International Review of Custodial Models for Women: Key Messages for Scotland

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International Review of Custodial Models for Women: Key Messages for Scotland

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2015

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1.   Main Messages

- Scotland has one of the highest female prison populations in Northern Europe. The growth in the female prison population appears to have been driven by increases in custodial convictions for serious violent crime, drugs offences and common assault.

- A wide range of custodial approaches for women exist internationally from non-residential alternatives such as community supervision and electronic monitoring in Sweden, to open prisons in Finland and Germany, and 'cottage' or 'campus-style' prisons in Canada and some parts of Australia.

- Scandinavian countries, which have fewer women in custody, tend to adopt a pro-welfare, non-punitive approach which emphasises rehabilitation. Typically, this is characterised by substantial use of community alternatives to custody and open prisons, a professionalised workforce, and small, dedicated facilities for women. Penal policy is expert-led and tends not to be influenced by sensationalisation of crime or victimisation.

- Canada has been recognised for its transition from a traditional, male-centric approach to a women-only regional system. However, despite its ethos of 'self-care' remaining sound, the female prison population has continued to rise and its prison estate has consequently expanded. This has been attributed (in part) to an increase in the use of short sentences, particularly for women with mental health problems. Evidence emphasises the importance of staff and management culture in prisons, the availability and quality of support, and preparing women for release.

- Maintaining family links is important for many women in custody. Although precise figures are hard to obtain it is estimated that approximately 65% of women in prison in Scotland are mothers. Of those with childcare responsibilities prior to imprisonment (about 60% of mothers), most intend to resume that care on release.

- The main challenges of small and/or local prisons appear to be ensuring availability of specialist services for women with complex needs, reducing the risk of isolation (from services) in small and/or community-based units, and transforming the ethos, culture and practice of prison staff and management, and the wider criminal justice system, in particular sentencing practices.

- The evidence suggests that whilst there are sound reasons for considering small, local prisons which bring women in custody closer to their families, social networks and community services, the evidence on the impact (e.g. on reoffending) of specific prison models is fairly limited. Whilst prison size, design and location are important factors they are not in themselves guarantors of success.

- Prison reform is likely to be more effective if it is part of wider penal reform. Countries with lower rates of female prison populations tend to have different sentencing practices, including a greater use of alternatives to custody and open prisons than is currently available in Scotland.

2.   Executive Summary

This report summarises some of the international evidence on different approaches to managing women in custody. It was prepared to inform the consultation undertaken by the Scottish Government and the Scottish Prison Service in relation to the redesign of the female custodial estate in Scotland. Particular emphasis was given to countries with low female prison populations (typically Scandinavian countries) and those with women-only, small and/or local prisons (as recommended in the Commission on Women Offenders 2012 report[1]).

Background and context

Scotland has one of the highest female prison populations in Northern Europe. The (average daily) female prison population in Scotland is approximately 400, with about 315 sentenced prisoners and 85 on remand. This represents approximately 5.5% of the total prison population.

The **growth in the female prison population** appears to have been driven by increases in custodial convictions for serious violent crime, drugs offences, and common assault, rather than crimes of dishonesty such as shoplifting which have remained broadly stable over the last 15 years (though they still account for one fifth of the average daily prison population).

International models of women in custody

A wide range of prison models exist internationally. Many Scandinavian countries maintain low prison populations through widespread use of **non-**

residential alternatives such as intensive supervision and electronic monitoring in Sweden, and Finland's gradual release scheme where prisoners can serve the last six months of their sentence in their community. Similarly, Ireland's community return programme has seen about a third of women (given a custodial sentence) on temporary release to the community.

Open prisons and smaller **community residential facilities** are widely used in many countries (including Germany, Australia and most Scandinavian countries) to prepare women for release and enable them to maintain links with the community; in some cases enabling women to work in the community (returning to prison in the evening) and reside with their children.

Some countries (such as Canada and Australia) have established **'campus style' facilities** in which women are held in a cluster of small units or **'cottages'** (housing up to 10 women per house). In Canada, for example, there are six federal facilities in which women live in shared houses. The facilities house minimum, medium and maximum-security women in one 'campus'. The ethos of these types of facilities is one of **'self-care',** or independent living, in which women typically cook, clean and shop together, thereby taking responsibility for themselves, and in some cases their children.

Most Scandinavian countries also have **dedicated women's prisons** which typically house up to 60 women with different levels of security, enabling women towards the end of a lengthy sentence to spend time outside the

prison, as well as providing overnight facilities for families to spend time with their mothers in custody.

The Scandinavian approach

Scandinavian countries (Sweden, Norway, Finland and Denmark), which have fewer women in custody, tend to adopt a pro-welfare, non-punitive approach. The **principle of 'normalisation'** is embedded into all aspects of the criminal justice system. This stipulates that prison life should resemble life outside of prison as far as possible. Some of the core features of the Scandinavian approach include:

- Penal policy is expert-driven and research-led rather than politically-led

- Prisoners undertake purposeful activities during the day (e.g. work, education)

- Widespread use of community supervision, conditional imprisonment, and open prisons

- Professionalisation of prison staff (mandatory two-three years training)

- Dedicated (small) facilities for women

- Emphasis placed on maintaining a mother's contact with her children

- Public support for a rehabilitative approach

- Policy is not influenced by sensationalisation of crime or victimisation.

Whilst it is possible to identify the conditions that have contributed to the Scandinavian penal system, there is no simple formula to its effectiveness. However, there are important lessons which can be learned from its approach, most notably the emphasis placed on

community supervision and open prisons, the professionalisation of prison staff and the principle of normality, which underpins Scandinavia's humane approach to its prisoners and its prioritisation of reintegration (over retribution).

Learning from Canada

Canada has moved from a traditional, male-centric approach to a **women-only regional system** in which women are held nearer home, can have private family visits and receive trauma counselling. However, although the original ethos of 'self-care' remains sound, a number of studies have criticised its implementation. Since the 1990s the new prison regime has had to cope with **increasing levels of female imprisonment** and as a result has had to expand rather than contract. This has been attributed (in part) to an increase in the use of short sentences, particularly for women with mental health problems.

The main **lessons from Canada** are that specialist healthcare can be difficult to deliver in a federalised model (Canada have since established two national units for women with complex psychological problems), and that transformation must go further than prison redesign. Evidence highlights the importance of transforming prison staff and management culture, as well as ensuring adequate availability of programmes, and preparing women for release (e.g. through temporary release).

Other policy considerations

A range of **policy considerations** are covered (briefly) in the report. These include location, prison size, security, healthcare, financial costs, regime change, performance management, reintegration, sentencing practice, public acceptability, prison visits, and (in more

depth) maintaining links with children and family.

Evidence suggests that although **sentencing decisions** are usually driven by the nature of the offence, they can also be influenced by a women's offending and sentencing history under certain circumstances. This may result in low-level offenders with a history of non-compliance being at risk of custody. It is likely that some of the women on remand and those serving short prison sentences may fall into this group. Other influential factors are women's presenting needs (particularly drug and mental health problems) and the availability and perceived effectiveness of community interventions. Careful thought would need be given to the pivotal role of the judiciary in any regime change, as well as the role of community services such as women's community justice services.

Maintaining links with children

It is reported that **separation from their children** is one of the most difficult aspects of imprisonment for women, and that family visits increase the likelihood of reintegration post-release and reduced reoffending. Although precise figures are difficult to obtain, approximately 65% of women in prison in Scotland report being mothers. Current evidence suggests that a sizeable proportion of mothers in prison (about 40%) report not having childcare responsibilities prior to imprisonment which may explain in part why only four in ten mothers receive family visits. Having said that, the vast majority of women (about 70%) with caring responsibilties prior to imprisonment intend to resume that care on release.

Wider evidence suggests that **lack of familial contact** tends to be attributed to travel and cost constraints, carer (and

prisoner) unwillingness and inappropriate visiting environments.

There is some (albeit limited) evidence that the **detrimental impact on children** of parental imprisonment is more pronounced when the mother is imprisoned, given that mothers are more likely to have parenting responsibilities. The impact of parental imprisonment on children ranges from home and school moves, to poor academic performance, and increased risk of mental health problems and involvement with the criminal justice system.

Countries vary considerably in how mother-child contact is enabled. Whilst many countries allow young children to reside with their mothers in prison, the maximum age of children varies, from 12 months in Sweden to three years in Spain and Denmark. Germany, which is reported to have the most **child-centred approach**, has implemented some innovative approaches for women offenders with children, including allowing women 21 days leave per year to spend time with their children, and providing half-way houses where women can live with their children, in some cases, up to the age of 6. Best practice approaches for parent-child relationships include family-friendly visiting facilities, parenting programmes, maximising the use of new technologies (e.g. Skype), overnight visits of non-resident children, and continuation of family support on release.

Risks and other considerations

The report sets out a number of **risks and challenges of small, geographically dispersed prisons**, as indicated by the literature. These include ensuring availability of specialist services for women with complex (psychological) needs and, in a similar vein, reducing the risk of isolation from services which small and/or community-based prisons may be

vulnerable to (particularly those in rural areas).   Other challenges include overcoming the barriers to family visits and the influence of sentencing on prison populations.

Redefining custody?

There is increasingly more evidence that **women are less likely to reoffend following a community sentence** than a custodial one. This gives rise to questions about the **appropriateness of custody** for some women, particularly those on remand or serving short sentences for non-violent offences. It is in this sense that consideration is given to redefining custody; for example, a woman might be considered to be 'in custody' whilst serving her sentence at home, or at work whilst living in an open prison.

Conclusions

There is limited robust evidence of the effectiveness (e.g. on reoffending) of different prison models. Add to this the methodological problems with international comparisons, and it is **hard to draw definitive conclusions on 'what works'**. Whilst prison size, design and location are important factors they are not in themselves guarantors of a low female prison population. That being said, implementing an ethos of 'self-care' or independent living is dependent to some extent on the availability of suitable facilities (e.g. shared houses and/or 'campus style' settings). Similarly, maintaining family and community ties is better served by prisons located close to women's homes.

Best practice appears to be underpinned by the Scandinavian principle of 'normalisation' and a gender-specific approach. Specifically, the conditions associated with low female prison populations tend to comprise of a range of **pro-normalisation** factors, including: sentencing (e.g. greater use of community-based sanctions and open prisons), staff culture and training (e.g. gender-specific training), prison design and location (e.g. family-friendly facilities, self-contained housing), prisoner life (e.g. independent living, purposeful activities, parenting interventions) and rehabilitation (e.g. linking women to community services).

Much can be learned from other countries and the steps that some have taken to improve the experiences and outcomes of women who offend. With the current drive for penal reform, Scotland is well-placed to learn from these experiences and develop an **evidence-based and gender-responsive approach** to working with women - at risk of custody, in custody and beyond custody - to improve their lives and those of their families and communities.

3.   Purpose and Scope

This report summarises some of the international evidence on different approaches to managing women in custody. This report was prepared to inform the consultation undertaken by the Scottish Government and the Scottish Prison Service in relation to the redesign of the female custodial estate in Scotland.

Due to time constraints it was not possible to undertake a systematic review of all models of custody. Indeed, there already exists a number of relatively recent international reviews of women's prisons which cover topics such as prison design and architecture, security, parental responsibilities, prison management, prison programmes and health. It is not within the scope of this review to replicate these extensive pieces of work, or to review best practice in specific prison programmes.

Rather, the aim is to extract from these key reports a **description of the range of models** for women in custody adopted in different countries, with a particular emphasis on Scandinavian countries (which have low female prison populations) and Canada (which transitioned from a national to regional estate), and to consider the relevance of these approaches for Scotland. This paper therefore relies heavily on the following reports:

- International Centre for Prison Studies (ICPS) (2008) *International Profile of Women's Prisons*[2]
- Bartels, L. & Gaffney, A. (2011) Good practice in women's prisons: A literature review[3]
- Prison Reform Trust (PRT) (2013) International Good Practice: alternatives to imprisonment for women offenders[4]
- Prison Reform Trust (2014) Transforming Lives: reducing women's imprisonment[5]
- Convery, U. (2009) Addressing Offending by Women: A Literature Review. Northern Ireland Office[6]

Existing literature reviews emphasise the difficulties in assessing good practice in women's prisons and comparing international evidence. This is due to problems with outcome measures (in particular reconviction rates) and a general lack of robust evaluations of prison services and programmes for women[7]. More generally speaking, differences in crime rates, imprisonment rates, recidivism rates and sentencing practices make it very difficult to make intelligent international comparisons[8]. Any such exercise is outwith the scope of this review. The literature on best practice is therefore somewhat limited in terms of its rigour.   Notwithstanding these limitations, however, this report provides an overview of what appear to be the most effective women-specific models.

Contents of this report

The report begins with an overview of the female prison population and custodial estate in Scotland, followed by a short introduction to some best practice principles of managing women in custody. The next section describes different models of custody internationally with an emphasis on small, open and/or local prisons (rather than large, national prison models which increasingly are deemed to be undesirable facilities for incarcerated women). There then follows a short discussion on the Scandinavian and Canadian models, and the lessons that can be learned for Scotland. Following this, the report discusses a number of policy considerations for women in custody such as healthcare and parental responsibilities. The latter sections of the report cover a short consideration of some of the risks of smaller de-centralised prisons, a discussion around the definition of custody and finally, the conclusions that can be drawn from this evidence review.

4. Background and Context

An international perspective

The ICPS (International Centre for Prison Studies) in its most recent international prison population list reports rising female prison populations (over the period of 2000-2011[i]) across all five continents of the world, with the largest increase being in the Americas (where the female prison population has risen by 23% since the last population list published in 2006) and the smallest increase in European countries (6%). Internationally, female prisoners constitute between 2% and 9% of the total prison population. The median level in Europe is 4.9%[9].

More recent international prison statistics from the same organisation (World Prison Brief data) reveal that, **alongside England and Wales, Scotland has one of the highest female prison populations in Northern Europe**. The female prison population rate (per 100,000 of the national population) is estimated to be approximately 7.1 in Scotland. A similar rate is reported for England and Wales (6.8). However, rates in other Northern European countries are considerably lower. All the Scandinavian countries have female imprisonment rates of under 4.5, with Denmark reported to have the lowest rate (2.5) (of the selected countries in **Table 1**). With the exception of Denmark and the Netherlands, the rate of female imprisonment has increased in all listed countries over the past 15 years. Other countries covered in this report are included in **Table 1** for reference.

Country	Year	Number of female prisoners	Percentage of total prison population	Female prison population rate (per 100,000 of national population)	Trend (Female prison population rate in 2000)
United States	2013	205,400	9.3%	64.6	55.6
Spain	2015	4,982	7.7%	10.7	9.1
Canada	2012	NK	NK	10.6	NK
Scotland	2015	383	5.2%	7.1	4.0[ii]
England and Wales	2015	3,922	4.6%	6.8	6.4
Germany	2015	3,753	5.9%	4.6	4.3
Finland	2015	234	7.5%	4.3	2.7
Norway	2015	217	5.8%	4.2	3.3
Netherlands	2013	687	5.4%	4.1	7.7
Sweden	2014	326	5.6%	3.4	3.2
France	2015	2,183	3.3%	3.3	3.0

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[i] Trend data – published by the ICPS – varies by country with data being available for most countries from 2000 to 2011; however, for some it is only available up to 2009.

[ii] However, the upward trend appears to be reversing with a drop in the female rate of imprisonment in Scotland from 8.5 in 2010 to 7.1 in 2015.

Northern Ireland	2015	54	3.2%	2.9	1.4
Ireland	2015	124	3.3%	2.7	2.2
Denmark	2015	139	4.0%	2.5	3.1

Table 1. World Female Prison Population Rates 2015 (compiled for selected countries from data available on the ICPS World Prison Brief website August 2015[10]) [iii]

The female prison population in Scotland

The (average daily) female prison population in Scotland is approximately 400[iv], with about 315 sentenced prisoners and approximately 85 on remand.

The female prison population represents approximately 5.5% of the total prison population[11]. The number of female prisoners, however, is growing at a faster rate than their male counterparts, and the number of female offenders in Scottish prisons has practically doubled over the past ten years.

In terms of throughput, there are about 3000 receptions to prisons per annum, of which almost two thirds are for remand[v].

Crime type

It is commonly reported that women tend to commit economically-motivated crimes (e.g. to support drug use or cope with poverty) which are often of an acquisitive nature, e.g. shoplifting[12,13]. Recent Scottish Government analysis of prison population data suggests that although low-level crimes (such as shoplifting, common assault, bail offences and breach of the peace) account for the majority (79%) of convicted crimes resulting in a prison sentence, of the 315 sentenced prisoners, serious violent crime and drugs offences account for nearly 50% of the population (but only 15% of convictions) . This is because of different lengths of sentences, meaning that those serving longer sentences (for serious crimes) make up more of the average daily prison population (see **Figure 1**).

[iii] The World Prison Brief data in Table 1 is based on the number of female prisoners in the prison population on a single date in the year (or the annual average) and the percentage of the total prison population that female prisoners constituted on that day. The number of female prisoners fluctuates and so the above figures give an indication of the trend but the picture is inevitably incomplete. .

[iv] Latest figures (correct at 3 Jul 2015) reveal an (average daily) female prison population of 404 - 318 sentenced women, 85 women on remand (untried or awaiting sentence) and 1 women awaiting deportation (these figures include female young offenders).

[v] In 2011-12 there were 3,100 female receptions to prisons in Scotland of which 1,979 were for remand prisoners and 1,121 for sentenced prisons.
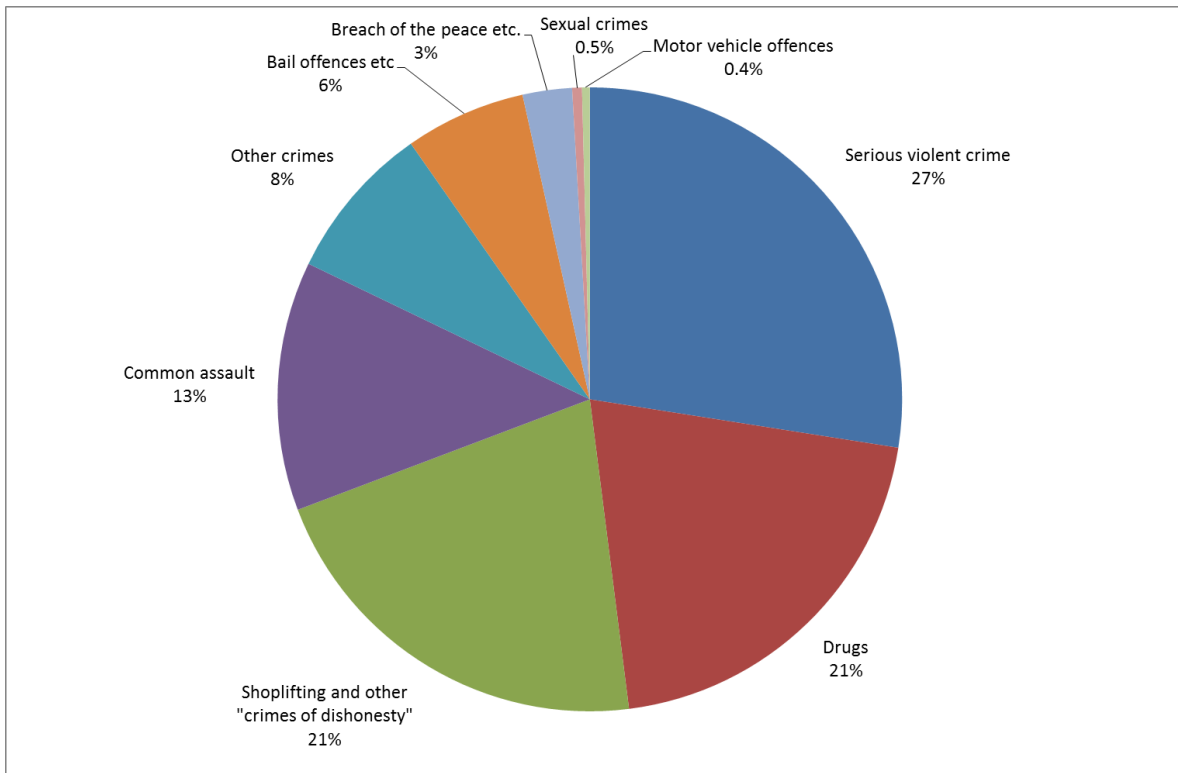
Figure 1 - Female Prison Population by Crime Type

Sentence length

Of those sentenced to custody in 2013-14, 76% of females received a tariff of 6 months or less (compared to 66% of males)[14]. However, this only accounts for 10% of the sentenced female prison population. By contrast, sentences of two years plus account for around 50% of the prison population, but only 5% of sentences.

There is some evidence that women are being imprisoned for longer periods; research conducted by the SCCJR (The Scottish Centre for Crime and Justice Research)[15] noted a particular increase in sentences between six months and two years. Similarly, Scottish Government analysis of the female prison population shows that over the past 10 years the sharpest increase in custodial convictions (by sentence length) is for sentences between six months and two years, and two years and four years. There has also been a marked growth in remand prisoners, and to a lesser extent in sentences of four years and over. In contrast, the proportion of short sentences resulting in a custodial sentence has remained fairly stable (see **Figure 2**).
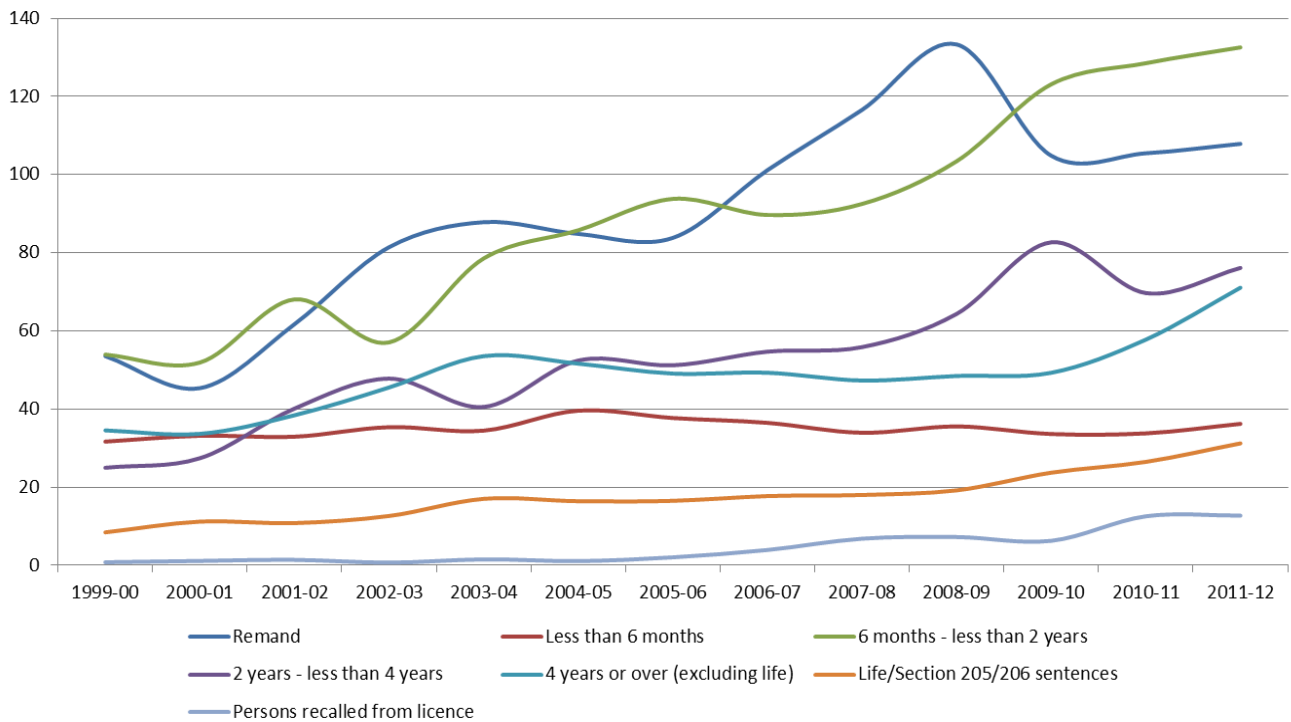
Figure 2 - Female Prison Population by Sentence Length

Growth in female prison population

The total prison population has increased substantially since the 1990s, and has more than doubled over the past 15 years. However, there has been a slight decline in the population since 2011/12.

The growth in the female prison population appears to have been driven by increases custodial convictions for serious violent crime, drugs offences (primarily supply), and common assault. Crimes of dishonesty, such as shoplifting, have remained broadly stable (see **Figure 3**). This appears to be fairly consistent with other Western countries, such as the US (and the UK as a whole) which have also seen a rise in female drug-related incarcerations. Godin & Kendall (2009[16]), for example, noted that in the UK, it has risen 223% between 1991 and 2001 (compared with 74% for men over the same period).
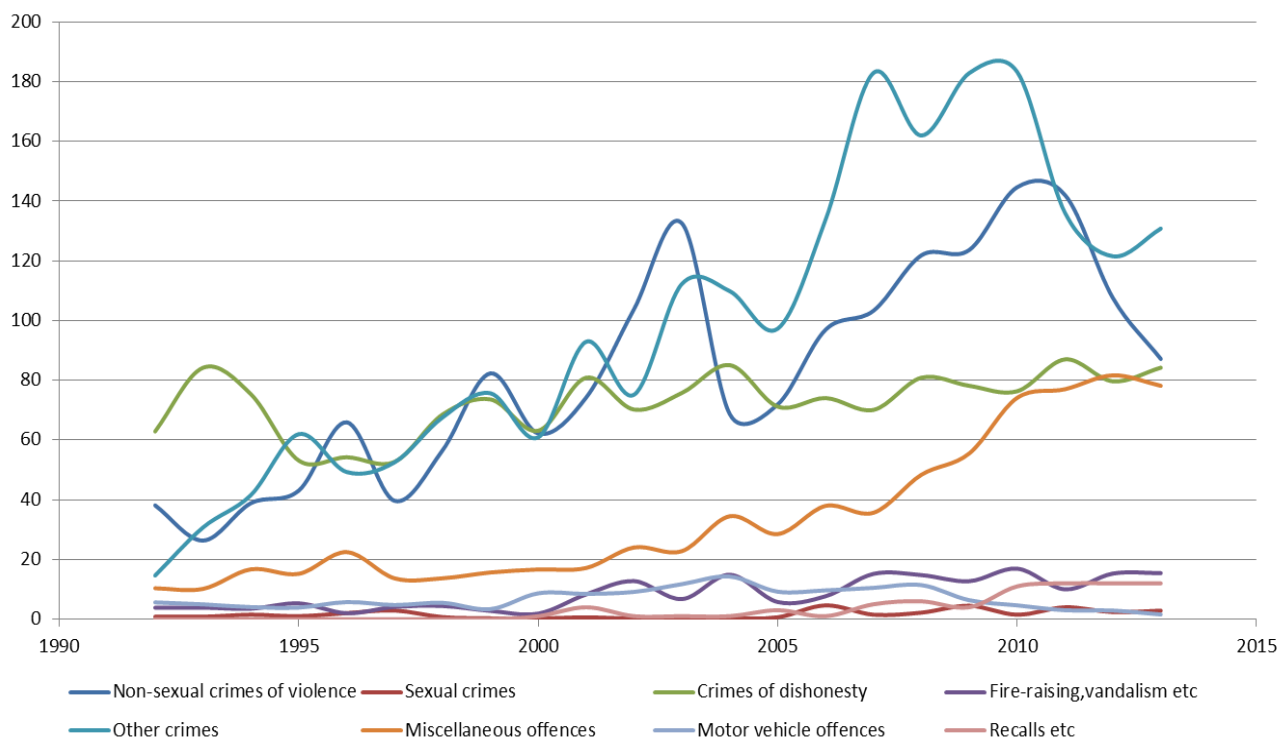
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Figure 3 - Growth in Female Prison Population by Crime Type

Reoffending rates

Whilst there were 1,206 custodial convictions in 2013-14, only 634 individual women were involved, primarily due to some people being convicted of numerous different offences at the same time.

Of these individuals, around 40% had no previous custodial convictions, and around 20% had no previous convictions whatsoever. Overall reconviction rates and return to custody rates for women are slightly lower than those of men, with about 45% of those leaving custody being reconvicted within a year[vi]. About 25% return to custody within a year. Reconviction rates are lower for older women (over 40) (29%), first time prisoners (21%), and first time offenders (9%).

Acquisitive crimes, whilst being relatively low-level offences, are strongly associated with recidivism (Ministry of Justice, 2014[17]). Within Scotland, in 2011-12, 55% of those convicted of shoplifting were subsequently reconvicted within one year, with most of these reconvictions being for further crimes of dishonesty[18].

[vi] In 2012-13 the female reconviction rate was 0.43 compared to 0.53 for men.

The female custodial estate in Scotland

There is one women-only prison in Scotland – HMP Cornton Vale – which holds the majority of female prisoners (219). Some women are also held at HMP Edinburgh (96), HMP Greenock (53), and HMP Grampian (49)[vii].

In the UK, the Corston Report[19] in 2007, and in Scotland, the **Angiolini Report**[20] in 2012, both made recommendations for improving the lives of women prisoners and reducing the female prison population. The Angiolini Report included recommendations for a smaller replacement national prison for serious offenders, with women on remand or serving short sentences to be held in **local prisons** to enhance family and community links and reintegration. This was envisaged in the report by adapting the existing estate (HMP Edinburgh, HMP Grampian, the new HMP Inverclyde and potentially HMP Low Moss). The report also recommended increased use of video conferencing and gender specific training (*Part 7: Prisons*).

Since then, the plans for the new women's prison at Inverclyde have been reconsidered with the focus now on a more community-based approach.

Principles of best practice

International evidence on penal policy for women consistently emphasises the importance of addressing the **particular (and multiple) needs** of women in custody in a holistic and coordinated way. It is widely recommended that all women's needs, in particular criminogenic needs[viii], should be addressed in custody and beyond (e.g. physical and mental health, substance abuse, education, employment, parenting, finances, housing and psychological wellbeing[21]).

Much of the research on managing women offenders suggests that a **gender specific approach** is central to achieving better outcomes for women[22]. This may take the form of **gender-specific assessment/classification methods, staff training and female staffing levels**[ix]. Some other key principles of best practice highlighted in the literature[23,24,25] are:

Empowerment and efficacy

- Approaches that empower women to change and promote self-efficacy

- Approaches that encourage self-knowledge and improved self-esteem

Relationships/connections with others

[vii] Figures correct at July 2015 and include young female offenders.

[viii] Criminogenic needs are risk factors associated with reoffending including pro-criminal attitudes, poor family relationships, substance abuse, financial difficulties, unemployment, poor educational attainment, and poor cognitive skills.

[ix] A number of countries have set targets for female prison staff. For example, in Queensland, Australia, the target is set at 70%; a Northern Ireland report recommended the baseline be set at 80% (see Bartels & Gaffney, 2011 p6).

- Approaches that promote healthy relationships between women prisoners, significant others (especially their children) and the wider community

Integrated services

- Interventions which adopt a holistic approach to address multiple needs

- Support provided in custody is available in the community ensuring continuity of care on release (with an emphasis on healthcare provision)

Individual prisons in Australia have developed their own philosophies on the treatment of women in custody. For example, the Boronia Pre-release Centre in Western Australia's guiding principles focus on **women's responsibility** - for themselves, their family and the community. The four principles are: personal responsibility and empowerment (e.g. providing women with choices about what they do), family responsibilities (e.g. maximising family contact in a child-friendly environment), community responsibility (e.g. working with and for the community and gaining new skills), and lastly, respect and integrity (e.g. cultural and gender-appropriate services). Boronia has a strong emphasis on education and throughcare, and has continued to lower its recidivism rates[26].

In Scandinavian countries, the **principle of normality[x]** is central to its penal policy. The idea of 'normalisation' is that prison life should resemble life outside prison as far as possible. In practice this means that women undertake meaningful activities whilst in custody (e.g. work, education), take responsibility for themselves (e.g. purchasing and cooking their food) and retain connections with their family and local communities. The purpose of normalisation is to facilitate successful rehabilitation and reintegration and reduce the negative impacts of imprisonment.

There is an increasing emphasis being placed on the value of **education** for women in custody, and the importance of women having the opportunity to undertake **purposeful activities**. For example, a number of prisons in Australia[xi] have been praised for their introduction of a **'structured day' regime**.   In Bandyup Prison, for example, women undertake meaningful activity for five hours per day, five days a week. The activities from which they can choose include work, education, programmes, visits, medical appointments, recreation and personal time. Women are rewarded for their participation in activities via a gratuity system[27].

The *UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the **Bangkok Rules)**, adopted by the United Nations in July 2010, are a set of international standards governing the treatment of women in prison and non-custodial alternatives. The rules set out the specific needs of women in relation to

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x This is defined in Norway as - punishment is the restriction of liberty; no other rights have been removed by the sentencing court. Therefore the sentenced offender has all the same rights as all other who live in Norway. No-one shall serve their sentence under stricter circumstances than necessary for the security in the community. Therefore offenders shall be placed in the lowest possible security regime. During the serving of a sentence, life inside will resemble life outside as much as possible. See: http://www.kriminalomsorgen.no/index.php?cat=265199
[xi] e.g. Bandyup Prison and Brisbane Women's Correctional Centre

families, support, reintegration and previous abuse and vulnerability. The key principles are:

'Gender-specific options for diversionary measures and pre-trial and sentencing alternatives shall be developed within Member States' legal systems, taking account of the <u>history of victimization</u> of many women offenders and their <u>caretaking responsibilities'</u>.

'Women offenders <u>shall not be separated from their families and communities</u> without due consideration being given to their backgrounds and family ties. <u>Alternative ways of managing women</u> who commit offences, such as diversionary measures and pre-trial and sentencing alternatives, shall be implemented wherever appropriate and possible.'[28]

There are a number of other international standards which apply to the UK in relation to female offenders. A good summary of these can be found in the Prison Reform Trust (2013) report (pp5-7) [29].

5. International Approaches to Women in Custody

This section provides an overview of different models for women in custody across a range of countries, with an emphasis on Scandinavia and Canada (Nordic countries have low prison populations; Canada has been praised for its gender-specific regional approach). The section begins with non-residential alternatives to custody moving onto community residential centres, open prisons, and small custodial units.

Non-residential alternatives to custody

A number of countries manage female offenders in the community through intensive supervision in the community often combined with some form of monitoring of their movements (e.g. curfew, electronic monitoring).

Sweden introduced **intensive supervision and electronic monitoring** in 1999. This enables low level offenders to apply to serve (short) sentences (normally under 3 months) at home; 90% of applications are granted. Individuals are monitored 24/7 and can only leave the house for pre-planned activities (e.g. work)[30].

This approach has had a marked impact on sentencing and the female prison population, with the number of women sent to prison dropping by about 250-300 per year as **those who would presumably have served short sentences in custody instead serve their 'custodial' sentence in the community**. In contrast, the percentage of those convicted of serious crimes and sentenced to one year or more has risen i.e. only the more serious crimes result in imprisonment[31].

Although electronic monitoring (EM) is reported as a contributing factor to Sweden's low female prison population, the literature also suggests that careful consideration should be given to the domestic circumstances of women under EM, particularly those with parenting responsibilities and single mothers[32].

Rehabilitation is central to the ethos and running of the Swedish penal system. Since 2007 a number of rehabilitative options have been utilised, including conditional release (e.g. to attend vocational programmes), care services (e.g. to attend a treatment service), half-way houses, and **extended conditional release** (where a prisoner can serve her sentence at home under intensive supervision and EM provided she attends educational/vocational/treatment programmes). Prisoners can also go **'on leave'** (e.g. to maintain family ties, arrange accommodation, interviews etc.). Rehabilitation is provided by one probation service (a government agency) and thousands of volunteers ('lay supervisors'). Very few women abscond from prison or when on leave[33].

Finland introduced the Supervised Probationary Freedom programme in 2006 which is a **gradual release scheme**. Prisoners in the last six months of their sentence are able to return to their communities and participate in meaningful activities such as employment, education, or care-giving. They retain some sanctions – they have a curfew and must call their probation officers at least once a day. They may also be subject to random drug tests undertaken by 'travelling parole units'.[34]

Ireland has a lower rate of female imprisonment than Scotland. It also has a lower proportion of women in prison, with women constituting 3.3% of the prison population in Ireland, compared to 5.2% in Scotland (see **Table 1**). This has been attributed to long-term legislative and judicial changes in the way women are dealt with in the Irish criminal justice system and, in particular, its '**community return' programme**[35] which has seen a large proportion of women (about a third) who were committed to prison put on temporary release to the community (which involves intensive supervision with unpaid work)[36]. That being said, there have been criticisms of the Irish prison system more generally, most notably overcrowding, and the fact that its female prison population has continued to increase over the last 10 years[37].

Community residential units

Community residential facilities – such as halfway houses and small residential units or 'transitional' centres – provide small, structured, (mostly) secure environments for women to complete their sentence within their communities. The nature and spread of community-based units varies across countries. Typically, however, they are used to prepare (low risk) women for release, with women living in an open environment - sometimes with their children. Although similar to open prisons, they may not necessarily be managed by prison staff and tend to be smaller in size.

Evidence suggests that community residential facilities are most effective (at reducing reoffending) when they take a "holistic, trauma-informed, strengths-based, relational, and women-centred approach"[38]. An influential US study found that desistence was more likely in community residential alternatives that had a clear structure and purpose, stable funding, ongoing evaluation and an emphasis on 'aftercare' and role-modelling approaches[39]. Some research suggests that community facilities can work well when security and support functions operate separately e.g. when facilities are staffed by practitioners rather than custodial workers[40]. That being said, research also highlights that some halfway houses (e.g. in Australia) are managed successfully by correctional services (see below).

Australia has a number of pre-release community residential units. These centres prepare low-risk women for release, providing a range of services to enhance community reintegration. At the Parramatta Women's Transitional Centre (PWTC) in New South Wales, for example, there are two houses which accommodate up to twenty one women in total, including women with children. Women live in an open environment and are given responsibility for running the house. There are strict eligibility criteria for women (women must be minimum security, towards the end of their sentence, not have any active drug or alcohol problems and assessed as suitable to live with children). Women go into the community for treatment (e.g. counselling), education, employment and recreation. The centre is run by female staff and has very low recidivism rates[41].

In **Germany**, mothers and their children can live together in halfway houses. Women must comply with a curfew at night, but work (or access training and support) during the day whilst children attend nursery/school[42]. This approach has been recognised as an innovative approach that minimises the harm of a mother's imprisonment on children whilst ensuring that women serve their sentence[43].

Canada has a range of community based residential facilities, such as halfway houses which are state-funded and run by NGOs (inc. private home placements, supervised apartments and alternative community beds). Here, the importance of creating supported independent living facilities is key[44]. Examples include Ellen House in Ontario (which offers substance abuse support and case management while housing women offenders in the community), Phyllis Haslam Residence at Elizabeth Fry Toronto for wome on parole, and The Coverdale Centre[45].

There a number of examples of open residential facilities in New York in the **United States** for women and their families (mostly for women with experience of homelessness, mental health and substance abuse problems). For example, Drew House houses up to five women and their families (inc. higher risk women) in a non-secure apartment. It is cited as a cost-effective way of reducing reoffending with proven success in recidivism, and education and well-being outcomes. Greenhope Kandake House houses up to 72 women including 28 with their children, and also reports low recidivism rates[46]. Other examples include those targeted at women with substance abuse problems such as ARC which has four residential alternatives (housing up to 51 women), including a small minimum-security facility for women transitioning from prison[47].

In **Scotland**, the 218 Service (a women's centre) has a quasi custodial 12 bed residential unit and a day programme providing a range of compulsory and optional group work sessions and one-to-one support[48]. This is not, however, a secure custodial unit.

In **England and Wales**, the Corston Report (2007)[49] originally envisaged women's centres as offering community-based residential facilities for women on bail or women released from prison with no suitable accommodation. However, the Prison Reform Trust review in 2014 of women's justice services in the UK[50] highlights the shortage of 'approved premises' (formerly known as probation or bail hostels), which, it argues, increases the likelihood of remand. The report fails to mention any women's centre that currently provides accommodation in England or Wales, but states that some could do so if funding were available.

Open prisons

There is no single definition of an open prison; however, they tend to be penal establishments in which prisoners who are classified as low risk to the public can serve their sentence with minimal supervision, in some cases being able to work in the community returning to the prison in the evening.

In **Scandinavian** countries (in this case Finland, Norway and Sweden), open prisons hold between 20-30 per cent of the prison population. Prisoners who have committed low-level offences (e.g. drunk driving) may serve their entire sentence in an open prison. However, most prisoners will serve the bulk of their sentence in a closed prison but may be moved to an open prison towards the end of their sentence to prepare for release, or as a result of good behaviour. Between 15 and 20 per cent of referrals from closed prisons are recalled due to breach each year (men and women)[51].

Finland has one of the lowest prison populations in Europe. However, this has not always been the case. In the 1970s Finland had one of the highest prison populations but, following a series of expert-led penal reforms, the number of prisoners has fallen to

Scandinavian levels (despite rising crime rates). That being said, the number of women in prison has risen in recent years and they now make up seven per cent of the prison population[52].

About a quarter of female prisoners live in open conditions in Finland[53]. Most of these are held in Vanaja Prison which is an **open female prison unit** that accommodates up to 50 women. Prisoners can move freely during the day but must return at night. Some drive to work with their movements being monitored by a special kind of mobile phone. Any breach of the sanctions would result in them being returned to a closed prison[54].

Germany has a range of penal options across its sixteen states, including units for first time offenders (e.g. Erstvollzug). Repeat offenders are held in separate prisons. Frondenberg prison is heralded as an exemplar for women with children. It is an open unit for up to 16 women who live with their children up to the age of six in self-contained flats. It is as normal and unthreatening as possible (e.g. no bars on windows), with many children not knowing they are in a prison. Most of the women have committed low level non-violent crimes such as theft or fraud. Women are able to go outside and play with their children, and have 'vacation' days where they can leave the prison unsupervised. Reoffending is reported to be significantly lower than than women who are not housed with their children[55].

England has two women's open prisons[xii]. However, these may be considered for closure once new 'resettlement' arrangements are in place which will enable women to be held nearer to home (see next section). Some concerns have been raised about these closures (in the Prison Reform Trust/Soroptimist 2014 review[56] and in the press[xiii]). However, the UK Government has stated that the (rural) location of the two prisons means that they are not suitable for the majority of women[57].

Spain also has a number of 'dependent units' which are open prisons for women and their children (see Chapter 8. *International approaches to parental responsibilities*)

Small Custodial Units

Women's custodial units can vary by nature and size. They can be specialised secure units situated alongside larger prisons (e.g. mental health units) or outwith prisons (e.g. drug residential units), or they might be larger, regional or local units that hold women of different security levels.

Recent developments internationally have included **'cottage-style' accommodation**, where women live in shared houses or 'cottages' with a communal kitchen and bathroom, and develop independent living and pro-social skills through collective cooking, cleaning and budgeting[58].

In **Canada** women who are sentenced for two years or more are the responsibility of the federal government, whilst those sentenced to less than two years are the responsibility of the provincial government. Canada has had a network of five federal multi-level security

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[xii] HMP Askham Grange & HMP East Sutton Park, each holding approximately 100 women.
[xiii] See http://www.theguardian.com/society/2014/may/04/planned-closure-womens-prisons-stopped-legal-action-askham-grange-east-sutton-park

'self-care' regional facilities for women since the 1990s. A sixth was built in 2004[59]. These were originally built in response to the recommendations of a government Taskforce on Federally Sentenced Women (which was established following a spate of female suicides in prison) and replaced the then national women's prison[60].

The original 'self-care' ethos was premised on self-responsibility and independent movement (via non-intrusive security measures). Women live in shared houses (of up to 10 women) around communal gardens and budget, shop and clean together, thereby gaining crucial **independent living skills**. Women can have private family visits (up to 72 hours) and receive trauma counselling from external services. Prisoners may be released and whilst still technically prisoners, can be placed in a variety of non-prison environments (e.g. conditional releases)[61]. A status report in 2006 reported that 81.5% of all frontline staff in Canadian institutions were female[62].

The facilities were built as a cluster of 'cottages' on a 'campus' operating at multiple security levels[63] which house minimum, medium and maximum-security women. A 'healing lodge' is available for (aboriginal) minimum and medium security level women.

As the Canadian Government website[64] describes:

- Women who are classified as minimum or medium security level live in housing units with communal living areas, where they are responsible for their daily needs such as cooking, cleaning and laundry.

- Women who are classified as minimum or medium security level with mental health needs and/or cognitive limitations are accommodated in housing units called Structured Living Environments, where staff with specialized mental health training provide assistance and supervision. Women with additional mental health needs are accommodated at one of two national treatment centres

- Women classified as maximum security are accommodated in secure units, where high-level intervention and supervision is provided by specialized staff.

At the Nova Institution[65], for example, women are housed in different styles of accommodation depending on their security level. There are eight units which can house five to seven women. Two other units provide extra mental health support and security for those women who need it. The 'structured living environment' (SLE) unit houses up to eight women who need specific mental health interventions. There is also a Secure Unit which houses up to ten maximum security women.

At another institution (Grand Valley[66] - see **Figure 4**) there are houses for women with babies, new arrivals and women who need extra supervision. Women have free access to laundry and bathing and have keys to their houses and rooms. The facility offers a range of services, including mentoring.

However, overcrowding has become a problem in Canada which has led to an increased use of large secure facilities[67], and the **expansion rather than contraction of women's prisons** with, as noted earlier, a sixth facility being built in 2004, and expansions in most of the existing ones (e.g. the Nova Institution was expanded in 2013-14 to accommodate two new seven-bed houses and four more SLE spaces[68]).

Criticisms of the implementation (rather than the philosophy) of the Canadian approach highlight the limitations of a regime change predicated on buildings[69]. This and other learnings from Canada are discussed in a later section (see Chapter 7. *Learning from the Canadian Experience*).
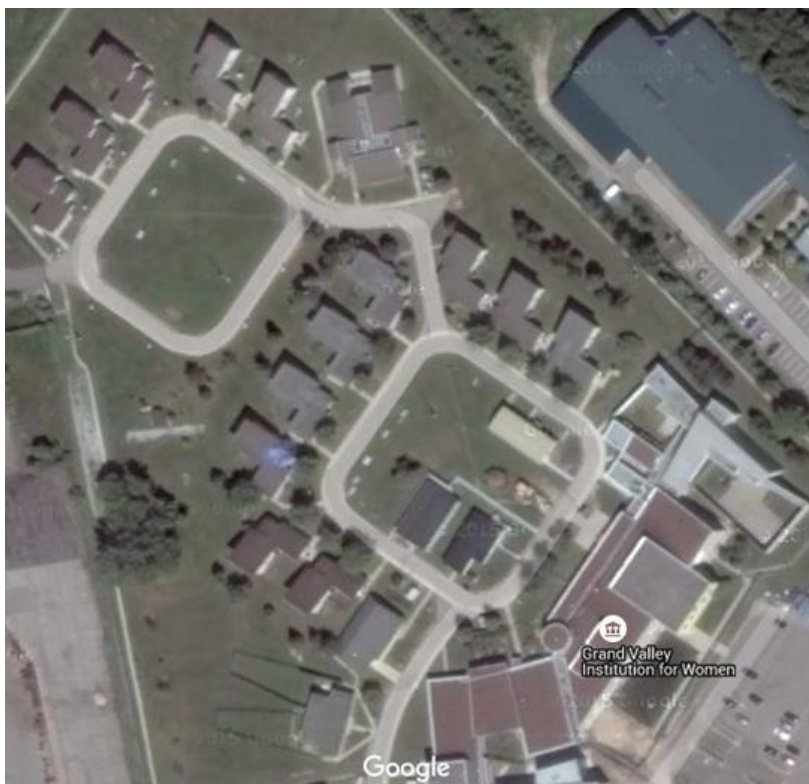

Figure 4 - Grand Valley Institution for Women, Ontario, Canada
(Map data ©2015 Google Imagery ©2015, Cnes/Spot Image, DigitalGlobe, First Base Solutions)

Australia, which has a similar number of women in custody as Canada (2591 in 2014)[70], combines large prisons with smaller units and transitional centres across its five states or territories. Recent prisons statistics (2014[71]) state that Australia's imprisonment rate has reached its highest since 2004. That being said, Australia has received praise for its gender-specific approach in a number of its penal facilities.

For example, the **Boronia**[72] **Pre-Release Centre in Perth** provides a low-security residential style setting for up to 82 women with a maximum of 5 per unit. It is modelled on a 'self care' approach similar to Canada in which women have access to a café and supermarket and life is as close to the outside community as possible, and has been described as resembling a 'well-kept suburban landscape [rather] than [an] institutional setting'[73]. An emphasis is placed not just on 'self-care' but also on **'good neighbourly behaviours'** to prepare women for life in the community. A range of services are provided to prepare women for release (e.g. all women are employed whilst there). As they approach the end of the sentence women are allowed **periods of leave** from the prison e.g. to re-establish connections with their families[74].

Smaller units in Australia tend to be **specialist in nature** focusing on mental health, mother-child relationships and the needs of Aboriginal and other ethnic minority women. For example, the Mum Shirl Unit[75], in NSW, is a 19 bed unit for women offenders with severe mental health problems (e.g. borderline personality disorder). It is based on the

principles of the 'Good Lives Model'[76] (a strengths-based approach) and works with day program participants too. Australia also has a specialist national unit for women with severe mental health problems.

Norway has three women-only prisons with capacity for 64, 50 and 13 women respectively. The largest of these - Bredtveit in Oslo - has a high-security facility with a capacity of 45. The remaining places are lower-security, mostly for those who are in the final phase of a longer sentence, are preparing for treatment in an institution (as part of their sentence or afterwards) or are **active outside prison during the daytime**. The prison is reported by human rights organisations to be largely consistent with the Bangkok Rules[77].

In **Sweden** women are held in one of four dedicated women's prisons and one wing of a men's prison. There is a large women's prison (Hinseberg women) which has a flat where children can have overnight stays. Hinseberg Prison has a capacity of 94 and is divided into a closed (60) and open (34) section. Women are held in eight single-storey houses which hold 10-12 women each; women in the closed section are locked in their rooms at night[78]. There are also a number of open prisons. In Sweden, penal policy emphasises maintaining links with the community and some prisoners are held in small neighbourhood prisons where they access universal services[79].

In **England**, a number of prisons are being reconfigured to allow some women to live in smaller open units next to existing (closed) prisons. For example, a half-way house has been opened at HMP Styal which houses up to 25 women in open accommodation outside the prison. It is understood that an open unit at HMP Drake is also to be developed[xiv].

England is also developing new specialist units called Pyschologically Informed Planned Environments (PIPES) and Personality Disorder treatment services for women in five prisons[xv]. These services typically hold 12 to 24 women and are jointly run by NHS, NOMS and third sector staff[80].

Scotland also has a number of community integration units (CIUs) attached to closed prisons. For example, CIUs were established in HMP Inverness and HMP Aberdeen in 2010 (since replaced by HMP Grampian in 2014) to help women access community services and support networks prior to release.

An example of another specialist unit (mother and child units in Spain) is discussed in Chapter 8 (see *International approaches to parental responsibilities*).

Other custodial approaches

In **Denmark** the principle of normality is enshrined in law and its penal philosophy is for prison to be as similar to life outside prison as possible (a similar system operates in Sweden). This extends to private family visits (including conjugal visits) which are considered to be a human right that cannot be taken away[81]. If a couple has a child,

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[xiv] See Justice Committee's Thirteenth Report Women Offenders: Follow Up. 17 March 2015 URL: http://www.publications.parliament.uk/pa/cm201415/cmselect/cmjust/314/31402.htm [23]

[xv] HMP/YOIs Send and Low Newton, Foston Hall, New Hall, and Eastwood Park

he/she can stay with them until he/she is three years old and attend a local nursery during the day[82].

Two other overarching principles enshrined in law in Denmark are **self-management**, and the outlawing of prison overcrowding. In relation to the former, prisoners are required to do their own shopping, cooking, laundry and cleaning; all institutions therefore have facilities for shopping and communal kitchens. Prisoners who do not work are given a budget for self-catering[83]. For example, the high security prison, Ringe, in Denmark, men and women (up to 86 prisoners) live together in units of around 10 people, where they share a communal kitchen and bathroom.

Spain also has a number of **mixed prisons** in which contact between men and women is not forbidden and, it is considered, may be beneficial to some women. One study, for example, reported that being in a relationship with another (male) prisoner can have a positive effect on women's psychological health[84]. That being said, other reviews and evaluations have highlighted the importance of women-only services and 'safe' environments, particularly for victims of previous trauma and domestic abuse[85]. Similarly, mixed-gender facilities have been abolished in a number of countries, such as Sweden[86].

France has two women's prisons. The remainder of women in custody are held in female units within men's prisons, across about 50 institutions[87].

Most female prisoners in **Ireland** are held at the national closed medium security prison in Dublin (the Dochas Centre[88]) which houses up to 105 women serving long sentences/serious offenders, and all female offenders from the east and north of Ireland. The remaining women from the south and west are held in Limerick prison (capacity of 28) which is traditional closed medium security prison which also holds up to 220 men. As noted earlier, criticisms have been made of the Irish penal system in respect of overcrowding and a rising female prison population (see *Non-residential alternatives to custody*).

Northern Ireland has faced criticism for delaying its replacement of its women's prison, Ash House (a predominantly male prison), with a smaller, separate women-only facility[89]. The proposal for the new prison is based on a multiple security **'community village model'** which would accommodate mothers and babies, as well as serious offenders and those with severe mental health needs. The Northern Ireland Prison Service (NIPS) Review in 2011[90] stated that:

> "the ideal configuration would be a complex of buildings that contained a secure custodial pod, with other services (education, health, probation, community service, programmes etc) attached and within a secure perimeter. These services could be accessed by all women either in custody, under supervision or subject to other court orders." (p69)

Despite these delays, work is underway to develop **'step-down accommodation'** (temporary supported accommodation) for women deemed suitable for working and accessing services outwith prison, in preparation for their release[91].

There are 12 women's prisons in **England**, which, following a review of the custodial estate by NOMS in 2013[92] have now been designated as 'resettlement' prisons i.e. prisons that are designed to help women prepare for release, particularly those serving longer sentences. Similar (in principle) to open prisons, these are designed to allow some women to work or train outwith the prison during the day and to be held closer to home. Temporary release licences (which women are less likely to fail than men) are available in all resettlement prisons to enable eligible women to undertake work, training and educational opportunities and family visits[93]. However, a recent report from the UK Parliament Justice Committee states that:

> "We remain of the view that an estate consisting principally of **small custodial units is best suited to women in custody**. This should be the long term aim of the Government, when it has been successful in reducing the size of the women's prison population". (UK Justice Committee 17 March 2015 [23][94].)

The report notes that the Committee's recommendation for the development of small custodial units has not been accepted by the UK Government. Instead the UK Government is developing 'strategic hubs' – resettlement **prisons situated close to large urban areas** – to enable women to be held near areas where they are likely to live on release and to access a range of interventions.   There are no women's prisons in **Wales**, which has been reported to cause difficulties for women to maintain contact with their family and resettle in their community after release[95].

In the **USA** there is no distinctive women's prison estate[96]. Indeed there are only four women-only prisons out of 108 federal facilities.   There are, however, examples of good practice for specific groups. For example, California has a specialist unit for older women (aged over 55) – the Senior Living Unit – where women receive age-appropriate programmes and privileges (such as unlimited phone access). This is in response to a growing population of older female prisoners and evidence that older women prisoners are lower risk and have different needs than younger women[97].

In **New Zealand**, although the prison system for women is similar to that of men[98], there are a number of self-care units in Auckland, Wellington and Christchurch. These are residential units for eligible women nearing their release. In some cases women are able to live with their babies in these units[99].

6.   The Scandinavian Model

Countries with low prison populations, typically Scandinavian countries (Sweden, Norway, Denmark and Finland), take a **non-punitive approach** which recognises prisoners as citizens with rights and considers prison (or restriction of liberty) as sufficient punishment in itself. In all other respects, prisons are expected to resemble normal life as far as possible. This concept of **normalisation** is central to Scandinavian penal policy and in some countries, such as Denmark and Sweden, is enshrined in law[100]. In addition to lower female prison prison populations (see *An international perspective* in Chapter 4), recidivism rates are also reported to be lower in Scandinavian countries. As seen in the previous chapter, Scandinavian countries[xvi] tend to have **large numbers of small prisons**. Their prison estate comprises of a network of closed and open prisons, with the latter holding 20-30% of the total prison population. Most prisoners will serve a significant proportion of their sentence in a closed prison, but will move to open prisons either as a result of good behaviour and/or to prepare for release. The rate of breach (including men) in open prisons is between 15-20%; in these instances the prisoner is recalled to a closed institution[101]. Routine drug testing occurs in both types of prisons. Convicted (male and female) offenders can request an unconditional prison sentence to be deferred for several months (e.g. for family, work or health reasons); about 20% of requests are successful[102].

From the outside **closed prisons** look similar to prisons in other jurisdictions. However, inside they differ considerably from traditional models[103]:

- Prisoners have their own cells, often with a television
- Movement within prisons is relatively relaxed (although it may be underground in high security prisons)
- Most prisoners work or participate in full-time education programmes
- There are communal areas with cooking facilities and televisions
- In lower-security prisons, prisoners can shop for food at local shops
- Prisoners wear their own clothes (as do prison officers)
- Most prisons (high security especially) provide accommodation for partners and children to stay at weekends (usually monthly) on an unsupervised basis, and conjugal rights are facilitated.

Open prisons, in existence since 1945, tend to have the following features[104]:

- In some cases, there are no obvious barriers or walls around the prison - there are no bars on windows
- Prisoners can move freely around the prison grounds and sometimes in the local community
- Many of those serving short sentences are allowed to continue with their previous employment (e.g. driving to/from work from the prison)

[xvi] In this case Sweden, Norway and Finland

- In Finland prisoners receive a working wage; in Norway and Sweden they receive an allowance.

Countries with a low and decreasing and/or stable female prison population (the "common Nordic level") tend to share the following features in common:

- **Strong welfare state** with significant autonomy and independence from political structures

- **Egalitarian** rather than hierarchical society with little class distinction and high levels of compliance with social norms

- Penal policy is **expert-driven** and research-led rather than politically-led[105]

- **Non-punitive**, welfare approach to offending in which community alternatives and rehabilitation are prioritised

- Rehabilitation is based on an 'import model' with **universal services coming into prisons** to deliver services

- Prisoners undertake purposeful activities during the day (e.g. work, education)

- **Heavy use of community supervision**, conditional imprisonment (e.g. in Finland)[106] and open prisons

- **Prison work is a desirable profession**, requiring two-three years training[107] (compared with 8 weeks in Scotland[xvii]). Staff attitudes towards prisoners are consistent with the ethos of normalisation

- Dedicated (small) facilities for women

- Emphasis placed on **maintaining a mother's contact with her children,** in some cases enabling her to reside with them whilst serving a custodial sentence

- Public support for a rehabilitative approach, underpinned by the perception of prisoners are a "group of welfare clients rather than dangerous outsiders"[108]

- **Policy is not influenced by sensationalisation of crime or victimisation** (in Scandinavian countries the victim is compensated by the State) unlike in countries such as the USA and UK, where there is increased emphasis on the victims (e.g. restorative justice, family conferencing [109]) and an influential tabloid press.

Whilst it is possible to identify the conditions that have contributed to the Scandinavian penal system, there is no simple formula to its effectiveness (in terms of low prison populations and recidivism rates). Rather it is the product of a long history of egalitarian, pro-welfare societies. **In this sense, one should not assume that this model could be easily transferred to a country like Scotland where the political structure and social conditions are different.**

However, there are important lessons that can be learned from its approach, most notably the emphasis on **community supervision and open prisons**, the **professionalisation of prison staff** and the **principle of normality**, which underpins Scandinavia's humane approach to its prisoners and its prioritisation of reintegration (over retribution).

[xvii] In Scotland, new officers must also obtain SVQ Level 3 in Custodial Care within the first two years in post – see http://www.sps.gov.uk/Careers/OpportunitiesintheSPS/The-Role-of-a-Prison-Officer.aspx .

The Scandinavian approach is not entirely without its critics, however. For example, Norway's refusal to compromise the 'one man, one cell' rule and/or expand the prison estate has led, it is argued, to queues for prison places reaching nearly 3000 in 2006[110]. More recent online news reports (2014) have reported a waiting list for prison places of nearly 1200[111]. Norway has also been criticised for holding remand prisoners in isolation[112] (though more recently it has been reported that remand prisoners are being held with sentenced prisoners due to prison overcrowding[113]), and not allowing children to reside with their mothers in institutions. The increasingly diverse prison population (due to the influx of immigrants) has also presented challenges for Scandinavian countries who before now have dealt with a fairly homogenous group. Recent statistics (2013) suggest that there has been an increase in prison sentences in Norway, perhaps due to an increase in drug-related crime[114].

7.   Learning from the Canadian Experience

Canada has moved from a traditional, male-centric approach to a women-only regional system in which women are held nearer home, can have private family visits and receive trauma counselling. However, although the original ethos of 'self-care' in a campus style setting remains sound, a number of studies have criticised its implementation. Since the 1990s the new prison regime has had to cope with **increasing levels of female incarceration[xviii]** and as a result has had to expand rather than contract (see *Small custodial units* in Chapter 5.). This has been attributed (in part) to an increase in the use of short sentences, particularly for women with mental health problems[115,116]. There are approximately 600 women in federal institutions in Canada (2012)[117] (this excludes women serving sentences under two years who fall under provincial jurisdiction[xix]).

It has been argued that **overcrowding has led to security issues taking precedence over rehabilitation**[118], and that the pressure on the prison system has resulted in women being held at (too) high levels of security (particularly Aboriginal prisoners), **underuse of conditional releases**, a reported lack of appropriate support and safety, and poor mental health provision[119]. One paper, based on interviews with women in halfway houses, reported the lack of counselling services and over-use of psychotropic drugs[120]. As noted earlier, **specialist mental health provision was centralised and is now delivered from two specialist national units**.

A review of the task force twenty years on[121], which included a survey of female prisoners in 2010, reported improvements in offender-staff interactions, and an increase in the range of services and programmes available to women. However, the report also highlighted women's desire for increased access to health services, more frequently run programmes and more contact with community and reintegration services (e.g. employment and educational opportunities), as well as concerns about the costs associated with family visits (see *International approaches to parental responsibilities* in Chapter 8.).

Other reviews have noted the 'remarkable' progress that has been achieved in Canada[122]. It is therefore perhaps amiss to focus on the problems that Canada has experienced without acknowledging the progress that has been made. Lack of readily available data and the federal/provincial arrangements in Canada make it difficult to assess the impact of the new regime and to compare recidivism rates with other countries. A Canadian

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[xviii] In the last ten years (2002-2012) the number of women admitted to federal jurisdictions has increased by almost 70% (compared to 17% for men). See Public Safety Canada (2012) 2012 Corrections and Conditional Release Statistical Overview. URL: http://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/2012-ccrs/index-eng.aspx#c4

[xix] The ICPS World Female Imprisonment List (2nd Ed.) quotes a total (federal and provincial) female prison population of nearly 2000 women in 2008/9, representing 5.1 % of the total prison population. See URL: http://www.prisonstudies.org/sites/default/files/resources/downloads/wfil_2nd_edition.pdf

government report in 2008[123] cites a reconviction rate (for new offences) for federally sentenced women of approximately 29%[xx].

A number of **lessons learned** can be drawn from the Canadian experience.

- Firstly, a new prison regime and regional distribution of prisons does not in itself reduce the female prison population. Without a corresponding reduction in custodial convictions, smaller prisons would struggle to cope with increases in prison population

- Secondly, the importance of staff culture cannot be under-estimated. As one report noted "The lesson seems to be that Canada changed the arrangements but did not change the culture of the staff." [124]

- Thirdly, some specialist care may be difficult to deliver in regional facilities, in particular specialist mental healthcare.

- Lastly, as noted, most women in Canadian prisons continue to keep in contact with family through letters and phone calls (rather than visits), and cite costs associated with travel and phone calls as continuing barriers to family contact[125]. This suggests that location alone may be insufficient to overcome some barriers to maintaining family contact and that prisoners and their families may need additional support to do so (e.g. transport, parenting interventions).

[xx] Further analysis would be required to determine how this compares to other countries.

8. Policy Considerations for Women in Custody

In addition to the model and distribution of prisons, there are a host of other factors pertinent to any redesign of a custodial estate. These are briefly described below, with the exception of parental responsibilities which is covered more fully (due to this being a key issue for women prisoners).

Location – proximity to home

Countries have taken different approaches in how to accommodate a minority of prisoners (2-9% in Europe) within a prison system mostly designed for men. As the ICPS 2008 Review notes, some countries make little distinction between men and women, with women being housed in large (male) prisons far from home (e.g. USA), whilst others have a hybrid system in which women are imprisoned in women's prisons or small units attached to men's prisons so women can be nearer home (e.g. Spain and France). Others have permanent alternatives to prison to enable some women to serve their sentences at home (e.g. Sweden). For some countries (e.g Germany) being placed close to home, and to family in particular, is one of the principles of imprisonment[126].

Whilst **small dispersed units** allow women to reside closer to home, this does not in itself guarantee better outcomes for women. In Spain the dispersed model has reportedly resulted in what is sometimes predicted of this approach: that "women get fewer resources and are an afterthought when the policy for the wider prison is being decided."[127] Similarly, the prison reform undertaken in Canada has not been without its challenges: notably its struggle to cope with a rising female prison population (see previous chapter).

Equally important is **proximity to local (universal) services**. In some countries local services continue to support their clients in prisons. In Norway this approach is called the **'import model'**. Health, education, employment, clerical and library services are all 'imported' from (and funded by) the community. This is considered vital for reintegration as it ensures continuity of services for prisoners and engages the community in prisons (and in doing so, improves the public perception of prisons and prisoners)[128].

Whilst many prisons are in isolated locations, good (international) practice suggests that prisons should be located in urban areas close to prisoners' communities[129]. The premise of a 'metropolitan area' approach is that it allows women (and their children) to access local services within their existing community (e.g. education, training and work opportunities, universal health and welfare services), and to maintain family and community ties whilst in prison, both of which are crucial to enabling effective resettlement on release.

However, in a country like Scotland which has a significant number of rural communities, a metropolitan design may not always meet the needs of women from dispersed areas and a different approach may need to be considered for them.

Size of prisons

The size of prisons varies widely between different countries. The average size of unit in Western Europe has space for 60 female prisoners. Some countries have a mixture of small units (in some cases housing less than 10 women) and medium size units housing up to 100 women (e.g. Finland). Other countries, like Denmark and the Netherlands, have similar-sized regional units (both countries have 5 units housing up to 30 and 60 women respectively)[130]. This contrasts greatly with large countries like the USA and Russia which have prisons with capacity for up to 2000 women[131].

The size of prison will depend on a number of factors such as the size and nature of the female prison population, sentencing practices, arrangements with other service providers (e.g. healthcare) and the underlying ethos and model (e.g. if one of 'self care' then smaller units are favoured).

Prison design

The design of women's prisons varies from large walled institutions in which prisoners are housed in dormitory style units (USA) to self-contained flats in open prisons (Germany), and campus-style facilities with communal gardens (Canada, Australia). An Australian literature review[132] listed the following as features of good architectural practice for women's prisons (slightly adapted for this report):

- **cottage-style accommodation[xxi]** that enables women to replicate healthy family and community responsibilities and build pro-social skills (such as group cooking, budgeting and laundry)

- incorporating **family-friendly design** in dedicated 'mother and child' units (MCUs), as well as playgrounds and visitors' centres;

- there may also be a need to adapt prison design for women from other culturally and linguistically diverse backgrounds;

- incorporating features known to promote wellness, with particular reference to the use of natural light, fresh air, colour, space, privacy and access to land;

- ensuring facilities are adapted/adaptable for women with disabilities; and

- promoting environmentally sustainable design.

A further design-related feature cited in the review was the idea of an **open environment** with building layout designed to encourage group activities and promote pro-social skills, whilst at the same time ensuring the safety of prisoners and staff (see below). An alternative to the cottage-style accommodation is individual units as seen at Adelaide Women's Prison in Australia. Each women has her own unit that contains a kitchen and bathroom[133]. Although this enables independent living there is less of an emphasis on social interrelatedness. Whilst some women may prefer the privacy this model provides, it could perhaps be isolating for others.

[xxi] In a cottage-style model women share houses (4-8 women). They have their own bedroom but share bathroom, kitchen and laundry facilities. They generally cook their own food and decide as a group on meal plans, cleaning and budgeting.

Security

Evidence suggests that women continue to be held in higher levels of security than is needed or warranted[134]. A women-centred approach should allow for a gender-specific classification system. Queensland in Australia, for example, do not classify any women as maximum security[135]. In Scandinavian countries, such as Norway, the principle of normality underlines security classification with the guiding principle being that "offenders shall be placed in the lowest possible security regime"[136].

Other security issues raised in the literature are the **management of multiple security levels on one site** (as is often the case with campus-style prisons), the appropriateness of campus-style prisons for maximum security prisoners (e.g. through the adoption of 'zones' within the campus), meeting the needs of remand prisoners (e.g. ensuring remand prisoners are not held at higher levels of security than is needed and/or are separated from sentenced prisoners), and harnessing new technologies (e.g. prisoner tracking systems, body scanning, drug-detection technologies) to manage security effectively in modern (unbarred) prisons. A fuller discussion of these issues is provided in the Australian Government 2011 Literature Review[137] (pp43-50).

Healthcare

All the reports consulted in this review highlight the importance of effective healthcare for women in prisons both during, and, crucially, after their prison sentence. There is evidence that women not only experience higher rates of mental health and substance abuse problems (often linked to their offending) then men, but that they also are at greater risk of poor health outcomes post-release (e.g. hospitalisation, mortality)[138].

As noted, **a number of countries have recognised the need for dedicated facilities for women with complex psychological issues**. For example, in Australia, a dedicated facility for women with these type of issues has been established in New South Wales[139] for men and women, and one for women only in Victoria. Similarly, Canada now has two dedicated facilities for women with severe mental health problems.

In mixed prisons, such as in Spain, there may only be one hospital unit which means women prisoners may be cared for in their cells rather than in a hospital bed unless their condition is acute enough to warrant transfer to a hospital[140]. This has been used as an example of why a gender-specific approach (which would ensure women are treated in an appropriate facility) is so important, perhaps more so than location of prison.

Boronia Pre-release Centre for Women in Australia has been cited as successfully addressing general health issues, including its anti-smoking campaign. Other areas of best practice highlighted in the literature include:

- The *Kyiv Declaration on Women's Health in Prison (UNODC/WHO 2009[141])* which sets out principles for the treatment of female prisoners' health needs

- National set of health indicators for female prisoners

- Dedicated facilities for women with complex psychological issues

- Provision of health screening e.g. breast checks and cervical screening

- Availability of drop-in health services onsite (e.g. GP, dental, optical, mental health nurse, pharmacotherapy, podiatry etc.)

- Health promotion programmes e.g. smoking cessation

- Transition of healthcare into community on release (including maintaining links during prison sentences)

- Measures that address health needs of specific groups e.g. older women, immigrants, indigenous people

(adapted from Bartels & Gaffney, 2011[142] p57)

A fuller discussion of best practice relating to women prisoners' physical and mental health needs is provided in the Australian Government 2011 Literature Review[143] (pp51-59).

Financial costs

Information about costs, when sought in reviews, has proved hard to access and/or interpret. The 2008 ICPS review[144] discusses the cost of small specialised units for women as likely to be more expensive, but states that this needs to be balanced against the long-term financial savings from reduced reoffending (if indeed, it achieves that aim). A smaller prison population also means that more resources can be spent on prisoners' rehabilitation; this is what is typically seen in Scandinavian countries.

Regimes and reforms

Where regime change has taken place (e.g. in Canada and Australia) the move tends to be towards localisation and a 'self-care' or 'self-management' approach. In some countries, like Denmark, and other Scandinavian countries, the principle of 'normality' has been a fundamental part of the system for years. The ICPS 2008[145] review identifies the following features as crucial for effective prison reform:

- Different assessment and classification methods for women

- Healthcare is a high priority and central part of provision

- Gender-specific training.

Performance management

The introduction to this review lists some of the principles of best practice for female institutions which prisons may measure their performance against. Alison Liebling identified additional (non-gender specific) dimensions which are concerned with the quality of prison life or '**moral performance'** of prisons. These included the quality of prisoner-staff relationships, the extent to which prisoners are treated with humanity and respect, levels of safety and order, and opportunities for personal development[146].

In England, HM Inspectorate for Prisons developed a women-specific set of criteria (or 'women's expectations') in 2014 which prisons will be inspected against[147]. These focus on safety, respect, purposeful activity, resettlement and specialist units (e.g. for women with personality disorders).

New **inspection standards** for inspecting and monitoring prisons in Scotland (HMIPS, 2015[148]) emphasise the importance of reintegration, and, specifically, on maintaining positive family links and the active participation of prisoners in prison life.

Reintegration into the community

Much has been written about reintegration or 'throughcare' which is out-with the scope of this review. However, as we have seen with the Scandinavian approach of continuous resettlement, the location of prisons has a bearing on how accessible they are to a prisoners' local community, rehabilitative services and wider opportunities. Similarly, an ethos of normalisation would dictate that purposeful activity (e.g. work, education) whilst serving a custodial sentence is crucial to a prisoner's rehabilitation. Again, location and travel would need to be considered to facilitate this.

Some commentators argue that more resource should be put into community reintegration at the start of a sentence, rather than towards the end (e.g. moving to a halfway house). A recent survey undertaken by the Confederation of European Probation[149] (CEP) of its members stated that

> "prisons tend to open up to community more towards the end of the sentence. Maybe if similar mechanisms could be in place from the first prison day many unintended and destructive effect of imprisonment could be avoided"[150].

Sentencing practice and alternatives to custody

It appears that what works in countries where the female prison population and recidivism is low is not only a progressive approach to imprisonment and rehabilitation, but also different sentencing options and practices. For example, the reductions in prison populations in Finland and Sweden (see earlier) were driven largely by **changes in sentencing**. As one recent study (2014) of the views of the judiciary on women's centres in England, states:

> "Any attempt to reduce the number of short custodial sentences being imposed on women each year must be informed by an understanding of how sentencers make sentencing decisions".[151]

It is sometimes assumed that if more effective community alternatives were available to sentencers that judges would choose these over custody, and in the same vein that one of the reasons why short custodial sentences are used is because of the absence ofviable community alternatives. This argument, however, is perhaps too simplistic and does not reflect the full range of judicial decision making processes.

Whilst it is not within the scope of this report to investigate sentencing practices in relation to women offenders, the noted study of UK judiciary views[152] (n=20) on the Together Women service (a cluster of five women's centres in the north of England) draws out some interesting findings which chimes with other related evidence:

- Consistent with other studies, "the decision to use custody was an active and deliberate **response to the offender** rather than reflecting a lack of satisfactory or appropriate community options". [153] Having said that, one Northern Irish study[154] on

community sentences reported that the lack of available and appropriate provision (of interventions) for women may explain why so few women had additional requirements on their orders compared to men. This suggests that provision in the community may, in some cases, impact on *community* sentencing decisions.

- Sentencers' decisions were primarily based on a **custody 'threshold'** which was determined by the **seriousness of the crime** (e.g. serious violence, drug supply and domestic burglary) and, whether a person poses a risk to the public. Other studies have also reported that the seriousness of the offence is paramount, and that **an offender's gender does not influence sentencing decisions**, with the exception of childcare responsibilities, which was one area in which a woman may be treated differently than a man[155].

- Where sentencers felt they had more choice, they said they used custody as a **last resort** for both men and women. However, magistrates (who deal with less serious crimes) described cases that met the custody threshold as those involving repeat offenders who had not previously served a custodial sentence. This is consistent with previous research which has reported magistrates as viewing **custody as inevitable** where an offender's previous offending and sentencing history is prolific[156], as well as a number of other UK and Scottish studies which reported that **in borderline cases, sentencers are more likely to imprison women with a history of breaches of community sentences**[157].

- Sentencers were less likely to be influenced by an offender's needs, and more likely to be persuaded by an **intervention's impact** on reducing reoffending and the effect of the decision on innocent parties (e.g. offenders' families, victims, the public).

- Having said that, there was some appetite amongst sentencers for **'residential accommodation'** for those with mental health and drug problems. This seemed to be based on there being a recognised need (associated with offending) which required **treatment combined with enhanced supervision**, which it was felt was not currently provided by community orders.

Although the situation is somewhat different in Scotland in terms of the function of women's centres (unlike in England, most women's centres/community justice services in Scotland supervise women serving community orders), there are some important messages. **Sentencing decisions appear to be influenced by a women's offending and sentencing history under certain circumstances**. This could result in prolific but low-level offenders with a history of non-compliance being at risk of custody. It is likely that some of the women in remand and those serving short prison sentences may fall into this group. This has been reported in relation to the use of **remand in Scotland**, with one study[158] reporting that judges felt they had 'no option' but to remand repeat or persistent minor offenders. The same study reported that whilst judges were not supportive of any extension of money bail, they were **more enthusiastic about women's centres and the use of electronic monitoring** as an extra bail condition.

A further message is that the existence of effective community alternatives may not in themselves prevent female offenders from being sent to prison. Having said that, it has been argued that poor information sharing about services is a barrier to the increased use of women-specific community orders (as an alternative to short custodial sentences) and

could be improved by a local directory of services [159]. In Scotland an online *National Directory of Interventions and Services for Offenders* has been in place since 2012.

If women-specific community-based sentences are to be considered as a viable alternative to custody, it appears that sentencers may need to be informed and reassured about the appropriateness and reliability of supervision, how effective a service is at reducing reoffending, and the impact of the sentence on others (such as victims, the wider community and an offender's children). A final consideration is how **non-compliance** of (any increased use of) community-based sentences would be handled, both in terms of the potential load on the judicial system and the outcome (e.g. custody). Careful thought would therefore need to be given to the pivotal role of the judiciary in any regime change, as well as what role community -based services such as women's community justice services may play.

Public acceptability

Bringing prisons closer to communities may require some form of engagement with those communities and the wider public. Whilst the Scottish Government does not currently measure public attitudes to women's prisons, the Scottish Crime and Justice Survey (2012-13[xxii]) reported fairly **low levels of public confidence** in the effectiveness of prisons at punishing offenders (53% were not confident), rehabilitation (68% not confident), and at deterring people from crime (68% not confident). Confidence was much higher for prisons' effectiveness at protecting the public from crime (68% confident).

The survey also reported higher levels of confidence in community sentences, with two-thirds of adults (66%) agreeing that community sentencing is an effective way of dealing with less serious crime. The public are less confident, however, in the how effective a deterrent they are, and in whether they punish low level offences. Almost half of adults agreed that learning new skills during community sentences stops low level offenders from committing more crimes.

This suggests that **the public may be receptive to more community-based rehabilitative approaches** although this is likely to depend heavily on the nature of the offence and how effective any alternative approach is deemed to be at protecting the public. That being said, there does seem to be a perception amongst the public in Scotland that neither prisons nor community sentences are very effective at punishing offenders.

There is a wider debate within criminal justice about the need to move away from a culture of 'populist punitiveness'. This is informed to some extent by Scandinavian approaches which, as noted earlier (see Chapter 6. *The Scandinavian Model*), are less influenced by political structures and public opinion than may be the case in Scotland. Clearly there is a balance to be met between public acceptability (if that were deemed to be a concern) and what the evidence suggests is most effective. The two are not independent of each other of course; evidence (of effectiveness) could be used to influence the public's views on different forms of custody and sentencing. It is also possible that the public may be more willing to support less punitive measures for women, particularly those with children.

[xxii] See http://www.gov.scot/Publications/2014/03/9823/11 (Section 8.3)

Visits

Visiting rights and practices vary considerably. In some countries, such as Denmark, private family visits are a normal part of prison life. Other countries make various provisions to enable mothers to maintain contact with their children such as family visits and family (overnight) stays at weekends (see *International approaches to parental responsibilities*).

In Scotland, women are more likely (than men) to have regular contact with family and friends by telephone and letter, but are **less likely to receive visits** (55% of women compared to 62% of men)[160]. Given the importance of relationships with significant others in desistance in women this is clearly an area that warrants further attention. Certainly being located closer to home may help lessen some of the barriers to visits, but (as noted earlier) it is unlikely to resolve them entirely; relationship and parenting interventions could have an important role to play too (see *Family contact during imprisonment*).

The Corston Report[161] noted that distance from home presented particular challenges for women who relied on **statutory care agencies to bring their children to visits**, which suggests that all types of carers may need supported and encouraged to facilitate mother-child visits in prison. Australia also advocates that prisons work with child protection departments to ensure that regular contact is maintained between women and their children where they are in care due to maternal imprisonment[162].

A number of reviews, including the 2012 Angiolini Commisison on Women Offenders, recommend the use of **video conferencing facilities** (e.g. teleconferencing, Skype) to enable women to remain in contact with their family (e.g reading to their children)[163,164], although it should be noted that there is limited evidence of this in practice and its impact.

Maintaining links with children and family

This section provides an overview of some of the key issues surrounding maternal imprisonment. It begins with an overview of women in prison in Scotland who are mothers, followed by a short discussion about the value of family contact and support both during and after prison. This is followed by a brief description of the impact of maternal imprisonment on children and, finally, a summary of different international approaches to parental responsibilities.

Mothers in prison in Scotland

Approximately two thirds of imprisoned women in Scotland report having children. Precise figures, however, are hard to obtain[xxiii] . Current statistics derive from self-reported data in the bi-annual Scottish Prison Service (SPS) prisoner survey. The 2013 SPS survey [165] reported that:

- 65% of female prisoners reported having children

- 57% of mothers in prison stated that they were 'involved in caring for (any of) their children' *before* they came into prison (43% stated that they were not).

[xxiii] Current estimates derive from self-completion prison surveys rather than official records (the latest survey in 2013 was based on 226 female respondents; a 60% response rate)

- 48% of mothers in prison reported that they would be involved in caring for (any of) their children *after* they leave prison (27% stated that they would not; 25% were unsure)

Putting aside the methodological constraints of self-reported data, this suggests that a significant proportion of mothers in prison (almost 3 in 5) care for their children in some form prior to imprisonment (though we cannot tell from the survey whether children were residing with their mothers).   The vast majority (73%, 55 women) of these women (i.e. those women that cared for their children prior to imprisonment) stated that they will resume some form of care of their children on release from prison. One fifth reported they did not know (20%, 15) and 7% (5) said they would not resume care. This suggests that **most women with prior caring responsibilities intend to continue care of (some or all of) their children on release from custody**[xxiv].

It has been reported in the literature on 'what works with women offenders' that some women (and men) under-report their parental status when in prison[166], possibly due to lack of trust in statutory services and/or fear that their children will be taken into care[167]. At the same time, it is important to note that 43% of mothers in prison in Scotland (see above) state they do not have any caring responsibilities for their children. Estimates derived from the SPS 2013 Prison Survey data suggest that female prisoners are mothers to approximately 400 children[xxv]. However, not all these children will have been cared for by these women prior to their imprisonment. It is therefore very difficult to get a true figure of how many children are impacted by maternal imprisonment in Scotland.

Family contact during imprisonment

Less than four in ten mothers report receiving visits from their children (38% compared to 35% of fathers). This is lower than international evidence suggests which consistently reports that about half of prisoners (male and female) receive visits from their children[168]. However, given that not all mothers in prison are involved in the care of their children prior to imprisonment (approximately 40% - see above), it is perhaps not suprising that not all mothers receive family visits. In addition, but both men and women (equally) report that their **family and friends face difficulties in visiting them** (most commonly due to distance, cost and time constraints)[xxvi].

Reasons given elsewhere in the literature also report problems with **travel and transport difficulties**, as well as **carer unwillingness** and inappropriate ('oppressive' and 'not child-oriented') visiting environments[169]. On the latter, 80% of female prisoners report 'positively' on the facilities for child visits in Scottish prisons[170].   This suggests that it may not be new facilities per se that are needed to improve mother-child contact but rather **measures to address the practical and financial barriers that families face** (including distance from home), as well as the **emotional barriers** such as the concerns of children

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[xxiv] These figures derive from analysis of the SPS 2013 Prison Survey data (unpublished).

[xxv] Respondents to the survey reported being mothers to approximately 234 children (based on the number of women that reported having 1, 2, 3, 4, 5, or 6+ children). The 400 figure was based on a total of 234 representing 60% of the prison population (the response rate to the survey was 60%).

[xxvi] 57% of both male and female prisoners reported that their families and friends faced difficulties visiting them (SPS, 2013)

and their carers about prison visits, and the willingness and ability of mothers (and carers) to maintain contact whilst in prison.

One US (conference) paper[171] which brings together US evidence on parenting issues during incarceration (imprisonment) highlights the **concerns of parents/carers** of children impacted by parental imprisonment:

- Carers often don't know what to tell children; some children do not know that their parent is in prison

- Mothers and fathers in prison cite conflict with the other parent/carer (who they argue restrict or deny contact with children) and financial reasons as key barriers to family contact

- Some parents do not want their children to visit them in prison because of the emotionally painful nature of such contact or because they do not know where their children are

- Other concerns raised by incarcerated parents are that the short-term nature of their sentence negates the need for children to visit, or that they feel they can't do anything for their children in prison

- Corrections (prisons) and social services staff may not support child contact, citing concerns about the prison environment and the risk of children's acceptance of imprisonment as normal (though, the paper argues, this view is <u>not</u> supported by evidence).

The same paper cites research that reports separation from children as one of the most difficult aspects of imprisonment for women[172], and notes that family visits increase the likelihood of families reuniting post-release.

More broadly speaking, evidence suggests that women's relationships (with children, parents, partners, peers etc.) are key to a women's path to desistence[173,174]. Rehabilitation often depends on the active support provided by family and close friends[175]; indeed prisoners (both men and women) are **less likely to re-offend if good family relationships are maintained throughout their sentence**[176]. Although there is limited evidence on the impact of visits (on mothers and children), the Bartels & Gaffney (2011) review[177] cites a 2010 study that reported the positive effect of visits on recidivism, which found that those who received visits were less likely to reoffend than those who did not (52% compared to 70%).

In terms of criminogenic needs, **interpersonal needs related to the family is one the strongest predictors of positive outcomes for women offenders**[178]. One of the key factors, amongst others, that women offenders attribute desistence to is concern about the impact of their offending on others, particularly children[179].

The post-release period and reuniting of families

Families need support both during the prison sentence and after release when they may face a range of social, familial, personal and financial problems[180]. For women with caring responsibilities, **resuming care of children can be difficult** and present a financial strain which can impact on their successful resettlement[181].

Housing difficulties can exacerbate this stressful time; local authorities are naturally reluctant to relinquish care of children until women are seen to be able to provide adequate care. This means that women may find they cannot resume care of their children until they have suitable accommodation[182]. Given that women's post-release accommodation is often unsuitable, unsafe and/or unstable[183,184] (for women and children) this can be particularly challenging. Lack of appropriate housing leads some women to return to unsafe living arrangements (e.g. to places where they have had prior experience of physical or sexual abuse[185]), or into temporary accommodation which can be situated in areas with high levels of drug use (increasing likelihood of relapse), poor transport links (increasing risk of isolation), and be unsuitable/unsafe for children.

Clearly throughcare has a key role to play in addressing families' immediate needs such as housing and welfare, but it could also extend to more specialist services. For example, some prisons (in Australia) have developed links with community services such as **parent support programmes** which women can access on release from prison[186].

A further example is Harriet's House[187] in North Carolina, US, which runs a **two-year resettlement programme** for female ex-offenders and their children. This comprises of four phases. In the first phase ('supervised living') women live in supervised housing for six months, and mothers have supervised visitation with their children; in the second phase ('transitional living') women move to a transitional living unit with their children to start the reunification process for 6-12 months; they then move onto 'community living' where women move into permanent housing with their children; finally, 'aftercare' continues for a further six months in which practitioners monitor women's financial management, parenting skills, and their ability to remain drug/alcohol-free and maintain employment. This model has been highly commended and claims positive outcomes for women, including low recidivism rates (albeit with a small number of participants)[188].

Impact of maternal imprisonment on children

The impact of maternal imprisonment on children has not received a huge amount of attention[189]. However, a growing body of evidence is now emerging[190,191]:

> "Separation from a parent, particularly a mother, who is held a long way from home, can be likened to the trauma of bereavement, with children of offenders being more likely to go on to commit crimes themselves. There is also a lack of financial and practical support for family members looking after children with a parent in prison, little understanding of the impact of feelings of shame, and the possibility of bullying. For mothers in prison, separation from children and other family members can lead to the breakdown of potentially supportive relationships". (PRT, 2014, p80)

There is some (albeit limited) evidence that the **detrimental impact** on children of parental imprisonment is **more pronounced when the mother (rather than the father) is imprisoned**, given that mothers are more likely to have parenting responsibilities[192,193,194]. A UK (Action for Prisoners' Families) briefing[195], drawing on data from various sources, reports that children of female prisoners are five times more likely to be taken into care on imprisonment than children of male prisoners (see below). The report also states that:

- Only 5% of children stay in their own homes once their mother has been imprisoned

- In 2004, 92% of fathers in prison said their partner was looking after the children, compared to 25% of mothers

- Upon imprisonment of their mother, 25% of children are looked after by their fathers or their mother's spouse/partner, 25% by their grandparents, 29% are looked after by other friends and family members and 12% are adopted or fostered (compared to 2% of children of male prisoners).

Imprisonment of a parent can result in reduced family income, home and school moves, disrupted relationships, stigma, shame and less social support all of which impact on children[196]. Other **impacts** include:

- Increased risk of mental health problems – it is reported that 30% of children with a parent in prison experience mental health problems[197]

- Behavioural and emotional problems[198] including traumatic stress responses[199], anxiety, and depression[200] (as well as social isolation, self-destructive behaviour & low self-esteem[201])

- Poor academic performance[202,203]

- Greater risk of being Not in Education, Employment or Training (NEET) as adults (risk is greater for children of imprisoned mothers rather than fathers)[204]

- Increased risk of delinquency and involvement with the criminal justice system[205,206]

- It is estimated that children of prisoners are three times more likely to participate in anti-social and delinquent behaviour as other children[207]

The extent of these impacts depends on a range of factors including age of the child, length of mother's sentence (the longer the sentence the more detrimental), the nature of the mother-child relationship prior to incarceration, the ability of mothers to maintain contact whilst in prison, the quality of children's care arrangements, and the type of support offered to families[208].

Research on **children's experiences of maternal imprisonment** is limited[xxvii]. The Action for Families of Prisoners briefing references research on children of fathers in prison which reports that prison visits can be distressing for children, stating that "long journeys, waiting at the prison gates, searches and sniffer dogs, an environment where physical contact or play is difficult, can all exacerbate the problem" [209].

International approaches to parental responsibilities

Countries vary considerably in how mother-child contact is enabled. Whilst many countries allow young children to reside with their mothers in prison, the maximum age of children varies, from 12 months in Sweden to three years in Spain and Denmark. In some countries it varies between states and individual prisons. For example, it is six years in one state in Germany and four years in one prison in Western Australia[210].

Germany, which is reported to have the most child-centred approach, has implemented some innovative approaches for women offenders with children. These include allowing

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[xxvii] It was not possible within the timeframes of this review to undertake a systematic search for this type of evidence.

women 21 days leave per year to maintain contact with their children, and providing half-way houses where women can live with their children up to the age of 6, working in the community while their children attend school/nursery during the day[211]. As noted earlier, Frondenberg prison is an open unit for up to 16 women (most of whom have committed theft or fraud) who live with their children in self-contained flats. Women are able to go outside and play with their children, and have 'vacation' days where they can leave the prison unsupervised. Numbers of residents are limited, however, due to costs[212]. Germany also has a number of mother and baby units where children can live with their mother until the age of three.

In **Denmark**, if the local authority deems the mother fit to care for the child, it is the mother's decision whether to have her child with her or not. Children may remain with their mother (or father) until aged three, after which every effort is made not to separate the child from his/her mother e.g. mother and child may be moved to a halfway house in Copenhagen (depending on sentence length)[213]. If a couple is in prison they are both allowed to stay in a unit together.

Even where women are held in secure prisons, several countries strive to maintain a mother's contact with her children. For example the large women's prison in **Sweden** (Hinseberg) has a flat where children can have overnight stays[214].

Norway offers similar facilities in its larger prisons e.g. Bredtveit has an apartment for overnight stays (where it is in the best interests of the child). However, unlike other European countries, children are not allowed to reside in prison with their mothers[215]. Instead, women with young children may be able to serve sentences outside prison. For example, mothers may be housed in alternative institutions until their child is (usually) nine months old, or may serve (all or part of) their sentence at home[216].

In **Spain**, the law recognises the right of incarcerated mothers to keep their children with them until they are three years old. Between 2006 and 2012, five new 'mother units' were recreated to accommodate incarcerated women and their young children to live out-with prisons[217]. Children attend nursery and school, and, in most cases, mothers are allowed to take their children to school (and other activities, appointments)[218]. Spain also has a number of open prisons which it calls 'dependent units' in which women can live with their children in residential facilities in urban areas, from where they can access treatment and education and training. Although overseen by the Prison Service, dependent units are run by third sector organisations[219].

In **Canada** there is a mother-child programme in place in all regional facilities, which enables children to reside with their mothers (where it is considered to be in the best interests of the child)[220]. A review of the Canadian approach[221] reported that three quarters of women indicated they had children, of which over 60% were single parents. Contact with children was mostly through telephone and letters (rather than visits), and concerns were raised about the cost of phone calls and travel. As noted earlier, travel and financial costs are known barriers to child visits in many countries, including Scotland. What is perhaps surprising is that these continue to be persistent problems in a regional estate like Canada, where women are supposed to be held closer to their homes (see *Chapter 7. Learning from the Canadian Experience*). Given the size of Canada, however,

it is likely that home-prison distance may still be considerable for some families of women in custody.

Some prisons run **parenting programmes** for mothers in prisons (though more emphasis tends to be placed on treatment type programmes). In some prisons in Australia, for example, participation is compulsory for women whose children live with them. The MAAD (Mothering at a Distance) Programme developed in New South Wales (Australia) aims not only to reduce the impact of enforced separations on the mother/child relationship but also to break the cycle of intergenerational crime.

One international literature review[222] of women's prisons cited the following as important features of effective parenting-child intervention programs:

- relationship building through visitation classes;
- strong communication ties with children;
- regular child contact;
- peer support from other women prisoners in the same situation;
- collaboration with the primary caregiver; and
- the commitment and cooperation of corrections staff.

The same report (Bartels & Gaffney, 2011 pp58-67) provides a useful description of best practice approaches and facilities for effective parent-child relationships. The key areas covered include:

- MCUs (mother and child units) and family-friendly visiting areas
- Healthcare (e.g. obstetric care, breastfeeding)
- Parenting programmes, playgroups, family workers
- Potential of new communication technologies (e.g. Skype)
- Overnight visits of non-resident children (e.g. for weekends and school holidays)
- Childcare (for resident children) to enable mothers to undertake work, education and treatment programmes
- Appropriate training and security checks of staff who deal with children
- Continuation of care into community (e.g. local parent support programmes)

9.   Risks and Further Considerations

Small and/or local women's prisons, whilst having the potential to improve outcomes for women offenders, are not without their challenges. Some of the potential risks of prison regimes of this nature (as suggested by the literature) are listed below:

- Localisation in itself is unlikely to work in the absence of sufficient **resources** (both within and outwith prisons) and a **gender-specific ethos** (e.g. see earlier discussion about some aspects of healthcare in Spain).

- There appear to be other barriers to family visits beyond location and child-friendly facilities (e.g. costs of phone calls and travel, willingness of carers and/or mothers) which local prisons alone may not overcome.

- Small and/or community-based prisons may struggle to provide **specialist care**, particularly mental healthcare as has been experienced in Canada and Australia which both have national specialist mental health units.

- **Isolation** (from services) in small or campus-style prisons could be a problem. It has been suggested, for example, that prisons should be placed near urban areas and/or within a 'community network' (i.e. where prisons are situated either physically or virtually within a local community) to ensure a range of service provision is available regardless of size or location[223]. The rural nature of some communities in Scotland may exacerbate this risk.

- The lessons learned from Canada emphasise how important it is that prisons are not designed and implemented in the absence of **transformation in penal culture** and effective management[224], and/or in isolation from **sentencing practices** (Canada's prison population has continued to rise despite the introduction of regional prisons).

More generally speaking, a gender-specific approach might also consider:

- The limitations of prison itself and, specifically, the factors outwith its control such as the **social conditions** that (some argue) give rise to offending behaviour in women rather than women's individual pathology which tends to be the focus of offender programmes[225].

- The risks of the **extension of prisons to communities** (e.g. through more open prisons, intensive community sanctions etc.), noting the concerns of some that this may represent an expansion rather than contraction of punishment of women[226], or, as described in the Northern Ireland literature review, a supplement rather than a replacement of traditional measures which could lead to net-widening and up-tariffing of sentences for women[227]. Similarly, others have argued that increased surveillance in the community could be disempowering[228].

- Related to the above point, some studies have reported up-tariffing of sentences for women "due to the 'courts' greater readiness to impose community sentences"[229]. The risk of this approach, it is argued, is an **increased risk of custody for breach** of an order (or a history of breaches) rather than for the original offence. Others have argued that the complex requirements of a community order can also lead to

an increased risk of breach (and subsequent custody)[230]. This has led to a call for **greater flexibility and discretion in the management of compliance and breach**[231]. These issues, though concerned with community sentences are of relevance to any discussions about the increased supervision of women in the community (e.g. through electronic monitoring).

- Recognition that women are **not a homogenous group**, with some arguing that gender-specific models fail to take sufficient account of women's ethnicity, age and social status, and their distinctive needs[232].

10. Redefining Custody?

Despite some concerns about the use of community sanctions as an alternative to prison (see previous section), there is increasingly more evidence that **women are less likely to reoffend following a community sentence** than a custodial one, and that these differences are not a result of differences in the women serving them[233]. It is likely that family and community connections, continuity of local service delivery and normal daily life play a key role. Similarly, the detrimental effects of prison on women is well-evidenced (including loss of accommodation, relationship breakdown, separation from children, worsening debts and social marginalisation).[234,235]

This short review has made reference to some of the benefits as well as the limitations of small, local and/or regional prisons, and highlighted the importance of the views and practice of sentencers and the wider penal (and societal) culture. Indeed, countries with lower rates of female prison populations tend to have different sentencing practices, as well as a far greater use of open prisons and halfway houses than is currently available in Scotland.

These issues raise questions about the function of custody and for whom it is most appropriate (i.e. the custody threshold). The **appropriateness of remand and short sentences**, in particular, have been questioned by a number of experts, with some arguing against the 'over-use of remand for women'[236] - particularly as approximately two thirds of women on remand do not receive a custodial sentence[237]. Similarly, a number of organisations have voiced concerns about the use of custody for low-level, non-violent offences committed by women (e.g. the Prison Reform Trust, Scottish Consortium for Crime and Criminal Justice)[238].

Reimagining what custody might look is outwith the remit of this report. However, it is relevant to any discussion about prison redesign. A woman might be considered to be 'in custody' whilst serving her sentence at home (under curfew), or at work whilst being held at an open prison. It is in this sense that a **redefinition of custody** could be an important aspect of regime change. In these circumstances, careful consideration would need to be given on how to manage non-compliance, as well as to the public perception of seemingly less punitive measures (see *Security* and *Public acceptability* sections in Chapter 8).

11. Conclusions

The evidence suggests that, whilst there are sound reasons for considering smaller, more local prisons which bring women in custody closer to their families, social networks and local community services, the evidence on the impact (e.g. on reoffending) of specific prions models is fairly limited. That being said, there is some evidence of reduced reoffending in a number of community residential facilities. Similarly, countries with penal systems comprising of smaller, women-only custodial units tend to report low rates of recidivism[xxviii].

There are clearly a wide range of models of custody for women across and within different countries. Notwithstanding the methodological problems in comparing different approaches (e.g. due to different sentencing, prison populations and crime rates) and the limitations of transferring international models[239] , there does appear to be a set of principles which tend to accompany low female prison populations. These centre around the Scandinavian concept of '**normalisation**' and a **gender-specific ethos**:

- *pro-normalisation* sentencing practices (e.g. greater use of community sanctions and open prisons/half-way houses which take account of women's needs)

- *pro-normalisation* staff culture and training (e.g. gender-specific training which balances supervision with preparing women for release)

- *pro-normalisation* prison design and location (e.g. self-contained houses, family-friendly facilities, accessible location – for visitors and services)

- *pro-normalisation* prisoner life (e.g. purposeful activities in prison, 'self-care' approaches, parenting interventions)

- *pro-normalisation* rehabilitation (e.g. enabling women to access local services, work, training etc. whilst in custody and beyond).

Whilst prison size, design and location are important factors they are not in themselves guarantors of a low female prison population. That being said, implementing an ethos of **'self-care' or independent living** is dependent to some extent on the availability of suitable facilities (e.g. shared houses with access to shops, laundry etc.). Similarly, maintaining **family and community ties (including local services)** is better served by prisons located close to women's homes.

Given the lack of robust evidence regarding the effectiveness (e.g. on reoffending rates) of specific models of custody it is **difficult to draw definitive conclusions on 'what works'**. Rather what appears important is that that any redesign of a custodial estate is undertaken as **one important element of an overarching strategy** which aims to reduce female offending, imprisonment and reoffending (and, possibly, intergenerational offending). This report has only touched on some of the wider issues that a regime change in female imprisonment in Scotland might consider, such as sentencing practices, custody

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[xxviii] However, it can be difficult to compare international measures of recidivism as countries define this in different ways and apply it to different populations over different time periods.

thresholds, service capacity (both in prisons and the community), arrangements with other community-based service providers (specialist and universal), public acceptance, values, leadership and professional development of criminal justice staff, and security and compliance.

However, **much can be learned from other countries** and the steps that some have taken to improve the experiences and outcomes of women who offend and their families. With the current drive for penal reform, Scotland is well-placed to learn from these experiences and develop an **evidence-based, gender-responsive approach** to working with women - at risk of custody, in custody and beyond custody - to improve their lives, and those of their families and communities.

Resources

This section provides links to relevant websites and reports which may be of interest to policymakers.

Relevant websites

International Centre for Prison Studies

http://www.prisonstudies.org/

International Penal and Penitentiary Foundation

http://www.internationalpenalandpenitentiaryfoundation.org/Site/anglais/anglais.htm

Irish Penal Reform Trust

http://www.iprt.ie/

Penal Reform International

http://www.penalreform.org/priorities/women-in-the-criminal-justice-system/

Includes a 'toolbox' of resources to help policy-makers to implement the Bangkok Rules

Prison Reform Trust

http://www.prisonreformtrust.org.uk/ProjectsResearch/Women

Prison Research Centre

http://www.crim.cam.ac.uk/research/prc/

Prison Service Journal (Centre for Crime and Justice Studies)

http://www.crimeandjustice.org.uk/publications/psj

Scottish Centre for Crime and Justice Research (SCCJR)

http://www.sccjr.ac.uk/

Women in the criminal justice system: key external resources - selection of recommended international resources on women prisoners and offenders

http://www.penalreform.org/resource/women-criminal-justice-system-key-external-resources/

Statistical resources

ICPS International Prison Population Lists

http://www.prisonstudies.org/research-publications?shs_term_node_tid_depth=27

Scottish Government Criminal Proceedings Data

http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Datasets/DatasetsCrimProc

Scottish Government Prison Population Statistics

http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Datasets/PrisonsDatasets

Scottish Prison Service (SPS) Prison Population Statistics

http://www.sps.gov.uk/Corporate/Information/SPSPopulation.aspx

Scottish Prison Service (SPS) Prison Survey 2013 Female Offenders

http://www.sps.gov.uk/Corporate/Publications/PrisonerSurvey2013FemaleOffenders.aspx

Other reports/projects of interest

ESRC-funded University of Strathclyde study (Barry et al) entitled 'Regulating Justice: The dynamics of compliance and breach in criminal justice social work in Scotland' which is due to complete May 2015

https://pure.strath.ac.uk/portal/en/projects/regulating-justice-the-dynamics-of-compliance-and-breach-in-criminal-justice-social-work-in-scotland%28e32e75bf-359b-4748-9984-1b389f7cc2d4%29.html

See also Centre for Law Crime and Justice - Research into the Dynamics of Compliance within a Criminal Justice Context. http://www.strath.ac.uk/clcj/events/

Deady, C. (2014) Incarceration and Recidivism: Lessons from abroad.

https://www.salve.edu/sites/default/files/filesfield/documents/Incarceration_and_Recidivism.pdf

Interesting paper on recidivism (from an American perspective) – not women specific but discusses the Nordic approach and why recidivism is so low there.

NOMS (2013) UK Female Prison Estate Review (2013)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/252851/womens-custodial-estate-review.pdf

Prisons of the Future Project

http://www.europris.org/projects/prisons-of-the-future/

European project which will be searching and researching alternatives to regular imprisonment and advise on innovative solutions for future implementation (2014-2016)

British Academy (2014) A Presumption Against Imprisonment: Social Order and Social Values

http://www.britac.ac.uk/policy/Presumption_Against_Imprisonment.cfm

The study explores the reasons behind the high prison population in the UK, as well as offering contributions to the ongoing debate about why and how we should try to reduce both the number of people we imprison, and the length of time for which many are imprisoned.

PRI (2014) The use and practice of imprisonment: current trends and future challenges.

http://www.penalreform.org/wp-content/uploads/2013/04/Trends-Paper-An-Update-May-2014-Final.pdf

Women in Prison (2012) Report on the Roundtable on Small Custodial Units, 15th May 2012

http://www.amimb.org.uk/documents/SmallCustodialUnitsReport-finalversion.pdf

How to access background or source data

The data collected for this social research publication:

☐ are available in more detail through Scottish Neighbourhood Statistics

☒ are available via an alternative route – please refer to the *Further Resources* and *References* sections of this report. Further information may be obtained from tamsyn.wilson@scotland.gsi.gov.uk.

☐ may be made available on request, subject to consideration of legal and ethical factors. Please contact <email address> for further information.

☐ cannot be made available by Scottish Government for further analysis as Scottish Government is not the data controller.

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