

Research Paper
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‘Double invisibility’:
Recalled and female –
and forgotten in the
Criminal Justice System?

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Introduction

As a chaplain in women's prisons for ten years, I have observed small but significant numbers of women returning to custody (recalled) having breached their licence. Many of these women said that they did not commit further offences, but failed to comply with certain conditions. Sometimes the reasons they gave for being recalled seemed insubstantial, and out of proportion to the consequences of coming back.

I undertook this research to find out more about why women came back to custody. I wanted to hear not only from offenders, but from Offender Managers - Probation Officers who supervise them on licence in the community, to see if there were discrepancies in the reporting. I also wanted to know whether there were certain women more at risk of being recalled than others. Having undertaken previous research about women leaving prison (Deedes 2009), I was aware that life after prison is not easy, so I wanted to discover whether these women recalled had had particular difficulties resettling into the community.

There appears to be general agreement in the literature about the characteristics of women offenders. There is also a widely held belief that women in the criminal justice system are poorly resourced as a group, and overlooked when policies are developed, because of their numbers compared to men - sometimes described as the 'Cinderella' factor (Heidensohn 2002 citing PRT 2000: xii). It is also argued that women who offend face more stigma, from the general public and in the media, because they are considered to have violated the norm of feminine behaviour, and experience greater disadvantage as a result (Carlen 2002a). My research explores these themes in the context of the legislation and practice of breach and recall.

Reviewing the literature on the subject of recall revealed a surprising absence of research or academic interest in this field for any offender, male or female. Yet parole (release part way through a custodial sentence) with the possibility of being recalled, was first introduced in England and Wales over 40 years ago, in 1967 (Padfield 2006). It was established to give offenders the opportunity to settle within the community, whilst under supervision, and reduce the prison population. This

research has identified a recent increase in the numbers of offenders being recalled to custody, because of legislation, and the change in approach of the Probation Service. This seems to be an example of 'carceral clawback': drawing back from reformist policies and increasing the use of imprisonment (Carlen 2002b).

This report breaks new ground in the field of criminology; by bringing together the overlooked subject - recall, and the invisible gender – women, it has uncovered 'double invisibility.' While it is acknowledged that the sample of women in this research was small and care should be taken in generalizing to a larger population, it is hoped that this research will draw attention to these subjects and lead to change in policy which could reduce the numbers of offenders, male and female, held in prison.

I am grateful to The Griffins Society for enabling me to explore the subject of recall, and in the process to contribute to the wider discussion about women in the criminal justice system. I am indebted to Professor Frances Heidensohn for her support as supervisor for this research.

Chapter 1: Background, literature and research method

This chapter considers the practicalities of being on licence and the legislation and statistics surrounding this process; summarises the research method used; and provides a profile of those interviewed.

1.1 Being on Licence

Offenders given custodial sentences may be released from prison to serve a proportion of their sentence on licence in the community. The point at which they are released, and the length of time they spend on licence, is dependent on the kind of offence committed, and the length of their original sentence. The Criminal Justice Act 2003 increased the numbers of offenders released on licence and the length of time they were held on license. It states that an offender can be recalled for failure to comply with any of the conditions.

Being on licence requires an offender to abide by certain rules and behaviour.

There are six standard conditions, requiring:

- living at an approved address
- maintaining contact with the supervising officer
- no travel outside the UK without prior consent
- receiving home visits from the supervising officer when necessary
- only to do work approved by the Offender Manager
- “to be of good behaviour”.

Additional conditions can be placed on an offender who is deemed high risk:

- exclusion zones
- not having contact with groups or individuals
- prohibited activities
- attendance at specific appointments
- drug testing, treatment programmes or courses
- curfew
- general supervision (PC05/2007).

1.2 Lack of information about recall

There appear to be limited detailed statistics about recalled offenders in prison. It also appears to be difficult to collect information which is accurate: the statistical bulletin of the Ministry of Justice for 2005/6 and 2006/7 withdrew the publication of statistics on breach because the amount of variation between sources 'rendered the data unsuitable for publication.' The Parole Board, who review all recall cases apart from those on 28 day fixed term recall, reveal in their annual reports a 58% increase in recalls from 2005/2006 to 2006/2007: from 9,296 to 14,669. In 2007/2008 there was a further 30% increase to 19,060.

There also appears to be a general absence of interest in academic literature or research about this subject. It is not clear why there is so little written about recalled offenders. Padfield and Maruna (2006) identify an over-emphasis on 'front door' sentencing, rather than the 'back door' of release and supervision and the 'revolving door' of those recalled to prison during the licence period of their sentence.

According to Petersilia (2003), 67% of all offenders in California in 1999 were in prison for violating their parole conditions rather than for new offences. At the time of writing her report on women, Corston identified that

50% of current new receptions at Holloway are for breach.

(HO 2007: p9)

Further details of these breaches would be necessary before drawing any conclusions, and more research required to provide this information.

However if significant proportions of the prison population in England and Wales were found to be in prison for breaching their licence rather than committing further offences this would have major policy and financial implications.

1.3 The Criminal Justice Act 2003

The Criminal Justice Act 2003 gave greater powers to Probation to recall an offender to prison immediately where there was a concern for public protection and

made the process of recall into custody swifter by eliminating the need to go to court. This means that offenders are imprisoned again with a lesser burden of proof. The implementation of this Act in April 2005 appears to coincide with the rise in numbers being recalled to custody. In order to deal with this rapid increase in workload, the Parole Board reduced three member panels to single members when reviewing recall cases.

The Act states that a recalled prisoner should be informed why recall action has been taken, this should happen within 5 working days of an offender being returned to custody (PC05/2007). S/he is then permitted to make written representation to the Parole Board. The Parole Board must be informed when an offender is recalled, and can recommend immediate release from custody. The Criminal Justice and Immigration Act 2008 however allowed fixed term recalls of 28 days for certain offenders; these cases do not go before the Parole Board. This means that offenders have less or even no opportunity for their case to be heard.

1.4 Why have recalls increased?

Changes in legislation have led to a rise in the number of offenders being recalled. Public statements have sought to increase confidence that Government is being 'tough' on those who perpetrate crimes. A recent paper from the Ministry of Justice makes this clear:

Offender management ensures that we have a firm grip on offenders throughout their entire sentence, both in custody and the community.
(MOJ 2008b: p2)

The Probation Service reiterates similar themes when discussing the Criminal Justice Act 2003, and its enforcement by the service

This protocol aims to increase public confidence in the management and integration of licensees into the community and reduce reoffending.
(PC03/2005: p4)

Carlen (2002b) writing about women in the criminal justice system, talks of 'carceral clawback' whereby reformist approaches aimed at reducing the use or extent of imprisonment are undermined by policy making which actually increases the prison population. The process of recalling prisoners in the Criminal Justice

Act 2003 can be interpreted in this light – new legislation leading to an increase of the numbers in custody.

The greatest shift in approach in Government policy and principles of justice has been from the past orientation of punishment for offences committed, to the future orientation of risk aversion. Recent criminal justice policies are based on the understanding that the risk of reoffending is associated with certain factors: lack of suitable accommodation; unemployment; mental and physical health; poverty; educational opportunities; histories of abuse. In other contexts these factors are described as indicators of social exclusion; however in the context of criminal justice, they are considered to increase the chance of an offender offending again. Hudson (2002) examines these legislative changes in the context of women who offend. She argues that if decisions to recall offenders are linked to these factors, or if these factors are taken into account when considering re-release after recall then

This of course disadvantages impoverished offenders, especially black impoverished offenders, who are more likely than others to possess the characteristics actuarially associated with re-offending, such as lack of employment, unconventional family structures, insecure housing etc. (Hudson 2002; p38)

It has been suggested that the actuarial approach and avoidance of risk has been adopted both by the Probation Service and the Parole Board in order to avoid unwanted media attention or public scrutiny; for when mistakes are made and offenders are not recalled whilst on licence, or released when they are still considered to be at a high risk of reoffending, the consequences can be tragic, and the public scrutiny intense (e.g. the cases of Monkton 2004 and Sonnex 2009).

“Two French students were tortured then butchered by a psychopath who should have been behind bars, were it not for a string of failings and incompetence by Government agencies.” (Daily Mail 4 June 2009)

Carlen talks of

The heightened awareness of the criminal risk coinciding with a political, media and electoral demand for more and harsher custodial punishment. (Carlen 2002b: p227)

Worrall (2002), citing Kemsall, suggests that the desire to reduce the risk of future offending is in danger of overriding the pursuit of justice, and undermines the rights, such as there are, of the offender.

Padfield and Maruna (2006) conclude that since neither the behaviour of offenders who have been prison, nor their experience of release from custody, are likely to have altered significantly over recent years, the rise in recalls is due to other factors, namely the approach of criminal justice bodies who recall prisoners, most notably the Probation Service

The most substantial change... has probably been the centrally led and politically driven transformation of the culture and practice of probation from a social service orientation to a surveillance-led focus on public protection.

(Padfield 2006: p338)

They argue that this is demonstrated by increasing the number of conditions on licences; by placing less emphasis on the relationship between offender and Offender Manager; and by less flexibility demonstrated by probation officers when managing cases. The emphasis of the Probation Service has changed from support, practical help and rehabilitation of offenders to reducing the risks of reoffending. The Parole Board report suggests that the increase in number of recalls

May be due to a more proactive recall policy being exercised by the probation service for reasons other than further offences. (Parole Board 2007: p8)

1.5 Gender specific issues

It has been identified that offenders are more likely to have been socially excluded through disrupted educational experiences, lack of qualifications, unemployment and homelessness, than the general population (The Social Exclusion Unit 2002). The specific social characteristics of women in the criminal justice system are well-documented and show that many female offenders are similarly socially excluded and have a broad range of needs relating to their mental health, drug or alcohol addictions, relationship matters and histories of abuse (HMIP 1997, 2001, 2005; HMP Report 2006; HO 2007). However as Baroness Corston indicated

There can be few topics that have been so exhaustively researched to such little practical effect as the plight of women in the criminal justice system.

(HO 2007: p16)

It has been argued that because the numbers of women who offend are small, those who do are looked upon more negatively and experience greater stigma, since they have violated expected norms of female behaviour as well as the law, referred to in the literature as 'double deviance' (Heidensohn 2002; Worrall 2002). There are also fewer resources available to address women's needs, for example there are fewer agencies offering suitable accommodation for women. The number of women compared to men in the criminal justice system has also meant that in the past when policy or practice is changed women have been overlooked (Carlen 1998, Gorman 2006).

However there have been recent developments to rectify this situation, such as the Fawcett Commission on Women and the Criminal Justice System (2003), Women's Offending Reduction Programme (WORP) in 2004 and gender equality legislation. These have sought either to reduce the numbers of women in prison, or to make policies within the criminal justice system more gender specific, and appropriate to women's needs. WORP promotes multi-agency working, such as the Glasgow 218 project and the Together Women Programme, which provide support and interventions, with the aim:

To reduce women's offending and the number of women in custody, by providing a better tailored and more appropriate response to the particular factors which have an impact on why women offend.

(WORP: p5).

Given these recent developments towards a greater understanding of women in the criminal justice system, and the thorough and extensive reports on the subject, it is surprising that women who breach their licence and are recalled to custody receive so little attention. The final report of the Commission on Women and the Criminal Justice System (2009) identifies breaches of community orders leading to imprisonment of women, but omits the whole subject of women who have breached their licence and are returned to custody.

As this research paper shows, the subject of recalling women raises many issues about the vulnerabilities of women in the system and the additional disadvantages they experience compared to male offenders. If there is a significant proportion of women in prison for breach, as Baroness Corston suggests (see 1.2) then understanding why women are recalled, and developing strategies to prevent it from occurring, could have a significant impact on the female prison population.

1.6 Research Method

This qualitative research project used a sample of seven women at HMP Downview who were in prison on licence recall between March-April 2009. This was the only criterion for selection. All the women identified received a letter explaining the nature of the research, that the interview would be recorded, and that their anonymity would be maintained when writing up the research (all names were changed). This was explained again when they came for interview. They signed a consent form before the interview began. Interviews used a semi-structured approach, lasting 30-90 minutes. The initial letter to participants explained that it might be necessary to contact their Offender Manager. At the end of the interview each participant was asked whether they agreed to the researcher contacting their Offender Manager in the community. One person declined.

The Offender Managers of the participants were then contacted by email, the research was explained to them, and they were invited to make contact if they were able to take part. Two Probation Officers of offender participants responded and they were interviewed by phone. As this was quite a limited sample, two further interviews were conducted with Probation Officers with no connection to the offender participants: one was currently working within HMP Downview as Offender Supervisor; another was a Probation Officer who was also a fellow with The Griffins Society. These interviews were semi-structured, lasting 30-90 minutes. Through contacts with The Griffins Society it was also possible to interview a member of the Parole Board.

Since my primary role within HMP Downview is that of chaplain, it could have affected the responses to questions or the relationship between researcher and

participant. However the difference in my role as researcher was explained before the interview and interviews were semi-structured so there was less opportunity for confusion.

The interview schedule for offenders covered biographical details; their experience and perception of their recall; their experience of release and resettlement; their relationship with their Offender Manager; and their self-perception. The interview schedule with Offender Managers covered biographical details; questions about the individual they had managed: their relationship, and the circumstances of their breach and recall; general questions about breach; gender differences in working with offenders and in particular differences related to breach; and their perception of probation. The questions to the Parole Board member covered similar themes, looking particularly at the role of the Parole Board in the process of recall.

In addition the probation files of the participants were also looked at for background information, paperwork relating to the recall, the original licence conditions, and contact details of Offender Managers.

1.7 Profile of Interviewees

The offenders interviewed ranged in age from 21 to 44. Four were in their twenties, and three were over 40. Three identified themselves as 'white British', one of whom was a 'traveller gypsy'; one described herself as 'white Irish', another as 'white Caucasian', the others were 'black other', and 'mixed race Caribbean'. All except one were mothers and one had grand-children. All had had previous custodial sentences, and all except one had drug or alcohol addictions, or both. Their current sentences ranged from 17 months to 4 years.

The Probation Officers interviewed worked for different probation areas. Their time as qualified Probation Officers ranged from 18 months to 4 years, though some had worked in probation prior to qualification for between 2 and 6 years. One of those interviewed was a trainee due to qualify 6 months after the date of interview.

Chapter 2: Factors which contribute to women breaching their license

This chapter examines the characteristics of the women who breached and considers whether these factors contributed to their recall to custody. It also explores whether women experience greater disadvantage than male offenders on account of their 'double deviance'.

2.1 Chaotic lifestyles

All the professionals interviewed for this research identified that those who were most chaotic were most likely to be breached and returned to custody.

The women interviewed for this research all had the kind of background and lifestyle which supports this.

When the Probation Service national standards are applied, non-attendance or even lateness can be considered breach of licence, and after three failures recall proceedings may be activated (PC05/2007). Offenders who are more likely to turn up late or miss appointments because they find it hard to establish a routine are therefore at greater risk of being recalled. It is questionable whether being disorganised increases the risk of reoffending or the risk to the public and therefore whether it justifies recalling offenders on these grounds.

Addicted offenders are more likely to have chaotic lifestyles and therefore find it more difficult to adhere to conditions placed upon them. Six women in this sample had extensive drug or alcohol problems; some had both. Often their habits had started at a young age. The one woman who did not have an addiction herself associated with others who did. Two women identified bereavement issues as contributing to the start of their addictive lifestyles or offending behaviour; others talked of traumatic events, complex families or addicted relatives. Two women worked in the sex industry in order to feed their habits. Their nocturnal lifestyle could mean that attending daytime appointments was particularly difficult for them.

One probation officer described a tiering system used in her area, whereby the regularity and number of appointments an offender has to have with their Offender Manager after release are worked out according to scores obtained from the risk management tool OASys (Offender Assessment System.) This system measures the likelihood of someone reoffending and their risk to the public. However according to OASys a chaotic offender who may be low risk to the public is still scored highly because their needs are deemed to increase the likelihood of reoffending; they are therefore placed on a high tier requiring more appointments with the offender supervisor.

When they are chaotic in their nature, that's why they've got a high score, and yet they're being expected to come in more, which is harder to do, so it's a catch 22. (PO1)

Other professionals interviewed questioned the benefit of recall for certain breaches, especially non-attendance, as they felt it had a disproportionate impact on the most chaotic people and did not help them to address the reasons for their inability to keep appointments:

What is the point of recall for not turning up? You know, much better to have a good long session with some sort of key-worker to try and help them be less chaotic. (Parole Board member)

Three of the women in this sample believed that non-attendance at probation had contributed to their recall to prison. One woman, a sex worker, was beaten by a client and had her phone stolen the evening before her appointment with probation. She was unable to contact her Offender Manager whose number was held in the phone, and feared that because she had missed one appointment she would be recalled.

I thought they were going to call the police on me there and then. I had nothing with me, I had no clothes with me, no trainers, no money, you know so I didn't bother going there. I sort of blanked it out of my head, you know, and I thought 'Here we go. I'm going back to prison again.' It was like getting my head around it, and I'd only been out like, not even a couple of weeks. (Kate)

2.2 The number of conditions

When confronted by offenders with the complexity of needs like these women, it appears that some Offender Managers add more conditions to the licence believing this will provide offenders with greater structure, and perhaps replicate the routine and order of custody. However if there are more conditions placed on offenders the chances of breaking them are also increased. If it is hard to organise yourself to attend one appointment, it will be harder still to attend three or four.

One young woman had 6 additional conditions placed on her standard licence, which she felt was too much. She acknowledged that her Probation Officer, with whom she had a good relationship, wanted to keep her busy, but at the same time she felt she had been set up to fail. Several professionals interviewed felt that they or others had on occasions placed too many restrictions on offenders thinking that they were doing their job better by providing greater safeguards for the public and avoiding risk, but recognised that in reality they were setting people up to fail.

2.3 Lack of suitable accommodation

Practical considerations such as having somewhere to live increase the likelihood of offenders desisting from crime (Maguire 2006), whereas having no accommodation is considered to be a factor which greatly increases the risk of reoffending (HMP Report 2006). Therefore homeless offenders released on licence are heavily supervised by probation to ensure that they do not reoffend. They are required by probation to attend every day. However if you have nowhere to live and are moving from place to place, with limited finances, the chances of getting to probation every day are remote; and since probation are not a housing provider, the benefit to the offender of going there must appear limited. There must be a high risk of recall for non-attendance in these instances, which impacts most on those who are most vulnerable.

They can't get there [to probation], perhaps someone offered them a bed for the night a bus ride away and they haven't got the bus fare to get back there in the morning. Things can be as basic as that. (PO2)

This seems to confirm Hudson's argument (2002) that the approach by criminal justice agencies which links risk of reoffending to vulnerability such as lack of

accommodation, penalises impoverished and marginalised offenders, of whom women and black and minority ethnic offenders make up a high proportion.

Most of the women interviewed had had problems with accommodation, either immediately prior to their return to custody or at some point in their lives. Two talked of having lived on the streets; several had spent time with undesirable associates - drug dealers or abusive people - in order to find shelter. Some had been housed with relatives with whom they had had limited previous contact either because other relatives were considered unsuitable by probation or because there was no alternative. Some had had periods of stability and been adequately housed at times in their lives, but had returned to old associates and lifestyles in response to other factors including their emotional needs.

Probation Officers interviewed acknowledged that it was more difficult securing accommodation for women than men. There are multiple reasons for this; too few places, because the numbers of women being released are so small; too little funding to provide for women's needs; and negative attitudes towards women who offend (double deviance) (Worrall 2002). There are only four approved premises in the country for women and as one officer reported

It is a lot easier to place a violent man than it is to place a violent woman.
(PO2)

As a probation officer who had extensive experience in the community before working within a female prison, she felt

Someone [female] who has alcohol misuse or someone who has stabbed somebody in a violent fight is deemed more dangerous than a predatory paedophile [male] that is coming out of custody. (PO2)

One woman interviewed had been homeless for eleven years, and had never been able to secure accommodation before she left prison. On a previous sentence she gave the address of a sexual client because she had to give some address before she would be released. She had no intention of going there. On this occasion when she was breached, she had anticipated support from a charitable organisation, but when they met her on release they had nothing to offer her, so she was homeless again. She was left walking around London with a prison-issue

hold-all and nowhere to go, on a Friday when support agencies would be closing for the weekend.

So I went to this bloke who'd look after me. And he's a known person who will put people up for drugs, see; do you know what I mean? And I could only earn money if I started smoking, and that's what happened. (Kate)
In effect she breached her licence on the day of her release by not residing at a suitable address.

The Parole Board requires an adequate resettlement plan, including an address, before they recommend release following breach of licence and recall to prison. If it is harder to find suitable housing for women, the Parole Board will be less willing to release them, so they could be held in prison longer than their male equivalent. More research is needed in this area, but this research suggests that the link between recall and inadequate accommodation is another example of women offenders being doubly disadvantaged and disproportionately punished, and that women with the most complex needs fare the worst.

2.4 Lack of protective factors

Literature about prisoners' resettlement identifies the importance of family ties in helping to reduce reoffending, and in avoiding recall (Nelson 1999, HMPS Report 2006). It is not always the case that families provide this support, as in this sample where the women's families appeared to be part of the problem. Five of the women described disrupted family life through maternal abandonment; being cared for by extended family members or in children's homes; one described familial conflict due to disclosing her sexuality. Several indicated that they had witnessed high levels of violence as children. Three made direct reference to physical, emotional or sexual abuse, a further two described needing to deal with "issues from their past" which may have been veiled references to similar experiences. Most talked of other family members who had addictions.

All the women in this sample except one had children; one was a grand-mother. However for most of the women having children was not a protective factor in helping them resettle after imprisonment since all of the women's children were cared for by others, mostly relatives, and had been for some considerable time

prior to this sentence. None of the women anticipated becoming carers after release. Three appeared to have little or no contact with their children. Only one seemed to be in regular telephone contact with her children and yet was unable to see them either because of restrictions placed on her or because the distance between them was too great. One was establishing relationships with her adult children, from whom she had been estranged for many years of their childhood. She was also building links with her grandchildren.

Although most of the women had some family member still supporting them to a degree, most described these relationships as being strained because of their lifestyles and addictions, and the women's own sense of guilt at the harm they had caused them. Several felt it was hard for their families to trust them because they had let them down so often in the past.

All the women said that because they had been breached and returned to custody relations with families had further deteriorated. Families assumed that the women had committed further offences. Some women had to go to great lengths to reassure their families about the circumstances of their recall; one invited her children to make contact with her Probation Officer to find out the truth. One woman's teenage daughter refused to speak to her, and self-harmed. Another woman's daughter had not replied to any letters. The mother of another woman thought her daughter had returned to violent behaviours and nearly disowned her. Several were still trying to repair the harm caused by their recall. One of the women who had been breached on a previous occasion had felt such guilt for appearing to let down her children again that she attempted suicide.

2.5 Mental and emotional needs

Statistics on women in prison have identified that 80% have diagnosable mental illnesses (HMPS Report 2006). All seven women in this research described mental health issues mostly associated with depression and several had made serious attempts at suicide. Two were diagnosed with a personality disorder. Three recognized that they had problems with anger.

The women demonstrated high levels of need emotionally and mentally which contributed to their very low self esteem and lack of self-confidence. Several described themselves as easily led, being unsure of their own opinions, and needing to fit in with the crowd. Most recognized that they had made poor choices in terms of friends and partners, and this had contributed to their lifestyle. Some acknowledged that they were needy and dependent people, and saw this as being problematic for them when they were released as they would have little support.

Several, particularly the younger women, described low boredom thresholds, and yet they had few ideas about how they might occupy their time. Most had low educational achievements, though several expressed pride about courses they had completed whilst in custody. Most had poor coping strategies when faced with problems, and they tended to respond by drinking, avoidance, aggression or passivity. It was clear that many of the women were impulsive and often acted without thinking consequentially. Even if the women had hopes for their futures, these were tempered with ambivalence and uncertainty about whether they would succeed. Some were very pessimistic

If anything does change then that's good, but if it doesn't then it won't be a drama do you know what I mean, because I'm not expecting it to anyway.

(Ellen)

I've always messed up. They always put you back into the same area, and I end up mixing with the same people and always end up coming back. (Jes)

According to Maruna (2001) the way offenders describe themselves is an indicator of their likelihood of desisting from crime. Low self-esteem and pessimism immediately prior to release are not positive indicators of avoiding further imprisonment (HMIP 1997, 2001). Since all the women had had previous custodial sentences and several had been breached on other occasions, their pessimism was fuelled by previous experience. It could be argued therefore that further recalls into custody reinforced the women's negative self-images even further, and made them even less likely to desist from crime.

2.6 Being institutionalized

All the women in this sample had spent considerable time in custody, on this or other sentences, and all showed signs of having become institutionalized (Parker 1995, Farrall 2006). One woman, aged 21, had been in prison 7 times previously. Women described feeling safe, or at home, in prison, where they fitted in better than outside. They found they coped better in prison where everything was decided for them, and they did not have to rely on their own decision-making. One described prison as being a family, where she felt somebody, as compared to outside prison where she felt nobody. Many found relief from the chaos and fears of their lives outside when they returned to prison, even though they seemed embarrassed to admit it.

I don't like being in here but it suits me (Ellen)

Several found it hard to adjust to life after prison. One young woman described feeling like an alien; she didn't fit in with her peers whose lives had moved on, so she isolated herself from them, not going out and becoming more depressed and paranoid as a result. Even those accommodated in hostels felt they lacked emotional support and, because they felt lonely and isolated, either associated with others in the hostel who put them at risk, or withdrew from them and become depressed and vulnerable.

The others always come in drunk, or tanked up or whatever, and they was always downstairs. So I used to pick myself out of the equation and stay in my room, so I was isolated. It was like being back in prison really. (Sam)

The literature highlights that the first few weeks after prison are the most vulnerable for offenders (Eaton 1993, Travis 2001, Seiter 2003). This is the period of transition when women can feel most insecure, disorientated, and be facing the most overwhelming practical problems which impact on them emotionally (Deedes 2009). The fact that all of these women except one breached their licence within 3 months of their release, and two within two weeks, confirms the findings of previous research. The other woman had also breached previous licences soon after her release.

Most women felt they did not have enough support practically or emotionally during this transition period when they were most vulnerable. It is during this time of

adjustment that offenders are expected to engage most often with probation. However it could also be argued that if they are finding it hard to organise themselves into a routine, they are unlikely to be able to keep appointments. If they are feeling depressed, lonely, isolated and unsupported, they may find it hard to motivate themselves to attend probation, or they might seek solace in old associates or addictions, thereby breaching other conditions. Returning women to prison so quickly after their release will mean there is less opportunity for them to have been resettled in the community, and will reinforce their negative self-image that the only place they can survive is in prison. This could make it even harder for these women to be successfully reintegrated into the community at the end of their sentence.

2.7 Awareness of women's needs

Men dominate the caseloads of Probation Officers in the community. This could mean that Offender Managers have little experience of working with women or of understanding their gender-specific needs. Despite limited experience of working with women, professionals still form opinions about female clients (Worrall 1990).

Whenever someone is allocated a female case, you sort of go, 'Oh no', because you know they are chaotic and they're going to have a lot of needs... so generally people don't want women cases because of the complex needs they have. (PO1)

Other Probation Officers interviewed expressed a similar response. If women offenders are perceived negatively this could adversely affect how they are treated. None of the professionals interviewed thought that female offenders should be treated differently from male offenders when managing breach of licence, but some felt there should be greater awareness of women's particular needs. However it could be argued that women are already managed differently because their needs are less well understood and because policies impact differently on groups of offenders depending on their age, ethnicity or gender (Hudson 2002).

Those interviewed for this research were more likely to have worked with women serving community punishments and knew that female clients' issues with child-care could have an impact on their ability to attend appointments. They had limited

experience of women released from prison, and consequently were less aware of women who were estranged from their children, and for whom mothering was not a protective factor in reducing their risk of reoffending (Enos 2001). This lack of experience of working with women was also the case for the Parole Board member who was interviewed. One Probation Officer however, who had an approved premises for women in her area, had had more experience, and the Probation Officer working within a female prison was very aware of women's needs.

2.8 Summary

All of the women in this sample had a broad range of needs; reflecting most of the areas of concern identified by the OASys needs assessment (accommodation, relationships, addictions, emotional well-being, thinking and behaviour, lifestyle and associates). These women were less likely to successfully complete their licence period given the chaotic nature of their lives, their vulnerability and social exclusion.

Chapter 3: The role of probation in the process of recall

This chapter considers whether the current model of probation is effective in enabling female offenders with the characteristics described in Chapter 2 to successfully complete their licence period, looking particularly at the relationship between Offender Manager and offenders.

3.1 Changes within probation

In the past the Probation Service may well have sought to address the practical and emotional needs of vulnerable offenders such as those in this research. It began as a welfare organisation, but has been through many transformations during its existence (HO Report 2003, Seiter 2003). Probation Officers identified different factors which led to some of these developments: political climate; public opinion; lack of resources; pressures within the criminal justice system, especially the numbers held in prison; high profile cases in the media and responses to them from the Government and the public.

As a result of these changes the Probation Service has become more of an enforcement agency than a welfare one, whose primary purpose is public protection rather than support and resettlement (Hudson 2002, Petersilia 2003, Maguire 2006). Those who work within the organisation, or partner agencies, may be aware of this fundamental shift in priorities, but it is unlikely that the general public or offenders, especially those most disenfranchised and disaffected, will be so aware.

3.2 Current role of probation

Probation Officers interviewed doubted that many offenders really understood their present role. They also acknowledged that there was much variation of practice and style amongst colleagues. They identified internal factors which had an impact on how Probation Officers worked: the style, leadership and background of the

Senior Probation Officer; the training of individual officers – social work training or probation-specific; the length of time in service and the confidence of the Probation Officer in their role; the location of the probation area and the pressures of caseload and morale of those in that area; the age of the Probation Officer; and their individual style and personality. One Probation Officer described being pulled in different directions. If she was accountable to the public, then their protection was paramount; if to offenders, then their welfare was important.

The complexity of the role of probation should not be underestimated; and in the present political and financial situation these complexities are exacerbated. One Probation Officer described the external pressures on probation leading to under-resourced services, disillusioned staff and vacancies. In this situation the response from Probation Officers varied

You can go either way, you can become hard-lined and say that's it, I'm going to have to breach everyone so they're in prison and I don't have to worry so much about them and that kind of thing, or you go the other way and you could be missing things that are vital because you haven't got the time. (PO1)

As described in the previous chapter the women interviewed for this research had high levels of need; practical, e.g. to find suitable accommodation; psychological, e.g. to address their addictions or lifestyle; and emotional, e.g. to cope with their insecurities as they left prison. They lacked strong family support or friendships, and most had poor coping strategies and low self-esteem, making it harder for them to seek appropriate help. The current enforcement model of probation was not what they expected:

I thought you go to see them so they can help you settle back into the community and stop you reoffending; they didn't do that for me. (Ellen)

Offender Managers were also aware of what the women needed and felt frustrated that they could not provide this:

Nowadays you don't physically have the time to give them [female offenders] what they need to have, you want to, but you, you don't do it, so generally people don't want women cases because of the complex needs they have. That said, I do like women cases because it is very rewarding,

it's very old fashioned social work ethos in helping them and having that working relationship with them. (PO1)

3.3 Relationship between offender and Offender Manager

Storer's research (2003) identified the importance of a consistent relationship between offender and Probation Officer in securing compliance with a probation order. It is probable that this relationship would be equally important if a woman is to successfully complete her time on licence and avoid being recalled.

All the women interviewed had clear ideas of what a good relationship between an Offender Manager and offender would be based on, whether or not they had had this experience themselves. Their judgment of a good relationship was where they felt listened to, treated with humanity as an individual, and not judged solely by their offences. A good Offender Manager offered help for practical problems such as housing or employment; was accessible; showed flexibility in approach; demonstrated fairness; used discretion and was willing to give chances; communicated openly; and visited or maintained contact with them whilst they were in custody. Women were more likely to respond well to this kind of approach, and showed more tolerance of being recalled by their Offender Manager where such a relationship had been formed.

Probation Officers interviewed also described similar factors which improved their working relationship with offenders. Some added being boundaried, focussed and having shared goals agreed and worked upon by offenders and Probation Officers together. One also recognised the importance of acknowledging the imbalance of power to the offender, and of being transparent. Showing empathy, having had life experiences and believing in the possibility of change was considered to be of benefit. In contrast a poor relationship was too authoritarian, used power without acknowledgement, and failed to see the importance of the relationship itself.

The one offender who avoided being recalled for the longest period, 8 months, described a positive relationship with her Offender Manager, and felt it had impacted greatly on her relative success.

It was very supportive; he would always say I could phone him at any time. He helped me...He talked to me, let me come in if I needed to on extra days and stuff like that...He gave me more chances than like I should have, do you know what I mean? I still just messed up. (Nikki)

3.4 Emotional barriers to positive relationships

Interviews with the women in this research identified several barriers to establishing a positive relationship with their Offender Manager; all mentioned that trust was an important factor. All of the women described difficulties trusting other people due to their experiences within personal relationships and their contact with authority. Most if not all of these women had had extensive contact with welfare agencies from childhood, or as mothers themselves. Women may have been removed from their own families as children or had had children removed from them; such experiences would have generated powerful emotions about themselves, and about the authorities whom they felt were responsible. It is not surprising therefore that all of these women described having difficulty trusting anyone, especially authorities.

All authorities, Social Services, all of them, I've got big issues with them. (Ellen)

Such deep-seated issues of trust meant that some women were unable or unwilling to engage with their Probation Officer at all. They found it hard to disclose and talk about experiences from their past or to be honest about their current situation. But trust had been established where there had been enough time, and where the elements of a positive relationship were present

It's hard for me to put my trust in somebody because of past experiences and with X [Offender Manager] when I first met her I didn't tell her anything, anything, and even she's seen like I've come far away from how I was then to where I am now. (Jo)

Women saw trust as an essential element to a good relationship.

I had a really good relationship with my probation officer, I could really trust him, and during the times when I was clean and stuff I could go to him like and let off steam... But if you haven't got someone like that that you can be honest with, and that you can trust, then it's gonna make it a bit more difficult for things to work. (Nikki)

Several women spoke of powerful feelings towards the Probation Service

Can't stand them to be honest with you... What is the purpose of them apart from monitoring you in the community, but anyone could do that, the police could do that, can't they? (Ellen)

Some withheld information about their needs from their Offender Manager for fear of being recalled; others avoided contact altogether. This avoidance was a familiar pattern for many of these women when faced with problems.

I was so scared of coming back to prison, I was too scared to get in contact with them. (Kate)

Several women expressed a preference for being released when their sentence expired as it would mean they would not be required to engage with probation again. This was often the only positive factor women could draw on when coming to terms with their recall to custody. One described the feeling of not having anyone monitoring her on licence as 'brilliant.' Where women held such strong feelings towards Probation it is hard to imagine how such negativity could be overcome.

3.5 Practical barriers to positive relationships

Many of the women in this research had not had time to establish a good relationship because of practical problems. Women in prison are held far from their homes so the amount of contact with their outside Offender Manager may be limited and s/he will be less active in managing their resettlement plan.

Several of the women had had to change their Offender Manager several times. Difficulties securing accommodation meant that the women were often housed in different areas from their home area so their case had had to be transferred. Since accommodation may only be secured just before release, women are transferred to

new Offender Managers only at the end of their sentence, when there is no time for any kind of relationship to be established. Women and Probation Officers found these changes unhelpful and felt it affected their ability to relate and reduced compliance. Since these practical barriers are more likely to affect female than male offenders, women again appear to be doubly disadvantaged.

3.6 Summary

This research has identified that establishing a positive relationship between the offender and Offender Manager is crucial for compliance with licence conditions. However there are emotional and practical barriers to establishing this relationship; there are also constraints on probation making it harder to offer effective support. It is questionable whether even if adequate resources were available, the current probation model of enforcement would address the needs of this particular group of offenders.

Chapter 4: The recall process

This chapter looks at how the licence condition ‘to be of good behaviour’, has been interpreted and considers whether the process of recall is fair and legitimate.

Several professionals interviewed felt that breach was necessary in order to show that there were consequences to behaviour. It can also be a useful tool for immediately protecting the public. There is probably little public understanding of the whole process of licence and supervision and there would be limited public sympathy for offenders who broke the rules and did not have to face the consequences.

However none of the Probation Officers interviewed liked recalling prisoners, and several recognised that the drawbacks of breaching an offender may outweigh the benefits of enforcement, for example because offenders are then only released at the end of their sentence when they may have no statutory support or accountability and they lose any gains like accommodation or courses started, and are even harder to resettle after their recall. Some felt that other alternatives should be explored before action to recall was taken, and although some felt they now had more discretion than previously, others wished they were allowed to exercise this further.

4.1 Legitimacy

The criminal justice system works on the premise of legitimacy. The tightening of the procedures and rules of breach may have been in response to a sense that it was not legitimate for offenders to flout their licence conditions. The more punitive approach of the Government highlighted earlier (1.4) suggests a desire to appear

fair to the public. However there are circumstances where the legitimacy of a policy can be called into question.

If a policy is to be legitimate, it needs to be clearly understood by those whom it affects. The licence is read to offenders by senior prison staff at the point of release, and again by their probation officer soon afterwards; offenders sign to say they have understood it. However it was apparent from this research that the women interviewed were not clear about the meaning of their licence conditions. This could be due to the complexity of the language on the licence; the clarity of the explanations given; or the high levels of emotions at the time of release when the licence is read to them.

Women were also unclear about the process of recall.

I thought to be recalled you had to go out, commit a crime, go to court and they decide...but what I thought was wrong (Sam)

This was a common misconception.

4.2 Subjectivity

The condition 'to be of good behaviour' was referred to by professionals interviewed as a 'catch-all'. It is a standard condition which is open to interpretation.

Not being of good behaviour is spitting at your probation officer, you know, or arriving slightly drunk, or looking rather dishevelled and not being very polite. Anything. (Parole Board member)

This was also the condition least understood by the women interviewed, and one of the conditions most likely to be broken.

Being 'badly behaved' could be interpreted in ways other than as an indicator of increased risk of reoffending: as a response to adverse circumstances - lack of accommodation or employment; as a sign of emotional needs such as depression; or from frustration that probation does not appear to be able to provide the support offenders were anticipating. Whilst there are safeguards within probation when recalling offenders, and all decisions have to be defensible, from the evidence of professionals as well as offenders interviewed in this research, there seem to be

occasions where offenders are recalled for somewhat spurious reasons, mostly associated with breaching this particular condition.

4.3 Being informed

The Criminal Justice Act 2003 states that offenders should be informed of the reasons for their recall. The Probation Circular PC05/2007 says this should occur within 5 days of returning to custody; however some of the women in this research were recalled to prison without receiving any paperwork concerning their recall, for weeks or months. Some had had no contact from their Offender Manager, and had little understanding of how or when they might be released again. Some described feeling forgotten or dumped back in prison.

The women in this sample demonstrated high degrees of passivity when faced with authority, so although they recognised feeling unfairly treated, they perceived it as almost inevitable and felt powerless to take any action.

4.4 Having a voice

In most other aspects of the criminal justice system offenders have the opportunity to make representation and to have their part of the situation examined in a court of law. The process of recall as it currently stands removes that opportunity (Padfield 2006). It means offenders can be recalled on limited evidence and without due process. Two women claimed that people in the hostel had made allegations against them for assault. They felt these were not investigated properly; charges were not pressed, they did not go to court or have any representation, and they were not given the opportunity to explain their side of the story.

I think it should be when things are allegedly put forward they should be investigated. You don't just get chucked back in to prison for it. (Jo)

Two others were arrested while on licence and although charges were later dropped, they had already been recalled to prison when this happened.

Even though women felt unfairly treated and might have wished to appeal, they were already back in prison and either thought there was no point in doing so, or were advised not to bother by their legal representatives. One woman who started

this process was advised to abandon it as it was delaying the process of deciding about her re-release.

They said there's no point appealing because it's done and dusted. (Sam) This was acknowledged by the Parole Board member who stated that appealing against recall was pointless; it simply compares one person's version of events with another's, achieves very little and slows down the process of re-release. The legitimacy of a process which convicts on limited evidence, denies the offender a voice, and where the process of appeal is meaningless must be questionable.

4.5 Time served

The women felt unfairly treated because of the reasons they were recalled, and because of the amount of additional time they then spent in prison. One woman, accused of pushing a hostel staff member, spent a further 6 months in prison, which she regarded as the equivalent of a year's sentence, for something she denied doing. Another woman who understood she was breached for non-attendance (she had not had any paperwork at the time of interview) believed she was doing another year in custody for missing one appointment.

Another woman had spent 9 months post recall in custody at the time of interview. She felt that she had been wrongly brought back to prison, and she felt further unjustly treated because the Parole Board would not recommend her release until accommodation had been found.

It's not fair that I have to stay here because places are knocking me back, when I never committed no offence or anything or never missed probation or anything like that...everywhere knocked me back because of the violence on my original offence. (Jo)

This woman was not released for a further 5 months after being interviewed. As has been discussed earlier (2.3) the difficulty of securing accommodation for some of the women means that they are held in prison for disproportionately long periods, and are more disadvantaged than male offenders.

4.6 Summary

There is a common belief among offenders in prison is that 'if you've done the crime, you do the time'. All these women interviewed would have supported the

process of recall had they committed further offences. The only woman who felt her recall was justified had been caught shop-lifting. None of them understood the process in terms of their risk of reoffending or risk to the public which is the perspective held by agencies such as probation. Clearer explanation before release, both of the process and criteria for recall, may help to increase offender compliance with the licence after release.

All the women were asked what advice they would give to others to help them avoid being recalled. Their answers mirrored their own experience and the shortcomings of the system. Several talked of needing to understand fully their license conditions, the consequences of not adhering to them, and the process of recall. Others identified the importance of maintaining contact with their Offender Manager, even if they did not get on with them, and of attending all appointments on time.

Try and keep on with them [Offender Manager] if you can and maybe they'll do a bit more for you I suppose. They didn't do much for me, because I didn't keep in touch with them in it? If you try and keep close to them maybe they'll do more for you. (Ellen)

All described the constraints and pressures of being on licence

You've just got to be so careful out there, do you know what I mean? Like while you're on licence you're on a bit of string...anything and you're coming back to prison. (Jo)

Chapter 5: Conclusions and recommendations

This research has been an exploratory study into the little researched area of breach and recall. It was beyond the scope of this research to make any comparisons with male offenders who are recalled, and much more research in this field is necessary before comprehensive conclusions can be drawn. This study used a small sample of recalled women and whilst any conclusions from research on this scale can only be tentative, it has identified a number of key points.

5.1 Key Points

- The number of offenders recalled is increasing significantly (1.2) so the financial and social cost of recalling offenders is potentially great.
- The increase in number of recalls is due to legislation, government attitude, pressure from the media, changes in probation culture and ethos, and greater emphasis on risk avoidance.
- The level of interest in this subject is low and accurate data and information about recalls is hard to obtain, either for male or female offenders.
- Offenders, who are chaotic, addicted, socially excluded, and disadvantaged are more likely to find it difficult to comply with their licence conditions so they are returned to custody more quickly than offenders who are more organised and have stronger support structures. Chaotic offenders are not necessarily high risk to the public.

- Offender Managers are less likely to address the welfare needs of these offenders directly because of recent changes in ethos. They are less able to respond to particular difficulties offenders face during the transition from prison to community or their general resettlement needs. Women with complex needs are more disadvantaged by these changes.
- The process of breach and recall arguably lacks legitimacy because:
 1. There are inconsistencies in the way offenders on licence are managed.
 2. Some conditions are subjective, especially 'to be of good behaviour.'
 3. Offenders do not fully understand their licence conditions, or the process of recall itself.
 4. They lack the opportunity to appeal effectively.
 5. They are held in prison for longer than their actions, alleged or substantiated, require.
 6. Certain groups of offenders are at a greater disadvantage than others.
- It is harder to secure accommodation for female than male offenders. This means that when women are recalled they may be held in prison longer than men. They are less likely to return to their home area so they may have to change their Offender Managers more frequently.
- A trusting relationship between offender and Offender Manager may contribute to the successful completion of a licence period; however there are practical and emotional obstacles making it more difficult for some women to establish this kind of relationship.
- Professionals have less experience of working with women released from custody than men and possibly have less understanding of women's specific needs.
- Recent initiatives aim to reduce the numbers of women in prison (e.g. WORP), but the process of recalling offenders may have the opposite effect

(carceral clawback). This has not been taken into consideration in recent studies and reports.

- Since the subject of recall is ignored, and women offenders are overlooked, recalled women are 'doubly invisible' within the criminal justice system.

5.2 Recommendations

From this research the following recommendations are suggested:

1. Simplify the language used on licences, the number of conditions routinely used, and make the most subjective conditions clearer and offender-specific.
2. Record accurate and detailed statistics about the numbers of male and female offenders recalled; how quickly post-release breach occurs; and which conditions are breached.
3. Review the risk-avoidance approach which impacts most harshly and unfairly on offenders who are most needy.
4. Use the powers of immediate recall only in the case of serious risk to the public.
5. Ensure that offenders who do not pose immediate risk to the public have opportunities to make representation against recall before they are returned to custody.
6. Ensure that professionals involved in the process of recall have greater understanding of the needs of complex women offenders, and allow them more discretion in applying rules of breach and recall.
7. Target interventions and support for offenders most at risk of recall, through multi agency work, pre- and post-release.
8. Provide consistent support for those most at risk of recall, especially female offenders, so that they can develop trusting relationships with an individual

whilst in prison and after release, and use the model of welfare support when it is considered appropriate to do so.

9. Encourage additional research into this subject - to compare male and female offenders who are recalled, and to gather quantitative data about the characteristics of offenders who are recalled as opposed to offenders who successfully complete their licenses.
10. Increase the 'visibility' of recalled women.

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