

scottish justice matters

CYBERCRIME





LONGER TERM PERSPECTIVES ON WOMEN AND COMMUNITY JUSTICE

Joan Skinner on why there's still a long way to go

IN 2015 Women for Independence successfully campaigned with others to challenge the Scottish Government's decision to build a new 500 bed women's prison in Greenock. However, although the plan was cancelled we were aware that unless there was a fundamental rethink of non-custodial provision for women and sufficient pressure for enough money to fund mainstreamed community alternatives it was highly likely the inexorable rise in the imprisonment of women would continue.

We therefore decided to set up the Justice Watch Campaign, spending time in Sheriff courts across Scotland to try to find out for ourselves what is happening to women in court and why so many end up in custody. This is in spite of the fact the proportion of women who present a danger to themselves or others, a key justification for imprisonment, is infinitesimally small. Custody, particularly of women, is not only a very costly intervention in itself but also has further long-term financial and social costs for society as a whole, including family breakup, possible reception into care and an increase likelihood of offending in successive generations.

Along with other WFI members, I have been observing what is actually happening in court. I have brought to the task experience over thirty years ago in implementing community-based disposals (community service orders) and in analysing gender and offending statistics especially in relation to custody and community based disposals. Whilst it is much too soon to comment on our findings I thought it might be of interest to record my first impressions of today's court systems and practice, a sort of snapshot of how, to me, things may have changed since the 1980s.

What I witnessed during seven mornings spent in court was a tedious number of many unresolved cases due to defendant or witness nonappearances, cases not ready by PF or defence agents, evidence items not available, problems with recordings and worryingly poor acoustics. At times it made me even think of an earlier *Jarndyce v Jarndyce* era, an interminable, confused, costly and extremely overloaded process that seemed to be creaking at the seams.

Of course some of these problems were familiar to me and clearly some are unavoidable, but I couldn't help shake off the feeling they were not nearly as pronounced thirty years ago when perhaps things were run as a tighter ship. Initially I wondered if I was the only one feeling this but when I talked to some of the police and court staff they often seemed to share my sense of frustration and confusion, although clearly doing their very best to be helpful to the public.

What were my other impressions?

Many of the women defendants I spoke to had limited experience of the court, several were alone and most felt very anxious. For some it was their first appearance. However, the majority of the women present in the court were there to support sons, grandsons or male partners.

As regards disposals in general there seemed to be a more limited use of fines than before. If so, this is an understandable and welcome

development recognising that for many people living on very limited means fines are fairly punitive and unrealistic. However, this raises other concerns.

I gained the impression there appears to have been a significant rise in the use of community-based disposals. This would be very welcome if there had been at the same time a significant drop in custodial sentencing but sadly this is not reflected in the statistics. What appears to be happening is that more people are being drawn into earlier supervisory intervention, in other words, 'down tariffing'. Past research has shown that earlier supervisory intervention results in a quicker progression up the tariff at subsequent appearances. Early community-based disposals therefore, while made with the best possible intentions, may carry inherent dangers.

Also some community-based disposals can be fairly onerous in terms of time and what requirements demand of the offender. For women, community-based disposals can be disproportionately demanding due to their many caring responsibilities. The amount of 'free time' they have to carry out such disposals is usually less than for men and their availability is less predictable. This was a problem highlighted in our 1980's interviews with women and one can only speculate that this may have become more problematic, since more women are now juggling the responsibilities of fulltime paid work with very demanding caring roles.

I do get the impression, thirty years on, that many of the sheriffs in Edinburgh are more involved and concerned about arriving at the best possible disposals which, in turn, are more social work and community orientated than in the past. However, the current limited scope and availability of the range of non-custodial disposals appear to severely limit their options.

I now get the strong sense we lack here in Scotland the kind of complete commitment and comprehensive approach needed to successfully support people to turn their lives around and end the cycle of offending and custody. We need a fresh approach and we could start by building on what we do best and by learning from the practices and policies of other countries that have had the courage to develop well funded, progressive justice systems.

Joan Skinner was a social worker working for 29 years in community projects and latterly in criminal justice.

WFI Justice Watch <https://www.facebook.com/WFIJusticeWatch/>

Maggie Mellon, also of WFI Justice Watch (and on the Editorial Board of the SJM) has filed a series of blogs on scottishjusticematters.com/sjm-blog/. Here is an extract that expands on some of the points made in this article.

FINES AND POVERTY

This week my visit to the court did allow me to witness an actual sentence. The woman who was sentenced had pled guilty to a charge of theft of an item or items of a value given at £140 approximately. There had been full recovery: in other words she got caught leaving the store and the goods were recovered in full and intact. Her defence solicitor explained that she had a long standing substance abuse problem and that previous offences were all related to that. However, apart from two matters dealt with by fiscal fine and without a court case, she had not been in trouble for a number of years. He explained that at the time of the theft her prescription had been stopped and she had therefore tried to steal in order to pay for drugs. He went on to tell the sheriff that she had an 18 month old child and an 18 year old son and both were dependent on her, the baby entirely. This meant that she could not undertake a community payback order of unpaid work as she had no one to care for baby. He said that she did not enjoy good health. The family relied on benefits of £300 or so per week, which was to pay for rent, council tax, food, fuel, and all other expenses. He said that she could afford to pay a fine at £10 per week.

The sheriff considered the matter and concluded that he would fine her £300 to be repaid at £10 per week. He remarked to her that she should reflect that a fine of this level represented twice the value of the goods that she had tried to steal and that 'it was not worth it'. I wondered how she would go about finding the £10 per week without going into debt with rent, or doing without food or whatever. This woman was fined, which will penalise the whole family including a small child, because she is a mother with children and is not free to work. So in this way, a whole family already in poverty suffers more poverty. Their domestic circumstances will get worse. If the fine is not paid, the penalty may well be imprisonment. So why are there not other non-custodial and possibly rehabilitative or restorative sentences for mothers and other people with full time caring responsibilities?

[. .] I understand that while there is an expansion of non-custodial sentences, there has been no corresponding reduction in adult prison numbers either on remand or on sentence. So what is happening it seems is that more people, men and women, are being dragged into the criminal justice system. And many of these are for relationship based incidents, often not violent or not causing any injury. This includes many young people, many young women. Is expanding the use of the criminal justice system the best way to ensure that everyone respects each other, learns how to deal with conflict, stress, unreasonable behaviour or demands?

From: <http://scottishjusticematters.com/justice-watch-edinburgh-week-5/>

See also: [Community Justice for Women in Scotland](#)

"Community Justice for Women in Scotland is a forum to highlight some of the key issues facing women in the justice system. The aim of this site is to bring together everyone with an interest in improving the lives of women looking to address offending and provide resources and links to organisations that share these values. [. .] It is administered by Scotland's eight Community Justice Authorities and Turning Point Scotland.

<http://www.cjwomenscot.co.uk/>