

PRISON SERVICE JOURNAL

March 2011 No 194



Contents

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2 Editorial Comment

3 Class, discipline and philosophy: Contested visions in the early twentieth century

Dr. Alyson Brown

6 The Corston Report: Reading Even Further Between the Lines

Dr Karen Evans and Professor Sandra Walklate

12 Media portrayals of female murder offenders

Elizabeth A. Gurian

19 'Mothering from the Inside' — A Small Scale Evaluation of Acorn House, an Overnight Child Contact Facility at HMP Askham Grange

Ben Raikes and Kelly Lockwood

27 Learning from fraudsters' accounts of their offending

Professor Martin Gill

33 Restorative practice in prisons: assessing the impact of the demise of the Inside Out Trust

Dr Paul Gray and Dr Sam Wright

Editorial Board Jamie Bennett (Editor)

HMP Morton Hall

Dr Karen Harrison

University of Hull

Professor Yvonne Jewkes

University of Leicester

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Alan Constable

HMP Winchester

Dr Ben Crewe

University of Cambridge

Paul Crossey

HMYOI Portland

Dr Michael Fiddler

University of Greenwich

Steve Hall

SERCO

March 2011

38 Practice into Policy: The Needs of Elderly Prisoners in England and Wales

Adrian Hayes and Professor Jenny Shaw

Adrian Hayes is a Researcher at Offender Health Research Network, University of Manchester) and **Jenny Shaw** is a Professor of Forensic Psychiatry.

**45 Book Review
The Man They Couldn't Hang: A Tale of Murder, Mystery and Celebrity**

Ray Taylor

Ray Taylor is a prison officer at HMP Pentonville in London.

**45 Book Review
Female Sexual Offenders Theory, Assessment and Treatment**

Dr. Karen Harrison

Dr. Karen Harrison is a Lecturer at the Law School, University of Hull.

**47 Book Review:
Criminal Justice in Scotland**

Jamie Bennett

Jamie Bennett is Governor of HMP Morton Hall.

**48 Book Review
Crime and Risk**

Jamie Bennett

49 Interview: Aubrey Fox

Jamie Bennett

Aubrey Fox is Director of Special Projects for the New York Centre for Court Innovation and also Senior Project Developer for the Young Foundation, setting up the UK Centre for Justice Innovation. He is interviewed by **Jamie Bennett** who is Governor of HMP Morton Hall.

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The Editorial Board wishes to make clear that the views expressed by contributors are their own and do not necessarily reflect the official views or policies of the Prison Service.

Printed at HMP Leyhill on 115 gsm Claro Silk

Set in 10 on 13 pt Frutiger Light

Circulation approx 6,000

ISSN 0300-3558

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Editorial Comment

Although this edition of *Prison Service Journal* contains an eclectic range of articles, through these emerge a number of familiar themes exploring the intersection of theory and practice. It is through these junctures that *PSJ* finds its distinctive voice and role.

The edition starts with a historical article by Dr. Alyson Brown that compares the prison system under the leadership of two different administrators. The first was Alexander Paterson, a Commissioner of Prisons for almost a quarter of a century and whose name is associated with a series of liberal humanitarian reforms that shaped what many consider to be a golden age of the modern prison system. The second is the lesser known Charles Rich, a prison governor for a quarter of a century and considered to be a more traditional figure with a concern for order. In this article, Dr. Brown goes beyond these simplistic pictures and presents a more complex picture of contested, unstable and changing penal philosophies in the first half of the 20th century.

This is followed by three articles that consider aspects of the imprisonment of women. Dr Karen Evans and Professor Sandra Walklate provide a critical account of the official responses to the Corston Report, which set out proposals for radical changes in shape of the criminal justice system for women. They argue that the aspirations of Corston have been eroded in the dominant criminal justice ideology. However, they suggest that economic realities rather than political arguments may more effectively force the kind of decarceration and reform advocated by Corston. The second article by Elizabeth Gurien explores the ways in which women who kill are represented in the media, in particular about how these representations are deeply gendered and distorting. Thirdly, there is an article providing an evaluation of a project at HMP Askham Grange where women were able to have overnight visits with their families. This evaluation describes how this enabled women not only to have a more realistic and enriching experience but they were also able to take a more active role in parenting of their children. Whilst they are not intended to provide a comprehensive

overview, these articles do explore some of the theoretical, political and practical issues that are encountered in the imprisonment of women.

The remaining three articles focus on specific groups and issues within the prison system and have important implications for practice. Professor Martin Gill contributes a piece that sets out to explore the motives of those committing fraud. This reveals the range of motives and this points the way towards what may be done to address those issues. Dr Paul Gray and Dr Sam White provide an account of the impact of the collapse of the Inside Out Trust, which had at one stage provided 100 restorative justice workshops in prisons. Whilst many case studies provide evidence about successes, it is equally important, as in this case, to reflect upon failures and to understand how to better manage the consequences. Adrian Hayes and Professor Jenny Shaw discuss services for older prisoners, a subject that has garnered increasing attention over recent years as the number of older prisoners has increased and the need to provide services has grown. They highlight how the Inspectorate of Prisons has been keeping this issue on the agenda and appear to be having positive effects.

This edition closes with an interview with Aubrey Fox, who currently leads on the Bronx Community Solutions project for the New York Centre for Court Innovation, and is also currently working with the Young Foundation in the UK to establish a Centre for Criminal Justice Innovation. In this interview, he discusses his work in both New York and the UK and reflects on innovative practices from the United States of America that may influence the future direction of government policy and respond to the agenda set out in the Green Paper *Breaking the Cycle*.

The articles in this edition weave between policy and practice and attempt to draw these together. This continues the work of *PSJ* in supporting and developing an approach to prison work as a craft, rather than a technical or mechanical process, where professionals are reflective about their practice and aspire to achieve high quality and ethical standards.

Class, discipline and philosophy: Contested visions in the early twentieth century

Dr. Alyson Brown is a Reader in History at Edge Hill University.

One of the best known men in penal history, Alexander Paterson, died in 1947 only months after his retirement. His obituary in the *Times* (10 November 1947) was headed ‘faith in human nature’ and it is very much in that vein that Paterson has been immortalised both within and outside of the prison service. To a large extent this has also been the case in popular and academic histories that have considered Paterson and his role in shaping penal reform during the early decades of the twentieth century. He is believed to have been the dominant influence in the Prison Commission during his time as a Commissioner between 1922 and 1946, which has been labelled the ‘Paterson era.’ Harold Scott, Chairman of the Prison Commission between 1932 and 1938 called Paterson ‘one of the most remarkable men I have ever met’ who was behind the transformation of imprisonment not only in England but throughout the world.²

Lieutenant Colonel Charles.E.F.Rich, a prison governor in England from 1903/4 to 1931 is not so well-memorialised, although his autobiography *Recollections of a Prison Governor* (1932) received quite a lot of attention when it was published. Unfortunately, he got in trouble for publishing it as he had not obtained prior permission from the Home Office! Rich has been perceived in a very different light to Paterson; as a traditionalist and a disciplinarian, antagonistic to change.³ Rich joined the prison service at a time when governors were expected to be gentlemen, often retired military or naval men, and when the job did not require their full-time presence in their institutions. He was a man who believed and benefited from the advantages and influence that belonging to the upper classes could bring. He believed in discipline and social balance, that individuals should know their place. He was sceptical about reformers and critical about senior prison service staff, like Alexander Paterson, who had not themselves been prison governors.

So here we have two different men with seemingly very different attitudes and visions regarding the prison system. In some respects Paterson and Rich certainly had opposing philosophies about the way society should be and this of course was reflected in their views on the form and the shape that penal institutions should take in

a rapidly changing world. However, upon closer examination there was also a great deal of sympathy in the outlook and practice of these two men and to some extent their differences were ones of degree rather than being completely irreconcilable. This paper will examine briefly some of the sympathies and antagonisms between these two men and consider what this can tell us about perceptions of ‘traditionalists’ and ‘progressives’ in prison reform and about reform during the first half of the twentieth century.

In different ways the backgrounds of these two men represent the changing times. Lieutenant Colonel Charles E.F.Rich began his prison service career with his appointment as Deputy Governor at Wakefield Prison, he was then Acting Governor at Maidstone, and Governor at Northampton. Then, following his war service during which he was awarded the D.S.O and the Croix de Guerre, he was appointed (in 1920) Governor of the Borstal institution at Rochester. Following that he took over Walton Prison, Liverpool and then Wandsworth until he retired in 1931. He had initially joined the prison service from his military service during the Boar War because he believed the pay was high and the hours low, he was certainly to be disillusioned with the pay. In order to get a governorship he had pulled the strings that were at his disposal from his ‘old school’ networks. While at his first posting as Deputy Governor at Wakefield Prison he inaugurated a system of intensive training for young inmates in a separate wing. Throughout his career he showed particular concern for younger inmates and felt that prison should be a last resort for young offenders. He supported Evelyn Ruggles-Brise’s (Chair of the Prison Commission 1895-1921) early endeavours to establish the Borstal system and was instrumental in re-establishing it after the First World War. According to his own account, was always anxious to try and help any prisoner who demonstrated hope for reform and he believed in improving aftercare. However, his general outlook was what could be termed ‘traditional’; a belief in Empire and the class system and hostility towards Communists and socialists. In his governorships he believed in discipline, autonomy rather than centralisation, and was against what he saw as over-weaning bureaucracy and interference from reformers like the Howard League.

Both Paterson and Rich supported separate disciplinary regimes for young offenders but what did

1. V.Bailey, *Delinquency and Citizenship: Reclaiming the Young Offender 1914-1948* (Oxford: Clarendon Press, 1987), chapter 8.

2. H.Scott, *Your Obedient Servant* (Andre Deutsch, 1959), p.67.

3. P.Quinn, ‘Managing Prisons in a Time of Change: The Visions and Values of Colonel Rich, *Prison Service Journal* July 1994:2-10.

this actually mean? For Rich, Borstal was about combining punishment, deterrence and training. The 'happiest ship is the best disciplined ship' he asserts in his autobiography. He bemoaned what he perceived as a dangerous relaxation in discipline, the 'soft, sloppy 'sob-stuff' which crept in slowly but surely ruining the chances of reformation not only in Borstals but across the prison system. But in its time the approach and movement that he was a part of under Evelyn Ruggles-Brise was seen by some magistrates as 'new-fangled' and sentimental. That system in Borstal included the introduction of 'houses' with monitors, marks for good conduct and a belief in healthy sporting competition. At Wandsworth he had even allowed younger inmates to play football matches against local teams.

Alexander Paterson came to represent, even to personify, the penal reform movement which developed during the 1920s. While at Oxford University, Paterson became involved in social work and went to live in a slum tenement in Bermonsey. Paterson's beliefs and motivations reflected idealist principles integral to new liberal thought in England and embedded in a generation of Oxford graduates. These men demonstrated their commitment through community work and public service. Emphasis was on direct and personal influence and in many respects the Borstal model exemplified this faith in paternalism, moral development and personal ties between the classes. He attained considerable public and professional acknowledgement for his book, *Across the Bridges or Life by the South London River-side* (1911) which was based on his twenty-one years of involvement with the Oxford and Bermondsey Medical Mission (later the Oxford and Bermondsey Boy's Club). The 'bridge' of the title was the bridge to greater social enlightenment and to help those in need. By 1911 he was Assistant Director of the Central Association for the Aid of Discharged Prisoners and Assistant Director of the Borstal Association.

On active service during the First World War Paterson was awarded the Military Cross and twice recommended for the Victoria Cross. Following the war he joined the civil service but continued his social work. Perceived as a progressive, Paterson was appointed a Prison Commissioner in 1922, the same year much of the criticism of the contemporary prison system had become crystallised in the publication *English Prisons Today* and problems in Portland Prison which had become a Borstal institution in 1921. Like Rich, Paterson was particularly interested in regimes for young

offenders. In Borstals he was to persist with reforms on the model of public schools, such as the use of first names and the abolition of uniforms as well as emphasis on loyalty, obedience, self-reliance and corporate spirit. Some of this was present, and supported by, Rich before he retired. Many of the differences between the two men here actually lay in the extent of reform and Paterson went further to dismantle formal disciplinary mechanisms than Rich found acceptable.

A good deal of what Rich complains about are the different elements of the move towards greater centralisation, bureaucratisation and professionalisation of the prison service. Another element in Rich's complaints is derived from measures taken as a result of cutbacks during the economic depression of the inter-war years. Hence, he suggests searching of prisoners

became less rigorous but admits this is due to reductions in staff. Also, he says it is 'extraordinary' that most prisons were still by the early 1930s lit by gas. Rich was sceptical about bureaucracy that he saw as not dealing with real problems but merely bringing in measures which might look like a resolution on paper, and used appropriately unintelligible language, but which in practice were ineffective. However, he was also critical of the training and book of standing orders, the size

of 'a modern Debrett's Peerage' in existence when he began in the service in 1903/4. Rich was critical of senior individuals like Paterson who had not served as governors yet Evelyn Ruggles-Brise, a man he said he respected and admired, had not done so.

Rich was suspicious of the press which he stated had a tendency to exaggerate and sensationalise. Paterson recognised this but was also very media aware at a time when newspapers were becoming part of everyday life. He published widely in journals, magazines and newspapers, promoting the image of a progressive and reformatory prison system. Much of this focused on the considerable work going on with young offenders and detracted from the often rather limited progress being made elsewhere in the system. For example in convict prisons, inmates were able to talk to one another at work and had increased access to books but the cells and basic routines remained very much the same. Cutbacks were made due to reductions in Government funding during the depression no doubt increasing the reliance upon voluntary or charitable efforts to enable and even drive reform. These included the expansion of prison visiting, prison entertainments and educational classes as well as the first modern experiment made in paying prisoners for labour, which

Alexander Paterson came to represent, even to personify, the penal reform movement which developed during the 1920s.

was sponsored by the Howard League. This lent considerable support to a prison system short of money and concurred with idealist views of an organic society much more than Rich's suspicion of outside influence. Rich perceived additional 'privileges' for prisoners not as encouragements to good behaviour but as showing weakness which he was sure to be taken for granted and then taken advantage of. He saw these changes as trying to 'Borstalise' the whole system.

Nevertheless, both Paterson and Rich had a great belief in prison staff at all levels to achieve reform, often in difficult circumstances. Both commended the hard work and loyalty of prison officers. Paterson felt that the key to the success of Borstal regimes lay in the hands of a new generation of committed governors who would work with the young rather than above them. This was a move too far for Rich and he condemned such informality, although he agreed that the role of the governor was crucial.

One of the events for which Rich was most known and which was referred to in the notice of his retirement in the *Times* (14 July 1931) as well as in his autobiography was his apparent single-handed quelling of a serious disturbance at Maidstone Prison. The convicts there refused to return to their cells and began to riot. Owing to Rich's prompt action, he had the prisoners surrounded by armed officers, and strength of character he was able to successfully order the prisoners back to their cells and no one was injured. In his autobiography he cites the large-scale riot that occurred in Dartmoor Convict Prison on 24th January 1932 as evidence that the 'modern' system was too lax and was failing. Ironically, the Du Parcq inquiry which investigated the riot seemed to bemoan the lack of precisely Rich's brand of disciplinarian and class-confident approach to prison disturbances.

For the best part of two hours prisoners took over effective control of the prison and set fire to the main administrative block. The disturbance was quelled only

by the aid of the local police.⁴ One of the issues highlighted by the report was that the Governor of Dartmoor at the time, Mr Roberts, had, unusually for then, risen through the ranks (through service in local prisons) and had no previous experience of a convict prison. The Report noted that there was some ill-feeling against him because of this. Furthermore, the Governor was smoothly but effectively condemned by its conclusion regarding him, 'I think a man of exceptionally strong character might have been able to quell the growing disorder by force of character ... he has not this rare gift' (*Du Parcq Report*). The criticism here is clearly at least partly class-related and reflects an attitude perhaps

not a world away from that of Rich. The Du Parcq investigation was conducted by only two men, Mr Herbert du Parcq, K.C and Alexander Paterson.

Both Alexander Paterson and Charles Rich were dedicated men who devoted their lives to public service and believed in reform. Despite the inherent difficulties in trying to change a system embodied by old buildings, established procedures and lack of money, Paterson was to see some of his efforts rewarded and to receive considerable recognition during his lifetime. Rich was to see the developments within the prison system go beyond what he perceived to be positive and feared the dilution

and even breakdown of what he felt he had achieved. His disappointment is reflected in his autobiography but it was not just disappointment with the direction of prison reform but a disappointment with change in wider society where he perceived loosening morals, lower standards and deteriorating discipline. In fact Alexander Paterson, a liberal man who believed in social responsibility, did achieve a great deal in difficult circumstances. However, his skill in promoting and advertising relatively limited change, particularly in regimes for older and recidivist offenders, was such that the extent of change did not match public perceptions of actual change.

. . . both Paterson and Rich had a great belief in prison staff at all levels to achieve reform, often in difficult circumstances. Both commended the hard work and loyalty of prison officers.

4. For more see, Brown (2007) 'The Amazing Mutiny at the Dartmoor Convict Prison', *British Journal of Criminology* 47 (2): 276-292.

The Corston Report:

Reading Even Further Between the Lines

Dr Karen Evans is a Senior Lecturer in Sociology and Social Policy and Professor Sandra Walklate is Eleanor Rathbone Chair of Sociology at the University of Liverpool.

Introduction

In 2009 in this journal Rachel Goldhill offered an analysis of the recent Labour government's initial response to the Corston Report commissioned to look into the needs of women within the criminal justice system. Her analysis illustrates the extent to which the 'small print' of the government's response was characterised by being 'watered down by suggested partial adoption and numerous provisos'¹. Whilst we agree with Goldhill's overall assessment — that the lack of receptivity to Corston's work constituted a missed opportunity in responding to the particular nature of much female offending, (though the report itself has clearly become a benchmark for some, see the Thematic Report by HM Inspectorate of Prisons July 2010), what we do here is explore a little deeper between Goldhill's lines.

Since Goldhill's article was published the then Labour government issued *A Report on the Government's Strategy for Diverting Women Away from Crime* in December 2009. Here we offer a view of the fundamental differences in ethos between the government and Corston and an analysis of why the policy process in and of itself is simply not framed to accommodate the kind of radical re-orientation that Corston proposed. We begin with an overview of each of these reports drawing out their respective positions and understanding of crime. Then we go on to consider the extent to which the Corston Report really did offer a policy opportunity for change or perhaps merely represented a moment from which penal legitimacy was reasserted. We end, however, on an optimistic note by suggesting that an unintended consequence of the present public spending review initiated by the current coalition government could result in a revitalisation of the community-based management of female offenders which Corston proposed.

Female Offenders: harmed or criminal?

Corston was commissioned in 2006 to '... to conduct a review of women in the criminal justice system who have particular vulnerabilities'² following concerns about the number of suicides of women prisoners in Styal prison in 2002-3 and the subsequent investigations into their deaths. The Cheshire coroner who conducted the inquests into these deaths criticised the use of imprisonment for '... damaged individuals, committing for the most part petty crime'³. Corston's terms of reference were to focus on '... the group of women offenders who have multiple needs'⁴ and particularly those who might self-harm whilst in prison. One of her tasks was to define what the term 'particularly vulnerable' might mean in such circumstances. Corston, however, chose to widen the remit of her enquiries. She was clear in her insistence that the conversations and visits held during the course of her review had led her to see the problem of 'vulnerable women within the criminal justice system' in the context of the difficult and troubled lives which many women endure outside of this system. So, for Corston 'vulnerability' was not a quality intrinsic to the individual women but was the consequence of extrinsic factors acting on her individual psyche — in short the woman was made vulnerable by forces which she was unable to control. So Corston was clear that these were women, like any others, but who had been harmed by certain aspects of their experiences. Harms that could nevertheless be addressed. Her preferred term 'women with vulnerabilities' is used to encompass this approach and in the report she is careful to explain why she had chosen this terminology.

In listening to women's voices Corston developed an approach that contextualised women's offending in the wider social and economic circumstances linked to being born a female in late modernity. From this position, women who offend are seen as being subjected to wider social harms inflicted upon them both by social norms and expectations and the

1. Goldhill, R. (2009) The Corston Report: Reading Between the Lines *The Prison Service Journal* 184: 13-19 p.13.
2. Ministry of Justice (2008) Delivering the Government Response to the Corston Report. A Progress Report on Meeting the Needs of Women with Particular Vulnerabilities in the Criminal Justice System <http://www.justice.gov.uk/publications/docs/delivering-the-government-response-to-the-corston-report-web.pdf> [Accessed 10.07.10] p.4.
3. Corston Report (2007) *Women with Particular Vulnerabilities in the Criminal Justice System* London: Home Office p.14.
4. Ibid p.14.

structural position of women in society at large. Corston recognised that the effect of these harms, when combined in certain configurations (individual to the woman concerned but generally present for all women) can precipitate crises that propel particular women into behaviour destructive to themselves and those around them. When these crises lead to a women committing and being arrested for acts deemed as criminal a further set of harms can be produced by the criminal justice system itself. Thus the treatment that women receive within the criminal justice system compounds their negative experiences and inflicts further damage, once more stripping the woman of confidence, esteem, autonomy and control. Thus Corston argued for whole-scale changes — radical changes, gender-specific understandings and community-based support — before offending becomes an added problem. She contends that her approach:

... will require a radical new approach, treating women both holistically and individually — a woman-centred approach. I have concluded that there needs to be a fundamental re-thinking about the way in which services for this group of vulnerable women, particularly for mental health and substance misuse in the community are provided and accessed; there needs to be an extension of the network of women's community centres to support women who offend or are at risk of offending and to direct young women out of pathways that lead into crime.⁵

Corston's approach connects to a critical perspective which, over the last decade especially has criticised the lack of consideration given to an understanding of women's pathways into crime⁶ and of their specific needs within the criminal justice system whether this is provided in the community⁷, at court⁸ or within prisons⁹. At the heart of Corston's

When these crises lead to a women committing and being arrested for acts deemed as criminal a further set of harms can be produced by the criminal justice system itself.

review is a clear rejection of the principle of sameness. She acknowledges that treating women the same as men in a gender-blind, male-centred criminal justice system results in significantly poorer outcomes for women.

In contrast to Corston's harm based framework the discourses of crime and criminality strongly underscore the government's *Strategy for Diverting Women Away from Crime* and it is to this document that we now turn. The very title of the document signals its move from harm to crime. 'Diversion from crime' moves the subject of the government strategy far away from Corston's emphasis on 'women with vulnerabilities' and places it, as a strategy, focally concerned with the reduction of crime with its success being measured on the basis of this particular outcome. Thus the gaze falls on to a distinctly narrower focus of diversion from crime and the individual's intent to act in ways that break the law. As a result the criminal act is de-contextualised and is divorced, not only from an exploration of the structural factors which lie behind the commission of crime, but also fails to engage with the nature of offending behaviour which, as Corston outlined, in the case of women is overwhelmingly petty in nature and rarely poses a risk to other people.

This reluctance to move outside of the crime frame is underlined by the government's choice of partner agencies invited to participate in developing present and future work in this area. While Corston suggests a multi-agency team consisting of representatives from the Home Office, Department for Communities and Local Government (which she hoped would eventually take the lead role), the Department of Health, Department for Education and Skills, Department for Constitutional Affairs and the Department of Work and Pensions — the government strategy names the Ministry of Justice including representatives from the Government Equalities Office, Department of Health and the Attorney General's Office — hardly a radical departure from the old ways of thinking and certainly no

5. Ibid p.2.
6. Hannah-Moffatt, K. (2006) Pandora's box: risk/need and gender responsive corrections. *Criminology and Public Policy* 5(1): 183-91, Carlen, P. (1998) *Sledgehammer: Women's Imprisonment at the Millennium*. London: Macmillan.
7. Gelsthorpe, L., Sharpe, G., and Roberts, J. (2007) *Provision for Women Offenders in the Community*: London: Fawcett Society, Worrall, A. (2002) 'Rendering them punishable' in P. Carlen (ed) *Women and Punishment: The Struggle for Justice*, Devon: Willan Publishing.
8. Gelsthorpe, L. and Hedderman, C. (1997) *The Sentencing of Women*. HORS 170. London: HMSO, Eaton, M. (1986) *Justice for Women: Family, Court and Social Control*. Milton Keynes: Open University Press.
9. Eaton, M. (1993) *Women After Prison*. Buckingham: Open University Press.

indication of a movement beyond criminalisation and discourses of risk. Indeed the strategy's suggested lead for developing future provision and monitoring its effectiveness is placed with Directors of Offender Management rather than Communities and Local Government.

Much of the focus of the government strategy is, not unsurprisingly, pre-occupied with labelling of women as offenders and fails to challenge the offender/victim dichotomy that Corston was keen to do. The government strategy uses the term 'victim' three times, once when highlighting good practice in Peterborough prison (where an officer has been appointed to take a lead in working with sex workers as well as victims of domestic violence and sexual abuse) and twice in a paragraph relating to the Home Office publication *Together We Can End Violence Against Women and Girls: A Strategy* (a document in which it is acknowledged that women who offend have often suffered in abusive and violent relationships). Apart from these references there is little in the document to reflect Corston's concern with crisis points in the lives of women with complex and multiple vulnerabilities. The terms race, poverty and marginalisation — concepts which are key to understanding Corston's approach — do not feature in the government strategy. Where women and vulnerabilities do feature in the document (on four occasions)

twice this is a reference to 'vulnerable women' and twice relates directly to Corston's work and therefore uses the term 'women with vulnerabilities'. Overall then it is perhaps safe to conclude that Corston's request for the latter term to be utilised to allow for the wider context of women's offending as a way of guarding against the labelling of women as individually vulnerable seems not to have been heard.

Somewhat contradictorily the push for community provision for 'women with vulnerabilities' found within Corston does appear to have been listened to. This features very highly in the government strategy which continually references services delivered in the community (thirty occasions) and support for Women's Community Projects (twelve occasions). However the community services

referenced are without exception linked to women offenders, both at an early point in their offending history and right through to women who have left prison and need support. Even where improved access to health services is discussed, it is done so in terms of helping women who have already been in contact with the criminal justice system.

The government strategy's use of the term 'harm' is particularly telling. Corston refers to harm on ten occasions in her executive summary (and many times throughout the rest of the document) always in terms of harm done to women and primarily in respect of self-harming behaviour. The government strategy uses the term on only five occasions in its entirety. One of

these occasions refers to the fact that women in prison may self-harm, the other four are all mentioned in the context of the harm women may do to others and the extent to which they pose a low or a serious risk of harm to other people. There is little in the government strategy to acknowledge the harm which the criminal justice system can do to women but much reference to '... making a difference for women within the criminal justice system'¹⁰ and to the importance of gender-specific standards and reference to the gender equality duties of providers. It seems that the strategy's authors are genuinely concerned to see that changes take place and gender-responsive attitudes predominate throughout the

criminal justice process. It is all the more disappointing, then, that they do not use, either through design or genuine failure to understand their importance, the language and tools which Corston has provided them with to make the desired changes a reality. The emphasis in the government strategy remains throughout the diversion of women away from crime. The government strategy perpetuates a focus on offending, re-offending and rehabilitating former prisoners.

The question remains; how do we make sense of these two documents, both significant in themselves in their concern with justice for women, yet both so different in emphasis? How did Corston's concern with harm become Maria Eagle's pre-occupation with crime?

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10. Ministry of Justice *A Report on the Government's Strategy for Diverting Women Away from Crime* London: Ministry of Justice p.3.

Corston vs the Government, a policy opportunity or the renewal of penal legitimacy?

The literature on policy implementation highlights various ways in which the intended outcomes of policy-makers might not translate into desired outcomes. For instance, the change management perspective suggests that '... if sufficient energy can be elicited from those involved by enthusiastic leaders with clear vision of change then large-scale transformations can be accomplished relatively quickly and economically'¹¹. From our reading of the two documents presented, Corston did appear to have a champion in Maria Eagle and those working alongside her in government. Indeed the government, as Goldhill¹² remarks, declared itself largely support of Corston's approach and certain aspects of her report were enthusiastically taken up within the government strategy championed by Eagle (Goldhill's caveats notwithstanding). On the other hand the democratic/participatory perspective on policy implementation claims that the disjuncture between policy intentions and outcomes can be explained by the different ways that policy is conceptualised by different actors¹³. So while the authors of the government strategy may well have been 'well-intentioned policy makers'¹⁴ and genuinely interested in translating Corston's aspirations it could be argued that Corston and Eagle inhabit different 'life-worlds' '... with their own understanding of the nature of reality and how to move on...' ¹⁵. So while Eagle may have seen herself as translating Corston's intentions into practice she could only do so in the context of existing government culture, ideology and rhetoric¹⁶. This existing culture is so steeped in the politics of risk and

crime-management that the move to a gender-responsive perspective recognising the significance of generalised social harm could not be achieved. However both of these perspectives need to be situated within a broader understanding of the policy making process.

Kingdon¹⁷ argues that it is possible to identify different streams within the policy-making system: the problem stream (the process of identifying problems that need attention); the policy stream (the production of ideas to tackle the problem); and the political stream (understanding when the public mood was ready for the ideas generated in the first two streams). This analysis, according to Kingdon affords the opportunity for 'policy windows', when 'policy entrepreneurs' who have skill, energy and commitment, might be in a position to forge ahead with policy proposals when all three policy streams come together making conditions right for change. If we apply this analysis to the policy documents under discussion here it is possible to suggest that whilst there is agreement on the nature of the problem, there is less agreement on how to solve it, and even greater divergence on the question of the 'public mood'. It is in this latter respect that the government strategy reflects a presumption of penal populism amongst the general public not

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evident in the Corston Report (a presumption also picked up by Goldhill). Moreover whilst Corston or Eagle could be conceived as policy entrepreneurs (champions) in the punitive climate of contemporary criminal justice policy it is a moot point as whether they might ever have been successful in this role. So despite the fact that the existence of a policy network of interests was increasingly evident on the question of

11. Trowler, P., & Knight, P.T. (2002). Exploring the implementation gap: Theory and practices in change interventions. In P.R. Trowler (Ed.), Higher education policy and institutional change: Intentions and outcomes in turbulent environments (pp. 142-163). Buckingham, UK: SRHE and Open University Press p.144.
12. See n.1.
13. Shulock, N. (1999). The paradox of policy analysis: If it is not used why do we produce so much of it? *Journal of Policy Analysis and Management*, 18, 226-244.
14. Hannah-Moffatt see n.6 p.214.
15. Nudzor, H. P.(2009) 'Re-conceptualising the paradox in policy implementation: a post-modernist conceptual approach', *Discourse: Studies in the Cultural Politics of Education*, 30: 4, 501 — 513 p.504.
16. Ibid.
17. Kingdon, J. (1995) *Agendas, Alternatives and Public Policies 2/e*. New York; Harper Collins.

gender equality more generally, in the context of criminal justice policy what that actually implies was somewhat more limited. As a result the window for policy change looked rather narrow.

Jones and Newburn¹⁸ suggest that it is important to recognise that there are not only policy streams that operate at different levels within the policy making process, but '... that a distinction may be drawn between *policy styles, symbols, and rhetoric* and the more concrete and formalised manifestations of policy in terms of *policy content and instruments*' (their emphasis). The jury may still be out in relation to the latter of these two issues for the reports under discussion here, though it is useful to observe that both recognised the important work being done by women only/women centred projects at a local level. Indeed, it is on this latter point that despite their differing style and rhetoric there is some convergence between these two documents. So, whilst the window of opportunity might have been small, it is possible to suggest that opportunities still existed to take the gender specific concerns that arise from an appreciation of female law breaking behaviour forward. This offers one reading of this policy moment. Another can be located with the work of Pat Carlen.

In comparing and contrasting Canadian penal initiatives focusing on women with those being contemplated in England and Wales, Carlen¹⁹ observed that:

Since the inception of penal incarceration, the punitive function of the prison has been occluded by governmental, professional, or reformist claims that prisons — especially women's prisons — are, or could be, for something other than punishment: psychological readjustment, training in parenting, drugs rehabilitation, general education ... whatever else might provide a

legitimate rationale for locking up women who commit very serious crimes but (when there is nowhere else to contain them- for example, family, the reformatory or the factory) also those who commit very minor ones, too.

In trying to unpick why 'the myth of the benign prison persists'²⁰ she explores the ways in which common sense, theory, and official discourses close off 'alternative or 'extra-discursive' conditions shaping women's imprisonment'²¹. For the purposes of this discussion read 'women's law-breaking behaviour'. In this 2002 article Carlen documents then the ways in which concepts envisaged as having 'radical' potential by their authors (such as victim, need, risk, choice, citizenship) were transformed by official discourse on the prison and in the process of that transformation, all reference to the conditions of women's actual lived reality, such as poverty, race and class were eliminated. Whilst the transformations that Carlen highlighted have a number of elements to them, there are two that are particularly pertinent to the documents under discussion here: the 'translation of 'risk as dangerousness' from 'risk as need', and the translation of 'holism and partnership operationalised as centralism'²².

The discursive strategies that shift Corston's emphasis on harm done to women alongside her avowed commitment to a 'holistic, radically different, woman centred, integrated approach', are clearly transposed in the government strategy: 'harm done to' into 'harm done by' and partnership as centralism both pointed to in Carlen's analysis. Chesney-Lind²³ suggests that such processes constitute a strategy of co-optation that is contributing to the rising female prison population. A processes through which, what she calls 'the emergence of vengeful equity' (the problem of sameness) does little to take account of women's needs (the question of difference). Indeed the subtlety of these mechanisms has

. . . whilst the window of opportunity might have been small, it is possible to suggest that opportunities still existed to take the gender specific concerns that arise from an appreciation of female law breaking behaviour forward.

18. Jones, T. and Newburn, T. (2002) Policy convergence and crime control in the USA and the UK; streams of influence and levels of impact. *Criminal Justice* 2 (20): 173-204 p.182.

19. Carlen, P. (2002) Controlling measures: the repackaging of common-sense opposition to women's imprisonment in England and Canada. *Criminal Justice* 2(2): 155-72 p.159.

20. Ibid.

21. Ibid p.161.

22. Ibid p.167.

23. Chesney-Lind, M. (2006) Patriarchy, crime and justice; feminist criminology in an era of backlash. *Feminist Criminology* 1(1): 6-26 p.17.

Conclusion

been observed in relation to the wider question of risk. Hannah-Moffatt²⁴, for example, points to the way in which the unacknowledged gendered nature of risk assessments are being transformed into similarly unacknowledged needs assessments for females 'at risk' of offending thus reflecting presumptions of sameness (see also Kendall and Pollack²⁵ on regulating prisoners). Indeed Davidson and Chesney-Lind²⁶ add that such presumptions may result in an over-classification and under-classification of women at risk all at the same time.

Why is this happening? For Carlen²⁷ the answer to this question lies with the 'political problem [of] the management of penal legitimacy' so that 'more and more women can be locked up in the future — so that their 'criminogenic' needs can be met' — legitimately. Of course, as her later work intimates, this does not mean that alternative work does not go on within the penal estate and elsewhere. There is indeed a co-existence of the 'imaginaries' of policy and the 'imaginaries' of those charged with implementation of policy²⁸ both of which take their toll (on female offenders) in different ways. So following Carlen, the likelihood that a woman centred approach would be taken forward within the criminal justice system in the aftermath of Corston was small indeed. Put simply, in the 'risk crazed'²⁹ governance of crime — however well-intentioned — policy-makers and politicians, as a collective, just 'don't get it'. Moreover they are unable to see that they 'don't get it' that is how deeply ingrained the risk frame of reference has become.

In May 2010 the era of New Labour came to an end. The subsequent Coalition Government is getting to terms with the kinds of financial measures that they have deemed are required to meet the current economic circumstances in which we find ourselves: popularly referred as 'austerity measures'. Whilst at the time of writing the outcome of the public expenditure review has yet to be revealed, Kenneth Clarke has already made some telling interventions on both the expense of imprisonment and the appropriateness of its use. Although contra-indicated, these circumstances might be those in which we can spot a shaft of light at the end of the risk-crazed tunnel. As the public spending review takes a grip, it is always possible, that the community alternatives proposed by Corston, could be the means to which both politicians and policy-makers (it will need the like mindedness of both groups) turn in order to manage female offending. This turn, of course, will not be generated from within the ethos of holism that featured so strongly in Corston, but will be driven instead by cost-effectiveness. This may be an unintended consequence of the present financial crisis, of that there is no doubt, but it is a consequence that may be possible, and which could result in some benefits for those female offenders for whom at present the penal response does very little.

24. Hannah-Moffatt, K. (2006) Pandora's box: risk/need and gender responsive corrections. *Criminology and Public Policy* 5(1): 183-91.

25. Kendall, K. and Pollack, S. (2005) Taming the Shrew: regulation prisoners through women-centered mental health programming. *Critical Criminology* 13: 71-87.

26. Davidson, J. and Chesney-Lind, M. (2009) Discounting women: context matters in risk and need assessment. *Critical Criminology* 17: 221-245.

27. Carlen (2002) see n.19 p.170

28. Carlen, P. (ed) (2008) *Imaginary Penalties*. Cullompton, Devon: Willan.

29. Ibid.

Media portrayals of female murder offenders

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It becomes transparent that the reason why the media and public are so fascinated by serial killers is that these people kill at will, requiring no legislation, without asking for or needing permission, the very concept never entering their mind

The media's vested interest is to deliberately inflate, out of greed to sell newspapers and boost TV ratings, an immense and often dangerous public hysteria and panic regarding the serial killer¹.

Previous estimates of serial killing have fuelled inaccurate media perceptions due to varying estimates by criminological researchers. For example, Holmes and DeBurger² estimated 3000-5000 victims by serial murder each year, which translates into 144 murders per serial murderer each year. O'Reilly-Fleming³ claims it is more likely that there are ten or less serial murderers operating per year, which would result in approximately 100 victims. Rowlands⁴ reports that there were only 30 multiple [serial] murderers active in the United States during a 14-year period (1970-1984).

Regardless of the total number of serial murderers who murder each year, one is enough to generate an atmosphere of fear and intimidation. The application of news values changes depending on the given social and historical time period. For example, Schlesinger and Tumber⁵ suggest that murder has perhaps lost some significance in today's society with respect to reporting in the news, although concerns remain, particularly for violence which is perceived to be gruesome. Naylor⁶ indicates that news values themselves are culture-specific, while reporting of

violence may also be regarded as a social marker that mirrors society's attitudes and values regarding gender.^{7,8}

Furthermore, multiple narratives may be working within reports of women's violence. For example, violence committed by women challenges dominant ideas of gender; it may be alternately constructed as frightening (for example, domestic killing and revenge behaviour, challenging patriarchal society) or trivialising (that is, unthreatening or amusing), conveying the message that women are not capable of masculine violence.⁹ In comparison, while violence committed by men is also censured, it is also understood to be an aspect of masculinity^{10,11}. Women who assume stereotypically masculine characteristics, such as aggression or strength, may be perceived as abnormal in comparison to women with more feminine attributes and regarded with suspicion. The news media utilise these narratives in their reporting of violent female offenders and therefore play a role in shaping news and reality for the public.

Imagery and Themes used by the Media

Images of women in society impact the ways in which female offenders and victims are viewed. Rafter and Stanko¹² identified six images of women that influence how they are perceived in both society and the criminal justice system: 1) the 'pawn of biology' in which women are viewed as 'gripped by biological forces beyond [their] control'; 2) 'impulsive and nonanalytical' in which women seemingly act intuitively and illogically; 3) 'passive and weak' in which women are seen as easy prey for victimisation or compliant accomplices; 4) 'impressionable and in need of

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1. Brady, I. (2001). *The Gates of Janus: Serial Killing and its Analysis*. Feral House p.84 & 73.
 2. Holmes, R.M. and DeBurger, J.E. (1988). *Serial Murder*. Newbury Park, CA: Sage.
 3. O'Reilly-Fleming, T. (ed.). (1996). *Serial and Mass Murder: Theory, Research and Policy*. Toronto: Canadian. Scholars' Press Inc.
 4. Rowlands, M. (1990). Multiple Murder: A Review of the International Literature. *Journal of the College of Prison Medicine*. 1:3-7.
 5. Schlesinger, P. and Tumber, H. (1994). *Reporting Crime: The Media Politics of Criminal Justice*. Oxford: Clarendon Press.
 6. Naylor, B. (2001). Reporting violence in the British print media: gendered stories. *The Howard Journal*, 40(2): 180-194 and Naylor, B.G. (2002). *Representing Violent Women: Gender and Crime Reporting in the British Print Media*. Cambridge University.
 7. See also Schlesinger and Tumber. (1994) see n.5.
 8. Skidmore, P. (1995). Telling tales: media power, ideology and the reporting of child sexual abuse in Britain. In Kidd-Hewitt, D. and Osborne, R. (eds.), *Crime and the Media: The Post-Modern Spectacle*. London: Pluto Press.
 9. Naylor (2002) see n.6.
 10. Messerschmidt, J. (1993). *Masculinities and Crime: Critique and Reconceptualization of Theory*. Lanham, MD: Rowman & Littlefield.
 11. Wykes, M. (1995). Passion, marriage and murder: analysing the press discourse. In, Dobash, R., Emerson, R., Dobash, R.P. and Noaks, L. (eds.), *Gender and Crime*, p. 49. Cardiff, University of Wales.
 12. Rafter, H.N. and Stanko, A.E. (1982). *Judge, Lawyer, Victim, Thief: Women, Gender Roles, and Criminal Justice*. Boston: Northeastern University Press p.3.

protection' in which women are viewed as 'gullible and easily led astray'; 5) 'active woman as masculine' in which women who break from stereotypical passive roles as deviant and likely to be criminal and also likely to be viewed as lesbian; and 6) 'purely evil' suggests that it is worse for women to be criminal than for men because women are breaking out of both law-abiding boundaries and stereotypical gender role boundaries.

Criminological theories may reinforce stereotypes of women, which might affect how they are viewed in society and by the criminal justice system. For example, Butcher et al.¹³ contend that the media image of women is fragmented: 'no woman is just a sex object, mother, housewife, whore, she manages to unify these contradictory images of herself. She is on the surface a woman; underneath, those parts'. However, women who commit murder tend to be labelled even more broadly as 'evil' (deliberately intended to cause harm) or 'good' (did not deliberately intend to cause harm). The images of female offenders that have been identified from this media analysis incorporate Rafter and Stanko's¹⁴ images along with themes developed from offender and media categorisations¹⁵.

The Evil Woman

*If only there were evil people somewhere insidiously committing evil deeds, and it were necessary only to separate them from the rest of us and destroy them. But the line dividing good and evil cuts through the heart of every human being. And who is willing to destroy a piece of his own heart?*¹⁶

History reveals that conceptions of evil may be gendered. For example, Krafft-Ebing¹⁷ contends that

... women who commit murder tend to be labelled even more broadly as 'evil' (deliberately intended to cause harm) or 'good' (did not deliberately intend to cause harm).

serial murder is a male phenomenon: 'such monstrous acts ... are much more frequent [in men] than [in] women'. Zimbardo¹⁸ suggests that dispositional causes (i.e., inherent personal qualities that lead to the action, such as genetic makeup, personality traits, character, free will, and other dispositions) are frequently sought as an explanation for evil. Zimbardo¹⁹ further argues that the *Malleus Maleficarum* (i.e., 'The Witches Hammer')²⁰ used during the time of the Inquisition, was one of the first documented sources of the 'widespread use of the dispositional view to understand evil and rid the world of its pernicious influence'. It was believed

that despite God's restriction of the Devil's direct influence over humans, who had earlier corrupted Adam and Eve, he was still able to use intermediaries (i.e., witches) as an indirect link to corrupt people²¹. Therefore, targeting 'witches' as the dispositional category seemingly created the solution to societal evil by 'destroying as many agents of evil as could be identified, tortured, and boiled in oil or burned at the stake'²² Klaitz²³ claims:

The witch craze often has been described as one of the most terrible instances of man's inhumanity to man.

But more accurate is the formulation of gender, not genus: witch trials exemplify men's inhumanity to women. The sexually powerful and menacing witch figure was nearly always portrayed as female.

It was more likely for women to be labelled as witches, given that men ran the Church and its State alliance²⁴ Elite members of society, acting with church reformers in a bid to consolidate their economic power and control targeted women, dissenters or the poor.²⁵

13. Butcher, H., Coward, R., Evaristi, M., Garber, G., Harrison, R., and Winship, J. (1981). Images of women in the media. In, Gray, A., Campbell, J., Erickson, M., Hanson, S., and Wood, H. (eds.), *CCCS Selected Working Papers*. London: Routledge p.319.

14. Rafter, H.N. and Stanko, A.E. (1982) see n.12.

15. For a further discussion of these issues see Gurian, E.A. (*in review*). Discourses of female homicide offenders in the media. *Journalism*.

16. Solzhenitsyn, A.I. (1974). *The Gulag Archipelago, 1918-1956 : an Experiment in Literary Investigation, I-II*, translated from the Russian by Thomas P. Whitney. London : Collins : Harvill Press p.168.

17. Krafft-Ebing, R. von. (1886). *Psychopathia Sexualis*. Philadelphia, PA: F.A. Davis p.59.

18. Zimbardo, P. (2007). *The Lucifer Effect: How Good People Turn Evil*. London: Rider p.7.

19. *Ibid* p.8-9.

20. Kramer, H. and Sprenger, J. (1486/1948). *The Malleus Maleficarum of Kramer and Sprenger ("The Witches Hammer")*, edited and translated by Rev. Montague Summers. New York: Dover.

21. Zimbardo (2007) see n.18.

22. *Ibid* p.9.

23. Klaitz, J. (1985). *Servants of Satan: the age of the witch hunts*. Bloomington, IN: Indiana University Press p.152.

24. Zimbardo (2007) see n.18.

25. Noddings, N. (1989). *Women and Evil*. Berkeley: University of California Press.

Female murder offenders may occasionally be referred to as 'evil' or 'wicked'. However, Waller²⁶ contends that 'despite its universality in human affairs, 'evil' is not a frequently studied construct with a generally accepted definition'. Yet a range of definitions for evil exists. Thomas Hobbes, the seventeenth century English philosopher, wrote 'No man calleth good or evil but that which is so in his own eyes'.²⁷ Susan Sontag also argued that while 'we have a sense of evil', we no longer have 'the religious or philosophical language to talk intelligently about evil'²⁸ For Durkheim, evil is theorized as 'the absence of the good instead of the presence of something unto itself'.²⁹ Others have theorised that evil may occur through an individual's basic struggle for survival^{30,31} Evil may also be simply defined as the intentional harming of others³² Furthermore, Greig³³ notes how a seeming lack of motivation (for example, in murder cases) can result to the ascription of evil to explain the 'dysjunction between the very ordinariness of the context and the sudden explosion of violence ... [an] almost mystical element'. This logic may be employed in order to deny that 'normal' people have the capacity to commit crimes of extreme violence.

Comments made by court players noted in media reports tend to highlight the *evilness* and *otherness* of the offender. For example, the prosecution in the Aileen Wuornos case argued that she was a 'remorseless, diabolical killer'.³⁴ In the Susan Basso et al. case, defence attorney Loretta Johnson Muldrow asked jurors

to 'remember that a 'beast' gave birth to [James O'Malley]'³⁵ Federal prosecutors told jurors that 'Lisa Montgomery violated an expectant mother in the 'most wicked way possible'.³⁶

The 'Invisible Woman'

Studies on offending generally use male samples, despite gender being the strongest factor for indicating an individual's likelihood to break the law; 'sex, the most powerful variable regarding crime has been virtually ignored'.³⁷ Belknap (2002) explored women and girls in the criminal justice system and in criminology, describing them for the most part as 'invisible'. Likewise, studies on women in the media reveal that they may also be subject to 'symbolic annihilation', in which women may be treated with 'condemnation, trivialization, or absence' compared to men in the news.³⁸

Feinman's³⁹ research on the dichotomisation of women 'madonnas' or 'whores' contends that 'madonnas' produce children and are sweet and passive, while 'whores' fail to follow the prescribed societal role defined by the madonna category. However, Young⁴⁰ argues that where the madonna/whore dichotomy suggests a division of good girl/bad girl, categories of colour do not include the 'good girl'. Welldon⁴¹ trichotomises women's lives into 'madonna's', 'whores' and 'mothers', contending that women are made victims or sexual objects or removed

Studies on offending generally use male samples, despite gender being the strongest factor for indicating an individual's likelihood to break the law; 'sex, the most powerful variable regarding crime has been virtually ignored'.

26. Waller, J.E. (2007). *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing*, 2nd ed. Oxford: Oxford University Press p.11.
27. Quoted in *The Leviathan* (1660), chapter 46.
28. Sontag, S. (1978). *Illness as Metaphor*. New York: Farrar, Straus and Giroux p.85.
29. Cushman, T. (2001). The Reflexivity of Evil: Modernity and Moral Transgression in the War in Bosnia. In, J.L. Geddes (ed.), *Evil after Postmodernism: Histories, Narratives, Ethics*. London: Routledge p.80 emphasis in original.
30. Alford, C.F. (1997). *What Evil Means to Us*. Ithaca: Cornell University Press p.101.
31. Becker, E. (1975). *Escape from Evil*. New York: The Free Press p.13.
32. Zimbardo (2007) see n.18 p.5.
33. Greig, D. (1996). Criminal responsibility and the concept of evil. *Psychiatry, Psychology and Law*, 3(2): 163-178 p.167.
34. Lavin, C. (1992). Jury urges death for Wuornos. *St. Petersburg Times*, 31 January, p. 1A.
35. Brewer, S. (1999e). Jury deliberates fate of first defendant; five others await trial in beating death of mentally impaired man. *The Houston Chronicle*, 21 April, p. 25.
36. Anon. (2007). Cutting baby from womb was 'worst crime,' prosecutor says. Arguments proceed over death penalty in the killing of Bobbie Jo Stinnett. *St. Louis Post-Dispatch*, 26 October, p. C10.
37. Leonard, E. B. (1982). *Women crime & society*. London: Longman p. xi.
38. Tuchman, G. (1981). Myth and the consciousness industry: a new look at the effects of the mass media. In Katz, E. and Szecsko, T. (eds.), *Mass Media and Social Change*, pp. 83 — 100. London: Sage p.169.
39. Feinman, C. (1986). *Women in the Criminal Justice System*. Praeger Publishers.
40. Young, V.D. (1986). Gender expectations and their impact on black female offenders and victims. *Justice Quarterly*, 3(3): 305-327.
41. Welldon, E.V. (1988). *Mother, Madonna, Whore: The Idealization and Denigration of Motherhood*. New York: Other Press p.86.

of their power by their male counterparts. These theories may account for limited reporting on offenders who were prostitutes and more extensive coverage on victims who were mothers.

Female homicide offenders tended to be *first* described as a wife, mother, or woman in the headlines or initial lines of text *before* their names were mentioned. The *Houston Chronicle*⁴² began a news story on Kenisha Berry: 'A woman believed to be the mother of a newborn girl found abandoned ...'. These female offenders were also described through their victims or occupations (e.g., nurse, landlady or prostitute). For example, the *St. Louis-Post Dispatch*⁴³ headlined a news story on Lisa Montgomery: 'Pregnant woman's killer found guilty'.

Female Biology / The Maternal Woman

In this narrative, female offenders may be represented as simply having no control; their actions are innate. Criminologist Pollak⁴⁴ contends that women are 'a population group which is characterized by psychologically disturbing biological crises'. Furthermore, female biology (for example, menstruation) may produce (via social preconception) psychological disturbances in women that could be associated with homicide, theft, arson, and resistance against public officials.⁴⁵ Naylor⁴⁶ explains, 'the woman is thus 'feminine' and can [be] understood within socially acceptable terms and (usually) excused'. Jewkes⁴⁷ argues:

Treating women who commit infanticide of filicide as hormonally disturbed perpetuates the 'myth of motherhood'⁴⁸ and suggest that 'normal' women are naturally maternal and find motherhood constantly fulfilling and joyful. While this is a dominant construction in

Women's role as carers and mothers challenges society to accept that women can also harm children.

mediated discourses, especially advertising, it is an image that is at odds with the stark reality that for many women motherhood can be anything but, for a variety of structural reasons (poverty, lack of support and so on) as well as physiological and psychological ones.⁴⁹

Therefore, female offenders who kill or injure their children may be framed within discourses of post-natal depression or depression in general.

Society's glorification of motherhood may serve to conceal the perverse or damaging maternal attitudes of some women towards their children⁵⁰ Rascovsky and

Rascovsky⁵¹ in their classical study on filicide drew attention to the injuries of infants caused by parents. These authors stated that the neglect of research in this area (particularly in psychoanalytical literature), could be regarded as 'an aspect of the universal resistance to acknowledging the mother's filicide drives, undoubtedly the most dreaded and uncanny truth for us to face'.⁵² Women's role as carers and mothers challenges

society to accept that women can also harm children.⁵³

The *LA Times*⁵⁴ reported that Cynthia Coffman 'graduated high school pregnant and was a mother at 18. After little more than a year ... [her] marriage unraveled'. Christene Kemmerlin also reportedly gave up a child for adoption at age 13, had an abortion at age 15, and got married and had a daughter at 17, but then divorced within two years.

The Sexual Deviant / The Lesbian / Othering

Issues of sexuality and gender are themes that ran throughout the reporting of the news stories on female murderers. Ngaire Naffine⁵⁵ states that 'crime is symbolically masculine and masculinity supplies the motive for a good deal of crime'. Women's violence as

42. Anon. (2003). Woman thought to be infant's mom arraigned. *The Houston Chronicle*, 14 June, p. 32.

43. Anon. (2007). Pregnant woman's killer found guilty. *St. Louis Post-Dispatch*, 23 October, p. B8.

44. Pollak, O. (1950). *The Criminality of women*. Philadelphia: University of Pennsylvania Press p.147.

45. Ibid p.158.

46. Naylor (2002) p.258 see n.6.

47. Jewkes, Y. (2004). *Media & Crime*. London: Sage Publications Ltd p.127.

48. Oakley, A. (1986) Feminism, motherhood and medicine — Who cares? In: Mitchell J, Oakley A (eds.), *What is Feminism?* Oxford: Basil Blackwell, pp.127-150.

49. Wilczynski, A. (1997). Mad or bad? Child-killers, gender and the courts. *Brit J Criminol.* 37(3): 419-436.

50. Wellon (1988) see n.41.

51. Rascovsky, A. and Rascovsky, M. (1968) 'On the Genesis of Acting Out and Psychopathic Behavior in Sophocles' Oedipus', *International Journal of Psycho-Analysis* 49(2): 390-395.

52. Ibid p.390.

53. Jewkes (2004) see n.47.

54. Lait, M. (1992a). Second death penalty seen as costly effort. *Los Angeles Times*, 5 April, p. 1.

55. Naffine, N. (1987). *Female Crime: The Construction of Women in Criminology*. Boston: Allen and Unwin. p.43.

reported in the media therefore involves fundamental issues in regard to gender; 'The construction of the violent woman as masculine/non-feminine occurs in a context of masculinity (including men's violence) as active and rational, in contrast to the 'excessive' behaviour of the feminine', which is seemingly viewed as passive and irrational.⁵⁶ Another narrative regarding gendered behaviour is when women fail to conform to the feminine ideal, for example behaving in an aggressive or non-maternal fashion. However, women may also actively choose to rebuke the feminine ideal. This may be exemplified through cases such as Aileen Wuornos. For example, the *St. Petersburg Times* reported that Wuornos was a lesbian and she described herself as the 'white slave' of her 'needy female lover' (Tyria Moore).⁵⁷

Suggesting improper sexuality is a recognised means of 'othering'.⁵⁸ The 'bad' woman was a non-woman, a Lady Macbeth, a witch, or a whore.^{59,60} Sexuality was central to these images, where the madonna/whore dichotomy was utilised more generally in representation of the female.⁶¹

The Black Widow

Women who murder are visible as women, while men who murder are viewed simply as killers. Women also generally receive gendered labels for their murders, such as 'the black widow'. Boyle⁶² contends that labels draw attention 'both to the criminal act and the gender transgression'. However, men do not receive equivalent labels 'because their actions are not gender-transgressive but normative'.⁶³ Women's violence may therefore threaten to uncover the constructed nature of gender.⁶⁴ 'Black widow' was not a label used specifically within recent media reports, which is perhaps an indication that this gendered label has become outdated.

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viewed simply
as killers.

The nickname 'black widow' recalls the poisonous spider that kills its mate when it is no longer useful. Indeed, female serial killers in general tend to use poison to kill their victims, who are usually intimates or family members.⁶⁵ 'Black widows' kill for profit, claiming the insurance policies, pensions or other inheritances from their victims. Previously, poison was arguably a useful means in dispatching multiple victims in that it was more difficult to link deaths and also relied on the death looking 'natural'; however, with the advent of scientific techniques for analysing tissue samples, some profit killers have also evolved their methods. For example, a number of female murder offenders have used guns to dispatch their victim(s) and then disposed of the body in more creative ways, such as burying the bodies.

A number of offenders within this sub-sample committed crimes for profit. For example, The *New York Times*⁶⁶ focussed on the nature of the Kimes' relationship: 'Interviews and a review of court records revealed a story of a tyrannical mother and a malleable son caught in a bizarre relationship, living a life of scams and aliases'.

The 'Angel of Death'

A commonly used phrase in describing nurses who murder their patients is 'angel of death'. According to Sautman,⁶⁷ folk tales frequently feature the theme of women's conflicting dual role as birth and death giver. Although nurses may be referred to as 'angels' in popular discourses, the phrase 'angel of death' (bringer of death) contradicts the associations with the word 'angel' (i.e., bringer of life or healing).

An underlying theme to the 'angel' narrative was one of the nurse employing medical means to murder, using her clinical knowledge to kill instead of heal, which according to Naylor⁶⁸ draws 'on narratives about

56. Naylor (2002) see n.6 p.253.

57. Lavin (1992) see n.34.

58. Naylor (2002) see n.6.

59. Heidensohn, F. (1985). *Women and Crime*. London: Macmillan.

60. Fox, M. (1996). Crime and punishment: representations of female killers in law and literature. In, Morison, J. and Bell, C. (eds.), *Tall Stories? Reading Law and Literature*. Aldershot: Dartmouth.

61. Macdonald, M. (1995). *Representing Women: Myths of Femininity in the Popular Media*. London: Edward Arnold.

62. Boyle, K. (2005). *Media and Violence*. London: Sage p.95.

63. Ibid.

64. Ibid.

65. Gurian, E.A. (in press). Female Serial Murderers: Directions for Future Research on a Hidden Population. *International Journal of Offender Therapy and Comparative Criminology*.

66. Barnes, J.E. (2000d). Defense lawyers in murder of socialite attack investigation and caretaker. *The New York Times*, 19 February, p. 5.

67. Sautman, F. (1986). Woman as Birth-and-Death-Giver in Folk Tradition: a Cross-cultural Perspective. *Women's Studies*, 12: 213-239.

68. Naylor (2002) p.225.

women/witch doctors, and woman as witch' along with historical and symbolic ideas regarding women who kill by poisoning.^{69,70} As Sparks⁷¹ points out, the term 'nurse' (along with 'nanny' and 'secretary') is an 'unmarked' form of noun in gender terms; it is automatically seen as feminine (as distinct from, for instance, judge, criminal (and doctor), which, in their unmarked cases will automatically take the masculine pronoun.⁷²

Nurse Vickie Dawn Jackson's behaviour was explained: '... the modern-day hospital leaves all these medications at the fingertips of anyone who wants to play God with a patient. They need to be more careful with them, but the current hospital environment creates an opportunity for psychopaths'.⁷³ Michael R. Graham, chief executive officer of Nocona Hospital, was also quoted, 'When you have an alleged serial killer working in your hospital, it doesn't matter what policies and procedures you have in place. That person is going to do what they're going to do'.⁷⁴

The Mentally Ill Woman

*The suspicion is most often expressed today by the thought that people who commit appalling acts must necessarily be mad, that is, ill. And although the whole notion of mental illness has come under attack for other reasons, people still tend to regard it as the only possible humane response to this particular problem.*⁷⁵

Attributing mental illness to women who commit violence is a conventional 'pathologising' approach⁷⁶ Naylor⁷⁷ argues that 'Mental illness can connote the

'female' ... and also lack of responsibility or agency'. 'Madness' seemingly leads to sympathetic or 'chivalrous' treatment, and is constructed by narratives such as mental disorder^{78,79} the madness of love, or the fool for love^{80,81} However, women who acted out of 'jealousy' or anger are generally *not* recipients of chivalrous treatment. Female murder offenders may often be characterised as having some form of mental illness, such as post-traumatic stress disorder or depression.

Defence lawyers contended that their clients suffered from a range of mental disorders, including: borderline personality disorder, depression, and post-traumatic stress disorder. Defence attorney Frederick Duchardt Jr. contended that Lisa Montgomery 'had a condition called pseudocyesis, in which a woman falsely believes she is pregnant and can exhibit some of the outward signs of pregnancy'⁸² Prosecutors generally countered by arguing that the defendant was faking mental illness to aid her defence and had acted rationally when she committed the crime(s).

Female murder offenders may often be characterised as having some form of mental illness, such as post-traumatic stress disorder or depression.

Discussion

This article examines how the portrayal of female homicide offenders by the media perpetuates gendered stereotypes regarding acts of murder. Female offenders are commonly portrayed as antithetical to their 'natural role' (i.e., mothers, caregivers) in order to emphasise their deviant and abnormal behaviour. Media stories on these offenders tend to focus on the narratives which render these women invisible or 'other'.

Constructions of the serial killer as a *masculine* entity may impede news stories of the female offender. For example, 'both crime statistics and crime news

69. Pollack (1950) see n.44.

70. Jones, A. (1981). *Women Who Kill*. New York: Fawcett Columbine.

71. Sparks, R. (1996). Masculinity and heroism in the Hollywood 'blockbuster': the culture industry and contemporary images of crime and law enforcement. *British Journal of Criminology*, 36(3): 348-360. p.348.

72. This may also occur in the term 'serial killer', which may automatically be seen as masculine and may account for why women were less likely to be included in media reports.

73. Moore, E. (2001). 20 deaths in hospital investigated; exhumations may prove homicide. *The Houston Chronicle*, 29 April, p. 1.

74. Anon. (2002a). Ex-nurse indicted in hospital deaths. *The Houston Chronicle*, 17 July, p. 21.

75. Midgley, M. (1986). *Wickedness: A Philosophical Essay*. Great Britain: Cox & Wyman, Limited, Reading.

76. Allen, H. (1987). *Justice Unbalanced: Gender, Psychiatry and Judicial Decisions*. Milton Keynes, England: Open University Press.

77. Naylor (2002) see n.6 p.233.

78. Heidensohn (1985).see n.59.

79. Wilczynski (1997) see n.49.

80. Naylor, B. (1995). Women's crime and media coverage: Making explanations. *Gender and Crime*, R.E. Dobash, R.P. Dobash and L. Noaks. Cardiff: University of Wales.

81. Fox (1996) see n.60.

82. Anon. (2007). Slain woman stood up for alleged killer. *St. Louis Post-Dispatch*, 7 October, p. C6.

portray offending as predominately a male activity'.⁸³ Indeed, it is possible that law enforcement professionals, researchers and the public may be 'more attracted to the media agenda than they are willing to recognise' and thus more 'comfortable' with the perception of serial murderers as 'evil men' who kill innocent strangers.⁸⁴ Woman who kill may be viewed by society as operating under the spectrum of good or evil actions, either as 'compassionate' or 'cold-blooded' killers depending on a number of factors (including the level of premeditation involved in the murder, characteristics of the victim (such as age and health), and characteristics of the offender (such as mental health and societal issues including sexuality and domesticity)).^{85,86}

Jewkes⁸⁷ suggests, 'The failure of the media to acknowledge the agency of women involved in serious offences is also apparent in terms of the delicacy with which the media side-step the actual details of their offences'. That is to say, crimes of rape, sexual abuse or extreme violence committed by women are rarely reported by the media in detail; readers may be aware that offenders such as Myra Hindley or Rose West were involved in sexual crimes along with multiple murders but the details remain ambiguous as does their

involvement. This sidestepping by news outlets is surprising 'given the appetite for sex that is often attributed to the popular presses and its readership'.⁸⁸ Morrissey claims, '[a]pparently, so these news stories say, men rape and murder, women watch and help with the clean up'.⁸⁹ Indeed, given that violent female offenders deviate from 'conventional hegemonic, heteropatriarchal conceptions of femininity'⁹⁰ it is possible that the media may simply be unable to report on women who participate in extreme violence or sex crimes.

The media perpetuate a number of sex role stereotypes in their construction of news reports on female murderers. It is not proposed that the media increase the visibility of female murderers in the news by suddenly publishing more stories; this could result in the illusion of a 'crime wave' of female murderers. The relationship between media reporting and treatment of women in the criminal justice system is complex, but news reporting could be improved and made more accurate by fact checking and considering word selection, omission, the use of the offender's name, and attention to issues such as gender. Using gender-neutral classifications and terminology in these news stories may limit stereotyping of sex roles by the media.

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83. Sacco, V.F. (1995). Media constructions of crime. *The Annals of the American Academy of Political and Social Science*, 539: 141-154. p.143.
84. Soothill, K. and Wilson, D. (2005). Theorising the puzzle that is Harold Shipman. *Journal of Forensic Psychiatry & Psychology*, 16(4): 685-698. p.686.
85. Carlen, P. (1983). *Women's Imprisonment*. London, Routledge & Kegan Paul.
86. Worrall, A. (1990). *Offending Women: Female Lawbreakers and the Criminal Justice System*. London: Routledge.
87. Jewkes (2004) see n.47.
88. Ibid p.131.
89. Morrissey, B. (2003). *When Women Kill: Questions of Agency and Subjectivity*. New York: Routledge. p.153.
90. Jewkes (2004) see n.47 p.131.

'Mothering from the Inside'

— A Small Scale Evaluation of Acorn House, an Overnight Child Contact Facility at HMP Askham Grange

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Staff at Askham Grange open prison have been facilitating overnight contact for imprisoned mothers and their children for over two years. Children and young people stay with their mothers for up to 48 hours in 'Acorn House', which is within the prison grounds, with no intervention from staff, apart from when meals are brought from the main prison. Situated within a whole prison commitment to family support this innovative and pioneering project enables imprisoned mothers to spend quality private time with their children and to experience normal maternal activities. The safeguarding implications of this have been considered and approved by the local Safeguarding Board. If they are involved, Social Workers are consulted and careful consideration is given to the impact of staying overnight for the children involved, taking into account when they last stayed overnight with their mother. This article will focus upon what the authors learned from interviewing children and imprisoned mothers who have used Acorn House about the limitations of the usual prison visiting arrangements, compared to the benefits offered by overnight contact at Acorn House.

Children who have a mother in prison are likely to experience far more disruption than those who have a father in prison. This is explained by the fact that only

5 per cent of children whose mothers are sentenced to imprisonment remain in the home they were living in prior to their mother's sentence². Also, only 9 per cent of children are cared for by their father during their mother's sentence³. This contrasts with 90 per cent of children with a father in prison being cared for by their mother in their own home⁴. The implications of this for children and young people with a mother in prison are huge. They may have to move school and lose contact with their friends and familiar surroundings at a time when these points of stability could be particularly important to them in terms of assisting them to cope.

Imprisoned mothers cite being separated from their children as the most difficult aspect of incarceration⁵, with a fear of losing contact exacerbating mental health and substance misuse problems⁶. Loper and Tuerk⁷ have shown that levels of anxiety and stress are similar between mothers and non-mothers upon entering prison, however, mothers' levels of anxiety remained after a six-month period whereas those of non-mothers were diminished⁸. They have also shown that mothers in prison experience high levels of role strain, with a reduction in parenting confidence⁹. Borrill et al¹⁰ highlighted consistent themes of loss and rejection in their exploration of the motivations and intentions of women in prison who attempt suicide. The most common factor they identified related to a loss of contact with or rejection

1. With thanks to Amanda Swallow, PhD student within the Centre for Applied Childhood Studies, who provided a literature review on children of prisoners.
2. Caddle, D. and Crisp, D. (1997) *Imprisoned Women and Mothers*. London: Home Office.
3. HM Government (2007) Response to Baroness Corston report: a Review of Women with Particular Vulnerabilities in the Criminal Justice System.
4. Caddle and Crisp (1997) see n.2.
5. Carlen, P. & Worrall, A. (2004). *Analysing Women's Imprisonment*. Devon: Willan Publishing.
6. Caddle and Crisp (1997) see n.2, Robertson, O. (2007) *The Impact of Parental Imprisonment on Children*, Quaker United Nations office, Geneva.
7. Loper, A. and Tuerk, E. (2006) 'Contact between incarcerated mothers and their children: assessing parenting stress'. *Journal of Offender Rehabilitation*. vol.43. no.1. pp:23-43.
8. See also Shami, M. & Kochal, R. (2008) 'Motherhood Starts in Prison': The Experience of Motherhood Among Women in Prison' *Family Process*, Vol. 47. 3.pp:323-340.
9. Loper and Tuerk (2006) see n.7.
10. Borrill, J., Snow, L., Medicott, D., Teers, K. and Paton, J. (2005) 'Learning from 'Near Misses': interviews with women who survived an incident of severe self-harm in prison'. *The Howard Journal*. vol.44. no.1. pp.57-69.

from their children. Loper and Tuerk¹¹ highlight that higher levels of contact between mothers and their children during imprisonment greatly assists the continuation of their relationship and protects both from experiencing the separation as devastating total loss.

It is widely recognised that for imprisoned mothers maintaining contact with their children can have a powerful impact upon their rehabilitation and resettlement, and is crucial to help them make and sustain the changes that reduce re-offending¹². This is reflected in current policy with initiatives to create better resources and support in visitor centres, enhanced family visits and parenting programmes. However, the reality of women's imprisonment means that around 50 per cent of imprisoned mothers do not receive visits from their children throughout their sentence¹³. The most commonly cited barrier to visiting relates to logistical difficulties, with women held on average 62 miles away from their home¹⁴. The lack of visits may also be explained by the unsatisfactory nature of the normal visiting arrangements for mothers and their children, which is confirmed by the findings of this research.

The substantial increase in the female prison population in England and Wales from 1,979 in June 1995 to 4,282 in June 2010¹⁵ has greatly increased the number of families disrupted through maternal imprisonment each year. Approximately 66 per cent of women in prison are mothers with dependent children under the age of 18 years¹⁶. Since it is not currently mandatory for prisons to record the details of prisoners'

children, it is estimated that over 17,000 children a year are separated from their mother as a result of imprisonment¹⁷.

There is a consensus amongst researchers that there are particularly negative effects on children who experience parental imprisonment. The impact is manifested as: experiences of trauma and increased potential of experiencing mental health issues¹⁸; experiences of stigma¹⁹; experiences of social exclusion²⁰; and potentially an increased risk of expressing anti-social behaviour²¹. Boswell and Wedge²² highlighted that children losing a parent due to imprisonment may experience it as bereavement, but without the sympathy that would accompany the death of a parent. With women making up only 5 per cent of the prison population²³, having a mother in prison is relatively unusual. Therefore the stigma attached to having a mother in prison is generally greater for children than having a father in prison.

In recognition of the above factors, and the limitations of existing visiting facilities, The Head of Children and Families within HMP Askham Grange explained she identified the need for Acorn House as a result of seeing mothers return upset from home leave, as a result of '*feeling like visitors in their own homes*'. She described how she watched '*their confidence in their own parenting dissipate*'. She was aware that imprisoned mothers worry about their children but are

powerless to do anything about it. It is this lack of power that contributes to them feeling

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11. Loper and Tuerk (2006) see n.7.
 12. Caddle and Crisp (1997) see n.2, HM Inspectorate of Prisons (2005) *Women in Prison* [online] Available at: <http://inspectors.homeoffice.gov.uk/hmprisons/thematic-reports1/womeninprison.pdfview=binary>, Howard League for Penal Reform (1999) 'Life in the Shadows: Women Lifers.' London: Howard League for Penal Reform.
 13. Social Exclusion Unit (2002) *Reducing re-offending by ex-prisoners*. Office of the Deputy Prime Minister: London.
 14. Social Care Institute for Excellence (2008), Children of Prisoners — Maintaining Family Ties, [on line] Available on line: <http://www.scie.org.uk/publications/guides/guide22/index.asp>
 15. NOMS, Prison Population and Accommodation Briefing, 18 June 2010.
 16. Home Office Research Study 208 (2000), 'Women prisoners: A survey of their work and training experiences in custody and on release', Research, Development and Statistics Directorate, Home Office.
 17. Prison Reform Trust, (2006) '160,000 Children of Prisoners Ignored by Government'. London: Prison Reform Trust. [online] Available at: <http://www.prisonreformtrust.org.uk/subsection.asp>
 18. Boswell, G. and Wedge, P. (2002) *Imprisoned fathers and their children*, London: Jessica Kingsley Publishers, Social Exclusion Unit (2002) see n. 13, Laing, K. and McCarthy P. (2005) 'Risk, protection and resilience in the family life of children and young people with a parent in prison' [online]. Available at: http://www.pcrd.group.shef.ac.uk/working_papers/newcastle_working_paper.pdf. [Accessed: 12th November 2007], Lowenstein, A (1986) 'Temporary Single Parenthood — The Case of Prisoners' Families' *Family Relations*, Vol. 35, No. 1, pp. 79-85.
 19. Murray, J. (2005) 'The effects of imprisonment on families and children of prisoners'. In: Leibling A. and Maruna, S. eds. (2005) *The Effects of Imprisonment*. Cullompton: Willan Publishers, Boswell, G. (2002) 'Imprisoned Fathers: The Children's View' *Howard Journal of Criminal Justice*, Vol. 41, pp.14-26, Action for Prisoners' Families (2001) 'No-one's ever asked me: Young people with a prisoner in the family' [online]. Available at: www.actionpf.org.uk/php/bin/readarticle
 20. Murray, J. (2007). 'The cycle of punishment: Social exclusion of prisoners and their children' *Criminology and Criminal Justice*, Vol. 7, No. 1, pp. 55-58, Social Exclusion Unit (2002) see n. 13, Lloyd, E. (1995) *Prisoners' Children: Research, Policy and Practice*. London: Save the Children.
 21. Murray (2007) *ibid*, Murray, J. and Farrington, D.P. (2005) 'Parental imprisonment: effect on boys' antisocial behaviour and delinquency through the life-course', *Journal of Child Psychology and Psychiatry*, Vol. 46, No. 12, pp. 1269-78, McCarthy, P., Laing, K and Walker, J. (2004) 'Offenders of the Future? Assessing the Risk of Children and Young People Becoming Involved in Criminal or Antisocial Behaviour. DFES Research Report RR545' [online]. Available at: www.dfes.gov.uk/research/data/uploadfiles/RR545.pdf
 22. Bowell and wedge (2002) see n.18.
 23. Noms (2010) see n.15.

less, it just hacks into their self esteem and their self belief ... we want to give some of that power back.

Family Learning Team staff put a great deal of time into helping mothers prepare for the overnight visits. The mothers who use Acorn House are required to work with the Family Learning Team and have to provide a plan of the activities they will be doing with their children prior to the visit. They can select board games and other play equipment from the prison's family resource room. Any potential difficulties are anticipated and the mothers spend time with the Family Support Worker thinking out how to resolve them. Issues tackled include how to engage with a child or young person who is very angry with their mother. If there are tensions between the imprisoned mother and the child's carers then West Yorkshire Family Mediation Service has a partnership agreement to offer mediation as a way of building bridges and improving communication. After the visits have taken place the mother debriefs what has happened with the Family Support worker.

There are no specific criteria regarding who is eligible to use Acorn House. In the words of the Senior Prison Officer in the Family Team *'it depends on individuals and their set of circumstances ... if there is a need regarding children that Acorn House can meet, the mothers will be given a chance'*. Therefore if a mother needed to spend some time with an older child for a particular reason, for example if they had suffered bereavement, then that would be just as valid as a mother spending time with younger children. The guiding principle behind all decisions is what is in the children and young people's best interests. There is a strictly adhered to rule that forbids partners from even entering Acorn House.

The authors carried out a small scale evaluation of the impact of the overnight stays on all the stakeholders involved. The evaluation was at the request of the Head of Children and Families within the prison. She wanted us to not only evaluate the impact of overnights stays from the imprisoned mother's point of view, but also from the perspective of the children and young people who used the facility, and those caring for them while their mother was in prison. She

asked us to seek the views of as many uniformed and non uniformed staff as possible. In short we were asked to provide a '360' evaluation.

The mothers who participated

The five women who volunteered to participate were serving sentences ranging from 15 months to life. By coincidence they were all serving their first prison sentence. A general invitation to be involved in our research went out to all the prisoners in the dining room one lunch time. We had been prepared for up to eight women to put themselves forward. We were told by the women who were prepared to take part that the prospect of involving children and their carers had put off many other potential participants. It appeared this was due to their concern about adding to the pressure that their children and those caring for their children were already experiencing as a result of their imprisonment. We were heartened when we heard that many women were making the choice not to participate. From the outset we stressed the voluntary nature of participation, mindful of how important it was to do so in any prison environment where prisoners might be worried about judgements that could be made about them.

The mothers were interviewed separately in private rooms, without any members of staff present, using a semi structured interview schedule which asked open questions in relation to their experience different types of prison visiting arrangements, and home leave, leading up to their views on the Acorn House facility. All names have been changed to preserve anonymity.

The children and young people who participated

The children and young people who were interviewed comprised: one son aged 12, and three daughters aged 13, 16 and 19 respectively. Three of the mothers who participated had younger children who they decided not to involve due to their ages and other factors. The carers comprised: the 22 year old daughter of one of the imprisoned mothers who was caring for her 5 year old younger brother; a father; a grandmother; and a friend. Two of the older young

The guiding principle behind all decisions is what is in the children and young people's best interests. There is a strictly adhered to rule that forbids partners from even entering Acorn House.

people who participated, aged 16 and 19, lived on their own. The 19 year old had been 7 years old when her mother received a Life sentence, and so had many experiences to share having visited her mother for 12 years in a number of different prisons.

The prison staff who participated

We interviewed all staff who worked within the Prison Family Team, both uniformed and non-uniformed. The team made collective decisions regarding referrals for Acorn House. We also took up the invitation of the Family Support team to observe one of their meetings where decisions about referrals to Acorn House were made. In addition we interviewed three Prison Officers who were not directly involved in Acorn House in order to gain a wider perspective beyond the Family Team. The chair of the Independent Monitoring Board was also interviewed.

Mother and children centred methodology

Our original intention had been to interview children, young people and carers in their home areas. However, when we consulted the mothers they expressed the strong view that they wanted to be nearby when their children were interviewed. They explained the importance of being able to debrief the interviews with their children, and to comfort them if they were upset in any way. Above all the mothers did not want our evaluation to add to their feeling of being excluded from significant events in their children's lives. The mothers came up with the idea of holding a 'family day' in the well appointed prison nursery, as a structure around which we could conduct the interviews. We also consulted the mothers about what activities would work well, and we came up with hand printing, and decorating frames for photos that were taken on the day. This was in response to what the mothers had told us about the importance of having 'memories' in relation to their children during their sentences. In this way we tried to include the mothers in the planning of the family day as much as possible. The day worked well. When children and young people were not being interviewed they could spend time with their mothers, either engaging in activities or enjoying the privacy provided by secluded corners of the nursery garden.

Key findings from children and young people's interviews

Visits in closed establishments were viewed as being particularly negative by the children and young people. The older sister who was caring for her 5 year old brother vividly described the impact of his visits to his mother in a closed prison:

and the fact like she couldn't move, you know, when you went to that prison, she couldn't move she just had to sit there ... when he got a bit older ... he used to say 'Mummy why are you not moving?' and stuff like that.

You were allowed to hug her but then that was it, just allowed to hug her and then she has to sit on one side and you have to sit on the other side (Son, aged 12).

and it just felt weird because at the tables ... you couldn't like get up and give her a hug and it just felt like you were there but you felt like really distant from her ... because you can't do what you naturally want to do (Daughter, aged 16).

The young people all agreed that the ordinary domestic visits at Askham Grange were much more relaxed than those that they had experienced in closed institutions. This was because their mothers could move around freely and there was no restriction in terms of hugging. However even though these visits were more relaxed, they still did not allow private time when they could talk to their mother without the adults who accompanied them listening in. Therefore the lack of privacy remained as a major inhibiting factor with regard to the usual visiting arrangements at Askham Grange:

No, you couldn't talk to her at all because it was like everybody's around you, your sisters and your Auntie and everything, so you can't talk to her really, it's hard like that. (Son, aged 12).

I just want to see my mum on my own own, because ... if there's other people there I don't feel like we can talk because she's got to entertain everyone, not just me, so I just want a one-to-one' (Daughter, 19 years).

The 16 year old daughter who was living on her own following her mother's imprisonment commented on the contradiction inherent in the fact that she was regarded as old enough to look after herself and take over responsibility for the rent on her mother's house, but not old enough to visit her mother unless accompanied by somebody over 18 years. She spoke about how the presence of others severely affected the topics she was prepared to discuss, with result that anything of a personal nature was avoided. She described how she also felt inhibited talking on the phone about personal

matters, knowing that the call might be monitored by prison staff:

I just didn't want to really talk over the phone when other people could hear me.

It was only the overnight contact at Acorn House that delivered the private contact with their mothers that the young people prized so highly.

just to have that one-to-one time and no interruptions, you can say what you want, do what you want, to an extent obviously, and you know, sit and watch TV, cuddle up and sleep while I hold her hand, it makes so much difference' (19 year old daughter).

It's like just being at home really because we just cuddle or watch TV, and if we want to talk about anything we just can (16 year old daughter).

It's nice to be with just that one person you want to be with (daughter aged 13).

It's all good you know ... everything's good and you can do like anything except for go out but you don't want to go out (son aged 12).

He also confirmed that Acorn House could deliver privacy in a way that home leave could not, as when his mother came on home leave she came to the house he shared with the person caring for him and her children.

Acorn House is better (than home leave) if you want privacy or something, when you're at home ... you can't have privacy at home.

The young people also all recognised that their mother had become happier as a result of seeing them at Acorn House. This in turn caused the young people themselves to feel happier, as they were less concerned about their mother. In this way Acorn House created a 'virtuous circle' which improved the mental well being of both the mothers and young people who used it:

my Mum likes me to come into Acorn House so obviously she's a lot happier and then when I get phone calls from her she's not down and upset so I don't get down and upset. (Daughter, age 16).

It was also apparent that looking forward to Acorn House visits helped to keep both the mothers and their

children positive between the visits. The 16 year old daughter reflected on how it felt to say good bye to her mother after the overnight visits:

I do feel a bit upset but I don't feel that bad because I know that I can come back next month and see her for a couple of days, so it gives me something to like look forward to and that.

One young person explained how after she had started the Acorn House visits she agreed with her mother that it was no longer necessary to visit in the weeks between the monthly visits. She explained that her mother was fine with this, and that it meant she was free to pursue her hobbies and spend time with her dad and step sisters on the weekends between visits.

The 19 year old daughter summed up the feelings of all the young people:

you can go in there, it feels like you're in your own little house, and it just feels like it's you in your Mum's house sort of thing and you just forget that there's a prison there, because it's up there and you're down here ... if I had millions and billions of dollars I'd put Acorn House in every single prison.

Key findings from imprisoned mother's interviews

Throughout the interviews the mothers expressed a profound fear of the long-lasting impact of their prison sentence upon their children and their maternal relationship. This was articulated as grief, loss and a crippling sense of guilt. Some mothers displayed a lack of confidence in their ability and their right to be a mother. Acorn House was viewed as a means of being available both physically and emotionally to their children during the separation caused by their prison sentences, supporting their children through the experience and nurturing their relationships to promote a successful reunification. Within the private and intimate space provided by Acorn House the mothers were allowed to 'mother' their children. This had the effect of protecting their maternal bond and supported their confidence to 'mother'.

The lack of privacy provided by other methods of visitation including domestic visits and childcare resettlement leave was a recurring theme throughout the mothers' transcripts. Anna describes the difficulty involved in dividing her attention amongst a number of visitors:

... everybody else is talking to you as well and you can't really make any kind of connection with [child] ... it is hard.

Similarly, Clare describes the difficulties in talking with her child[ren] during domestic visits with other people present:

my [child] tends to be a bit more closed when there's other people there.

The women were also acutely aware and appreciative of the sacrifices made by their friends and family who had escorted their children on the visits and felt obliged to provide them with their attention during their visits and when on home leave. As Clare describes:

... I'm trying to give my time to three or four people that are on the visit.

Equally Diane suggests:

you dish yourself out so it's too thin, and it isn't the quality time what you want to spend.

Therefore, one of the main benefits of Acorn House was the facilitation of privacy.

As described by Anna;

... you can just concentrate on the children, just having that special time to be able to sit together, cuddle and talk ...

Similarly Diane described the perceived benefits for her child[ren] :

... it's just that complete privacy ... that you can talk to one another about things you need to talk about, things you need to discuss and it's private.

In providing a private and intimate space the mothers were able to participate in normal mothering and respond to their child's needs. This was frequently described as enjoying attending to their basic needs, such as preparing food for them, bathing them and being able to put them to bed as Anna describes:

Brushing their hair, you know, teeth and things, normal things.

And as Diane describes:

I run a bath for her and I sit and I comb her hair and, just generally pick up after her really, just generally being her mum.

And Nicola explained;

... doing all the things that you would normally do for your child at home.

The privacy also enabled the mothers to respond to their children's specific needs. The statement below details Anna's appreciation of the way Acorn House allowed her to help her son with his homework after she was concerned that the trauma he experienced as a result of her imprisonment was affecting his schooling. She also describes how precarious telephone contact with her son can be:

Well I think that's where Acorn House does help because of the fact that you can keep a check on things that they're doing like just homework and things, just how they are emotionally, you know you get the chance to expand on things ... you see phone calls I find are difficult, you can lose [clicks fingers] a phone call just like that by saying the wrong thing.

Equally, Clare described being able to utilise the time at Acorn House to help her daughter with her coursework. Diane was also able to use the privacy at Acorn House to be able to support her daughter through her depression experienced as a consequence of her mother's imprisonment. At Acorn House mothers are also able to participate in activities that their children enjoy and in doing so they are able to create positive memories:

... she's also very girly and likes pampering and for the last twelve, thirteen years I've not been able to pamper her ... she likes music so, you know, putting music on and we was up just being silly together in the lounge and having a bit of a dance ...

... we do crafts, ... so before I go down I get lots of paper, paints, glue and sticky things and sequins and glitter and stuff like that ... we take games, ... I just want to ensure that we've got plenty of things to do ... we can bake down there.

In being able to participate in 'mothering', the mothers felt that their natural bond with their children was being protected or restored:

... she just felt that she'd got her mum back ...

... it builds up natural bonds ...

This then increased the women's confidence in their ability and right to be a mother as detailed in this quote.

... because you've done something wrong and you're in here, you know, should you be giving them advice? But I think with Acorn House ... I can slowly build it back up again.

After serving two years in a closed establishment before coming to Askham Grange, Rachel describes her reaction to having the opportunity to have an overnight visit with her son at Acorn House;

I've never been to Heaven ... but I thank God, you know.

Like Rachel, the women all expressed enormous gratitude and appreciation for the opportunity to use Acorn House, often finding it difficult to offer suggestions on how the facility could be improved. However, a sense of continuous emotional disruption was present in all of the women's transcripts with one mother describing the experience as a 'double edged-sword'. The women expressed great joy in being with their children but this was often accompanied by guilt, sadness and confusion. In being with their children and participating in mothering, the women became acutely aware of what they were missing out on as Rachel and Clare describe:

... and I just cried, I were just happy as well, I was a bit sad and everything was going on emotionally ... (Clare)

you're given a taster of what you've been missing for all the years that I've been incarcerated, and it's a little bit, a double-edged sword in a way because it's wonderful to have the visit but it's so heartbreaking to leave. (Rachel)

The most emotionally challenging part of the visit for all of the women was in saying goodbye. Each of the women described the pain of saying goodbye with some developing strategies in order to avoid voicing the words. The women experienced the 'goodbyes' as a symbolic transition with the walk from Acorn House back to the prison symbolising the loss of their status and identity as a mother and the reinstating of their status as 'prisoner'. Clare articulately describes this process;

But you go through a grieving process every time, it's a massive sense of loss, it leaves me

feeling extremely guilty for, just for what she's had to endure, you know, even the journey up here and it's so painful saying goodbye, knowing that you're coming back into the house, your child's leaving, you've got to switch back into prisoner mode and ... you know that your child's leaving and you know they're on their own and there's nobody to comfort them, so it's, it's like being sentenced all over again, it's that feeling of I've got to go back to being a prisoner and my daughter's got to go back to being on her own.

Similarly, Diane describes the process of goodbyes.

Well we've come to a sort of come to a little agreement, we don't really say goodbye we just, pack the car up, I'll give her a hug and I'll walk away, and I just take a slow walk back up to the house, by that time I've wiped me tears and you think it gets easier but it don't, it doesn't get any easier.

The women knew that informal support from staff and the other women was available to them on their return to the main prison building if they sought it. However, there was a sense of not wanting to burden people with their emotional difficulties.

Carer's views

It was clear that the carers we interviewed were very committed to Acorn House. They were prepared to put the time into travelling in order to ensure the children and young people were enabled to spend time with their mothers there. One carer had to walk a considerable distance with her 5 year old brother to get to the prison from the nearest bus stop. The father of the 13 year daughter described how prior to having overnight stays his daughter would return from short two hour visits frustrated and moody. He explained that his daughter's mood swings had disappeared since commencing visits at Acorn House. He agreed with his daughter that it was much better for her to go for a longer visit less frequently, as it meant fewer weekends were disrupted, and she could do activities with her step sisters for whole weekends when she was not visiting her mum, rather than for just one day when the other day had been taken up with a short visit. Her grandmother was similarly enthusiastic about Acorn House:

I think it's a good thing. She loves going, I've never found any complications with it at all.

Another theme that emerged from our interviews with carers was the role Acorn House played in confirming to the children that although they were not living with their mother, their mother still had the key role in their lives. As the family friend who was caring for the 12 year old son observed:

Personally I think it is crucial, they are living essentially with myself, another family who have maybe different ways of doing things, and they kind of fall under the radar of my family. It is really important for them from an identity perspective to know 'that's my mum that's the person that brought me up until a year ago'. And it's really important that they have that tie with their mum, that she has the responsibility with regard to the children ... If certain things are raised I will say 'really we ought to discuss that with your mother and see what she says'. It's helping the children to understand that ultimately the final decisions lie with their mum and not with me.

The daughter who was caring for her 5 year old brother articulated similar concerns:

sometimes I worry ... because he'll ask me for stuff and not go to Mum sometimes, you know while she's there, or he'll call me Mum by accident and it feels awkward sometimes.

The views of prison staff

Without exception all the staff we interviewed expressed positive views about what Acorn House could offer the families who used it. The Probation officer made point that when children were looked after by different carers during their mother's sentence, Acorn House gave them the possibility to spend time all together with their mother. The Prison Officer assigned to the Mother and Baby Unit summed up the benefits for mothers of seeing their children at Acorn House:

they have 100 per cent control of their children, and to them, while they are still serving a sentence, that's priceless.

She contrasted time at Acorn House with Family Days. She considered that Family Days were a good opportunity for mothers and their children to do activities together, but they did not provide the opportunity to 'discuss problems or find out how things

were going'. This was echoed by the Family Support worker who regarded Acorn House as providing:

more time to just go with the flow ... and work at the pace of a daughter ... and to stay with maybe those silent moods.

The Prison Officer also regarded Acorn House as a way of providing the opportunity for children to spend quality time with their mother more often than the eight weekly child care resettlement leave allowed. She considered one of the benefits was that it could potentially be flexible enough to allow time to be spent together on special occasions such as birthdays. Another Prison Officer who was not directly involved was equally positive. She explained there was a whole prison commitment to Acorn House:

everyone wants it to work ... (it is) totally accepted I would say ... I certainly haven't seen any negative impact, only positive things from the women.

Conclusion

The views expressed by the children, mothers and carers who were involved in our research suggest that Acorn House is a very highly valued resource as it allows meaningful contact to take place. It was the opportunity to do ordinary activities, at their own pace, without other people present, that was particularly appreciated. It was also apparent that prior to being given the chance to meet at Acorn House the young people and their mothers viewed the quality of contact on visits as unsatisfactory, largely due to the lack of privacy. Children with mothers in prison are generally not cared for by their fathers. This means it is particularly important that they are given every opportunity to maintain high quality contact with their mother as a way of reducing the possibility of negative outcomes for them as a result of their mother's imprisonment.

During the course of our research it was clear that staff at Askham Grange were whole heartedly committed to making Acorn House work, and recognised the importance of the benefits it delivered for the mothers, children and young people that used it. They had all observed the positive impact that the Acorn House visits had on the mothers who used it. One member of staff summed up the whole prison commitment to supporting family links when she expressed her joy at 'the contentment you can see in mothers' faces when they have had a visit'.

Learning from fraudsters' accounts of their offending

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While an adverse economic climate may well lead to a rise in fraud levels this may be due to more offences being discovered in a recession rather than more taking place, and the lack of credit, very much a feature of the current recession, may result in less credit related frauds taking place rather than more.¹ In order to find out a little more on the likely impact of an adverse economic climate on fraud, sixteen fraudsters were interviewed in prison about their own reasons for committing fraud and the extent to which they felt the climate would have affected them² and might affect others.

Determining what motivates someone to commit an offence is a complex task and under-researched.³ There will often be a range of reasons including distal factors, such as the influence of family background, schooling and education, as well as proximal factors such as those occurring at the scene of the offence.⁴ Social and psychological factors may be influential. Indeed, early work by Sutherland⁵ focussed on white collar offenders contended that crime occurred because of differential

association, the proximity of too many negative influences over positive ones. While another major influence on thinking in this area inspired by Cressey's⁶ work was that fraud occurs because people have problems that they cannot share.

More recent work has included a consideration of the reasons why people commit fraud for a wide range of fraud types, for example, long firm fraud,⁷ insurance fraud,⁸ benefit fraud,⁹ medical fraud,¹⁰ employee fraud,¹¹ identify fraud¹², credit card fraud¹³, to name but a few. And while autobiographies have their limitations as accurate sources of data,¹⁴ at least some written by those with fraud convictions¹⁵ appear to provide insights that are consistent with other research.¹⁶ One summary of motivations for fraud has suggested that they can be classified into three general groups, that is people commit fraud because of economic rationality (they weigh up the pros and cons and decide that fraud is worthwhile); because individuals are under pressure and fraud is a way of releasing them from that stress; and because there is an opportunity and people decide to exploit it.¹⁷

1. See, Gill, M. (forthcoming) Fraud and Recessions: Views from Fraudsters and Fraud Manager. *International Journal of Crime, Law and Justice*.
2. The interviews took place during 2009 and the offences discussed in interviews were pre recession.
3. See, Gobert, J. And Punch, M. (2007) Because They Can: Motivations and Intent of White-Collar Criminals. In Pontell, H. And Geis, G. (Eds) *International Handbook of White-Collar Crime*. New York: Springer.
4. See Ekblom, P (2001) 'The Conjunction of Criminal Opportunity: a framework for crime reduction toolkits' — Crime reduction website, <<http://www.crimereduction.gov.uk/learningzone/cco.htm>. And, Ekblom, P. (2010) *Crime Prevention, Security and Community Safety Using the 5Is Framework*. The Crime Prevention and Security Management Series Aldershot: Palgrave.
5. Sutherland, E. (1949) *White Collar Crime*. New York: Holt, Reinhart and Winston.
6. Cressey, D.R. (1953) *Other People's Money: A Study in the Social Psychology of Embezzlement*. New York: Free Press.
7. Levi, M. (1998) 'The craft of the long-firm fraudster: criminal skills and commercial responses', *Crime at Work*, Volume II [Editor M. Gill] Leicester: Perpetuity Press, 155-68; Levi, M. (2008) *The Phantom Capitalists: The Organisation and Control of Long-Firm Fraud*, 2nd edn. Aldershot: Ashgate.
8. Gill K.M., Woolley, A. and Gill, M.L. (1994) Insurance Fraud: the Business as a Victim? In M.L. Gill, (ed) *Crime at Work: Studies in Security and Crime Prevention*. Leicester: Perpetuity Press. Pages 73-82.
9. Committee of Public Accounts (2008) *Progress in Tackling Benefit Fraud. Thirty-first Report of Session 2007-08*. HC323. London: The Stationery Office Limited; Hensing, D. J., Elffers, H., Robben, H. S. J. and Webley, P. (1993). Needy or Greedy? The Social Psychology of Individuals who Fraudulently Claim Unemployment Benefits. *Journal of Applied Social Psychology*, Vol. 23, No. 3, pp 226-243.
10. Jesilow, P. Pontell, H. And Geiss, G. (2004) Doctors Tell Their Story of Medical Fraud. In Pogrebin, M. (ed) *About Criminals: A view of the Offender's World*. Sage: Thousand Islands.
11. Gill, M. and Goldstraw-White, J.E. (2010) 'Theft and fraud by employees' in F. Brookman, M. Maguire, H. Pierpoint and T.H. Bennett (eds.) *Handbook of Crime*. Cullompton: Willan; Hollinger, R and Adams, A. (2006) Employee Theft and Staff Dishonesty. In, Gill M. (ed). *The Handbook of Security*. Basingstoke: Palgrave.
12. Copes, H. and Vieraitis, L. (2008) 'The Risks, Rewards and Strategies of Stealing Identities in McNally, M. and Newman, G. (eds.) *Perspectives on Identity Theft*, Crime Prevention Studies, Vol. 23, pp. 87-110.
13. Finch, E. (Forthcoming) Strategies of Adaptation and Diversification: the Impact of Chip and PIN Technology on the Activities of Fraudsters. *Security Journal*.
14. See, Wilson, D. (2010) News of the Screws: A Critical Analysis of Some Recent Prison Officer Autobiographies. *Prison Service Journal*. March, pp3-9; Morgan, S. (1999) Prison Lives: Critical Issues in Reading Autobiography. *Howard Journal*, 38, 3, pp 328-40.
15. Care needs to be taken in explanations provided in biographies and autobiographies which may be written for a variety of reasons, but for accounts of fraud see, Brockett, C. (2004) *Call Me Charlie*. London: Simon and Schuster; Forsyth, N. and Castro, E. (2007) *Other People's Money: The Rise and Fall of Britain's Most Audacious Fraudster*. London: Sidgwick and Jackson. Fry, S. (1997) *MOAB is my Washpot*. London: Arrow Books; Kirby, T. (2002) *The Model Prisoner*. London: Time Warner.
16. See also, Payne, B.K. (2003) *Incarcerating White Collar Offenders: The Prison Experience and Beyond*. Springfield: Charles C Thomas.
17. See, Gill, M. and Goldstraw-White, J. (forthcoming) Motives. In Doig, A. and Greenhalgh, S. (eds) *The Handbook of Fraud Investigation*.

Part of the difficulty in attributing cause for offending is that a variety of influences may be present, combining in different ways at different points in time. For example the reasons why someone may contemplate an offence, can be different to the reasons why it took place, and different again to why the offence continues. Yet, because every theory of crime is a theory of prevention, understanding them is crucial. There is then a logic to asking people why they commit crime as a means of understanding motivation providing one is clear that this is dependent on them understanding the reasons for their offences in the first place, in their memory and recall being accurate, and in the willingness of interviewees to tell the truth to researchers.¹⁸

Levi's scholarly work on the motivations of long firm fraudsters, based on offenders' accounts, notes the importance of 'vocabularies of motive' and specifically language in which fraudsters 'depict their conduct to themselves and to others'. Deriving the points of his argument from C. Wright Mills, Levi notes that 'motives are not biological drives which 'cause' us to act in certain ways but rather are the words and concepts with which people interpret the meaning of their desires and actions'. Since 'verbalisation is part of what we mean by 'behaviour'', the case for taking account of what offenders have to say has much to commend it. And while it is clearly the case that there are limitations which must be placed on data derived from offenders' verbalisations, not least those skilled in deception (as many fraudsters are), this is also true of the alternatives.

Clearly, those interviewed in prison may not tell the truth. The risk can be managed to some extent in a variety of ways and by following ethical research protocols. This includes making clear the purposes of the interview, and the confidentiality of it;¹⁹ that all output will be anonymised which aims to take away the reason to lie; and making it clear that the

. . . the reasons why someone may contemplate an offence, can be different to the reasons why it took place, and different again to why the offence continues.

interviewee participates voluntarily and may refuse to answer any question or terminate the interview at any time reinforces the point.²⁰ An interview format that enables the interviewer to probe answers and clarify issues that are in any way unclear is also helpful. In this study details collected in interview of 15 of the 16 were checked with details on prison files. This included the number and type of previous convictions; number of times in prison; details of current sentence; occupation before entering prison; and basic details about the offence.²¹ It is somewhat ironic, as Farrington has noted, that official files are so often the cause of concern for researchers for their tendency to be inaccurate/incomplete become one of the better ways of determining the accuracy of what offenders have to say. In this analysis there was a very close match between details recorded by the author and those on file.

Sixteen fraudsters were interviewed in prison.²² In two establishments prison authorities assessed files to identify those with a conviction for fraud, and each person was then approached with a letter from the author asking him (they were all men) to participate, in the other prison posters were placed at strategic points around the establishment noting that the research was taking place and those interested in taking part were asked to notify a nominated person. In the event all those who put their name forward were interviewed, all who started the interview finished it, and every interviewee arrived on time!

Of course there is no list of all fraudsters, many are not caught or not prosecuted and so obtaining a representative sample is never possible. What interviews do facilitate is an opportunity to understand the fraud from the fraudsters' perspective, to identify some causal factors, and from that consider how some issues, such as the economy may impact on offending in the future.²³ The limits outlined here must be borne in mind.

18. For a series of papers on the use of offenders' accounts see, Bernasco, W. (2010) editor. *Offenders on Offending*. Collumpton: Willan.

19. There are constraints here, and these are of course explained. For example, the interviewee is reminded that if he (they were all men) admits to any offences for which he has not been convicted, or indicates he will self harm the interviewer is under an obligation to report such insights.

20. All interviewees signed a 'consent' form to confirm that they understood and agreed with the conditions of the interview.

21. The inclusion of the latter was helpful, although if a difference was found between what was said in interview and what was said on file occurred, it would merit further investigation to determine which was accurate. Ideally obtaining this data before interview would enable the researcher to tease out details during discussion and clarify misinterpretations then. In this case, there were no significant differences but the analysis took place afterwards.

22. I would like to thank the National Research Committee for permitting access to prisons and all those who helped facilitate and took part in interviews.

23. The main aim of the study on which this research was based was to assess the impact of the recession on fraud.

So why did they say they committed fraud?

Previous research has noted a variety of explanations for committing fraud. Although the financial motive is rarely far away, it often does not tell the whole story in that why people need the money can give deeper insights into motive. In a study of fraudsters who stole large sums from their employer Gill²⁴ noted that fraudsters reported debt, boredom, search for status, blackmail, a temporary lack of emotional balance, the influence of organisational cultures and opportunism as explanations. Certainly, understanding why people commit crime can provide insights into how it can be prevented, and the lessons from this research was that the organisation has enormous capacity to decide how much it chooses to be a victim. And the same is true from a societal point of view in that understanding motivations gives society a chance to respond, and it can choose to do so as much or as little as it wants, but what it does will impact on fraud levels one way or the other.

The sixteen fraudsters were asked about their reasons for committing the frauds they were imprisoned for. The reasons offered can be grouped under the following headings: the need for money; the opportunity arise; they were seeking to win favour; they had an addiction that led them to fraud; while three interviewees claimed that fraud was a result of normal business activities. As will be shown the reasons overlapped somewhat.

Needed the money, bad at managing debt

Unsurprisingly the need for money emerged in most explanations, although needing money and deciding why fraud was viewed as the best way of getting it merits an explanation. One accountant, somewhat ironically, claimed to be very bad at handling his own personal and family circumstances, which he put down to the negative influence of his wife:

Until I met my wife I was good at handling money. I am clever. I worked with me dad to get money and then at weekends. My wife and her family lived off credit and it was easy to get. It all started mounting up. I then got more money.

Things got so bad he decided to approach his employer for financial advice and then the opportunity presented itself:

I needed the money and he gave me the opportunity. I simply asked whether there was any financial advice and suddenly I was offered a deal, a lucrative one but a criminal one.

The interviewee believes a senior manager of the firm was laundering drug money and he needed a way of extracting money from the business. So when the interviewee approached him he suggested putting in claims for additional fictitious work and then sharing the proceeds. The interviewee cleared the debts and spent lavishly including on luxury cars: 'I had been in debt and I really enjoyed having the money. I was stopped when I got caught.' He summarised:

At the time I was in so much financial shit, things were bouncing, I was bad at being able to say no to my wife. I am an accountant and I was advising people and I was out of control.

The opportunity arose and it was easy

One interviewee was making money from dealing in drugs and was offered details of a person's bank account. He purchased the information and applied for a credit card in the person's name and when it was delivered he began to withdraw money. He found he had discovered a very easy way of making money.²⁵ At the time he had a good job with the local authority, but wanted the money to supplement his income and help his family:

I did it just because I wanted extra money. I was getting enough to live on but I did it for my family because my parents needed the money. They had worked hard and I wanted to pay them back. I was just thinking I need to get some quick cash, but I did not need to, I was fine. It was just too easy to tell you the truth, just so easy. I can commit fraud from this prison cell, you can get card details sent in and all you need is a phone will credit on.

When he and a friend tried it the first time and were successful they were on course to defraud more companies. He also admitted, as other fraudsters have done that it could be exciting, 'I got a buzz of pretending to be someone and convincing'.²⁶

24. Gill, M. (2005) *Learning From Fraudsters*, Protiviti. Available from www.perpetuitygroup.com/prci/publications.html

25. The business environment creates many opportunities. See, Gobert, J. And Punch, M. (2007) *Because They Can: Motivations and Intent of White-Collar Criminals*. In Pontell, H. And Geis, G. (Eds) *International Handbook of White-Collar Crime*. New York: Springer.

26. See, Copes, H. and Vieraitis, L. (2008) 'The Risks, Rewards and Strategies of Stealing Identities in McNally, M. and Newman, G. (eds.) *Perspectives on Identity Theft*, Crime Prevention Studies, Vol. 23, pp. 87-110; and Levi, M. (2008) *The Phantom Capitalists: The Organisation and Control of Long-Firm Fraud*, 2nd edn. Aldershot: Ashgate.

Wanting to win favour

Others also noted that they did it for the money, but enjoyed what they were doing.²⁷ One fraudster, with previous convictions for fraud, acted as a front man for a gang that needed someone to withdraw cash from bank accountants. They were laundering money. His job was to go into a bank, pretend to be the account holder and persuade the staff to allow him to withdraw money. Although, as will be shown, the main reason for committing the offence was that he was trying to form friendships, 'I get a buzz, and I think of the money'. And another interviewee whose main offence was manufacturing and cashing fraudulent cheques, admitted: 'I did it for the money. Simply the money. It is a strange one. There is a buzz to it.'

Other interviewees noted that they were influenced by others, and indeed but for the opportune invitation to get involved they would not have committed the offence. One man, who had previous convictions for fraud but had not served any custodial sentences, became involved in a long firm fraud when a woman offered him a criminal opportunity just when he needed the money:

I suppose, going through expensive divorces. I think my co-accused saw me as someone who was vulnerable. I was short of money and wanted to look after my girls. It was needs must and that is why I did it. My previous convictions were taking pecuniary advantage, I was doing money offences, mostly around divorces.

Another interviewee, who was also a long firm fraudster, came across an opportunity of a different kind. He became aware of the chance to build up credit and then make off without payment after ordering a consignment of goods during the course of his normal business. He admitted that greed, arrogance in the belief that he would not get caught and if he did assumed he would avoid prison, fuelled his enthusiasm:

So I thought here is an opportunity. I knew it was illegal and I was arrogant and naive, I thought they could fine me but never imprison me. That was a real lesson for me, I never thought of that at the time. (It was) greed if anything ... It was a bit of an ego massage. I was good at getting creditors to part with their money. That is ego. It was money and it could be done with relative ease.

Two interviewees claimed that the reason why they committed fraud was because they wanted to make friends. One interviewee was serving a second sentence for fraud, but claimed the reasons for committing the offences this time were the same:

I suffer from low self esteem and trying to be someone I am not, and I lie and I try to make myself a better person and I funded it through frauds. I am getting to deal with these issues and I am discovering who I am. I was ashamed of who was me. I knew it was wrong, but another voice was saying you can do it.

He stole from his employer by invoicing for personal goods on the company account. He claimed that the only thing that would have stopped him committing offences was dealing with the image he had of himself, 'I was not thinking like that (the) first time I was released'.

Another interviewee, who was the front man for withdrawing money from accounts that were being used to launder money, noted that the main reason he committed the offences was because he wanted to cultivate friendships, and the gang who asked him to get involved posed as potential friends:

They did not pay me directly, they just looked after me and I valued the social life. I was depressed and so it was good to have friends, or so I thought. I was doing it because I wanted a social life ... I just wanted friends, sad as it may seem.

Addiction

One of the interviewees admitted, 'I had a drug problem, ketamine addiction ... It costs about £40 per day. A bad addiction'. This coupled with a lifestyle that was not matched by his income made the situation worse:

I can't blame the drug habit solely on my financial state, I like parties, but it did not help. The debts were getting on top, so I missed payments and it got worse. I then started to sweep things under the carpet.

As a consequence he lost his job, and eventually his house and moved in with his mother. He noted:

27. For a discussion of the pleasure fraudsters can gain from computer related crime see, Grabosky, P. and Walkley, S. (2007) Computer Crime and White Collar Crime. In Pontell, H. And Geis, G. (Eds) *International Handbook of White-Collar Crime*. New York: Springer.

I was out of work, still buying Ketamin, getting health problems, and then I owed a drug dealer, so there were some problems. The drug dealer said he knew someone who wanted a few errands run, and I said yes. They put me in touch.

The job mostly involved delivering and collecting packages. He knew they were not drugs and suspected that the documents in the packages were linked to crime, it was only when he was arrested, some months after the job had finished, that he realised he had been involved in a fraud scam. He could not deny his involvement because there were witnesses and fingerprints, but he had not realised that he had become embroiled in such a large scale fraud.

Just Doing Business

Three of the interviewees claimed that they became fraudsters through the normal process of doing business. One self employed business advisor, serving his second sentence for fraud, claimed that he was drawn into a fraud by a corrupt client. He admitted that the way he conducted business 'sailed close to the wind' but denied the offences he was charged with. Another former accountant, also serving a second sentence for fraud claimed that he was adept at helping clients avoid tax, but the authorities claimed it was evasion. They became interested when he worked with a client who they became suspicious about:

I did admit some money I got was wrong. I was incentivised for every 10 per cent I got off his tax bill. Accountants all over the land cook the books, or roast them and I was paid to reduce tax bills ... I did not see it as stealing money I saw it as reducing the tax burden of the company.

Similarly a solicitor, sentenced to over four years in prison on his first offence, admitted he was negligent in the way he managed a transaction but denied knowing that was part of a multi million pound fraud. The deal paid him well, and the possibility of earning a good fee attracted him. He noted, "I should have been more diligent. I just took my eye off the ball'. He did business with a man whom he later found out to be fraudulent without properly checking his identity, 'this was my real problem, the chap was not who he said he was.'

Two interviewees linked their offences to a changing economic climate and in similar ways. They

had overstated the value of assets to take out loans, but when business started to go wrong the banks investigated and claimed fraud had taken place. For example, one interviewee ran a company with three partners and claims it was ignorance and naivety rather than criminal intent that led to him being prosecuted for conspiracy to defraud money from a bank. He admitted that he had 'cut corners in business over the years, no doubt about that', but claimed, 'I did not believe I was behaving criminally.' He had been put in charge of finance without proper training and had signed forms for loans which indicated more assets than he had although he claimed that the bank were fully aware of this at the time. In affluent times when things were going well, no-one took much notice but when things became difficult the police were called into investigate and he ended up with his first ever conviction and a custodial sentence of three and a half years.

Another interviewee, an accountant and part owner of the business where he worked received his first conviction in his late fifties when the economic climate worsened and the bank took an interest in the value of assets against which he had secured loans on behalf of the business. He too claimed that the finance industry was complicit in arranging loans, pleased to lend money in affluent times only to cry wolf in a more adverse economic climate:

We did not set out to commit fraud but we sailed close to the wind, supported by the finance industry. And the money was for the business not for me. I was reckless, Ok, but I did not intend to defraud.

Another interviewee admitted that his offence had involved withholding information from his employer about a business opportunity so that he could gain himself, and it was partly motivated by a grievance about his employer, but also by the attractiveness of the opportunity which was 'the dogs bollocks'.²⁸

Motivations in perspective

The original remit for this study was to assess the impact of the recession on fraud. Although all those interviewed committed their offences pre recession, none of them felt that their own offending would have been affected by the economic climate, and none of them felt they would reoffend on release. Nevertheless, 14 of the 16 believed that fraud generally would increase as a result of the worsening economic

28. As Yeager (2007) notes in the context of his discussion of corporate misconduct that it will, 'typically occur as part of routine operations' (p32). See, Yeager (2007) Understanding Corporate Law Breaking: From Profit Seeking to Law Finding. In Pontell, H. and Geis, G. (Eds) *International Handbook of White-Collar Crime*. New York: Springer.

climate.²⁹ Indeed, if the reasons offered by this small unrepresentative group are in any way typical then it would not be surprising if more people turn to fraud, or at least some types of fraud.

Offenders are able to explain their offences in their own terms. Clearly, and as has been noted, there are limits to what can be learned. But to ignore the perspectives of offenders is to ignore a good source of information about why crime occurs. In the context of this study key learning points include caution about the extent to which the recession will increase all fraud types. And if explanations for crime are indicators and guides to preventive strategies it would suggest that organisations can control the extent to which they are likely to be victims, by not creating easy opportunities and by ensuring normal business activities are monitored closely and regulated. Being aware of their own staff circumstances and identifying those with financial difficulties or personal needs that may lead them to crime, and ensuring a strong ethical culture would all have helped to create an environment which some of the interviewees may have found less conducive to fraud. Some interviewees were influenced by others. A major tool for fraud prevention is public awareness. In the Government's 1998 anti-fraud strategy,³⁰ it was noted that:

Public attitudes can be a significant deterrent to anti-social behaviour, whether defrauding the social security system or, for example,

drinking and driving. There is, though, no common attitude across all types of fraud, with small-scale fraud almost condoned in some minds, despite the large total cost and the impact on public confidence.

There is perhaps one other point to be made, and it was made by one of the interviewees to the author; that there are no specific courses in prison to help fraudsters come to terms with their offending. Yet across the reasons given for offending, in this study and other reviewed earlier, the seven pathways identified by NOMS to reduce reoffending would appear to have some relevance to this group. Accommodation; the need for education, training and employment; health (including mental health); drugs and alcohol issues; especially managing finance, benefit and debt; concerns with children and families; as well as attitudes, thinking and behaviour are all potentially relevant for different types of fraudsters. There may be opportunities to help fraudsters in prison, after all their offences are not victimless, some are repeat offenders, and the impact can be serious.

The point here is not to discuss the relevance of a range of fraud prevention strategies. Rather it is to highlight the value in understanding offenders' scripts as a way of informing preventive approaches and assessing the ways in which they can work. Offenders will not provide the whole story, but they will offer insights and some of these can be difficult to glean from any other source.

29. For a fuller discussion of the link between fraud and the recession and fraudsters' views, see, Gill, M. (forthcoming) *Fraud and Recessions: Views from Fraudsters and Fraud Managers. International Journal of Crime, Law and Justice.*

30. See Department of Social Security (1998) *Beating Fraud is Everyone's Business: securing the future.* London. Green Paper Consultation Document 4012.

Restorative practice in prisons:

assessing the impact of the demise of the Inside Out Trust

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Introduction

The Inside Out Trust (IOT) was founded as a charitable organisation in 1994. The IOT developed prison workshops based on restorative justice principles, and at one stage delivered more than 100 workshops in a wide range of prisons in England and Wales. Prisoners were involved in such activities as repairing bicycles, refurbishing wheelchairs, upgrading computers and producing Braille and large print books for charities, both in the UK and in developing countries worldwide. IOT workshops aimed to provide prisoners with an opportunity to not only learn about the needs of other people and to contribute positively to society, but also to learn new skills which could improve their resettlement prospects. In 2004, the IOT commissioned ARCS (UK) Limited, in partnership with the Centre for Crime and Justice Studies, to undertake a large-scale multi-method evaluation of their activities within a range of prisons. Unfortunately, the sudden demise of the IOT in the summer of 2007 due to financial difficulties halted the evaluation prematurely and instead, a small-scale 'closing' evaluation¹ was undertaken to examine the impact of the IOT's demise on: prison staff responsible for keeping prisoners engaged in purposeful activities; the wider regimes of those prisons that had previously delivered IOT workshops; and those prisoners that had been involved with the workshops. This article briefly summarises the findings from this 'closing' evaluation².

The demise of the IOT: the impact on prison staff and prison regimes

Bearing in mind the range and sheer number of IOT workshops that were being delivered prior to the summer of 2007, it was perhaps unsurprising that the sudden demise of IOT had an immediate impact on those involved closely with the workshops. Although used to projects closing, many of prison staff interviewed for the evaluation reported feeling sad to see the end of the IOT and the resulting closure of workshops. Overwhelmingly, prison staff had enjoyed working with the IOT and felt that their work had been both valued and valuable.

It had a very good reputation, the wheelchairs and the bicycles, very good, very well ran. [I] wish we could have kept them [the workshops] on ... but times change and we couldn't. (Former IOT workshop instructor)

I enjoyed doing it, ... I believe in doing it. (Former IOT workshop instructor)

Furthermore, the IOT workshops were particularly useful to prisons in terms of providing purposeful activities for prisoners³, and the sudden closure of many of the workshops meant that there was a significant reduction in prison capacity to deliver such activities.

At the time of the Inside Out Trust actually closing we lost around about thirty-six prisoner places. [So, did that have a big impact on you then?] Oh, it did at the time, yeah. (Former IOT workshop instructor)

1. The 'closing' evaluation (undertaken during 2008 and 2009) was funded by The Atlantic Philanthropies. It was conducted in a sample of six prisons that had previously delivered IOT workshops. These prisons, and the IOT projects that they had delivered, included: a category C training prison for men aged 18 to 21 (carpentry and textiles); a category A and B prison for adult males serving 4 years and over, IPP or life sentences (artificial limbs, bicycles, Braille, hearing aids, sewing machines, spectacles, textiles and wheelchairs); a category C prison for adult males, with a mixed population of young offenders aged 18 to 21 (bicycles, Braille, computers, large print and textiles); a category C prison for adult males, including a prisoner support wing for vulnerable prisoners (Braille and computers); a category C prison for adult males (bicycles and wheelchairs); and a category B training prison for adult males, with a 50% lifer and 50% vulnerable prisoner population (bicycle, Braille, large print and wheelchairs). As part of the 'closing' evaluation, interviews were conducted with eight prison service staff (who had previously been IOT workshop instructors) and a focus group was undertaken with prisoners who had previously worked in IOT workshops. In addition, interviews were also conducted with four former IOT staff.
2. The full evaluation report, released in February 2011, presents findings from all of the research work undertaken during the period from November 2004 to the end of the 'closing' evaluation in 2009. Copies of the full report can be obtained by e-mailing: research@arcs-ltd.com.
3. Purposeful activity incorporates all constructive activities that contribute to rehabilitation and successful resettlement, including undertaking education, work or offending behaviour programmes. It is thus vital to prisoners, and to prisons' rehabilitation attempts.

[At the time of the demise] there [were four workshops] ... employing fifteen prisoners in each, so it was like 'Oh my God, what are we going to do with them?'. (Former IOT workshop instructor)

While some IOT workshops were continued by other charities (such as *IT Schools Africa*⁴, *Jole Rider*⁵ and *Wheels for the World*⁶), in many cases it was only the workshop instructors' own initiative and determination that enabled their particular workshop/s to continue.

I contacted Raleigh Cycles, ... I wrote to their sales organiser and I ... told him the situation. ... A week later, he rang me up and he says 'Would you like 120 bikes? ... They're returns, brand new but returns. They might have small faults, so you might get ... one bike out of two and bits and pieces'. And I said 'Yeah okay'. Anyway when he turned up [at the prison] ... he actually had about 200 bikes on there and I'd got nowhere to put them! ... Anyway, they were fantastic bikes and the lads loved working on them. ... And that's the way we went ahead. (Former IOT workshop instructor)

I had to get on the phone, ... ring up a charity, ... a name out of the book and say 'Would you be interested?' And a lot of people said no. [But] I found a charity, Re-Cycle⁷ [and] they said 'Yes, anything you can send to us, we'll take, and take to Africa'. ... So, then I started ringing around other companies, Universal Cycle, Raleigh, GPO, Center Parcs, and they were all great, '[Yes] you can have the bikes'. So, we [had] got a supplier. And then, I went back to the old driver that we had with the IOT and said 'Would you like to continue working and the prison will physically pay you?' So, we negotiated a price and he comes in with his own van and he collects the bikes. (Former IOT workshop instructor)

The IOT staff themselves also did their best to help the workshops to continue, despite the fact that they were not obliged to.

I kept in touch with the prisons for three or four months and I gave them everything that

I had. ... All the information, all the contacts, all the pending projects that were on the list to do, so that they could continue. (Former IOT staff member)

Nonetheless, despite the dedication and commitment from individual prison staff, not all of the IOT workshops were able to sustain themselves and a number had to eventually close.

We carried on running them [the workshops] as best we could with the materials that we had [remaining] and then eventually it just wrapped up. (Former IOT workshop instructor)

In general, charity workshops tend to be in the minority in prisons when compared to profitable production-based workshops, and with the IOT now gone, there are consequently even fewer charity workshops within the secure estate. Added to this, many of those interviewed expressed a general concern about the longevity of IOT-type charity workshops within prisons because of their inherent lack of profitability.

It [the IOT workshop] wasn't taken on board ... in the prison because we didn't make any money. (Former IOT workshop instructor)

I think individual prisons, and probably the prison service as a whole, still values charity work, but they can't afford to run it. (Former IOT staff member)

[How do you see the future for charity workshops?] I fear for them. ... They'll go if we need to make more money. (Former IOT workshop instructor)

And even those workshop instructors who had struggled to continue their workshops after the demise of IOT were concerned that the prison would eventually come to view their workshops' non-profitability unfavourably and shut them down.

You have to make sure that you're a value to the prison, because if you are, then they might not close you down. (Former IOT workshop instructor)

4. *IT Schools Africa* delivers recycled computers to schools in Africa.

5. *Jole Rider* works with prisons to refurbish bikes for their *Bikes4Africa* programme.

6. *Wheels for the World* restore and distribute refurbished wheelchairs to Africa and eastern Europe.

7. *Re-Cycle* collects and distributes second-hand bicycles to Africa.

The demise of the IOT: the impact on prisoners

Both prison staff and former IOT staff believed that it was those prisoners who had been previously involved with the IOT workshops that had been most disadvantaged by the IOT's demise. The rapidity of the closure of many of the IOT's workshops caused a substantial amount of uncertainty and disruption for prisoners — particularly in the first few weeks following the demise of IOT.

Despite the IOT workshops paying prisoners less than production-based workshops⁸, they were nonetheless very popular with prisoners — primarily because the IOT workshops were seen as more interesting than other prison workshops and prisoners appreciated the opportunities to develop skills.

There's another [work]shop [in the prison] where they put light bulbs in trailer boards. I saw that and I thought, 'I'd go mental if I had to do that my whole sentence'. (Former IOT workshop participant)

This [the IOT workshop] is the only worthwhile occupation within the prison. It is challenging, interesting, worthwhile, and has many applications outside of prison. (IOT workshop participant⁹)

I work on Braille and to ... do my job you basically have to learn a completely new language, ... you have to take an outside [RNIB Braille] exam. Now, there isn't a lot of people who actually went on a [prison work]shop where you have to learn a completely separate language to be able to do your job. So the people I actually work with [in the IOT workshop] are in there because they want to do the job, [even though] we're not as well paid [as some other prison workshops]. (IOT workshop participant)

The IOT workshops were also reported as having a more relaxed and supportive atmosphere than production-based workshops.

[There's a] more pleasant atmosphere [in the IOT workshops as compared to other workshops]. People are more polite, and

generally there is no trouble. (IOT workshop participant)

Not everybody [in the IOT workshops] is the same intellectual level of learning. Some people really, really struggle. Some people find it very easy. So it tends to be between ourselves. We help each other. (IOT workshop participant)

In addition, the prison staff reported that due to the atmosphere that characterised them, the IOT workshops appeared to be particularly beneficial for 'difficult' prisoners¹⁰.

I've had people [troublesome prisoners] that can't work anywhere else [in the prison] working for me. I mean I've had governors saying to me 'Are you sure you want him? [and] it's like 'Well, yeah, he's all right with me'. And then it would be [the prisoner saying] 'You know, I've had a really good time here today' on the first day and ... they get on with it, and you never have any problem with them at all. (Former IOT workshop instructor)

I remember [an IOT workshop instructor] telling me about a chap who was very violent who'd come into his [work]shop. He started off sitting at the back and he [the prisoner] wouldn't, ... he couldn't have anyone [sat] behind him. ... [But] within sort of six months of being in his workshop he would sit right at the front and that was a massive thing for him [the prisoner]. (Former IOT staff member)

The extent to which the IOT workshops were enjoyed and valued by the prisoners was often reflected in their behaviour when they returned to the wings.

It [the IOT] helped the [prisoners'] behaviour. ... On the wings, it [reportedly] helped prison staff. When somebody's gone and been doing a good days work, he goes back on the wing and he's much calmer and is much more pleasant to be with. (Former IOT staff member)

8. An ex-IOT workshop participant said: 'We got £10.50 a week compared to £13 in other shops'.

9. During the initial fieldwork phase of the full evaluation (undertaken prior to the demise of the IOT in 2007), the views of a number of IOT workshop participants were gathered. Where relevant, these views have been included in this article.

10. Data on IOT participants from the central Inmate Information System (IIS) held by the Home Office showed that, compared with the total prison population, IOT participants had typically been convicted of more serious crimes — such as violent crime (36% of participants) and sexual offences (11% of participants) — and were serving longer than average sentences — two-thirds of participants were serving a sentence of longer than 12 months, and one in ten was serving a life sentence.

In addition, both prisoners and prison staff emphasised the restorative aspect of the IOT workshops. While not direct restoration to the victim, the workshops did encourage reflection of other people's situations and gave participants an opportunity to make a positive contribution to the wider community.

All my life, all I've done is take off people. Since I started working here [in the IOT workshop], I look at what I can do for people instead. (IOT workshop participant)

You're putting something back... [You think] 'I'm actually making a difference in somebody's life'. (Former IOT workshop participant)

It makes you think about these things. It must be awful for them. ... And you step out of yours and into their shoes. (Former IOT workshop participant)

And with the IOT and prison staff ensuring that personal feedback from recipients of the goods was given to the prisoners, not only was the 'restorative loop' thereby completed, but prisoners' self-esteem was also increased.

I receive a great deal of job satisfaction from seeing the photographs and reading the letters of the recipients of the wheelchairs I have worked on. This is the most positive aspect of the work. (IOT workshop participant)

[The IOT workshop] gives one a sense of worth and importance. Emotions that are few and far between in prison. (IOT workshop participant)

[The prisoners] were very proud of what they did. Many a time, when the people came to pick up the bikes, or the wheelchairs, the prisoners would have their photos taken with the bikes that were going out so that they could show people, tell people. They were very proud of what they did and they got a lot out of it. (Former IOT workshop instructor)

The IOT workshops also offered substantial potential for increasing prisoner engagement in education — recognising the contribution that qualifications and accredited skills could make to prisoners' employability once back in the community.

The provision of a relaxed environment, with prisoners engaged in meaningful work that they enjoy, was viewed as a particularly effective means of getting prisoners interested in education (despite commonly shared poor experiences of formal education).

We used to run VQs. It weren't a big qualification but it was part of working towards an NVQ, so we used to do ten elements of a VQ and there were quite a lot of lads got that. (Former IOT workshop instructor)

Indeed, in some IOT workshops, 'education pods' were introduced to allow staff from the prison education department to deliver educational activities on a part-time basis to IOT workshop participants.

If you needed to do a course, like Enhanced Thinking Skills [in order to progress your sentence], you could do that part-time, [and] you didn't lose your workshop place. (Former IOT workshop participant)

Conclusions

For those prison service staff involved with the IOT workshops, the sudden demise of the IOT was shocking and caused immediate disruption to their work. While some workshops were continued by the prisons themselves or other charities (with success often directly related to the original IOT instructor's initiative and determination to sustain their workshop/s), unfortunately many of the workshops could not be sustained over the longer-term and subsequently closed. This resulted in a significant reduction in the capacity of many prisons to deliver purposeful activities. Added to this, with charity workshops tending to be in the minority in prisons (as production-based workshops are favoured due to their profitability), the IOT's demise means that there are now even fewer charity workshops within the secure estate.

While prison staff reported feeling sad at the loss of the IOT workshops, which for many had provided a relatively pleasant 'oasis' in an otherwise stressful prison environment, they believed that it was the prisoners themselves who were most disadvantaged by the demise of the IOT. Prisoners reported valuing the relaxed and supportive environment of the IOT workshops and the opportunity to feel challenged and learn new skills. Furthermore, the calm and supportive atmosphere had encouraged prisoners to communicate more with staff and amongst themselves. As a result, the workshops helped

prisoners to build positive relationships, learn team-working skills, and develop both support networks and social skills. Prison staff reported that they found the workshops beneficial for all types of prisoner, but in particular, those serving long sentences and those that were deemed to be vulnerable. IOT workshops were also valuable for prisoners who were difficult or violent, with participation in the workshops often resulting in their behaviour being more stable when they returned to the wings.

Both prisoners and prison staff emphasised the restorative aspects of IOT workshops as being particularly important. While this was not direct restoration to the individual victim, it did encourage reflection of other people's situations, promote the development of empathy, and enable prisoners to make a positive contribution to society. The IOT themselves ensured that personal feedback from recipients of the goods was delivered to the prisoners, thereby completing the 'restorative loop'.

Overall, there is no doubt that the demise of IOT and the resulting cessation of many of the IOT workshops has resulted in the loss of an extremely valuable service. As one former IOT workshop instructor summarised:

What annoyed me was that the Prison Service itself didn't take it [the IOT workshops] up in a more vigorous way. ... They were terrified I think, of being labelled soft or whatever — ... 'These people are in prison for punishment. Therefore we'll make it as dull and horrible as possible'. ... But it doesn't work, and everybody knows it doesn't work. ... They [IOT participants] said what a breath of fresh air it was for them to be able to do something creative and positive and life-affirming. ... It was win-win-win. There wasn't a down-side to it as far as I could see.

W
P

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Practice into Policy:

The Needs of Elderly Prisoners in England and Wales

Adrian Hayes is a Researcher at Offender Health Research Network, University of Manchester, and *Jenny Shaw* is a Professor of Forensic Psychiatry.

Introduction

People over 60 are now the fastest-growing age group in the prison system in England and Wales. In the last ten years, the number of sentenced prisoners over 60 has grown by almost 250 per cent (908 in 1998 to 2201 in 2008¹). Research in the UK and internationally has shown that older prisoners have a very different profile of health and need² with more chronic physical illness³, depression⁴ and victimisation from other prisoners⁵. To date, however, there has been no national strategy for the care and management of older prisoners by HM Prison Service.

Crawley and Sparks⁶ introduced the concept of 'institutional thoughtlessness' to describe how the needs of older people in prison were often overlooked by prison staff. This was not deliberate or abusive, but based on a lack of awareness of aspects such as decreased mobility, or greater need for warmth. This could be seen as a form of institutional neglect⁷. HM Inspectorate of Prisons (HMIP) also noted the low visibility of older offenders, entitling a thematic review 'No Problems — Old and Quiet' based on a representative entry made in an older prisoner's wing file⁸. The Inspectorate has been prominent in identifying the different needs of older people and responding to them. In a thematic review, they compared the care of this group with guidance in the National Service Framework for Older Adults⁹. The review specifically commented on the need for HM Prison Service to work

closely with the NHS to ensure that older prisoners had the same range and level of health care available to older adults in the community.

HMIP's thematic review¹⁰ found deficiencies in several key areas, notably provision of purposeful activity, accessibility of the physical environment, and resettlement. The review also focussed attention on health care finding variable provision of chronic disease management services, under-detection of mental illness, and difficulty in meeting prisoners' functional and social care needs. They made a number of recommendations for how prison establishments could improve services, but ended with the statement that:

The National Offender Management Service, in conjunction with the Department of Health, should develop a national strategy for older and less able prisoners.¹¹

Subsequently, the Department of Health has published a 'toolkit for good practice'¹² describing best practice in the management of older offenders, as well as a reference pack with ideas for good practice produced with Nacro¹³. However, despite mention of the need for equivalent care in the National Service Framework, there has been no joint strategy by the Department of Health and HM Prison Service.

Despite the lack of a formal strategy, HMIP have continued to take an interest in the needs of this group with a recent update of their thematic review¹⁴. At the same time, their programme of inspections for

1. Ministry of Justice (2008) *Statistical bulletin: Offender Management Caseload Statistics*. London: Ministry of Justice.
2. Fazel, S., Hope, T., O'Donnell, I. & Jacoby, R. (2001) Hidden psychiatric morbidity in elderly prisoners. *British Journal of Psychiatry*, 179, 535-539, Loeb, S.J. & Steffensmeier, D. (2006) Older male prisoners: Health status, self-efficacy beliefs, and health-promoting behaviors. *Journal of Correctional Health Care*, 12, 269-278, and Potter, E., Cashin, A., Chenoweth, L. & Jeon, Y. (2007) The healthcare of older inmates in the correctional setting. *International Journal of Prisoner Health*, 3(3), 204-213.
3. Fazel, Hope, O'Donnell & Jacoby (2001) see n.2.
4. Fazel, S., Hope, T., O'Donnell, I., Piper, M. & Jacoby, R. (2001) Health of elderly male prisoners: worse than the general population, worse than younger prisoners. *Age and Ageing*, 30(5), 403-407.
5. Wahidin, A. (2004) *Older Women in the Criminal Justice System: Running Out of Time*. London: Jessica Kingsley Publishers.
6. Crawley, E. & Sparks, R. (2005) Hidden Injuries? Researching the Experiences of Older Men in English Prisons. *Howard Journal of Criminal Justice*, 44 (4), 345-356.
7. Hayes, A.J. & Fazel, S. (2008) Older Adults in Prison: Vulnerability, Abuse and Neglect. In J. Pritchard (Ed.) *Good Practice in Safeguarding Adults: Working Effectively in Adult Protection* (pp. 138-150). London: Jessica Kingsley Publishers.
8. HM Inspectorate of Prisons (2004) 'No problems — old and quiet': *Older prisoners in England and Wales*. London: HMIP.
9. Department of Health (2001) *National Service Framework for older people*. London: Stationery Office.
10. HMIP (2004) see n.8.
11. Ibid p.53.
12. Department of Health (2007) *A pathway to care for older offenders*. London: Department of Health.
13. Department of Health & Nacro (2009) *Working with Older Prisoners*. London: Department of Health.
14. HM Inspectorate of Prisons (2008) *Older prisoners: a follow-up to the 2004 thematic review*. London: HMIP.

individual establishments has continued. HMIP inspection reports are public documents, and are published alongside press releases, hence prisons are judged by the public according to the contents of these reports. It seems possible, therefore, that if HMIP criticise prisons on their care of older offenders, senior management in those prisons may be more motivated to make improvements. In this way, even though there is no formal requirement to create appropriate regimes for this group, change may be enacted from the ground up.

This study documented the content of HMIP's reports with respect to older prisoners. We wanted to establish whether more recent reports made more reference to this population, and then to explore the content of those references. By categorising these comments into praise or criticism, we also aimed to gain a sense of whether the establishments were operationalising HMIP's recommendations.

Method

HM Inspectorate of Prisons is an independent body which examines the condition of establishments and the treatment of offenders therein. Inspections take place at all public and private prisons in England and Wales approximately once every two or three years, and the results are made publically available. In this study, HMIP reports were searched for content related to older people.

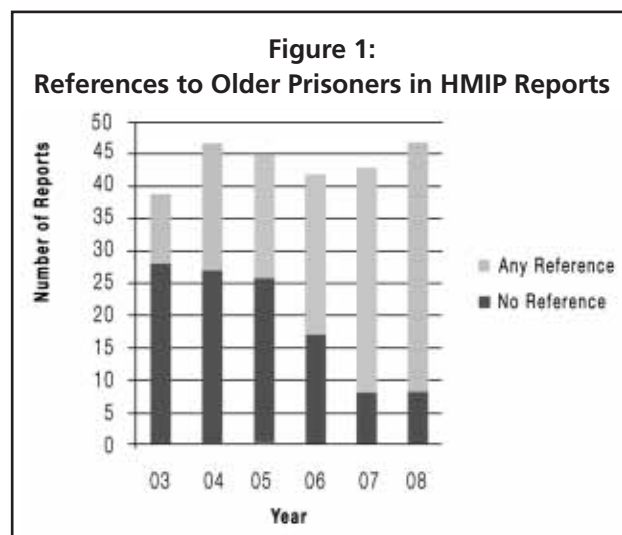
All HMIP¹⁵ reports for adult male and female prison establishments between January 2003 and December 2008 were identified. Reports where prisons did not contain older prisoners were not excluded because early analysis revealed that almost all did, and that the Inspectorate had expectations for development even when no older people were currently resident. There were 263 reports: 39 from 2003; 46 from 2004; 45 from 2005; 42 from 2006; 44 from 2007; and 47 from 2008. Each report was searched for the terms old*, elder*, retir* and geriatr*, using wildcards (*) so that all words with these stems would appear in the search results. Excluding irrelevant results (such as those containing words such as 'told', 'holding', etc), each paragraph containing a relevant reference was copied to a separate document. For quality control purposes, every tenth report was examined in detail for any other references to older prisoners which did not contain the search phrases. No additional comments relevant to older prisoners were found. Therefore, it is assumed the original search strategy was acceptable.

Paragraphs were then summarised in a number of ways. First, inspectorate reports were rated as to

whether they contained any mention of older prisoners. Next, each paragraph was rated as containing broadly positive or negative (or both) comments relating to an aspect of conditions or treatment of prisoners. Specific recommendations were considered separately. Finally, the content of paragraphs was summarised and analysed using thematic analysis. Each reference was read several times, and subsequently coded according to repeating themes using the constant comparative method¹⁶. Emerging themes were then described, with representative quotes added for each.

Results

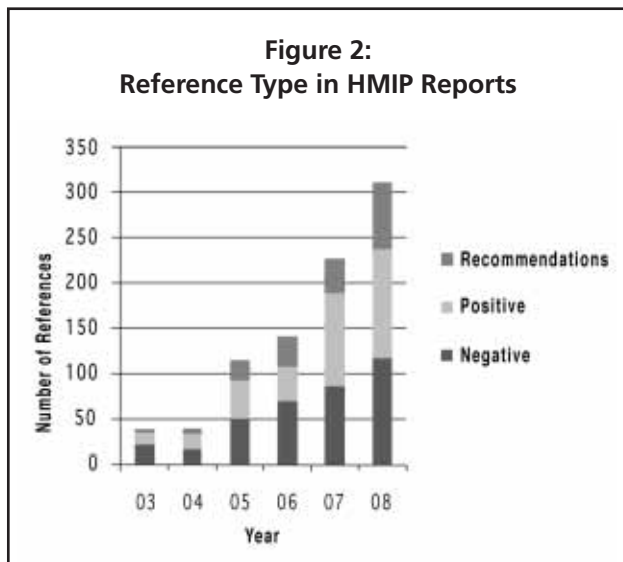
There were 263 reports within the study period, containing 916 paragraphs with references to older prisoners. In total, 148 (56 per cent) reports had at least one such reference. **Figure 1** shows the number and proportion of reports from each year with references to older prisoners. Chi Square analysis revealed a significant difference across the years for reports containing references to older prisoners $X^2(5)=48.4, p<0.001$. Closer examination of observed and expected results showed that for years 2007 and 2008, significantly more reports than expected referred to older prisoners.



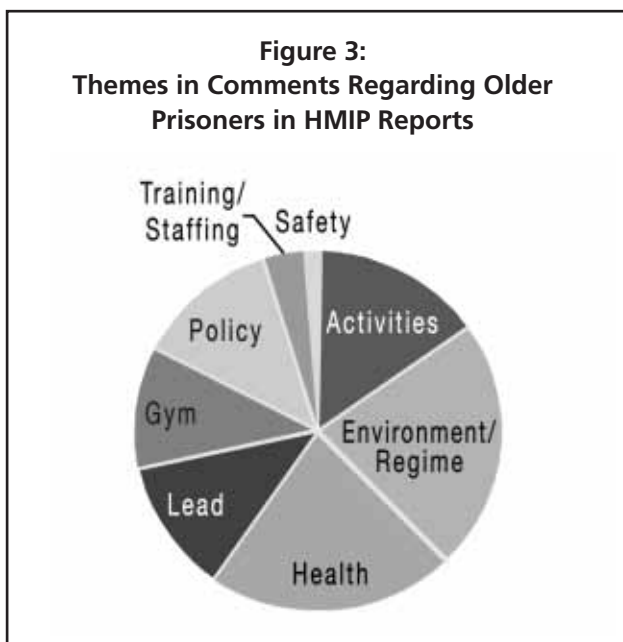
Comments within each paragraph selected for analysis were examined. Firstly, when content was categorised by broadly positive or negative comments, or specific recommendations for practice, there were 318 positive comments (ie praise), 348 negative comments (ie criticism), and 174 specific recommendations. **Figure 2** shows the variation in these categories for each year.

15. All HMIP reports can be found at http://inspectorates.homeoffice.gov.uk/hmiprisons/inspect_reports/hmp-yoi-inspections.html

16. Glaser, B.G. (1965) The Constant Comparative Method of Qualitative Analysis. *Social Problems*, 12(4), 436-445.



Finally, references were further categorised for content. **Figure 3** shows the themes selected, and the relative number of references to each from all reports.



Themes

Environment / Regime

The most common theme (199 comments) was labelled 'Environment/Regime'. This included references to the physical layout of the prison including stairs, width of cell doorways, and also fixtures and fittings of prisons. Negative comments mostly referred to situations where the environment had not been adapted to take older or disabled prisoners into account:

There were no adapted cells for prisoners with reduced mobility or modifications to facilities such as showers, sinks and telephones to

assist less able prisoners ... on some wings, prisoners were 'located flat' as they had mobility difficulties but then had to use stairs to get to the showers, exercise yard or telephone. [Liverpool 12/2/07]

We observed some poor provision for older and disabled prisoners who often had difficulty accessing bathing facilities. [Parkhurst 4/7/05]

The inspection team was clear that older prisoners should not be routinely located in health care, and that if alterations were required to wings then this should be achieved:

Merely referring older prisoners to healthcare or keeping them as inpatients on a long-term basis is not appropriate. [Full Sutton 3/3/03]

In addition, there were references to cell furnishings, including seating and sleeping arrangements:

The only seating provided for many older prisoners was low wooden chairs. This was inappropriate as a number of older prisoners had poor mobility and needed the support and comfort of age-friendly high-backed chairs. [Usk and Prescoed 4/4/05]

There were two cases of prisoners aged over 60 occupying the top bunks of beds without the appropriate risk assessments having been carried out. [Stafford 3/7/06]

Attempts to make alterations to accommodation were praised:

Wheelchair users were well catered for with ramps into houses and other areas of the prison, and the provision of motorised mobility scooters was good practice ... there was a range of creative solutions, from mobile hearing loops to 'basket' food trays for those with mobility difficulties. [Maidstone 19/2/07]

One unit had been designated for prisoners aged over 40 and one for those over 50. Prisoners appreciated the opportunity to share accommodation with men of a similar age. [Kirkham 5/12/04]

Health

The second most common theme (195 comments) was labelled 'Health', and contained a number of issues

relating to older prisoners' health and well-being. Several recommendations were made with regard to needs assessment for older prisoners, with good practice in this area highlighted:

All prisoners over the age of 65 were identified in reception and referred to the older person clinic where they were assessed and referred to other health professionals where appropriate. All were seen by the nurse every six months or sooner if necessary. [Channings Wood 2/7/07]

Two nurses had specific responsibility for the management of older and disabled prisoners ... There were good links with the prison disability officer. [Long Lartin 14/7/08]

Care planning was highlighted in a number of reports, and several recommendations were made for prisons to develop a system of care planning for older prisoners:

A disability policy and policy for older prisoners covered most of their needs but there were no individual care plans for prisoners with a disability or other specific needs. [Leyhill 5/3/07]

Women with specific care needs such as older prisoners and those with disabilities should have regularly monitored care plans as part of their wing files. [Peterborough 2/10/06]

Notably, there were several recommendations that older prisoners should have a say in their care:

Older prisoners were regularly consulted about their individual care needs, and individual plans were in place for those with particular needs. [Whatton 22/1/07]

The provision of clinics for older prisoners was praised when present, and often noted if absent:

... prisoners over the age of 65 arriving at Maidstone were assessed in line with the National Service Framework for older people and one of the GPs held a weekly older persons' clinic. [Maidstone 2/11/04]

Nurse-led clinics should be introduced as soon as possible, including one focusing on the care of older prisoners. [Whitemoor 30/1/06]

Inspection teams were critical where the care of older prisoners was lacking, even when there were only small elderly populations:

There was no specific provision for older prisoners, although the numbers were very low (only six at the time of the inspection...) [Buckley Hall 4/5/07]

A number of reports referred to the social needs and daily living skills of older prisoners, and the provision of services for prisoners with such needs:

There was, however, no input from specialist services such as from an occupational therapist to advise on the provision of equipment to improve daily living. [Usk and Prescoed 4/4/05]

most of the older prisoners had a 'mate' on the wing to help them on a day-to-day basis, such as getting items from the shop... Two older prisoners went to healthcare for a bath each week, which they appreciated and looked forward to. [Whitemoor 30/1/06]

Finally, there was some mention of older prisoners' health care needs following release, and prisons' responsibility in assessing these:

Prisoners with social care needs were not well provided for after release and, in the light of the number of older prisoners and those with enduring disability, this was of concern. [Whatton 22/1/07]

Activities

The third most common theme was 'Activities' (133 comments). This theme related to the provision of activities for prisoners who may be unable to work, or who had chosen to retire.

There did not appear to be any special provision made for prisoners over the age of 60 who had retired. In particular, we were concerned about the potentially adverse physical and psychological consequences for this vulnerable group of prisoners. [Wakefield 13/10/03]

A smaller number of older prisoners were packing nuts and bolts in plastic bags on one of the residential wings. This work was repetitive and unrewarding for prisoners and offered little opportunity for vocational training. [Usk and Prescoed 4/4/05]

Where activities were provided for older prisoners, often 'day centres' in health care departments, these were praised:

There was a 'specific needs' workshop where older prisoners were involved in rug-making and stamp-sorting activities. Art and craft sessions were available and an external organisation visited the prison weekly to hold 'reminiscing classes'. [Frankland 25/10/05]

The day care centre was an excellent initiative that provided good therapeutic support for older prisoners. [Leyhill 5/3/07]

Several reports commented on whether older prisoners were locked in their cells during the day if they were not working. It was noted that the lack of available activities for this age group was not a satisfactory reason for this.

The regime for retired older prisoners was very poor. They were routinely locked in their cells during the core day, and had little opportunity to attend age-appropriate activities. [Elmley 11/12/04]

Prisons made individual decisions about the level of pay prisoners should have if they were of retirement age and chose not to work. Inspectorate teams commented when they felt this was pejoratively low. Often related to this were complaints that such prisoners had to pay for their televisions, which the team felt was inappropriate.

Retirement pay was only £3.25 per week, which was unacceptably low. [Dartmoor 11/2/08]

Retirement pay should be increased. Prisoners over retirement age should not be charged for their television. [High Down 15/5/06]

Linked with this theme were comments on specific activities relating to Chaplaincy and the Library. Where these were made, it was mostly to praise good practice:

... there was a good range of large print and talking books in the library ... and there were good arrangements for prisoners with mobility problems to be visited by library orderlies. [Usk and Prescoed 4/4/05]

The chaplaincy had developed an older prisoners' project to cater for the spiritual,

psychological well being, self-worth/value, and interactive needs of prisoners over the age of 60 years. [Wakefield 13/10/03]

Gym

The next most common theme, and linking with the previous, was 'Gym' (97 comments). The majority of comments made in this section related to the provision of gym sessions specifically for older prisoners; both praising these when provided and criticising their absence.

There were extensive but underused indoor and outdoor physical education facilities ... There was little targeted PE work with older or less fit prisoners. [Onley 2/11/07]

Regular planned PE activities had been introduced for older men. Key skills had been integrated in PE and healthy lifestyle programmes were now run, with formal links between healthcare and gym staff. [Peterborough 30/6/08]

These sessions were not only dedicated time in the gym for older people but included other activities:

Age-appropriate activities, such as yoga and bowls, were provided through the physical education department. [Hewell Grange 3/4/06]

Age-appropriate activities were offered, and included gym sessions designed for older people ... to encourage movement and integration. [Stafford 3/7/06]

One prison had rejected a recommendation to provide sessions for older prisoners on the grounds of discrimination against younger prisoners, but this was not accepted:

Our previous recommendation that sessions for older prisoners should be introduced had been rejected ... on the basis that it was 'ageist'. The sessions currently offered were general and may have deterred some less fit prisoners. Physical education staff were willing to run sessions designed for an older age group. Rather than discriminating against younger prisoners, this would help meet the needs of all those in the TC.

We repeat the recommendation.' [Dovegate 4/9/06]

Named Lead/Forum for Older Prisoners

Having a named lead (or forum) for older prisoners was a common area raised in reports (106 comments). The Inspectorate often recommended having both an officer (commonly the Disability Liaison Officer) and member of health care staff responsible for overseeing the care of older prisoners.

Following publication of the inspectorate's thematic review of older prisoners, one of the RGNs had taken on the responsibility of managing the care of older prisoners. Regular meetings were planned to discuss how to take forward the review's recommendations'. [Parc 9/1/06]

A need was shown for the lead to be active in their role:

While a nurse had been identified as the lead for older prisoners, (s)he had not yet taken up a permanent post. [Wealstun 1/12/08]

Following the health needs assessment, staff had been allocated areas of responsibility and one of the registered nurses had the lead responsibility for the older population. However, at the time of our inspection there was nothing specific in place, although medication reviews and other age-specific clinics were planned. [Whatton 22/1/07]

Policy

Related to the previous theme, 'Policy' (112 references) related to prisons' disability and diversity policies as well as specific policies for older prisoners, including assessment and delivery of health care. These revealed that the inspectorate team was not satisfied by *ad hoc* management of older prisoners, rather than formal written policies for the care of older prisoners were expected:

The establishment should prepare a local policy document outlining all arrangements for the assessment and management of older prisoners and disabled prisoners, and should monitor its implementation. [Durham 18/9/06]

A policy document had been written for the management of prisoners with disabilities and older prisoners. It set out, in simple language, procedures, protocols and principles to be adopted by staff in order to meet the needs of older prisoners. Although, at the time of the inspection, it had not been fully implemented, its contents were known to most residential

staff. A senior prison officer had been nominated as the older prisoner access manager. His responsibilities had been specified in a written job description, and prisoners and staff had an understanding of his role. [Stafford 3/7/06]

The inspection team noticed when policies had been drawn up but not put into practice, and this was an important aspect of care:

A policy for the care of older prisoners had recently been developed, but was yet to be implemented. [Swansea 20/10/05]

Inspectors also expected prisons to be aware of and to adhere to existing national, non-prison specific policies:

Staff did not seem to be aware of their professional responsibilities in relation to older people, as set out in the National Service Framework for Older People. [Rye Hill 15/6/07]

Training/Staffing

The theme of Training/Staffing was represented in 33 references in the reports. Several comments referred to the need for specific training to be provided to those working with older prisoners, including both health care and discipline staff:

Health services staff should have training for working with older people, including how to recognise signs of mental health problems and how to identify social care needs. [Wakefield 1/12/08]

Work with elderly and disabled prisoners was particularly well developed, although staff training and more community engagement were needed. [Maidstone 19/2/07]

In addition, reference was made to the provision of services from staff who may not usually be involved with prisoners. These comments were a mix of identifying gaps in provision or highlighting good practice:

Usk had a number of older prisoners whose medical conditions were managed well but the services of an occupational therapist to advise on their specific daily needs would be beneficial. [Usk and Prescoed 4/4/05]

We were impressed with the leg ulcer clinic, which was organised by the lead nurse for the elderly and involved the local district nurses. [Wymott 1/12/03]

Safety

The final theme (13 comments) related to the safety of older prisoners. Safety was sometimes raised as an issue in terms of general distress, but occasionally regarding bullying or intimidation by younger prisoners or even staff:

It was clear from a few of the older women to whom we spoke, particularly those in prison for the first time, that they found it a very distressing experience. [Styal 19/1/04]

Discussions with prisoners suggested that some older inmates felt intimidated by younger ones. [Shepton Mallet 11/7/05]

Discussion

This content analysis aimed to investigate references to older prisoners in HM Inspectorate of Prisons reports. The study showed that reports were commenting on the needs and experiences of this group more each year, and that recent reports were very likely to contain at least one reference. This showed that HMIP were taking seriously their interest in older offenders, and judging prisons by their management of them. Furthermore, the number of recommendations was also rising, showing a commitment to following up on their suggestions in the thematic reviews.

The analysis of the tone showed a large increase in positive comments in 2007 and 2008, indeed outweighing the number of negative comments in

these years. This suggested that prison establishments were acting on the Inspectorate's criticisms and recommendations. This was interesting, given there was no formal necessity to make changes to the environment or regime for older prisoners, and suggests HMIP are a powerful agency in affecting change within the prison system.

There were a number of common themes in the comments made by inspectors, and these have been explored in detail. Prisons are expected to have written policies and named leads for the care of older prisoners. They are expected to provide a suitable physical environment and prison regime for people who may be less able to get around, or who wish to retire from work but still remain active. At the same time, provision of age-appropriate activities and recreation was seen as important. Finally, health care departments are expected to have procedures for the assessment and monitoring of older people's health and social needs.

This study is an analysis of secondary data and therefore subject to any inherent bias within the process of inspection and reporting by HMIP. The finding of more frequent positive comments in recent reports may not necessarily indicate change within the establishments. Instead, the Inspectorate may have reduced their expectations for how prisons should be managing older people; however, this seems unlikely given the content of the references. A prospective study of the needs of individual prisoners would be necessary to determine real change.

In summary, despite the lack of a national strategy for the care and management of older prisoners, establishments are rising to the challenge of catering for the complex needs of this population. HM Inspectorate of Prisons appears to be keeping this area high on its agenda by highlighting that older people have special needs which should be addressed. It appears that progress has been made at ground level, rather than being policy-driven.

Reviews

Book Review

The Man They Couldn't Hang: A Tale of Murder, Mystery and Celebrity

A play by Michael Crowley
Publisher: Waterside Press
(2010)
ISBN: 9781872870670
(paperback)
Price: £14.95 (paperback)

If you are going to write a play about a hanging, it's got to be a comedy. So says author and playwright Michael Crowley, who is writer in residence at HMYOI Lancaster Farms. In this case, not just a comedy, but one that takes its cue from the tradition of the Victorian music hall.

The Man They Couldn't Hang is based around the strange but true story of John Lee who, having been convicted of the 1884 Babbacombe murder, stood three times on the gallows and survived to tell the tale. The bungled execution quickly became the stuff of legend as Lee was reprieved to serve 22 years in prison, mostly at hard labour, much in solitary confinement. Throughout that time and after, Lee proclaimed his innocence and, on release, made a living from telling the tale of his escape from the jaws of death.

Crowley's remarkable work conjures up a fictional meeting between the recently released Lee and his would-be executioner, James Berry. The meeting is not by chance, but organised by failing theatre-owner Douglas Fawcett and Berry's theatrical agent Henry Cheetham. Their vision, or at least the vision of the cynical and aptly-named agent, is to produce a show in which Berry and Lee recreate the infamous execution on the music hall stage, working gallows and all.

And when a combination such as this is contrived, you know you

are going to be witness to a catastrophe on a grand scale. But how will it unfold? What will become of the man they couldn't hang? Will it end in comedy, tragedy or sheer farce?

Set in 1907, the year of a strike by music hall artists, *The Man They Couldn't Hang* raises many questions about crime and punishment and their respective entertainment values. The story begins in the office of down-at-heel Fawcett, as the agent Cheetham arrives to sell him his latest act, the former hangman Berry.

Berry, already a stage act, does a turn telling the story of his life as an executioner. He can talk about the men and women he has hanged, the methods and materials he used, as well as describing what he sees as less humane methods of execution, such as the Spanish garrote and beheading by sword, all aptly illustrated from his collection of grisly artefacts.

After some success with these lectures, tacked on to the usual music hall ribaldry, Fawcett and Cheetham conspire to add a further element to the show — to bring together hangman and hanged man or, rather, hangman and almost hanged man.

Crowley's work is intriguing in its multiplicity of interpretation possibilities. Is it a straightforward historical work, an anti-capital punishment polemic or a critique of modern mass media values? Why, the script begs, is the audience entertained by the prospect of a good hanging? And why are we, the real audience, entertained by the prospect of a fictional audience being entertained by the prospect of a good hanging?

There's plenty of humour in it — gallows humour of course. For instance (if you can imagine the timing of a music hall delivery):-

Berry: 'Sorry about the other night. How is the young lad?'

Henry: 'He's fine, James. Don't you worry about him.'

Douglas: 'You need to be more careful with that sword.'

The dramatic development in the play, as I have read it, is sometimes too contrived, however, and the dialogue more than a little stilted. In places, it doesn't quite flow. Nevertheless, this work would undoubtedly provide a wealth of meaty material for any drama workshop worth its name, whether inside or outside of the prison wall. I hope to have the opportunity to see it performed some time, if only to have a good laugh at a good (or rather bad) hanging.

Question is, who will have the last laugh: the audience in the play, the audience watching the audience in the play, or perhaps the author watching the audience watching the audience in the play?

Ray Taylor is a prison officer at HMP Pentonville in London.

Book Review

Female Sexual Offenders Theory, Assessment and Treatment

Edited by Theresa A. Gannon and Franca Cortoni
Publisher: Wiley-Blackwell
ISBN: 978-0-470-68343-9
(paperback) 978-0-470-68344-6
(hardback)
Price: £29.99 (paperback) £65.00
(hardback)

Despite the fact that female sexual offenders have always existed, it has only been in the last 10 or more years that research and treatment efforts designed specifically with women in mind have begun to gain ground. It is

currently thought that women make up 4-5 per cent of all convicted sexual offenders and account for 1 per cent of the prison population. Despite this low figure, the NSPCC estimate that women in all likelihood commit up to 5 per cent of all female abuse and 44 per cent of male abuse. Reports of child sexual abuse by women are also thought to have a lower reporting rate than those committed by men, so in reality abuse rates are probably far higher. It is therefore timely that Gannon and Cortoni have collated together a body of work on female sexual offenders and produced this much needed edited collection.

The book is made up of 11 chapters, divided into two main parts: general contextual and background information and practitioner focused chapters. These are written by world-leading experts in the field of female sexual offenders, including Saradjian, Ford, Blanchette, Rose and of course, the two editors Gannon and Cortoni. Taking each chapter in turn, chapter 1 is a general introduction and explains not just the importance but also the need for and organisation of the book. It also sets out two significant questions:

1. *To what extent are female sexual offenders similar, to, and different from, male sexual offenders?*

2. *To what extent are female sexual offenders similar to, and different from, females who offend non-sexually?*

These questions are referred to and answered in the remainder of the book.

Chapter two, written by Saradjian, reviews the prevalence of female-perpetrated sexual abuse and the impact of such abuse on victims. This is an extremely interesting chapter with up to date data collated from a variety of sources. It explains why as a society we are more reticent to believe that women could or even would commit sexual offences and also

explains that when they do how often we are more judgemental than we are with men. This is because such woman have committed a double taboo; not only have they committed a crime but they have also gone against the stereotype of women as carers and nurturers. This is followed by chapter 3 which describes and evaluates the available typologies and theoretical perspectives for explaining female-perpetrated sexual abuse. As the editors explain in chapter 1, this chapter is the first focused evaluation of current theories which attempts to explain the phenomenon of female-perpetrated sexual offences and by synthesising the literature documents some individual or single-factor theories associated with female sexual offending. When it is necessary to know why offenders offend, so that treatment programmes and other forms of intervention can be developed, the contents of this chapter are imperative.

Following this is chapter 4, which provides a comprehensive summary and evaluation of the characteristics, research, assessment and treatment strategies available for juvenile sexual offenders. On the basis that this is generally another under researched area, this is a further important and very interesting chapter which looks not just at juvenile female sexual offenders but also compares them with other offender populations, including juvenile male sexual offenders; juvenile female non-sexual offenders and non-offenders. The chapter concludes with some useful guidelines regarding treatment strategies and also provides directions for future research. The final chapter in the first part then goes on to look at the available evidence regarding the mental health characteristics of female sexual offenders. Whilst it is often thought that female offenders suffer from very high levels of

mental health needs, Rousseau and Cortoni question this fact, suggesting that the recording of conditions such as psychopathology may be influenced by societal bias (we would rather believe that a female sexual offender was 'mad' as this would help us to understand why she would sexually abuse) and may also be due to over-reporting by the women themselves. Further research in this area is therefore crucial.

Part two of the book opens with chapter 6 which looks at the assessment of female sexual offenders and provides readers with crucial information regarding the assessment of risk of reoffending amongst this group of offenders. Taking into account some of the problems faced by practitioners, including low base rates, a lack of validated risk factors and a dearth of tools designed specifically for women, the chapter provides guidance on which approaches should be used. On the basis that the evidence suggests that female sexual offenders have more in common with female offenders than they do with male sexual offenders, it is suggested that rather than using tools designed for men, it is better to use tools designed for general offending. Linked with risk assessment is chapter 7 which looks at the potential treatment needs of female sexual offenders and compares each identified need with current knowledge regarding male-perpetrated sexual offending. In particular the chapter identifies the important factors of offence supportive cognitions, deviant sexual interests, previous victimisation, male dependency, social and sexual relationships, empathy, coping skills and mental health difficulties as being important. As with many of the chapter in this book, the overall warning is that females are different to men and therefore need to be assessed and managed with these differences in mind.

Following on from assessment and treatment needs is chapter 8, by Blanchette and Taylor, which is an extremely interesting and informative chapter which overviews a range of interventional treatment initiatives available in Canada, the UK, the USA and Australia. Whilst the review shows the shortage of interventions designed specifically for female sexual offenders it does show how interest in this area is increasing and will hopefully encourage the continued and expanded use of such measures through the world. This is then followed by a chapter on the use of polygraphy with female sexual offenders. Believed to be the first review of using the polygraph with female-perpetrators, chapter 9 provides readers with the latest research evidence on its use, including some interesting differences and similarities between men and women. Chapter 10 then details the experiences of practitioners working for the Lucy Faithful Foundation who have worked with female sexual offenders in a therapeutic community environment. Whilst there is currently one therapeutic community for women at HMP Send, little research has been carried out on the use of the therapeutic process with female sexual offenders and so in this sense the chapter is invaluable. Again, the overriding theme is that women are different and need to be treated on this basis.

The final chapter written by the editors and Rose provides a useful summary of the entire book, detailing current knowledge about research and treatment with female sexual offenders. I would highly recommend the whole book as each chapter is of importance in its own right, but if time is pressing then this last chapter is a 'must read'. Mirroring the main point in many of the chapters and mentioned several times in this review, the authors conclude with a

strong yet clear message: 'we must not be tempted to go down the somewhat easier road of adjusting male-informed models and assessments for use with female sexual offenders. To do so may jeopardise our research with female sexual offenders and our establishment of empirically based treatment with this population'. For the sake of both female sexual offenders and their victims, I hope that this warning is heeded by policymakers and practitioners alike.

Dr. Karen Harrison is a Lecturer at the Law School, University of Hull.

Book Review:

Criminal Justice in Scotland

Edited by Hazel Croall, Gerry

Mooney and Mary Munro

Publisher: Willan Publishing

(2010)

ISBN: 978-1-84392-785-3

(paperback) 978-1-84392-786-0

(hardback)

Price: £25.99 (paperback) £85.00

(hardback)

This excellent collection, which features contributions from leading Scotland-based academics, not only provides an introduction to key contemporary issues in Scotland's criminal justice system but does much more. The book fills a significant gap in the literature caused by 'British' research and publications tendency to focus exclusively on England and Wales.

This book is broken down into four parts. The first, 'Thinking about crime and criminal justice in Scotland: introduction and social context', comprises three chapters that locate the analysis of criminal justice within a wider social context. They discuss how the criminal justice system reflects, reinforces and replicates structures of power and inequality. For

example, they foreground research that highlights how poverty and criminal justice are closely linked. It also draws upon wider welfare and social policies to illustrate how 'problem populations' are portrayed and managed. This part successfully provides a basis for understanding the Scottish system from a wider social justice perspective.

The second part looks at specific issues — including marginalised and less powerful groups such as the young, women and minority racial groups, and discusses crimes of the powerful including environmental and corporate crime. These chapters successfully illustrate the broader social issues discussed in the first part. The third part is concerned with aspects of the criminal justice system and includes fascinating chapters that discuss the police, prisons and courts. The final part of the book provides a discussion of the major themes and future prospects. There is no question that by addressing the neglect of the Scottish system this book has provided an important service.

The chapters in this book illuminate interesting themes about globalisation and localism in criminal justice. They are able to draw upon the genealogy of the Scottish system so as to describe those features that are distinct and also to trace how there has been in some cases an erosion of this difference as a result of global, pan-European and UK trends. In addition, the devolution of power to Scotland has not led to a straightforward assertion of distinctiveness but has instead resulted in a mixed bag with some aspects moving towards convergence with other jurisdictions whilst in others there has been renewed confidence in local solutions. More than simply being descriptive, the discussion gives a sense of the dynamic tensions between these

homogenising developments and indigenous practices.

The future of criminal justice in Scotland, as in any jurisdiction, is difficult to predict, as this book concludes. However, Scotland stands at an interesting stage in its history. The Scottish Prisons Commission published its report *Scotland's Choice* in 2008, making the radical call for a reduction in the prison population of almost 50 per cent, drawing comparisons with Scandinavian rather than UK neighbours, and advocating an alternative approach to criminal justice rooted in social justice. Since then the prison population has started to fall, albeit slowly and falteringly. Whether this marks a temporary blip or a more fundamental change remains to be seen. What it does illustrate is that the tensions and challenges, which are amply illuminated in this book, shape not only national identity and institutions but also have real consequence for individuals in Scotland.

This is an excellent book that not only fills a gap by providing an overview of the Scottish criminal justice system, but also provides an accomplished insight into the dynamics of globalisation and localism.

Jamie Bennett is Governor of HMP Morton Hal.

Book Review

Crime and Risk

By Pat O'Malley

Publisher: Sage (2010) ISBN: 978-1-84787-350-7 (hardback) 978-1-84787-351-4 (paperback)

Price: £50.00 (hardback) £15.99 (paperback)

In less than 100 pages this lively book by Pat O'Malley, Professor of Law at the University of Sydney, explores the concept of

risk and how it has become a pervasive feature of crime and criminal justice.

The book opens by describing how as the post-War consensus fell away in the 1970s and 1980s, the predominant welfare-orientated approach focusing on rehabilitation was replaced by a concern with managing risk. This could be seen in assessments that emphasised individual pathology rather than social context; in new approaches to sentencing based on deterrence and incapacitation; and a focus on crime prevention through making crime more difficult to commit and easier to detect with the growth in alarms, cameras and other security devices. This has resulted in more people being imprisoned; new sentences being developed (including automatic and indeterminate sentences); new forms of punishment (such as electronic monitoring); and the emergence of new categories of punitive pre-criminal interventions such as anti-social behaviour orders.

In his exploration of risk as a mode of governance, O'Malley recognises the obvious and much discussed problems including how this can mask and even entrench the social problems that underlie crime such as inequality, poverty and discrimination. However, he also avoids the polemical and highlights how risk-based approaches are the site of resistance and adaptation by professionals, who can remould them into more progressive activities. For example he discusses how approaches to drug misuse have had to recognise the public health risk and as a result there has been a rebalancing of the punitive aspects of public policy. He also describes how interventions and programmes have been designed to reduce the risk of reoffending and effectively rejuvenate the idea of rehabilitation.

O'Malley also recognises that risk is not a one-way or one dimensional issue but individuals respond and act with agency. He discusses how risk is not merely a concept used to disempower and control, but is a consequence of giving people greater choices and less restrictions in their lives. Some risks have become institutionalised such as gambling whilst consumer choices have also generated new risks from over-consumption. He also highlights that economic risk is generally celebrated in a capitalist society. In terms of crime, he also discusses how the attempt to reshape crime control as a rational, risk-based approach is not always effective because the excitement and thrill of crime is part of the appeal to some people.

In closing the book, O'Malley argues for a more imaginative response from criminologists to the issue of risk. He argues that direct resistance is likely to be futile and that by identifying and encouraging small scale local initiatives and capitalising on the pragmatism of risk management, new opportunities for alternative approaches could open up.

This book is compact but is also sophisticated and nuanced. It presents an important challenge to criminologists examining the contemporary criminal justice system.

Jamie Bennett is Governor of HMP Morton Hall.

Interview: Aubrey Fox

*Aubrey Fox is Director of Special Projects for the New York Centre for Court Innovation and also Senior Project Developer for the Young Foundation, setting up the UK Centre for Justice Innovation. He is interviewed by **Jamie Bennett** who is Governor of HMP Morton Hall.*

The New York Centre for Court Innovation was established in 1996. It is an independent non-profit organisation that works closely with State court system. Its work is in three primary areas. The first is to develop innovative practices including designing and running demonstration projects. The second is that it carries out research and evaluation. The third is that it promotes good practice nationally and internationally.

Their demonstration projects include Midtown Community Court the first community court in the United States. The court combines punishment and help, holding quality-of-life offenders accountable and helping them avoid re-offending. Another notable project is the Red Hook Community Justice Centre, a multi-jurisdictional community court that brings criminal, family and housing cases before a single judge and provides on-site social services to help solve neighbourhood problems.

The Centres most ambitious project is Bronx Community Solutions, which was founded and led by Aubrey Fox. Bronx Community Solutions seeks to apply the community court model of combining punishment and help to all non-violent cases in a borough of nearly 1.5 million people. The aim is to provide 'problem-solving justice', in other words the idea that, rather than simply processing cases, the justice system should seek to change the behaviour of offenders, aid victims, and improve public safety. The project does this in four ways. The first is that it provides judges in the Bronx with expanded sentencing options, including drug treatment, job training, and mental health counselling. The second is that offenders are assigned to community service work in neighbourhoods throughout the Bronx that improve the local community. The third is that there is increased accountability by quickly assigning offenders to the services and then monitoring compliance. The final element is community engagement where local residents play a part in identifying projects and taking part in a neighbourhood advisory board.

The Centre has also carried out research and evaluation including a three year project looking at the effectiveness of drug courts in New York. Their consultancy and dissemination work has led to them hosting around 2000 visitors from 50 countries.

Aubrey Fox is now in the process of working with the Young Foundation in the UK in order to launch the

Centre for Justice Innovation, an independent agency that will work to improve how the criminal justice system functions in England and Wales. This will draw upon the experience of the New York Centre for Court Innovation.

As an author, Fox's publications include *Learning from Failure: Trial, Error and Criminal Justice Innovation* (Washington: Urban Institute Press 2010), produced with Greg Berman, Director of the Centre for Court Innovation. This book attempts to use case studies in order to draw lessons from projects that have been perceived as failures.

Further information on the Centre for Court Innovation is available at

<http://www.courtinnovation.org>

Further information on the Young Foundation is available at

<http://www.youngfoundation.org/>

JB: Can you start by describing the purpose and work of the New York Centre for Court Innovation?

AF: We are a non-profit making organisation that promotes new models of criminal justice. What makes us unique is that we have a close tie to the New York State court system, so we serve as their independent research and development arm. That means that we develop demonstration projects, most of which are court-based, that attempt to address chronic problems, whether that is low confidence in criminal justice, drug addiction, mental health, or high offending in low income neighbourhoods. With the co-operation of the court system, we run the projects and evaluate whether they work.

JB: How has the Centre been funded?

AF: We have a turnover of \$18 million a year. Two thirds comes from government and a third comes from private donations. On the government sides there is funding from all levels of government — federal, state and local. The private investment is typically from large philanthropic groups such as the Rockefeller Foundation. One of the advantages this gives us is that the court system is sometimes constrained in attracting funding from philanthropy, but we can do so on their behalf.

JB: How have professionals and policy makers responded to the Centre?

AF: Our reputation rests foremost with our relationship with the State court system. They are our top client. That reputation has been built over the 15 years we have been around and is based on the mutual benefit created. More generally we have been successful in surviving political transitions. We have been around through three different Presidents, three different Mayors and changes in the political parties. Although our ideas have evolved since we started, we are still plugging away at the same basic ideas from our inception and that consistency of values is important. In criminal justice just as in other fields, there is a tendency to go for the flavour of the month. As new ideas come in they become popular and there is a destructive tendency for other ideas to be thrown out in the wash and a whole new set of ideas be brought in. We have managed to stay consistent to a set of ideas over time.

JB: Since the 1980s, there has been a movement away from expert power to populism in criminal justice. It sounds that you are saying that they has been a return to expert power and evidence based practice.

AF: It's an interesting point. There's a pendulum and in the US it has been swinging back towards the expert and professionals. That is due to a long period in which policy makers have had more confidence in the abilities of front line practitioners to solve problems in the US. We take some small credit in that process, but by no means all. It is also a slow process and is not a complete reversal, but generally there is more public confidence in the criminal justice system. The best illustration of that is that if you go back to the Presidential election of 2008, neither McCain nor Obama made this a major issue. Between them I think there was only one speech on the topic in a twenty month period. That is a healthy sign because when this becomes less hot it becomes less politicised and there is more freedom to try new things.

JB: You have been particularly involved in the Bronx Community Solutions project. Can you describe the context of the Bronx and the particular circumstances that this project responded to?

AF: In New York the courts are centralised, so each borough of the city has one central court. The Bronx court house deals with every arrest made in a borough of 1.5 million residents. Something like 90,000 criminal cases go through the court each year. Most of those are misdemeanours, which are crimes punishable by no more than one year in prison. It is widely acknowledged that the Bronx did not have a good way of dealing with this mass volume of low level crime. It was essentially a revolving door where people kept coming back again and again. There weren't a lot of options available for them and many ended up with very short jail sentences, sometimes for five or ten days. Nobody really thought they were useful. They were either getting these very short jail sentences or nothing more than a slap on the wrist. What we did as Bronx Community Solutions was to become a clearing house for alternative community-based sentences on a vast scale. Our programme now deals with about 15,000 misdemeanours a year and provides all of the community payback and social service sentences for those people. Part of our service is to meet that demand. The other aspect is that we have run what have been called community courts, which in contrast to the centralised court system provide local courts in local neighbourhoods like the Times Square neighbourhood of Manhattan and a neighbourhood in Brooklyn called Red Hook. They

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pioneered new approaches there and the Bronx project was an attempt to take that learning we had developed at a localised level, for example a single courthouse with one judge, and try to apply that to the entirety of the Bronx. The question was whether we could do what we were successful at doing at a micro-level on a larger scale for the entire Bronx.

JB: What work was undertaken in this project? What practical innovations did it introduce?

AF: In New York when you are arrested on a misdemeanour and charged, you have to be seen by a judge within 24 hours. Our staff were present in the courtroom advising judges on that first appearance as to whether they were a good candidate for a Bronx Community Solutions sentence. If they were a good candidate, we would get them from the courtroom to

our office and would immediately assess and assign them to whatever their community based sentence was. We were testing whether we could integrate the services, so just as someone who goes to jail the sentence starts immediately and there is a seamless handover between court and jail, could we do that same process from courts to community sentences. We also wanted to see if we could make a community based penalty as serious and confidence-inspiring as an incarceration penalty and was that possible on a mass scale? Some of the ideas that we developed in Times Square and Red Hook were about immediacy, the idea that people would start their sentences quickly, and accountability, making sure there was a consequence if they failed to do what they were supposed to do, and then community benefit, that whatever they did as the penalty had a positive impact on the surrounding community. On all three of those ideas we were able to show considerable improvement.

JB: What were the elements of the punishment? What would they do?

AF: The sentence would be composed of a social service element, such as drug treatment, mental health counselling, job training, or a community payback penalty. We were more creative with payback, so they might work at a local warehouse charity to ship supplies to teachers around the country or overseas, working with a non-profit making organisation in a local park to clean it up, cleaning up graffiti. The judges had the option of choosing either a social service element or payback, or blending the two. One thing that was different was that rather than it is in the UK where a judge is specific about what the order is, they pick off a menu, in the Bronx the only decision the judge made was the number of days of community payback and/or social service. The decision about how their time was specifically spent was made by the staff in our offices. The idea was to devolve the decision, wait for the moment when there was better information and to reduce the impact on the court room. So, some of it was practicality, if you are a judge in the Bronx and you have 125 cases a day, you are not going to make exhaustive decisions on each one. It did raise some interesting questions about how you might construct a criminal justice system where you devolved more

discretion to professionals who are in a better position to make decisions.

JB: Some of the movement in the UK has been to make community punishments appear more punitive and be more visible, for example distinctive clothing has been used. Was there an issue of public perception and a desire for punitiveness?

AF: All of our clients do wear vests so that they are identified as Bronx Community Solutions clients. Our commitment to seriousness was around showing that the work itself was serious. We have continued to have

clients working around the courthouse building, so that judges or attorneys walking into the courthouse see these people doing work. We therefore started with the people who work within the system who may not have previously thought these sentences were serious. The other issue we worked on was accountability. That meant that if someone did not do their mandate, there was a real penalty involved. In general in the US there has been a move to make community penalties more serious and substantial. We in the Bronx benefitted from that process because although we did make the penalty more serious, we were also able to make the work meaningful, so we had people doing work that was genuinely interesting. In the US there is a core concept that the punishment has to be serious but we are able to be creative about

Some of the ideas that we developed in Times Square and Red Hook were about immediacy, the idea that people would start their sentences quickly, and accountability, making sure there was a consequence if they failed to do what they were supposed to do . . .

the content of the work.

JB: You have talked about accountability where people don't follow their order. What were those consequences? Was it imprisonment?

AF: Not necessarily. There were several problems we saw before we started. The first was that there wasn't a good link between the court and the people who provided the punishments. People would go back to court and there was constant excuse-making and because the services weren't reliable, the judge was left guessing as to whether the person was telling the truth or not. There is nothing worse for a judge than sending someone to jail for not doing what they were supposed to do and then finding out that they had done it or that they had tried but the programme provider was at fault. The judges didn't believe or trust the reports given to them. The second issue was that the judge who

originally saw the defendant and sentenced them was not necessarily the one that heard it when it came back following a breach. As a result the penalties were inconsistent. We posted people in the courts who dealt with compliance matters and making reports that were more reliable and recommendations that were more consistent. Sometimes this meant enhancing the community penalty and sometimes meant jail, but the important issues were around trust and consistency.

JB: What success has it had?

AF: Some basic issues I would highlight. One is compliance, when we started compliance with community based penalties was around 50 per cent, not a recipe for confidence. We have raised this to 70 per cent. Even more directly, before we came around, judges didn't really know what the compliance rate was, nobody was collecting the information and reporting it back to court. We said publically we would be judged by that. Although there are other ways in which we can be measured, that is something tangible and visible. When we bring people on visits to the Bronx including judges, attorneys and court officers, they say 'we know Bronx Community Solutions works because it has increased compliance'. The other tangible benefit is community payback. Given that our offenders work in the Bronx, the labour value is around \$750,000 a year. That is the benefit in cleaning graffiti, tidying parks and so on. The court has also gotten more engaged with the community. The court was previously seen as a 'black box'. You wouldn't want to go in there, but who knows what happens when people do? Now the court is seen as a better Bronx citizen and there have been projects introduced that have brought value to the community. For example we have done work with the police around prostitution and we have a mental health project that is of interest to city policy makers across the country. In these ways the Bronx court has become a place of innovation where new things are being tried that are interesting and important.

JB: Whilst the project is working to moderate and transform criminal justice responses to crime in the Bronx community, is it contributing towards finding solutions to the underlying social problems including poverty and racism?

AF: We are modest about our impact on these greater issues. It is incremental. We have done a lot of work around employment, trying to get offenders linked

to employment programmes and a lot of that is not through a mandate but is encouraging people to seek that voluntarily. From a race perspective, we felt that we were playing around with ideas of fairness. There is an idea going around, which I guess is common sense, that if people feel they are being treated fairly they are more likely to comply with whatever is being asked of them. Fairness has specific qualities, including that you know what has happened to you, you understand the court process, you have had an opportunity to share your side of the story, and you have some role in shaping what happens to you. We have been intent upon injecting

these values of fairness into what we do. There is something very basic around injecting a sense of fairness into a system where the majority of people involved are Hispanic or African-American.

JB: Yes, that is an argument about legitimacy. There is also a wider question about whether the focus of these reforms are to create a criminal justice system that is more effective, efficient, and perceived as legitimate, and whether that leaves untouched the broader social issues, for example people would argue that the criminal justice system is overused and is disproportionately used against particular groups, including the poor and minority ethnic groups, and

indeed that it is part of a system that perpetuates and maintains power and inequality. An example of that is that in New York it was identified that there were 35 'million dollar blocks', blocks were a million dollars were spent imprisoning people each year. Does the centre promote an organisational and managerial approach, exploring how things are done, rather than a social approach, asking about what is done and why?

AF: Culturally we are non-partisan and we tend to be incremental in our approach. As a result we tend to be cautious in taking on these really big social issues. That doesn't mean we don't have a take on them. The Bronx project is just one of the projects we run and I can point to several that have a direct impact on those issues. One is a resettlement programme in Harlem run through the Harlem Community Justice Centre. It is a parole re-entry project. That is absolutely about these issues and addressing this wildly disproportionate impact that imprisonment has on particular communities. We do take it on in various ways but we don't take on the really

. . . before we came around, judges didn't really know what the compliance rate was, nobody was collecting the information and reporting it back to court. We said publically we would be judged by that.

big, hot issues. We don't have a take on the death penalty for example.

JB: You have recently published a book which explores failures in criminal justice reform. Why did you want to explore this issue and what lessons do you think can be drawn from these failures?

AF: The reason we wrote the book was that we wanted to encourage a more honest conversation about criminal justice. We wanted to acknowledge that failure was a fact of life, even for well-meaning reformers. As a non-profit organisation, we live in a world where we have to market and promote ourselves and there is a natural tendency to suggest that everything you have done is the greatest thing since sliced bread. We wanted to fight against that and acknowledge that a lot of the things we have tried haven't worked out. That is an important corrective. It is hard to break through the clutter now. There are any number of books or public policy papers about the secrets to success but we thought taking a more counter-intuitive approach would help us to break through and win some credit for taking the risk.

JB: In the book you highlighted that a truly innovative culture can only thrive where ideas and tried and in some cases fail.

AF: That is certainly the case. We would like to see that more often in criminal justice and in a more thoughtful and mature way. One of the key lessons of the book is that failure is in the eye of the beholder. Often, the closer you get to projects that people consider to be 'failures' or 'successes', the more complex the picture becomes. Most people acknowledge that but it is not widely discussed. The book is organised around six case studies. Some of these are cases that are considered out-and-out failures but when we looked more closely we found some things that were good and conversely those that were perceived as successes we were able to see some problems. Those grey areas were interesting.

JB: You are now moving to the UK to set up a Centre for Criminal Justice Innovation. What will be the purpose and scale of this project?

AF: The idea is to bring the institutional model that we have created in the US and introduce it in the UK. This is the idea of an institution that is independent of government but connected to it in a meaningful way, and tries to promote a core set of ideas. Our thinking and focus has changed as we have got more involved

and recognised some of the challenges that the country faces. There is a widespread recognition that whilst a centralised approach to criminal justice reform has many virtues, there are downsides. One downside is that unlike the US where there is a cadre of local practitioners who have credibility with the public and are willing to take risks and be innovative, it is harder to find that in the UK. A lot of that is to do with the basic structure of government. One question for us is how we can develop that local innovation? The product we are selling is a healthier, mixed economy where lots of different people contribute to the pot rather than just central government debates and policy making.

JB: How will this be funded?

AF: Independence is an important asset for us to have in the US but if anything it feels more critical in the UK. Being perceived as independent is important for an organisation in the UK even more than it is in the US. There is concern about organisations being absorbed or overwhelmed by government. What that means in practice is that we will have to be able to attract significant private funding in order to win credibility. At the same time we have to be frank that in order to exist we have to get the relationship with government right. It is a tricky balance to get right. Like the US we will accept a mixture of public and private

funding, but it is not just about money it is about what is the right mix and what is the right support that will allow us to achieve what we want to accomplish.

JB: It sounds like you view that there is a critical issue about impact which requires the right relationship with the state as well as private investors.

AF: Yes, but the state is not a monolith. There is a lot of movement in central government — people change, ministers come and go, and civil servants get reassigned. Part of the challenge is how you keep renewing your relationships. There is no easy answer. Ultimately if we have a defining goal for what we are doing it is that through ourselves and the networks of like minded organisations, we could create competing centres of gravity to central government policy making. That is healthy, that lots of people are throwing together their ideas and innovations into the pot.

JB: There are a number of new policy initiatives being developed in the UK, in particular the current government have been talking about exploring

The reason we wrote the book was that we wanted to encourage a more honest conversation about criminal justice. We wanted to acknowledge that failure was a fact of life, even for well-meaning reformers.

alternative approaches to dealing with drug dependent offenders and those with mental health problems. What approaches have you seen developed in order to successfully respond to these two groups?

AF: Drug courts are an enormous movement in the US, there are more than 2000 in place around the country of all variety of sizes. The results are pretty good and from a social science perspective they have been roaring successes. In our world that means reductions in reoffending of 15 to 20 per cent. On the mental health side we have been involved in a lot of projects where we have been using the authority of the court to address mental health problems for people in the criminal justice system. In terms of the applicability to the UK, I am aware that the UK has attempted to take some parts of the drug courts and mental health court approach and rather than address them through a speciality court model where you have a lot of courts deal with the problem in a different way, there has been an attempt to introduce changes throughout the criminal justice system as whole; instead of drug courts there are drug treatment and testing orders. That has been a mixed process for the UK. What it gains in terms of consistency and system-wide application, you lose in terms of a distinct approach with a real constituency. With over 2000 drug courts in the US, there are thousands of people who can stand up and say 'I work in a drug court and I love what I do'. You don't get that with DTTOs. That is the basic strategic trade off.

JB: Have there been similar approaches for offenders with mental health problems?

AF: Yes, there are mental health courts around the country, including some felony mental health courts. It means that they are willing to take risks with mentally ill offenders. There is not the same volume as drug courts. In the Bronx we assess every single person assigned to our programme for mental health problems and refer them to voluntary services. That is being considered in the UK where there is a huge volume of people coming through the criminal justice system who are not likely to connect with health services on their own, so how do you use their engagement with the criminal justice system to get them connected?

JB: It sounds as if you are suggesting that there is an issue about building up capability

within the system, both in terms of the engagement with those who enter into the criminal justice system and skilling up workers generally, but also having some specialist courts with expertise who can make more individualised decisions.

AF: Yes, the other dimension is political. What is the approach that is most likely to build up a constituency for change over time? My general feeling is that in the UK there isn't always a lot of thought about that issue of building a constituency for change. Police and criminal justice commissioners interest me because it is a political approach to building these local commissioners who have public support and so can carry forward changes. Time will tell whether that is successful, but it is built on a solid hypothesis that you need to create more local drivers for change.

JB: The Government are also seeking to develop innovation and attract non-state funding into the criminal justice system through social impact bonds where investors will establish schemes to rehabilitate offenders and will gain a return on their investment based upon their success in achieving this aim. Has this type of payment by results been successfully implemented elsewhere as far as you are aware and how

do you view this approach?

AF: It is very much a UK innovation and it is attracting interest from the US and elsewhere. There are contract based programmes that we participate in where we are paid by outputs but the social impact bond approach is more fundamental in its ambition. It is an interesting approach. I have all the same questions that a thoughtful person would have about it. Does it only tend to support outcomes that are easily measured? Is reduced reoffending the only outcome that the criminal justice system is seeking to accomplish? Do other important outcomes fall by the wayside? Overall it is healthy because it communicates a sense of innovation and experimentation in criminal justice. That is certainly good.

JB: Is there a market for these social impact bonds and is this a market that will tolerate the failures that you have suggested are necessary for a truly innovative culture?

Drug courts are an enormous movement in the US, there are more than 2000 in place around the country of all variety of sizes. The results are pretty good and from a social science perspective they have been roaring successes.

AF: That is interesting. The sine qua non of the social impact bond is one number so it won't take account of all the impacts and effects of a programme because it is based on this one outcome. That is a tough question. We will see but my sense is that the first social impact bond it is important that they deliver on their promises. I am familiar with the Peterborough project and the St Giles Trust work, and I feel confident that they will be able to deliver what they promise and that is good.

JB: The Coalition government have been discussing what they describe as the 'Big Society'. For some critics this is an attempt to legitimise a reduction in state funding, but for supporters it has been argued that getting local people involved in solving local problems is a more effective approach. What would be your observations on these arguments and similar initiatives elsewhere?

AF: What we do in New York and the US falls full square into the 'Big Society' approach. Certainly in the community court projects we run, that is the 'Big Society' approach in action, although we didn't call it that. It is healthy and there is something fundamentally important about the approach. Like anything in life the devil is in the detail. It is incumbent upon local people and local projects to fill in the details but it is a healthy conversation.

JB: What do you hope to see in the coming few years for the UK Centre for Criminal Justice Innovation and in the criminal justice system generally?

AF: Our hope is that we will be established as a credible voice within policy making debates and that we will be involved, as we are in the US, where we combine action and reflection. I hope we will be able to keep that mix as we go forward in the UK. We don't want to be a talking shop, we want to run projects on the ground. For the UK it is interesting how much media coverage there is of the criminal justice system. In a way I like it because in some cases it is sophisticated and the level of discourse is good but in a way I hope there will be less coverage of criminal justice and people will be free to get on with things. My observation is that having gone through the Green Paper process, there is a 'wait and see' attitude that people have. Everyone I talk to, and I am as guilty as anyone else, says we want to do X, Y and Z but we are waiting for the Green Paper to come out. I am hopeful that in a few years the culture of 'lets wait for the policy makers to find the agenda' will be replaced by or at least mixed with a 'let's get on with it' culture. That is my fondest wish is that there will be a feeling that practitioners in the field feel empowered to get on with it and experiment and do things on our own without waiting for permission to go forward.



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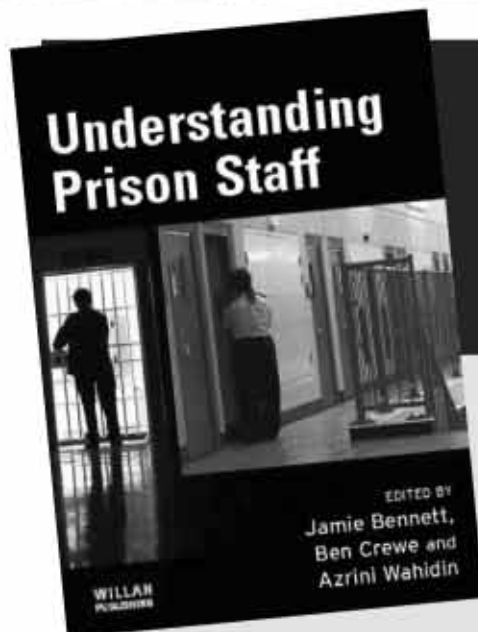
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