

To what extent can problem solving courts address the problems women face in the criminal justice system?

Using an evidence-based lens to explore best practice in problem solving courts globally.

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Over the past twenty-five years, problem-solving courts have emerged as one response to calls for criminal justice reform.² These courts, which were born of public and legal perceptions of an 'ineffective' system of punishment,³ bring community treatment together with the court—often as a mechanism for delivering behavioural change in people with convictions. Operating out of existing criminal courts, as well as separate institutions, problem-solving courts place judges at the centre of rehabilitation, with the aim of using 'engagement with the justice system to motivate and provide accountability for people who engage with support [services]'.⁴ Operating in many regions across the world, from the USA to Brazil to Australia, problem-solving courts address the personal, social, and structural factors that can both lead to offending and exacerbate experiences of stigmatisation for those involved in the criminal justice system.^{5 6} In this way, although often focussed on individual behaviour change, they take a more relational and whole

systems approach to the context in which behaviour changes occur.

Women's Experiences of the Justice System: A Global Overview

It is only in the last few decades that criminological research has widened its focus beyond male criminality to consider women's experiences of criminalisation.⁷ Women have been afforded a position on the margins of an already alienated landscape, and in this way, justice-involved women are doubly stigmatised, for both their alleged offence and the subjugation of their gender identity. A macro-level analysis of women's problems across global justice systems finds a set of intersectional trends.

There are a disproportionate number of socially disadvantaged women in global prison systems.⁸ In many countries, typical female offenders will be young, unemployed, have low levels of education, and/or have dependent children.⁹ Beyond the remit of sentencing, women are subjected to distinctly traumatising

1. This article has been compiled by Dr Shona Minson, drawing on her own research and on contributions by all of the co-authors, with special thanks to Adam Kluge for his work in compiling all of the referenced research from the combined contributions. These contributions have come from an international group convened by Dr Ruth Armstrong, and the paper has grown from a roundtable originally presented at the American Society of Criminology Conference 2023. Dr Ruth Armstrong is the corresponding author and can be reached on ruth@justicematters.org.uk
2. Dorf, M., and Fagan, J. (2003). Problem-Solving Courts: From Innovation to Institutionalization. *American Criminal Law Review*, 40, 1501-1511.
3. Berman, G., and Feinblatt, J. (2001). Problem-Solving Courts: A Brief Primer. *Law & Policy*, 23(2), 125-140.
4. Mentzou, A., and Mutebi, N. (2023). *Problem-solving courts*. UK Parliament: POSTnote 700.
5. Centre for Justice Innovation (2016). *Problem-solving courts: A delivery plan*. Available at: <https://justiceinnovation.org/sites/default/files/media/documents/2019-03/problem-solving-courts-a-delivery-plan.pdf>
6. UK Government (2022). *New Problem-Solving Courts to combat drug and alcohol-fuelled crime*. Available at: <https://www.gov.uk/government/news/new-problem-solving-courts-to-combat-drug-and-alcohol-fuelled-crime>.
7. Covington, S., and Bloom, B. (2003). Gendered Justice: Women in the Criminal Justice System. In Barbara E. Bloom (Ed.), *Gendered Justice: Addressing Female Offenders*. Carolina Academic Press.
8. Bloom, B., Owen, B., and Covington, S. (2002). *Gender-responsive strategies: Research, practice, and guiding principles for women offenders*. Washington, DC: National Institute of Corrections.
9. Penal Reform International (2013). *Discrimination against women in criminal justice systems*. UK Aid: The Inter-Parliamentary Assembly.

experiences of abuse within the confines of the physical prison facility. It was found, for example, that 37.4 per cent of Brazilian female prisoners experienced physical violence during their carceral stay.¹⁰ Moreover, a study carried out in a female prison in the countryside of São Paulo found that officer-on-inmate violence was often used in place of rehabilitation, with the explicit intention of further traumatising female prisoners into submission.¹¹

Gender plays a paramount role in constructing the dimensions of stigma and trauma for justice-involved women as the separation of women from their children is considered to be among the most damaging aspects of criminal punishment for women.¹² In the United States, women are routinely shackled for both the duration of their pregnancies and during their labour,¹³ and in a variety of global penal facilities female prisoners are left without adequate medical, reproductive, and gender-specific treatments.¹⁴ These mechanisations of carceral violence prove further destructive for women belonging to other subjugated identity groups. Vaswani¹⁵ has written extensively on this subject, suggesting that women involved in the criminal justice system are perceived as ‘double wrong, violating not only the law but also gender norms and expectations in society’.¹⁶

A study by Carbone-Lopez and Kruttschnitt found that Black women reported higher rates of racial discrimination by both prison officers and other incarcerated people than their white female counterparts.¹⁷ A similar study found that the attitudes of prison personnel grew increasingly hostile when the population of incarcerated women was majority-Black.¹⁸ A study in the UK found that Black women are about 25 per cent more likely to receive a custodial sentence than white women.¹⁹

Problem-Solving Courts: A Way Ahead?

The violent and traumatic dimensions of stigma that delineate women’s experiences with the justice system make evident the urgent need for a reappraisal of global punishment regimes. Understanding gender-based abuse as further compounded by experiences of race and class-based discrimination, with social conceptions of motherhood further weaponized by penal personnel, problem-solving courts offer a means by which to consider the complex experiences and needs of justice-involved women.²⁰

The term ‘problem solving court’ (PSC) is widely used and includes a variety of courts: intensive supervision courts, treatment courts, drug courts, veterans’ courts, community courts, domestic violence courts, mental health courts, female offenders’ courts. There is not a ‘model’ problem solving court, and even within the same jurisdiction the problem-solving courts may operate on quite different principles and with different parameters.

In this article we look at the operation of PSC to which women are admitted in five jurisdictions: the United States, Argentina, Chile, England and Wales, and Scotland.

United States

Context

The first iteration of a problem-solving court was established in 1989 in Miami Dade County in the form of a drug court aiming to provide judicially monitored treatment to low-level offenders suffering from drug addiction.²¹ The judge, prosecutor and defence worked together in a non-adversarial manner to deploy rewards and sanctions in order to encourage treatment

10. Gama-Araujo, I., Bezerra Filho, J., Kerr, L., Kendall, C., Macena, R., and Mota, R. (2020). Physical violence inside female prisons in Brazil: prevalence and related factors. *Ciência & Saúde Coletiva*, 25(2), 623–632.
11. Scherer, Z., Scherer, E., Stefanini, J., and Cocenas, S. (2011). Mulheres detentas e suas vivências acerca da violência no cárcere. *Oralidades*, 5(9), 59–73.
12. Abbott, L., Scott, T., and Thomas, H. (2024). Institutional thoughtlessness and the incarcerated pregnancy. *Criminology & Criminal Justice*, 0(0); Baunach, P. (1985). *Mothers in prison*. New York: Transaction Books/Rutgers University Press; Bloom, B., & Steinhart, D. (1993). *Why punish the children? A reappraisal of the children of incarcerated mothers in America*. San Francisco: National Council on Crime and Delinquency.
13. Clarke, J., and Simon, R. (2013). Shackling and Separation: Motherhood in Prison. *Virtual Mentor*, 15(9), 779–785.
14. Amnesty International (1999). *Not part of my sentence: violations of the human rights of women in custody*. Accessed 20 May 2024; Braithwaite, R., Treadwell, H., & Arriola, K. (2005). Health disparities and incarcerated women: a population ignored. *American Journal of Public Health*, 95(10), 1679–1681.
15. Vaswani, N. (2019). *The trauma, bereavement and loss experiences of women in prison*. Scotland: Centre for Youth & Criminal Justice (CYCJ).
16. Earle, J. (2018). Why Focus on Reducing Women’s Imprisonment? In Emma Milne, Karen Brennan, Nigel South, & Jackie Turton (Eds.), *Women and the Criminal Justice System: Failing Victims and Offenders?* Cham: Springer International Publishing, 187–219; Heidensohn, F. (2013). *Gender and justice*. London: Routledge.
17. Carbone-Lopez, K., and Kruttschnitt, C. (2003). Assessing the racial climate in women’s institutions in the context of penal reform. *Women & Criminal Justice*, 15, 55–79.
18. McCorkel, J. (2013). *Breaking women: Gender, race and the new politics of imprisonment*. New York, NY: New York University Press; See also, Owen, B., Wells, J., & Pollock, J. (2017). *In search of safety. Confronting inequality in women’s imprisonment*. Oakland, CA: University of California Press.
19. Cox, J. and Sacks-Jones, K. (2017). “Double disadvantage”: The experiences of Black, Asian and Minority Ethnic women in the criminal justice system. Agenda: Alliance for Women & Girls at Risk.
20. Castellano, U. (2011). Problem-Solving Courts: Theory and Practice. *Sociology Compass*, 5, 957–967.
21. Hora, P., Schma, W., and Rosenthal, J. (1998). Therapeutic jurisprudence and the drug treatment court movement: Revolutionizing the criminal justice system’s response to drug abuse and crime in America. *Notre Dame Law Review*, 74, 439–538.

adherence. A decade later the first community court, the Red Hook Community Justice Center, opened its doors in 2000 in Brooklyn, New York. It was established after the murder of the Red Hook Public School principal. Three teenagers were convicted for his murder and the incident became a catalyst for change. In a collaboration between the County District Attorney, the chief judge of the New York Court of Appeals and the New York Centre for Court Innovation, a judge-led programme of court monitored intervention for low level crime was developed. Since that time a range of problem-solving courts have emerged across the United States. Courts have their own particularities, but the Best Practice Standards for Adult Treatment Courts, issued by the national organisation All Rise, are followed in many courts.²² The drug court in Harris County, Texas is one such court.

Drug Treatment Court, Harris County Texas

Admission: The court admits both men and women. Entry into the drug court is voluntary and referrals are made, based on eligibility criteria, by judges, prosecutors, defence attorneys, probation officers, law enforcement, family members, treatment professionals and peer recovery specialists. Entry into the programs can be either prior to sentence, where the court acts as a diversion mechanism, or after plea. There are criteria for entry, including some disqualifying offences, but overall admission is based on a clinical assessment of risks and needs, whereby higher risks and needs makes it more likely someone is admitted, because the research shows problem solving court approaches are more successful for this cohort.²³

Staffing: A multidisciplinary team manages the operations of the Drug Court, including attending pre-court staff meetings and status hearings, contributing to the review within the team members' areas of expertise, and delivering or overseeing the delivery of

legal, treatment and supervision services. Team members are expected to share information regarding a participant's compliance or non-compliance with program requirements based on their professional knowledge, training, and experience, however the judge is the final decision maker regarding legal disputes, incentives, sanctions, and case disposition.

Programme: The treatment court applies evidence-based and procedurally fair behavior modification practices that are proven to be safe and effective for high-risk and high-need persons. The judge relies on licensed treatment professionals when issuing treatment conditions. Incentives and sanctions are delivered to enhance adherence to programme goals and conditions that participants can achieve and sustain for a reasonable time. Participants are rewarded for engaging in healthy activities that contribute to treatment goals and promote long-term recovery. Sanctions are delivered for noncompliance of achievable goals and are specific to a particular behavior. Participants should receive advance, written notice of behaviors that are expected and those that are violations.

Progression: Pre-plea dispositions allow the participant to enter into a pre-trial diversion contract and be placed on supervision. When all the elements of the contract have been met, the case is dismissed and can be expunged. Post-plea dispositions place the participant on probation or deferred adjudication and participation in the court is a condition of probation.

Latin America

Context

Globally, between 2002 and 2022, the male prison population has increased by 28 per cent²⁴ whilst the female prison population has soared by 60 per cent.²⁵ Latin America and the Caribbean represent the region

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of criminal
punishment for
women.

22. All Rise (2024). *Adult Treatment Court, Best Practice Standards, 2nd ed.: Definitive guidance for treatment court practitioners*. Available at https://allrise.org/wp-content/uploads/2024/05/Adult-Treatment-Court-Best-Practice-Standards-I-VI_VIII_X-final.pdf

23. See footnote 25: All Rise (2024)

24. Fair, H., & Walmsley, R. (2021). *World Prison Population List* (13th edition). London: ICPR.

25. Fair, H., & Walmsley, R. (2022). *World Female Imprisonment List* (5th edition). London: ICPR.

in the world with the highest rise of the female prison population, where it increased by 151 per cent between 2020 and 2022. Drug-related offences represent the main cause for this trend, particularly the use of mandatory or *de facto* pre-trial detention, disproportionate sentences, the criminalization of substance use-related conducts and the legal prohibitions or obstacles to access non-custodial measures during trial or after sentencing.²⁶ As referenced in the introduction, whilst women represent a minority of the total prison population, about 5.5 per cent, they face particular conditions of vulnerability which begin before their incarceration and are exacerbated by it. Incarcerated women mostly come from poor households and have experienced gender-based violence since childhood. They are primary or sole caregivers of small children as well as caregivers and providers of other dependent people, such as their parents.²⁷ Children living in prison with their mothers usually face the same precarious living conditions as their mothers and are subject to the same prison regime.²⁸ The report *Women deprived of their liberty in the Americas* provides a detailed picture of women's challenges in the prison system and the systematic human rights violations they are exposed to, among them, lack of adequate spaces and women only prisons and accommodation in mixed centres which provide little or no access to womens' services.²⁹ Reduced access to education programmes, training and employability contribute to the erosion, rather than the enhancement of women's personal and social capital. This increases the strain on women and their families. Post-prison life can be equally harsh, with stigma, loneliness and fragile support and family networks hindering women's processes of recuperation

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of themselves and their role and place in their life, family and community.

Problem-solving courts have been implemented in multiple countries in Latin America, mainly in the form of drug courts³⁰ or under restorative programs that use criminal mediation mechanisms.³¹ In general, these are initiatives that operate under the mechanism of suspended sentences, and they do not have a particular gender focus. In this article, we pay particular attention to the Argentinian and Chilean case studies in light of their differing levels of development.

Problem-Solving Courts in Argentina

The Penal Enforcement Court N°5 led by Judge Maria Jimena Monsalve has implemented a Therapeutic

Tribunal programme that treats women with substance abuse problems, and men who have been sentenced for gender-based violence offences.³² Enforcement courts in Argentina monitor the compliance of criminal judgments and are responsible for controlling prison conditions, applying alternative measures, and deciding on detention regimes and early release. By law, conditional sentences, parole, and restorative approaches to crime can be used by judges, and sentences must aim to achieve the rehabilitative principle of social integration rather than just punishment. Taking place outside the current adversarial model and

logic, the dynamics of the Therapeutic Tribunal programme are nourished by therapeutic, restorative and compositional practices as well as a procedural justice approach focusing on treating the participant in court with respect and dignity.

Admission: This problem-solving approach favours the early identification of drug users and offers them immediate access to treatment under the

26. Youngers, C., García Castro, T., and Manzur, M. (2020). *Women behind bars for drug offenses in Latin America: What the numbers make clear*. Washington D.C.: WOLA.
27. Safranoff, A., and Tiravassi, A. (2018). *Mujeres en contextos de encierro en América Latina. Características y factores de riesgo asociados a determinados comportamientos delictivos*. Washington D.C.: Inter-American Development Bank; Wilson Center Latin American.
28. Giacomello, C. (2018). *Niñas y niños que viven en prisión con sus madres. Una perspectiva jurídica comparada*. Mexico City: Suprema Corte de Justicia de la Nación.
29. Inter-American Commission on Human Rights (2023). *Women Deprived of Liberty in the Americas*. Washington D.C.: OAS
30. Inter-American Drug Abuse Commission (2013). *Drug Treatment Courts: An international response for drug dependent offenders*. OAS *Official Records Series*, 155-66; Social Science Research Council (2018). *Drug Courts in the Americas*. Drugs, Security and Democracy Program.
31. Galleguillos, S., and Figueroa, U. (2023). Is it part of my job? Prosecution and restorative justice in Chile. *Criminology & Criminal Justice*, 0(0); Highton, E. I. (2016). *La mediación en el panorama Latinoamericano*. Centro de Estudios de Justicia de las Americas.
32. Ministerio de Justicia y Derechos Humanos -Presidencia de la Nación (2021). *Tribunales de tratamiento de Drogas: Análisis de su implementación en Argentina*.

supervision of the judge. The judge acts as a therapeutic agent and is committed to finding a solution to the underlying conflict. The programme is proposed to participants under suspended sentence orders and/or probation, and it is voluntary.

Programme: If the participant accepts the programme, they undergo a psycho-social evaluation called 'preceding examination' carried out by an interdisciplinary team in the court. This team assesses suitability and refers the participant to the Drug dependency and Addictions National Agency team, which will allocate a vacancy in a centre and determine the treatment to be followed (e.g., individual therapy, day hospital, hospitalisation, comprehensive care in a Community Care and Assistance Center). The three main objectives of the intervention are to reduce consumption; avoid relapse into crime; and achieve social integration. Supervision meetings may be weekly, biweekly, monthly or bimonthly and are scheduled according to the participant's needs. Conditions are often set in the form of small behavioural agreements to be reached with members of different disciplines, such as psychology, psychiatry, social work, and medicine, and with the participant's consent.

Staffing: The judge does not act alone but works alongside the other professionals in the interdisciplinary team. During the programme, the judge encourages open debate on the conditions and/or short-term objectives to be potentially imposed. Alongside the court, various institutional and non-institutional actors, such as the Drug dependency and Addictions National Agency, the Prosecution Service, the Public Defender's Office, the National Directorate for Social Reintegration of the Ministry of Justice, and community or grassroots treatment centres support the programme.

Progression: As the intervention progresses, the program contemplates relapses in consumption and continues to engage with the participant when they occur. When a participant makes progress, the judge may recognise it by introducing benefits related to their recreational and leisure preferences; or by reducing the frequency of judicial supervision. In the event of non-compliance, increased judicial supervision is more likely. The programme ends with a graduation-style

meeting. The participant's achievements are highlighted in the presence of family and friends and the participant receives a diploma certifying the successful completion of the programme in what tends to be a very emotional ceremony.

Problem-Solving Courts in Chile

In Chile the most well-developed iteration of problem-solving courts is the drug treatment court. Currently, there are drug courts operating voluntarily in the country. They occur as a block of hearings within traditional penal courts.

Admission: Many of the people admitted to the drug courts are women, and their criminal proceedings are suspended when they are admitted into the court. More recently, with the expanded availability of drug

courts for juveniles, young women have had the opportunity to either enter or continue with a drug court programme as a cautionary measure or alongside an ongoing sentence. Although not yet implemented, Figueroa, Rufs and Koppmann have designed a theoretical model which proposes the use of problem-solving courts for women who are mothers and who risk prison sentences.³³ Women would be admitted on the condition that they adhere to an intervention program during the period of supervision.

Staffing: Judges usually begin working in drug courts with no prior training or familiarity with the procedural manual. Each court collaborates with a therapeutic team constituted of a psychologist and social worker who assess potential candidates and provide guidance to judges with respect to verbal encouragements and therapeutic decisions.

Programme: There is little information on the operation of the courts, but recent ethnographic fieldwork reported that therapeutic team members said the courts generally lack the resources to systematically offer support in cases such as domestic violence and teenage pregnancy.³⁴ Drug treatment courts in Chile do not have the authority to apply rewards and sanctions to motivate compliance.

In the proposed model, women would be required to live in specified housing units.³⁵ The court programme would facilitate the placement of their children in day care centres or schools during the

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33. Figueroa, U., Rufs, C., & Koppmann, F. (2021). Rediseñando la respuesta penal para hijos e hijas de mujeres encarceladas. Available at: https://justiciaysociedad.uc.cl/wpcontent/uploads/2023/01/Figueroa_Rufs_Koppmann_2021____.pdf

34. Vatau, I. (2024). unreported fieldwork. University of Oxford.

35. See footnote 36: Figueroa (2021)

supervision period, and they would be offered programmes to promote parenting skills, reduce drug use and reduce their risk of recidivism. The women would be required to attend a monthly court hearing, where the program officer in charge of the case would present to the court, the prosecutor and the woman's defence, the progress of her intervention plan and her behaviour at the halfway house.

Progression: As most people enter the court with a conditional suspension of criminal proceedings, their stay within the court can be dependent on their status. Usually, removal from court only occurs if the offender has committed another offence. However, in the case of juveniles, prosecutorial discretion can permit their continuation in the court even if they change status to a cautionary measure or sentence. If treatment is unsuccessful, participants have the opportunity to negotiate and alter their conditions to no longer include the drug court provision. Should they wish to, participants can also continue with treatment at no cost following the completion of drug court judicial monitoring.

United Kingdom

Context

In the year to June 2023, 5286 women entered prison in England and Wales.³⁶ In Scotland the weekly average women's prison population is around 308 women.³⁷ In England and Wales, 69 per cent of women sentenced to imprisonment have committed non-violent offences. The most common offence for women is theft. 53 per cent of all women in prison have been sentenced to less than six months in prison, which means they will spend only three months, half their sentence, in prison before serving the rest 'on licence' in the community.³⁸ 53 per cent of women in prison have suffered sexual, emotional or physical abuse.³⁹ 48 per cent committed the offence to support the drug use of someone else.⁴⁰ 76 per cent report problems with their mental health and 46 per cent have attempted suicide.⁴¹ 31 per cent have spent time in local authority care.⁴² 35 per cent of all women

cautioned and convicted were first time offenders, and 23 per cent of women in prison in England and Wales are serving a prison sentence for their first conviction.⁴³ It is estimated that between 50 per cent and 60 per cent of women are mothers to children under 18 years.⁴⁴ There is extensive and irrefutable research evidence that prison does not reduce reoffending; it actually increases it when compared to reoffending by people who have served community sentences.⁴⁵ When women enter prison, they often lose their housing, any employment that they had, and their children. Short sentences and an under resourced prison system do not allow offending behaviour or drivers of offending—poverty, addiction mental ill health—to be addressed sufficiently.

Problem-Solving Courts in England

In 2014 Greater Manchester introduced 'The Whole System Approach' (WSA) for women: gender responsive support to women in contact with the criminal justice system, and the first women's problem-solving court in the UK was established.⁴⁶ More recently, a pilot 'Intensive Supervision Court' for women has been established at Birmingham Magistrates' Court.

Manchester

Admission: The court focuses on women at risk of custody or a high-level community order, who have multiple complex needs that may include, debts, physical and mental health, adverse childhood experiences and trauma, parenting, accommodation, substance misuse and domestic abuse. The decision to sentence them to the problem-solving court is made at the time of sentence following inter-agency consultation.

Staffing: The magistrates courts are a three person lay (volunteer) tribunal. The court is supported by Probation staff.

Programme: The women are given Community Orders or Suspended Sentence Orders and are expected to combine a Rehabilitation Activity Requirement with court reviews. Sentence plans are drawn up at multi-

36. Ministry of Justice (2023). *Offender Management Statistics*. London: Ministry of Justice.

37. Scottish Prison Service (2024). SPS Quarterly Public Information Page Prison by Numbers, Quarter 3 (October -December 2023).

38. Ministry of Justice (2022). *Offender Management Statistics*. London: Ministry of Justice.

39. Ministry of Justice (2012). *Prisoners' childhood and family backgrounds*. London: Ministry of Justice.

40. Ministry of Justice (2019). *Women in the Criminal Justice System*. London: Ministry of Justice.

41. HM Inspectorate of Prisons (2022). *Annual Report 2021-2022*. London: HMIP.

42. Hansard (2023). House of Lords written questions HL8980, 17 July 2023. Available at <https://questions-statements.parliament.uk/written-questions/detail/2023-07-03/hl8980>

43. Ministry of Justice (2021). *Statistics on Women and the Criminal Justice System 2021*. London: Ministry of Justice.

44. HM Chief Inspector of Prisons (2017). *Report on an Unannounced Inspection of HMP & YO1 Bronzefield*. Edinburgh: His Majesty's Inspectorate of Prisons; HM Chief Inspector of Prisons (2018). *Report on an Unannounced Inspection of HMP & YO1 Bronzefield*. Edinburgh: His Majesty's Inspectorate of Prisons.

45. Ministry of Justice (2023). Compendium of re-offending statistics and analysis, Table 1.1.

46. Kinsella, R., Clarke, B., Lowthian, J., Ellison, M., Kiss, Z., and Wong, K. (2018). *Whole System Approach for Women Offenders Final Evaluation Report*. Manchester Metropolitan University Policy Evaluation and Research Unit. Available at: https://e-space.mmu.ac.uk/621414/1/WSA%20FINAL%20REPORT%2018_05_30.pdf

agency meetings, and the court holds regular reviews to discuss progress and set goals for addressing criminogenic needs. Women's Centres provide support to the women and for many, attendance at such a centre is a requirement of their order.⁴⁷

Progression: Failure to attend court reviews does not result in punitive outcomes. Women are given the opportunity to attend but are not forced to do so. When the women complete their intervention, they are discharged from the court. The usual time to spend under the supervision of the court is around 12 months. Greater Manchester has a lower annual average reoffending rate for females compared to similar urban areas, and England and Wales overall (15 per cent compared to 23 per cent for the April 2017 to March 2018 cohort). This may be attributable to the WSA including the problem-solving court.⁴⁸

Problem-Solving Courts in Scotland

In Scotland, the Aberdeen Problem Solving Approach (PSA) for women was established in November 2015 and in 2023 a Female Offenders Court (FOC) was established in Glasgow Sheriff Court.

Admission: The Aberdeen court was aimed at women with a history of frequent low-level offending with multiple and complex needs. In the Glasgow FOC the women who are admitted to the court may have been convicted of a crime for which custody could be imposed. 'Those admitted into the PSA have their sentence deferred while they engage with service providers for a specified period of time, during which they must return to court for regular judicial reviews with a dedicated sheriff.'⁴⁹

Staffing: The courts have dedicated sheriffs so that the women see the same sheriff at each review. Throughout their sentence the women are supervised

by a criminal justice social worker, and they are offered support from Women's Centres.

Programme: Punishment is deferred until they've had time to address their presenting issues under the FOC supervision. They may attend courses or receive support from women's centres. They may be referred to treatment programmes for addiction or mental health issues.

Progression: If women can engage with the services offered and make progress with the presenting problems in their lives, they can end their time at the court by being 'admonished'. This means that no further penalty is imposed, and the case is finished. If they do not make progress they will be referred back to a traditional court for sentencing.

Research on the gender specific benefits of problem-solving courts

Punishment is deferred until they've had time to address their presenting issues under the FOC supervision.

In the United States, where the problem-solving court model originated, there has been an opportunity for longer evaluations demonstrating the effectiveness of the courts across time.⁵⁰ Evaluation of the Red Hook Community Justice Center in Brooklyn has shown positive outcomes with people involved in the programme being 20 per cent less likely to be re-arrested.⁵¹ Data showed that it increased the sense of procedural fairness and community confidence in the

justice system,⁵² and cost benefit analysis indicated that the total benefits exceed the total costs in a ratio of nearly 2 to 1.⁵³ It is harder to find gender specific research evaluations for problem solving courts, but Myer and Buchholz used a quasi-experimental matched case design to evaluate the effect of a gender-specific drug treatment court in the Mid-West on recidivism, measured by new convictions, and a 2-year follow-up found that women who participated in the gender-

47. Centre for Justice Innovation (2023). Problem-solving courts: A guide to practice in the United Kingdom. Available at : https://justiceinnovation.org/sites/default/files/media/document/2023/cji_problem-solving-courts-final-0109-web.pdf

48. Ministry of Justice (2020). Proven Reoffending Geographical data tool: January 2020.

49. Eunson, J., Murray, L., Graham, H., Malloch, M., & McIvor, G. (2018). *Review of The Aberdeen Problem Solving Approach*. Edinburgh: The Scottish Government. Available at: <https://www.gov.scot/publications/review-aberdeen-problem-solving-approach-report/pages/2/>.

50. DeMatteo, D., Heilbrun, K., Thornewill, A., & Arnold, S. (2019). *Problem-solving courts and the criminal justice system*. Oxford: Oxford University Press; Nolan, J.L. (2012). Problem-Solving Courts: An International Comparison. In Joan Petersilia & Kevin R. Reitz (Eds.), *The Oxford Handbook of Sentencing and Corrections*. Oxford: Oxford University Press.

51. National Center for State Courts (2013). *A Community Court Grows in Brooklyn: A Comprehensive Evaluation of the Red Hook Community Justice Center*.

52. Flynn, S. (2005). The Red Hook Community Justice Center: An Evaluation of a Community Court. *Journal of Psychiatry & Law*, 33, 43–101; Park, S. W. (2022). Every Reasonable Chance plus Two: How the Red Hook Community Justice Center Bridges the Gap between the Community and the Justice System The 2022 Melnick Annual Symposium: The Death and Resurrection of Dialogue. *Cardozo Journal of Conflict Resolution*, 23, 575–598.

53. Center for Court Innovation (2013). *The Red Hook Community Justice Center: Research Findings*.

specific drug treatment court were 17.5 percent less likely to have a new conviction, compared with females on probation in the comparison group who did not participate in the treatment court.⁵⁴ The difference was statistically significant.

In the Latin American context, research on problem-solving courts has been scarce. The few studies on problem-solving courts in Latin America have been evaluation studies⁵⁵ or ethnographic studies⁵⁶ that have focused on drug courts in Chile, but without specifically focusing on their use among women. In the UK there are only a few early-stage evaluations of women's problem-solving courts and a number of papers critiquing the 'potential and the pitfalls'.^{57 58} Early-stage evaluations tend to show a high level of satisfaction from participants, but without longitudinal data it is difficult to know what the real benefits and disadvantages of these courts might be over the longer term. The main concern seems to be that of net-widening, or 'up-tariffing'—bringing more women into the criminal justice system and for longer—where women who might remain outside of the criminal justice system are given these sentences to provide support to them which is not available through other means in the community. On the other hand, the potential of reducing reoffending rates and giving women the opportunity to address criminogenic factors in their lives, is a powerful incentive to increase the use of these courts.

We are increasing our understanding of the issues of justice involved women, and problem-solving courts present as potentially interesting alternatives to traditional courts when considering the intersectional harms and criminogenic risks attached to women's experiences of the justice system in a variety of jurisdictions. They centre women's experiences and

needs instead of retribution and punishment, by recognising that many women need support and structured input to stabilise aspects of their life so that they can desist from the behaviours that caused them to be brought to the attention of the courts. As such, they situate women as central to solving their criminal behaviour but do so within a context that acknowledges and seeks to respond to at least some aspects of the systemic and intersecting social deprivation factors that contribute to women's offending. However, this brief examination of problem-solving courts in five jurisdictions has demonstrated that although their use is increasing across the world, they have disparate aims and approaches, and very little is known about the outcomes for women. There is no doubt that alternative justice solutions are needed; it is therefore important that evidence on the operation and efficacy of problem-solving courts for women is given proper attention. If evidence-based practice is to be developed we need to consider evidence from four sources: research evidence, professional expertise, user experience and the practice context.⁵⁹ There has been a pattern in the UK of problem-solving court pilots starting and stopping, and if they are to be a long term, sustainable part of the justice system there must be proper evaluation of outcomes over longer time periods, with data gathered from users, practitioners and academics to help us understand what is happening and why. Problem solving courts have become a global justice initiative and there is no doubt that international collaboration to enable learning from different models in future research and evaluation will serve justice involved women and contribute to what we can draw from these models for criminal justice more broadly.

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