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Youth Crime briefing

Girls in the youth justice system

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Introduction

The issue of girls¹ within the youth justice system is one whose significance extends well beyond the proportion of the youth offending population which is female. While the number of girls processed through the youth justice system is relatively small in comparison to boys, that under representation might itself generate concerns over differential treatment according to gender. At the same time, the fact that the large majority of those referred to youth offending teams are male, places a particular obligation on practitioners to ensure that service delivery does not discriminate against the female minority and that the particular needs of girls are not overlooked.

Girls are less likely to be processed through the youth justice system. Once caught within it, they appear to be treated differentially at every stage: females are less likely to be prosecuted, to receive a community penalty or to be given a custodial sentence than boys. (There is some evidence to suggest that the level of the differentials may be beginning to reduce.)

It is not clear, however, the extent to which such differences reveal a more lenient treatment of young females in trouble or reflect the fact that girls may commit

relatively less serious offences and be less likely to have previous convictions when they appear before the courts.

Indeed, it is sometimes suggested that girls who display anti social behaviour may be disadvantaged in two ways. In the first place, girls' delinquency might be '*interpreted in a different way to boys' delinquency which leads them into a network of children's homes, ... secure units and so on*'

Alternatively, there is a view that '*paternalistic concerns about girls' moral welfare have sometimes led to them being dealt with more severely than boys, in the sense that they are judged not only for what they have done in terms of criminal offences, but for who they are and how they behave in general*'.²

Data is probably not available at a sufficient level of detail to make a proper assessment of the extent to which such factors currently influence outcomes for girls in trouble. Nonetheless, it is important to be aware of their possible impact when interpreting statistical information – such as that provided within this paper – and when considering how best to ensure service delivery is informed by anti discriminatory practice.

The purpose of the current briefing

is to provide an overview of the involvement of girls in offending and the response of the youth justice system to their criminal behaviour. In addition, an attempt is made to place that information in context and suggest some implications for practice.

The extent of offending by girls

It is well known that boys are responsible for the large part of detected youth crime. Yet there has, in recent years, been an increasing concern about the involvement of girls in offending. To a degree, this concern is predicated on a public perception that girls are increasingly being drawn into criminal activity, particularly of a violent nature.³ At first glance, the official data for the number of girls sentenced at court appears to offer some support for such a perception. Thus, between 1992 and 1999 (the latest year for which Home Office Criminal Statistics are available), the number of girls convicted of indictable offences rose from 4,200 to 6,647.⁴ Moreover, the proportion of girls, relative to boys, in the sentenced population also increased slightly: from 11.1% in 1992 to 13.2% in 1999.

The figures for court outcomes can, however, be misleading as an indicator of involvement in the youth justice system since they exclude those cases dealt with short of prosecution. Over the same period, the number of girls who were cautioned or convicted for indictable offences actually fell from 33,600 to 24,800. Moreover, the proportion of youth offenders, on this measure, who were female remained relatively constant (showing if anything a slight decline) varying in the years 1992 – 1999 between 23.4% and 20.4%. More recent – draft – figures derived from Youth Justice Plans 2001 – 2002 indicate that girls make up 18.3% of the offending youth population.⁵

As a consequence, the rise in convictions of girls is a function of a reduced use of measures to divert young people from court (namely, cautions and, since June 2000, reprimands and final warnings) rather than indicative of an increase in offending behaviour among girls. Furthermore, the fact that girls account for a slightly larger proportion of the court population than previously might suggest that the trend towards increased prosecution has impacted more harshly on girls than on their male counterparts.

Overall, therefore, the gender breakdown of young people recorded in official crime statistics has remained remarkably stable for some time. On this representation, boys who offend continue to outnumber girls by a factor of four to one. Youth offending appears to remain a predominantly male activity.

Figures for detected crime, it should be acknowledged, represent a relatively small proportion of the overall number of offences committed. Self-report studies show a rather more complicated picture than that outlined above. The Youth Lifestyles Survey, for example, indicates that at 12 – 14 years of age, a similar proportion of girls and boys admit to having committed an offence within the past year. From that point on, however, differences begin to appear. The peak age of self reported offending is 14 years for females compared to 18 for males and, as a consequence, by the age of 17, males admitting offending outnumber girls by 3:1.⁶

In sum, while a certain level of offending appears to be relatively normal among teenage girls, they appear to grow out of crime more successfully and at an earlier age than is the case with boys.⁷

As one author puts it:

*‘The difference between the offending patterns of girls and boys, then, is not so much at the “front end” or onset of offending ... but at the “back end” of when and why young women desist from offending’.*⁸

Types of offending

In common with the public perception, noted earlier, that criminal behaviour among girls is on the increase, is a comparable concern about rising levels of violence, particularly associated with girl gangs. In addition,

*‘whilst the rhetoric surrounding violent and anti social behaviour by girls echoes concerns about troublesome boys, it also carries an added dimension of gravity precisely because they are girls’.*⁹

In this context, it is significant that a recent Scottish survey of 800 girls, aged 13 – 16 years, found no evidence of a rise in physical violence by girls, nor in girl gangs or of girls becoming more anti social.¹⁰

Such findings appear to receive support from the official statistics which break down female offending by type of offence. In 1999, for example, 76.3% of cautions or convictions for indictable offences, involving girls, related to relatively minor property offences – theft, handling stolen goods, fraud, forgery or criminal damage. (The equivalent figure for boys was 52.8%.)

At the other end of the scale, offences of violence against the person are relatively rare and appear to be falling. Such offences accounted for 11.7% of cautions or convictions for indictable offences committed by girls in 1999 compared with 12.6% in 1993. (The equivalent figures for boys were 12.1% and 12.3% respectively.) The fall is more pronounced if one considers only those offences resulting in conviction. The number of girls sentenced at court for violent offences reduced from 24.3% in 1993 to 15.2% in 1999.¹¹

Pre court diversion

Reference has already been made to the possibility that the recent trend towards increased prosecution has impacted more harshly on girls than on their male counterparts. Nonetheless, girls continue to be considerably less likely to be prosecuted than boys. In 1999, for instance, while just over half of boys (53.7%) cautioned or sentenced, for an indictable offence, were given a caution, the cautioning rate for girls was significantly higher – at 71.2%.

A variety of possible mechanisms might account for the difference, including the gravity of offence, the existence of previous convictions and whether the offence was admitted at the police station.¹² Given the prevalence, described above, of relatively minor property offences attributed to girls, the former factor is likely to have a significant explanatory role.

One practical effect of the introduction, in June 2000, of the scheme of reprimands and final warnings, as a replacement for cautions, is to limit police discretion at the point of decision as to charge. To the extent that the current disparity in decision making reflects a more lenient approach to girls, one might anticipate that the scheme will have some impact upon the relative proportions of girls and boys diverted from court.

Patterns of sentencing

At the sentence stage, outcomes for girls again display a pattern different to that of boys. Towards the lower end of seriousness, the proportion of girls who receive penalties below the community sentence threshold is much higher. In 1999, for instance, 54.6% of female convictions resulted in discharges or financial penalties as against 40% for males.

At the other end of the scale, girls are also significantly less likely to receive a custodial sentence and, in 1999, they accounted for just over 5% of the custodial penalties imposed.

To a certain degree, what on the face of it appears to be a more lenient treatment of girls can be explained by the nature of the offences which females typically commit and the fact that they are likely to have fewer previous convictions. For instance, in 1998, 57% of girls aged 15 – 17 years had no previous convictions at point of sentence compared with 46% of boys.¹³

A further possible contributory factor is suggested by a study of how magistrates' perceptions impact upon differences in the sentencing of adult men and women offenders. It concludes that sentencers distinguish between 'troubled' and 'troublesome' offenders and tend to put women in the former category on the basis of

*'the perceived motivation for the offence and the demeanour of the defendants in court'.*¹⁴

As a consequence, a women appearing in court for an offence of shoplifting would often be seen as stealing items which she or her family need; while a man committing the same offence would generally be thought to be motivated by greed. At the same time, female defendants are generally perceived to be more deferential and respectful than men and this is often interpreted as indicative of genuine remorse or deserving of compassion.¹⁵

It is sometimes also suggested that the under representation of girls in custody is, in part, compensated by an overrepresentation in secure accommodation through family proceedings. It is worth noting in this context that, perhaps contrary to public perception, girls account for a minority of looked after children in the relevant age group – that is ten years or over. At 31 March 2000 for example, 43.6% of looked after children over ten

years of age were female.¹⁶ On the same date, however, 56% of children placed in secure accommodation, through the 'care route', were girls.¹⁷

This overrepresentation in secure care might be thought to give some support to the view that girls are effectively diverted from criminal proceedings through welfare based intervention. But the evidence is equivocal: in 1998, for example, the gender balance was reversed. In any event, the absolute numbers involved and the extent of any overrepresentation are not sufficient to offset the differences between the custodial sentencing of boys and girls.

Nonetheless, while the absolute numbers of girls incarcerated are still quite small, there has, in recent years, been an alarming increase. Between 1993 and 1999, for instance, girls sentenced to custody rose by 400%. This expansion has occurred despite the decline, noted earlier, in detected girl crime and the fact that offences committed by girls do not appear to be getting more serious.

Nor does the period since 1999 appear to have reversed the trend. According to Youth Justice Board figures, the female population held within the juvenile secure estate rose by 96% between March 1999 and February 2001. The equivalent rise for boys was 13%.¹⁸

This last point is indicative of a further trend: while custody has risen dramatically for all children, the rate of increase appears to be faster for girls. Thus while, as indicated above, girls accounted for 5.3% of custodial sentences in 1999, the equivalent percentage in 1993 was only 2.6%. By a different measure, over the same period, custody for boys as a proportion of all sentences imposed on males rose from 11.2% to 16.4%. The corresponding increase for girls was greater: from 2.4% to 6%.

In part the rise in custody is attributable to legislative change. The introduction of the secure training order in 1998 (subsequently replaced by the detention and training order) extended the age range for which custodial sentences were available.¹⁹ In addition, the later, Youth Justice Board, figures which include children remanded to juvenile secure estate, are inflated as a consequence of the increased remand powers associated with the introduction of the court ordered secure remand in

June 1999. This change affected both boys and girls but potentially had a bigger impact upon the latter.²⁰

It seems unlikely however that these new powers account for the whole of the escalation in the use of custody nor for the more rapid increase for girls. This latter trend may, in fact, not be unrelated to the public misperceptions of girls' offending described earlier in the briefing. The Howard League, for example, has suggested that media reporting, which sensationalises girls' involvement in violent crime, may be influencing courts to send more girls to custody.²¹

Moving on to community sentences, there is an interesting, gender based, disparity in the type of penalties imposed. In 1999, supervision and probation (now community rehabilitation) orders constituted 73% of disposals made on girls within the community sentence bracket. Attendance centre and community service (now community punishment) orders accounted for 23%. The figures for boys show a rather different pattern – 50% for supervision and probation against 41% for attendance centre and community service. It would be reasonable to suggest that the variation reflects a preference, on the part of sentencers and other court users, for what might be termed 'welfare based' disposals when sentencing girls. In this context, the notion that the treatment of troublesome girls is mediated by a gendered perception that females in trouble are likely to have greater welfare needs than boys, does appear to have some purchase.

Girls in custody

Girls may reach custody through one of three routes:

- 17 year olds refused bail²²
- those sentenced to a detention and training order
- those sentenced to long term detention under s90 – 91 of the Powers of the Courts (Sentencing) Act 2000 (previously section 53).

Those who fall within either of the latter two categories may be placed in prison service custody, a local authority secure unit or a secure training centre. Those in the former must be held in a prison service establishment.

The fact that relatively small numbers of girls are held within prison service accommodation, presents a particular problem since it is not viable for the prison service to provide specific units for females aged under 18 years. Paradoxically, therefore, while girls are significantly less likely than boys to be imprisoned, those who do go to custody may be disadvantaged relative to their male counterparts. Indeed, it was precisely for this reason that, prior to the Criminal Justice Act 1991, the Government seriously contemplated the abolition of custodial sentences for girls other than long term detention under what was then section 53.²³

Prior to August 1997, it was common for girls subject to custodial sentences and 17 year olds on remand to be held in adult prisons. In that month, however, the High Court determined that it was unlawful for girls to be placed, as a matter of policy, in adult jails.²⁴ Since then, girls under 18 have generally been held in designated young offender institutions – within adult prisons – with other females up to 21 years of age.

The Howard League, in a report on girls in prison, contrasts the vulnerability of the teenagers with the nature of the damaging environment to which they are exposed. The report catalogues a range of issues common to girls sentenced to detention which remain unmet or are exacerbated in custody. It concludes that:

'Prisons are ill equipped to deal with young women who are damaged and who display extremely challenging and difficult behaviour. The numbers of juvenile girls within the system are small and as a result they are simply tacked onto the rest of the system with little recognition that their needs are different and separate from older women. It also means that they attract fewer resources...'

'The role of the prison service is at odds with the care and intensive work which these young people need if they are to stop offending'.²⁵

The view that prison establishments should not be used to hold juveniles is one endorsed by Her Majesty's Inspectorate of Prisons. A Thematic Review on Women in Prison, published in 1977, recommended that all girls should be removed from prison service accommodation. A follow up review in 2001 noted that the recommendation had not been achieved. Indeed in some ways the

situation had deteriorated since resources to meet the specific needs of 15 – 17 year old girls have not been allocated precisely because the use of prison service custody for this group was thought to be short term.²⁶

Placement close to home is also a major problem for this group. Girls are often held long distances from home making it extremely difficult for family members and friends to visit. The risk of further damage to already strained family ties and networks is thereby increased.

Since April 2000, management of the juvenile secure estate has become the responsibility of the Youth Justice Board. It has made the removal of girls from prison service custody one of its strategic priorities. Consequently, the Board's placement strategy emphasises that girls should be placed in local authority secure units or secure training centres wherever possible. While such an approach is one with which it would be hard to dissent, in circumstances of increasing demand and restricted supply, this has inevitably impacted on the numbers of potentially vulnerable boys placed in young offender institutions as the numbers of girls in other parts of the secure estate increases.

The Board has put in process plans for increasing the stock of female provision outside of prison service accommodation. In particular, it has let contracts for two 32 bedded units at Rainsbrook and Medway secure training centres which are scheduled to come on stream in 2002. In addition, it has pledged to provide 20 places for girls in custody who are also young mothers.

Nonetheless, the number of girls within young offender institutions remains as high as it was before the Youth Justice Board took over responsibility for placement. On 31 March 2000, there were 90 girls in prison; that figure had by March 2001 fallen to 88 but rose again to stand at 100 on 20 July 2001.²⁷

There is, moreover, a particular difficulty associated with 17 year old girls who are remanded to custody since, without legislative change, this group cannot be placed other than in prison service accommodation. The Criminal Justice and Court Services Act 2000 provides for the abolition of a separate sentence of detention in a young offender institution for 18 to 20 year olds. In the

event of that provision being implemented, it is not clear how girls within prison service custody could be accommodated separately from adults since there would be no distinct youth provision.

Some implications for practice

Girls will continue for the foreseeable future to form a relatively small minority of users of youth offending team services. In addition, the different patterns of offending by those who do come to attention of the youth justice system inevitably leads to girls experiencing that system differently from boys.

There is nonetheless a variety of approaches to working with girls which might, if adopted, help to ensure that they are not disadvantaged relative to boys with whom the youth offending team works.

For example, given the likelihood that girls in custody will be placed long distances from home, particular care should be taken to promote family contact, if necessary facilitating transport and, where required, overnight accommodation.

In the longer term, it will be of prime importance to develop provision which will be effective in reducing, to an absolute minimum, the number of girls who are placed in custodial institutions, particularly those who may at risk of being held in a young offender institution. At the remand stage, this might mean focussing on the accommodation needs of 17 year old girls who are at risk of having bail refused and ensuring that bail supervision and support services for this age group are of a sufficiently high quality to address the concerns of the court. A priority, in this context, for nominated accommodated officers of youth offending teams, will be to ensure that local authority homelessness strategies take account of the accommodation needs of girls (and boys) involved in the youth justice system.

A prerequisite of reducing the level of custodial sentencing of girls is, of course, the availability of appropriate programmes of intervention in the community. At this stage, it is important to consider that differences in sentencing may, in part, reflect differences in provision. In relation to probation services for adult female offenders, for instance, Her Majesty's Inspectorate of Probation has found that:

- A minority of probation areas had action plans or guidance to ensure that women had equal access to community sentences
- A minority of areas provided women only group work or community service (now community punishment) provision
- Services to deal with drugs and alcohol misuse tended not to take into account the particular needs of female offenders
- Provision of appropriate accommodation before and after conviction was inadequate
- PSRs on women tended to exclude them from consideration for certain types of community disposal.²⁸

The apparent preference, within the youth court, for welfare type disposals for girls was noted earlier. It suggests that issues of a similar nature to those identified in the adult arena might also be of relevance to youth offending teams. The practical implications can be usefully categorised into two kinds.

On the one hand, it will be important to ensure that the full range of community penalties is available to girls in the local area, including community punishment orders and attendance centre orders. This might involve ensuring that provision is in place to avoid the necessity of placing single girls subject to such penalties alone with a group of boys. It will mean developing attendance centres for girls where these do not exist – the management responsibility for such centres falls to youth offending teams from October 2001. It may also require the creation of specialist provision for girls as an alternative to offending behaviour groupwork where such groups are male dominated. Arrangements will need to be in place too to provide child care facilities where these are needed.

Failure to offer the full range of available sentences to girls might, for those who reoffend, increase the likelihood of a custodial sentence at an earlier stage.

On the other hand, practitioners must also guard against any temptation to propose more intensive interventions for girls, on welfare grounds, in circumstances where boys' offending would not be deemed to merit such an intrusive programme.

There is a danger here of using relatively high tariff options, in particular supervision and community rehabilitation orders, at an earlier stage in the young person's offending career which may again increase the risk of custody, by reducing the number of options realistically available should they be required at a subsequent sentencing hearing.

The potential for such a gendered emphasis on welfare issues to lead to differential treatment of boys and girls may be particularly accentuated where the nature and the extent of intervention is determined outside the court process. Programmes associated with final warnings or the content of contracts arising from referral orders, for instance, are at the discretion of the youth offending team or the youth offending panel. While it is too early to tell whether girls subject to such interventions are, in fact, being treated differently to boys, care will need to be taken to ensure that the expectations on girls subject to final warnings and referral orders are not unfairly onerous.

On a different note, effective practice with girls will need to take account of the evidence in relation to the factors which are particularly associated with females growing out of crime. Completing full time education and obtaining paid employment, leaving the parental home and becoming economically independent and taking responsibility for oneself and others are all achieved earlier by girls and are much more powerful indicators of desistance from criminal behaviour than for boys.²⁹ Practice which aims to prevent offending will need to reflect, and build on, the fact that boys and girls appear to make the transition to adulthood at different rates and with different degrees of success. There may, as a consequence, be a case for developing gender specific interventions for girls who are subject to forms of statutory supervision.

Worrall, for example, proposes that playing to the young person's strengths is a prerequisite of successful work with girls who offend. One implication of such an approach is that:

*'instead of focusing on the negative connotations of "peer pressure", it should be recognised that girls' friendships provide complex and positive ways for girls to structure their lives and resolve conflicts'.*³⁰

The specific characteristics of girls who offend, point to other ways in which a different emphasis might be associated with successful outcomes. For example, interventions with girls might need to take greater account of:

- Promoting the constructive use of networks of support
- Targeting practical, educational and health needs
- Ensuring that staff are skilled in engaging with sensitive emotional issues.

Conclusion

It is clear that girls' experience of the youth justice system differs markedly from that of their male counterparts. What is less clear is the extent to which the difference derives from more lenient treatment, from variation in provision available or the divergent patterns of offending behaviour displayed by boys and girls.

The evidence might be best understood as cutting both ways: girls may, for instance, be less likely to be charged for an offence which would result in prosecution for a boy; at the same time, girls may have restricted access to a full range of community provisions and may be perceived as giving rise to significant welfare concerns where boys would not. In any event, the rapid escalation in the use of custody for girls is one which merits particular attention. Youth offending teams would do well to monitor the local outcomes for girls processed by the youth justice system and to examine critically what services they provide to girls at each stage of intervention from a perspective of developing an anti discriminatory practice.

References

- 1 The term 'girls' is used rather than 'young women' throughout this briefing for two reasons. Firstly, in order to distinguish those under 18 years from young adult female offenders; secondly, to reflect the fact that, in terms of international convention, young people under 18 years of age are classified as children.
- 2 Gelsthorpe L, 'Sexism and the Female Offender', Gower, 1989
- 3 See, for example, 'What Turned this Innocent Young Schoolgirl into a Murderer?', Daily Mail, 10 March 2000
- 4 All figures derived from 'Criminal Statistics England and Wales', Home Office, unless otherwise stated
- 5 'Draft Report on the Findings of the Youth Justice Plans 2001 /02', Youth Justice Board, June 2001
- 6 'Youth Crime: Findings from the 1998/99 Youth Lifestyles Survey', Home Office Research Study 209, Home Office 2000
- 7 Graham J and Bowling B, 'Young People and Crime', Home Office Research Study 145, 1995
- 8 Worrall A, 'Troubled or Troublesome? Justice for Girls and Young Women' in Goldson B (ed), 'Youth Justice: Contemporary Policy and Practice', Ashgate 1999
- 9 Batchelor S, Burman M and Brown J, 'Discussing Violence: Let's Hear it from the Girls', in Probation Journal, Vol 48, No 2, June 2001
- 10 Ibid
- 11 It should be noted that these figures tend to overstate the overall gravity of youth crime since they do not include summary offences which are less serious in nature.
- 12 Cautions, reprimands and final warnings require a full admission.
- 13 East K and Campbell S, 'Aspect of Crime: Young Offenders 1999', Home Office, available only on the internet at www.homeoffice.gov.uk
- 14 'Understanding the Sentencing of Women', Home Office Research Study 170, 1997
- 15 Ibid
- 16 'Children Looked After in England 1999 –2000', Statistical Bulletin 2000/24, Department of Health, October 2000
- 17 'Children Accommodated in Secure Units, year ending 31 March 2000: England and Wales', Statistical Bulletin 2000/15, Department of Health, July 2000
- 18 'Use of Secure Accommodation for Juveniles since 31.3.00', Youth Justice Board.
It should be noted that the figures for the population for the juvenile secure estate includes remanded as well as sentenced young people. They also represent a snapshot at a particular date rather than the number of orders imposed over a given period. For these reasons, the figures are not directly comparable with the earlier data for custodial sentences.
- 19 See 'The Detention and Training Order', Nacro Briefing, February 2000
- 20 See 'Court Ordered Secure Remands', Nacro Briefing, May 1999
- 21 'Lost Inside – the imprisonment of teenage girls', Report of the Howard League Inquiry into the use of Prison Custody for Girls aged under 18, 1997
- 22 There is no power to remand younger girls to custody. Girls under 17 years of age, refused bail, will be remanded to local authority accommodation and the court may require that they are placed in secure accommodation.
- 23 'Crime, Justice and Protecting the Public', Government White Paper, Home Office 1990
- 24 R v Secretary of State for the Home Department, ex parte Flood. Independent Law Reports, October 1997
- 25 'Lost Inside', Howard League, op cit
- 26 'Women in Prison: a Thematic Review', July 1997 and 'Follow up to Women in Prison: a Thematic Review', July 2001, HM Inspector of Prisons.
- 27 'Female Establishments Holding under 18 Year old Prisoners on 20.7.2001', Weekly report of Estate Planning Unit, Prison Service
- 28 Cited in 'Statistics on Women and the Criminal Justice System 2000: A Home Office publication under section 95 of the Criminal Justice Act 1991', Home Office, 2000
- 29 Graham J and Bowling B, 'Young People and Crime', Home Office Research Study 145, Home Office 1995
- 30 Worrall A, 'Girls at Risk? Reflections on Changing Attitudes to Young Women's Offending', in Probation Journal, Vol 48, No 2, June 2001