POLICY AND PRACTICE FOR YOUNG ADULT WOMEN IN THE CRIMINAL JUSTICE SYSTEM

Rona Epstein, Honorary Research Fellow, Coventry Law School

Abstract

Women offenders are a minority group within the criminal justice system, accounting for 15% of the current probation caseload and 5% of the prison population. Women offenders differ significantly from their male counterparts and often exhibit more complex needs. Many women offenders have a background of abuse, frequently report having been victims of domestic violence and have had first-hand experience of the care system (Minson et al., 2015). This article reports on research conducted by the Transition to Adulthood Alliance (T2A) on young adult women in custody (Allen, 2016). The research found that the needs of young adult women in custody have not been fully analysed. Unlike young adult men, there are no specific establishments for them. There has been a focus on improving the system for young men, but little attention devoted to the needs of young adult female offenders, although it is acknowledged that female offenders might have different needs and risks. The T2A report analyses what reforms may be needed and also reports on existing good practice.

Keywords

Imprisonment; female offenders; young adult women in custody; sentencing
Vulnerabilities
Many studies have reported on the vulnerabilities of young adult women in prison.

Studies have shown that almost half of girls under 18 in custody have reported having been in local authority care at some point in their childhoods. This is almost certainly the case for young adult women in custody as well. Many have suffered from abuse and trauma, and experience mental health and addiction problems. Many have been the victims of more recent traumas compared with older women, who are likely to have experienced these events longer ago. Young women are also particularly vulnerable to exploitation by other prisoners (both other young adults and older women) (Allen, 2016).

The Harris review on self-inflicted deaths of 18- to 24-year-olds in custody published its report Changing prisons, saving lives in July 2015 (Epstein, 2015; Harris, 2015). INQUEST’s submission to the Harris review noted that ‘many young women enter the criminal justice system as a result of unmet welfare needs, including neglect, abuse and poverty’ (Allen, 2016:6). INQUEST’S 2014 report Preventing deaths of women in prison: the need for an alternative approach (INQUEST, 2014:20) notes that ‘many young women enter the criminal justice system as a result of unmet needs including neglect, abuse and poverty’ (Allen, 2016:23).

Some of the experiences young women have in prison may compound the damaging experiences of childhood and adolescence. However, it is also true that a period in custody may offer a chance to make a fresh start and to address some of the underlying problems which have led young women into trouble (Allen, 2016:6).

Recent research
The Transition to Adulthood Alliance (T2A) has recently published its research report on young women in the criminal justice system, Meeting the needs of young adult women in prison (Allen, 2016). This article will report on T2A’s research, its findings and conclusions, within the context of recent developments in both research and policies regarding women in the criminal justice system.

Numbers
In 2014, 402 young women aged 18–20 were received into prison under sentence (out of a total of 7,033 women who entered prison). Of the 402 young women, 220 were sentenced to six months or less. A further 808 women aged 21–24 received immediate prison sentences. In June 2015 there were 171 young women aged 18–24 in prison out of a total of 3,904 women in prison. Of the 171 young women in prison, 132 were serving a custodial sentence, 26 were on remand awaiting trial and 13 had been convicted and were awaiting sentence. Women aged 18–24 account for around 16% of all women in prison, a proportion that has declined in recent years. The number of young women sent to prison has fallen significantly.
The Prisons Inspectorate said:

The reduction in young adults over recent years in total and as a percentage of the total prison population has been significant, and is to be welcomed. However, those who remain are some of the most vulnerable, troubled young adults and have complex needs (HMIP, 2015:1).

Women’s offending is, for the most part, not of a serious or violent nature, as can be seen in the fact that more than half were sentenced to short terms of six months or less.

**International norms**

In 2010 the United Nations adopted *rules for the treatment of women prisoners and non-custodial measures for women offenders (the Bangkok rules)* (UN, 2010). These include a number of provisions of particular relevance to young women.

- Women prisoners shall be allocated, as far as possible, to prisons close to their home or place of social rehabilitation, taking account of their caretaking responsibilities.
- All staff assigned to work with women prisoners shall receive training relating to the gender-specific needs and human rights of women prisoners.
- Prison authorities shall utilise options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.
- Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women’s contact with the criminal justice system. These may include therapeutic courses and counselling for victims of domestic violence and sexual abuse; suitable treatment for those with mental disability; and educational and training programmes to improve employment prospects. (Allen, 2016:19).

The United Nations Beijing rules on juvenile justice state that ‘efforts shall also be made to extend the principles embodied in the Rules to young adult offenders’ (UN, 1985).

Young adults in general are in a transitional stage of life, which can justify their being dealt with by the juvenile justice agencies and juvenile courts. In England and Wales no such system exists and there is a strong case for introducing it. The Beijing rules require that young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. For young adult women there are no specific institutions: at age 18 they enter the adult prison system. This, it may be argued, breaches the Beijing rules.
**The experience of custody**

The T2A research found that young women in prison are more likely to suffer from a toxic mix of fear and boredom than older women. Prisons are failing to address the distinct needs of young women aged 18–24, including education and mental health needs. In the youth estate, teenage girls are viewed as having such specific needs that not one girl under 18 is held in a young offender institution, making the transition to adult women’s prisons when they turn 18 particularly abrupt and risky.

All women over 18 are treated the same and mixed together. This is in contrast to young men, for whom there is separate legislation and there are distinct young adult establishments.

In their 2011/2012 annual report, HMIP considered that ‘A failure to identify and address the specific needs of young adult women is becoming a consistent feature of our inspections of women’s prisons’ (Allen, 2016:13).

Despite some efforts made in individual institutions to meet the needs of this age group, the T2A research found that prison regimes do not sufficiently follow the Prison Service order to provide younger women prisoners with more supervision and activities.

It is the attitudes and behaviour of staff which seem key to ensuring that young adults are appropriately managed within the prison setting. Young women report a poorer experience of prison than older women do, especially in their first nights. On-going neurological and hormonal development of young women in prison is believed to increase the susceptibility to peer pressure, the inability to cope with prison life and the incidence of mental illness. Young adult women are more likely to self-harm, and the most common age of self-inflicted deaths of women in prison during the period 1990 to 2007 was 20 years old. Over a fifth (21%) of self-inflicted deaths of women in custody between 1990 and 2007 were of those aged 18–21 (INQUEST, 2014).

**Education**

The T2A report highlights a lack of progress in prison education as a particular concern. The National Offender Management Service (NOMS) guide *A distinct approach* (March 2012, cited by Allen, 2016, reports that:

> Ofsted have highlighted the level of education, training and employment achievements among young women are often very low. Many young women will have been excluded from school so their last memories of education may not be positive. The ‘building blocks’ of learning may not be there and they may have limited capacity to learn until these skills are developed. (Allen, 2016:14).

Dame Sally Coates recently published her review of prison education (Coates, 2016). She reports that there is little recognition of the importance of education in prisons. There are pockets of good practice, but these are isolated. There do not appear to be systematic means for prisons and governors to learn from each other. Ofsted reports on prison
education point to a worrying decline in performance over the last two years, which they suggest is largely driven by the failure of prisons to facilitate prisoner attendance at classes. The current mechanism to rectify poor performance of prison education provision is ‘long-winded and has proved ineffective’ (Coates, 2016: 12).

It is important that consideration is given to the role of learning in the effective rehabilitation of young adult women.

**Resettlement**
A study found that the resettlement needs of girls and young women have been ignored partly because they make up a small proportion of those in custody, and partly because they usually offend less frequently and less seriously than young males (Bateman and Hazel, 2014).

Particular challenges include the distance from home and the fact that young female offenders are less likely to return to family than young adult males. Housing is a particular priority for this age group. Prison inspections have found that prisons often fail to identify specific resettlement needs of this age group (Allen, 2016: 17).

There have been governmental commitments to ensure the accommodation of all female prisoners in resettlement prisons, and it is anticipated that all women will be provided with ‘through-the-gate’ support on release. A distinct approach to resettlement needs to be implemented for women being released from prison (Wright and Factor, 2014).

As with so much else in our criminal justice system the official rhetoric clashes with the grim reality. Many were shocked by the revelation that women leaving a west London prison were given tents instead of housing. A prison watchdog revealed that sleeping bags and tents had been handed out to a number of ex-offenders from HMP Bronzefield amid a shortage of available housing (Pells, 2016).

**Post-custody supervision**
The changes introduced by the Offender Rehabilitation Act 2014 provide for the first time a year’s post-custody supervision for short-sentenced prisoners. The stated intention was to provide help and support in the post-prison period, a laudable aim. But it means there is a longer period during which young adults are liable to be found to have breached court orders if they fail to comply with conditions set out for them. This leads to recall to prison.

An expert seminar arranged by T2A held in August 2015 heard that already women were being returned to prison for breaches of supervision. At a meeting at a Women’s Centre in July 2016 a staff member reported that for some women a short sentence becomes an indeterminate sentence, as these women led ‘chaotic lives’, could not fulfil the demands of supervision and were returned to prison again and again, never reaching the end of the one-year supervision period.

The Prisons Inspectorate report on a visit to HMP Bronzefield was illuminating about the effects of recent legislation (HMIP, 2016).
The report noted that:

the delivery of outcomes had been hindered by the effects of recent legislation, requiring women on short sentences to comply with post-custody supervision licences. Turnover was higher than usual because women who had served short sentences and who had failed to comply with licence conditions were being recalled. In the six months prior to the inspection 380 women had been released subject to licence conditions and 119 had been recalled, compared with 89 released and 59 recalled over the corresponding period in the previous year. Staff told us that recalls were often for short periods, they disrupted resettlement arrangements that might have been made and gave staff and women little time to construct new resettlement plans. Managers were reviewing the situation and planned to consult with women who had been recalled to prison.

New national resettlement arrangements, known as ‘through-the-gate’ services, provided by CRCs [Community Rehabilitation Centres], had been introduced. Arrangements were complex: one CRC had overall responsibility and three were working with women from specific areas of the country.

Working arrangements with existing caseworkers had not been well defined and we found that CRC staff were completing the resettlement needs assessment as they were contracted to do, but they did not deliver resettlement support ...

Although the prison was working with CRC managers, at the time of the inspection the situation was confused and women were uncertain how their resettlement needs would be met. This was reflected in our survey where women were more negative than the comparator when they were asked if they knew where to go for help with resettlement matters on release.

Women who were so far into the release process might not have always understood the detail or importance of licence conditions, which might have contributed to levels of non-compliance leading to recalls (HMPI Report on Bronzefield (2016): 57 Para 4.29, 4.30).

The Inspectorate report added:

The prison should develop a strategy to meet the needs of women in the prison for short periods (HMPI Report on Bronzefield (2016):48 Para 4.33).

Given the remit of the Prisons Inspectorate there is nothing surprising in this recommendation. However, looking at this subject from the outside, it appears to make little sense. Why develop strategies to meet the needs of women in prison for short periods? Surely it would make more sense to develop policies and practices, in particular to reform sentencing practice, so as to ensure that women do not enter prison for very
short periods.¹ Sentencing reform is a crucial. As Paul Senior pointed out in his editorial in the *British Journal of Community Justice* (Senior, 2015:1-6):

> In the past 20 years only Kenneth Clarke recognised that reducing the prison population was not only the right way to go but doing so would create the space to do something effective with those that remained behind.

The unintended consequences of Transforming Rehabilitation under the Offender Rehabilitation Act 2014, which provides supervision for one year after sentences, however short, is a subject which now requires research. The most recent data on recall show that between February 2015, when the Transforming Rehabilitation reforms came into force, and December 2015, 434 women were recalled to custody while on licence following a short-term prison sentence. None of these women could have been recalled to custody under the system prior to 2015 (Ministry of Justice, 2016). The most common reason behind the recall of women is failure to keep in touch with staff.²

If more women are being sent to prison for minor breaches following minor non-violent offences then it is important that this is documented and that the necessary changes to the system are effected.

Alongside supervision provided by the criminal justice system, there is a need to ensure that local authorities meet their obligations to young women who have been in care by continuing to support them after they turn 18. A review of girls in the youth justice system found serious gaps in this regard concerning girls under 18, and these are likely to be greater in respect of the 18–21 age group (Bateman and Hazel, 2014).

**Sentencing**

Following her visit to the UK in 2014, the UN Special Rapporteur on Violence against Women recommended the establishment of specific safeguards to ensure that women’s histories of victimisation and abuse are taken into consideration when making decisions about incarceration, especially for non-violent offences. The Allen report recommends the introduction of a presumption against short prison sentences for non-violent crimes (Allen, 2016:22). The recently announced new strategy for female offenders (Ministry of Justice, 2018:3) reflects this view, stating that its priorities are ‘earlier intervention, an emphasis on community-based solutions, and an aim to make custody as effective and decent as possible for those women who do have to be there’.

More than half of the 550 young adult women in prison are on remand or serving short sentences of less than six months, with the vast majority convicted of non-violent crimes: half are convicted of theft or handling stolen goods. The case for community alternatives for this group is all the stronger given that around a quarter of young adult women in prison are mothers, and their children are likely to be younger.

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¹ This has now been recognised by the government, as outlined in the new female offender strategy by the Ministry of Justice (2018).
² I acknowledge, with thanks, help from Eleanor Butt, Howard League for Penal Reform, who provided these statistics.
The need for a new approach to the sentencing of mothers which takes into proper account the needs, welfare and rights of affected children has been underlined both in research reports (Epstein, 2012a, 2012b) and in the discussion paper published by the Prison Reform Trust, which provides a detailed analysis of the issues and a well-argued set of recommendations for change (Minson et al., 2015).

The effects on children
Although this is not a focus of the T2A report, it is nevertheless important to note that some of the young adult women in custody are mothers of very young children. The rights and needs of these children should also be considered when we look at young women in custody and at the need for reform.

Under Article 8 of the European Convention of Human Rights 1950, incorporated into domestic law by the Human Rights Act 2000, every citizen has the right to respect for his or her private life. It is established in law that the Article 8 rights of affected children to parental care are engaged when a parent stands to be sentenced to custody by the criminal courts, and these rights should be balanced against the seriousness of the offence before custody is imposed (Epstein, 2012a, 2012b). This is not currently standard practice, but after vigorous campaigning by the Prison Reform Trust (Minson et al., 2015) and others, new resources are now available to alert sentencers, legal professionals, defendants and the general public of the requirement to protect the interests of the affected child when a court considers imposing custody on a parent, either on remand or on sentence (Epstein, 2018a, 2018b; Minson, 2018).

There is increasing awareness of the effects on children of separation from their mothers who are sent to prison. It is not easy to investigate the damage that is done to vulnerable children by the incarceration of mothers, often for minor offences. But it is significant. The imprisonment of mothers has been described as having ‘wrecked havoc on family stability and children’s well-being’ (Convery and Moore, 2011).

Joseph Murray and his associates (Murray et al., 2012) have conducted a systematic review to synthesise empirical evidence on associations between parental incarceration and children’s later antisocial behaviour, mental health problems, drug use, and educational performance. Results from 40 studies (including 7,374 children with incarcerated parents and 37,325 comparison children in 50 samples) were pooled in a meta-analysis. The most rigorous studies showed that parental incarceration is associated with higher risk for children’s antisocial behaviour (Murray et al., 2012).

Isla Masson’s research has provided examples of women sent to prison for brief periods who lost their accommodation as a result, with dreadful consequences for the mother’s care of her children (Masson, 2014).

The multinational EU-funded study Children of prisoners: interventions and mitigations to strengthen mental health across four European countries, found that a majority of children reported being negatively impacted by the imprisonment of a parent (Robertson, 2015; Weaver and Nolan, 2015).
A recent study of the effects on 50 children of the separation from their mothers sentenced to short periods of custody found that all the mothers felt that they and their children had been negatively affected by the separation. There were both short and long-term effects on the children. After their mother’s return the children expressed distress and anger, were anxious and insecure, difficult to discipline (Baldwin and Epstein, 2017; Epstein and Baldwin, 2017).

The damage done to the affected children is considerable, it is long lasting and, for those many children whose mothers are sentenced to short periods for low-level offences, it could and should be avoided by a less punitive, more coherent and intelligent sentencing policy.

Some key issues
Meeting specific needs
Since young adult women are largely integrated with older women throughout the prison estate, there is a clear need to ensure that their age-specific needs are considered and that age-appropriate measures are put in place to meet them. The Prison Inspectorate in their 2011/2012 annual report said:

A failure to identify and address the specific needs of young adult women is becoming a consistent feature of our inspections of women’s prisons.

More recent reports have followed the same lines. Some of the specific needs of young adult women will be similar to those of girls under the age of 18. The T2A research found some examples of good practice in certain prisons. During a recent study, inspectors were told that all staff were trained to work with girls and to be aware of their needs and the difference of approach required. This included higher levels of self-harm and mental health needs among girls (Allen, 2016: 14). While there is consensus that analysis of the specific needs of young women should be undertaken in prison, there is no specific template or checklist which staff can use to do this. Consideration should be given to creating such an instrument. When such analyses are undertaken, they are likely to identify issues in a number of areas.

a. Education and activities

In its evidence to the Harris review, Women in Prison noted that:

there continues to be only one women-specific accredited offending behaviour programme (the CARE programme) and this not specifically designed for young women (Allen, 2016:14).

Staff at one prison that was visited as part of T2A’s research thought that some of the programmes designed to assist young women to manage their anger ‘barely scratched the surface’, ignoring the deeper causes and requiring an individualised approach.

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3 CARE: Choices, Actions, Relationships, Emotions is a programme for women in prison with a history of violence and who have a range of support needs.
The picture is not uniformly bleak. There are some examples of good practice. Some prisons benefit from voluntary sector input. For example, at Holloway, the Nia Project has advised on safe choices for young women who have been involved in violent offending, gang culture or sexual exploitation or who have been the victims of violence.

b. Substance misuse

HMIP’s thematic review in 2010 found that young adult women were more likely than older women to report an alcohol problem on release. Although they were less likely to report arriving at prison with a drug problem, they were more likely to report developing a drug problem in prison. Substance misuse is likely to be a continuing concern in respect of young women in custody and there is a need to identify specific programmes or approaches which can help address problems in this age group (Allen, 2016:15).

c. Suicide and self-harm

Between 2000 and 2014 there were 15 deaths among 18- to 20-year-old women in custody and a further 13 among 21- to 24-year-olds. Between 2002 and 2013, the average rate of self-inflicted deaths per 1,000 was much higher for female 18- to 24-year-old prisoners than for male.

Young adults are more likely to self-harm than older prisoners. In one prison 31% of self-harm incidents were by young women aged 18-21, who accounted for 9.4% of the prison population. Some young adults were particularly prolific self-harmers.

d. Violence and antisocial behaviour

NOMS has noted that girls tend to display less physical aggression than young males but more relational forms of aggression, such as ostracism of peers, non-physical bullying and manipulation. Nevertheless, in the women’s prison estate, young women are over-represented in assaults and antisocial behaviour. NOMS has proposed that targeting bullying and helping younger women to develop healthier, more positive relationships with each other will help reduce the level of negative peer influence they might be subjected to. Identifying the most effective ways of doing this should be a priority.

The way forward

The T2A report concludes that a stronger presumption should be introduced against the use of custody both for remand and sentencing for young adult women, particularly for the majority whose offending (or alleged offending, in the case of remand) is non-violent. This would mean increased provision of appropriate diversion and community sentencing options using services and programmes tailored to the needs of troubled young women, backed up by training and information for police, magistrates and judges.

Given the evidence that sexual abuse and domestic violence are common underlying factors for young women’s involvement in offending, priority should be given to ensuring

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4 Holloway prison was closed in July 2016.
that they have access to appropriate counselling, support and therapeutic programmes, both in custody and in the community.

Research should be undertaken into the benefits and drawbacks of mixing young adult women and adults within adult prisons, the kinds of assessment that should be undertaken before doing so, and the range of regimes that should be offered to women in prison.

**Conclusion**
The Harris review concluded that ‘those working with these very vulnerable young people need to have the necessary skills to support them through the custody process’ (Harris, 2015). This involves an understanding of the social care elements of the role in addition to security. The report calls for a strengthening of existing guidance and staff recruitment to enable effective, distinct management of young adult women in prison.

After the election in May 2015 the new government indicated a wish to undertake radical reform of the criminal justice and prison systems. It stated that it was ‘committed to further improving the treatment of female offenders and reducing the number of women in custody’ (House of Commons Justice Committee, 2015). To oversee this the Advisory Board on Female Offenders was set up, chaired by Justice Minister Caroline Dinenage MP (Allen, 2016:21). Reviews have been published on prison education (Coates, 2016) and on the youth justice system (Taylor, 2016). Both concluded that there must be a fundamental change in the custodial estate, one that places education at the heart of custody.

As the T2A report points out, despite a growing and overdue recognition by criminal justice services that young people do not achieve adult maturity overnight on the eve of their eighteenth birthday, there is an important group of young adults whose needs have not yet fully been analysed let alone met: young women. This may be because numbers are small or due to a sense that their characteristics differ little from those of older women. Recent initiatives have neglected to consider how best young females should be managed when they come into conflict with the law. A distinct approach to young adult women is likely to give them the best chance of growing out of crime and leading happy, healthy and productive lives.
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