criminal justice system. A Time Out centre (218) was established in 2003 with the objectives of:

- Providing a specialist facility for women subject to the criminal justice system
- Providing a safe environment for women in which to address offending behaviour
- Tackling underlying causes of offending behaviour
- Helping women to avert crises in their lives
- Enabling women to move on and reintegrate into society

While this project is currently being evaluated, other countries are looking to the 218 Centre as an example of innovative ways of working with women in the criminal justice system. We need to be cautious in our efforts to develop services which are based within the prison system, learning from attempts at reform in other countries. While there are elements of good practice to consider, it would be misguided to legitimise the prison system as the primary focus of intervention.

Concluding Points

At present, the lengthy sentences given for many drug offences, and the growing tendency to send users to prison, means that their numbers in custody will continue to increase, unless there is a sharp change in sentencing policy. Resources in the community must be developed to offer realistic alternatives to custody. Limited changes may improve certain aspects of penal regimes, however an overall commitment to re-evaluating the role of prisons - and particularly the imprisonment of women - is urgently required.

The Howard League (1990) has long argued that there is a need to develop *effective* resources for drug users in the community (see also Social Work Services and Prisons Inspectorate for Scotland, 1998), rather than to try and develop services in prison which will be limited in their effect but likely to lead to more women being sent there, ostensibly for 'treatment'.

The emphasis on the provision of treatment through the criminal justice system has led to the development of a number of initiatives, such as Drug Treatment and Testing Orders (DTTOs) and Drug Courts, but there is a real problem of relying on coerced treatment when support is not available on a voluntary basis due to the impoverishment of community resources. Drug Courts and DTTOs have been limited in female referrals and given the mandatory model of treatment, have resulted in difficulties for a number of women in their ability to comply.

At a practical level, it is possible to argue for and support, the development of a number of initiatives in prison including: the integration of mental health and substance abuse services; gender responsive assessments and treatment; individualised interventions; informed and responsive staff; services which are informed by and reflect the realities of women's lives; an environment which is, as far as possible, therapeutic. But we need to proceed with caution.

There is a very real need to address the broader issue of the imprisonment of women. Rather than emphasising women's distinctive needs in isolation, it is crucial that their lesser criminality is made explicit. The criminal justice system is underpinned by a

punitive ethos, and it is important that the contradictory influences of sentencing policy are understood.

Imprisonment becomes another problem the women have to contend with. Unfortunately many only get linked into the services they need after they have become involved with the criminal justice system – a direct result of the impoverishment of resources in the community. This represents the failure of social and public policy, juxtaposed with an emphasis on criminal justice and the over-reliance on imprisonment in our societies. It is time to look for solutions in the realm of social rather than criminal justice arenas.