

Research Paper

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Prison as a place of safety for women with complex mental health needs

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Executive Summary

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Background

- Prison is not defined as a place of safety within the Mental Health Act nor defined as such within any other legislation.
- The Bail Act 1976 suggests that bail can be denied and a person can be imprisoned for “own protection” however it is not clear if this is to prevent them from harming themselves or from others harming them. The clear distinction only appears to exist within the Act for young people. Some advice has been provided by the Law Commission however this leads to a suggestion it should only be used if detention provides “real “ protection against that risk, prison is unlikely to ever be able to provide a level of protection that a hospital could.
- A number of high profile reports produced by Baroness Corston, Lord Bradley and Her Majesty’s Inspector of Prisons have all raised concerns at the use of prison for those who are suffering from mental illness.
- Women who are held in custody and are in need of a hospital bed will often wait significantly longer to be placed in a mental health unit than a person in the community would who required a bed.
- Women in prison are more likely than men to have mental health needs.
- Prisons are not hospitals and not equipped to deal with women suffering from complex mental health needs.
- There is a well-documented lack of hospital beds for those requiring assessment or admission under the Mental Health Act.

Research Aims and Objectives:

Aims:

- To establish how many women with complex mental health needs, over one year within the North East Area have been imprisoned for their own protection. This includes seeking to define “own protection” and what a place of safety is.
- To examine the processes adopted by the Police and Courts in the identification of women who have complex mental health needs and what happens if a need is identified.
- Explore the levels of knowledge and understanding these agencies have about what prison is and what it is able to provide.
- To identify any other options that may be available to the courts to divert these women from custody and any barriers to this.

Objectives:

- To establish a profile of female offenders who have been imprisoned to “keep them safe” identifying their needs, difficulties and subsequent issues.
- To make a qualitative evaluation of the processes adopted by, and the perceptions external agencies have, about prison and how they believe that this is the best place for someone to keep them safe.
- To consider other options for women in these circumstances.
- To discuss the advantages and disadvantages in diverting these women from custody.

Methodology

- A qualitative approach was adopted to obtain data. Field research consisted of semi-structured interviews with prison and police staff and a round table event with a number of representatives from the judiciary, specialist practitioners and researchers.
- A number of warrants were examined to identify the level at which remand for own protection was used at a female establishment in the North East of England.

Key Findings

Police Interview Findings

- A key feature emerging from the interviews with the police related to the lack of training they receive in mental health and the identification of mental health and the desire to receive more of this training to support them in the delivery of their role.
- An issue raised during all interviews was that not everyone who is held in police custody is seen by a medical professional. Interviewees stated that this is something which is left to the discretion of a custody sergeant who has no training to identify and refer the woman on.
- If the custody sergeant does refer to a doctor for an assessment there is no guarantee that the doctor will be trained in identification of mental illness.
- A direct correlation was made between a push to not to use police cells as a place of safety for mental health assessments and an increase in those being remanded for own protection.
- Women are offered legal representation but not encouraged to take it.

Court Staff focus Group Findings

- Magistrates clearly felt uncomfortable in sending women to prison for their own protection.
- Some magistrates may have a misunderstanding about what may be available to a woman with mental health problems in custody.
- A number of concerns relating to lack of understanding of informal hospital admissions and how these can and could be used by the courts.
- Concern regarding the process and the time it takes to secure a bed for a woman in custody and how this is not on par with those in the community.
- Magistrates rarely make visits to prison.
- Interviewees reported that of the women who have been presented before them for which they may have had concerns there was a lack of legal representation.

Prison Staff Interview Findings

- The lack of information prisons believe they receive from the court and police in relation to the mental health of prisoners.
- Training in mental health is lacking.
- Many lacked in confidence when dealing with women who have complex mental health needs.
- All respondents stated that prison was not a place of safety.
- Prison staff reported concerns about the affect this has on the staff within the prison.
- Participants agreed that the prevalence of mental health problems within the women's prison was high and they felt it was increasing.
- A direct link between the closure of mental health hospitals and an increase in women with complex mental health problems finding themselves in prison was made.

- One participant reported feelings of the system having failed a woman who took her own life in custody whilst waiting for a bed to be secured.
- Interviewees reported feelings of helplessness and vulnerability in dealing with women with complex mental health needs.

Conclusions and Recommendations: This study uniquely demonstrates the views of criminal justice professionals who are involved in the processes by which women are remanded into custody for their 'own protection' and it demonstrates where some of the difficulties with these processes emerge. The report acknowledges the difficulties those working in the criminal justice system have when working with female offenders and that those involved are striving to do their best in the circumstances. There appears to be a real sense of frustration at every level in terms of what can be done for women.

Recommendation 1: Review the Bail Act 1976 and provide guidance for courts in its application

Parliament should review the Bail Act 1976. This is now an old piece of legislation that is in need of review or clarification. Guidance should be published by the Law Commission for court staff with regards the use of and meaning of "own protection" contained within the Act

Recommendation 2: Full evaluation of the progress made in implementing the recommendations contained within the Corston Report and Lord Bradley's report.

The Ministry of Justice should conduct a review and honest assessment of the current success in the implementation of the recommendations contained in both Lord Bradley's report and Baroness Corston's report.

Recommendation 3: All women who are taken into police custody should have a full mental health assessment carried out by a qualified and competent practitioner.

It is known that women who come into contact with the criminal justice system have a far higher likelihood of mental illness than men or women in the community. As such the Home Office should ensure that all women who are taken into police custody have a full mental health assessment by a qualified practitioner.

Recommendation 4: All women taken into police custody should be automatically given legal representation even if they do not request it.

The police cannot require a person to obtain legal advice if they do not wish to do so however given all of those interviewed identified women as being vulnerable and more likely to have mental illness a duty solicitor should be automatically provided for all women who are taken in to police custody.

Recommendation 5: More training for all staff within the criminal justice system in relation to mental health and prison.

The police, court and prison staff are asked to do a very difficult task with limited training. The Home Office should ensure police custody teams are trained in mental health awareness. The Ministry of Justice should raise awareness of prison and what it can offer (and, crucially, what it cannot) to those working within the courts. The National Offender Management Service should provide mental health training to staff working within prisons and make it a mandatory requirement to repeat this training regularly.

In conclusion this report has corroborated existing evidence that had suggested that prisons are being used as a place of safety for women who have complex mental health needs. The true scale of this problem on a national level is unknown.

ENDS