

# scottish justice matters

Volume 5 | Number 2 | November 2017

ISSN 2052-7950



## **WOMEN AND JUSTICE ARE WE MAKING PROGRESS?**

# COMMUNITY JUSTICE FOR WOMEN?

## A VIEW FROM 2017

---

**Karyn McCluskey and Rose McConnachie**

---

**2017 MARKS FIVE YEARS** since the publication of the report by the Commission on Women Offenders (2012). The female prison population in Scotland had doubled in the 10 years prior to 2012, and the report highlighted key areas for development to improve the outcomes for women involved in offending. Scottish Government accepted 34 out of 37 recommendations made by the Commission, and signalled a commitment to progress in the identified areas.

A brief consideration of the history of this topic suggests consensus and shared motivation for change: the Corston report relating to England and Wales (2007); A Better Way (2002); Women Offenders: A Safer Way (1998); Pat Carlen's various reports to the Scottish Home and Health Department in the early 1980s. These all make largely the same observations about women involved in the criminal justice system, both in terms of the issues faced and the need for a gender-specific response involving community resources rather than imprisonment. Yet when one considers rates of female incarceration as a metric for progress, it is clear that this consensus has not had the desired impact on significantly reducing the number of women becoming involved in criminal justice systems.

### **Women in prison**

Over the last 20 years, an upward trend has seen Scotland gain and retain its position of playing host to one of the highest female prison populations in Northern Europe. By 2012, the daily average of women incarcerated had reached 468 (Scottish Government, 2012). This is not related to an increase in offending or conviction rates. Numbers have recently reduced somewhat: as of Friday 30 June 2017 there is a population of 360 in custody (SPS website). However this is not yet a consistent downward trend, and caution must be exercised in drawing conclusions: the overall trend has been upward, with

rates of female imprisonment rising faster than those for men (Scottish Government, 2012).

There is limited research into why Scottish sentencers send women to prison. Anecdotally there is a concern that there is a pervasive rationale of protection, respite, opportunity for recovery, access to services and so on, with women seen as too chaotic and vulnerable to fulfil the requirements of community sentences or to comply with bail.

---

### **We must adopt a public health approach to those in our justice system and make a shift towards prevention**

---

The redesign of the Scottish Prison Service (SPS) female custodial estate draws on the Angiolini recommendations, including community-based custody units (CCUs) aimed at accessing services in the community from which the women are drawn. The redesign potentially marks significant progress in terms of the conditions which women face at incarceration, both at the national facility and the future CCUs. This could significantly contribute to the rehabilitation and reintegration of imprisoned women: however, some stakeholders note a concern that the plans also run the risk of making prison more attractive to sentencers. If sentencers are using custodial measures in an attempt to address unmet needs for vulnerable and chaotic women, will prison, presented as a local, therapeutic one-stop-shop, result in up-tariffing and increased incarceration? Well-intentioned initiatives elsewhere have run into such issues: for example, there was problematic implementation of a similar model in Canada which resulted in a massive increase in incarceration of women (Scottish Government, 2015).

## Shifting to prevention

The body of evidence around Adverse Childhood Experiences (ACEs) and the burden of trauma experienced by the women in our justice system is incontrovertible. Our justice system is dealing with some of the most damaged and, sometimes, damaging women in our society. The overwhelming majority would achieve better outcomes with a comprehensive care package, as would their families and the community. We must adopt a public health approach to those in our justice system and make a shift towards prevention.

The fundamental issue that custodial sentencing should only be reserved for those who present a significant risk to others mandates us to think about the current use of custody and women. Prison has its part to play in the justice system, but we cannot forget the primary need to reduce the number of women entering prison, and indeed being drawn into the criminal justice system at all. The best way to do that is likely to be much earlier prevention. Most of the women we support have been visible to services for many years, their trajectory recognised, but a lack of capacity in services to offer them the right support, at the right time and in the right format repeatedly fails them in the community.

Assessment, treatment and support in the community should be the default position. Community-based sentences should be approached as problem solving opportunities; diversion from prosecution, and investment in services to support these type of sentences, taking into account women's needs and helping to support their recovery. If this is not the case, then custody becomes the default for sentencers.

Across Scotland there are examples of established services which focus on the particular needs of women involved in the criminal justice system (including the Willow Service in Edinburgh, 218 in Glasgow and SHINE women's mentoring). Many other areas are in the process of developing local authority-wide service-specific provision under the auspices of Community Justice Scotland. These services are compelling examples of innovation and collaboration including the third sector and public sector, tailored to the needs of women and strongly linked to communities.

At the opening of a new Community Justice Centre for women in Wishaw in July this year Eilish Angiolini said that "we are wasting lives" in relation to women in prison and that "we will look back in 60 years and be ashamed at how we did this".

In truth, we should be ashamed now.

## The bigger picture

We cannot talk about Smart Justice or reforming community justice without also talking about what is needed to provide economic opportunity, better education for our young people, and support for families. At the heart of everything that we deal with is poverty and inequality. Most of us involved in justice, health or education know how important parenting and family structures are, and the value of community and the support it can provide. They recognise that poverty is often a result of what can happen when those structures crumble. It is the most difficult thing to be poor: it is stressful and it is toxic.

Yet Scotland has made inroads and is recognising that new models of improving the lives of citizens can be achieved.

It is great to see the traction with the Homes First model in Glasgow and other places around Scotland. People need a home before they can begin to work on other issues: with a home, people can build a future and have a better chance of integrating into communities.

Also conversations are gaining traction around Basic Income where people receive a salary "just for being alive". Finland's Social Security Institution, Kelam launched a two-year study giving people 600 euros a month. They just received it. The majority of recipients are already reporting lower stress: a great thing if your goal is well being. In bigger studies elsewhere the results were encouraging: people sought employment more because it gave people breathing space; school attendance and grades went up; people relied less on health and social services; and alcohol and tobacco sales were unaffected.

## Conclusion

If you think ideas such as basic income and homes first sound expensive, try not doing it. That's really expensive.

So, we have a moral imperative to transform the lives of those who, for far too long, have been marginalised and forgotten. We know what to do. We need to change the paradigm that views this issue solely through the lens of justice. The conversation needs to be much broader, for we in justice are the ambulances at the bottom of the cliff, waiting for people to fall.

We can do this. The work in youth justice shows that great change is possible. By diverting early we have made a fundamental change to the numbers of young people who become infected by our justice system, an infection we know can become chronic, persistent and life limiting.

Sometimes working in the public sector for a long time is a little bit like boiling a frog. We become so used to operating within our current framework that, degree by degree, we become desensitised and lose some of our aspiration, or are unwilling to transform our services to affect the change. We cannot let that happen. We need to work ferociously for smarter justice and a better country for all of our citizens.

**Karyn McCluskey** is chief executive of Community Justice Scotland

**Rose McConnachie** is responsible for learning, development and innovation at Community Justice Scotland.

Commission on Women Offenders (2012) *Final Report of the Commission on Women Offenders* Scottish Government.

Corston J (2007) *The Corston Report: a review of women with particular vulnerabilities in the criminal justice system*. Home Office.

Scottish Government (2002) *A Better Way: A report of the Ministerial Group on Women's Offending*.

Scottish Government (2012) Prison statistics  
<http://www.gov.scot/Resource/0039/00396363.pdf>

Scottish Government (2015) *International Review of Custodial Models for Women: Key Messages for Scotland*  
<http://www.gov.scot/Resource/0048/00487211.pdf>

Social Work Services and Prisons Inspectorates for Scotland (1998) *Women Offenders – A Safer Way* Scottish Office.