

## **Chapter 10: Women, drugs and community interventions**

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In this chapter we address the relationship between women, drug use and community interventions. The chapter begins by examining the relationship between women's offending and drugs and by considering how policy responses to drug related crime have impacted disproportionately upon women, in particular those from minority ethnic groups. Although the introduction of programmes in prisons was viewed as a potential way of tackling drug problems among offenders, including women, this has not proved to be particularly successful since associated social and personal difficulties typically remain unresolved. It is argued that traditional community-based responses to women's offending have also failed to take account of the needs of women or addiction, with the result that statutory orders are more likely to be breached and are often associated with high rates of re-offending. Innovative criminal justice approaches to dealing with drug-related crime – such as arrest referral, Drug Treatment and Testing Orders and Drug courts - attempt to explicitly address the relationship between drug use and crime but have often failed adequately to resolve difficulties women encounter in their contact with the criminal justice system. The chapter concludes by arguing that contemporary evidence suggests that the justice system can respond more effectively to women with addiction issues by using community based resources which provide support and an opportunity to address underlying issues. This focus, which places drug related offending within the context of other issues in a woman's life, and attempts to address these issues rather than merely punish, is likely to produce more successful outcomes.

### **1. Women, drug use and crime**

While drug use has traditionally been depicted as a predominantly male issue, there is evidence that problematic drug use among women is increasing, that it often has different meaning and form for women (Ettore, 2007; Anderson, 2009), and that it is having a significant impact on routing women into criminal justice systems internationally.

In the UK, data from the most recent British Crime Survey suggest that among the general population, drug use is more common among men than among women, with 26.3 per cent of the former and 16.4 per cent of the latter reporting drug use in the last year (Hoare and Flatley, 2008), though other estimates suggest that that around one-third of drug users in the UK are women (Simpson and McNulty, 2008). In Scotland, men also report higher levels of illicit drug use than women, with more men than women reporting having used all types of illicit drugs and men more likely to report using more than one type of drug (MacLeod, Page, Kinver, Iliasov, and Williams, 2009).

However, male and female drug use prevalence rates were similar for arrestees tested in 2001-2 in the NEW-ADAM (arrestee drug abuse monitoring) programme in England and Wales, and women were more likely than men to produce a positive test for opiates, methadone, cocaine, amphetamines and benzodiazepines (Bennet and Holloway, 2004).

A Scottish study found that women who were drug tested following arrest were almost twice as likely than men (51 per cent compared with 26 per cent) to test positive for opiate use, though men were more likely than women to have been arrested in the previous five years (McKeganey et al., 2000).

The most recent statistics on drug offenders in England and Wales indicate that the majority (88 per cent) were male. Although women only represented 12 per cent of drug offenders overall, higher proportions of women were convicted of the more serious offences of drug dealing (15 per cent) and the production, importation or export of drugs (17 per cent) (Mwenda, 2005). Between 1992 and 2002 there was a 414% increase in the number of women imprisoned for drug offences in England and Wales (Councell, 2003) and it has been estimated that almost 2/3 of women in prison in England and Wales have a drug problem (Social Exclusion Unit, 2002; Borrill et al., 2003). In Scotland, 71 per cent of all prisoners tested on admission to prison in 2007/8 under the Addictions Prevalence Testing scheme produced a positive test for an illicit substance, with a higher percentage of prisoners admitted to HMP and YOI Cornton Vale, Scotland's prison for women, testing positive for drugs (Information Services Division, 2008).

Schwartz and Steffensmeier (2007) report that in the USA there has been an increase in female arrests for substance-related offences since 1960 and that rising levels of illicit drug use among women have had an important impact on trends in female crime. The increase in the female prison population in the USA was driven primarily by sentences imposed for non-violent drug offences (Shaffer et al., 2009). In the USA, drug offences accounted for around one-third of female state prison sentences in 2002 (Hartman et al., 2007) while in 2007, 29 per cent of female state prisoners had been sentenced for a drug offence (West and Sabol, 2008). A higher proportion of female than male prisoners report having been under the influence of drugs or alcohol when they committed their offence (Schwartz and Steffensmeier, 2007). Overall, 43 per cent of women in federal prisons and 60 per cent in state prisons were assessed as being drug dependent in 2004 (Mumola and Karberg, 2006).

In the USA, with the exception of tranquillisers, more women use methamphetamine than any other drug and methamphetamine use has become a national problem (Hartman et al., 2007). In 2004, women in both federal and state prisons in the USA were more likely than men to report methamphetamine use, with reported use in the month before imprisonment among female prisoners increasing from 37 per cent to 48 per cent between 1997 and 2004. Female drug court participants in the US state of Ohio were more likely than men to identify crack cocaine as their drug of choice while men were more likely than women to report use of alcohol (Johnson et al., 2000). Women entering drug court programmes in Missouri were more likely to use cocaine, stimulants and prescription painkillers and, compared with men, tended to have started using drugs when they were slightly older (Dannerbeck, Sundet and Lloyd, 2002).

Analysis of Australian data indicated that in 2002 arrested women were more likely than men to test positive for amphetamines, benzodiazepines and opiates while the number of women incarcerated for drug offences almost doubled between 1992 and 2002 (Willis and Rushforth, 2003). More recent data suggest higher levels of amphetamine, heroin, benzodiazepine, street methadone and morphine use among arrested women than among

arrested men (Loxley and Adams, 2009). Loxley and Adams (2009) concluded that women are more likely than men to attribute their involvement in criminal behaviour to drug use, with female police detainees being more likely than male detainees to have been using drugs before their most recent arrest. Among female detainees in Australia, the most serious offences for which women are arrested tend to be property offences (though there is also an association between alcohol use and violent crime, especially among indigenous women) (Loxley and Adams, 2009). As in other jurisdictions, there is evidence of high levels of drug use among female prisoners in Australia. For instance, Willis and Rushforth (2003) cite an Australian study conducted in New South Wales in which almost three-quarters of women in prison reported a relationship between drug use and their current offence (typically through the commission of property offences for money to buy drugs).

## **2. Women's pathways into drug use and crime**

The contexts of women's lives are often different from their male counterparts and, unsurprisingly, pathways into both drug use and criminal activity vary across gender groups. Explanations for the underlying basis for these distinctions are diverse: but include the constraining effect of processes of feminisation; differing responsibilities for child-care; and, different motivations and coping mechanisms. These factors are presented by way of explanation for women's significantly lower involvement in criminal activity of any kind, and suggest that when they do commit crime, it is more often due to broader social, economic and/or emotional problems than would appear to be the case for men.

Research by Peters, Strozier, Murrin, and Kearns (1997) indicated that, compared to male prisoners, drug-involved female prisoners in the USA were more likely to have experienced employment problems, earned less, were more likely to use cocaine and were more likely to report previous suicide attempts and physical or sexual abuse. In a more recent analysis, Mumola and Karberg (2006) reported that drug dependent prisoners were more likely than those who were assessed as not being drug dependent to report experiences of physical or sexual abuse, homelessness, unemployment, parental substance abuse and parental incarceration. In Scotland, 62 per cent of women in drug treatment reported having been physically abused while, as in the study by Peters et al. (1997), 36 per cent reported experiences of sexual abuse (McKeganey, Barnard and McIntosh, 2002).

Women in the criminal justice system are also more likely than men to report family conflicts and are less likely to report having family support (Dannerbeck et al., 2002; Webster, Rosen, Krietemeyer, Mateyoke-Scriver, Staton-Tindall and Leukefeld, 2006). Female drug users report higher levels of mental health problems than male drug users, including higher levels of anxiety and depression (Dannerbeck et al., 2002) and lower levels of self esteem (Webster et al., 2006). Women involved in substance use are less likely to obtain and maintain employment than similarly involved men because they may face more barriers to employment (such as family responsibilities or lack of vocational

skills) and women who do find employment tend to be paid less than men (Staton-Tindall, Duvall, Oser, Leukefeld and Webster, 2008).

Female drug users are often socially isolated (Dannerbeck et al., 2002). Staton-Tindall et al. (2008) found that female drug court participants reported having fewer casual and close friends than did men and suggest that women's relative social isolation may be as a result of their having exhausted the social supports provided by friends. Alternatively, of course, women who are more isolated in the first instance may be more likely to turn to drug use as a source of emotional support. There is, however, evidence that female drug users are more likely than men to recognise their drug use as a problem (Webster et al. 2006). As a result, although they are less likely to access treatment on their own volition, they are more likely than men to request drug treatment if arrested for a drug-related offence (Webster et al., 2006) and to access resources in prison, when these resources are available (Borrill, Maden, Martin, Weaver, Stimson, Farrell and Barnes, 2003)

International data suggest that there may be important gender differences in the relationship between drug use and crime. For instance, in a study of young people and offending in Scotland, Jamieson, McIvor and Murray (1999) found that young women often reported having been initiated into drug-use by their male partners and having subsequently begun committing offences to finance their (and often their partner's) use of illicit drugs. This is consistent with Australian research that suggests that drug use may play a different role in the development of male and female offending (Makkai and Payne, 2003; Johnston, 2004), with men more likely than women to report involvement in offending *prior to* their first use of drugs. Loxley and Adams (2009) report that women's involvement in drug use and crime and their experiences of arrest typically occur when they are older than men. Although men are often involved in regular alcohol and cannabis use when first arrested, they are less likely than women to be using other illicit drugs (Loxley and Adams, 2009). This leads Loxley and Adams (2009) to conclude that drug use among women leads to crime whereas among men crime leads to drug use or the two occur at the same time (see also Jamieson et al., 1999).

Other Australian analyses tend to confirm that there is a distinctive relationship between women's drug use and their involvement in crime. Willis and Rushforth (2003) concluded that women's drug use appeared to be a defining feature in their participation in crime with a stronger link between drug use and crime among women than among men. In particular, there was a strong relationship between women's drug use and their involvement in the distribution of illicit drugs, prostitution and various types of property crime. As Simpson and McNulty (2008:170) note: "women's initiation to drug use intersects with wider social factors, including the development of intimate relationships with men". Dannerbeck et al. (2002) have suggested that women are more likely to start using drugs to cope with a traumatic event or to maintain a relationship with a drug user. There is further evidence that women tend to begin using methamphetamine to assist in weight loss or as a coping mechanism<sup>1</sup> whereas men's initial use tends to be experimental (Hartman, Listwan and Shaffer, 2007). Among women, drug use may also be linked to

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<sup>1</sup> This also applies to other substances such as opiates and benzodiazepines.

negative experiences associated with living on the streets while co-morbidity may result in women using illicit substances to self-medicate (Shaffer et al., 2009). The criminalising and victimising potential of female drug use has been commented upon by Schwartz and Steffensmeier (2007: 50) who suggest that: “Drug use is also more likely to initiate females into the underworld and criminal subcultures, expose them to potentially violent situations, and connect them to drug-dependent males who use them as crime accomplices or exploit them as “old ladies” to support their addiction”

According to Bloom et al. (2004) the key factors that represent female pathways to criminal behaviour include histories of personal abuse, mental illness associated with early life experiences, substance misuse, economic and social marginality, homelessness and destructive relationships (also Dannerbeck et al., 2002). Because women’s most common pathways to crime are based on survival of abuse, poverty and problematic substance use, Bloom, Owen and Covington (2004) argue that improving policy responses to women in conflict with the law needs to begin by addressing these factors through a focus on treatment for substance abuse and trauma recovery, the provision of education and training in employment and parenting skills and access to affordable and safe accommodation. Moreover, in view of women’s different pathways to crime and addiction, their differing social circumstances and the complexity of their needs, drug treatment services for women should recognise both their differences from men and the differences *among* women (Shaffer et al., 2009).

Working with women in an attempt to support them to overcome problematic drug use therefore requires an acknowledgement of the fundamental differences relating to women as drug users, and as women within the criminal justice system. The gendered effects of policies and practice initiatives need to be considered in relation to both the use of drugs and the needs of drug users. As Bloom et al. (2003:42) comment: “Research indicates that gender differences play a role from an individual’s earliest opportunity to use drugs; that the effects of drugs are different for women and men; and that some approaches to treatment are more successful for women than for men”.

### **3. Women, drugs and sentencing**

Criminal justice drug policy affects women differently from men. In the USA, rather than addressing the needs of women with drug problems, recent policies have had a disproportionately punitive impact on women (Boyd, 2004; Shaffer et al., 2009). For example, the introduction of mandatory minimum sentencing statutes for drug offences resulted in a significant increase in the number of women in prison. As Bush-Baskette (1998) argues, through ostensibly ‘gender-neutral’ sentencing laws (but see Wald, 2001), the ‘war on drugs’ instigated in the USA in the 1980s became, in effect, a war against black women. ‘Gender-neutral’ sentencing laws failed to recognise and take account of the distinctions between major and minor players in drug organisations, with female couriers facing federal mandatory sentences of 15 years to life for a first felony conviction regardless of how ‘culpable’ they were or whether their involvement was coerced through threats of violence against themselves and/or their families. Women’s punishment has been disproportionate to the harm they cause society and has included the

penalising – through imprisonment, removal of their children and/or termination of parental rights - of drug-using women who are pregnant or who have children on the grounds that they have exposed their children to alleged risks.

Between 1986 and 1995 the number of women imprisoned for drug offences in the USA rose by 888 per cent, with the increase being more marked among states that had introduced severe penalties for drug offences; and among black women (Mauer, Potler and Wolf, 1999). The proportion of women given probation for felonies, on the other hand, has decreased (Bloom et al., 2004). Danner (1998) predicted that not only would ‘three strikes’ and other harsh sentencing policies result in increased prisoner numbers, but that resources would be taken from other social services – particularly those for women and children – to meet the costs of increased prison populations, with financial and social implications for both individuals and communities.

It has been argued that it is not only criminal justice policies associated with the ‘war on drugs’ that have had a disproportionately punitive impact on women. As Bloom et al. (2004) have commented, (drug-using) women in the USA have also borne the brunt of policies aimed at restricting access to welfare benefits, subsidised housing and educational opportunities (see also Campbell, 2000). This includes lifetime prohibitions on the receipt of financial assistance and food stamps for people convicted of felonies involving the use or sale of drugs and denial of access to social housing for those convicted of drug offences or suspected of being involved in the use or sale of drugs. In the event that women with children are imprisoned - and typically serve an average of 18 months - less financial aid is provided to relative caregivers than to foster caregivers, yet the Adoption and Safe Families Act of 1997 made it mandatory for parental rights to be terminated in the event of a child being in foster care for 15 out of the preceding 22 months (Bloom et al., 2004). The loss of their children and restricted access to work, benefits, suitable accommodation and educational provision make it more difficult for women to recover from drug use and rebuild their lives.

In the UK, data from the Ministry of Justice indicates that just under 20% of women in prison in England and Wales in June 2009 were foreign nationals (Ministry of Justice, 2009), most of whom were in prison for a drug offence. Most foreign national prisoners are poor women who have been offered money to bring drugs into the UK and, as in the USA, are almost invariably a minor link in the international drug trade, having been recruited by organized criminal groups and having limited prior criminal involvement<sup>2</sup>.

Allen, Levenson and Garside (2003:2) observe that there is: “evidence to suggest that coercion, against a background of violent, abusive and exploitative relationships, plays a part in the decision of some people to become drug couriers”. As in the USA, however, long sentences are imposed upon drug couriers as a deterrent – almost three-quarters of those in the period covered by Allen et al.’s (2003) analysis were serving sentences of four or more years - and little consideration is given to mitigating circumstances (such as

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<sup>2</sup> For example, Allen et al (2003) report that 90% of Jamaican women in prison in England and Wales for drug offences were first offenders.

extreme poverty or coercion) or to the impact of a lengthy custodial sentence on the woman's dependent children, even though most imprisoned drug couriers are single parents aged in their mid-thirties (Allen et al., 2003). In addition to having to cope with a long prison sentence, foreign national prisoners have to deal with a foreign culture, language and different food and they are less likely than other prisoners to receive support by way of visits, letters and telephone calls (Caddle and Crisp, 1997).

#### **4. Traditional responses to drug-related offending**

The increase in problematic drug use by women impacted on the number of women arrested and sentenced for criminal offences from the late 1980s onwards, but there is little evidence that responses to this situation were either appropriate or effective. On the one hand, drug services often failed to take gender differences into account while, on the other, criminal justice interventions (in both prison and the community) failed to adequately address the needs of problem drug users – both men and women.

Drug services which have been traditionally designed to meet the needs of male heroin injectors may have difficulty moulding women into the resources they have created (Audit Commission, 2002; Becker and Duffy, 2002). Additionally, a woman's role as a mother can impact on the likelihood that she will use services, while the lack of child-care provisions can hinder access (Loucks, Malloch, McIvor and Gelsthorpe, 2006). Similarly, fear of children being taken into care or of encountering judgemental attitudes (especially if pregnant) can prevent women from seeking or responding to support. These issues are exacerbated when women are drawn into the criminal justice system where the representations of drug using women that predominate are based on social constructions of 'appropriate femininities' (Malloch, 1999) alongside an ideological expectation of the role of women in the family. In the UK, recent anxieties surrounding the competence of drug using 'parents' (Advisory Council on the Misuse of Drugs, 2003; Scottish Executive, 2003) have often targeted drug using 'mothers' who, in practice, are most likely to have responsibility for dependent children. This may have the potential to reduce the number of women approaching services for help and is reflected in the provision of services that often assume that women drug users will not have any responsibility for children and therefore do not make the necessary arrangements for childcare facilities (Malloch and Loucks, 2007). While this is clearly an important area for intervention, the presentation of the issues (and thereby response) is not unproblematic.

Acknowledging the relatively small numbers of problem drug users who approach drug services for help, there appeared to be an optimism during the 1990s that the prison system could respond to problem drug use by making resources available for drug users in prison; or that measures could be put in place within prison to enable problem users to access resources following sentence. The high levels of reported drug use among prisoners has been noted above, many of whom may not have had any prior contact with treatment services before receiving a custodial sentence. The overall objective of introducing resources in prison was aimed at enabling individuals who may be unwilling or unable to access treatment in any other way to come into contact with services to address their drug use directly; providing a 'fast-track' entry to treatment services.

Growing concerns about the number of women in prison and the extent of substance use problems among women prisoners was also contextualised by an increased awareness that many of these women also had experiences characterised by abuse, loss and mental health problems (Willis and Rushforth, 2003; Loucks, 2004; Butler and Kousoulou, 2006). Indeed it was suggested that these experiences underpinned women's use of drug (as self-medication) and that punishment (by imprisonment) was wholly inadequate in addressing these needs. As Bloom et al. (2004:42) have observed: "standard policies and procedures in correctional settings (e.g. searches, restraints, and isolation) can have profound effects on women with histories of trauma and abuse, and often trigger retraumatisation in women who have post-traumatic stress disorders"

While the prison has been acknowledged as an appropriate point for intervening to reduce problem substance use, especially given the high prevalence of drug use among prisoners, there have been various criticisms about how prison based 'treatment' actually operates in practice (Malloch, 2001; Duke, 2003) and how the 'unnatural' prison environment undermines treatment effectiveness once women return to the community (Richie, 2008). For example, the emphasis on security and control within prisons raised serious questions about the viability of the prison system to facilitate drug treatment (Duke, 2003) while the potential for offering therapeutic 'support' or 'treatment' for women drug users seemed particularly limited (Malloch, 2000 and 2001). The many problems which women face as drug users in custody have been identified, presenting a challenge to the rhetoric that services are consistently operational and effective in all penal establishments (Malloch, 2001 and 2008; Borrill et al., 2003). Where services for women are available they often mirror those developed for men or, by reinforcing gender stereotypes, are sexist in nature (Shaffer et al., 2009). Drug treatment in prison, as in the community, tends to be oriented to white opiate-using males (Simpson and McNulty, 2008) and also tends to be focused on long-term prisoners instead of short-term prisoners who are responsible for the majority of drug-related offending.

Despite prison service policies aimed at reducing levels of drug use in custody (education, support services, drug free units, increased security) there is no evidence that the availability of drugs in prisons has reduced or that drug services in prison are adequate. Borrill et al (2003:2) noted that "over a quarter of the women interviewed said they were still using heroin while in prison, albeit mainly on an occasional basis". Their study highlighted that many women in prison have access to drugs most of the time, but only limited access to resources and counselling, a situation that is compounded by the complexity of women's needs and the relative scarcity of resources for female prisoners (Shaffer et al., 2009). As Richie (2008:382) notes: "women describe the conditions in correctional facilities as harsher; their sentences are longer and served in more isolated rural areas where there are fewer rehabilitation programs available to them".

Research conducted in the UK and elsewhere (e.g. Richie, 2008; McIvor, Trotter and Sheehan, 2009) suggests that women released from prison also face significant difficulties reintegrating into society and that imprisonment may serve to further marginalise already socially excluded women. The existing literature on women in prison indicates that female prisoners have a complex range of problems and needs (e.g. Loucks, 2004) that are not



usually addressed while they are in prison (Morris, Wilkinson, Tisi, Woodrow and Rockley, 1995) and there is evidence that women's already fragile material circumstances can deteriorate further while they are in prison (Eaton, 1993; Morris et al., 1995). Given that a high proportion of female prisoners report prior substance misuse (e.g. Singleton, Pendry, Simpson, Goddard, Farrell, Marsden and Taylor, 2005), successful resettlement (and desistance) will require that they avoid further drug use when they return to the community. However throughcare is patchy and fragmented and compounded by the high turnover of female prisoners serving short sentences (Simpson and McNulty, 2008) and there are a number of barriers – apart from its availability - to women accessing appropriate drug treatment and support when they leave prison. For example, the high turnover of female prisoners makes prison-based drug assessments particularly challenging and prevents the establishment of pre-release relationships with community-based workers that female prisoners appear to value (Fox, Khan, Briggs, Rees-Jones, Thompson, 2005; MacRae, McIvor, Malloch, Barry and Murray, 2006). Women are generally considered by drug agencies to be a hard-to-reach group who are reluctant to engage with drug services (MacRae et al., 2006) fearing removal of their children (Fox et al., 2005). However, while proactive approaches such as prison visits and gate pick-ups may encourage higher levels of service engagement (Fox et al., 2005; MacRae et al., 2006) drug misuse services need to be made more accessible to women, including mothers with children (Malloch, 2004; Malloch and Loucks, 2007).

While there have been improvements in the provision of drug services in prison, the impact of overcrowding throughout much of the female prison estate has impacted on the services and resources that are available and more profoundly, on women's safety (Shaw, 2005; Corston, 2007). The recognition that prison is often inappropriate, and frequently dangerous for women drug users, has resulted in calls to expand and develop services in the community, increasing support options and expanding services that could operate as alternatives to custody (Home Office, 2001; Scottish Executive, 2002; Corston, 2007). In particular, calls have been made for alternative ways of dealing with women who commit the frequent but relatively minor offences that are often associated with illegal drug use, to be considered (Corston, 2007).

## **5. More recent approaches to drug-related offending**

While the criminal justice system has continued to be a gateway to drug treatment as a key component of more recent international drug strategies, addressing the needs of women involved in drug related crime in the community rather than in prison has a number of advantages, including access to a wider range of more effective services, avoiding the damaging effects of separating mothers from their children and avoiding the negative impact of imprisonment on women. There is evidence that community-based interventions – which in the UK include arrest referral programmes, drug treatment and testing orders, drug rehabilitation requirements and drug courts - are better equipped to respond to the realities of women's lives and better meet their needs (Bloom et al., 2004; Hubbard and Matthews, 2008).

### **5.1. Arrest referral**

Women are often reluctant to seek treatment in relation to drug problems because of fears of reprisals for themselves or for their children and the considerable social stigma attached to female drug use (Malloch, 1999; Simpson and McNulty, 2008). Often, women's first contact with treatment and other services will be as a result of their offending and subsequent involvement with the criminal justice system. International evidence suggests that by the time they first come to the attention of the police, women are often already involved in regular illicit drug use. This, Schwartz and Steffensmeier (2007) suggest, is because women have to overcome greater social and personal constraints against crime and "need a greater motivational push to deviate" (p. 50). As a result, women coming into contact with the criminal justice system are particularly vulnerable.

Although female detainees in Australia were found to be more likely than male detainees to report current or prior involvement in a drug or alcohol treatment programme, women were also more likely than men to report having been unable to access a treatment programme because of a lack of available places and were more likely to demonstrate high levels of personal distress at the point of arrest (Loxley and Adams, 2009). Loxley and Adams (2009, p. xii) concluded that "Some drug-using women would profit from services to help them to deal with their drug use before they become deeply enmeshed in the criminal justice system".

In the UK, arrest referral schemes were introduced as a means of 'fast-tracking' arrestees with drug and alcohol problems into appropriate treatment services, with schemes being established across England and Wales in the 1990s and slightly later in Scotland (Birch, Dobbie, Chalmers, Barnsdale, McIvor and Yates, 2006). Similar to initiatives in other jurisdictions across Europe and elsewhere they aim to identify arrestees whose offending may be related to substance misuse and to refer them to appropriate treatment services and supports. The majority of arrestees interviewed by schemes are typically male. Analysis of national monitoring data for England and Wales indicated that women were more likely than men to report recent heroin, methadone, crack and benzodiazepine use, were more likely to have previously received treatment or currently be receiving treatment and were more likely to remain in their existing treatment or be referred to a specialist drug treatment service (Sondhi, O'Shea and Williams, 2001).

However, the proportion of women offered arrest referral appears variable, despite evidence that women assessed for arrest referral are 'riskier' than men and less likely to engage with treatment (Best, Walker, Foster, Ellis-Gray and Day, 2008). In Scotland, for example, the proportion of women among those who accepted the offer of referral varied across schemes, from 16 to 40 per cent (Birch et al., 2006) while some groups who might benefit from arrest referral – such as crack-using sex workers – have been identified as rarely being referred (Sondhi et al., 2002). Engagement with a scheme targeted upon street sex workers in a Midlands city was described as 'cautious', with the low take-up being attributed to factors such as the types of drugs used (which impaired women's ability to keep appointments with agencies), threats of violence from pimps and unstable living circumstances. It was also noted that women feared losing their children if their

involvement in drug use and prostitution was known and that in previous contact with social services or other agencies women had met with “stigmatisation and judgemental attitudes” (Pitcher and Aris, 2003:1).

## **5.2 Drug Treatment and Testing Orders and Drug Rehabilitation Requirements**

Drug treatment and testing orders (DTTOs), which were introduced in the UK in the late 1990s combined access to drug treatment, regular drug testing, case management and judicial review of progress and were aimed at offenders with an established pattern of drug-related crime who were at risk of imprisonment. National evaluations of DTTOs have shown that they are associated with reductions in drug use and drug-related offending (Eley, Gallop, McIvor, Morgan and Yates, 2002; Turnbull, McSweeney, Webster, Edmunds and Hough, 2000; Hough, Clancy, McSweeney and Turnbull, 2003; McIvor, 2004). Given the frequent link between their offending and drug use, DTTOs were thought by policy makers to hold particular promise for female offenders. Women made up 18 per cent of those given DTTOs in Scotland in 2006/7 and tended to be slightly younger than men (with half being under 26 years of age compared with around one third of men) (Scottish Government, 2007). However, women have also been found to breach DTTOs at a higher rate than men, with 41 per cent of women and 33 per cent of men given DTTOs in Scotland having their orders revoked as a result of breach in 2008/9 (Scottish Government, 2010). The reasons for the higher breach rate among women are unclear but may include responsibilities for dependent children and the influence of drug-using partners. The absence of specific treatment services for women may also have resulted in lower levels of retention. In the longer term, sustained success is likely to require attention to women’s social inclusion and the availability of appropriate resources and supports. Additionally, male drug-users often have non drug-using partners while the partners of female drug-users are often drug users themselves (Simpson and McNulty, 2008). This means that women are less likely than men to have a partner who actively supports them in their recovery from drugs (see also McIvor et al., 2006).

In England and Wales, the DTTO was replaced in 2005 by the community order with a drug rehabilitation requirement (DRR). Between August 2005 and July 2006, 25,495 women received a community order, representing 13.6% of all offenders given this disposal. Nine per cent of requirements imposed on women given community orders during that period involved drug rehabilitation, with women being more likely than men to receive both supervision and drug rehabilitation requirements (Mair, Cross and Taylor, 2007). However, breach rates for community orders and suspended sentence orders tend to be high (around a quarter of orders made) and it appears that these orders are replacing other non-custodial options rather than sentences of imprisonment. This, combined with the high breach rate, suggests that the net effect of orders might be an overall increase in the numbers of women going to prison (Patel and Stanley, 2008).

## **5.3 Drug courts**

Originating in the USA in the late 1990s, drug courts are a more recent approach to addressing drug-related crime in a number of jurisdictions (including the UK where they have been piloted in Scotland and, more recently, in England). Although “by the time

they reach drug court, most women are in a state of dire emergency with multiple problems – and multiple barriers to successful recovery” (D’Angelo and Wolf (2002: 386) drug court programmes have typically been designed for men and usually lack the necessary support for women with children. However in the USA the first female drug court was established in 1992 in Kalamazoo, Michigan (Huddleston, Marlowe and Casebolt, 2008). Drug court programmes for women have subsequently been introduced in other states; for example, the Brooklyn Treatment Court whose resources for women include an on-site health clinic, vocational counselling, support to help women re-establish links with their children and help finding affordable, good quality childcare (D’Angelo and Wolf, 2002).

In other jurisdictions the ability of drug courts – unless they have provision that is explicitly tailored to women - to engage effectively with female offenders has been questioned. For example, professionals in Scotland expressed concern at the absence of treatment and other services that were suited to female offenders and sentencers identified compliance as a particular problem for women (McIvor et al., 2006). In New South Wales, Australia, the perceived lack of suitable treatment options for female drug court participants was considered to be a barrier to participation and the percentage of women entering the drug court would have been higher if it reflected the real level of need. Few residential rehabilitation facilities were said to be willing to accept women with their children at short notice and the high level of commitment required by the drug court regime may have disadvantaged those with parenting commitments who found it more difficult to comply (Taplin, 2002).

Internationally, evidence regarding completion rates and outcomes for women is somewhat mixed, with some studies suggesting lower retention rates for women than men (for example, McIvor et al, 2006) and others indicating higher rates of drug court programme completion (for example, Dannerbeck et al., 2002; Gray and Saum, 2005). A qualitative study of female drug court participants in Northern California suggested that women welcomed the support, concern and understanding offered by sentencers and drug court staff and valued individualised treatment, services that accepted children, female counsellors (given their previous experiences of trauma and abuse) and the opportunity to participate in work or education (Fischer, Geiger and Hughes, 2007). Women participating in a drug court programme in Florida, who received enhanced services, had better retention rates and fewer positive drug tests (Beckerman and Fontana, 2001) while women who participated in the Brooklyn Treatment Court for women had lower levels of self-reported drug use and recidivism than a comparison group but no improvements in self-reported economic wellbeing or health (Harrell, Roman and Sack, 2001).

A comparison of women sentenced to drug court with women given standard probation found lower rates of subsequent prosecutions among the drug court participants, though the difference was partly accounted for by probation violations (Shaffer et al., 2009). There is some evidence, however, that despite having more problems, women who use methamphetamine may have better recidivism outcomes than men (Hartman et al., 2007) and women may be particularly responsive to judicial interaction in a problem-solving court setting. For example, Johnson, Shaffer and Latessa (2000) found that women were more likely than men to state that regular court hearings helped them to remain drug-free while Saum and Gray (2008) found that women were more likely than men to be satisfied

with their interactions with the judge. In comparison with men, women were more likely to value praise from judges and to believe that judges had given them an opportunity to relate their side of the story, had been fair to them, had treated them fairly and had treated them with respect. Saum and Gray suggest that women may have been better able than men to utilise judicial interaction to their advantage because they were able to develop meaningful connections with judges, to communicate their needs and to respond to the judges' requests. Being better able to express themselves in court may be both personally fulfilling for women and may facilitate aspects of the drug court process. Saum and Gray argue that a 'care perspective' was operating in the drug court and that: "this more feminine model of justice appears particularly beneficial to the women who encompass it" (2008:115).

Although they may represent a more appropriate response to women involved in drug-related crime through their relational focus, emphasis upon the development of a therapeutic alliance (Hubbard and Matthews, 2008) and ability to offer more intensive levels of treatment and support (Hartman et al., 2007), drug court programmes are, in the main, based on services that have been developed for men and, as such, they are likely to fail adequately to respond to drug-using women's circumstances and needs. The emphasis, in the UK at least, on methadone and urine testing and the absence of provision that offers women necessary psychological and social support have been singled out for comment (Simpson and McNulty, 2008). In the USA, even though women make up 24 per cent of drug court participants, the small scale of drug courts means that they often deal with relatively few women and, especially in rural areas, have difficulty offering specialised provision such as women-only groups (Dannerbeck et al., 2002).

#### **5.4 General issues**

Women who come into contact with the criminal justice system as a consequence of drug-related offending are often viewed as being non-cooperative and are subsequently up-tariffed (Malloch, 2004). The chaotic circumstances of the lives of women drug users may indeed make it more difficult for women to comply with the requirements of community-based orders, but it is evident that there are long-standing challenges with the way that disposals are applied to women. Even the more specialist services aimed at addressing drug-related crime have been criticised for failing to respond to female clients. Women may require different forms of intervention or resources which take into account the context of their daily lives in order to enable them to meet the (often) stringent criteria of criminal justice disposals.

The important element in effective treatment in a criminal justice context is not the emphasis on coercion, but on engagement with services (Hough et al. 2003; Holloway, Bennett and Farrington, 2005). Identifying 'effective' resources in themselves, can be problematic. While initiatives such as Drug Treatment and Testing Orders and Drug Courts are intended to lessen the number of drug users sentenced to custody, the success of such initiatives is obviously dependent on available community resources. Regional variations in resources can result in a geographical lottery in accessing services, which is clearly of particular importance where criminal justice agencies refer clients to external service-providers (Scottish Drugs Forum, 2003). Follow-up support and after-care is

crucial for those nearing the end of court-ordered services, but is often extremely limited in practice, with support often weighted towards the initial stages of intervention.

Given the importance of engagement, it is crucial that resources across the criminal justice spectrum provide available, accessible and effective interventions. In particular, it is necessary that interventions link together to ensure that once engagement takes place, service users do not fall through gaps in services when they move between different criminal justice institutions (i.e. from prison to the community) (MacRae et al, 2006). Interventions must be strategic and accessible at the point of need, though recent analyses suggest that this is still not usually the case in the UK (Simpson and McNulty, 2008). However pockets of good practice are emerging that adopt a ‘gender sensitive’ approach and that have the potential to provide a more relevant and effective service to women involved in drug use and offending.

### **6.A gender sensitive approach**

Given the acknowledged inadequacies of traditional and more innovative (penal) responses to women who encounter the criminal justice system, and women drug users in particular, the ongoing quest for appropriate models of intervention has continued. The needs and experiences of women (as both offenders and problem drug users) have often been subsumed under the needs and experiences of men in terms of criminal justice responses and support/treatment for drug problems. In particular, the disproportionately punitive impact of policies aimed at tackling drug related crime on women has been criticised as a ‘war on women’ (Campbell, 2000; Boyd, 2004). Policies and practices that attempt to ‘fit’ women into systems dominated by, and designed for, men have been shown to be ineffective in responding to women and led to increasing attempts to devise models for working specifically (and effectively) with women.

In 2003, Bloom, Owen and Covington set out a comprehensive gender-responsive strategy for the US National Institute of Corrections which drew on a number of theoretical distinctions which they used to set out a blueprint for responding to women involved with the justice system. These theoretical bases included: ‘pathways’ theory (women and men follow different pathways into crime); relational theory (acknowledging the importance of relationships for women); theories of trauma<sup>3</sup>; and addiction. They acknowledged that women differed from men in their experience across these areas and noted that a ‘gender-sensitive’ response required an acknowledgement of these distinctions (Bloom et al., 2003). Models of intervention based on this gender-responsive approach aim (within the constraints of criminal justice systems) to help women to address the emotional damage caused by the trauma of physical and sexual abuse, and to work towards repairing or recreating healthy relationships with self and others (Covington and Surrey, 1997; Covington, 2000).

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<sup>3</sup> The recognition that many women who are in contact with the system have experienced various forms of trauma has increasingly come to inform the development of resources (Herman, 1992)

This has enabled the identification of some key characteristics, considered crucial to effective programme development ( Bloom et al, 2003; Holloway et al, 2005; Loucks et al, 2006), namely: that workers can be more effective when gender-responsive and gender-sensitive; they should be caring and available to clients; as far as possible have some shared experiences with the women they are working with; and be able to take a holistic approach in order to understand the experiences and to support the women with whom they are working. Furthermore, training should continue on an ongoing basis. Importantly, the environment where support and intervention takes place should be ‘safe’ and aftercare should form a key element in service provision (Covington, 2000). This model has been used with some success (for example in Scotland, see Loucks et al, 2006).

Projects such as the 218 Centre in Glasgow (Loucks et al, 2006; Malloch and Loucks, 2007; Malloch, McIvor and Loucks, 2008) demonstrate the value of a gender responsive approach to the women who use the resources, even where its impact is difficult to measure in quantifiable terms. The centrality of relationships in engaging women with addictions, in conjunction with a flexible and comprehensive service, was considered to be crucial by workers, women using the service and other agencies.

## **6. Concluding points**

For female drug users, a gender-specific application of rehabilitation (changing life circumstances) and recovery (from problematic substance use) is necessary, but not unproblematic (Thom, *forthcoming*). Employing a gender sensitive model for women with addiction issues, in practice, requires the presence of a number of factors. Research clearly shows both that substance misuse is often central to women’s offending, but also illustrates that this cannot be addressed in isolation from the contextual factors that both initiate and perpetuate it. Addressing women’s addictions is critical, both to reduce their involvement in offending and to begin to address the resulting overarching chaos in their lives (Covington, 2000).

Criminal justice responses have been shown to be limited in effect; indeed current criminal justice and wider social policies can actually make it more difficult for women to get out of these systems – a fundamental prerequisite of both rehabilitation and recovery. Responses can be improved pragmatically, but doing so requires that account is taken of women’s pathways into crime and problematic drug use. The international evidence highlights that the problems experienced by women drug users in the criminal justice system are shared across international borders, presumably the solutions can also be shared. What is also evident is that the underlying factors for women’s drug use may not be conducive to conventional ‘treatment’ but require addressing at the root. Rather than increasing criminal justice responses, which will invariably have an element of punishment by their very ethos, there is a need to identify and address the broader social contexts within which women’s (problematic) drug use is initiated and propagated.

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