

# **WOMEN IN PRISON - WHY IS THE RATE OF INCARCERATION INCREASING?**

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## **Abstract**

Imprisonment rates for women have increased significantly over the past few years. This increase, relative to the trend for male prisoners, has implications relating to the overall rise in prison populations and the subsequent planning issues for prisons.

This paper aims to identify the factors that are contributing to this greater increase in the rate for women prisoners (the reference period of 1995 to 2002 indicates a 60% increase in rate per 100,000 population) as compared to male prisoners. The behaviour and characteristics of female prisoners, including the types of offences committed, prior imprisonment, age and Indigenous status provide possible explanations. In addition, changes in sentencing practice, such as whether women are being treated more harshly than previously by the judiciary and whether more unsentenced women are being held in prisons, could also shed some light on the apparent trend.

The United Kingdom has experienced similar increases in women in prison over the past decade, with recent research suggesting that sentencing practice has been the main influencing factor despite the fact that women tend to commit the less serious types of offences and also tend to re-offend less often than men. Preliminary analysis of Australian prison population figures for women suggests that the age and Indigenous status profiles of female prisoners have shifted only slightly over the course of the reference period. However the nature of the crimes committed has changed. The number of women imprisoned for non-violent crimes has decreased, while the number imprisoned for violent crimes has increased (with robbery being the most notable increase). Considering this, further analysis of offence types, prior convictions and aggregate sentence lengths over time will be conducted in order to identify factors possibly contributing to the large increase of women in prison.

## Background

One of the most fundamental characteristics of incarcerated populations is that they are constituted almost entirely by male prisoners. In June of 2002 there were 21,008 males in Australian prisons and 1,484 females (ABS, Prisoner Census, 2002). That is, males accounted for more than 93% of the Australian prison population.

The reason for this overwhelming disparity in prison populations is quite clear. For the most part, crime is committed by young males. Involvement of males in crime of all types is much greater than involvement of females, with greater differences being evident for the more serious crimes. This disparity has been observed in both official (police) and unofficial (self-report) measures of crime.

There are a number of reasons that have been proposed in the literature for this differential involvement in criminal behaviour. These reasons tend to focus on two main proposals: that women are inherently less inclined to crime in general and to serious crime in particular; and that women are treated differently by the courts.

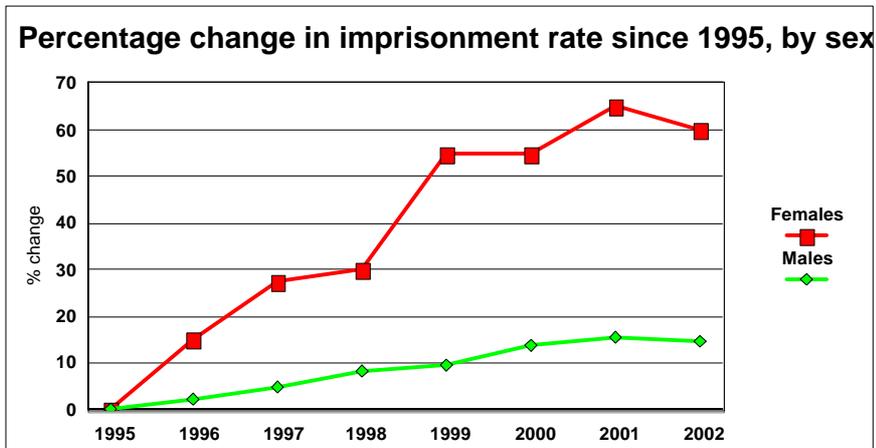
Whatever the reason for the clear difference in involvement in criminal behaviour, the resulting disparity in prison populations can be found around the world. However in the last decade, and particularly in the last five years, there has been a disproportionately rapid growth in the number of women in prison. At the prisoner census on 30 June 1995, there were 835 women and 16,593 men in the national prisoner population of 17,428. During the seven years to 30 June 2002, the absolute number of male prisoners increased by 27% while the absolute number of females increased by 78%. The proportion of women in the prison population has risen from 4.8% in 1995 to 6.6% in 2002. The most telling figure is the rate of incarceration per 100,000 population: for males the rate has increased from 245.9 in 1995 to 282.4 in 2002, a rise of almost 15%. But for females, the rate of imprisonment has jumped from 12.0 per 100,000 population in 1995 to 19.2 per 100,000 in 2002. This 60% increase in the rate of female imprisonment is four times the increase for males.

This significant increase in the numbers of female prisoners and the rates of female imprisonment are not unique to Australia. A recent study conducted by the British Home Office (2002) shows that the proportion of women in British prisons rose from 3.9% in 1995 to 5.6% in 2001. The number of women in prison increased from 1993 to 2001 by 140% while the number of men increased only 46% during that period. These figures are similar to those in Australia and are also indicative of a substantial increase for females. In attempting to understand the drivers of this change, the study examined the demographics of female prisoners and their involvement in the criminal justice system. Females were found to be more likely to be discharged or to receive a community sentence, and were less likely to be sentenced to custody. When they were sentenced, females were given shorter sentences. The study suggested that this partially reflects the nature of crimes in which females are involved, but even within offence groups, females are treated more leniently than are men. Of course, offence type is only a crude proxy of offence seriousness, as the specific nature of the offence can vary greatly even within offence groups. The study concluded that the increase in the female prison population reflects sentencing changes, with increases in prison receptions being driven by a more serious response to the less serious offences.

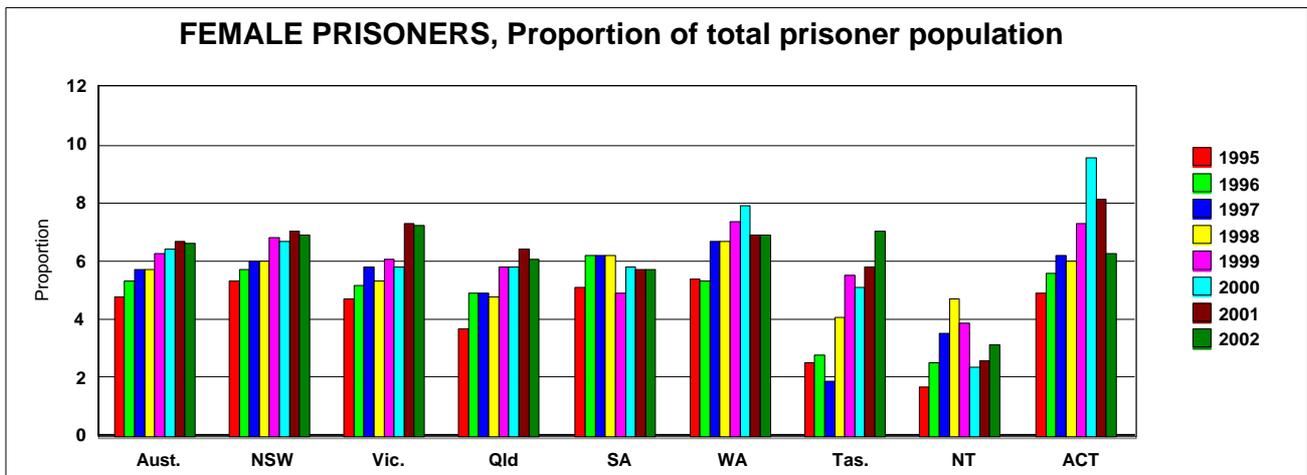
This paper examines some of the possible causes for the disproportionate increase in female prisoners in Australia.

## Imprisonment Rates for Males and Females, 1995-2002

The graph below shows the rapid and disproportionate increase in the rate of imprisonment for females when compared with males. Using 1995 as a base, the rate of imprisonment for females has increased by 60% over the seven year period, while the rate for males has increased only 14.8%.



The information above can also be presented in terms of proportions of the prison population. The following graph shows the proportion of female prisoners in each State/Territory over the period 1995-2002. It is clear that there has been a substantial increase in female prisoners across Australia: overall the proportion of female prisoners has increased from 4.8% in 1995 to 6.6% in 2002.



This disparity has implications not only for understanding the reasons behind the overall rise in prison populations, but also for issues relating to the specific needs for female prisoners. On a broader level, this increase also has implications for prevention and intervention programs. Such programs tend to be directed at male offenders, who comprise the bulk of the offending population. An increase in the proportion of female prisoners indicates that prevention and intervention programs may need to reassess their target population and thus their strategies.

The following section proposes a number of possible factors that might be influencing the rise in female imprisonment.

## **Factors Influencing the Increase in Female Crime**

There are several possible reasons for this disproportionate increase in the number of female prisoners. Changes in women's criminal behaviour, changes in the characteristics of female offenders or changes in official responses to female criminality may all be affecting the number of women who are serving prison terms.

### *Changes in women's criminal behaviour:*

#### Offence type

Women tend to be involved in the forms of crime that are typically regarded as less serious, such as shoplifting and drug use; they tend not to commit the more serious types of crime such as homicide and assault. However increases in the proportion of women in prison might be partially explained by changes in the types of crime women are committing. Crimes that are seen as more serious will attract more (and longer) sentences of imprisonment.

Hypothesis 1: The increase in the rate of female incarceration is due to an increase in the seriousness of women's crime.

#### Prior imprisonment

For both males and females, offenders who have been in prison on a prior occasion will be more likely to receive a term of imprisonment than those who have not. It is possible that the increase in female prisoners is due to an increase in the re-offending of women. This implies a change in the frequency of offending, rather than in the type of offending.

Hypothesis 2: The increase in the rate of female incarceration is due to an increase in the numbers of women coming before the courts who have previously been imprisoned.

### *Changes in the characteristics of female offenders*

#### Age

It is a well-established fact in criminology that rates of offending are greatest among the young. In particular, the 15-24 year age group is often cited as having the highest crime rate. The preponderance of young people in the criminal justice system is found among both males and females. A change in the age profile of women prisoners might help explain the increase in female imprisonment rates.

Hypothesis 3: The increase in the rate of female incarceration is due to a downward change in the age profile of women prisoners.

#### Indigenous status

Both male and female Indigenous prisoners are greatly overrepresented in Australian prisons compared with the total population. It is possible that the proportion of Indigenous prisoners among the female prison population has increased more than that of the male prison population.

Hypothesis 4: The increase in the rate of female incarceration is due to an increase in the proportion of Indigenous female prisoners.

## *Changes in official responses to female criminality*

### Aggregate sentence length

It is possible that the court system treats male and female defendants differently, being more lenient towards women. Possible explanations of this disparity revolve around the notions of "chivalry" and "paternalism". These explanations suggest that courts are less willing to sentence women to terms of imprisonment than they are men, and that when imprisonment is handed down, the length of the sentence will be shorter for women, other things being equal. Changes in sentencing policy may have reduced the impact of such differential treatment, with a resulting increase in the length of women's sentences.

Hypothesis 5: The increase in the rate of female incarceration is due to an increase in the length of imprisonment sentences handed down to women.

### Unsentenced prisoners

The use of remand and other unsentenced detention as a mechanism to hold unsentenced prisoners might also be subject to the same influences that result in differential sentencing practices for men and women. In the same way as changes in sentencing policy may have affected overall imprisonment rates for women, these changes may also have affected the use of remand for women.

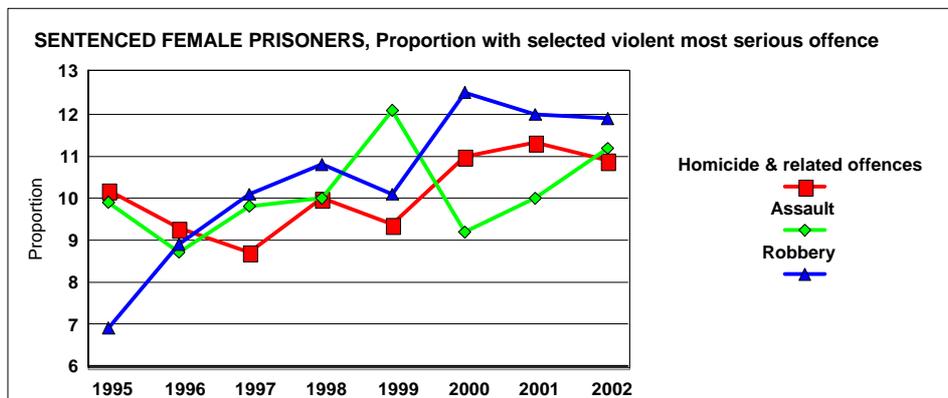
Hypothesis 6: The increase in the rate of female incarceration is due to an increase in the number of unsentenced female prisoners.

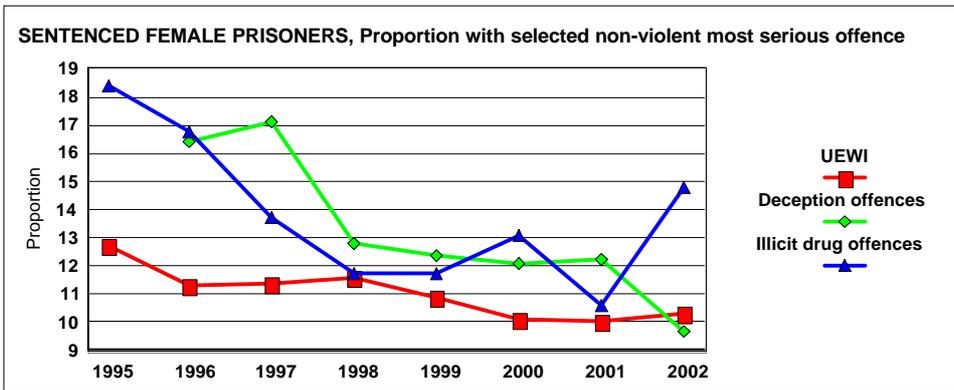
Each of these hypotheses will be addressed in turn. The following section examines in more detail the trends over the past seven years in relation to each of these possible explanatory factors.

## **Changes in Women's Criminal Behaviour**

### *Offence type*

The following graphs show the proportion of female prisoners who are serving sentences for certain violent crimes and those whose sentence relates to selected non-violent crimes. These offence types were selected as they represent what might be considered crimes typically committed by males (the violent crimes) and those more typically associated with females (the non-violent crimes).



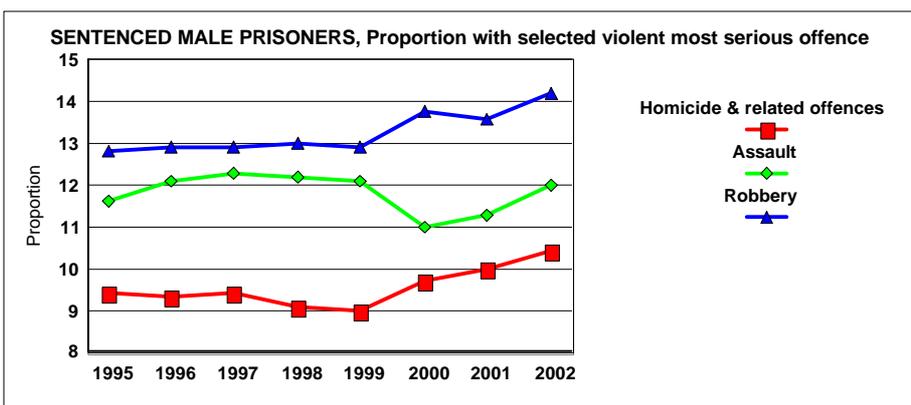


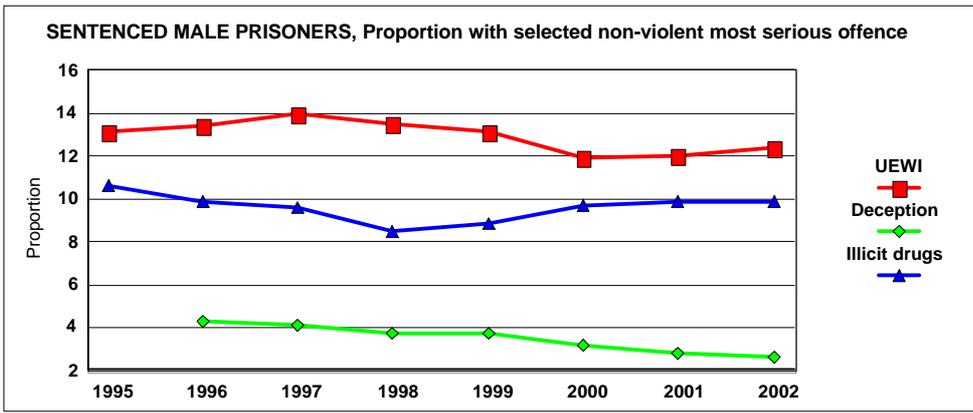
There has been a clear increase in the proportion of female prisoners who have been sentenced for a violent crime. This increase has been most pronounced for robbery (from 6.9% in 1995 to 11.9% in 2002), although homicide has increased as well. Assault figures have been more volatile, and have increased marginally.

The trend for non-violent crimes is even more dramatic. The proportion of females sentenced for deception offences has dropped from 16.4% in 1996 (the first year these data are available in this series) to 9.7% in 2002, a decrease of 41%. Illicit drug offences decreased dramatically between 1995 and 2001 with a drop of almost 50%, then increased sharply in 2002. Despite this rise, drug offences are still significantly lower in 2002 (representing 14.8% of most serious offences) than they were in 1995 (at 18.4% of most serious offences). Break and enter offences have dropped moderately over the reference period.

Overall, it is apparent that the nature of the offences for which women are being sentenced to prison has changed substantially from 1995 to 2002. This might be due to a real change in the nature of female crime, to more general changes in the types of offences being brought before the court, or to changes in court sentencing practices.

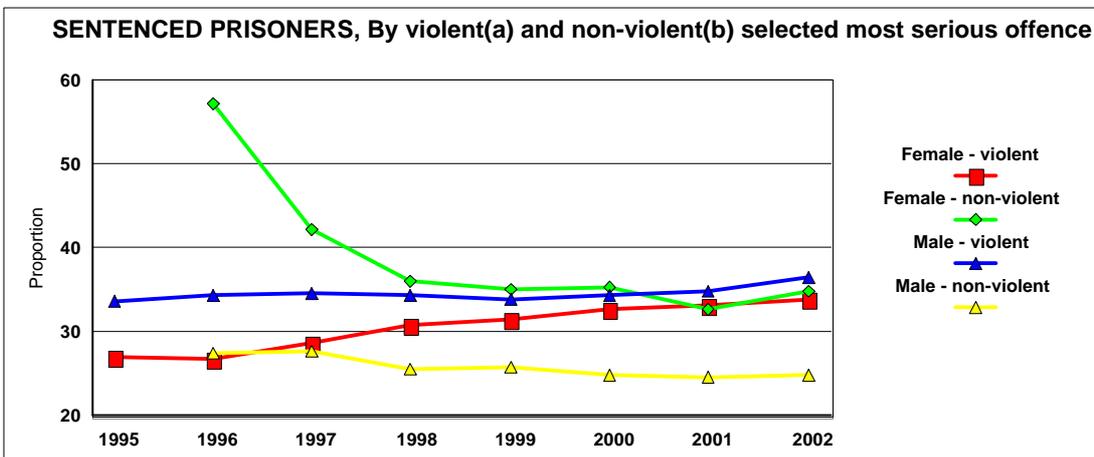
An examination of the offences of male prisoners over this period clarifies these trends. The graphs below show the proportion of male prisoners sentenced for a selection of violent and non-violent crimes.





The trends for males are very different to those for females. The nature of offences for which males are sentenced has remained fairly stable over the period under examination, with violent offences increasing only slightly and non-violent offences decreasing only slightly.

It is also helpful to examine these overall trends on a single graph. The graph below presents single trend lines for the selected violent and non-violent offences for females and males.



(a) Sum of homicide and related offences, assault and robbery

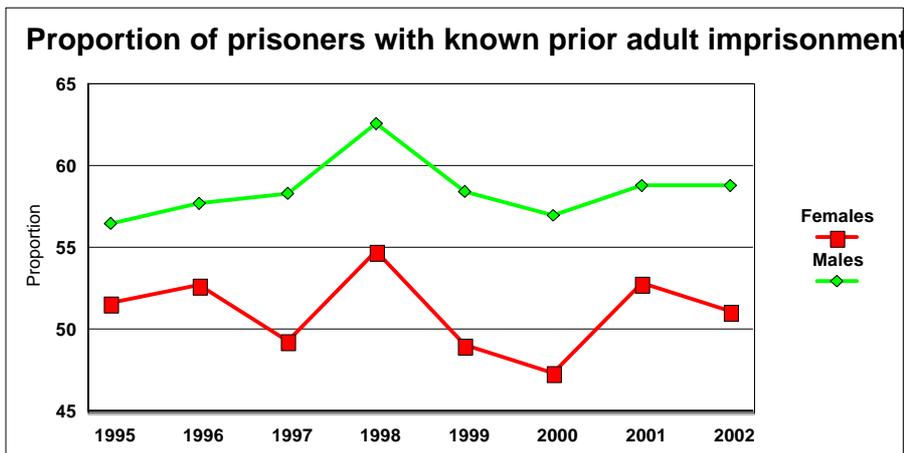
(b) Sum of unlawful entry with intent, deception and related offences and illicit drug offences

The most significant trend apparent from this graph is the decrease in the proportion of non-violent most serious offences for females. This drop possibly reflects a change in sentencing practices by the courts, whereby less serious offenders are diverted from prison to other penalty types such as fines, suspended sentences or community service orders.

Hypothesis 1 thus appears to have been supported. The change in the nature of female offences seems to be unique, and not part of a general change across the prisoner population. This has implications for the number of female defendants being sentenced to prison: more serious crimes are more likely to attract a prison sentence and to attract a longer sentence as well.

### *Prior imprisonment*

An increase in the proportion of female prisoners with prior imprisonment would help explain the increase in female prisoners. The following graph shows the proportion of male and female prisoners who have previously been imprisoned.



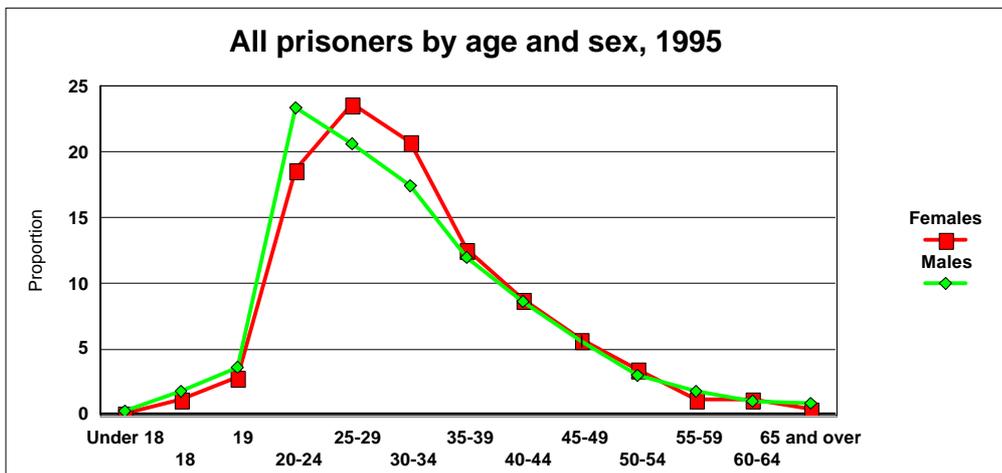
It is apparent that there is no significant increase over this period for either males or females in the proportion of prisoners with prior imprisonments. For the most part, the trend for females tracks the trend for males, with both proportions moving only slightly between 1995 and 2002.

Hypothesis 2 appears not to have been supported, as there has been no significant change in the proportion of female prisoners with prior imprisonment.

### Changes in the characteristics of female offenders

#### Age

A change in age profile might lead to a change in the proportion of female prisoners. It would be expected that a lowering of age of prisoners could indicate an increase in participation in criminal behaviour, as it is the younger age groups that tend to have the highest involvement in crime.



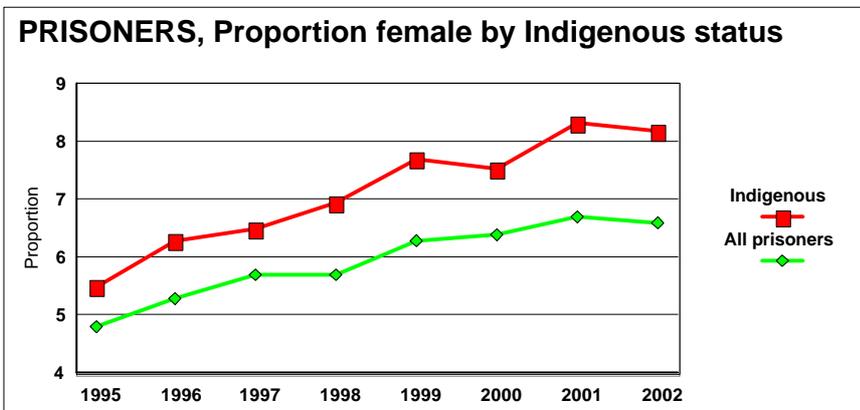


There is no significant change apparent over the reference period of the age profile of female prisoners, with both graphs showing a preponderance of women in the 25-29 age group.

Hypothesis 3 thus appears not to have been supported, as there has been no significant change in the age profile of female prisoners over this period.

#### *Indigenous status*

The proportion of Indigenous female prisoners might be a factor in the increase in female imprisonment rates overall. The following graph shows the change in proportion of female prisoners who are of Indigenous status.



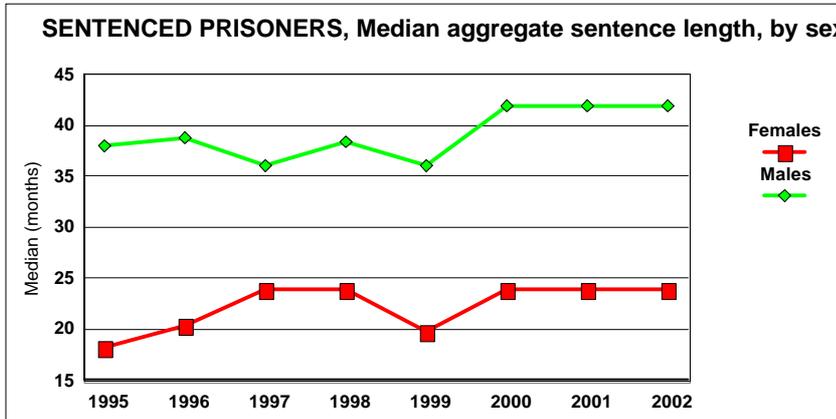
The increases for all female prisoners and Indigenous female prisoners are very similar, although the trend for Indigenous prisoners is slightly (though not significantly) steeper. This indicates that there might be a slight increase in the disparity between Indigenous imprisonment rates and those for the total female population, although it is unlikely that this can explain the disproportionate increase in female prisoners.

The evidence regarding Hypothesis 4 is thus inconclusive. It is likely that the proportion of Indigenous female prisoners is having a slight but not major effect on the overall increase in female imprisonment rates.

## Changes in Official Responses to Female Criminality

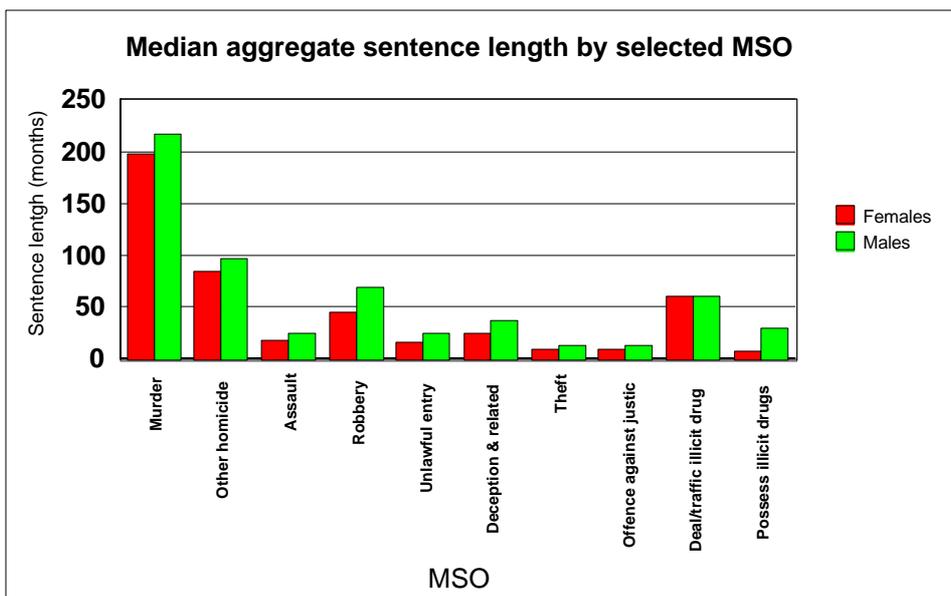
### Aggregate sentence length

If the courts are reducing the disparity in sentencing between males and females and are sentencing female defendants to longer prison terms than in previous years, then the proportion of female prisoners would increase disproportionately. The following graph shows median aggregate sentence length for both males and females for 1995 to 2002.



It is apparent that the median sentence length for females continues to be much lower than for males. The median sentence length for females increased from 18.2 to 24 months (an increase of 32%) from 1995 to 1997 but has remained remarkably stable ever since. For males, sentence length increased from 38.1 to 42 months (an increase of 10%) from 1995 to 2000 but has also remained stable since. While aggregate sentence length did increase disproportionately for females in the early years of the reference period, sentence length cannot explain the continuing increase in female prisoner numbers in the years since 1997.

The continuing significant disparity between male and female sentence lengths is possibly a function of the types of offences committed by men and women, although there may be some degree of differential treatment as well. The following graph examines whether there is an effect of offence type on sentence length for males and for females.

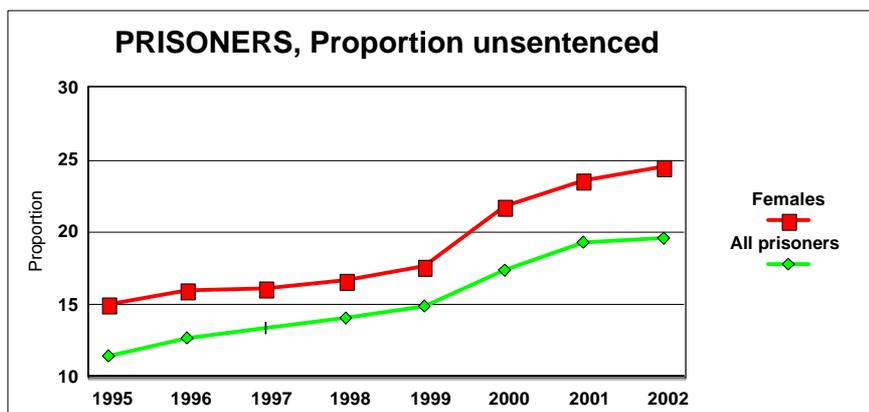


It is clear that females are being sentenced to shorter sentences than males, even when offence type is held constant. The only exception to this is dealing and trafficking of illicit drugs, where median aggregate sentence length is the same for both males and females. This suggests that there may indeed be some disparity in sentencing practices, with females being treated more leniently by the courts. However it is also possible that there are still variations in the seriousness of offences within these broad offence categories. It is not possible to examine offences at such a fine level of detail with these data.

Hypothesis 5 thus appears not to have been supported: the increase in female imprisonment rates cannot be explained by disproportionate changes in sentence length. However, given international findings concerning the issue of changing sentencing practices (in particular, findings from the United Kingdom), further detailed analysis of the seriousness of offences would be valuable.

### *Unsentenced prisoners*

An increase in unsentenced female prisoners might explain the increase in female imprisonment rates. The graph below shows the proportion of unsentenced prisoners for females and for the total prison population.



It is apparent that the proportion of unsentenced prisoners has increased for both females and for the prison population as a whole. For females, the proportion of unsentenced prisoners has increased from 15.1% in 1995 to 24.5% in 2002 (a rise of 62%). For the total prison population, the proportion of unsentenced prisoners has increased from 11.5% in 1995 to 19.6% in 2002 (a rise of 70%). Thus the increase in female unsentenced prisoners is marginally smaller than that for all prisoners.

Hypothesis 6 therefore appears not to have been supported: while the increase in the proportion of unsentenced female prisoners is contributing to the general rise in female imprisonment rates, it does not seem to explain the disproportionate nature of the rise.

### **Discussion**

It is apparent from the data analysed that the main factor in the disproportionate increase in the female prisoner population is that the type of offence that female prisoners have committed has changed over the reference period. As women's crimes have become more violent, their representation in prisons has increased as serious crimes are more likely to attract a prison sentence than are non-violent crimes.

On the other hand, sentencing outcomes have changed little over the reference period. Both men's and women's aggregate sentence lengths have remained stable for the last few years. However, there is still a disparity in the sentence length of men and women even within offence categories.

While the Indigenous status of female prisoners has shifted slightly over the period under examination, it is unlikely that this is a significant driver of the change in female imprisonment rates as the shift is fairly small.

These findings are somewhat at odds with a primary conclusion from the study conducted by the British Home Office. Increases in female imprisonment in Britain have been attributed to changes in sentencing practices, with more serious responses being applied to the less serious crimes. In this analysis, the aggregate sentence length of female prisoners has remained stable over the last few years. Instead, the analysis uncovered a substantial change in the nature of women's offending. This suggests that there might be other factors contributing to the change in the female prisoner population in the two countries -- factors relating to characteristics of female offenders or to sentencing practices of the courts. Further analysis is required to determine what these factors might be.

## **Conclusion**

The increase in the female prison population has implications not only for concerns about service provision, but also for the development of prevention and intervention programs. If the nature of female offending is changing, then prevention programs that target women will need to change accordingly. Community expectations and understanding of female criminality will need to change, as will the responses of the criminal justice system. Police, courts and the prison system will need to consider how such changes affect their treatment of female offenders. The prison system in particular will need to assess the impact of changes in the nature of female offending patterns on their current provision of services.

Further analysis is warranted in this area, in particular to examine more closely the possible effect of changing sentencing practices on female imprisonment rates.

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