

## Justice Committee

### Commission on Women Offenders

#### Correspondence from Howard League Scotland to the Convener on the Commission on Women Offenders' recommendations

Howard League Scotland is grateful for the opportunity to comment upon the implementation of the recommendations of the Commission on Women Offenders.

#### Summary

*It is not possible to contemplate a sustained reduction in Scotland's female prison population without considering the balance between the provision of custodial sentences and the provision of community disposals. These are two halves of the same coin. Two years on from the publication of the report of the Commission on Women Offenders, we are concerned that the balance is still significantly tilted in favour of custody rather than community-based approaches to addressing women's offending behaviour. Nor is it possible to envisage reductions in the female prison population without focussing on the root causes of women's offending – poverty, substance and alcohol misuse, mental health problems, histories of domestic and sexual abuse. These issues must be tackled if we are to prevent women from entering the criminal justice system in the first place.*

The Cabinet Secretary for Justice recently reflected that the plight of women caught up in our criminal justice system was one of *"the most pressing social issues of recent times"*<sup>1</sup>. The Committee will be familiar with the characteristics and needs of women offenders, and the rise of Scotland's female prison population, which was the spur for the establishment of the Commission.

The female prison population has risen by 120% since 2000, despite conviction rates remaining stable over the same period. Whilst there has been a small decrease in the number of women in custody over the last year, it remains to be seen whether this reduction will persist. According to Scottish Prison Service figures, on 6 June 2014, there were 332 convicted female prisoners and 75 untried female offenders in custody.

Whilst the Scottish Government nominally accepted the majority of the Commission's 37 recommendations, we are concerned that some of the recommendations are not being implemented as the report's authors intended.

#### **A replacement for Cornton Vale**

We were pleased to note the Commission's recommendation to close HMP Cornton Vale and welcomed the proposal that it should be replaced with *"a smaller specialist prison for those women offenders serving a statutory defined long-term sentence and those who present a significant risk to the public"*<sup>2</sup>.

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<sup>1</sup> Article on Howard League Scotland website, 24 April 2014  
<http://www.howardleaguescotland.org.uk/news/2014/april/cabinet-secretary-justice-kenny-macaskill-womens-penal-policy>

<sup>2</sup> Report of the Commission on Women Offenders, April 2012, p.10

We are therefore disappointed that the Scottish Government intends to construct a new women's prison with a maximum capacity of 350 that will handle convicted and remand adult and young offenders of varying legal and security categories and of varying sentence length, from short term sentences to life prisoners. **This is a clear departure from the recommendation made by the Commission.** In addition to HMP Inverclyde, women will continue to be held in HMP Edinburgh and HMP Grampian. There are 50 places for female prisoners in HMP Grampian and HMP Edinburgh currently holds around 100 women. Therefore the projected capacity of the female prison estate once HMP Inverclyde is operational in 2017 will be around 500. HMP Inverclyde is expected to have a lifespan of at least 60 years and the contract for its construction will go out to tender in October 2014.

### **Building to projections**

The failure to reduce capacity in the female prison estate is often justified on the grounds that it is necessary to adhere to prison population projections. However, there is evidence to suggest that creating capacity in the form of new prison places may itself actually increase the likelihood of a rise in the prison population. Cautioning against over-reliance on historical patterns in the prison population, criminologist Dr Sarah Armstrong wrote recently that *"prison forecasts are at risk of triggering a self-fulfilling prophecy encouraging capital expansion"*<sup>3</sup>. Writing about the prison boom in the USA, Spellman (2009)<sup>4</sup> concludes that *"nothing was inevitable about the prison build up in the United States"* and that a *"dramatic improvement in the infrastructure for delivery of alternative sanctions"* is what is likely to be required to reduce prison populations.

### **The balance between custody and community disposals**

Therefore, if we are to reduce the female prison population in Scotland, as well as a reduction in prison places, there must also be sufficient investment in community disposals for women. **This 'twin-track' approach is essential if we are to bring a halt to the upward spiral of female imprisonment in Scotland.** However, we are not yet convinced that the commitment exists for a sufficient shift in resources to enable this to happen.

The Scottish Government has allocated £3m over the two-year period 2013-2015 to support women offenders in the community. This is welcome, however, it pales in comparison with the annual cost of imprisoning women. The Scottish Prison Service estimated in 2011/12 that the average annual cost of imprisonment per prisoner was £32,371. Based on an average daily female prisoner population of 400, the annual cost of imprisonment for women is in the region of £13m (although it is likely to be higher than this, given the additional needs of female prisoners). We also note that the capital expenditure for HMP Inverclyde is expected to be around £60m.<sup>5</sup>

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<sup>3</sup> Article on Howard League Scotland website, 12 June 2014, 'The Problem with prison population projects' by Dr Sarah Armstrong

<http://www.howardleaguescotland.org.uk/news/2014/june/problem-prison-population-predictions>

<sup>4</sup> Spellman, W (2009) *Crime, cash and limited options: Explaining the prison boom* Criminology and Public Policy Volume 8 Issue 1

<sup>5</sup> Article in the Evening Times, 11 February 2013, '£60m prison plan delayed'

<http://www.eveningtimes.co.uk/news/60m-prison-plan-delayed-115184n.20137910>

Privately, a number of organisations working with women offenders have conceded that the resources allocated to community-based interventions are a ‘drop in the ocean’. We also note their concerns about the short-term nature of funding arrangements, which threaten the sustainability of those services, and the ability to demonstrate their effectiveness.

We know that the needs of women offenders are better addressed in the community and the Commission’s report highlighted a number of existing services supporting women in the community. The Cabinet Secretary for Justice indicated in his October 2013 report to Parliament that funds would be made available for the expansion of the Willow project in Edinburgh. However, whilst the Scottish Government intends to maintain its £1.7m annual funding of the 218 Service in Glasgow, we understand that no *additional* funds have been made available to the Service since the publication of the Commission’s report.

### **Leadership**

The Commission’s report highlighted the importance of leadership in driving forward this agenda. We are disappointed that the recommendation to establish a national Community Justice and Prison Delivery Board has not been implemented, presumably due to the fact that the Scottish Government is currently considering reform of community justice in Scotland more generally. The existence of such a body would provide a critical function, increasing accountability and oversight, and enabling a rebalancing of responses to women’s offending away from custodial sentences to community-based solutions.

We are also concerned that the Scottish Government appears to be stepping back from responsibility for oversight of the response to the Commission’s report. When Howard League Scotland asked the Cabinet Secretary for Justice whether the proposals for HMP Inverclyde were in keeping with the Commission’s overall aspirations, he replied saying that decisions relating to the size and design of HMP Inverclyde were operational matters for the Scottish Prison Service.

**It is unfair to expect the Scottish Prison Service – whose business it is to build and operate prisons – to take an overview of the whole package required to reduce female imprisonment in Scotland, when so much of the task of meeting that challenge is beyond their control.**

### **Sentencing**

The Commission’s report acknowledged the role that sentencing has played in the growth of the female prison population in Scotland, making five recommendations in this area and a further three recommendations on ‘Alternatives to remand’. It noted research carried out by the Scottish Centre for Crime and Justice Research which found “*general longer-term increases in the use of custody compared to other disposals and some degree of upward drift in sentence length*” (p.19). **It would seem that sentencing practice remains unchanged and that progress in this area has been limited.** Clearly this is cause for concern given the role that sentencing has played in contributing to the growth of Scotland’s female prison population.

### **Tackling the root causes of women's offending behaviour**

Our aspiration should be to prevent women coming into contact with the criminal justice in the first instance. Therefore we must address the social disadvantage that shapes some women's lives. Real success in preventing offending behaviour, as well as reducing offending, lies beyond the realms of penal policy.

### **Conclusion**

Very few women need to be in prison for reasons of public protection and the pains of imprisonment are more acute for women than men, as evidenced by the high rates of self-harm and mental illness seen in the female prison population. The damaging, often long lasting, effects on children of maternal imprisonment are also well documented. The £60m allocated to the construction of HMP Inverclyde would be put to better use resourcing community justice centres, as well as the "smaller specialist prison" envisaged by the Commission on Women Offenders. The radicalism at the heart of the Commission's report is in danger of being lost, as we once again fall back on imprisonment as the primary response to women's offending.

Howard League Scotland  
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