FEMALE PRISONERS: USING IMPRISONMENT STATISTICS TO UNDERSTAND THE PLACE OF WOMEN IN THE CRIMINAL JUSTICE SYSTEM

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One of the most fundamental characteristics of incarcerated populations is that they are almost exclusively male. In June of this year there were 19,468 males in Australian prisons and only 1,303 females (ABS, 2000a)\(^1\). That is, males constituted 94% of the Australian custodial population. This imbalance between the sexes is a world-wide phenomenon - Australia is fairly typical in this respect.

The reason for this overwhelming preponderance of males over females in prison is fairly straightforward. Crime is predominantly committed by young males. Male involvement in criminality of all types is much greater than female involvement, and this tendency is more pronounced for more serious forms of criminality. This difference is found in both official (police) and unofficial (self-report) measures of crime.

In the last decade, and particularly in the last five years, there has been rapid growth in the number of women in prison. At the prisoner census on 30 June 1995 there were 835 women in the national prisoner population of 17,428. In the four years to the 30 June 1999 census, the number of male prisoners increased by 21% to 20,173. Over the same period, the number of females increased nearly three times as fast: from 835 in 1995 to 1,365 in 1999, a 63% rise.

This rapid rate of increase would need to be maintained for several decades before female prisoner numbers were equivalent to male numbers. The cross-over point would be in the year 2036, assuming an annual growth rate of 5% for men and 13% for women. At this time, there would be 120,000 male and 120,000 female prisoners in Australia, which just goes to show how silly arithmetic extrapolation is. Nevertheless, it does suggest that the last decade has seen a profound change in women’s involvement in criminality or their passage through the criminal justice system.

The differing level of male and female criminality is one of the “empirical puzzles of criminology” (Weatherburn, 1993), and a variety of explanations have been put forward to account for these patterns of differential involvement. These include that women are inherently less inclined to criminal behaviour, that women are selectively diverted away from criminal sanctions, and that women are less inclined to forms and patterns of criminality that are likely to lead to imprisonment.

Women are not only less likely to offend, they are also much less likely to reoffend. To the extent that custodial populations are characterised by patterns of persistent offending over time, this factor may be critical. The U.S Bureau of Justice Statistics (Beck, 1989) investigated the recidivism rates of 108,580 offenders (of which 5.9 percent were women), released from prison in eleven States in 1983. Across three definitions of recidivism (re-arrest, re-conviction or re-incarceration) female releasees showed lower recidivism rates than male releasees. In Australia, Broadhurst and Maller (1990, 1991) found that this sex difference persisted even when recidivism is defined in terms of time to fail (re-incarceration), with non-aboriginal female releasees exhibiting a median time to fail of 23.4 months compared to 17.6 months for their male counterparts.

Even when women offend, they may be treated differently to men either as a consequence of the nature of their crimes, or because their crimes are viewed as more or less serious or culpable than equivalent crimes committed by men. While there seems to be ample evidence that women are treated differently in court, it is much less clear whether this is attributable to

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\(^1\) Prisoners include periodic detainees in NSW and ACT.
paternalism or “chivalry” on the part of sentencers, or whether it reflects genuine differences in the nature of female criminality. Multivariate analyses of the relationship between sex and sentence type and severity show that much of the apparent variability between sex and sentence is attributable to differences in the nature of the offences, the extent of offenders’ previous criminality, or other legally relevant variables rather than to sex per se (Grabosky & Rizzo, 1983; Kruttschnitt, 1985; Douglas, 1987).

There is also a widely held view that female criminality is more likely to be regarded as the product of a disordered mental state than that of their male counterparts and that female defendants are more likely to be viewed as requiring treatment rather than punishment (Scutt, 1979; Allen, 1987; Henning, 1995).

One of the fundamental barriers to making sense of this puzzle is the lack of good quality data about the differential involvement of men and women in criminal behaviour and the various stages of the criminal justice process. It is still the case that most courts do not routinely collect information on the sex of defendants. One of the ways that we can get a picture of changing trends of women’s involvement as participants in the criminal justice system is through prison statistics. The purpose of this paper is to examine Australian prisoner statistics in order to shed some light on the fundamental question in this area:

Is women’s criminality that leads to imprisonment different to men’s criminality?

That is, do women who go to prison have offending patterns that are essentially the same as those of men, but at a much lower rate, or are there distinctive patterns to female criminality?

We can break out this central question into four more specific issues:

- How do trends in the number of women imprisoned over time compare with male trends?
- How do patterns in the kinds of offences for which women are imprisoned compare with male patterns?
- How do sentence length patterns for women compare with male patterns?
- How do reimprisonment patterns for women compare with those for men?

Long-term trends in male & female imprisonment (Victoria and South Australia)

The size and make-up of prisoner populations is relatively responsive to changes in legislative policy and administrative practice, especially in the short and medium term. However, if we want to see the effects of the more fundamental changes in our society and our ways of dealing with crime, we need to look at much longer term trends. The next slide shows the number of women imprisoned in Victoria over the 130 years between 1970 and 2000, as well as the proportion of the total Victorian prisoner population made up of women.

It can be seen that the number of women in Victorian prisons was at its highest between 1870 and 1890, when there were between 270 and 320 women prisoners. At this time the total prisoner population stood at around 1,500, and women represented between 17 and 19% of this total. In purely percentage terms, this is about 3 times the current proportion. However, we should also note that even as late as 1870 there were only 80 females to every 100 males in Victoria, rising to around 90 to every 100 males in 1890. Taking this into account, the difference between male and female imprisonment rates in the late 19th century was even less marked than these numbers indicate.
From about 1890 through to 1920, the number of women prisoners went into a steep decline. Total numbers fell by around a third in the 1890’s to around 200 in 1900, then halved in the next decade to around 110 in 1910, then halved again in the next decade to 50. The percentage of women in prison also fell, though not quite so dramatically, since the male Victorian prisoner population was also falling quickly over the same period. Between 1890 and 1920 the proportion of women in the prison population fell from 19% in 1881, to 13% in 1910, then to 7% in 1920.

For the next 60 years, female prisoner numbers in Victoria were relatively stable. Between 1920 and 1980 the total number of women in prison varied slowly between about 40 and 60, comprising around 4 to 5% of the total prisoner population. There were minor peaks in the early 1930's and the war years of 1943 and 44 when numbers reached 70. The absolute low point in female imprisonment in Victoria was probably in the late 1970's, when numbers averaged around 32, and on occasions fell to around 25. Male prisoner numbers had been growing strongly since the end of the Second World War, and at this point, women comprised only about 2% of all prisoners.

The next ten years saw a spectacular change in this pattern. Between 1977 and 1986 the daily average number of female prisoners in Victoria tripled, from 32 in 1977 to 104 in 1986. This rise continued throughout the 1990's, with numbers reaching 125 in 1994, and 140 in 1997. This upward trend shows no signs of abating: the most recent statistics show a June 2000 daily average of 187 Victorian women prisoners.

Like the dramatic fall in numbers of the early part of the century, these rises also took place at a time when male numbers were also rising, so the proportion of women in prison rose at a slower rate. Nevertheless, the proportion of women in the Victorian prison population has gone from around 2% in 1977 to 6% today. Even so, it is worth bearing in mind that this is still well below the proportions that were apparent in the late 19th century.

South Australia: Women prisoners: 1860-2000

The long-term pattern of change in South Australian women prisoner numbers since the latter part of the 19th century is a little less clear than in Victoria, but many of the same features are present.

In South Australia we have data from 1860 onwards, but since the size of the South Australian prison population is only about 25 to 30% of the Victorian prison population, there is a lot more variability in the South Australian numbers. Over most of the first fifty years - the period between 1860 and 1910 - the proportion of female prisoners was considerably higher than it is today. Total numbers varied between 20 and 50, and the proportion of women prisoners was consistently over 10% for most of this period and reached 19% in 1860, 13% in 1890, and 15% in 1910. There was apparently one low point in the 1880's.

In Victoria, the dramatic fall in female numbers began around the turn of the century, but in South Australia there was no decline apparent until immediately after the First World War. In 1919 there were 27 women in South Australian prisons, comprising 13% of prisoners, but by 1926 this had fallen to 5 prisoners, making up 2% of the prisoner population.
As in Victoria, female numbers stayed low for an extended period after the end of the First World War. Throughout the 40 years from 1920 to 1960, the number of women in South Australian prisons rarely exceeded 15 or 3% of the total prisoner population. With so much year to year variability, it is difficult to fix on any specific low point, although it's worth noting that in the war years of 1940 and 1941 there was a daily average of only 4 women prisoners in South Australia. It will be recalled that female numbers in Victoria showed a small peak at around the same time.

Female prisoner numbers in South Australia rose to over 30 in the late 60's, to 40 by 1970 and then fell back briefly to the mid-20's between 1976 and 1983. The increase in numbers was not quite as consistent as in Victoria (low numbers again), but the rate of increase was just as spectacular. From the low point of 23 in 1983, the number of women in South Australian prisons exceeded 40 by 1990 and has been generally over 60 for most of the last decade, with a peak of around 80 in 1998. Unlike Victoria, female prisoner numbers in SA appear to have been stable for the last two years.

*Volatility in female prisoner numbers: comparing male and female trends*

At least some of the changes evident in female prisoner numbers over the periods we have considered were also evident in male prisoners. There was a general fall in imprisonment rates across most Australian states in the period after 1870, reaching a minimum around 1920. The total rate of imprisonment in Victoria halved between 1870 and 1900, and halved again between 1900 and 1920, and similar trends were also evident in South Australia. In the same way, every Australian jurisdiction has experienced a sustained rise in prisoner numbers since the late 1970's.

A basic question in accounting for changing female rates of imprisonment is thus whether the rises and falls in female prisoner numbers are simply a reflection of the changing patterns of male imprisonment. Do female prisoner numbers rise when male numbers rise and fall when male numbers fall, or do they show distinctly different patterns?

One way to answer this question is to compare the percentage change in male and female numbers over the same periods. The next slide shows the percentage change in male and female prisoner numbers over successive decades for Victoria. A rise in numbers is indicated by a positive percentage, and a fall by a negative percentage.

It is readily apparent that over significant periods there is little or no relationship between changes in male and female numbers. During the decade of the 1920’s, male prisoner numbers in Victoria rose by 20% while female numbers fell by 49%. In the next two decades, male prisoner numbers rose (by 47%) then fell (by 15%) while female remained essentially steady. Conversely, in the 1980’s male numbers were steady while female numbers rose by 89%. In South Australia the same pattern (or lack thereof) is apparent: female numbers may rise when male numbers fall (as in the decade of 1910-1919) or fall when male numbers rise (as in the decade 1930-39).
Explaining trends in female imprisonment: 1860-1920

It is evident from this examination of long-term trends in female imprisonment that there are several factors that determine the size of the female prisoner population.

The imprisonment boom of the mid-nineteenth century accompanied the gold rush and may partly be explained by the changes in the composition of the population that were the direct result of the influx of miners. In 1854, there were 188 males for every 100 females, and more than half the population was aged between 20 and 44 years. By 1881 the masculinity ratio was down to 110 males for every 100 females and it was not until the early 1900s that the gender balance was equalised. The following table indicates the changing proportion of the sexes in the population.

The high rate of pre-1900 female imprisonment probably stems largely from the relatively undiscriminating use of prison sentences that gave rise to high overall imprisonment rates. As previously noted, women’s involvement in criminality is relatively greater for minor offences. Where imprisonment is a common penalty for minor offences, the consequence is likely to be a proportionately larger female prisoner population. Prior to 1900, prisons were also more commonly used to house debtors, habitual drunkards and the mentally ill, and in all of these categories the representation of women is more equal to that of men (Finnane 1997: 88). The fall in both male and female rates of imprisonment after 1900 reflects the increasingly discriminate use of imprisonment.

The low imprisonment rates of women during the period between 1920 and 1970 is more difficult to explain. This would seem to be an interesting empirical puzzle. If we want to understand the nature of imprisonment, the causes of low imprisonment rates should be of as much interest as the factors that bring about high rates. However, as far as I am aware no-one has undertaken any systematic statistical analysis of female imprisonment over this period.

Of more immediate concern are the causes of the sustained increase in female imprisonment over the past twenty years, and the remainder of this paper focuses on this issue.

There are three hypotheses that can be considered:

The first is that this increase is driven by changes in women’s patterns of offending – specifically that women’s offending has become generally more serious (that is more like men’s pattern of offending). More serious offences lead to more and longer prison sentences.
The second hypothesis is that the propensity for women to re-offend has increased. This doesn’t require that women’s offending has changed in its nature so much as its frequency. Women presenting in court as recidivist offenders will be more likely to receive a term of imprisonment, even if the severity of their offending has not changed.

The third hypothesis is that changes in sentencing policy have lead to women receiving longer terms of imprisonment, or serving longer for any given term of imprisonment. This hypothesis also needs to account for the differential effect on women of changes in sentencing policy.

The analysis that follows cannot provide any definitive answer to any of these hypotheses, but it does shed some light on what the likely suspects might be.

This slide shows the most serious offence patterns for men and women prisoners across Australia at the time of the 1987 prisoner census – the blue bars show the proportion of males in prison for each of ten broad offence groups and the maroon bars are females. The most striking feature of this figure is the difference between male and female offending patterns. Males were significantly more likely to be serving a term of imprisonment for assault, sexual assault, robbery, break and enter and driving offences. Females were more likely to be in prison for fraud, other property offences, justice procedure offences and trafficking drugs. Homicide is the only offence group where there isn’t an obvious difference.

The next slide shows the same breakdown for prisoners at the 1999 census. Most of the sex differences in offending are still apparent, but there have been some notable changes. In particular, the proportion of women in prison for assault is now almost the same as that of men. We can see the changes between 1987 and 1999 more clearly in the next slide.

This slide shows the percentage change in the proportion of men and women prisoners across each of the offence groups between 1987 and 1999 – men in light blue bars, women in orange. The sharp rise in assault for women can be seen, as can a similar rise in sexual assault – albeit off a very low base. Generally, the proportion of both male and female prisoners convicted of property offences is down. Another significant change is the rise in males and females convicted of justice procedure offences – these are usually breaches of other court orders but may also include breaches of parole.

This rise in the proportion of women serving prison sentences for justice procedure offences suggests that there may have been a general change in the extent of recidivist offending leading to imprisonment. Another perspective on this is provided by the re-imprisonment rates available from the prisoner censuses. The next slide shows the proportion of male and female prisoners at each census who had previously been in prison.

This provides some confirmation that there has been a general change in re-offending rates by women. While male rate have not changed significantly in the nearly 20 years that of these censuses – remaining in the band between 56 and 63%, female re-imprisonment rates appear to have slowly risen from around 48% in the early 1980’s to around 53% in the late 1990’s.

So, it would appear that there is some evidence to support at least two of the hypotheses outlined earlier – that the severity of women’s offending has increased, and that the extent of re-offending has increased. The final hypothesis – that of changes in sentencing policy – cannot readily be dealt with in the time available here.