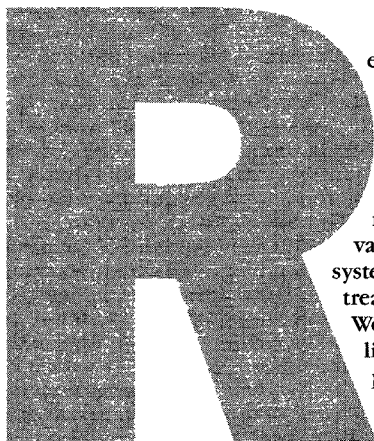


# Challenging Practice of Challenging Women? Female Offending and Illicit Drug Use

Current debate about the treatment of women within the Criminal Justice System is complex but there is now sufficient evidence that, for some female offenders, probation officers may be practising in ways which reinforce the oppression they experience in wider society. By drawing on three separate but related pieces of research, Julian Buchanan, Steve Collett and Paul McMullan of Merseyside Probation Service highlight practice dilemmas in the way the criminal justice process intervenes with and is experienced by female drug users.

A large, stylized, textured letter 'R' in a dark grey color, serving as a decorative element for the start of the text block.

Recent research established that far from being treated leniently (the 'chivalry' hypothesis), some women receive relatively harsh treatment<sup>1</sup>, whilst qualitative case study approaches, in focusing on the processes and personnel by which women are dealt with at various stages within the criminal justice system, have illuminated their differential treatment. Studies by Allen, Carlen and Worrall<sup>2</sup>, amongst others, have highlighted the treatment of women whose personal, social and economic background makes it likely that they will come into contact with probation

officers. These 'troublesome' women, are often perceived and portrayed (by probation officers, social workers, psychiatrists and solicitors) and sentenced (by judges and magistrates) within and against stereotypical role expectations of 'normal' womanhood.

Worrall's research into magistrates' decision-making suggests that not only is the argument that 'cases are dealt with on individual merit' a myth, but in order to target women into 'deserving' and 'undeserving' groups, magistrates construct female offenders within a discourse of domesticity, sexuality and pathology.

In relation to domesticity, it is not just the role per se that protects women but the 'case in question is whether or not the defendant is a good mother, *i.e.* conforming to conventional middle-class expectations of appropriate motherhood and wifeliness'.

Sexuality refers to the way in which criminal activity which cannot be attributed to domestic responsibility tends to be viewed as a lack of femininity and pathology refers to the 'sub-psychiatric' and medical conditions which are assumed to be common amongst women offenders. Such pathological and psychological conditions can then be used in court to 'excuse' women and encourage treatment rather than punishment.

It is therefore possible for individual offenders and probation officers (through the medium of court reports) to collude wittingly or unwittingly to gain tactical outcomes. However, these 'dilemmas in practice', as Carlen has referred to them<sup>4</sup>, may help an offender in terms of sentencing outcome whilst reinforcing stereotypes of 'normal' womanhood. Consequently, other offenders who cannot or refuse to fit the stereotype are placed in double jeopardy because of their 'deviance' as both criminals and women.

It is to such a group of women that

we now wish to focus by drawing upon three small scale pieces of research carried out on Merseyside. Each has a different focus and employs a different methodology. However, all three studies highlight practice issues about the processing of women drug users living in areas of Merseyside where drug use is prevalent and can be viewed both as a problem for individuals as well as a solution to individuals' experience of social and economic deprivation.

## The Remand Decision

The first study, based on a statistical analysis of 287 social inquiry reports prepared for a Merseyside magistrates' court over a fifteen month period, demonstrates a differential pattern of referrals for SIRs between the sexes. Table 1 shows that six times as many women offenders with no previous convictions and over twice as many with two or less previous convictions, when compared to their male equivalents, were remanded for reports.

**Table 1: SIR Remand Decisions**

<i>Previous Convictions</i>	<i>Male % (N=228)</i>	<i>Female % (N=59)</i>
0	6	34
1-2	23	32
3-5	31	14
6+	40	20
	100	100

Magistrates, possibly with the help of solicitors and to a lesser extent probation officers, were in effect operating a system of differential gate-keeping across the sexes which produces a relatively large pool of 'low tariff' women for whom 'probation-administered' disposals could be considered. Research already exists which suggests that the mere existence of an SIR tends to push first offenders up tariff<sup>5</sup> and the analysis of disposals in

this research accords with this. When the defendants are placed into categories according to seriousness of offence and number of previous convictions, it can be seen that probation is used in 50% of all female cases from non-serious first offenders to recidivists. In the case of men, the use of probation orders is less frequent and actually non-existent in the case of first offenders.

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This situation is not unique to the magistrates' court in question, but a particular factor in magistrates' decision-making does become apparent when the profile of problems (part of the SIR monitoring procedure) is examined (Table 2).

Despite the fact that research undertaken locally and elsewhere<sup>6</sup> shows that drug use is at least twice as prevalent amongst men as women, drug use is given greater prominence in the problem profiles of women remanded for reports than men. In other words, the high incidence of drug use among women is at variance with the actual prevalence rates in the local community. Explaining the phenomenon is complex. However, the views of two experienced officers working in the area proved illuminating. They stressed the importance of magistrates' concerns around the parenting abilities and child care responsibilities of women offenders who use illicit drugs in determining the remand decision for reports. Magistrates tended to hold a view of drug use whereby the individual user is seen as out of control and unable to organise the basic components of a stable life style.

Although such a view is applied to both men and women offenders, the implications for women with children

is more serious. These women are seen to require examination of their child care arrangements and parenting abilities, whereas their male counterparts (who may also be living with children) do not.

**Table 2: Probation Officers' Judgement of Problems Influencing Offending Behaviour**

<i>Problem Profile</i>	
<i>(In descending order of importance)</i>	
<i>Women</i>	<i>Men</i>
1 Lack of money	1 Lack of money
2 Drug use	2 Alcohol
3 Relationship/ Marital Problems	3 Unemployment
4 Accommodation	5 Drug use
5 Social isolation	6 Relationship/ Marital problems
6 Unemployment	

**Report Content**

It appears then that magistrates have particular concerns in the case of drug using women which influence their decision to seek further information through the production of an SIR. What then can they expect from probation officers to help them in the sentencing decision? Although there are surprisingly few qualitative studies, both practitioner and research evaluations of SIR content for a range of offenders reveal clear differences in the information provided on females and males. In relation to men, women offenders tend:

- to be presented, in terms of their personal history and current circumstances, much more within a framework of family and other relationships.
- to have their offending history ignored or marginalised.
- to have their current offence linked to child care issues.
- to be portrayed as passive, less in control of their actions and

behaviour and consequently a victim of their circumstances.

In sum, stereotypical thinking about femininity and 'normal' family life guide probation officers in their written presentation of women.

Does this overall analysis hold for drug abusing women? The second piece of research explores the portrayal of 10 women and 10 men by using content analysis techniques in relation to 7 aspects of SIR information: other agencies, significant others, education, employment, drugs, offending behaviour and recommendations. Table 3 shows the results:

What this analysis suggests in general terms is that women who take drugs are perceived to be passive victims of circumstances who need help and guidance, particularly to assist them in their roles as mother and wife/partner. Furthermore, the women are generally not perceived to be heavily involved in drug use or criminal activity. Probation practice in SIRs is then influenced by social constructs of gender which, as Sylvia Walby<sup>7</sup> rightly observes:

'are usually conceived as mirror opposites. Masculinity entails assertiveness, being active, lively and quick to take initiative. Femininity entails cooperativeness, passivity, gentleness and emotionality'.

This collusion with role and gender stereotypes may of course be undertaken for tactical reasons. As Worrall puts it:

'The female law-breaker is routinely offered the opportunity to neutralise the effects of her law-breaking activity by implicitly entering into a contract whereby she permits her life to be represented in terms of its domestic, sexual and pathological dimensions.'

**Table 3: Content Analysis of SIRs on Female Drug Users Compared to Male Drug Users**

<i>More Likely to be Portrayed:</i>	<i>Less Likely to be Portrayed:</i>
In need of drug counselling	Showing initiative
In the role of parent	At risk of imprisonment
In the role of wife or girlfriend	In relation to their own parents
As being burdened by significant others	In relation to friends or acquaintances
As having to address parental responsibilities	As causing problems to significant others
As taking drugs due to depression or anxiety	As having past or future employment needs
As having a variety of reasons to explain their offending	As being in danger of losing control of a drug habit
In need of outside support and practical assistance	In need of monitoring and confronting
Appropriate for a financial penalty	As committing crime to obtain money for drugs

### **Sentencing Outcomes**

The third piece of research focuses on the experiences of twelve women who

completed a period of Day Training as a condition of their probation order. Their experiences, as recorded in personal diaries and taped interviews, spanned a three year period (1985-1988). A number of consistent themes emerged:

- Aged between 17 — 30, these women had fewer previous convictions than their male counterparts.
- Eleven had previous probation and/or social service involvement.
- Ten admitted involvement with illicit drug use and identified their habit as a significant factor in their offending.
- Only two were charged with drug-related offences.
- All had clear expectations that the Centre was an alternative to custody. Some had experienced custody subsequent to completing the Day Centre programme and were able to make authoritative comparisons in favour of the Centre.

The initial apprehension of being part of a group of strangers was often exacerbated by being the only woman among a large group of men. Drug use emerged as a dominant factor for many before and after their time at the Centre and in some instances graphic connections were made between drug use, offending and the quality of life they experienced. For most of the women their recall of time at the Centre was positive. It was seen as an experience which afforded new and important opportunities and no-one had difficulty in talking about something they found

### **The Day Centre provided a haven where they were regarded as individuals of worth and potential.**

useful. The overall impression was that it provided a 'haven', albeit for a short period, when they were regarded as individuals of worth and potential. In contrast to the way they described their everyday experience of life, they

felt they were given a degree of choice previously denied for a variety of reasons often to do with the pull of family responsibilities or the powerful attraction of the local drug culture.

The positive experience of the Day Training Centre is reflected in the following quotes:

'When I was at the Centre it actually gave me space to get myself together, getting up early to go, getting used to it.' (Stephanie);

'I made a little bike for my son. I felt proud of it. It was something to keep me occupied instead of taking drugs.' (Carmel).

'In fact, while I was there I was a lot happier than I was before it (the Centre) and after it, because when I finished it, I missed going there, it was a big chunk out of my life.' (Carla)

In interview many of the women became upset when recollecting their Day Centre experiences in relation to the quality of their present lives. That short period at the Centre remained a valuable and significant interlude and the strength of feeling with which they spoke is difficult to convey, although it highlights the opportunity, access and control they now felt missing in their lives. The alternative of taking drugs provides them with routine, structure, purpose, excitement and rewards compared to a life of unemployment, boredom, apathy and powerlessness.

These women, in articulating their experiences, were clear that for a short time the Centre provided opportunities for personal growth and the exercise of control over their lives — in other words, empowerment. Afterwards, life was 'as before' with many of them returning to drugs, crime and in some cases, prison:

'It was useful. I suppose when I stopped going there, I just went back home, back to being just a housewife and a mother. Suppose I felt I was useless again — my self will had gone. When I'd left there it was back home, looking after, washing, kids, cleaning.' (Sarah)

'It was a place to learn things — I actually learnt a lot about myself and other people. At the end, it let me down — I felt as if there was nothing there.' (Ann)

'I just went back to my old self, robbing every day, £60 — £70 a day.' (Carla)

As a group these women did not represent the 'high risk offender' that the Centre succeeded in targeting in the case of male offenders. Consistent with the content analysis study, these SIRs again conveyed images of women as irrational, pathological and passive. What is of particular interest are the views expressed by the women when distanced from their court appearance. They were quite explicit that their offending was not due to irrational behaviour or emotional problems. A significant number offended to sustain a drug habit — a factor that was minimised in the SIRs.

### **Challenging Practice**

There are always dangers in claiming too much for small scale research by arguing for its applicability beyond the particular setting it sought to illuminate. Whilst recognising this, we would nevertheless argue that not only are the findings of these three separate pieces of research consistent with each other but they are also consistent with the general body of recent research on women offenders. This does, then, raise issues in relation to probation practice.

The first conclusion to be drawn is that the assessment of these women

drug users in the courts was heavily determined by a gender stereotype which stresses both traditional roles (as wife, mother, carer) and assumed feminine attributes (passivity, irrationality, emotionality) as the components of 'normal' womanhood. Decision-making based on such thinking begins with the remand decision and results in the provision of a relatively large pool of women offenders who may be considered for probation administered disposals, particularly probation. Secondly, probation officers appear willing to offer and sentencers ready to accept constructions of women drug users which portray them as passive victims of their own irrational behaviour and emotional instability.

### **Reports portray women as passive, less in control of their behaviour and a victim of circumstance.**

Whatever the reasons (tactical or otherwise) for probation officers' collusion in this process, such professional depictions are dangerous in that they pre-empt rather than enlighten a serious examination of women's actions and responsibilities. As Allen argues:

'what is potentially oppressive to women — criminal or otherwise — is for the frailties and disadvantages that do tend to characterise their position in society to be exhaustive of their condition as social and legal subjects.'

We are not suggesting, however, that women drug users, should be described in ways which encourage sentencers to give them their 'just deserts'. Rather, what is needed is the portrayal of female offenders which explores rational action and culpability within the context of the concrete daily reality of their lives. Besides individual problems, that reality may need to include

poverty, disadvantage and sexual discrimination.

Portraying women in stereotypical ways also undermines the development of effective strategic intervention. At one extreme, as our studies show, women can be taken 'up-tariff' by encouraging welfare-oriented disposals too early in a criminal career. At the other, the failure or refusal to fit the stereotype leaves individuals open to punishment options. Ironically, the women in the Day Centre study valued their experience of probation although they were not serious offenders for whom a day centre order would have necessarily been viewed as a direct alternative to custody. This, in our opinion, does not justify such recommendations but does suggest the need for replicating those things viewed as helpful lower down the tariff or even outside it. Thus, preventive work needs to be given greater emphasis alongside diversion. Thought also needs to be given to what happens to offenders when their orders are completed.

Regardless of how criminal justice personnel choose to view women offenders who use drugs, those individuals who appear before the courts may have intractable problems that deserve the offer of social work help. In making that offer, probation officers may find the challenge in working with 'troublesome' women evolves into a challenge to change traditional practices for the benefit of all offenders, female and male.

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#### Note

The majority of drug users in the three studies were using heroin and heroin substitutes and other drugs. Further details of the studies can be obtained from the authors who gratefully acknowledge the assistance provided by the Training and Research and Information Departments of Merseyside Probation Service. Steve Collett holds a joint appointment with Liverpool University.

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