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Gender, social enquiry reports, and social work disposals

Geraldine Gallagher

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Department of Applied Social Science

University of Stirling

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Declaration

I declare that none of the work contained within this thesis has been submitted for any other degree at any other university. The contents found herein have been composed by the candidate, Geraldine Gallagher.

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Abstract

Throughout the nineties a range of factors, not least the series of suicides at Cornton Vale women's prison, highlighted concerns about how the criminal justice system deals with female offenders in Scotland. There has been a review of community-based disposals and the use of custody for women (Scottish Office, 1998a), an Inspection of Cornton Vale was conducted (HMI, 2001), and a Ministerial Group on Women's Offending was set up (Scottish Executive, 2002a). Despite this concern the numbers of female offenders being sentenced to custody has continued to rise.

This study sought to examine the nature of criminal justice social work services delivered to female offenders and the way in which ideological and policy shifts have impacted on it. Differences relating to gender, with regard to both practitioners and clients, within the context of criminal justice social work in Scotland, were considered. This included a consideration of the impact of the policy shift from the "welfare" to the "justice" model. Thirty-five interviews were conducted with criminal justice social work staff and material was drawn from 420 Social Enquiry Reports. The study examined practices and policies which relate to how women are supervised, how these relate to the presentation of information in social enquiry reports, and in turn how this may relate to the final court disposal imposed.

A discrepancy between policy and practice was identified in that the latter draws on the "welfare" model more than is endorsed by formal policy. This greater emphasis on the "welfare" model applies to work with female offenders in particular. There were concerns amongst criminal justice social work staff that such a difference in approach might be discriminatory. A new "welfare" model of supervision appears to have been adopted in the

supervision of female offenders. This model emphasised the importance of the working relationship, between supervisor and client, within which women offenders should be allowed scope for negotiation.

Information on female offenders derived from both interviews with criminal justice staff and the data obtained from SERs is used to review social control theory (Hirschi, 1969), as it exists, as an explanation of female offending. Carlen's study (1988) of female offenders suggested that integral to their involvement in offending was a rejection of the controls to which they are subjected and of their gender roles. By contrast the profile of women offenders as identified in this study suggests that women are offending partly in an endeavour to conform to, or at least cope with, their gender roles.

Female offenders were reported as having experienced greater adversity and this appears to have elicited a protective response from social workers. This protection began in women's childhoods and is evident in their treatment as adults. The organisation of community service is considered by female social workers to have an inherent gender bias which renders it less suitable for female offenders. These concerns appear to have foundation in terms of an apparent gender bias in the operation of community service schemes.

Female offenders sentenced to community service were more likely to have had their SERs compiled by male SER writers, while female offenders sentenced to probation were more likely to have their SERs compiled by female SER writers. Female social workers specifically appear to adopt a stronger welfare orientation when compiling reports on female offenders apparently motivated by an inclination to protect. This has implications for gender specific allocation of work. The effect is not protection if reports are undermining community service as a possible alternative to custody for women, as appears to be the case when the SER writer is female.

Chapter 1

Introduction

This research considers the impact of the recent policy shifts within criminal justice social work on services to female offenders. Taking into account characteristics and experiences of male and female offenders, the way in which criminal justice social work practice in relation to both supervision (of community service and probation) and report writing, is responding to female offenders in particular, is explored. Aspects of report writing associated with the different outcomes of community service, probation and custody are examined and this will take into account the gender of the report writer. The data in this study have been gathered from Local Authority Social Work Departments in Scotland so there is an emphasis on the Scottish context in relation to criminal justice social work practice.

A series of suicides at Cornton Vale women's prison in Scotland, beginning in 1995, sparked discussion on and interest in female offenders within the sphere of criminal justice. This contributed to a major review, conducted by the Prisons and Social Work Inspectorates for Scotland, of community disposals in Scotland and the use of custody for female offenders. The resulting report, "A Safer Way", noted that "the backgrounds of women in prison are characterised by experiences of abuse, drug misuse, poor educational attainment, poverty, psychological distress and self harm" (Scottish Office, 1998a: 13). The review recommended that the imprisonment of women should be kept to a minimum.

A subsequent Inspectorate of Prisons Report on Cornton Vale (HMI, 2001) reached similar conclusions judging that incarceration was unlikely to resolve the difficulties experienced by women. It supported the development of credible alternatives to custody for female offenders across Scotland. Likewise, The Report of the Ministerial Group on Women's Offending, "A Better Way" (2002a), concluded that "the present system for dealing with women offenders is not

working effectively ... It returns women to the community, after release, to face the same or worse problems than those, which led them to offend” (Scottish Executive, 2002a: 41).

This apparent growing awareness of the problems experienced by female offenders has not deterred sentencers from imprisoning them. Although from the mid-nineties the percentage use of custody (as a percentage of custody, community service orders and probation orders) has gone down for female adults (i.e. age 21 and over), for female offenders under 21 the percentage use of custody almost doubled between 1997 and 2001 (from 22 % to 40 %, although it fell again to 30% in 2002) (Scottish Executive, 2004a: 12). Despite the percentage use of custody for adult female offenders going down, in absolute terms there was an increase in the female prison population in the nineties in that the average daily female prison population has steadily increased (Scottish Executive, 2002b: 3). The increase in the female prison population observed in the nineties has continued (Scottish Executive, 2004b: 3). Between 2001 and 2003 the average daily female prison population increased from 203 to 297 (Scottish Executive 2002a, Scottish Executive 2004b). Such increases in the average female daily prison population correspond to increases in the number of directly sentenced receptions therefore reflect a continued increase in sentencing of female offenders to custody (Scottish Executive, 2002b: 4). The female prison population is increasing at a faster rate than the male prison population (Scottish Executive, 2002a).

The overall average daily Scottish prison population for the year 2003 was higher than ever previously recorded (Scottish Executive, 2004b: 3), yet disposals of probation and community service, which are at least potentially alternatives to custody, are increasing (Scottish Executive, 2004a: 1). This increase appears to be at the expense of fines rather than custody (Scottish Executive, 2004a: 1). Those directly sentenced, rather than those fined or remanded, comprise the vast majority of the Scottish prison population (Scottish Executive, 2004b: 5).

The “What Works” debate and the shift from the “Welfare” to the “Justice” model

Prior to the aforementioned inspections and reviews there had been developments in criminal justice social work practice which had fundamental implications for service provision. The Social Work (Scotland) Act 1968, influenced by the Kilbrandon report (Kilbrandon Committee, 1964), had placed an onus on Social Work Departments to promote the social welfare of individuals. Section 27 of this Act laid down provision for the supervision of offenders. The model of social work practice with offenders which evolved from the 1968 Act became known as the “Welfare” model. Paterson and Tombs describe this model of practice as one which “involved a focus on individual welfare as the primary concern and offending behaviour as a secondary issue” (Paterson and Tombs, 1998: xii).

Not long after the implementation of the Social Work (Scotland) Act 1968 there emerged a growing despondency about the effectiveness of work with offenders in terms of reducing offending (McGuire and Priestley, 1995). Emerging from such pessimism was Martinson’s article “What Works”? Questions and Answers About Prison Reform” (Martinson, 1974). In this article, Martinson discussed a review of 231 studies evaluating the effectiveness of rehabilitation programmes, conducted between 1945/1967. Despite the studies being dated and focussing primarily on prison-based interventions Martinson’s overall findings have informed and influenced debates on community supervision since his article was published. Martinson asserted “*With few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism*” (Martinson, 1974: 25, emphasis in original).

Critics of the welfare approach, which encompassed the concept of rehabilitation, then drew on Martinson’s work in order to justify abandoning it. However Martinson later criticised the methodology employed in his original study. He rejected his original conclusion and made a more tentative claim on the viability of attempts at rehabilitation:

And, contrary to my previous position, some treatment programs *do* have an appreciable effect on recidivism. Some programs are indeed beneficial ... some programs are harmful. (Martinson, 1979: 244, emphasis in original)

More attention was given to Martinson's original claim than to his subsequent retractions. His original claim had a profound influence on the debates at the time. Following on from this a "what works"¹ debate emerged which Mair (2004) described as a reaction to Martinson's supposed claim that nothing works. During the late eighties and early nineties Martinson's 'claims' were challenged by a number of critics (McGuire and Priestley 1985, Thornton 1987, Walker 1983). In the intervening period the statistical tool of meta-analysis became available. This allows for findings from a variety of different studies to be aggregated, permitting analysis on a markedly larger scale than had previously been feasible. However, meta-analysis has been criticised for its exclusion of small scale and qualitative studies and for its overreliance on recidivism rates as a measure of success (Kendall 2002, Mair 2004).

Throughout the eighties there was a revival of interest in rehabilitation. Andrews, Zinger, Hoge, Bonta, Gendreau and Cullen (1990) were amongst those who endorsed rehabilitation. Drawing on their research they endorsed three psychological principles to be applied to offender rehabilitation:

¹ "What works" is the term used to refer to the question of effectiveness of intervention with offenders.

- *delivery of service to higher risk cases,*
- *targeting of criminogenic needs²*
- *and use of styles and modes of treatment (e.g. cognitive and behavioural) that are matched with client need and learning styles.*

(Andrews *et al*, 1990: 369, emphasis in original)

The wider “what works’ discussion produced a further 3 principles which have been outlined by McGuire and Priestley (1995) and are summarised as follows:

- **responsivity** - learning styles of clients are matched to workers and programmes; intervention utilises participatory methods.
- **community-based** - services are delivered locally to offenders.
- **programme integrity** - clear aims and objectives, services delivered as planned by trained staff, systematic monitoring and evaluation of delivery and outcomes.

These 6 principles were widely assimilated into criminal justice practice and became known as “principles for effective practice”. They clearly focus on the content of intervention but a number of researchers (Dominelli 1996, Douglas 1997, Trotter 1999) have given greater emphasis to the relationship between the worker and the client on the basis that it is the medium in which change will take place. As will be discussed in Chapter 8 this appears to be particularly significant for female offenders. The “Justice model” grew out of this “what works” discussion. Chapters 7 and 8 will consider, using data from this study, the nature and impact of this ‘shift’ from the welfare to the justice models. The justice model, sometimes referred to as the responsibility model, places greater emphasis than did the welfare model, on addressing offending behaviour.

² The “what works” literature differentiates criminogenic needs, as ones which directly support offending behaviour, from non-criminogenic needs which may not necessarily support or contribute to offending behaviour.

However, the “what works” agenda is open to the criticism that it is biased with regard to gender as the underlying research tends to be based on male offenders. A clear example of gender bias being able to dictate the nature of intervention is illustrated in a study by Dowden and Andrews (1999). The authors used meta-analysis to gauge the significance of the principles of effective correctional treatment for female offenders. Their paper begins by asking: “What Works for Female Offenders?” The researchers then conclude: “*results indicated that the clinically relevant and psychologically informed principles of human service, risk, need, and responsivity identified in past meta-analytic reviews were associated with enhanced reductions in reoffending*” (Dowden and Andrews, 1999: 438, emphasis in original). This conclusion could safely be interpreted as answering the opening question with “The same as what works for men”. Although these principles were validated as effective in this meta-analysis, there may be principles which were not investigated which would be more effective for women offenders. Dowden and Andrews (1999) were willing only to concede that: “[they] did not examine whether making the treatment program more responsive to the specific learning styles of women offenders (i.e. relationship- oriented treatment) had any impact on recidivism” (Dowden and Andrews, 1999: 450). This thesis will argue that such failure to recognise gender differences has profound implications for the relevance of services to female offenders. As discussed further in Chapter 7, the direction of policy shifts had particular implications in Scotland where there is a strong socialist tradition (McAra, 1999).

The justice model embraced the concept of rational choice as an explanation for offending behaviour. Clarke (1980) advocated the idea of offending being attributable to rational choices and decisions on the part of the offender. He offered this position in support of measures of ‘situational’ crime prevention (such as the use of CCTV cameras), arguing that a theoretical emphasis on offenders’ choices and decisions presented a realistic approach to crime prevention. Rational choice theory, originally borrowed from economics, has its roots in the nineteenth century when explanations of crime became bound up with a new economy, as explained by Garland:

The twin doctrines of individual responsibility and presumed rationality formed the basis for the judicial findings of guilt - since in free-market society the criminal actor, like his economic counterpart, was deemed to be in absolute control of his destiny ... Illegality, like poverty, was an effect of individual choice. (Garland, 1985: 17)

Sciulli explains one of the assumptions of rational choice theory:

The ... assumption is that individual actors typically are dedicated to maximising their own private “wealth”, or whatever happens to interest them subjectively. Rarely if ever can they be relied on to contribute to any purported group good. (Sciulli, 1992: 162)

Also writing on this area in the nineteenth century was Nietzsche, who argued against the concept of “free will”. He held that:

Wherever responsibilities are sought, it is usually the instinct for *wanting to punish and judge* that is doing the searching ... the doctrine of the will was fabricated essentially for the purpose of punishment, i.e. of *wanting to find guilty* ... People were thought of as ‘free’ so that they could be judged and punished - so that they could become *guilty*. (Nietzsche, 1998: 31, emphasis in original)

By contrast the feminist psychologist Gilligan (1982) identified that the female moral code is contextual and dependent on women’s relations with others. Gilligan argued that while men tended to be guided by an ethic of justice women’s moral reasoning was more complex:

The sequence of women’s moral judgement proceeds from an initial concern with survival to a focus on goodness and finally to a reflective understanding of care”. (Gilligan, 1982: 105)

The principles of individual choice, responsibility and accountability underlying rational choice theory encompassed by the justice model also fitted in with the “neo-liberal agenda” (Drakeford and Vanstone, 2000: 370). The commitment to individualism “is introduced as a commitment to *self-determination*. Behind this idea is a conception of each person having the potential at least to be independent of others, rational and the best judge of their own interests”(Caddick and Watson, 2001: 57, emphasis in original). Such an ideological framework allows for rational choice theory to be presented as empowering clients in that involvement in offending is a lifestyle choice, within an individual’s control. It has been argued (Jones, Mordecai, Rutter and Thomas, 1991) that it is only the offending behaviour that warrants intervention in offenders’ lives and that to intrude upon other aspects of clients’ lives is an abuse of authority. Worrall describes such an approach:

What needs to be changed are particular pieces of unacceptable behaviour - no more and no less. And ironically this is seen as being less intrusive, more respectful of the offender ‘as a whole person’. (Worrall, 1997: 101)

The re-emergence of rational choice theory in the eighties may have been, as Smith argues, “a reaction to the apparent failure of criminology ... to identify the causes of crime” (Smith, 1995: 67). Coinciding with the assimilation of rational choice theory into criminal justice practice and policy, cognitive behavioural methods were endorsed by the emerging “what works” agenda and were imported into criminal justice practice. Covington and Bloom (1999) have criticised the current dominant theory of programme development of cognitive psychology where emphasis is on the individual and their thought processes:

The human brain is seen as an information processing mechanism much like a computer. Relationships between people do not play any fundamental part in how humans know anything. (Covington and Bloom, 1999: 6)

The narrow focus of the “what works” principles, with its concomitant emphasis on cognitive behavioural methods of intervention, can overlook the range of factors contributing to offending. Addressing offenders’ cognitive deficits, which ostensibly support offending, could be interpreted as a contradiction of the premise that behaviour is determined by rational choice. If an individual’s cognitive processes are defunct, to a greater or lesser extent, then it could be argued he/she is thereby rendered unfit to make a rational choice. Historically the probation service had been required to “advise, assist and befriend” in accordance with The Probation of Offenders Act 1907, however the present climate in terms of the ‘principles for effective practice’ with their narrower focus on offending behaviour has significantly moved away from this (Worrall, 1997). This thesis will consider the relevance of this focus on offending behaviour for women offenders.

Wider policy context

Developments in criminal justice policy and practice in Scotland occurred, particularly throughout the nineties, in the context of a growing managerialist culture. McLaughlin and Muncie define managerialism within criminal justice as:

A set of techniques and practices which aim to fracture and realign relations of power within the criminal justice system in order to transform the structures and reorganise the processes for both funding and delivering ‘criminal justice’. (McLaughlin and Muncie, 2001: 169)

Nellis (2001), adopting a more polemical tone, describes managerialism as “ an ideology of total, finely calibrated control” (Nellis, 2001: 33), while Hearn claims that managerialism was called upon to “solve the problems of financial stringency” (Hearn, 2000: 2). Developments in criminal

justice policy and practice cannot be separated from, and are inevitably influenced by, the managerialist culture in which they took place. Nellis (2001) has concerns about this influence:

Managerialism ... may adversely affect the ethics of criminal justice in general ... It fosters a culture of control ... it minionises staff, and objectifies offenders in ways that make it easier to perceive them as 'categories' and types, and then manipulate them, as 'risks' rather than as rounded, complex people ... The ... relentless pursuit of measurable effectiveness generates an audit culture ... which may well deplete the resourcefulness and personal commitment that undoubtedly made some community penalties a success in the past. (Nellis, 2001: 33)

Clearly, though, Nellis is not specifically addressing the Scottish system. His professional background is related more closely to the probation system in England and Wales which, as will be acknowledged in this thesis, has evolved differently from criminal justice social work services in Scotland. In contrast to Nellis's view McAra (1999) contends that managerialist principles have advanced welfare aims:

... welfarism continues to play a dominant role within the Scottish penal system and ... the recent growth of managerialism, rather than precipitating an eclipse of welfarism, has served instead to facilitate the development and implementation of effective rehabilitative strategies. (McAra, 1999: 361-362)

The managerialist influence may also account for changes in social work training involving the development of a competency-based approach. The term "competency" is described by Dominelli as: "a set of highly technical, decontextualised practice skills which can be ... carried out by personnel trained to a specified level" (Dominelli, 1996: 163). Whichever perspective is taken managerialism did bring with it a greater emphasis on effectiveness and accreditation.

The National Objectives and Standards for Social Work Services in the Criminal Justice System introduced in 1991 emerged within this managerial context. Their introduction, coinciding with the provision of central government funding, represented a major turning point for criminal justice social work services in Scotland. As will be discussed later in this thesis, part of the impetus behind the introduction to the National Standards was related to improving the quality of service provision within criminal justice social work. The introduction of the National Standards marked the aforementioned ideological change away from the welfare to the justice model.

Key policy changes incorporated within the National Standards supported an increase in the use of community-based sentences as alternatives to custody. The Scottish Office had been increasingly concerned at the rising custody rates in Scotland and the associated prison unrest (Rifkind, 1989) and proposed to reduce custody rates through encouraging the use of a range of measures as alternatives to imprisonment (Paterson and Tombs, 1998: vi). Community-based sentences were considered to offer more opportunity for offenders to maintain their links with the community and to make some reparation for their offence (Rifkind, 1989). The National Standards constituted a framework of accountability by providing detailed guidelines and established a benchmark against which satisfactory practice could be measured. McIvor (1994) argued that the Standards had the potential to serve as a framework for “imaginative practice”.

Gender specific allocation

A more grassroots/informal policy, related to service provision for female offenders, of which the researcher as a former criminal justice social worker was aware, was that of allocation of female clients to female social workers, particularly in terms of supervision. Although there were critics offering subjective opinions in relation to the importance of the gender of the worker (Jones *et al* 1991, Mistry 1989) there was little empirical research to support their recommendations. Empirical

studies (Horn and Evans 2000, Nash 1995), albeit focussing on the compilation of SERs, suggested that female offenders may not be advantaged by being allocated a female worker. Wright and Kemshall (1994), on the other hand, found on the basis of a small scale qualitative study that 7 out of a sample of 10 women subject to probation supervision had expressed a preference for a female social worker. Given such potentially conflicting research findings this study has examined this issue further. Any discussion of gender specific allocation relates to wider debates about equality.

Equality

The underpinning philosophy of the criminal justice system is that equal treatment entails treating individuals as though they are in fact equal. Eaton argues that despite allegedly being committed to this form of 'equal treatment' the courts and other aspects of the criminal justice system in their practices convey their commitment to inequality in terms of collusion with, and reinforcement of, prescribed gender roles (Eaton, 1986). Hudson (2002) and Eaton (1986) have focussed on the inadequacies of such 'equal treatment' in that it does not take account of the disadvantages previously experienced by some individuals who are appearing in court. Carlen elaborates on how this particular perception of equality has impacted on women being sentenced:

... there was a growth in punitiveness towards single mothers and an increasing number of sentencers who argued that if women wanted equality with men they should equally expect to receive equality of punishment with men when they broke the law.

(Carlen, 2002a: 228)

More punitive responses to female offenders could be interpreted as an anti-feminist backlash. The liberation hypothesis, discussed in more detail in Chapter 2, is not unrelated to this phenomenon as it attributes a presumed increase in female crime to a growing equality between the sexes.

While models of intervention available to female offenders are restricted by the offender stereotype, which is a male one, equally stereotypes of female offenders still abound and serve to pigeonhole female clients in the criminal justice system. Worrall refers to the tacit agreement of a 'gender contract' with which, she argues, the majority of women collude. Worrall defines this as a concept which:

... routinely offers the female offender the opportunity to neutralise the effects of her lawbreaking activity by permitting her life to be described or represented primarily in terms of its domestic, sexual and pathological dimensions. (Worrall, 1989: 79)

Worrall argues that those women who do not fit into this stereotype are at greater risk of custody. They are not accommodated within the existing ideological framework and "consequently, they are both neglected by, and elude the controlling influence of, the gender contract in subtle ways" (Worrall, 1989: 79). This thesis will explore the ways in which social workers are wrestling with ideas of equality.

Routes into offending lifestyles

Aside from analysis of the relevance and impact of policy shifts, and of the ideology informing such shifts, on female offenders in particular, this thesis considers women's routes into offending lifestyles and the implications for the theoretical understanding of female offending behaviour. Foucault (1977) located the family as a site of patriarchal control and identified family relations as relations of domination. Subsequently, critics (Chesney-Lind and Sheldon 1998, Dobash, Dobash and Gutteridge 1986, Eaton 1986, Smart and Smart 1978) have argued that responses to female "criminals" and their treatment within the criminal justice process are geared towards supporting a patriarchal culture, and not only the sanctity of the family unit but the control it wields over those within it. Such a perspective holds that women's behaviour is policed and criminalized in an effort

to impose more extreme forms of social control than on their male counterparts. It has been argued (Carlen, 1988) that often women's attempts to reject the social control they are subjected to, even if indirectly in terms of their ascribed roles within the family unit, are instrumental in drawing them into the prison system or the criminal justice system more generally. This thesis will examine the relevance of social control theory to understanding why women offend.

Chesney-Lind (1997) argues that there are generally fundamental differences between male and female offenders. She considers that women's routes into a criminal lifestyle and their subsequent imprisonment are not unrelated to their troubled family backgrounds. The tendency for girls to be drawn into the 'care' system 'for their own protection' has been widely recognised (Blom and Van den Berg 1989, Hudson 1989, Kersten 1989). Such care/protection can in effect be another mechanism for controlling female behaviour generally and sometimes, more specifically, their sexual behaviour (Chesney-Lind and Shelden, 1998). There is irony in these efforts given what is known about the backgrounds of female offenders as victims of abuse, particularly sexual abuse (Chesney-Lind 1997, Dembo, Williams and Schmeidler 1993, Farr 2000, Liebling 1995). As will be discussed in Chapter 2, traditional theorists have tended to sexualise female offenders. While this thesis will question the relevance of such 'theoretical insights' to understanding female offending, the prevalence of such theoretical explanations may account for the responses to females who 'offend' if not criminally, then socially.

Dembo *et al* argue "that female offenders tend to be from more troubled backgrounds than their male counterparts"(Dembo *et al*, 1993: 90). They drew on the concept of relative deviance to explain the patterns that they identified. Relative deviance suggests that "persons who are more deviant from the norms of their social and cultural setting tend to exhibit more serious behaviour problems and psychopathology" (Dembo *et al*, 1993: 90). This relates to the greater rarity and taboo of female offending. According to this argument, stronger influences may be required to elicit female offending behaviour. Aside from this different path which female offenders take into their

offending lifestyles, their higher levels of self harming behaviour in prison has been attributed to the peculiar experiences of confinement for females (Liebling, 1994).

In her longitudinal study of suicide and suicide attempts in prisons Liebling concluded that prisons were inadequately resourced to address the specific problems and vulnerabilities of women prisoners (Liebling, 1994: 5). She argued that a sub-group of male prisoners vulnerable to suicide could more readily be identified. This she explained was because of the pervasiveness throughout the entire female prison population of those factors which determine vulnerability, such as experience of domestic violence, sexual abuse or experience of local authority care for reasons other than offending (Liebling, 1994). The particular vulnerability of the female prison population lends weight to any argument in favour of maximising community-based disposals for female offenders. Gorsuch (1998), in her discussion of 'disturbed' female offenders, argues that women's opposition to authority may not be unrelated to their past experiences as victims of abuse and a consequential resentment of authority.

This thesis will explore the implications for supervision of female offenders with regard to their peculiar vulnerabilities and their different routes into offending lifestyles. It will also consider how one response to female offenders, which is to protect, often with benign intentions, can exacerbate the control to which female offenders are subjected. This study argues that the relationship between care, control and offending is especially important with female offenders, but not necessarily in the way suggested by existing theoretical explanations.

Origins of this research

As a former practitioner the researcher's approach to this study has been one which has endeavoured to intertwine theoretical knowledge with knowledge derived from practice, both the

researcher's and that of others. Accordingly the researcher subscribes to the view of Adams, Dominelli and Payne that:

There should be no segregation either between academic and practitioner perspectives. Viewing knowledge in a broader sense, as crossing personal, professional and disciplinary among many other boundaries, is difficult but worthwhile, since in the process intellectual and experiential knowledge – academic and practice wisdom – interact, sometimes very creatively. (Adams *et al*, 2002: xix)

The researcher's practice context had allowed for appreciation of the extent to which practitioners had difficulty with the policy shift from the welfare to the justice models of practice. It was apparent that the existing policy framework and available resources were inadequate for female offenders. Experience of attempting to engage with the reality of women's experiences and problems raised doubts about the usefulness of rational choice theory in accounting for female offending.

Prior to embarking on this research the researcher, in contrast to McAra's optimism (1999), considered that the effect of managerialism, including the introduction of National Standards, had possibly been to limit, constrain and overprescribe criminal justice practice particularly in terms of any attempt to retain a welfare oriented approach to service delivery. Over the course of this research, however, this position has been revised, particularly in terms of the effect of the managerialist context on the development of criminal justice social work provision for female offenders.

Years of participating in debate in a practice setting about the importance of the gender of the social worker in working with clients, particularly in relation to female offenders, had highlighted but not resolved the questions relating to gender specific allocation of work. In the context of the aforementioned and potentially conflicting research findings and drawing on practice experience,

the researcher had thought that the emphasis should not be placed so much on the gender of the worker as on the gender awareness of the social worker. As will be discussed, this position has also been revised.

Research questions

The aforementioned shifts in criminal justice policy resulted from, and contributed to, different ways of understanding offending behaviour. These differences are fundamental and were likely to impact differently on services to male and female offenders given, as will be discussed, their dissimilar routes into offending. This thesis aims to understand the nature and appropriateness of such impacts on the operation of community based disposals. The research aimed to examine factors which may influence the use of probation, community service, and custody, for female offenders. On the basis of previous research (Dickie 1995, Farrington and Morris 1983, McIvor 1998a, Warren 1995) it was considered that a range of factors could be relevant, including: the availability and nature of appropriate community-based services; social workers' commitment to promoting community-based alternatives to imprisonment for women, and the criteria drawn upon by social workers³ in recommending various disposals to the court. The research presented in this thesis has been designed to investigate the following research questions:

- How do the characteristics and experiences of male and female offenders sentenced to either probation, community service or custody compare?
- How does the court's use of probation, community service and custody compare between male and female offenders?
- Is gender specific allocation of reports taking place and if so what are the effects?

³ Throughout this and subsequent chapters the thesis will refer to either social workers or SER writers. This is in reference to the same people, the most appropriate term being used according to the context of the discussion.

- What are social workers' views on the nature and appropriateness of supervision available to male and female offenders, in terms of the content of community service and probation, and how does this influence their report writing practice?
- How is the concept of equality being integrated into practice?
- What have been the consequences for female offenders, in particular, of the policy shift from the welfare to the justice model, and what is the relationship between this formal policy and its implementation?

Plan of the thesis

Chapter 2 considers existing theoretical explanations of women's offending. It demonstrates the inadequacy of much of this theoretical framework in terms of providing insight into understanding female offending. Chapter 3 discusses the methodology employed in this study including the status of social enquiry reports as a source of data. The first findings chapter, Chapter 4, examines the characteristics and experiences of a sample of 420 offenders, as reported in their SERs. Chapter 5 examines background information and criminal history according to both gender and the disposal imposed by the court. Chapter 6 addresses the debates on gender specific allocation of SERs in criminal justice social work. Arguments and court outcomes are examined taking into account the gender of the SER writer. Chapters 7, 8 and 9 were based on interviews with criminal justice social work staff. Chapter 7 examines the relatively recent shift from the welfare to the justice model. Chapter 8 considers the nature of probation supervision and its relevance to female offenders. Chapter 9 focusses on gender and community service. Finally, the conclusion draws together the main arguments of the thesis and considers the implications of this study in terms of practice, policy, theory and research.

Chapter Two

Theoretical Explanations of Women's Offending

Introduction

In order to analyse and contextualise current policy and practice in relation to female offenders it is useful to consider the range of theoretical frameworks available that may inform them. Despite the presumed relationship between theory and practice (Hudson, 1989) much of the theoretical material on female offenders, appears to offer little insight into understanding female offending behaviour. For such reasons many of the existing theoretical perspectives are of limited usefulness in the development of policies and practices in respect of women who offend. Despite such inadequacies of much of this theoretical material it can be drawn upon to explain prevalent views and some aspects of practice.

The early theories employed to explain crime could be divided crudely into two broad categories. Firstly there are those which emphasise biological, physiological and/or psychological factors. Secondly there are those theories which focus on social/structural/cultural factors, although Smith (1995) has argued that more recently such distinctions in criminology are beginning to blur. The former category is more likely to dominate in explanations of female crime: "Female criminal activity is usually understood as an activity of individuals, with little attention paid to the social and cultural factors that may be significant"(Gora, 1982: 2). Yet it seems that the latter category of theories is more likely to include those, such as labelling theory and control theory, which have particular relevance to female offenders. As will be argued throughout this thesis, gendered perceptions of female offenders, possibly deriving from their small numbers within the criminal justice system, mean that political and cultural aspects have specific importance in understanding and explaining female crime.

Traditional theories

Lombroso, Thomas and Pollak have acquired the status of being the “founding fathers” of the study of women and crime. Given the inadequacy of their theoretical input in understanding female offenders this status seems unwarranted.

Lombroso

Lombroso was regarded as the leading positivist⁴ criminologist (Dobash *et al*, 1986). He advocated the idea of the “born criminal”. Lombroso collaborated with Ferrero and they both believed that criminals could be identified by their physical characteristics. They subscribed to the now discredited nineteenth century “science” of phrenology. Lombroso and Ferrero provided the following description in relation to their work on female offending: “The study of female criminology was undertaken ... with the help of 26 skulls and 5 skeletons of prostitutes” (Lombroso and Ferrero, 1959: 2 - 3). Certain “primitive traits” were taken to represent a criminal disposition. They argued that female offenders possessed masculine characteristics. Criminal women were generally considered to be darker and to have more hair than their law-abiding sisters. One implication of this is that masculinity is a sign of criminality, so it cuts both ways i.e. equally stereotypes both sexes. “Masculine” women are likely to offend because offending behaviour is a “natural” masculine trait.

Lombroso and Ferrero tended to sexualise female criminality as is evident in the following description of one subject who had been found guilty of infanticide:

⁴ Positivist criminology would adopt a traditional scientific method approach to analysing crime. It would attempt to identify causal variables to explain participation in criminal activity.

Physiognomy relatively good, in spite of the subject's licentious tendencies which age could not eradicate ... and the woman had the ... fleshy lips which betray a luxurious disposition. (Lombroso and Ferrero, 1959: 93)

They argue that traits common to female criminals, and especially exaggerated in female criminal lunatics, are that they show "an inversion of all the qualities which ... distinguish the normal woman; namely, reserve docility and sexual apathy" (Lombroso and Ferrero, 1959: 297). Clearly for Lombroso and Ferrero, normality is apathy and activity is pathologised, implying that the opposite of sexual apathy, sexual activity is a trait belonging to criminal women.

Thomas

Thomas, an American sociologist and anthropologist, built on Lombroso's theories. Thomas is generally disparaged by feminist critics (Gora 1982, Heidensohn 1985) as a positivist. Like Lombroso he did lean towards biological arguments to a degree. Thomas held traditional expectations of women:

There is ... the devotion of the mother to the child and the response of the child ... This relation is of course useful and necessary since the child is helpless throughout a period of years and would not live unless the mother were impelled to give it her devotion. (Thomas, 1967: 17-18)

As will be discussed in this thesis, assumptions with regard to stereotypical female roles can influence practices within the field of criminal justice in different ways. However, Thomas did move on and dissent from the views of his contemporaries and went so far as to argue that criminology was not a science (Thomas, 1967: 222). Thomas became interested in the subjective perceptions of female offenders. Much of his work involved case studies of the views and accounts of

“unadjusted girls”. He argued that: “Any successful scheme of education, re-education or reformation must recognise the wishes expressed by ... [the individual offender] and will involve an active participation of the subject in the plan” (Thomas, 1967: 194). The point Thomas is making here concurs with Trotter’s (1999) conclusions, discussed in Chapter 8, that a collaborative approach is a feature of more successful interventions. It is feasible to argue that Thomas was more progressive than his contemporaries, less inclined towards the voyeurism of Lombroso and Ferrero. His work contrasts with that of Pollak and Lombroso who very much approached their subjects as objects, to be measured and weighed rather than heard.

Thomas became increasingly interested in the social influences on crime. He recognised the significance of women’s low wages in drawing them into prostitution, which he acknowledged as a route into a criminal lifestyle (Thomas, 1967: 117,101). He also expressed reservations about the tendency, found amongst his contemporaries, to sexualise female involvement in a criminal/delinquent lifestyle: “The cases which I have examined (about three thousand) show that sexual passion does not play an important role ... Their sex is used as a condition of the realization of other wishes. It is their capital” (Thomas, 1967: 109). He recognised the contribution made to crime by the shortfall between the standard of what is available and the opportunity to attain that standard. This could be interpreted as a form of strain theory⁵, discussed later in this chapter. Thomas considered that the ‘unrest’ created by this shortfall was greater for females (Thomas, 1967: 72). He recognised the ways in which disparity of wealth could present specific pressures for females:

The costly and luxurious articles of women’s wear organize the lives of many girls ... and disorganise the lives of many who crave these pretty things. (Thomas, 1967: 71)

⁵ Strain theory offers a sociological explanation of crime which considers criminal behaviour to be triggered by the gap between aspirations/expectations and access to the means by which these aspirations can be realised.

Such pressures could relate to his point that females may use their sex as their capital. Although writing later and from within a markedly different political and ideological framework, Chesney-Lind and Shelden make reference to a similar social phenomenon when explaining female involvement in shoplifting:

... girls, may be inordinately sensitive to the consumer culture: they steal things they feel they need, or indeed may actually need but cannot afford ... Temptation is probably most pronounced for girls, whose popularity is tied very much to physical appearance and participation in fashions and fads.(Chesney-Lind and Shelden, 1998: 29)

Thomas emphasised the importance of the influence of both the community and the family in constraining female behaviour (Thomas, 1967), reflecting an aspect of control theory⁶, to be discussed later in this chapter. However, he failed to elaborate on or develop this observation. He also highlighted, like so many of his contemporaries, a manipulative tendency amongst female offenders. He made the following observation on one of his case studies:

She is thoroughly cunning and she lies a great deal. But she is in a fight with organized society. She feels that there is a disproportion between her offense and her punishment, and that she is being wronged and defrauded of life. Cunning is one of the forms which intelligence takes in a fight. And in general people become cunning when they are oppressed or do not participate on an equal footing in their society. (Thomas, 1967: 194)

Thomas's theories do not neatly fit into one of the two crudely defined categories above: biological explanation versus social/cultural interpretation. He was clearly influenced by contemporaries in his

⁶ Control theory gives attention to the factors which deter individuals from committing crime.

field such as Lombroso, but some of his insights would seem to belong to a later and more progressive era.

Pollak

Pollak, although working later than Thomas, was closer to Lombroso in orientation. He firmly supported the significance of biological and psychological factors in explaining female criminality. He, like Lombroso before him, was inclined to link women's offending behaviour with the female body. He held that, "menstruation, pregnancy, and menopause have to be considered of central research interest" (Pollak, 1950: 157). Despite his emphasis on biological factors Pollak was willing to concede the influence of social factors: "we had to keep in mind that the human being is first a biological organism, but one who can never be studied outside a social environment" (Pollak, 1950: 157).

Pollak, like Thomas, recognised that for particular women, such as domestic servants, the disparity of wealth which is reinforced in their daily employment, combined with effective marketing of certain products specifically geared towards women, militate to draw them into crime (Pollak, 1950: 160). Although acknowledging such factors as relevant to female crime, he maintains that women capitalise on their traditional roles to commit crime and in secret. He considers that women have an inherent capacity for deceit: "indirection and deceit ... [are her]... most promising weapons ... We have further seen that woman's physiological make-up permits successful concealment of her true feelings in the important sphere of sex relations, while the male in this respect is biologically forced to show the true state of his feelings" (Pollak, 1950: 151). He maintains that a combination of women's ability to conceal their crime and of men's chivalry towards the gentler sex protects women from prosecution and punishment.

Despite the embedded sexism and misogyny of Pollak's argument, he does reveal glimmers of insight. For example, when Pollak is discussing the psychological consequences of the female biological life-cycle phases he notes, similar to Thomas's acknowledgement of women's oppression, women's frustration at their demeaned status. While Pollak does not question the way in which biological traits are being allowed to determine the prescribed role given to females in his culture, he does nonetheless recognise, at some level a link between women's roles, subsequent resentment and involvement in crime. Pollak's views in this regard overlap with those of the feminist writer Rubin who recognises women's resentment at the role they are given: "it is certainly plausible to argue instead that the creation of 'femininity' in women in the course of socialisation is an act of psychic brutality, and that it leaves in women an immense resentment of the suppression to which they were subjected. It is also possible to argue that women have few means for realising and expressing their residual anger" (Rubin, 1975: 196).

Lombroso, Thomas and Pollak presented their findings as being scientific yet there are no indications that they even recognised or acknowledged the assumptions, patriarchal or otherwise, underpinning their work. These preconceptions determined, and limited, not just what and how they investigated but also how they interpreted their findings. Contemporary theories may present progress from the phrenological positions of some traditional theorists. However difficulties, albeit different ones, have persisted in terms of understanding and explaining female offending.

Contemporary criminological theories

The traditional theories, as discussed, pathologised female crime while the contemporary theories represented development insofar as they rejected biological determinism as an explanation for criminal behaviour. However contemporary theories often tended to simply ignore female crime. As Klein comments: "Female criminality has often ended up as a footnote to works on men that purport to be works on criminality in general" (Klein, 1973: 3). Modern criminological theory

draws significantly on sociological theories and, from the outset these theories tended to be built upon observations and data in relation to male offenders. Even when critics do attempt to actively consider the position of female offenders the ideological framework available for doing so is restricted. Rubin (1975) acknowledges that the discourse of protest inevitably succumbs to the very assumptions and logic which it seeks to question. It is for such reasons that a number of feminist critics, for example, Cain (1990) and Smart (1990), have, if not rejected outright, then certainly questioned the concept of a feminist criminology.

The first significant sociologically based criminological theory emerged from the University of Chicago and encompassed an ecological approach to analysing and explaining crime. This approach identified a correlation between high crime rates and multiple social problems. The multiple social problems were thought to lead to subcultural criminal values replacing conventional values. Such research tended to equate delinquency with male delinquency (Chesney-Lind and Sheldon, 1998: 82). Chesney-Lind and Sheldon have argued that the dearth of material on female offending is partly a reflection of the gender and interests of the researchers. They contend that the area of criminology “has attracted male scholars who wanted to study and understand outlaw men, hoping perhaps that some of the romance and fascination of this role will rub off” (Chesney-Lind and Sheldon, 1998: 73).

Thrasher (1927) and Whyte (1955), who were influenced by the Chicago school, could have attracted such criticism in that their research focussed on male gangs. Thrasher in particular was said to have admired the gangs he studied and adopted a stance which involved treating delinquency as ‘normal’ (Heidensohn, 1985: 129). Such a tendency, according to Heidensohn, explains why females were disregarded in the study of crime: “Treating delinquency as normal made female delinquency problematic because it was both statistically unusual and also deemed role-inappropriate” (Heidensohn, 1985: 129). The Chicago school, like the traditional theorists, treated female offenders as abnormal and masculine.

Emerging from the ecological approach to studying delinquency was the aforementioned strain theory. Hirschi describing strain theory reveals, as well as possibly gendered perceptions, the crux of the theory:

A man desires success, for example, as everyone tells him he should, but he cannot attain success conforming to the rules; consequently, in desperation, he turns to deviant behaviour or crime to attain that which he considers rightfully his. (Hirschi, 1969: 5)

Chesney-Lind and Sheldon contend that, similar to Thomas's position, women should experience more strain than men, and argue that women should therefore commit higher levels of crime. They argue this on the basis of crime being seen to arise from the discrepancy between culturally defined goals and the means available to achieve them, and that women experience lesser opportunities in this regard. Alternatively, it could be argued that women have relatively lower aspirations than their male counterparts, along with lesser opportunities, such that the tension between opportunities and goals may not necessarily be greater than for men.

While strain theory contends that crime arises through a lack of conventional opportunities to realise one's aspirations, control theory holds that a lack of participation in criminal activity can arise through a lack of opportunity to do so. Control theory first emerged in the late sixties. The central tenet of control theory is to consider that because everyone has the potential to be deviant the key question should be not why do individuals engage in crime, but why they do not. Hirschi, a key proponent of control theory explains its central premise thus: "Many persons undoubtedly owe a life of virtue to a lack of opportunity to do otherwise. Time and energy are inherently limited" (Hirschi, 1969: 21). Control theory assumes that crime occurs as a consequence of a weakened bond between society and the individual offender. Control theory is particularly relevant to females given their overall absence from the criminal scene. Although the original sample selected by Hirschi included girls he admits to excluding girls from his analysis (Hirschi, 1969: 35-36).

Labelling theory, developed by Becker (1963), was similar to control theory in its lack of concern with probing as to the causes of criminal behaviour. Rather it explores the power and politics of rule-making and the social processes which “generate” crime. It assumes that behaviour is not inherently criminal. Again, like the previous theorists, labelling theorists paid scant attention to females. Despite this, labelling theory had the scope to offer insight into levels of female involvement in crime. It recognised the significance of powerful institutions in society dictating and defining what should be perceived as crime. Such a perspective has been used by commentators such as Chesney-Lind (1997) who have explained the apparent rise in female crime, as argued by commentators such as Adler (1975), as being more of a reflection of a response to, and representation of, female offending.

Adler (1975) advocated the liberation hypothesis, the basic premise of which appeared to be that as a consequence of feminism women were now more liberated. Gender roles were breaking down, women were becoming more like men, and so more women were participating in crime, which had traditionally been a male preserve (unless of course you were persuaded by Pollak that women are deceptive enough to conceal their significant involvement in crime). There is a tone of triumphalism, on behalf of women, when Adler offers her liberation hypothesis as an explanation of this newfound equality made manifest in an increase in female crime:

There is a tide in the affairs of women as well as men, and in the last decade it has been sweeping over the barriers which have protected male prerogatives ... eroding the traditional differences which once nicely defined the gender roles. The phenomenon of female criminality is but one wave in this rising tide of female assertiveness. (Adler, 1975:1)

Adler appeared to assume that because the feminist voice had found a public ear it was having a transformative impact on ideology and consciousness, with the immediate effect of increasing women's participation in criminal activities. Adler argues that "the increasing flow of traffic in both directions across the sex-role barriers gives evidence that fulfillment is imminent. The goal of spanning the full spectrum of male activities has become for women their social manifest destiny" (Adler, 1975: 247). Adler argued that in this new era of 'liberation' women "have shown no greater potential than males to remain law-abiding" (Adler, 1975: 250). However, at no point have official crime rates indicated that men and women are involved in equal levels of criminal activity.

Despite the fact that at the time Adler was writing there was widespread discussion of sociological factors contributing to crime, she was drawing on the more outdated tendency to individualise and deny structural, social and political factors:

The Rubicons which women must cross, the sex barriers which they must breach, are ultimately those that exist in their own minds. And that is why ... for the present generation of women, equality will remain more social than psychological ... It will remain for another generation of women ... to become carpenters or architects. (Adler, 1975: 250 - 251)

Adler's argument then is that liberation has been realised to increase female participation in female crime by 'liberating' those women who wanted to become criminals, but it seems liberation will take a little longer for those who would prefer to work as carpenters or architects rather than as criminals. Smart (1979), possibly influenced by labelling theory (Becker, 1963), has drawn attention to the fact that while Adler based her analysis of female offending patterns on official FBI crime figures, there are a number of factors which may influence such statistics such as changes relating to policing and prosecution practices.

It could be argued that the liberation hypothesis ignored the structural forces which shape women's lives and which therefore must, in turn, have a bearing on their offending behaviour. As highlighted by Heidensohn "power and control are vested in men and largely denied to women. These features of society cannot be left outside the police station or courtroom" (Heidensohn, 1986: 290). Critics (Chesney-Lind 1997, Gora 1982) have argued that the liberation hypothesis was part of an anti-feminist backlash. Indeed feminist critics from the seventies onwards began to examine the failure of criminology to include or explain the activities of females in relation to crime. As Heidensohn pointed out "'Crime' is itself a social construct, and a fairly wobbly construct at that" (Heidensohn, 1985:197). As such, it has to be considered as an interaction between social, economic and other factors.

Feminist critics such as Carlen (1983, 1988) and Heidensohn (1985), related to the basic premises of Hirschi's control theory outlined earlier, tend to emphasise the significance of the general, often informal, social control of women, and their analysis of women's involvement in crime is placed in this context. This can include the direct control of, for example, family influences, but also the control generated simply by virtue of family commitments and responsibilities. In contrast males are considered to have more freedom in how they behave or misbehave. It has been argued (Carlen 1988) that often women's rejection of such controls can contribute to bringing them into the criminal justice system.

A different and arguably greater significance is attributed to women's law breaking than men's, related to beliefs about general social stability and control. The ideology supporting the control of women is deep-rooted and is justified not only by a desire to dictate the female role, but by a belief that control over "a woman's place" has repercussions for others including, sometimes, an impact on their criminal behaviour. Although writing as early as 1860, Carpenter's (1864) comments would appear to have resonances for more recent responses to female offenders:

If we follow this wretched woman to her home, and see around her the companions and accomplices of her crimes, we may form some small conception of the baneful influence she must shed around her, and shudder at the life to which her infant must be destined. (Cited in Dobash *et al*, 1986: 104)

Similarly the following comment by a superintendent of a nineteenth century American training school reveals the motivation for controlling female behaviour: "It is sublime to work to save a woman, for in her bosom generations are embodied" (Cited in Chesney-Lind and Sheldon, 1998: 134). More recently sentencer's in Carlen's study revealed related attitudes when describing their criteria for sentencing women to custody: "If she's a good mother, we don't want to take her away. If she's not a good mother, it doesn't really matter" (Cited in Carlen, 1983: 67). This argument allows for crime to be attributed to women's failure to fulfill their 'natural' caretaking role. Such an ideological stance may explain why a theory such as the liberation hypothesis emerged at the time that it did, that is following the rise of the feminist movement.

Related to control theorists were the sex role theorists who rejected any biological explanation of female crime. Instead, it is believed that prescribed gender roles account for the levels of participation in crime; that boys are behaving naturally by being delinquent but that girls' behaviour is constrained by controls exerted over them. Parent-adolescent relationships are viewed as being particularly significant in imposing this control on girls (Nye, 1958). Sex role theory was drawn on by proponents of the liberation hypothesis, such as Adler (1975), who considered that the changing roles created by feminism were bringing with them increases in female crime rates.

Sexualising of female offenders

The previous reference to Lombroso's inclination to sexualise female criminals reflects what has become a sustained tendency, as identified by a number of critics (Dobash *et al*, 1986, Hudson

1989, Kersten 1989), to sexualise the behaviour of females who are viewed as not conforming. It is perhaps a further reflection of researchers' tendencies, referred to previously, to indulge their own interests. Early theorists like Pollak and Lombroso could be credited with at least some responsibility for the tendency to sexualise women's crime. Pollak suggests that menstruation is a contributing factor in female crime (Pollak, 1950: 158). Burt (1931), researching and writing in the early 1900s, received a knighthood for his contribution to the study of crime. He also tended to sexualise women's involvement in crime; he considered that there was a connection between their sexual appetite and their inclination to participate in crime. In discussing 'Over-developed' maidens, he described them as:

... dangerously alluring to the eye of the opposite sex; inwardly they are apt to accumulate an unusual store of sex-emotion pent up within themselves ... [which they deal with by being] inert and easy going sluggards, limp, lazy and languorous, dreaming all day on cushions like a cat, and prowling around in the evenings to steal or solicit because they are too indolent to work. (Cited in Dobash *et al*, 1986: 119)

Extreme examples of the sexualising of female deviancy is found in the treatment of prostitutes. The focus on prostitutes in this area of study could be related to the 'exotic' appeal of prostitute women. Pollak seems to view the clients of prostitutes as the victims in the prostitution scenario, arguing:

... we have seen that the condemnation of illicit sex conduct in our society has delivered men who engage in such conduct as practically helpless victims into the hands of women offenders ... Rare indeed is the man who will enlist the assistance of the police against the prostitute who has stolen his wallet or his watch. (Pollak, 1950: 152)

Despite such a perspective, Pollak, rather ironically, comments "many male attempts to understand women have actually been attempts to rationalize men's treatment of the other sex and have frequently been nothing but self-deceptions" (Pollak, 1950:149).

Heidensohn highlights the absence of discussion of structural/cultural factors in accounting for women's participation in particular deviant behaviours. She argues that there is a "tendency to over-sexualise female crime, so that prostitution, for instance was seen only as sexual deviance and not as the rational choice for some women who need the financial support for themselves and their children" (Heidensohn, 1985: 146). Concerns at girls' sexuality can often lead to the imposition of control on females (in addition to those which may exist within the familial context) under the guise of care and protection. In this research such responses appear to have been significant in the backgrounds of female offenders. The theoretical efforts to link sexuality with offending appears to have significance not so much in understanding why women offend but in terms of providing a rationale which personnel involved in the care of girls might draw on to justify their efforts at controlling female sexuality and, by extension, female behaviour per se.

Duality

Female offenders seem to evoke responses which seek to either vindicate or vilify; Heidensohn, citing Feinman (1980), explains this duality in the descriptions and definitions of female behaviour:

In the modern criminal justice system women are viewed according to attitudes that derive in large measure from classical Greece and Rome and medieval Europe. Both pagan mythology and Judeo-Christian theology present women with a dual nature, either as madonnas or as whores. (Cited in Heidensohn, 1985: 90)

This duality perspective is particularly convenient when it comes to explaining and justifying female deviance in terms of prostitution, where there have to be the whores in order to protect good women - wives and sisters - from the uncontrollable sexual urges of men. Then because these urges are uncontrollable the culpability for the transaction, as in Pollak's argument, is transferred to the

prostitutes. The theme of duality has significance within criminal justice in that it props up responses to female offenders based on stereotypes. This thesis will reflect on the way in which the duality theme appears to be at work as an influence in the criminal justice system.

Conclusion

Although feminists critics (Chesney-Lind 1997, Gora 1982, Smart 1990) have largely discredited traditional and many of the contemporary theories, particularly the liberation hypothesis, sex-role theory appears to have been assimilated into feminist explanations of female involvement in offending. There are some indications from this study, as will be discussed later in this thesis, that the tendency of traditional theorists to pathologise female offenders may still be in evidence, albeit more subtly, in terms of SER writers' representations of female offenders within court reports.

Many of the existing theoretical explanations of female offending are notable for their inadequacy in explaining and understanding why women offend. As will be discussed in subsequent chapters, control theory emerges as the most relevant in relation to the overall findings of this study but not in exactly the way originally proposed. This thesis will discuss the way in which social control appears to be significant in relation to women's routes into the criminal justice system, the crimes women commit, and how it features in the responses to, and treatment of, female offenders.

Chapter 3

Methodology

Introduction

This study sought to examine the nature of criminal justice social work services delivered to female offenders and the way in which recent policy shifts have impacted on this. In order to address the research questions identified in Chapter 1 the researcher conducted the research in two stages and employed a combination of quantitative and qualitative methods. The first stage involved gathering mainly quantitative information from social enquiry reports. The next stage involved gathering qualitative information from interviews with social workers and social work managers. While conducting this study the limitations of the content of SERs became more apparent. The researcher then became more interested in practice issues which social workers brought to the interviews. The semi-structured approach to interviews, which will be discussed more fully later in this chapter, allowed for interviewees to influence the areas covered in the interview. The result was that this slightly shifted the focus away from the content of SERs to the context in which social workers were practising. Before describing the methods in more detail it would be helpful to examine methodological issues which relate to the data produced.

Methodology

As discussed in Chapter 2, a consideration of the gendered construction of knowledge is especially pertinent to studies of offenders, where the predominance of males amongst the ranks of offenders has helped to perpetuate the lack of consideration of both gender awareness and the position of female offenders. The researcher as a former practitioner intended to explore issues which had been encountered over the course of a number of years of practice. Stage 1, involving primarily quantitative material which focuses on characteristics and experiences of offenders, is then linked to

social workers' descriptions of how they supervise male and female offenders and how they make use of disposals.

Feminism and the methods debate

Initially the researcher had intended that the study would be mainly quantitative with a smaller element of qualitative material. From the outset the study was approached from a feminist perspective insofar as it focussed particularly on female offenders and incorporated considerations of gender within the overall research design. As the researcher read and became more aware of methodological debates and as the project progressed this had a bearing on how the research was finally conducted. The methodology and methods used became more aligned towards what might conventionally be described as feminist in that the qualitative element became a larger part of the study than had originally been planned.

One of the key criticisms traditionally leveled against the alleged factual credibility of quantitative methods relates to coding, a method used in this study to gather information from SERs and related papers. From a traditional scientific perspective these methods were considered to be a means by which data could be produced objectively. Coding categorises responses in order to assist analysis and presentation of data. It has been argued from a feminist perspective that this cannot be an entirely objective process as not all pieces of information will slot neatly and automatically into particular coding categories (Pugh, 1990). Farran elaborates "The statistic so formed *constructs* the reality within the numbers yet appears as if it were simply just *commentating* on it" (Farran, 1990:100, emphasis in original). It would have to be conceded that this is a valid criticism and one which could specifically apply to the process of data gathering in this study. This inherent, if disguised, subjectivity in quantitative methods supports an argument that differences between quantitative and qualitative data are more ones of degree, and that in fact there is no absolute distinction between them. The feminist critic Oakley makes a convincing protest against the

traditional gendered dichotomy of qualitative and quantitative methods as being feminist and masculinist respectively:

The case against quantitative ways of knowing is based on a rejection of reason and science as masculine and an embracing of experience as feminine; but this is essentialist thinking which buys into the very paradox that it protests about. (Oakley, 1998: 725)

Statistics or numbers are not inherently masculinist or sexist. Although quantitative methods allow for a higher number of cases to be discussed, and often therefore for the findings to be more generalisable, the researcher would not subscribe to the gendered hierarchy of potency which ascribes the label of 'hard' to data gathered using quantitative methods compared to that described as 'soft' arising from qualitative methodology (an example of such a distinction is found in Fuller's almost apologetic description of data derived from qualitative methodology, Fuller, 1992: 66). Given that the researcher rejects the traditional dichotomy as described above she also accepts the perspective which argues that there is not a method which is inherently feminist. Feminist researchers tend to appropriate methods as required. Webb explains such practice within feminist research:

An eclectic stance is generally taken, with researchers wishing to choose methods because they are most appropriate to the topic under consideration, rather than claiming privileged status for any particular method or methods. (Webb, 1993: 418)

Reinharz suggests that, "feminist researchers do not consider feminism to be a method. Rather they consider it to be a perspective on an existing method in a given field of enquiry or a perspective that can be used to develop an innovative method" (Reinharz, 1992: 241). She continues: "Clearly there is no single "feminist way" to do research. There is little "methodological elitism" or definition of

“methodological correctness” in feminist research” (Reinharz, 1992: 243). The debates as to what constitutes feminist research and feminist methods will likely remain unresolved because, as argued by Kasper, the challenge in feminist research is to “understand what has been ignored, misconstrued, or mistreated [and that this] – fuels the debate on feminist methodology” (Kasper, 2003: 172). However, the researcher would accept that at a crude level qualitative research methods such as interviewing are more amenable to a feminist perspective. Reinharz describes interviewing as versatile and therefore compatible with feminist concerns (Reinharz, 1992: 45). McIvor has argued that the often complex nature of social work practice issues cannot be sufficiently researched by a purely positivist approach:

Another factor that ... has hindered the development of evidence-informed policy and practice in social work is the complexity and contested nature of the issues that social workers are required to engage with on a daily basis and, correspondingly, the necessary complexity of research that aims to capture the process by which they do so in a meaningful way. Social work does not, in the main, lend itself readily to the ... positivist position that aligns social work research with the scientific paradigm.
(McIvor, 2001: 36)

This study sought to unravel a number of contentious issues in relation to criminal justice practice, a combination of quantitative and qualitative methods helped to achieve this and allowed for both scale and depth of enquiry. For example, the quantitative material produced findings which were, from a feminist perspective, especially interesting such as the absence of gender specific allocation of SERs and the achievement of different court outcomes for female offenders by male and female SER writers. These findings could really only have been identified by quantitative methods. However, the researcher began to appreciate that enhanced understanding of the quantitative data required that it be contextualised by qualitative data relating to social workers' experiences and

practice. The subsequent interviews helped to provide some insight into possible explanations for findings generated by the quantitative element of the study.

At this point it is worth highlighting the complexity of addressing the issue of gender differences. Bing and Bergvall have argued against the use of the gender dichotomy: "Attempts to prove difference are often attempts at gender polarization and one way to rationalize limiting the opportunities of women" (Bing and Bergvall, 1996: 17). Conversely it could be argued that ignoring gender differences compounds sexism. However, Bing and Bergvall's objection to this gender dichotomy is not unrelated to one which the researcher frequently encountered while conducting interviews with criminal justice social work staff, namely that to acknowledge gender differences somehow amounted to discrimination.

Social Enquiry Reports as a source of data

Documentary analysis clearly has its limitations and SERs provide information on the offender as presented by the SER writer. It is accepted that this may not accurately reflect on the content of the interview with the offender, what was said either by the offender or what was reported from other sources. As Mason acknowledges "It is tempting ... to see documents as providing 'hard' ... evidence, but your epistemology should be more critical than this" (Mason, 2001: 73).

Social Enquiry Reports originated in Britain in 1866, with the appointment of an 'enquiry officer'. At this point reports were intended to support leniency in 'deserving' cases. The Probation of Offenders Act 1907 formalised the appointment of probation officers whose remit was to 'advise, assist and befriend'. One of their key tasks was to compile social enquiry reports. "This was a social-work assessment of an offender in his or her social environment, with a specific purpose of assisting courts to make sentencing decisions" (Worrall, 1997: 67). Initially, then, SERs were pleas for mercy with common sense explanations for offenders' motives and actions (Smith, 1996). The

Streatfeild Report of 1961 (Home Office and Lord Chancellor's Office, 1961), which was influenced by the positivist penology and criminology prevalent in the fifties and sixties, subsequently formalised a shift in report writing practice.

The Streatfeild Report supported a rehabilitative individualised approach to sentencing. It also supported the idea of the SER as providing objective information, including both a professional diagnosis of causes and a prognosis for treatment of offending behaviour. As Walker and Beaumont (1981) have explained, often the circumstances in which interviews are taking place are not amenable to this idea of objective scientific assessment. The social worker will at least have contact with the client and this will affect their perception, assessment and ultimately the inclusion of material in the report. Specifically in discussion of female offenders it appears that SER writers may bring their gendered perceptions to bear on the process of compiling an SER and this may involve pathologising female clients particularly. Horn and Evans (2000) found that report authors were more likely to "include the main 'pathological' items on the list" (interpersonal problems, psychiatric problems)" (Horn and Evans, 2000: 195). While the factors thought to influence male offending were more likely to include structural factors such as lack of work. Gelsthorpe and Loucks (1997) identify a central problem in the discussion of gender difference:

The difficulty to be addressed is one of finding ways to challenge stereotypical pictures of men and women, without ignoring the fact that they often (but *not* always) do have different needs and responsibilities (and these are often precisely the needs and responsibilities which fuel the stereotypes). (Gelsthorpe and Loucks, 1997: 58, emphasis in original)

Report writers are faced with the dilemma of whether to challenge stereotypes or try to exploit them by appropriating them into their pleas of mitigation in order to obtain either a more lenient or non-custodial sentence. As Horn and Evans acknowledge:

... a probation officer who might wish to construct female offenders within alternative discourses runs the risk of disadvantaging their client. Many officers justify their continued use of stereotypes in reports on the grounds that they are working in the best interests of their client (Horn and Evans, 2000:196).

Eaton has argued that not only does the court fail to challenge gender stereotypes but that it has a "role in preserving differences based on sexual inequality" (Eaton, 1986: 98). The SER can be the means by which such stereotypes are perpetuated. Eaton refers to a subtle process of SER writing which relies on a particular model of family life, a model which it is argued "is rarely made explicit and is never critiqued, but which is the basis of the continued subordination of women" (Eaton, 1986: 64). Related to this perspective, Worrall (1997) drawing on Foucault's (1977) concept of the 'normalising gaze', suggests a possible purpose of social inquiry as being to "control or discipline offenders by placing them in pre-conceived categories which trigger particular responses" (Worrall, 1997: 81).

Walker and Beaumont (1985) argue that the fact that social workers are compiling their reports for an audience - the court - can have a bearing on content. As discussed later in this thesis social workers do appear to be influenced in their report writing by specific perceptions of what sentencers want. In a different vein, McNeill identifies the benefits of social workers having a view on the court's stance:

... it becomes important for them to reach informed conclusions about what kinds of view courts are likely to take of an individual case. Unless a report writer has some idea of the seriousness of the case, s/he will struggle to determine whether a community disposal, an alternative to custody, or neither, is suitable. (McNeill, 1999: 9)

McIvor (1992a) has established the importance of social workers appropriately targeting the recommendations contained within their SERs in order to avoid up-tariffing and thereby ultimately contributing to the acceleration towards custody.

The Social Work Services Inspectorate report, 'Helping the Court Decide' (1996), identified the existence of differences in opinions between sentencers and some social workers on report writing practice. It considered that this difference must undermine the effectiveness of social enquiry reports:

The framework of law and national standards surrounding social enquiry reports allows for significant differences of view between individual sentencers and between sentencers and social workers about how the general purpose of reports are translated into practice. **This must reduce their efficiency and effectiveness [emphasis in original text].** (SWSI, 1996: 46)

This report (1996) favoured the pursuit of a consensus between criminal justice social workers and sentencers in terms of the social worker's role being to assist the court to reach a decision (SWSI, 1996: 11). On the contrary, it could be argued that differences in views on particular aspects of Social Enquiry Reports, including assessment of seriousness of the offence, may sometimes be a reflection of the differences between professions in terms of training and philosophical grounding and that this may be beneficial. McNeill argues that social workers do not necessarily share the frame of reference drawn on by sentencers who tend to "operate within a legal framework that reflects classicist understandings of choice in the criminal act and individual responsibility" (McNeill, 1999: 7). Differences, rather than being viewed as a problem and a source of inefficiency could be considered to enrich the sentencing process, "it might be argued that the task of the court report writer is sometimes to generate ... unease ... to make punishing more morally difficult for the sentencer" (McNeill, 1999: 9).

Reflecting the overall ideological shift that has taken place in criminal justice social work practice away from the ideology of welfare towards the justice model, the emphasis within court reports has changed. In practice this represented a shift away from considering the offender within their social context towards a greater emphasis on the offence and their risk of reoffending. Participating in offending behaviour came to be considered as more a matter of individual choice. The social context was considered to be less relevant, so the emphasis was not on the individual's social context but on their individual choice to offend and on their individual responsibility. Because the origins of SERs, as Worrall argues, "are clearly rooted in the rehabilitative individualised approach to sentencing ... it has not been easy to adapt them to a 'just deserts'⁷ approach to sentencing which focuses more on the offence than the offender" (Worrall, 1997: 79). This problem is perhaps more acute with female offenders in respect of whom, as discussed further in Chapters 7 and 8, it is more difficult for social workers to separate their offending from their social context.

The managerialist culture, discussed in Chapter 1, and the related national standards, now heavily circumscribe the content of reports. While the advantage of National Standards is that they do attempt to impose a minimum standard there are risks in being overly prescriptive. In this vein Harris (1992) poses a question of sentencing which could equally be asked about SERs:

Is it possible to standardise sentencing [SERs] without being insensitive to the individuality of the offender and the uniqueness of the criminal act. (Harris, 1992: 141)

Although this study attempted to examine associations between arguments/recommendations contained within SERs and outcomes, any inferences drawn from apparent associations have to be made cautiously. At this stage it is useful to acknowledge that there are various factors which might explain an association between argument/recommendation and the final disposal; such as the SER

⁷The 'just deserts' approach to punishment contends that sentences should be proportionate to the seriousness of the offence. Thus rejecting the offender-centred approach of rehabilitation.

writer accurately gauging which disposal the court may prefer or the SER writer and the sentencer operating according to similar criteria. The relationship between provision of an SER, the recommendations contained within SERs and their conversion to disposals is discussed further in Chapter 6.

Clearly then this study acknowledges the flawed presumptions of the Streatfeild Report which viewed SERs as involved in the objective conveyance of facts. In fact SERs are more nuanced, they reflect subjective representations of offenders and their circumstances, and are socially constructed documents. Any inferences drawn from their content require the qualification that data are socially constructed. SERs were used in this study as they represented the best source of the kind of data being sought. The problem of SERs reflecting socially constructed data rather than containing objective data is not, however, such a limiting factor as it may first seem. There was a particular interest in the impact of the SER as a document being used in the court process. One focus of the study was on the factors which influence social workers in their deliberations as to what they include in their SER. There was also interest in comparing the representations within SERs according to gender and disposal categories. There was therefore less direct concern with the relationship between 'the truth' and the representation within the SER and this circumvents some of the limitations of SERs as a source of data.

Methods

The first phase of the research involved analysis of a sample of SERs which had been compiled in a number of Local Authority social work departments throughout Scotland. This approach was taken in an attempt to gain information which would allow for comparisons of characteristics of offenders and arguments contained in SERs, according to disposal category and gender. As already acknowledged SERs as a data source are not without difficulties, however they represented a

convenient and accessible source of the data required. Social workers in compiling their SERs tend to have access to a range of sources and SERs generally provide useful demographic information.

Comparative analysis of offenders sentenced to imprisonment, probation and community service based on social enquiry reports (stage 1)

In the first instance an application for access had to be made to Scotland's Association of Directors of Social Work (ADSW) Committee for Research, Standards and Training and subsequently to ADSW's Criminal Justice Committee. These Committees approved the research proposal and allowed for the researcher to then make contact with individual authorities. This stage of the study involved extracting the required information from SERs and related papers (including, in addition to the social inquiry report, the formal SER request sheet sent from the court to the particular local authority, the list of labelled previous convictions and the disposal sheet which would include details of all the disposal information).

Sampling

On obtaining access from ADSW the issue was then to decide which local authorities to select. A key factor taken into account in this decision was whether or not local authorities had "opt-in" or "opt-out" policies with respect to research access (i.e. if an authority had an "opt-in" policy the client has to actively opt-in by giving their consent before that authority would allow researchers to have access to their records). It was decided not to pursue access to authorities with an opt-in policy because it tends to generate a low 'response rate'. Other considerations were size and location of authorities. It was decided to pursue access to three authorities which were relatively large and provided a spread across Scotland. This included a Northern authority, an East coast authority and a West coast authority.

Contact was made with these three relatively large authorities all of which were initially amenable to providing access for the research. The West coast authority, after verbally agreeing to access, subsequently withdrew on the grounds of internal restructuring. As this was a particularly large authority access to a further five authorities, drawing on the same criteria as used to select the original authorities, was pursued in order to obtain comparable numbers. Access was secured for these additional five authorities.

There had been a change in National Standards in June 2000, which will be discussed more fully in Chapter 6, which stipulated that social workers must no longer include recommendations within their reports. Given the infancy of the new guidelines there would not have been enough time to wait for a sufficient sample of SERs to accumulate which had been written in line with the new Standards. This change in the Standards therefore influenced the period from which the sample was drawn. It was also advantageous for the sample to be as recent as was practicable in order to reflect practice which was as up-to-date as possible. Discussion with the research officers for each council also revealed that their annual figures are organised by the financial year. It was decided, taking into account all of these factors, to collect the sample from the financial year 1st April 1999 - 31st March 2000. The sample therefore included SERs which had been written for court dates which fell during the financial year immediately prior to the change in National Standards.

The main source of information for this part of the study was SERs and associated papers. The bulk of the data generated in this stage of the study was quantitative although it also generated a small amount of qualitative data. In order to explore the research questions adequately the sample was subdivided into six groups. The sample was divided first of all according to gender. These two groups were further subdivided into cases involving court disposals of probation, community service and custody. The intention was to analyse 80 cases for each of the six categories and this would have meant that a total of 480 SERs (and related papers) were examined. The intention was to allow the sample to be large enough for the findings to be generalisable but small enough for the

data to be gathered by one researcher within the planned timeframe. However, across all of the participating authorities, the total numbers of female offenders who were said to have received custody and community service, from the main courts, were 50 and 80 respectively.

Clients' consent for access to records was requested by letter (a copy of which is found in Appendix 1) which, although drafted by the researcher, was signed by the particular member of staff designated in each of the participating authorities as the researcher's contact person. This letter stipulated that the researcher had not been provided with the names or addresses of potential respondents. A stamped addressed envelope was included with this letter, for the consent form to be returned, in the event that the client decided to "opt-out", to the member of staff who had signed the letter. No identifying information was stored on computer and reference numbers were employed to link information drawn from different sources.

Research Instruments

Data were collated using a coded schedule which had been devised by the researcher (copies of this coding form and schedule are found in Appendix 2 and 3 respectively). This tool sought to obtain demographic information, background information on the offender, and information relating to support or otherwise for particular disposals.

Pilot

A pilot was conducted within one particular authority. The main purpose of the pilot was to test the suitability of the research instrument, in particular to ensure that there were sufficient and appropriate questions and options to cover the issues being addressed. The pilot also aimed to gauge both the suitability of the sequencing of questions and the time required for completion. A pilot confined to one authority was sufficient to achieve this. The authority selected was small and had all the required papers centrally located. This was convenient in terms of allowing the pilot to be completed relatively quickly.

The researcher piloted the schedule on a small sample of SERs. There were some changes made to the format and content of the schedule, including some re-ordering of the questions to suit the layout of the information as it appeared in the SERs. Of the pilot sample selected 10% of the individuals responded in order to refuse consent for access to their files. As explained, authorities included in the study were those which only required the client to respond if he/she was actively withholding their consent. For 4 (all 3 disposal categories for male offenders and the disposal category of probation for female offenders) of the 6 categories it was decided for convenience in conveying information to participating authorities to pursue consent for access to 90 cases, rather than calculating exactly according to the 10% refusal rate of the pilot sample. Pursuing 90 cases in these four categories allowed for an 11% refusal rate. Requests for access to files were made to all the female offenders who were sentenced to custody and community service in the participating authorities on account of the low numbers in these categories. Other than for these 2 subgroups, a random number generator was used to select the required cases from lists of disposals in order to ensure that the sample would be representative.

One particular offender responded to say that he gave consent for access to his file on the condition that the report writer supported a disposal of probation, as opposed to custody, in the SER which was to be compiled for his forthcoming court appearance. While his ingenuity was appreciated this was regarded as consent being withheld. In all, access to 420 cases was obtained, corresponding to a response rate of 86% (refusal rate of 14%), with consent withheld in 70 cases.

The pilot process also established that the researcher had to be sensitive to the context in which the research was carried out. From the fairly early stages of liaison with Local Authorities it appeared that there were a number of criminal justice research projects going on simultaneously which were making demands on staff time and resources similar to those of the current study. This appears to have led to a kind of research fatigue. The researcher therefore took account of such pressures while carrying out the research. This included, for example, staggering days when visits were made.

Analysis

The findings derived from this part of the research and discussed in Chapters 4, 5 and 6 were analysed using the computer software programme Statistical Packages for the Social Sciences (SPSS). There were occasions where data were missing for particular cases. At the point of entering the data onto the computer occasionally details for particular clients were missing. There was system missing errors and there were researcher errors. Where information was missing for any variables being analysed the relevant cases were excluded from the analysis.

Measures of association between variables were made by using the Chi-Square test. There were instances when the cell count was too low to allow this test to be viable. Where possible, categories were combined to allow this test to be carried out. Such an example included the categories of marital status: separated, divorced and widowed which were combined to allow the test to be carried out to identify an association between gender and category of marital status. Independent t-tests were used to compare the difference between means (of specific variables) for male and female offenders within the sample. For example, the average ages of male and female offenders were compared using this test. One-way analysis of variance (ANOVA) was used to compare the difference between means across the three categories of disposals: community service, probation and custody. Two-way ANOVA was used to compare differences in means in relation to both gender and disposal category.

For analysing level of risk of custody, the researcher included the use of the Dunscore tool devised by Creamer, Ennis and Williams at the University of Dundee. The Dunscore (Creamer, Ennis and Williams, 1994) is an actuarial tool which started as a research instrument (Creamer, 2000) and was developed to allow report writers to calculate the risk of custody facing an offender when he or she appears in court. The tool yields a score (see Appendix 4 for a copy of the score sheet) which indicates the level of risk of custody. The scoring system was devised on the basis of statistical analysis of data collected in research sites throughout Scotland. The tool ascribes a numerical

weighting to six variables which were identified as significantly associated with risk of custody. These variables and weightings are: High Court (2); solemn procedures (2); remanded in custody or in custody for other offences (3); offence gravity (1-5); previous custody (2); community service or probation order made in the last year (2). The levels of risk are designated as low, medium, serious and very serious as indicated by increasing scores. The authors of the Dunscore tool suggest that a score of 4 or more is an indication that an outcome of custody is likely.

The Dunscore tool, as has been acknowledged (Warren, 1995), failed to take account of any gender differences in relation to custody risk. Researchers have indicated that there are factors specifically influencing sentencing, and therefore risk of custody, for women. Farrington and Morris (1983) for example found that a key indicator for sentence severity for females was the experience of current problems while for males it was the type of offence committed. The Dunscore tool clearly does not take into account all of these factors. Although Howe (1994), contrary to Farrington and Morris's findings, argues that there is a stronger link between what she refers to as 'crime and punishment' for women. She argues that changes in labour market conditions impact on the punishment of men while this is less likely to apply to women as their labour is devalued. For this reason, it is argued, that women's offences have a greater bearing on the sentencing process.

The Dunscore is assumed to draw on an objective range of risk factors but clearly how these factors impact on SER writers, sentencers and, in turn, sentencing could differ depending on the gender of the offender. The thresholds of risk levels (low, medium, serious and very serious) described above may be different for male and female offenders. It may be that the threshold for custody is different for female offenders. As identified by Carlen and Worrall (2004) the acceleration towards custody can be faster for female offenders. They relate this to a reluctance to impose fines and community service orders on women. Also, as discussed in Chapter 2, female offending has traditionally been viewed differently from men's. Chapter 2 discussed the duality phenomenon where women tend to be vindicated or vilified. This tendency may well be at work in the sentencing process. Hedderman

and Hough (1994) found that while women are not generally dealt with more severely than men, individual women can receive exceptionally harsh treatment. Carlen (1983), in her research with sentencers in Scotland, found that violence was the only category of crime where they would treat both male and female offenders the same way. Samuel (1994) similarly considered that chivalry was at work in the sentencing of women, but only sometimes:

Chivalry thus extends only as far as those women for whom men feel protective towards, and no further. (Samuel, 1994: 73)

Clearly, there are unanswered questions as to whether the Dunscore is equally effective in terms of measuring risk of custody for male and female offenders. Despite this the Dunscore tool has been widely used in criminal justice social work in Scotland from the early nineties. In 1994 the University of Dundee issued guidance on how to use the Dunscore and the Scottish Office funded a national training programme to teach SER writers how to use the tool⁸. It was still in use in 1999-2000, the period over which the SERs included in this study were drawn. The National Standards 2000 included reference to, and an explanation for, the Dunscore. The Standards invited Local Authority managers and report writers to consider the use of this tool. Given the prevalent use of this tool and the researcher's familiarity with it, it was used despite, but with regard to, the aforementioned limitations. More recently though this tool has been less widely used coinciding with a shift in emphasis in risk assessment, the policy context for which is discussed in Chapter 6, from the offenders' risk of custody to the offenders' risk of reoffending.

Interviews with social work staff (stage 2)

After the quantitative data were collected and analysed, interviews were conducted with criminal justice social work staff. Interviewees were drawn from the seven local authorities participating in

⁸ The researcher, as a practitioner, had undergone such training and was therefore familiar with this tool.

the research and comprised: social workers, community service seniors and criminal justice managers. Criminal justice managers (heads of service) were interviewed in order to gain information on relevant policies and their implementation. For the same reasons, but specifically relating to policy and practice in community service, community service seniors were interviewed. Social workers were interviewed to gain their views on and criteria for practice both in terms of supervision and compilation of SERs.

Sampling

In terms of the gender balance of the interview sample of social workers it was considered that it would be appropriate to strive for a match with the existing national gender balance within criminal justice social work of 39% male and 61% female (Scottish Executive, 2001a: 13) rather than trying to reflect either the gender bias in the seven participating authorities or the overall gender balance of SER writers in the data set already gathered. The aim originally had been to gain insight into the criteria for report writing and SER recommendations used by social workers in Scotland generally. It was decided that three social workers, 2 female and 1 male, per authority would be sufficient for this element of the study given its exploratory focus. In total 35 interviews were conducted. Throughout Chapters 7, 8 and 9 extracts from interviews which are not presented as dialogue with the interviewer, will be annotated as follows: Social workers as SW numbers 1 to 21 (including 8 male social workers and 13 female social workers, that is a balance of 38% male and 62% female), Community service seniors as CSS numbers 1 to 7 (including one female), Criminal justice managers as CJM 1 to 7 (including 2 females).

Although there was an attempt to obtain a spread of authorities across Scotland, such relatively small numbers of interviews would not allow for the claim that the views are representative of criminal justice social work staff across the country. This is a recurring difficulty with qualitative research. As Mason (2001) argues in relation to qualitative data, the size of sample required to allow for it to be described as representative could mean that the "data generated from a representative

sample may therefore necessarily be superficial” (Mason, 2001: 91) as scale can involve having to compromise on depth. Interviews with social workers were not, for ethical and practical reasons, linked to specific reports. The research sought to elicit workers’ perspectives on female offenders, with specific emphasis upon their perceived suitability for community-based social work disposals, on the appropriateness of existing supervision (via probation and community service orders) and upon the factors which influence social workers’ assessments and conclusions in social enquiry reports. The specific questions were partly informed by the initial analysis of the stage one data.

Other than the specification of the aforementioned gender ratio, the research officers in each authority were asked to randomly select social workers to ask if they would volunteer for the interview. Generally social workers seemed to be agreeable to being interviewed, but in the event that they were not the research officer “randomly” selected someone else. There was no way of dictating or gauging the “randomness” of this selection. It is therefore possible that authorities may have had their own criteria for who was selected for interview. If so, this could have generated a bias in the sample. As participation in interviews for social workers was “voluntary”, and there was the option of declining (albeit there may have been subtle and informal pressures to participate), agreeing to be interviewed may have in itself generated a sample bias. Raynor, Smith and Vanstone suggest that “officers who can be described as ‘believers’ in what they are doing are more ready to discuss their work and its effectiveness” (Raynor, Smith and Vanstone, 1994: 34). The content of the interviews therefore may reflect a sample bias generated simply by virtue of the interviewee having “volunteered” to participate in the research.

Pilot

The interviews were conducted with the use of three different interview schedules for social workers, community service seniors and criminal justice managers respectively (copies of these schedules are found in Appendices 5, 6 and 7). The researcher conducted pilot interviews for all three interview schedules. As the researcher had worked in criminal justice social work in Scotland

for a number of years up until the point of embarking on the current study, she had some familiarity with the working context and had an idea of what might be an appropriate register to use when conducting interviews. The pilot was conducted with a number of former colleagues and two research students. As both of the research students were still practising, all of the pilot interviewees had some experience of working in criminal justice social work. This meant that they were in a position to give informed feedback on the appropriateness or not of the questions posed, including the language used and the topicality and relevance of the areas being addressed.

The pilot involved the use of cue cards for particular questions. It was quickly established that cue cards were not useful. Pilot respondents tended not to be discerning in selecting items and would frequently make a reply along the lines of "All of them apply". The researcher then decided not to use cue cards and to prompt on a more tentative basis as and when necessary. The pilot also established that the interview would take approximately an hour. It suggested that only minimal rewording was required, as well as a slight altering of the sequence of questions to provide a more natural flow. The most useful purpose of the pilot interviews for the researcher was to allow her the opportunity to become familiar with posing the questions and to become generally more comfortable with conducting the interviews.

Interview: structure and process

Although the researcher did endeavour to undertake a feminist approach to the interviews this did not conform to the unstructured type of interviews undertaken by Oakley (1981) in her study of motherhood. This current study involved interviewing busy professionals who wanted to know in advance specifically what the interview was about and how long it would take. Occasionally interviews commenced with the interviewee advising that due to unforeseen circumstances they would not be able to avail themselves of the full hour which had been requested and initially agreed.

Oakley (1981) argued that feminist research should reject the traditional social research conventions which hold that the interview is a one-way process which is not viewed as a form of social interaction. Oakley instead advocated a non-hierarchical relationship and a lack of structure. This extended to the interviewee determining how long the interview should take. Although the researcher also rejected the traditional conventions as described, the lack of structure used in Oakley's interview was inappropriate for the current research which involved interviewing staff who were working under pressure and for whom time was at a premium. It would not have been feasible or appropriate to allow the interview to drift. Equally, the other extreme of fully structured interviews was inappropriate in that it would not have been sufficiently interactive. Pawson in objecting to structured interviews argues:

... that the researcher's conceptual system is *imposed* entirely on the flow of information. The subject's response is limited entirely to a set of operational fragments. Set questions and predetermined response categories offer little opportunity to question, or even understand, the researcher's chosen theoretical framework. (Pawson, 2003: 154, emphasis in original)

The researcher accepts this viewpoint and therefore opted for semi-structured interviews. To have had virtually no structure, as in Oakley's study, would have detracted from the content obtained. A semi-structured format was more appropriate to the specific context in which these interviews were being conducted and was useful in gaining the relevant information in a time-limited period. Not having too rigid a structure allowed for flexibility and response to the contribution of the interviewee. There was an element of dialogue which was conversational when the researcher responded to and explored the contribution of the interviewees which often involved ideas that the researcher had not anticipated. Reinharz supports semi-structured interviews in feminist research on the grounds that it:

... differs from survey research or structured interviewing by including free interaction between the researcher and the interviewee ... and interview research typically includes, opportunities for clarification and discussion. (Reinharz, 1992: 18)

A number of interviewees, social workers especially, said that they found the interview useful in that it gave them time to explore and resolve practice issues and problems. As Mackay acknowledges, a result of asking questions can be that it forces "the respondent to think, and in that process he or she often finds within themselves ideas, thoughts, or knowledge they never suspected they had" (Mackay, 1995:1). The approach used with these semi-structured interviews involved a degree of openness, as advocated by, among others, Mackay (1995), Mason (2001) and Silverman (1998), which allowed for new concepts and ideas to inform the overall research. The interview process appeared to have been an effective means of gaining in-depth and reflective responses from social workers.

In keeping with the protocols of feminist research the researcher did strive for reciprocity in the interview relationship and, as far as possible, a non-hierarchical relationship, although the usual presumptions about a power imbalance between researcher and interviewees did not particularly apply in this research. The researcher was conducting the interview in the role of student and not as a salaried researcher. By contrast the interviewees were either managers or qualified social workers. That said, a power imbalance can still exist simply by virtue of the interview process in that the researcher had instigated the interview and had more control over it and over the data requested. By contrast, the interviewees had no control over the way in which their replies would finally be represented.

Oakley (1981) has suggested that a non-hierarchical relationship can be achieved "when the interviewer is prepared to invest his or her own personal identity in the relationship" (Oakley, 1981: 41). The researcher, at the start of the interview and before the tape recorder was switched on,

explained to interviewees that she had become interested in the research area as a practitioner who felt frustrated by the lack of available material to inform her own practice with female offenders. The extent to which such discussion was necessary depended on whether the researcher had had previous communication with the interviewee. One interviewee had previously occupied an almost informal mentoring role while the researcher had been a social work student several years earlier. Where such relationships had existed prior to the interview it generally helped to establish rapport and contributed to a non-hierarchical relationship.

A small number of interviewees were themselves interested in becoming involved in practitioner research and wanted to gain information from the researcher on how they might pursue this. The researcher viewed this positively in terms of being able to contribute to fostering a research culture. The fact that requests for information were then two way contributed to reciprocity in the research relationship. The researcher considered that such inquiries where made might have reflected on the researcher being receptive to such approaches. Where these requests were made the researcher inquired of the interviewee whether they wanted to discuss their research plans before or after the scheduled interview. The researcher would then comply with whatever the stated preference was.

At the first contact with the interviewee the researcher would clarify that participation was voluntary. The initial point of contact was by telephone and this involved agreeing the time and place for interview. The researcher would agree to a date, time and location which suited the interviewee. During the interview the researcher would negotiate if and when tape recording could commence. The actual tape recorded interview was generally commenced with a few closed fixed response questions which were intended as safe ice-breakers. These included inquiries relating to, for example, the interviewee's current job title and how long they had been in post. Although the researcher had a schedule prepared for a semi-structured interview, the interviewee's responses and interests contributed to the order of the subjects discussed and the time spent on each.

Questions posed by the researcher in relation to sentencing patterns did not appear to elicit particular interest or produce detailed responses from criminal justice social work staff. Perhaps this is simply because ultimately the sentence is not imposed by social work. It was therefore perhaps unsurprising that social workers used the interviews to talk about the tensions and dilemmas which related more closely to the work in which they are directly involved. The focus on social workers' perceptions of the content and appropriateness of supervision via probation and community service was then greater than had originally been anticipated.

The researcher had intended to explore with social workers whether there were differences with respect to report writing for male and female offenders, including whether or not report writing practice differed with regard to an emphasis on either the welfare or justice perspective. This was not, however, possible as any questions on comparing how reports were written for male and female offenders persistently elicited the same response - that there was no difference. Although there is some attention to report writing in the findings presented in this thesis, the focus in interviews tended to be on the relationship between the nature of supervision and the model of intervention used. Social workers were more eager to discuss their supervision practice than their report writing practice. It seemed on the basis of these interviews that a possible explanation for this was that social workers considered report writing to be an almost prescriptive exercise predetermined by National Standards guidelines. By contrast, supervision was an area where they felt they had more discretion. But an aspect of this, they felt, was a lack of clarity in areas of supervision practice particularly in relation to how equality should translate into practice with male and female offenders.

The researcher did endeavour, during the interview, to establish mutual trust and respect and to "employ an ethic of caring" (Kasper, 2003: 172), reflecting the protocols of feminist research. Despite these attempts it may be apparent from some of the interview extracts contained within this thesis that on occasions some interviewees felt slightly ill at ease. However, a feminist perspective is a critical one and as such may raise probing questions with which people will not always be

comfortable. It may be inescapable that at times then, rather ironically, a feminist perspective may conflict with aspects of a feminist methodology.

Analysis

The researcher had initially considered using the computer software programme NUD*IST, designed for management of the analysis of qualitative data. After consultation and deliberation it was decided that the time required to become familiar with this programme and to prepare the data for use with it was not justified. The analysis was in the end carried out simply by cutting and pasting from the original interview transcripts into files organised according to themes. Some of the themes generated in the end did not yield sufficient data in terms of either relevance or volume to justify being included in the final thesis.

In the early stages of trawling through the interview transcripts themes evolved and they were altered, elaborated on, and sometimes combined. Issues related to the welfare and justice model, problems in supervision, perceptions of community service, for example, were all themes which the research intended to pursue from the outset and which are discussed in this thesis. While the researcher intended to, and did, discuss areas such as monitoring, evaluation and training, these ultimately were not incorporated in the final thesis. And in contrast some topics emerged during interviews which had not been planned or anticipated by the researcher, such as the problems of compliance with female offenders and the importance of relationships with female clients in particular, which were incorporated in the final thesis. The process of sifting through and organising the data into different files constituted part of the process of analysis. As Mason suggests:

Sorting, organizing and indexing can thus help you to get surprises from your data which take you beyond an impressionistic view based on the limitations of your own memory and your capacity to sort and organize in your head. (Mason, 2001: 112)

The extent of coverage of particular perspectives reflected not just the prevalence of that perspective within the sample but also the significance for practice of particular viewpoints. The researcher has endeavoured to convey the range of opinion on the various points of discussion. Although the plan had been to pursue particular issues following on from analysis of the stage one data, this altered slightly in response to the interviewees. Some themes the researcher had planned to pursue and did, while other themes which were addressed only emerged through the process of interviewing. By the time it came to actually analysing the data the key themes had at least been crudely identified.

A range of factors influenced the extent to which the researcher drew on different interviews. Levels of background noise undermined the sound quality of some interviews. Interviewees also tended to have their own areas of interest and points on which they had opinions they wanted to express. This latter point also meant that the interviewees are variously represented over the different chapters.

The researcher was entirely conscious of the fact that the research findings from the interviews were inextricable from the research process:

The illustrations repeatedly tell us that interviews are conversations where meanings are not only conveyed, but cooperatively built up, received, interpreted and recorded by the interviewer. (Holstein and Gubrium, 1998: 118-119)

It is clear that interviewees will have been, to a greater or lesser degree, influenced in their responses depending on what they felt their manager, their employing organisation or even the researcher might have wanted them to say. As argued by Smith "The form of the question tells the respondent what sort of work she is being asked to do" (Smith, 1993: 16). Holstein and Gubrium make the valid point, however, that such influences should not unduly detract from the data yielded by the interview:

While the emphasis on process has sharpened concern with, and debate over, the epistemological status of interview data, it is important not to lose track of *what* is being asked about in interviews and, in turn, *what* is being conveyed by respondents.

(Holstein and Gubrium, 1998: 115, emphasis in original)

The interpretation of the data was neither solely literal, interpretive or reflexive, but depended on the specific nature and context of the data being analysed. For example in analysing the data recognition was given to the current climate within criminal justice social work. The culture of new managerialism, as described in Chapter 1, with its emphasis on evaluation and monitoring may well have had a bearing on interviewees' responses as well as on the interview process and relationship. The findings from this stage of the research are discussed in Chapters 7, 8, and 9.

The researcher acknowledges that which data was gathered and how it was interpreted and finally analysed all in part reflect the research process. The discussion in this chapter, particularly on methodology, should expose the critical processes at work in the various stages of this study thereby allowing readers to draw their own conclusions on the 'truth', or otherwise, of the findings.

Description of the sample obtained from stage 1 of the research

Four hundred and twenty SERs were examined relating to 240 men and 180 women. These were drawn from seven local authorities across Scotland. The lower numbers of women relate to the categories of disposals of community service and custody. These categories were restricted mainly by availability, reflecting the levels of use of these disposals (from the main courts) for women in the participating authorities. Table 3.1 details the number of offenders, whose reports were utilised, by gender and disposal category.

Table 3.1 Sample by gender and disposal category

	Male offenders	%	Female offenders	%	Total	%
Probation	81	33	78	43	159	38
Community Service	76	32	64	36	140	33
Custody	83	35	38	21	121	29
Total	240	100	180	100	420	100

The SERs were drawn from across the seven local authorities as summarised in Table 3.2:

Table 3.2 Breakdown of sample by authority

Authority	Male offenders	%	Female offenders	%	Total	%
Edinburgh	43	18	62	34	105	25
Aberdeen	29	12	22	12	51	12
North Lanarkshire	65	27	34	19	99	24
South Lanarkshire	28	12	5	3	33	8
West Dunbartonshire	19	8	15	8	34	8
East Ayrshire	16	7	15	8	31	7
Fife	40	17	27	15	67	16
Total	240	101	180	99	420	100

Disposals in the study were made by 12 Sheriff courts across the seven authorities: Edinburgh, Aberdeen, Hamilton, Airdrie, Lanark, Glasgow, Dumbarton, Kilmarnock, Ayr, Cupar, Kirkaldy and Dunfermline. Only the main courts for each authority were included: any courts which accounted for less than 10% of an authorities SER requests were not included.

Age

The average age of the female offenders who were subject to reports was 28.7 years, slightly older than the male offenders who were on average 26.8 years (the age refers to the age at the point of being sentenced). This difference was not significant.

Marital Status

As illustrated in Table 3.3 the most common category of marital status for both male and female offenders was being single. Sixty seven per cent of the male offenders and 59% of the female offenders came into this category. However, the difference in marital status between men and women was not statistically significant.

Table 3.3 Marital status of sample

	Male offenders	%	Female offenders	%	Total	%
Single	161	67	107	59	268	64
Cohabiting/ Married	52	22	42	23	94	22
Separated/ Divorced/ Widowed	27	11	31	17	58	14
Totals	240	100	180	99	420	100

Children

The offenders whose reports were included in the sample, were reported as having a total of 391 children. Eighty eight of the male offenders (37%) had 183 children and 102 of the female offenders (57%) had 208 children in total. The differences were significant. Female offenders in this sample were more likely than men to be reported as having children ($X^2 =16.61, 1 DF, P < .001$). The average number of children amongst the men in the sample was 0.76 while the average number of children amongst women was 1.15. The differences in the number of children between male and female offenders was significant ($t=3.082, P < .01$). Female offenders in this sample were reported as having more children than male offenders.

The higher number of children amongst the women in the sample seemed to be partly a reflection of the slightly higher age group of the women. When individuals 21 years of age and over were

excluded female offenders still had more children but the difference was no longer significant. The whereabouts of offenders' children is detailed in Table 3.4:

Table 3.4 Location of offenders' children⁹

	Children of male offenders in the sample	% of tot. no. of children of male offenders	Children of female offenders in the sample	% of tot. no. of children of female offenders	Total	%
Child currently resident with the offender	69	38	120	59	189	49
Child usually resident with the offender but currently elsewhere	25	14	11	5	36	9
Child now and usually elsewhere	89	48	73	36	162	42
Totals	183	100	204	100	387	100

The categories of 'child usually resident with client but currently elsewhere' and 'child now and usually elsewhere' were used to differentiate between longer and shorter term arrangements (e.g. the first category would have been used where, as a direct consequence of the offence or a recent remand or other imprisonment, alternative care arrangements were made). The children of female offenders were more likely to be reported as currently living with them, compared to the children of male offenders ($X^2 = 15.35$, 1 DF, $P < .001$). Similarly children of male offenders were more likely than children of female offenders to be reported as being usually resident with but currently elsewhere ($X^2 = 7.14$, 1 DF, $P < .01$). Children of male offenders were also more likely than children of female offenders to be reported as presently and usually residing elsewhere ($X^2 = 6.94$, 1 DF, $P < .01$).

⁹The numbers in this table correspond to the total number of individual children and not the number of offenders.

Current accommodation

Although cases were ‘randomly’ selected from a wider pool of offenders, one category of individuals who were excluded were those identified on the disposal details as being of no fixed abode. The researcher considered that it was not feasible to pursue these individuals for their consent for access. Some of the individuals included however were of no fixed abode, as although at the point of disposal an address might have been recorded there might not have been an address at the time the report was compiled. It is therefore likely that the actual percentage of clients of no fixed abode, but for whom SERs were requested and for whom disposals of community service, probation or custody were made, would actually be higher than indicated by this data.

Current accommodation represents the reported address in the SER. There were occasions where offenders were serving sentences at the point of the report being compiled. In these few instances the researcher recorded what would be the clients’ usual accommodation when at liberty, if this information was clear within the report. If it was not then ‘no information’ was recorded. As detailed in Table 3.5 the most common category for current accommodation was own/shared tenancy for female offenders while for male offenders it was the parental home.

Table 3.5 Current accommodation

	Male offenders	%	Female offenders	%	Total	%
Own/shared tenancy	70	30	85	51	155	39
Parental home	90	39	26	16	116	29
Other relative’s home	25	11	9	5	34	8
Friend’s/partner’s accommodation	15	6	15	9	30	8
NFA/hostel/temp homeless accommodation/supported accommodation	12	5	15	9	27	7
Private rented/private lodgings/private rented caravan	11	5	10	6	21	5
Home of parents and other relatives	9	4	8	5	17	4
Total	232	100	168	101	400	100

Differences between men and women with regard to current accommodation were significant ($X^2 = 35.40, 6 \text{ DF}, P < .001$). Male offenders were most likely to be reported as residing within the parental home (39% of male offenders were in this category compared to only 16% of female offenders), while female offenders were more likely to be reported as having their own/shared tenancy (51% of female offenders were in this category compared to only 30% of male offenders). To gauge if this difference might in part reflect the slightly higher age of the female offenders, the researcher selected only those cases where the client was under 21 years of age. This did not account for the aforementioned differences. In fact the differences were greater when only those aged under 21 years were included (56% of male offenders were reported as living in the parental home, compared to only 31% of female offenders, while only 8% of male offenders and 27% of female offenders were reported to be living in their own/shared tenancy).

Household composition

Table 3.6 details the reported household composition of the individuals whose SERs were included in the sample. The category of “living alone” was used to describe individuals who were not living with other adults as part of a family or other planned grouping. It was therefore used to include hostel residents and adults who had children resident with them but who were not sharing with other adults. The category of “living with some combination of above” was originally recorded as such and referred to instances where an individual was residing with more than one of the following: a partner, a parent/parents or with a relative other than a parent.

The differences between male and female offenders in terms of household composition were significant ($X^2 = 53.93, 5 \text{ DF}, P < .001$). Women were more likely to be living alone (48% of the female offenders came into this category compared to only 18% of the male offenders). While men were more likely to be living with their parents (37% of the male offenders came into this category compared to only 15% of the female offenders).

Table 3.6 Household composition

	Male offenders	%	Female offenders	%	Total	%
Living with partner	52	22	37	21	89	22
Living with parent/s	88	37	26	15	114	28
living with other relative(s)	26	11	9	5	35	8
Living with some combination of above	12	5	8	4	20	5
Living alone - no other adult	42	18	86	48	128	31
Living with friends	16	7	12	7	28	7
Total	236	100	178	100	414	101

Conclusion

The gender differences identified here may partly reflect the trend that, as identified by Graham and Bowling (1995), females in the general population make the transition into adulthood at an earlier stage than males. Their study found that males make transitions into adulthood at a later stage than females: "Females are ... more likely than males to acquire the symbols of adult status by the time they reach their early twenties ... Males, however ... tend, even by the age of 24 to 25, to be dependent rather than independent, to have an absence of responsibility for themselves and others and to remain within their family of origin rather than forming a family of their own" (Graham and Bowling, 1995: 64).

In this sample both male and female offenders were most likely to be reported in the marital status category of single and female offenders were more likely to be reported as living on their own or in a shared tenancy, while male offenders were more likely to be reported as living within the parental home. Female offenders were more likely than men to be reported as having children and to have their children living with them. The gender differences identified here will be drawn upon throughout this thesis. Such differences appear to relate to a range of factors which demarcate differences in the respective pathways which lead male and female offenders into the criminal

justice system. The following chapter makes further comparisons by gender in terms of both offenders' experiences and their current circumstances.

Chapter 4

Reported Characteristics and Experiences of the Sample

Introduction

The aim of this chapter is to describe the characteristics and experiences of the sample as reported by the authors of the SERs. It is intended that this information will inform subsequent discussion relating to appropriateness of disposals, questions of approach, nature of intervention and finally issues of gender difference and equality. Such knowledge is fundamental to informing any discussion on the development of appropriate services to female offenders. As has been discussed in previous chapters, so much of what is known about offenders and appropriate methods of intervention has been dictated by what is known about male offenders. There is therefore a particular case for building up sources of information on female offenders being dealt with in the criminal justice system. Bloom argues for such informed discussion:

The design of programs that match needs and services must consider the demographic and social history of women and girls, as well as how various life factors and events have affected their pattern of offending. In general, female offenders differ from their male counterparts in significant ways. (Bloom: 2000:1)

In compiling such information the researcher is not attempting to offer a definitive causal explanation of male or female offending, but subscribes to the views of King who adopts a perspective which questions "any attempt to attribute in a positivistic way causes to specific types of crime or to crime in general, seeing the identification of causes as a political rather than a rational scientific exercise. This does not mean to say that there are no causes, but rather that the reasons

why an individual engages in a particular form of behaviour are so complex that explanations are necessarily constructed from selective and simplified accounts.” (King, 1989: 292). The purpose of this chapter is to provide a profile of the background, circumstances and experiences of the offenders in the sample and to explore the extent to which the reported information differs according to gender.

In this chapter consideration is given to the following factors in an attempt to gain insight into the social circumstances of the individuals whose reports were included in the sample under study: experience of abuse in childhood, contact with the social work department in childhood, education, employment history, current source of income and current debt, involvement in substance misuse, mental health history, experience of abuse in adulthood and clients’ reasons/writers explanations for involvement in offences/offending.

Abuse and social work involvement during childhood

The link between involvement in offending and the quality of family relationships has been long established (Bowlby 1947, Rutter 1972). A more up-to-date study by Graham and Bowling has confirmed this relationship: “Both males and females who were less attached to their families were more likely to offend than those who were relatively content at home” (Graham and Bowling, 1995: xii). This might explain the relatively high levels of reported childhood abuse and social work intervention found within the present sample. Moreover such connections between family background and involvement in offending may be especially pertinent to female offenders. It has been argued that girls and women are subject to greater social control both specifically within their family context and in the wider society (Eaton 1986, Heidensohn 1985). Within the family this control can extend to forms of abuse (Chesney-Lind, 1997). It has been argued that girls’ and women’s attempts to reject or resist being controlled, in whatever guise, can contribute to their involvement in the criminal justice system (Carlen 1988, Heidensohn 1985). It is therefore reasoned

that women's routes into the criminal justice system different from those of their male counterparts (Carlen 1983, 1988, Chesney-Lind and Sheldon 1998).

This study found that reported levels of childhood abuse were higher for the female offenders in the sample. Twenty-five per cent of the overall sample were reported as having experienced some form of abuse during childhood. However female offenders were significantly more likely than male offenders (33% compared to 19% of male offenders) to be reported as having experienced childhood abuse ($X^2 = 10.16$, 1 DF, $P < .001$). The types of reported abuse, by gender, are shown in Table 4.1:

Table 4.1 Nature of abuse in childhood

	Male offenders	% of all male offenders	Female offenders	% of all female offenders	Totals	% of total sample
Physical abuse	20	8	16	9	36	9
Neglect	8	3	23	13	31	7
Sexual abuse	4	2	19	11	23	5
Emotional abuse	9	4	11	6	20	5
Witnessed domestic violence	13	5	7	4	20	5

N = 420, these categories are not mutually exclusive and some individuals will appear in more than one category

The category of sexual abuse did not include 7 cases (1 male and 6 female offenders) in which the offender was not reported explicitly as having experienced sexual abuse but where this seemed to be implied by the SER writer. Clearly some individuals will have been reported in more than one category. The 4 most prevalent categories of childhood abuse reported for female offenders were, in descending order respectively, childhood neglect, sexual abuse, physical abuse and emotional abuse/mental cruelty. The equivalent categories for male offenders were physical abuse, witnessing

domestic violence, emotional abuse and childhood neglect. Female offenders were significantly more likely than males to have been reported as having experienced neglect ($X^2 = 13.42$, 1 DF, $P < 0.001$) and sexual abuse ($X^2 = 15.7$, 1 DF, $P < 0.001$).

It seems unlikely that the experience of abuse was over-reported in SERs. On the contrary it is feasible that a number of clients would not have reported their experience of abuse or at least the full range of abuse. It is also possible that not all abuse disclosed during interview or recorded in departmental records was reported by the SER writer. These patterns of abuse outlined may also, at least in part, reflect issues related to gender and rates of disclosure. The material gained from interviews with social workers, detailed later in this thesis, on gender and ways of engaging suggests that female clients are more likely, when they do attend, to engage effectively and to discuss personal/emotional problems. It may be that social workers' perceptions of female offenders influence the questions asked of male and female clients, which could in turn have a bearing on disclosure.

A study by Eitle and Turner draws links between a background of abuse and subsequent offending:

... the bulk the of evidence presented is supportive of the notion that exposure to adversities does indeed serve to increase the risk for being involved in crime ... young people who are exposed to greater levels of stress, including the stress of witnessing domestic violence, are at a heightened risk for myriad of social problems, including post-traumatic-stress disorder, depression, anxiety, memory and concentration deficits, poor academic performance, and antisocial behaviour. (Eitle and Turner 2002, 232-233)

Despite the factors which may affect gender differences in disclosure, work by a number of researchers (Dembo *et al* 1993, Koons, Burrow, Morash and Bynum 1997, Liebling 1994, Loucks

1998, Rungay 2000, Russell 1984) suggest a high prevalence of childhood abuse amongst female offenders in particular. As has been discussed in Chapter I of this thesis the higher levels of abuse amongst female offenders may relate to the greater taboo against female offending; it seems almost as though more has to go wrong before women offend.

Nature of and reasons for social work contact during childhood

The reported child abuse detailed in the previous section may or may not have been discussed within the SER in the context of social work intervention during childhood. In addition to reference to child abuse, the researcher recorded whether or not the offender was reported in their social enquiry report as having had previous contact with the social work department. This included any references to dealings through the Children's Hearings System and any voluntary supervision by the childcare section of a Local Authority social work department. Where a reference was made to such contact the researcher recorded both the nature of, and the reported reasons for, the intervention. Thirty nine percent of the overall sample were reported to have had contact with the social work department during their childhood. Thirty seven percent of women in the sample were reported as having some form of previous contact with the social work department during childhood compared to 40% of men. This difference was not significant. The types of social work contact that the sample were reported to have experienced are detailed in Table 4.2.

Individuals may have had more than one kind of contact and can therefore be represented in more than one category. It would seem unlikely that any of these contact categories were over-reported since, for a number of reasons, the report writer may not have had access to the full range of information. It is more likely that there was underreporting. Information about experience of social work contact in childhood may not have been considered by all SER writers to be relevant to the compilation of an SER. Although 10% of this sample were reported as having spent time in a children's home this is less than was reported in Mair and May's (1997) study which had 19% of

Table 4.2 Nature of social work contact during childhood

	Male offenders	% of male offenders	Female offenders	% of female offenders	Total	% of sample
Voluntary contact/Hearing NFA	12	5	5	2	17	4
Statutory supervision in the community	38	16	15	7	53	13
Supervision in a children's home	19	8	25	12	44	10
Supervision in a residential school	35	15	25	12	60	14
Spent time in foster care	11	5	16	8	27	6
Adopted	0	0	2	1	2	0
Spent time in secure accommodation	3	1	7	3	10	2
Total	118	/	95	/	213	/

N=420, some individuals were reported as having had more than one contact.

Hearing NFA was used to denote that a hearing was held but no further action was taken.

their sample recorded as having spent time in a children's home. Their study was based on individuals who were interviewed and personally replied to the survey questions. It is reasonable to assume, then, that Mair and May's study was less likely to have underrepresented percentages of the sample who had spent part of their childhood in a children's home.

Female offenders were more likely than male offenders to have been reported as having been in a children's home ($X^2 = 3.91$, 1 DF, CV 3.84, $P < .05$). Male offenders were more likely than female offenders to have been reported as having been subject to statutory supervision in the community. ($X^2 = 5.25$, 1 DF, CV 3.84, $P < .05$). This could be interpreted as indicating that girls and women are subject to greater levels of control. Table 4.2 suggests that male offenders were more likely than female offenders to be reported as having been subject to levels of care which arguably involve less

control, such as voluntary contact and supervision in the community. The nature of prior social work contact will presumably have been influenced by the reasons for that contact. The relevant data are summarised in Table 4.3.

Table 4.3 Main reasons for social work involvement

	Male offenders n=240	% of male offender s	Female offenders n=180	% of female offender s	Totals	% of total entries
School/educational difficulties	60	25	26	14	86	32
Concerns re: involvement in offending	38	16	10	6	48	17
Concerns re: behaviour other than offending	22	9	17	9	39	14
Relationship difficulties/family problems	17	7	12	7	29	11
Child protection	6	2	13	7	19	7
Outwith parental control	3	1	13	7	16	6
Running away	7	3	9	5	16	6
Concerns re: drug/alcohol use	4	2	4	2	8	3
Concerns re: level of parental care	2	1	7	4	9	3
Totals	159	/	111	/	270	99

N = 420, categories were not mutually exclusive and some individuals will have had more than one reason for social work involvement.

Female offenders were more likely than male offenders to have the reported reason for social work involvement being that they were subject to child-protection procedures ($X^2 = 5.31$, 1 DF, $P < .05$) and that they were outwith parental control ($X^2 = 10.01$, 1 DF, $P < .01$). Male offenders were more likely than female offenders to have the reported reason for social work involvement as concerns

about their involvement in offending ($X^2 = 10.73$, 1 DF, $P < .001$) and concerns about school/educational difficulties ($X^2 = 7.04$, 1 DF, $P = .01$). These data suggest that women's reported reasons for prior social work involvement were more often related to their relationships with their carers and to their perceived vulnerability. Men, on the other hand, were more likely to have been reported over concerns which were arguably more directly related to their own behaviour. Reported reasons for social work involvement which might indicate a risk to oneself more than to others, such as being in need of protection, being outwith parental control and running away were more commonly reported among female offenders, although not all of these differences were statistically significant.

Despite the fact that reasons for social work involvement with women during childhood seemed more likely to relate to their vulnerability than to the threat they posed to others, female offenders seemed more likely than male offenders to have been subject to more intrusive and formal methods of social work intervention, suggesting that they were subject to greater levels of social control. This could simply reflect the fact that women were more likely to be subject to child protection procedures and more likely to be abused with the result that withdrawal from the home was required to protect them from further harm. Alternatively, or additionally, it could reflect a tendency to be more protective, more controlling or perhaps less tolerant towards female behaviour. This lends credibility to the position, alluded to earlier in this thesis, that statutory involvement with female offenders begins with attempts to keep a tighter reign on their behaviour. The irony noted by a number of critics (Blom and Ton van den Berg 1989, Kersten 1989) is that often the behaviour of females which elicits further control is in fact a reaction to, or a way of coping with, negative aspects of existing control within their home environment. This would include, for example, running away to escape abuse.

Statutory supervision orders which are supervised by the social work department are imposed by the Children's Hearings System. This is not a juvenile court and is intended to respond to a range

of issues including parental abuse, parental neglect, truancy and offending. However, Jamieson, McIvor and Murray (1999) found that a common perception among young people was that the hearings system's remit was to deal with children who offend. The data from this study suggests that the misconception that those who have been dealt with through the Children's Hearings System are offenders may misrepresent females in particular. This may in turn have implications for how they are dealt with as adult offenders by the courts. Recognition has long been given to the relationship between the general social control of females and the subsequent involvement of some women in the criminal justice system, as argued by Heidensohn:

If we start from the broader issues of conformity and control and observe and analyse how these affect *all* women to some degree and *some* groups of women more than others, we can then learn rather more about those who become involved in crime.
(Heidensohn, 1985: 199-200, emphasis in original)

Education

The background of abuse and/or experience of being brought up in Local Authority care can create vulnerability and this may have impacted on some offenders' educational needs and subsequent achievements. Information on the qualifications gained by the sample was available in 337 cases (194 male offenders and 143 female offenders). Including only the cases where information on educational attainment at school was given, 60% were reported to have left school without having gained formal qualifications. From the overall sample similar proportions of men (50%) and women (46%) were reported as having no qualifications when they left school.

Exclusion from school and being educated outwith mainstream school

Wright, Weekes and McLaughlin have argued that school exclusion, a phenomenon on the increase since the eighties, is both a cause and effect of social exclusion, so that "some specific groups of

children and young people are more likely to experience school exclusion than others.” In turn it is argued that “the effects of school exclusion extend well beyond the sphere of schooling ... to include aspirations, unemployment and vulnerability to criminal behaviour” (Wright *et al*, 2000: 2 - 3). Reflecting the general pattern of boys being more likely than girls to be excluded from school (Wright *et al*, 2000) and perhaps also the association between exclusion and offending for boys particularly (Graham and Bowling, 1995), male offenders in the sample were significantly more likely than female offenders to have been reported as having been suspended or excluded (16% compared with 8%, $X^2 = 6.15$, 1 DF, $P < .05$). Overall 12% of the sample were reported to have been suspended or excluded from school and 22% of the sample were reported as having been educated outwith mainstream school¹⁰, with this being more commonly reported in the SERs of male offenders (27% compared with 16% of women, $X^2 = 7.42$, 1 D F, $P < .05$).

Educational attainment

In addition to information on exclusion the researcher gathered and analysed information on the educational attainment as reported in SERs as well as whether or not individuals were reported as having learning difficulties. The Education (Scotland) Act 1980 considers an individual to have a learning difficulty where they:

have significantly greater difficulty in learning than the majority of those of their age;

suffer from a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for those of their age in schools managed by their education authority (Home Office, 1980: sec 1(5)d).

¹⁰ This will include those who had been placed in a residential school or secure unit.

Where the individual was described in the SER in a way which met the above criteria the researcher recorded the individual as being reported as having a learning difficulty. Overall, 8% of this sample were reported as experiencing learning difficulties (9% of men and 7% of women). The changes in educational policies in the eighties, it is argued, produced “a climate which emphasizes competitiveness and individualism” (Wright *et al*, 2000: 5). More specifically, the policy changes included an alteration in financial arrangements which led to each school having to buy in services for pupils experiencing specific emotional and behavioural difficulties. As argued by Wright *et al* (2000) in the new ‘free market’ culture within education, meeting such needs may not be seen as a priority.

It has also been argued that difficulties and underachievement during school years are likely to have long-term consequences: “Those pupils who are excluded often find it difficult to regain entry to formal education” (Wright *et al*, 2000: 130). As detailed in Table 4.4 around one half of the sample for whom information on educational qualifications was given, were reported as having no formal educational qualifications at the point of being sentenced:

Table 4.4. Highest educational qualifications obtained

	Male offenders	%	Female offenders	%	Total	%
No formal educational qualifications obtained	92	50	68	49	160	49
O grade/standard grade	79	42	49	35	128	39
H grade/A level/ONC/Degree/Diploma	15	8	23	16	38	12
Total	186	100	140	100	326	100

In 54 cases involving male offenders and 40 involving female offenders the report writer had not recorded any information

Only 12% of those for whom information on educational attainment was given had attained any qualifications above standard grade level. Poor educational attainment appears to be generally widespread amongst offenders (Caddick and Webster 1998, Mair and May 1997). Caddick and

Webster (1998) emphasise specifically the high levels of literacy problems identified amongst offenders both in Britain and across Western Europe. He draws attention to the even higher levels of literacy difficulties amongst the prison population than amongst individuals on probation caseloads. This he uses to tentatively speculate that “a probationer with literacy problems may have more chance of graduating to prison than a probationer without” (Caddick and Webster, 1998: 138) and to argue that statutory supervision of criminal justice clients gives inadequate consideration to literacy levels.

In the current climate, where the emphasis is on developing the cognitive skills of offenders, literacy levels may have even greater significance for those subject to such supervision:

More recently ... psychologists have shown that the relationship between language and thinking is more complex and that the cognitive operations by which language is encoded, stored and represented are themselves enhanced in the process ... In short, in enabling individuals to gain access into the communicated thoughts and experiences of a wide range of others (whether real or imagined), literacy helps to ensure that cognition is not wholly the product of one’s own experience or the conveyed experience of those who make up one’s immediate network of associates. It thus expands the capacity to conceive of alternatives and to evaluate options which, through the use of cognitive methods, may lead to useful strategies for avoiding criminal behaviour. (Caddick and Webster, 1998: 140-41)

In this argument Caddick and Webster are specifically making reference to literacy levels. The *Concise Oxford Dictionary* defines literacy as an “ability to read and write”. The argument presented by Caddick and Webster does not have to be confined to literacy but could be extended to argue that higher literacy/literary skills or general levels of educational attainment could enhance an individual’s ability to engage in, and benefit from, work which focuses on cognitive skills.

They argue that when consideration is given to education/literacy in the context of supervision within criminal justice, the criteria for doing so tends to discriminate against female offenders. A focus on education/literacy tends to be linked specifically to employability. This can neglect particular groups of clients such as “women offenders who, bearing the burden of domestic responsibilities, are not seen to be in need of job-related input or advice” (Caddick and Webster, 1998: 143). The present data, on gender and employment history, do not alleviate such concerns.

Employment and financial circumstances

Employment history

The poor reported record of educational achievement of offenders whose SERs were included in this sample, as outlined in the previous section, would not augur well for their employment prospects. Overall 48% were reported as being mostly unemployed as illustrated in Table 4.5.

Table 4.5 Employment history

Employment History	Male offenders	%	Female offenders	%	Total	%
Never worked	19	8	20	13	39	10
Mostly unemployed with occasional periods of employment	100	43	86	56	186	48
Mostly employed with occasional periods of unemployment	78	34	32	21	110	28
Has worked fairly consistently ¹¹	36	16	17	11	53	14
Total	233	101	155	101	388	100

¹¹ ‘Has worked fairly consistently’ was recorded where the employment history described the individual as having been in employment more than s/he had been unemployed.

There were significant differences between male and female offenders with respect to their employment histories ($X^2 = 11.93$, 3 DF, $P < .05$). Male offenders were more likely than female offenders to have worked fairly consistently or to have been mostly employed. Female offenders were more likely to have never worked or to have been mostly unemployed. This would suggest that lack of employment features more amongst female offenders.

Information about employment history was more likely to be lacking in the SERs of female than male offenders (13% compared with 3%) and this difference was significant ($X^2 = 15.08$, 1 DF, $P < .001$). As detailed in Chapter 3, female offenders were more likely to be parents and were more likely to be reported as having their children living with them. It may be that writers were sometimes assuming on this basis that employment history was not relevant and that women were less likely to be actively seeking employment.

Research by Gill, involving interviews with offenders, found that female offenders were less likely to consider that finding employment was important: "While young female offenders seemed particularly confused, they had often given little thought to work and like some older women saw their future more in terms of looking after a household than in employment" (Gill, 1997: 340). Making a choice not to participate in the workplace does not necessarily ameliorate the financial consequences of unemployment for female offenders. Box and Hale found that for female offenders there was a relationship between unemployment levels and involvement in property offences (Box and Hale, 1983).

The high levels of unemployment amongst this sample of offenders has been further evidenced amongst offender populations in a range of studies (Gill 1997, Mair and May 1997, McIvor and Barry 1998, Smith and Stewart 1997). The source of information for the quantitative component of

this study was SERs written between 1st April 1999 and 31st March 2000. The New Deal policy¹² had then only been in place for a number of months and therefore would not have impacted fully on practice.

The New Deal system arguably entails an element of coercion in persuading individuals to return to employment, on the basis that benefits are withdrawn if individuals do not comply with job search/training requirements. Gill's study (1997) found that offenders were not simply seeking 'a job' but wanted work with acceptable pay and conditions. His interviews with offenders established that "a job which generated interest and sufficient income to live beyond subsistence level was viewed as a good incentive to give up offending" (Gill, 1997: 339). Offenders participating in Gill's study voiced concerns that a lack of qualifications would limit the quality of employment opportunities they would be likely to access.

It is likely that debates regarding the significance of unemployment in contributing to offending behaviour will remain unresolved. Factors which contribute to unemployment amongst offenders, such as involvement in drug misuse (discussed later in this chapter) and difficulties in reintegrating into civilian life after periods of imprisonment, could also support involvement in offending behaviour, rather than unemployment *per se* contributing to offending. Here the intention is to note low educational attainment and high levels of unemployment amongst this sample and to suggest that this clearly has implications for the socioeconomic circumstances of individuals being dealt with through the criminal justice system and should perhaps influence the content of supervision. The intention is not to argue that unemployment causes or contributes to offending.

¹² The New Deal Policy is a government active labour market programme which was introduced in 1998. The government's intention was to assist people into employment by improving their job search and providing work experience/training for those who fail to find work.

Income

With such high levels of unemployment it is not surprising that the majority of the sample (69%) were reported as living solely on state benefit, as illustrated in Table 4.6.

Table 4.6 Offenders' source of income

	Male offenders	%	Female offenders	%	Total	%
Solely benefit	148	62	133	77	281	69
Solely earned	50	21	27	16	77	19
None	33	14	9	5	42	10
Other	7	3	3	2	10	2
Total	238	100	172	100	410	100

N = 410¹³

Comparing reported sources of income by gender produced significant differences ($X^2 = 12.69$, 3 DF, $P < .05$). More female offenders were reported as living on benefit (77% of women compared to 62% of men). By contrast 21% of male offenders were living on earned income compared with only 16% of the female offenders. A higher percentage of male offenders, 14%, had no (legal) income compared to only 5% of female offenders. This may partially reflect the ineligibility for benefits of under eighteens. Nine of the 33 male offenders with no income (27%) were either 16/17 years of age compared with 2 out of 9 (22%) female offenders.

More female offenders were reported as living on benefit. They were also more likely to be living alone, less likely to be living with a family member and more likely to be caring for children. In this sample 40 female offenders (22%) were single parents who had at least one child living with them, compared to only 2 male offenders living alone who had at least one child living with them. Thirty-five of these 40 female offenders were identified as living on benefit. The prevalence of

¹³ The 'other' category in this table included the following categories: combined income of earning plus benefit, pension only, pension plus benefit.

unemployment and being in receipt of benefits as a source of income perhaps at least partly accounts for the extent of debt among the sample.

Debt

Overall 45% of the sample had some debt reported in their SER. Despite lower levels of employment amongst female offenders and a greater likelihood of being a single parent similar proportions of men and women were reported as being in debt - 45% of male offenders and 46% of female offenders. These findings accord with those of Mair and May (1997) who found that “women were no more likely than men to be having problems with debt” (Mair and May, 1997: 40), although the criteria they used to determine “having problems with debt” are not explained. In order to portray the nature of the reported debt amongst the sample, Table 4.7 lists the main cause of debt reported, which represents the largest amount of debt which had been accrued.

The three most commonly reported categories of debt for both male and female offenders were the same, in descending order: outstanding fine/financial penalty, outstanding personal loans/credit card debts and catalogue debts. Mair and May (1997) also had debt to mail order companies (similar to catalogue debts) ranking amongst the most frequently identified source of debt. Of the three aforementioned categories, the only one with a significant difference between male and female offenders was outstanding fine/financial penalty. Male offenders were more likely than female offenders to have outstanding fines/financial penalties ($X^2 = 6.19, 1 \text{ DF}, P, .05$). The only other category of debt where there was a significant difference between male and female offenders was with regard to outstanding social fund loans. Four men (4%) and 9 women (11%) were reported as having an outstanding social fund loan ($X^2 = 8.86, 1 \text{ DF}, P < .01$). This partly reflects a higher proportion of female offenders reported as having been in receipt of benefits.

Table 4.7 Main categories of debt

	Male offenders	% of Male offenders who had debt reported	Female offenders	% of Female offenders who had debt reported	Total	% of items of debt reported
Outstanding fine payments	44	41	18	22	62	33
Other outstanding personal loans/credit cards	21	20	16	20	37	20
There are debts but the main source is not identified	20	19	9	11	29	15
Catalogue debts	9	8	9	11	18	9
Currently has an outstanding social fund loan	4	4	9	11	13	7
Other debts (misc.)	2	2	8	10	10	5
Rent arrears	2	2	5	6	7	4
Council tax arrears	1	1	2	2	3	2
Fuel debt	0	0	3	4	3	2
Debts reported but no information on their nature	2	2	1	1	3	2
Outstanding debts to drug dealers	2	2	0	0	2	1
Has outstanding debts to moneylenders	0	0	1	1	1	1
Total	107	101	81	99	188	101

N= 219

Female offenders, then, are more likely than their male counterparts to have children, be unemployed and in receipt of benefits, and have outstanding social fund loans. Carlen (1988) has argued that for the criminal justice system to operate more effectively there should be policy changes which extend beyond the criminal justice system to address wider issues relating to women's socioeconomic circumstances. This position still appears to be relevant to female offenders.

Substance misuse

Financial incentives for involvement in crime, discussed in more detail later in this thesis, can in some instances be linked to efforts to fund substance misuse. Seventy five per cent of the sample had some level of substance misuse identified. Substance misuse was not identified in only 105 of the overall 420 cases. No differentiation was made between an 'addiction' and other forms of substance misuse, since to do so would have been problematic given the reliance on secondary sources and the fact that SER writers may not all have used the same criteria for labelling someone as having an addiction. In addition, it became clear even at the pilot stage that the term 'addiction', which implies a medical rather than a social model of substance misuse, was used infrequently. Consequently, the data reported here refers simply to whether or not substance misuse was documented at any time from the commission of the offence(s) in question to the point of being interviewed for the SER.

It is more likely that substance misuse is underreported than over-reported. As acknowledged in National Standards for SERs:

It is recognised that, unless the offender is charged with a drugs related offence or wishes to offer drug misuse as mitigation for offences committed, it may be unrealistic to expect full disclosure during the preparation of a report for the court. (Social Work Services Group, 2000: part 2 para 2.20)

Eighty one per cent of male offenders had substance misuse identified compared to only 66% of women and this difference was significant ($X^2 = 10.16$, 1 DF, $P < .01$). However there also appeared to be a gender differences in the nature of substances misused.

Table 4.8 Nature of substance misuse

	Male offenders	%	Female offenders	%	Total	%
None	44	18	59	33	103	25
Alcohol	69	29	31	17	100	24
Drugs	98	41	81	45	179	43
Both alcohol and drugs	27	11	8	4	35	8
Total	238	99	179	99	417	100

As Table 4.8 indicates, drug misuse was reported as slightly more prevalent amongst female offenders while a greater proportion of male offenders were reported as engaging in both alcohol and drug misuse, although neither of these differences were significant. Alcohol misuse was more commonly reported for male offenders and this difference were significant ($X^2 = 20.62$, 3 DF, $P=0.001$). This latter finding echoes those of McIvor and Barry (1998) in whose study of 155 offenders subject to probation in Scotland male probationers were more likely than females to be described as having problems related to alcohol.

Heroin was the most commonly reported drug used in this sample, with 29% of the sample reported as using heroin. The differences between male and female offenders in this regard were not significant. Such a reported level of heroin misuse amongst the sample may reflect an apparent increase in the use of heroin in Scotland. In terms of the drug use reported by people attending treatment services in Scotland, there has been an increase from 67% of service users reporting heroin misuse in 1997/8 to 76% in 2002/2003 (Drug Misuse Statistics Scotland, 2003).

The prevalence of drug and alcohol misuse amongst offenders is supported by a number of researchers (Mair and May 1997, Jamieson *et al* 1999, Rex 1999, Rutter, Giller and Hagell 1998). Sixty six per cent of the Scottish Prison Service's reception testing samples in May 2003 tested positively for drugs (Drug Misuse Statistics Scotland, 2003). Additionally 10% of the Prison population is randomly selected each month to be subjected to a mandatory drug test. For the year

2002/2003, 17% of all such tests gave a positive result (Drug Misuse Statistics Scotland, 2003).

This would suggest that, at least for a sizeable proportion of individuals, being sentenced to custody does not act as a deterrent from substance misuse. As will be discussed later in this thesis, involvement in substance misuse featured amongst both offenders' and SER writers' explanations of offending in the present study. Given the levels of abuse during childhood which have been identified for this sample it was decided to explore whether there was any association between this variable and subsequent involvement in substance misuse.

Exploring the link between reported childhood abuse and subsequent substance misuse

The data presented in Table 4.9 suggest that those reported as misusing substances were more likely to be reported as having experienced abuse as a child, though the differences between men and women in this regard were not statistically significant.

Table 4.9 Child abuse and involvement in substance misuse for the whole sample

	No substance misuse identified	%	Substance misuse identified	%	Totals	%
Reported as experiencing child abuse	20	19	85	27	105	25
No child abuse reported	85	81	230	73	315	75
Totals	105	100	315	100	420	100

However, when only those cases where clients were reported as engaging in substance misuse were considered, as illustrated in Table 4.10 female offenders reported as engaging in substance misuse were almost twice as likely than male offenders to also have been reported as having experienced abuse in childhood ($X^2 = 12.14$, 1 DF, $P < .001$).

Table 4.10 Prevalence of child abuse for those involved in substance misuse

	Male offenders	%	Female offenders	%	Total	%
Reported as experiencing child abuse	39	20	46	38	85	27
No child abuse reported	155	80	75	62	230	73
Totals	194	100	121	100	315	100

Covington has identified such a relationship, for women in particular, between childhood abuse and subsequent involvement in substance misuse:

Chemically dependent women ... often ... come from dysfunctional families ... Perhaps their parents simply neglected them and left them to parent themselves, or their families may have abused them, leaving them traumatized". (Covington, 1999: 12)

Similarly, Miller and Stiver, referring to sexual abuse in particular, comment that substance misuse can be used by women as a way of dealing with their experience of abuse: "Women who have grown up in families in which incest occurs use a range of ... strategies ... including substance abuse, to numb their experiences" (Miller and Stiver, 1997: 111). This is not to discount the possibility that some of the male offenders may also be engaging in substance misuse as a way of dealing with past abuse. It is noteworthy that 15 of the 19 female offenders in the sample reported as having experienced sexual abuse in childhood were then reported as engaging in some form of substance misuse in adulthood. Possibly related to the pattern of experience of childhood abuse and subsequent involvement in substance misuse, the information on this sample revealed notably higher levels of current experience (that is, as reported in the social enquiry report at the point of being interviewed) of mental health/mental illness among female offenders. Accepting that substance misuse does not necessarily extend to addiction, Covington's definition of addiction does mark out addictive behaviour as almost approaching self-harming: "Addiction is a chronic neglect of self in favour of something or someone else" (Covington, 1999: 11).

Mental health

For the purpose of this study an individual was recorded, on the basis of information provided in the social enquiry reports, as having a mental health problem (either currently or previously) if there was a reference to problems or concerns regarding the offender's mental health. This would extend from a specified mental illness to the individual being reported as depressed. For reported depression to be recorded as the offender having a mental health problem the condition had to be described by the SER writer as serious. For example, 'feeling down' was not recorded as a concern regarding mental health, whereas recurring panic attacks and thoughts of self-harm or suicide ideation was recorded as a mental health issue.

Twenty four per cent of this sample were reported as experiencing some degree of mental health difficulties at the point of the SER being written. Female offenders were markedly more likely than males to be reported as having current experience of mental health problems, 33% compared with 17% ($X^2 = 14.82$, 1 DF, $P < 0.001$). Taking into account either current or previous experience of mental health problems revealed, as might be expected, higher levels of mental health problems amongst female offenders, with 53% of women and 26% of men reported as having experienced mental health problems at some point in their lives ($X^2 = 31.90$, 1 DF, $P = 0.001$).

The incidence of reported attempted suicide or self-harming behaviour was similarly higher among women than men. Nineteen percent of women were reported to have engaged in self-harming behaviour compared with 9% of men ($X^2 = 9.29$, 1 DF, $P < .01$). Clearly, consideration of any such findings has to take into account the historical context, discussed previously in this thesis, where there has been an inclination to pathologise female offenders: mental health has been such an area. Maden, Swinton and Gunn identify this problem as follows:

Women commit much less crime than men. This has contributed to a tendency to see female offenders as having medical and social problems rather than as being hardened criminals. (Maden *et al*, 1994: 44)

It is possible that gender differences in disclosure rates may have exaggerated mental health as a problem for female offenders in comparison with male offenders. Material from the researcher's interviews with social workers indicated two ways in which this might be operating. Firstly, there was a prevalent attitude amongst SER writers that female offenders were more likely to experience mental health problems, including involvement in self-harming behaviour. This perception may well influence the areas which are explored in interviews by SER writers. In addition, the point made earlier in relation to disclosure of experience of childhood abuse arguably applies also to mental health problems. Higher levels of engagement with female offenders and a willingness and ability to discuss emotive issues, as reported by social workers and discussed later in this thesis, are factors clearly more conducive to disclosure of mental health problems.

As detailed in Chapter 2 there is a history of ideology which pathologises female offenders and as alluded to in Chapter 1 female offenders may well collude with this almost as an attempt at mitigation. Gilligan (1982) discusses the lack of language and available ideological framework for understanding women and suggests that this causes problems not just for others who are attempting to listen to women, but also for women listening to themselves. Therefore collusion may not always be intentional but may reflect the internalisation of gendered ideology. Despite such caveats high levels of mental health problems specifically with female offenders have been highlighted previously (Loucks 1998, Maden *et al* 1994, Scottish Office 1998a).

Abuse during adulthood

There is, then, an emerging pattern amongst the female offenders included in this sample which reflects a range of factors contributing to their vulnerability. Experience of abuse during adulthood

compounds this problem. Miller (1991) teases out the inter-connections between addiction and experience of violence arguing that experience of abuse in either childhood or adulthood increase a woman's risk of becoming involved in substance misuse; and women who are involved in substance misuse are more vulnerable targets for violence.

There was only one instance of a male offender being reported as being subject to any form of abuse as an adult. This was one instance of a man reported as being subject to domestic violence from his wife. By comparison fifty nine of the 180 women (33%) were reported as having experienced some form of abuse as adults. Forty-four women in this sample had reported experiences of domestic violence. Smaller numbers of women had reported experience of other forms of abuse including physical, sexual and emotional abuse. The higher prevalence of domestic violence amongst female offenders in this sample reflects the widely acknowledged pattern that females are more likely than males to be victims of domestic violence (Scottish Executive, 2000).

Reporting whether or not an individual offender had experienced domestic violence is not a key purpose in compiling an SER. It is reasonable to assume, then, that the level of domestic violence has been underreported. As with experience of childhood abuse and mental health issues, there are specific factors, related to gender roles, which may contribute to male offenders underreporting their experience of domestic violence. Experiences of being victimised by an abuser may be particularly difficult for males involved in offending. As argued by Johnstone (2001), the straitjacket of masculinity is particularly relevant to men who offend. The reported levels of domestic violence for the women in this sample are higher than in the general population, while for men they are lower. It has been estimated that approximately one in four women and one in six men have experienced domestic violence from a partner (Scottish Executive, 2000).

The reported greater likelihood of female offenders being involved in abusive relationships in adulthood, combined with a reported greater likelihood of having experienced abuse in childhood

and higher reported levels of mental health problems, including self-harming behaviour, reinforces that, as argued by a number of researchers (Carlen 1988, Chesney-Lind and Sheldon 1998, Farr 2000) women's routes into criminal lifestyles tend to be different from those of their male counterparts.

In the interviews with social workers, discussed more fully later in this thesis, reference was made to the differences in and difficulties of working with female offenders on account of the greater and more complex problems which they bring to supervision. Interviewees made reference to the higher levels of chaos in female offenders' lives. This detracted from a focus on offending behaviour within supervision. Bloom supports differences in the supervision of female offenders on account of such different life experiences: "Abusive families and battering relationships are often strong themes in their lives. This has significant implications for therapeutic interventions that deal with the impact that these relationships have on women's current and future behaviour" (Bloom, 2000: 2). Some of these factors relate to the following discussion of reasons/explanations given by SER writers and clients with regard to involvement in offending.

Clients' reasons and SER writers' explanations for involvement in offending

As stated earlier, the researcher was not attempting to find a definitive causal explanation for offending. However, clients' reasons and writers' explanations for offences/offending were recorded and this information gave some insight into both offenders' circumstances and the factors contributing to offending. It was established though, at the pilot stage, that the data (in terms of clients' reasons/writers' explanations) were not entirely comparable as the information gathered was slightly different to cater for the way in which it tended to be provided in reports. Writers tended to report factors contributing to clients' offending generally, while the client's reason was cited specifically with regard to the current offence(s). The most prevalent reported reasons provided by the offenders for their offending are presented in Table 4.11.

Table 4.11 The five most prevalent reasons given by offenders for their involvement in the offence (as reported by SER writers)

	No of times each reason was reported	As a % of the sample	As a % of total reasons given (i.e. 686)
Being under the influence drugs/alcohol	144	34	21
Specifically funding substance misuse	80	19	12
Emotional stress/relationship difficulties	55	13	8
Alleviating financial difficulties	50	12	7
Financial gain	43	10	6
Total	372	88	54

Note: A total of 686 reasons were given but for some offenders there was no reason reported.

Other less common reasons, not listed in Table 4.11, included opportunism, initiated by somebody else and provocation. The five most prevalent reasons given by male offenders for their reason for involvement in the offence(s) are summarised in Table 4.12, while those given by female offenders are shown in Table 4.13.

Table 4.12 The five most prevalent reasons given by male offenders for involvement in the offence (as reported by the SER writer)

	No of times each reason was reported	As a % of the sample (i.e. 240)	As a % of total reasons given (i.e.377)
Being under the influence drugs/alcohol	98	41	26
Specifically funding substance misuse	41	17	11
Emotional stress/relationship difficulties	33	14	9
Impulsiveness	27	11	7
Opportunistic	21	9	6
Total	220	92	59

Table 4.13 The five most prevalent reasons given by female offenders for involvement in the offence (as reported by the SER writers)

	No of times each reason was reported	As a % of the sample (i.e. 180)	As a % of total reasons given (i.e.309)
Being under the influence drugs/alcohol	46	26	15
Specifically funding substance misuse	39	22	13
Alleviating financial difficulties	35	19	11
Financial gain	24	13	8
Initiated by another	22	12	7
Total	166	92	54

While being under the influence of drugs/alcohol and specifically funding substance misuse featured among the reasons provided by both men and women, there were differences in the most prevalent reported reasons. Female offenders were significantly more likely to be reported by SER writers as having given the reasons for their involvement in the current offence(s) as alleviating financial difficulties ($X^2 = 17.27, 1 \text{ DF}, P < .001$) and the offence having been initiated by another person ($X^2 = 6.33, 1 \text{ DF}, P < .05$). Male offenders were significantly more likely to be reported as citing being under the influence of drugs or alcohol ($X^2 = 10.41, 1 \text{ DF}, P < .001$).

With regard to the funding of substance misuse there were no significant differences between the proportions of male and female offenders reported as giving this as a reason for their involvement in offending. However when only the cases where substance misuse was identified were considered there was a significant gender difference, in that female offenders were more likely than male offenders to be reported as saying they were offending to fund their substance misuse (32% compared with 21% of men) ($X^2 = 4.37, 1 \text{ DF}, P < .05$). Any interpretation of this difference can only be tentative. It may reflect gender differences in the nature of drug use but it may also be because female offenders are more likely to have partners who are users, which in different ways can heighten the burden of funding substance misuse. Interviews with social workers both in this study and in Jamieson *et al's* (1999) study, lend support to the idea that female drug users are more likely to have male partners who are also using drugs. This may account partly, as will be discussed

further in Chapter 8, for the higher levels of chaos among female offenders reported by a number of criminal justice staff who were interviewed for this study.

It might simply be assumed that the higher proportion of men who described their offending as taking place while they were under the influence of substances is a reflection of the fact that a greater proportion of men were reported as engaging in substance misuse. However, selecting only the cases where substance misuse was identified revealed that there was still a difference: 50% of male offenders in this group were reported as citing being under the influence compared to only 38% of female offenders, although this difference was not statistically significant.

These differences might point to a gender difference in reasons for offending, that is that women may be more likely to make pragmatic decisions to offend such as to fund their substance misuse or to generate income for other reasons. Hedderman suggests, on the basis of her review of evidence of factors associated with women's risk of reoffending "while women offenders may suffer from cognitive distortions, most of their offending is in some senses a rational response to restricted opportunities, social inequality and poverty" (Hedderman, 2004: 239). The fact that 19% of women in the overall sample compared to only 6% of men were reported as citing alleviation of financial difficulties as their reason for offending suggests that women's participation in crime may reflect their attempts to cope with their adverse socioeconomic circumstances. Box and Hale, from analysis of their data, concluded that "deteriorating economic conditions, especially unemployment, are causally related to female crime" (Box and Hale, 1983: 43).

Twelve percent of female offenders compared to only 5% of male offenders were reported as indicating that their offending had been initiated by another person. On closer inspection of the 22 cases where women were reported as saying their offence was initiated by another, it appears that this included a high proportion of women who might be deemed vulnerable. Sixteen of the 22 cases involved women who were reported as having experienced mental health issues, domestic violence

or both. The researcher's interviews with criminal justice social workers revealed a widely held perception that for female offenders in particular their partner was likely to be a significant contributing factor to their involvement in the offence. This concurs with findings by Mair and May (1997) and by Jamieson *et al* (1999) that the female offenders in their studies were more likely to have been introduced to offending through their relationships with men.

Turning to the factors identified by social workers, as opposed to clients, as contributing to their offending, the relevant data are summarised in Tables 4.14 to 4.16.

Table 4.14 The five most prevalent explanations given by SER writers as factors contributing to offending

	No of times each explanation was reported	As a % of the sample	As a % of total explanations given (i.e. 555)
Drugs/addiction/misuse	155	37	28
Alcohol addiction/misuse	101	24	18
Associates/peer pressure	56	13	10
Emotional stress/relationship difficulties	52	12	9
Lifestyle/lack of structure	36	9	6
Total	400	95	71

Note: SER writers gave a total of 555 explanations for offenders reasons for involvement in offending and so some offenders will be reported in more than one of the above categories, while for some offenders no explanation was given.

The same five factors featured as the most prevalent amongst the SER writers' explanations for both male and female offenders' involvement in offending. There were, however, differences in the proportion of men and women for whom particular explanations were invoked: alcohol addiction/misuse, lifestyle, immaturity and financial problems.

Table 4.15 The five most prevalent explanations given by SER writers as factors contributing to male offenders' offending

	No of times each explanation was reported	As a % of male offenders	As a % of total explanations given (i.e. 338)
Drugs/addiction/misuse	93	39	28
Alcohol addiction/misuse	68	28	20
Associates/peer pressure	32	13	9
Emotional stress/relationship difficulties	28	12	8
Lifestyle/lack of structure	27	11	8
Total	248	103	73

Table 4.16 The five most prevalent explanations given by SER writers as factors contributing to female offenders' offending

	No of times each explanation was reported	As a % of female offenders	As a % of total explanations given (i.e. 217)
Drugs/addiction/misuse	63	35	29
Alcohol addiction/misuse	33	18	15
Associates/peer pressure	24	13	11
Emotional stress/relationship difficulties	23	13	11
Lifestyle/lack of structure	8	4	4
Total	151	83	70

Male offenders were significantly more likely to be reported by SER writers as having alcohol addiction/ misuse ($X^2 = 5.75, 1 \text{ DF}, P < .05$), lifestyle ($X^2 = 5.70, 1 \text{ DF}, P < .05$) and immaturity ($X^2 = 9.25, 1 \text{ DF}, P < .01$) given as explanations for their involvement in offending. Female offenders were significantly more likely to be reported as having offended as a result of financial problems ($X^2 = 13.62, 1 \text{ DF}, P < .001$).

The extent to which misuse of substances was identified by offenders and SER writers as related to offences/offending was very similar. One hundred and fifty-two male offenders were reported as saying their reasons for involvement in the offence(s) were that they were either under the influence, funding their substance misuse or simply that they were in possession of drugs for their own use. This compares to 162 male offenders being identified by SER writers as having either drug or alcohol use featuring as a contributing factor in their offending. The differences between clients reported reasons and writers explanations, in this regard, were not significant. Similarly for women, 91 female offenders were reported as giving one of the three above categories in relation to either drug or alcohol use, while SER writers identified 95 female offenders as having either drug or alcohol abuse featuring as a contributing factor in their offending. Again the differences between the reasons/explanations cited by either offenders or SER writers were not significant.

However, on comparing the SER writer's perception with the offender's it was apparent that the latter gave more emphasis to financial issues. Three of the 5 most prevalent reasons given by clients as reasons for involvement in offending made reference to financial issues (specifically funding substance abuse, alleviating financial difficulties and financial gain) whereas none of these three items appeared in the writers' five most prevalent explanations. These findings would accord with those of McIvor and Barry (1998). Their study of offenders subject to probation identified that probationers were more than twice as likely as social workers to have identified financial issues as needing to be addressed (20% compared to 9%). Mair and May (1997) found that in their interview sample of probationers the most common reason given by clients overall for their involvement in the current offence was "Needed things or money" (Mair and May, 1997: 59). However, broken down by gender this represented 40% of the female sample and 25% of the male sample. These data suggest that SER writers appear may be showing less regard for offenders financial difficulties than are offenders. This may reflect a tendency, discussed later in this thesis, for some social workers to respond to a working context of straitened resources by putting more distance between

themselves and their clients. It could also reflect the greater focus within the justice model on the individual's offending than on their socioeconomic circumstances.

Conclusion

It is clear that a number of factors will come into play in determining SER writers' perceptions of the extent and nature of gender differences between male and female offenders. Maden *et al*, in their study of prisoners, assumed a gender difference in disclosure and staff responses to it: "The researchers' impression was that treatment demand was higher in women's prisons and that prison medical staff were more willing to respond; in male prisons, inmates were less likely to request medical help and doctors were more likely to resist their demands" (Maden *et al*, 1994: 50).

Specifically in relation to mental health problems, Worrall (1989,1990) found that report writers were tempted to collude with stereotypes of female offenders, entering into the 'gender contract' by capitalising on mental health issues as a plea of mitigation in order to secure more lenient sentences for women.

Notwithstanding the above and giving recognition to the problematic role of SERs as an objective source of data on offenders, as discussed in Chapter 3, information on the sample discussed in the preceding two chapters would support the view that women's pathways into criminal lifestyles are different, as are their personal circumstances. Female offenders appear to have experienced greater adversity than their male counterparts. The care afforded to female offenders as children via the social work department, and also the Children's Hearings System, is often instigated for their own protection rather than due to concern about their offending behaviour. Female offenders appear to be more likely to have experienced abuse in childhood and to have been subject to more intrusive levels of control. Despite the possibility that involvement with the Children's Hearings System may be intended solely to provide care and protection for particular individuals who may not have offended in any way, there is a perception that the purpose of the Children's Hearings System is to

deal with offenders (Jamieson *et al*, 1999). It is possible that this misconception is held by sentencers and so female offenders could be further disadvantaged on account of having a record of involvement with the Hearings System, which may well have been on the grounds of protection. As will be discussed later in this thesis, there is evidence of continued efforts to protect adult female offenders and this is apparent specifically with female social workers.

According to the data presented in this chapter, it appears that in adulthood female offenders are more likely to be living apart from their families, living alone, to have children and to have their children living with them, and to have a history of unemployment. They are also more likely to be reported as having experienced abuse both in childhood and in their adulthood and to have experience of mental health problems. The data produced here would not support the liberation hypothesis (Adler, 1975), discussed in Chapter 2, which holds that female emancipation has contributed to an alleged increase in female involvement in crime. Box and Hale's position that "most female offenders are drawn from the lower working class and ethnically oppressed population. As such they are unlikely to have been touched by the arguments of women's liberation" (Box and Hale, 1983: 40-41) still has relevance. The view that women's involvement in the criminal justice system may be attributed to their attempts to resist control and prescribed gender roles (Carlen 1988) may not be applicable to the women who's SERs were included in this study. On the contrary it seems that often women's involvement in the criminal justice system may more accurately reflect their attempts, as disadvantaged women, to conform to or cope with their roles, often as underresourced carers, and to deal with the conflicting demands that this brings.

It is acknowledged that "the quest to identify gender differences may focus too much on differences rather than similarities and, thus, sometimes impairs our ability to understand social phenomena" (Steffensmeier and Haynie, 2000: 431-432). The present data suggests that both male and female offenders experience social exclusion. A number of previous studies (Jamieson *et al*

1999, Mair and May 1997) have identified social exclusion as a feature common to offenders. For the purpose of discussion the following definition of social exclusion will be adopted:

... multi-dimensional disadvantage which severs individuals and groups from the major social processes and opportunities in society, such as housing, citizenship, employment and adequate living standards. (Barry, 1998:1)

It would appear that such disadvantage has become more of a problem amongst offender populations in recent years. Smith and Stewart (1997), on the basis of a study of a sample of offenders subject to probation in England, found that “most of the people with whom the service works can be thought of as excluded from the full range of goods associated with citizenship, not only by virtue of their status as offenders but through other experiences of marginalization and deprivation” (Smith and Stewart, 1997: 96). They go on to argue that the financial circumstances of offenders have significantly deteriorated since the 1960s. Such multiple deprivation was also identified in studies of probation caseloads by Rex (1999) and Mair and May (1997).

The data produced in this study, drawing on information reported in SERs, reinforces such perceptions of offenders as socially excluded. This was reflected in their experiences of local authority care, the extent of educational difficulties and academic underachievement, employment patterns (including high levels of unemployment) and widespread reliance on state benefits as a source of income, with a considerable proportion of the sample reporting debts. Such findings could lend support to control theory, discussed in Chapter 2, as an explanation of crime, insofar as it views criminal behaviour as arising from a weakened bond between the individual and society. A notable proportion of the offenders whose SERs were included in this study were reported as having had at least restricted experiences of the conventional institutions of education and the family.

Accepting that social exclusion, in addition to the exclusion brought about by their involvement in offending, features for the majority of offenders could also lend support to strain theory, discussed in Chapter 2, as an explanation of crime. Strain theory judges criminal behaviour to be triggered by tensions created by the gap between aspirations and access to the means by which these aspirations can be realised. Smith and Stewart emphasise that work with offenders has to recognise the problem of social exclusion:

... a sense of the exclusionary forces working on many (officially known) offenders is important if the social and personal context of offending is to be understood (as we think it should be). There are, we shall suggest, good reasons for thinking that the narrow focus on 'offending behaviour' and on enforcement which the probation service has been encouraged to adopt in recent years is both theoretically and practically inadequate (and that it is likely on its own to fail to achieve the reduced offending rates to which it aspires). (Smith and Stewart, 1997: 97)

The emphasis on choice within the current dominant approach to offenders seems to have arisen, ironically, at a time then when the choices available to offenders are diminishing. The social exclusion experienced by female offenders, as suggested by the information reported in SERs, is clearly compounded by their greater likelihood of being unemployed single parents living on benefits and paying outstanding social fund loans. The socioeconomic circumstances in which female offenders may make the decision to offend circumscribes the 'choices' they can make. Such circumstances arguably undermine the relevance of rational choice theory to explanations of female offending behaviour.

Drakeford and Vanstone's (2000) argument that responses to offenders should tackle wider issues of social policy is perhaps especially pertinent to female offenders. They hold that criminal justice should be properly located as a branch of social policy. As acknowledged by McNeill (2002),

report writers in Scotland are perhaps more committed to welfare ideals than may be the case elsewhere. However, this does not undermine the relevance of the above arguments by Drakeford and Vanstone and Smith and Stewart. The shift from welfare to a narrower focus on offending, with the risks of exclusion and pathology, has also taken place in Scotland, albeit perhaps to a lesser extent.

Rumgay questions the greater emphasis on offence-focussed work specifically in interventions with female offenders: "the backgrounds and circumstances of women's lives are inseparable from their involvement in crime ... 'welfare' problems as distinct from offending problems ... should be at the forefront of its work with women offenders" (Rumgay, 1996: 105). It seems that there is more obvious and direct links between women's personal and socioeconomic circumstances and their involvement in offending. It could be inferred that women are making pragmatic decisions to offend as a means of income maintenance. This could allow for the glib assumption that cognitive deficits apply more to male than female offending. Alternatively it could be concluded that social exclusion impacts differently on male and female offenders, reflecting different gender roles, and so responses have to be tailored accordingly.

Chapter 5

Disposal Categories and Offender Profiles

Introduction

The previous chapter attempted to portray the background of the overall sample, giving particular consideration to gender comparisons. This chapter will make comparisons by both gender and court disposal. There will be a particular focus on exploring any disparities between male and female offenders, in the use of specific disposals. Despite the shift towards managerialist strategies, discussed in Chapter 1, and the increasing pressure to be transparent and accountable, sentencing practice in Scotland has not surrendered to such influences where, as acknowledged by Duff and Hutton (1999), judicial discretion has been retained. While Hutton and Tata hold the view that it is generally accepted that “consistency in sentencing is a virtue” (Hutton and Tata, 1995: 7) this study will demonstrate that consistency is not always achieved. The tariff position¹⁴ of the three disposals of community service, probation and custody, and the factors contributing to this will be considered.

Both probation and community service are, at least potentially, alternatives to custody and it is therefore important to minimise their premature use since this unnecessarily escalates individual offenders up the sentencing tariff system. The importance of tariff position cannot be underestimated and relates to the overall question of custody rates, especially the avoidable use of imprisonment. As argued by McNeill (2002) unnecessary escalation up tariff can ultimately increase overall custody rates if a sentence of probation or community service is subsequently breached.

¹⁴ Court disposals can be positioned on a tariff scale which reflects the risk of custody.

Further, Creamer (2000) has highlighted that report writing practice which confines recommendations for alternatives to custody to high risk cases can lead to an overall decrease in the custody rate. Rifkind argued as early as 1989:

We have in Scottish prisons a relatively large number of prisoners serving short terms of imprisonment whom the courts clearly do not consider such a threat to our society as to require to be locked away for longer periods. Perhaps some of these offenders could be dealt with by a community based disposal without posing any undue risk to society. (Rifkind, 1989: 87)

Rifkind (1989) alluded to available alternatives to custody failing to impact on custody rates. This would appear to reflect the problem of alternatives to custody being used as alternatives to other non-custodial disposals such as fines. The average daily Scottish prison population is higher than ever previously recorded (Scottish Executive, 2004b: 3) despite the increasing use of probation and community service. This chapter will examine the question of whether or not female offenders, in particular, are being uptariffed.¹⁵

Criminal history and current offences by disposal category

This exercise focussed on the key static factors (i.e. historical factors which are not amenable to change), in relation to offending history and current offences for which the offender was appearing in court and which would have a bearing on tariff position.

¹⁵ Uptariffing refers to the practice of an offender being given a more serious disposal than their offending merits.

The factors detailed in Table 5.1 were used to compare the offending histories and current offence seriousness of those given community service, probation and custody.

Table 5.1 Criminal history by disposal category¹⁶

	Community Service	Probation	Custody
Mean number of current charges	2.2	2.5	3.1
Mean number of previous convictions	5.2	6.9	12.4
% of offenders with previous convictions	74	84	88
Mean Dunscore	3.2	3.3	5.5
Mean gravity rating of the main offence	3.2	2.8	3.0
% of offenders previously sentenced to community service	21	23	43
% of offenders previously sentenced to probation	29	39	62
% of offenders previously sentenced to custody	23	30	57

N = 420

Across the sample as a whole the number of current charges increased from disposals of community service to probation to custody ($F = 5.497$; $P < .01$). Comparing the difference between the individual groups¹⁷ it appears that those sentenced to custody had significantly more current charges than those sentenced to probation ($P < .05$) or community service ($P < .01$).

The number of previous convictions also increased from community service to probation to custody, although the differences were not significant. The percentage of offenders with one or more previous convictions increased from community service to probation to custody.

¹⁶ Comparisons of the means for no. of current charges, no. of previous convictions, Dunscore, gravity rating of the main offence, no. of probation orders, no. of community service orders and no. of custodial sentences were made using oneway ANOVA.

¹⁷ The post hoc test used for such comparisons was Tukey's test.

Table 5.1 includes mean Dunscores. The Dunscore, as discussed in Chapter 3, is an actuarial custody risk assessment tool. Chapter 3 gave consideration to the possible limitations of the Dunscore with regard to female offenders. It is probable that there are factors which influence the sentencing of female offenders which are not accounted for by this tool but it does still serve as a standard against which male and female sentencing can be compared. Despite the recent shift in emphasis away from assessment of the risk of custody for the offender to the risk of reoffending posed by the offender, a risk of reoffending tool, although relevant to risk of custody, would have contributed less to this study than the Dunscore. Risk of reoffending is not being investigated by this study so much as the characteristics of offenders that are likely to impact directly on sentencing practice.

The mean Dunscore rating increased from community service to probation to custody ($F = 42.694$, $P < .001$) with those given custodial sentences having significantly higher Dunscores than those given probation ($P < .001$) or community service ($P < .001$). Although the Dunscore for probation was higher than for community service disposals, the differences were not significant. However, when just the element of the Dunscore which accounts for offence seriousness (i.e. the gravity rating) was considered it was found that this was highest for community service and lowest for probation (gravity rating of the main offence: $F = 4.280$, $P < .05$). Therefore despite the offence seriousness being lower for probation than for community service, this was offset by other factors which contribute to overall risk of custody. It appears that the significant difference in gravity rating lay between probation and community service ($P < .01$). This suggests that custodial sentences appear to be influenced more by criminal history than by the current offence.

The percentage of offenders who had previously been sentenced to community service, probation or custody increased from community service to probation to custody. On balance then these data might crudely be interpreted as supporting an increasing tariff position from community service to probation to custody, in terms of prior criminal history, although the differences between probation

and community service tend not to be significant. The gravity rating was the only factor examined which did not reflect this tariff position. The mean gravity rating for cases with disposals of community service was higher than for probation. While custody would have been expected to occupy the highest tariff position it may not necessarily have been expected that community service would have occupied a lower tariff position than probation. The imposition of a probation order does not require that the individual is necessarily at risk of custody at the point of sentence.

National Standards stipulate the following as a main objective for probation:

- to be used wherever possible and appropriate to extend the community based options available to the court where the current and previous pattern of offending would have placed offenders either at immediate risk of custody or likely to be at such risk in the foreseeable future. (SWSG, 2000: part 2 para 7.2)

This contrasts with the criteria for imposition of a community service order which requires that the individual is at immediate risk of custody and other community based disposals are not viable:

- to provide Scottish criminal courts with a credible community based penalty, by requiring those found guilty of imprisonable offences and who would otherwise have received a sentence of imprisonment or detention to undertake unpaid work for a specified number of hours for the community;
- to seek to ensure that Community Service is only recommended and used where other community based disposals for dealing with the offender are not appropriate. (SWSG, 2000: part 2 paras 1.1 and 1.2)

National Standards' recommendations for appropriate use of these disposals would therefore seem to support a tariff position of probation, then community service, then custody. In the study of

sentencing decision-making by Brown and Levy, sentencers were found to include the following in their criteria for using Probation: "Where an SER has identified a problem which could be addressed through probation ... [and] Where offending is less serious" (Brown and Levy, 1998: 13). In contrast community service was said to be used "For serious offences where offenders' problems have not been, or are not capable of being resolved through probation" (Brown and Levy, 1998:13). Such sentencing criteria are reflected in the pattern of gravity rating in the present study with cases resulting in community service disposals having a higher gravity rating than those which received disposals of probation. The creation of any clear-cut tariff system is therefore complicated by the consideration of both criminal history and seriousness of current offence.

The tariff position at which community service operates, in terms of its use as an alternative to custody, has a long and as yet unresolved history. A study by McIvor (1990) involving 12 community service schemes across Scotland found that less than half of those on community service orders were in fact at risk of custody (risk of custody was gauged by previous court disposals) at the point of being sentenced. This reflected a general trend in which the diversionary potential of community service in Scotland was decreasing throughout the eighties (SWSG, 1988). McIvor (1990) concluded that without more specific guidelines or legislative change this situation would not improve.

The role of community service as strictly an alternative to custody was subsequently clarified by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 which came into effect in April 1991. It stipulated that courts only impose community service orders if the offender would otherwise be dealt with by a period of imprisonment. McIvor and Tulle-Winton (1993) found an overall positive effect of the Law Reform Act in terms of community service being more likely to be recommended by SER writers only where the individual was at risk of custody (based on Dunscores and social workers' assessments of risk of custody). Despite this, there was still a proportion of recommendations for community service being made for cases where there was not a risk of

custody. For the two courts included in McIvor and Tulle-Winton's study where a reliable estimate could be made, community service orders were diverting offenders from custody in only 56 and 62% of cases.

This issue is discussed further in Chapter 9 where it is suggested that sentencers' criteria for appropriate use of community service may be different from the criteria drawn on by criminal justice social work staff. While the prevalent view expressed by criminal justice social work staff was that the use of community service should be restricted to cases which would otherwise result in custody, there was a view that sentencers use community service in cases in which individuals are not a calculable risk of custody. An inspection of community service in Scotland found, on the basis of interviews with sheriffs, that sheriffs "would like to use CS for offenders other than those who might be at risk of a custodial sentence" (SWSI, 1997: 9). Any interpretation of whether or not individuals are being uptariffed onto community service by either SER writers on account of their recommendations and/or by sentencers is complicated by the fact that the seriousness of criminal history and seriousness of current charges could have conflicting influences on an individual's tariff position.

Although the gravity rating is a measure of the seriousness of the offence for which the offender was sentenced it would be helpful to look more closely at the offences committed when considering the seriousness of offending. For convenience current offences were analysed according to the subgroups used in the Dunscore with consideration given only to the first and second main offences. Sixty-six percent of the sample had no more than two charges in relation to their court appearance. After this the spread in number of charges was diverse and included in one case 20 current charges. Where there were more than two charges the gravity rating of current charges was used to determine which offences should be included as one of the two main offences. That is, the two offences with the highest gravity rating were recorded as the main offences. Where there were only two offences the gravity rating was also used to determine which should be the main or the

second main offence. Where the gravity rating was the same for the two main charges the nature of the offence would influence which offence would be given the category of first main offence, for example a violent offence would be rated more seriously than a dishonesty offence which had the same gravity rating. Table 5.2 details the nature of the main offences in the three disposal categories.

Table 5.2 Nature of the main offence by disposal category

Dunscore subgroup	Community Service	%	Probation	%	Custody	%	Total	%
Non-sexual crimes of violence	34	24	36	23	22	18	92	22
Crimes of indecency	1	1	2	1	0	0	3	1
Crimes of Dishonesty	50	36	62	39	59	49	171	41
Firearms/Vandalism	5	4	6	4	4	3	15	4
Drugs	23	16	16	10	15	12	54	13
Misc.	4	3	17	11	9	7	30	7
Motor Vehicle	23	16	20	13	12	10	55	13
Total	140	100	159	101	121	99	420	101

As detailed in Table 5.2 the pattern of offences for offenders given probation, community service and custody was fairly similar, with crimes of dishonesty and non-sexual crimes of violence being the most prevalent. These two offence groupings combined accounted for 60% of community service, 62% of probation and 67% of custodial outcomes. The most prevalent category overall and for each disposal category was crimes of dishonesty (41%) and the second most prevalent category was non-sexual crimes of violence (22%). The percentage of dishonesty offences increased from community service to probation to custody, however the pattern was reversed with non-sexual crimes of violence. Only 18% of custodial disposals arose from non-sexual crimes of violence, while this category accounted for 23% of probation disposals and 24% of community service disposals. Given the growing emphasis on public protection as outlined in "Community

Sentencing: The Tough Option" (Scottish Office, 1998b) and the increasing concern with the risk of harm posed by offenders (SWSI, 1996) it might have been expected that cases resulting in a custodial disposal would have demonstrated the highest percentage of violent offences. However Table 5.1 indicates, despite the average gravity rating of the offence being higher in cases with disposals of community service than with disposals of custody, the Dunscore was higher for those sentenced to custody. This might be a reflection of the perceived risk of re-offending in that community service disposals arise where the current offence is more serious but where there are fewer antecedents, therefore less risk of reoffending.

Thirty seven per cent of the sample were sentenced for a single offence. Among those with two or more offences the most prevalent offence for the second main offence group was crimes of dishonesty. Again for all three disposals, crimes of dishonesty accounted for the largest category of offence. The prevalence of crimes of dishonesty might indicate crime as an income maintenance activity for those offenders whose reports were included in the sample given the reported poor employment history and the reported high level of dependence on state benefits.

Offender characteristics by disposal

The average ages¹⁸ of those sentenced to community service, probation and custody were, respectively, 30, 28 and 25 years. Comparing ages across the three disposal categories, a significant difference was identified ($F = 7.869$; $P < .001$), with offenders who received custodial sentences being younger, on average, than those given probation ($P < .05$) or community service ($P < .001$). This may indicate use of custody for more persistent offenders who are entrenched in a criminal lifestyle while community based disposals are used for those who are showing evidence of slowing down or for older first offenders. The higher age of those given community based disposals of probation or community service may indicate a move towards desistance with maturity. Jamieson *et*

¹⁸ Again comparisons were made using oneway ANOVA

al found that desistance was linked to maturity by both professionals and young people. The young people explained desistance with reference to maturity and to the experience of adult transitions, such as getting a job, having children, forming a relationship with a partner and leaving home (Jamieson *et al*, 1999: ix), while professionals held similar views but also thought that:

... the process of desistance was influenced by ... [offenders] recognising the potential personal consequences of offending; and the deterrent effect of contact with the criminal justice system. (Jamieson *et al*, 1999: ix)

Perhaps reflecting the lower ages and therefore progressively lower proportions of individuals across the categories of disposals of community service, probation and then custody having made the transitions into adulthood, a decreasing percentage of offenders across these disposal groups were reported to be cohabiting/married or have children:

Table 5.3 Marital status and disposal category

	Community Service	%	Probation	%	Custody	%	Total	%
Single	81	58	96	60	91	75	268	64
Separated/ Divorced/ Widowed	21	15	26	16	11	9	58	14
Cohabiting/ Married	38	27	37	23	19	16	94	22
Total	140	100	159	99	121	100	420	100

N=420

As illustrated in Table 5.3, those offenders receiving disposals of custody included the highest percentage of offenders who were single, followed by probation and then community service. On the other hand, 54% of those sentenced to community service were reported as having children, compared to 46% of those sentenced to probation and 34% of those sentenced to custody. Social workers in Brown and Levy's study considered that to be suitable for community service offenders "should have a stable home environment and be able and willing to work" (Brown and Levy, 1998:

14). The profile of offenders sentenced to community service in the present study - more likely to be older, married and have children – may then allow them to be perceived as more suitable for community service according to these criteria. McIvor's study (1992b) of individuals sentenced to community service found that they tended to have settled living arrangements and to have few problems in relation to drugs or alcohol.

An inspection of community service in Scotland recommended that there should be a review of placements to “ensure that there is a sufficient range so that courts are not precluded from making a CSO for reasons of sex, disability, race, employment or caring for dependants” (SWSI, 1997: 29). The equal opportunities statement in the National Standards recommends, in relation to community service, that:

Managers of Community Service schemes must seek to ensure that they have a range of placements which may be made available to offenders irrespective of gender, sexual orientation, ethnic origin, disability, age or religion. (SWSG, 2000: part 2 para 18.1)

Related to lifestyle being linked to perceived suitability for community service, sentencers in Brown and Levy's study generally considered that community service was not “for people with drugs or alcohol problems”(Brown and Levy, 1998: 14). Sheriffs interviewed in one of the three authorities included in the inspection of community service in Scotland included ‘drug abusers’ amongst those they thought “may be unsuitable for community service” (SWSI, 1997: 9). On the other hand, this same inspection found that “although CS staff sometimes stated that these offenders [i.e. drug abusers] were unsuitable in their court reports, CS was ordered none the less, and many completed their orders satisfactorily”(SWSI, 1997: 9). Chapter 9 of this thesis discusses the range of views within criminal justice social work with regard to whether or not involvement in substance misuse renders an individual unsuitable for community service.

Perhaps reflecting the aforementioned views of sentencers and social workers, this study found lower levels of reported substance misuse (see Chapter 4 for the criteria used to determine whether or not substance misuse was recorded) among those sentenced to community service compared to probation or imprisonment (56% of those being sentenced to community service, 81% for those sentenced to probation and 89% for those sentenced to custody). Chapter 9 discusses how social workers wished to maximise access to community service for those who met the criteria for the disposal, in terms of National Standards, but were involved in substance misuse (except in extreme cases where the extent of the involvement in substance misuse led to lifestyles which were too chaotic for this option to be viable). Experience of mental health problems was found to be higher for those sentenced to probation (46%) than for those sentenced to either community service or custody (both 32%).

The higher prevalence of substance misuse and mental health problems amongst those sentenced to probation, compared to those sentenced to community service, may be related to a perception that community service should be reserved for those who are stable and drug free. The lower prevalence of individuals reported with either mental health problems or substance misuse amongst those sentenced to community service, may reflect a rigidity in the operation of community service schemes in terms of how flexible and receptive they are to the particular needs and circumstances of individual offenders. These issues will be discussed further in Chapter 9. Probation does however incorporate a stronger element of rehabilitation than does community service. As outlined in the National Standards, one of the purposes of probation is to “deal with problems and issues associated with ... offending behaviour as a means of preventing or reducing further offending” (SWSG, 2000: part 2 para 2: 6.2). The lower proportion of reported mental health problems amongst those sentenced to custody and community service may reflect a relatively greater emphasis on punishment with these disposals and punishment may be deemed inappropriate for those with mental health problems. The higher prevalence of reported mental health problems for those sentenced to probation may also reflect concerns that the vulnerability of those with mental

health problems may be exacerbated by imprisonment. In relation to SER writing the National Standards recommend:

The court will also want to know if the report writer considers there may be a risk of self harm if the offender is sentenced to custody. (SWSG, 2000: part 2 para 5.6)

Although community service's intended role as a direct alternative to custody might suggest that it should occupy a higher tariff disposal than probation, it seems the problems required to warrant supervision via probation may in turn lead to or reflect a more entrenched criminal lifestyle which in turn can correspond to a more serious offending history. In addition probation seems to be a more flexible disposal which allows it to appropriately occupy different tariff positions.

There are problems then in conceptualising a tariff system which compares community service and probation. The objectives of community service and probation are different and this has implications for their tariff position. Probation tends to be used to address issues related to offending and as such it can 'float' along the tariff. This could create difficulties for SER writers when trying to target their 'recommendations' for appropriate disposals. The sample of SERs included in this study were compiled prior to the policy change, referred to in Chapter 3, specifying that SER writers should no longer include 'recommendations' in their SERs. Although, as discussed further in Chapter 6, at the point when the SERs included in this study were compiled there had started to be a change in presentation in some SERs in line with the anticipated change. That was that some SER writers were not making explicit recommendations. However as explained further in Chapter 6 despite the formal change in recommendation practice some SER writers have continued to effectively recommend. Further the overall ideological shift in criminal justice away from welfare towards the justice model has had implications for the compilation of SERs in terms of a stronger emphasis on offending and risk of reoffending, welfare issues were to be given less prominence. This in turn should mean that the tariff position of a 'recommended' disposal is even

more important in that it should more accurately reflect the seriousness of offending. The fact though that SER writers are now not formally required to recommend perhaps alleviates some of this responsibility.

Criminal history and current offence by gender and disposal

Criminal history and current offences have been considered in relation to disposal category. This section explores gender differences in the criminal histories of those given different disposals by the court. The relevant data are presented in Table 5.4. While the number of current charges for males reflects the overall pattern identified earlier (that is an increase from community service to probation to custody), this is not the pattern for female offenders. For female offenders, although the number of current charges was higher among those given custodial sentences, female offenders receiving disposals of community service and probation had a similar average number of current charges. Female offenders given custody or community service had a higher average number of current charges than did male offenders given similar disposals, though these differences were not statistically significant.

The number of previous convictions increased across each disposal category from community service to probation then custody for both male and female offenders. In each disposal category male offenders had a higher number of previous convictions than did female offenders. The significant differences were within the disposal categories of probation ($t=2.071$, $P < .05$) and community service ($t=2.159$, $P < .05$). Although women being sentenced to probation were more likely than men to have no previous convictions, these differences were not significant. However the differences were significant in the disposal categories of community service ($X^2 = 6.45$, 1 DF, $P < .05$) and custody ($X^2 = 7.95$, 1 DF, $P < .01$). Women sentenced to community service and to custody were more likely, than men sentenced to these disposals, to be first offenders.

Table 5.4 Criminal history by gender and disposal category¹⁹

	Community Service		Probation		Custody	
	Male offenders	Female offenders	Male offenders	Female offenders	Male offenders	Female offenders
Average no. of current charges	2	2.5	2.5	2.4	3	3.4
Average no. of previous convictions	6.2	3.7	8.4	5.5	13.4	10.9
% of offenders with previous convictions	83	64	88	79	94	76
Dunscore	3.5	2.8	2.9	3.7	5.9	4.8
Gravity rating of the main offence	3	3.5	2.8	2.9	2.9	3.2
% of offenders who had previously been sentenced to community service	29	12	33	15	53	24
% of offenders who had previously been sentenced to probation	33	25	41	37	64	58
% of offenders who had previously been sentenced to custody	33	11	46	13	64	42

An increase in Dunscore across the three disposal categories of community service, probation and custody pertained to female offenders but not to male offenders. Although the average Dunscore

¹⁹ Comparisons by gender and disposal for average: no. of current charges, no. of previous convictions, Dunscore and gravity rating of the main offence were made using twoway ANOVA.

for male offenders receiving community service was slightly higher than for female offenders receiving this disposal this difference was not significant. In contrast the average Dunscore for male offenders receiving probation was lower than for female offenders receiving probation and this difference was significant ($t=2.286, P < .05$). The average Dunscore for male offenders sentenced to custody was higher than for females and this difference was significant ($t=2.218, P < .05$). The difference between categories was significant in terms of both gender ($P < .001$) and disposal category ($P < .001$). Comparing the differences it appears that they lie between custody and probation ($P < .001$) and between custody and community service ($P < .001$). The fact that male and female offenders have significantly different Dunscores in the disposal category of custody relates to the discussion in Chapter 3 regarding the use of Dunscore and the suggestion that the thresholds for custody may be different for male and female offenders. An explanation which could account for the significantly higher Dunscores of women receiving probation, compared to men receiving this disposal, could be that SER writers may be more persuasive regarding the use of probation for women who are at risk of custody.

As detailed in Table 5.4 the gravity rating for female offenders was higher for all three disposal categories but this was only significant for community service disposals ($t=2.521, P < .05$). The gravity rating of the offences for both male and female offenders was highest for community service and lowest for probation. The differences in gravity rating between the disposal categories were significant in terms of both gender ($P < .05$) and disposal category ($P < .01$). Comparison of where the differences lie reveals that the differences are between probation and community service ($P < .01$). For all the disposal categories the gravity rating was higher for female offenders than for males. This suggests that while women generally had fewer previous convictions they were being sentenced for more serious offences.

The percentage of both male and female offenders who had previously been sentenced to community service, to probation and to custody increased across the disposal categories from

community service to probation to custody. In each category more male offenders than female offenders had previously been sentenced to probation, community service and custody. For the disposal category of community service male offenders were statistically more likely than female offenders receiving this disposal to have previously been sentenced to community service ($\chi^2 = 5.58, 1 \text{ DF}, P < .05$) and to custody ($\chi^2 = 9.5, 1 \text{ DF}, P < .01$). This was similar with the disposal category of probation; male offenders were significantly more likely to have previously been sentenced to community service ($\chi^2 = 5.33, 1 \text{ DF}, P < .05$) and to custody ($\chi^2 = 20.64, 1 \text{ DF}, P < .001$). It was also similar with the custody disposal category; male offenders were significantly more likely to have previously been sentenced to community service ($\chi^2 = 9.11, 1 \text{ DF}, P < .05$) and to custody ($\chi^2 = 5.03, 1 \text{ DF}, P < .05$). In each disposal category the higher prevalence of male offenders having previously been sentenced to probation was not significant.

The data produced here do not straightforwardly support or contradict any argument regarding premature use of disposals or 'up-tariffing' of female offenders relative to male offenders. Indeed these data complicate any discussion of whether or not female offenders are up-tariffed onto community service, probation and custody. It does seem, though, that generally female offenders had committed more serious offences, given the gravity ratings, and had a higher number of current charges (although these differences were not significant except for gravity ratings for those sentenced to community service), but as in Rex's (1999) study, had a less serious criminal history.

These data do not necessarily support the concerns raised by previous studies (Mair and Brockington 1988, Moxon 1988, Stephen 1993, Warren 1995) that female offenders are being sentenced prematurely to probation albeit male offenders sentenced to probation had a significantly higher number of previous convictions. The Dunscore, which incorporates a range of factors considered to contribute to risk of custody (this includes consideration of seriousness of the offence, form of continuation, nature of previous disposals and how recently they were imposed) was significantly higher for female offenders given probation.

This could be an indication that there has been a change since previous studies were carried out, away from up-tariffing of female offenders onto probation. If so, this may be a consequence of previous research influencing practice and/or a consequence of an overall shift away from the traditional welfare orientation. It may be that the greater emphasis on offence-focussedness sanctioned by the shift from the welfare to the justice model, and the emphasis on criminogenic needs as supported by the “principles for effective practice”, detailed in Chapter 1, have assisted SER writers to make more persuasive arguments for probation in higher tariff cases. The policy of increasing the use of probation and community service as alternatives to custody, as alluded to earlier in this thesis, may have helped to raise the tariff position of probation. Given the problem identified by previous research, that probation was used prematurely for female offenders, then there may have been more scope to impact on the use of probation with female offenders in this way. These findings would not apparently support the concerns raised by a number of interviewees in this study that female offenders are being up-tariffed onto probation on account of social problems.

The question of whether or not female offenders are, relative to male offenders, sentenced prematurely to community service or custody is a vexed one. The complexity is created by the issues referred to earlier in this chapter, that tariff position is determined by factors which could be having conflicting influences on that position, namely criminal history and offence seriousness. The data from the present study could though provide tentative support for previous findings (Dominelli 1984, McIvor 1998a) that female offenders are, relative to male offenders, sentenced prematurely to community service. Although female offenders sentenced to community service had a higher gravity rating than males so sentenced, male offenders had a more serious criminal history with regard to the extent of their previous convictions and their greater likelihood of having previously been sentenced to either community service, probation or custody. Other than number of current charges, Dunscore and percentage of offenders previously sentenced to probation (the latter two being

higher for males), the other 5 factors listed in Table 5.4 showed significant differences between men and women being sentenced to community service. While the gravity rating, in terms of current offence, was higher for female offenders, the other 4 factors were ones which indicated that male offenders had a more serious criminal history. These data on balance could suggest that female offenders sentenced to community service were lower tariff than their male counterparts. As illustrated in Table 5.4 female offenders given community service were twice as likely as male offenders given this disposal to be first offenders (36% of the women had no previous convictions, compared to 17% of the men). This perhaps reflects sentencers' criteria, identified by Brown and Levy (1998) and referred to earlier, that disposals of community service tend to be imposed on the basis of offence seriousness as the overriding factor.

Table 5.5, included later in this chapter, identifies that despite the gravity rating for female offenders receiving community service being higher, they are less likely to have committed violent crimes and more likely than their male counterparts to have committed dishonesty offences. Within the framework of the Dunscore dishonesty offences can attract a higher gravity rating than even a serious assault, depending on the level of monetary value attributed to the former. Dominelli, as early as 1984, argued that the inconsistent use of community service in terms of its status as an alternative to custody particularly disadvantaged women. Despite the time gap since that study it seems that the problems may have persisted. Dominelli found that women were twice as likely as men to be sentenced to community service for their first conviction. More recently research by McIvor on referrals for community service found "that women who are referred for community service assessments tend to be less often at risk of custody than men who are similarly referred" (McIvor, 1998a: 286).

It has been proposed that premature use of community service may well be linked to a reluctance to impose fines on women (Scottish Office 1998a, Dowds and Hedderman 1997). Data outlined in Chapters 3 and 4 also suggested that the female offenders in this sample were more likely to be

looking after children and more likely to have never worked. Mair and Brockington contend that one possible reason for lower use of fines with female offenders may be related to perceptions of their role as housewives and carers rather than wage earners (Mair and Brockington, 1988). Their study also suggests that the greater likelihood of women being referred for a social enquiry report may be contributing to women being uptariffed onto community service. However sentencing outcomes may be a reflection of more than just sentencers' inclinations. The possible influence of report writers will be discussed later in this thesis.

The data in Table 5.4 reveal that male offenders who were sentenced to custody were significantly more likely than females to have previously been sentenced to community service ($\chi^2 = 9.11, 1 \text{ DF}, P < 0.05$) and to custody ($\chi^2 = 5.03, 1 \text{ DF}, P < 0.05$). They were also marginally more likely to have previously been sentenced to probation although these differences were not significant. Only 6% of male offenders sentenced to custody had no previous convictions, compared to 24% of the female offenders who were imprisoned and these differences were significant ($\chi^2 = 6.45, 1 \text{ DF}, P < 0.05$). Female offenders given custodial sentences had, on average, a lower number of previous convictions than did men, albeit the differences were not significant. The average Dunscore for imprisoned female offenders was significantly lower than for imprisoned men ($t=2.218, P < .05$). Although female offenders being sentenced to custody had a higher number of current charges and a higher gravity rating, the differences were not significant. These data then would suggest that female offenders are, relative to males, being sentenced prematurely to custody and this heightens any concerns that, as has been indicated by previous research (Dickie 1995; McIvor 1998a), community service may be underutilised with high tariff female offenders.

Other than the aforementioned risk factors the specific nature of the offences warrants consideration. Table 5.2 has detailed the nature of the main offences according to disposal category, Table 5.5 repeats this information, but with a gender breakdown. Crimes of dishonesty were the most prevalent offences for all three disposals. When the categories were broken down according to

gender and the nature of the offence, this altered a little. For disposals of community service the most prevalent offence category for male offenders was non-sexual crimes of violence. Other than this crimes of dishonesty remained the most prevalent categories for both male and female offenders for each of the three disposals. In all three disposal categories crimes of violence are higher for males than for females.

Table 5.5 Nature of the main offence by gender and disposal category

Dunscore subgroup	Community Service	%	Probation	%	Custody	%	Total	%
Male offenders								
Non-sexual crimes of violence	22	29	20	25	16	19	58	24
Crimes of Indecency	1	1	2	2	0	0	3	1
Crimes of Dishonesty	17	22	29	36	39	47	85	35
Firearms/Vandalism	3	4	4	5	3	4	10	1
Drugs	11	14	6	7	6	7	23	9
Miscellaneous	4	5	7	9	7	8	18	8
Motor Vehicle	18	24	13	16	12	14	43	18
Subtotal/%	76	99	81	100	83	99	240	99
Female offenders								
Non-sexual crimes of violence	12	19	16	20	6	16	34	19
Crimes of Indecency	0	0	0	0	0	0	0	0
Crimes of Dishonesty	33	52	33	42	20	53	86	48
Firearms/Vandalism	2	3	2	3	1	3	5	3
Drugs	12	19	10	13	9	24	31	17
Miscellaneous	0	8	10	13	2	5	12	6
Motor vehicle	5	8	7	9	0	0	12	6
Subtotal/%	64	101	78	100		101	180	99
Total	140	/	159	/	121	/	420	/

Female offenders were more likely than men to have been sentenced for a main offence involving crimes of dishonesty ($X^2 = 6.51, 1 \text{ DF}, P < .05$). The other category which also showed a significant difference between male and female offenders was for drugs ($X^2 = 0.02, 1 \text{ DF}, P < 0.05$). Female offenders were more likely than male offenders to have their first main offence in this category. This perhaps reflects a slightly higher percentage of the female offenders, as detailed in Table 4.8, being reported as involved in drug misuse.

Although it has been outwith the scope of this study to seek sentencers' views on their response to particular offences it may be that the apparent up-tariffing of female offenders onto community service and custody reflects women's higher level of involvement in drugs offences and sentencers' attitudes to such offences. The differences in the proportions of male and female offenders who had only one offence reported was not significant. For the second main offence dishonesty offences remained the most prevalent categories for male and female offenders for each of the three disposals.

Offender characteristics by gender and disposal

Table 5.6 details average ages by both disposal and gender. For both male and female offenders the average age of those given custodial sentences was lower than for those given community service or probation. The difference in age between male and female offenders was greater for the custodial disposals than for either of the other two groups. In each disposal category female offenders were older than male offenders. Only the disposal category of custody showed statistically significant differences between male and female offenders ($P < .01$), with female offenders being older. This difference might be a further indication of gender differences in criminal careers and could reflect the different routes, referred to earlier in this thesis, that men and women take into a criminal lifestyle.

Table 5.6 Age by gender and disposal category

Average age at point of being sentenced	Community Service	Probation	Custody
Male offenders	29	28	23
Female offenders	30	29	27

The previously identified pattern of increasing percentages of single people across the disposal categories of community service, probation and custody, persisted when the sample was broken down according to gender. Chi-square tests did not indicate any significant differences between male and female offenders with respect to marital status in each of the three disposal categories.

Table 5.7 details by gender and disposal category, the percentages of offenders reported as having children. Among both men and women those given community service were most likely to have children while those given custodial sentences were least likely to be reported as having children. Female offenders sentenced to community service were more likely than male offenders so sentenced to have children ($X^2 = 5.22$, 1 DF, $P < .05$). A greater proportion of female offenders sentenced to community service, rather than to probation or to custody, were reported as having children. Chapter 9 of this thesis, based on interviews with criminal justice social work staff, highlights the lack of formal policy and ad hoc practice regarding departmental childcare provision for clients subject to community service who have childcare commitments. These figures emphasise that this is an issue which is more often relevant to female offenders and accentuates the need to address the issue of childcare for female offenders being considered for community service. Female offenders sentenced to probation were also more likely than male offenders receiving this disposal to be reported as having children, however these differences were not significant.

Table 5.7 Percentage of offenders reported as having children by gender and disposal category

	Community Service (%)	Probation (%)	Custody (%)
Male offenders	45	40	26
Female offenders	64	54	50

N=190

Of those sentenced to custody, female offenders were also more likely than male offenders to have children and these differences were significant ($X^2 = 6.42$, 1 DF, $P < .05$). The high numbers of female prisoners being mothers has been widely reported (Jackson and Smith 1987, Scottish Office 1998a, Woodrow 1993, Farr 2000). Carlen's study involving interviews with sentencers in Scotland on their decision making caused her to conclude that a significant proportion of women being sentenced to custody were being imprisoned because they were considered to have failed as mothers (Carlen, 1983).

Social workers, argues Carlen, may be inadvertently exacerbating such attitudes by trying to exploit gendered perceptions in order to attain a more favourable outcome. As she contends:

... a competent probation officer might know both that her client will gain advantage if it can be demonstrated that she is a good housewife and mother, *and* that by privileging that woman's housewifely and mothering performances she will also be colluding in, and promoting, the stereotype of the *criminal* woman. (Carlen, 1989: 111)

The question of mental health can be intricately bound up with such gendered perceptions. Table 5.8 details reported prevalence of mental health problems²⁰ by both gender and disposal category.

²⁰This will include instances of self-harming behaviour.

Table 5.8 Experience of mental health problems by gender and disposal category

Experience of mental health problems reported	Community Service (%)	Probation (%)	Custody (%)
Male offenders	24	33	20
Female offenders	42	59	58

N=157

In each of the three disposal categories women were significantly more likely than men to be reported as having experienced mental health problems (community service, $X^2 = 5.45, 1 \text{ DF}, P < .05$; probation, $X^2 = 10.52, 1 \text{ DF}, P = 0.001$ and custody, X^2 of 16.704, 1 DF, $P < .001$). The percentages of female offenders with reported mental health problems was similar among those sentenced to probation and custody and lower among those who received a community service order. Overall it would appear that the incidence of mental health problems was particularly high among female offenders; 53% of female offenders were reported as having experienced mental health problems at some point compared to 26% of male offenders. These rates of experience of mental health are pre-sentence. Loucks (1998) found that a third of the women she interviewed in Cornton Vale had already attempted to take their own lives, either in the community or in prison.

It has been argued that mental health difficulties and self-harming behaviour reflect the effect of imprisonment on women as argued by Liebling: "The devastating and gender specific effects of custody upon a woman, for example with dependent children or other equivalent family ties and responsibilities, are undeniably part of the dynamics of female prisoner suicide" (Liebling, 1994: 4). The current data would appear to indicate though that female offenders being sentenced to custody have mental health problems including, as discussed in Chapter 4, experience of self-harming behaviour *before* they are sentenced, although that does not preclude the possibility of custody exacerbating their difficulties.

It might have been expected that the higher prevalence of mental health problems amongst female offenders would in turn be reflected in higher levels of substance misuse, as each of these issues arguably exacerbate the other. As detailed in Table 5.9 this does not appear to be the case.

Table 5.9 Experience of substance misuse problems by gender and disposal category

Experience of substance misuse reported	Community Service (%)	Probation (%)	Custody (%)
Male offenders	58	90	93
Female offenders	53	72	82

N=315

The reported levels of substance misuse were lower for female offenders in all three categories. For those sentenced to community service the difference in reported levels of substance misuse between men and women was not significant. For the custody disposals the frequencies were not high enough to use the X^2 test, although reported substance misuse was highly prevalent for both male and female offenders sentenced to custody. This might reflect the greater likelihood of having a more entrenched history of criminal behaviour when an individual has a substance misuse problem. This is likely to relate at least in part to the requirements to fund substance misuse, as discussed in the previous chapter, as a reason for involvement in offending behaviour.

For clients sentenced to probation the difference between male and female offenders in terms of reported levels of substance misuse was significant ($X^2 = 8.72, 1 \text{ DF}, P < .01$). Male offenders receiving this disposal were more likely than female offenders to be reported as having experienced substance misuse. This would seem to reflect, as discussed in Chapter 4, the higher reported levels of substance misuse for male offenders in this sample. The higher levels of substance misuse for offenders sentenced to probation generally, rather than to community service, would also appear to reflect the sentencers' criteria for the use of probation, as discussed earlier in this chapter, to address problems identified in the SER.

Conclusion

The data presented in this chapter suggest, on the basis of sentencing of the offenders included in this sample, that community service was being used in cases where the current offence was more serious than in cases where probation was the disposal. Conversely the extent of criminal history was greater for cases resulting in probation disposals rather than community service. As might have been expected the range of factors analysed suggested that custody was being used for higher tariff cases. The question of interpreting whether or not community service was being used as an alternative to custody was complicated by whether or not tariff position was being dictated by criminal history or offence seriousness, because in some cases these two factors could have conflicting influences on the tariff position.

On analysing sentencing patterns by gender and disposal there were indications of premature use of custody with female offenders. It also appeared that female offenders were, on balance and relative to male offenders, being prematurely sentenced to community service. However this did not appear to be the case in relation to the use of probation. The data, then, would appear to lend some support to the findings of Dominelli (1984) and McIvor (1998a), which identified the premature use of community service for female offenders. It is possible that premature use of community service for female offenders partly reflects its use as a substitute to a fine (Hudson 2002). In relation to sentencers' apparent disinclination to use fines for female offenders (Dowds and Hedderman, 1997), Mair and Brockington suggest: "One possible reason for this may be that women are seen as housewives ... any money they receive is assumed to be spent on domestic purchases such as food or looking after children" (Mair and Brockington, 1988: 123).

Hine's argument however still appears to have some relevance to the current use of community service for female offenders:

The problem of access appears to be not a simple one of how to increase the number of women on community service, but how to ensure that the women who are given community service are not being sentenced more severely than men would be in the same position. That requires a shift ... such that the 'low-tariff' women who currently receive community service orders are given less intrusive sentences ... and that many of the women who are currently given a custodial sentence are instead sentenced to community service. (Hine, 1993: 77)

Female offenders being sentenced to community service were more likely relative to males to have children and, as discussed in Chapter 9, this has implications for the organization of community service placements for female offenders.

The data presented here do not necessarily support the view expressed by a number of interviewees participating in this study (to be discussed in Chapters 7 and 8) and by a range of researchers (Moxon 1988, Stephen 1993, Warren 1995) that female offenders were sentenced prematurely to probation. McIvor and Barry (1998) found that females subject to probation were likely to have fewer previous convictions, more likely to be first offenders, less likely to have previous experience of custody, and less likely to be assessed by their social workers as being at risk of custody (McIvor and Barry, 1998:10-11). It is possible that the findings in the current study reflect a change in the use of probation for female offenders and this may be related to the shift away from a welfare model of supervision towards a justice model. It has been argued (Hudson 2002) that paternalism at the time when the rehabilitative ideal prevailed contributed to the up-tariffing of women. In particular it has been argued that women were sentenced prematurely to probation for welfare reasons (Samuel 1994, Warren 1995). The increasing emphasis on offence-focussedness and criminogenic needs in more recent years may have undermined this practice. Accepting that at least in the past women offenders were up-tariffed onto probation then the policy of maximising the use of probation

as an alternative to custody (Rifkind, 1989) may well have had a more dramatic impact on the use of probation for female offenders.

Despite the possibility that the policy shifts in recent years may have reduced the incidence of premature sentencing to probation for welfare reasons, such policy shifts may not have benefited female offenders. As Hudson argues of recent policy shifts, if the response to equality is to rule out difference as irrelevant then “For women, this means that childcare responsibilities, the lack of control that many women have over their supposed incomes, and other gendered circumstances are deemed irrelevant” (Hudson, 2002: 36). Hudson continues to criticise the justice model on the basis that:

Aggravating and mitigating circumstances were restricted, and were linked to the offence not the offender. This meant that an increasing number of women with children were imprisoned; an increasing number of women with addictions, with mental illnesses and with histories of physical and sexual abuse were imprisoned; and it meant that women committing crime out of need were imprisoned as readily as those committing crime out of greed ...this ... affected men as well as women, but because of the circumstances typically surrounding women’s criminality, women were disproportionately affected, and women’s imprisonment grew at a faster rate than that of men. (Hudson, 2002: 36)

The difficulty is one of responding to the welfare needs of female offenders without returning to the practice of uptariffing for welfare reasons. National Standards specifically advise against the uptariffing of minor offenders onto probation:

In the case of offenders convicted of minor offences and first or early offenders, every consideration should be given to recommending other options e.g. a financial penalty,

deferred sentence, or offer of voluntary assistance combined with a nominal penalty, before recommending probation. (SWSG, 2000: part 2 para 16)

In contrast to this, Worrall appears to support risking “early intervention” in order to resist the imprisonment of women “*even if that means offering alternatives rather earlier in a woman's criminal career than may appear to be ideologically sound*” (Worrall, 1996: 79, emphasis in original). This raises the question of whether or not earlier intervention *would* lower the custody rate. Although Worrall argues that successful gatekeeping was not matched by a lower female custody rate, early intervention is not necessarily appropriate or without risks. It appears to be a question of balancing risks. On the one hand, the risk of early or premature intervention, in the hope of carrying out preventative work, with its related risk of uptariffing in the event of non-compliance or further offending. On the other hand, the risk of not intervening, with the possibility of a female offender ceasing to offend but with the risk that, without the support that could have been available via probation, she might continue to offend and therefore end up in prison anyway.

Although this chapter has offered some insight into the courts' use of the three disposals of community service, probation and custody with male and female offenders, any findings have to be interpreted cautiously. The emphasis in this chapter has been on tariff position as dictated by static factors relating to offence seriousness and criminal history. There are inherent limitations to the actual concept of tariff, as McNeill acknowledges:

... the idea of the tariff is itself limited, better reflecting the abstraction of categories and classifications than the individual complexities of the events and the people of whom sentencers and report writers try to make sense. (McNeill, 2002: 442)

The risk of custody and the final court outcome will also be related to risk of re-offending. Risk of re-offending relates to a wider range of more dynamic factors not considered here but information

about which will be available to sentencers at the point of sentencing. The sentencer can draw on, and be influenced by, a number of factors included in the SER. In addition he/she may have access to additional reports and information such as that put forward by the defence lawyer. The offender will also be present in court. These findings are therefore presented with the full acknowledgement of such caveats. The aforementioned judicial discretion afforded to sentencers in Scotland compounds the problem of interpreting any apparent patterns in sentencing. The following chapter attempts to look more closely at a range of factors which may contribute to determining the final court outcome.

Chapter 6

Gender of the SER writer and Arguments for Disposal

Introduction

Chapter 5 illustrated that there are differences in the reported characteristics of men and women made subject to the three disposals of community service, probation and custody. Scotland affords its sentencers “a very wide discretion in their choice of sentence” (Hutton and Tata, 1995: 7). Such discretion clearly allows scope for disparity and even discrimination in sentencing. Any evaluation of consistency or disparity in sentencing is problematised by a number of factors. Sentencers can draw on a range of different, and even competing, views when deciding on their final sentence. The major problem in gauging consistency is how to decide which cases are alike and should be treated accordingly. Contextual factors which have been shown to influence sentencing, such as demeanour in court (Gelsthorpe and Loucks, 1997) can be difficult to incorporate into any evaluation. As Hutton and Tata acknowledge “there are no objective criteria for exhaustively defining what are to count as ‘like cases’” (Hutton and Tata, 1995: 42). Any study on consistency of sentencing is limited by the range of factors which it can take into account. The previous chapter explored extent of criminal history, nature of current offences and specific background information by gender and disposal.

Partly in an attempt to further understand the uses of disposals identified in the previous chapter this chapter will examine factors related to arguments/recommendations and outcomes for the three disposal categories. This will include a consideration of gender of SER writers, arguments made in relation to disposals, reasons for discounting particular disposals and the content of probation action plans. The details of the action plans are also compared with clients’ reasons and writers’ explanations for offence(s)/offending in order to establish any areas of discrepancy between them. Later in this thesis consideration will be given to contributions from social workers who were interviewed with regard to their experience of report writing and their perceptions of probation and

community service as community-based disposals. A significant limitation of this study was that sentencers were not interviewed. Any consideration of how or whether sentencers were influenced by the information available to them can therefore only be inferred.

Given the policy context as outlined by Rifkind of maximising the use of community-based disposals (Rifkind, 1989: 5) and the origins of SERs, as discussed in Chapter 3, in terms of supporting leniency it may be assumed that provision of an SER would decrease the likelihood of a custodial outcome in individual cases. There have been conflicting reports about the extent to which SERs do in fact impact on the sentencer's decision regarding whether or not to impose a custodial sentence (Moxon 1988, Raynor 1991). Both Raynor and Moxon found that provision of SIRs could be associated with an increased likelihood of a custodial sentence. The reports may not have been responsible for this effect since the cases for which reports were compiled were more likely to be ones which were at a higher risk of custody.

Raynor (1991) identified a particular problem with regard to provision of reports for older adult offenders (21 years of age or older). He found that the likelihood of custody being imposed was double for this age group in the medium risk (of custody) group when a full report was available compared to similar individuals in respect of whom there was no SIR. He identified that for this age group the most common non-custodial sentences, in cases without a report, were suspended sentences or fines. Raynor argued that these recommendations were rarely used by probation officers who were more likely to focus on probation and community service. He concluded "it appears likely that for some cases on the threshold of custody, rejection by a sentencer of a recommendation for probation or community service takes non-custodial sentences off the agenda ... in some cases the availability of a report may create a situation in which the sentencer is no longer choosing from the full range of sentences, but simply between immediate custody and the course proposed by the report" (Raynor, 1991:298-9). Hine, McWilliams and Pease (1978) found

results which were in keeping with those of both Moxon (1988) and Raynor (1991) in terms of the potential of SIRs to have a negative impact on sentencing.

This discussion suggests that the relationship between report provision, the recommendation contained within the report and the final disposal is not as straightforward as it may seem at first glance. In particular, the conversion rate from recommendations to actual disposals can be misleading. While Mott (1977) established that magistrates did, in fact, in 25% of cases, alter their initial decision on taking into account the recommendation contained within the report, a correlation between the two does not necessarily represent causality. As referred to earlier correlation between recommendation and sentence may be a reflection of the report writer's experience and/or expertise in correctly anticipating the disposal the sentencer would opt for. It could be a reflection of shared criteria between the report writer and the sentencer for determining suitable disposals.

The question of recommendation practice in Scotland has been explored by Williams and Creamer (1989) who suggested a positive correlation between credible recommendations for community-based disposals and reductions in the use of custody. Following on from this research, the first set of National Standards incorporated advice to SER writers to the effect that they must include recommendations within their Social Enquiry Reports. However a subsequent study by the Social Work Services Inspectorate found: "Sentencers preferred advice which reviewed the pros and cons of a range of possible sentencing options. They also valued specific advice on options to be avoided. They were less happy for report writers to state their specific preference for a specific sentencing option either following a review of possible options or as a single 'recommendation'" (SWSI, 1996: 29). The report concluded: "The term 'recommendation' used by the national standards is not helpful. We think the most appropriate form for advice is to review the pros and cons of specific sentencing options"(SWSI, 1996: 30, emphasis in original text). Perhaps partly in

response to such recommendations the National Standards of 2000 incorporated an amendment to the effect that social workers must no longer include recommendations for disposals in their SERs.

While the Standards still allow the social worker to make an assessment they do not allow the social worker to make an explicit recommendation on the basis of that assessment. It could be argued that the change in recommendation practice, as directed by the amendments to National Standards (2000), enhances the discretion and authority of sentencers. Given the history of SERs in terms of being geared towards leniency and in advocating the use of community-based disposals, it could be argued that such changes particularly enhance scope for the sentencer to exercise this discretion and authority in a punitive direction.

Since the policy change in relation to recommendation practice it appears, on the basis of interviews with social work staff, that different ways of presenting the options have evolved. It seemed though that the most prevalent practice entailed discussing the range of options but selecting a preferred option which tended to be positioned at the end of the report, normally in a section described as the conclusion. This practice of reviewing the options and identifying a particular disposal considered to be suitable, reflects the guidelines provided in the revised National Standards which refers to a concluding paragraph:

- to inform a review of specific sentencing options. The court is looking for comments on the feasibility and possible impact of specific disposals, particularly those involving social work services. The matter of selection of sentence is one for the court in the light of all the circumstances of the case. Whilst reports must not include a recommendation as such, report writers may indicate, on the basis of their review and assessment, which non-custodial option is in their opinion most likely to prevent or reduce future offending in the event of the court deciding it not necessary to impose a custodial sentence. (SWSG, 2000: part 2 para 5.6)

There was a view amongst a number of interviewees in the present study that the supposed change in recommendation practice was pointless as SER writers were still effectively recommending. The following interviewee offered her comments to this effect:

I think it's ridiculous because ... you're still doing it. It's just you're not actually saying in a sense ... the way we do it here ... is you lay it out in a certain manner ... the one that you want, the option that you think is most appropriate, will be laid out last under the disposals and you'll make a complete argument as to why you think that's appropriate. Now if that isn't recommending, in a sort of cloak and dagger manner, what is it doing? (SW 10).

The other aspect of 'recommendation practice' which has altered in recent years has been the shift in emphasis in risk assessment. Risk assessment has been one element of the 'new penology' which presumes the existence of a 'permanent underclass' and a related large scale crime problem. This new penology does not endeavour to reform but to classify, process and manage according to degrees of dangerousness (Feeley and Simon, 1992). Previously there had been greater emphasis on the risk of custody to the offender. Now the emphasis in risk assessment tends to lean more towards the risk posed by the offender in terms of further offending and public harm. The Social Work Services Inspectorate recommendations reflect this shift: "*For the future, we think that assessing the risk of re-offending and harm to others will be more central to writing reports than assessing the risk of custody*" (SWSI, 1996: 44, emphasis in original). The difficulty with risk assessment, in terms of risk of further offending, is that it is a gendered process which has not yet been sufficiently critiqued from a feminist perspective. There are unanswered questions regarding the relevance of risk assessment tools to female offenders (Covington and Bloom, 1999). Shaw and Hannah-Moffat have argued that "generic risk/need assessment practices ... decontextualise,

individualise and pathologise offending in accordance with gendered and racialised norms” (Shaw and Hannah-Moffat, 2004: 91).

‘Recommendation’ practice then is clearly plagued by policy shifts, uncertainty and a lack of consensus. The National Standards from the outset identified the reduction of the use of custody as an objective for criminal justice social work. McNeill highlights that: “ The service becomes accountable for effects over which it may have some influence, but in respect of which it has neither power nor formal authority” (McNeill, 1999: 4). Given the change in policy and in National Standards regarding recommendation practice, McNeill’s point is particularly pertinent. There is still the expectation of maximising the use of community-based disposals as alternatives to custody, but these are disposals which report writers are not permitted to specifically recommend. A further effect of this change in recommendation practice is that without recommendations SER writers are arguably in a weaker position in terms of creating the tension between “assisting sentencing and promoting justice” (McNeill, 1999), as alluded to in Chapter 3.

This study has focussed on the association between arguments in favour of particular disposals and subsequent court outcomes rather than the more conventional exploration of conversion rates of recommendations to disposals. Although the sample of reports used in this study was compiled while National Standards still stipulated that SER writers should make recommendations, practice had started to alter in line with the change that was imminent, in terms of National Standards stipulating that SER writers should not make recommendations in their reports. On the basis of the data generated by the current study it seems that prior to the change to the National Standards in 2000 recommendation practice was wide ranging. There was therefore a lack of consistency in whether or not, and how, recommendations were made.

The provision of central Government funding and associated National Objectives and Standards for criminal justice services in 1991 was geared to reducing custody rates in Scotland. It was intended

to achieve this through encouraging an increase in the use of a range of measures as alternatives to imprisonment (Paterson and Tombs, 1998). Community-based sentences were to offer more opportunities for offenders to maintain their links with the community and to make some reparation for their offence. The following statement by Malcolm Rifkind, the then Secretary of State for Scotland, reflects the tone of the government's policy during this period:

The act of imprisonment involves depriving fellow citizens of their liberty. With the consequent disruption to family ties and work prospects, it is a form of exile from society. It is clearly right therefore that imprisonment is imposed only upon those for whom there is no reasonable alternative disposal. (Rifkind, 1989:81)

Since the introduction of the policy there has been an increase in the use of both probation and community service in Scotland. But closer analysis of the data suggests that this may not reflect implementation of the policy as outlined by Rifkind. As referred to earlier in this thesis it seems that the increasing use of probation and community service orders is not impacting on the custody rates, but may reflect their use in place of fines (Scottish Executive, 2004a:1).

A Scottish Office review of community disposals and the use of custody for women offenders in Scotland made a particular case against the use of custody with female offenders (Scottish Office, 1998a:13). It was argued, on the basis that female offenders tend to receive shorter custodial sentences than male offenders, that there is scope for considerably greater use of alternatives to custody such as probation and community service.

Gender and author of SER

There is evidence that the allocation of work in criminal justice social work is influenced by gender (Gelsthorpe 1992, Horn and Evans 2000). Horn and Evans concluded from their study that in

relation to report allocation: "Male probation officers are allocated more male clients than would be expected by chance, and fewer female clients; female probation officers are allocated more female clients than would be expected by chance, and fewer male clients" (Horn and Evans, 2000:188).

It seems that the gender of the worker has implications for the service provided. Nash (1995) found that female officers were likely to note significantly more aggravating factors per report, particularly in relation to the more serious categories of offences - violence and burglary. This difference was found to be greater when the reports were being written on female offenders in these offence categories. All of this, Nash concludes, would appear to lend credibility to the "chivalry hypothesis", that is that women will receive more lenient treatment from male personnel in the criminal justice system. As Horn and Evans argue: "If it is the case that female probation officers are more punitive than male probation officers, and more so when writing about female offenders, as suggested by Nash (1995), then the gender-based allocation of cases could disadvantage female clients" (Horn and Evans, 2000: 194).

Analysis of the gender of the SER writer for the 420 reports included in the present sample revealed that gender specific allocation of reports was not taking place. Table 6.1 indicates that the gender balance of SER writers was virtually identical for male and female offenders. Although it is possible that this pattern does not reflect practice in all authorities across Scotland, there is no reason to assume that the 7 authorities which participated in the research would be markedly different from other Scottish authorities in this regard.

Interviews with criminal justice managers, conducted as a part of this study, revealed that gender specific allocation of reports was viewed as a practice to aspire to but that constraints on resources prevented it. But gender specific allocation of probation cases did appear to be taking place to varying levels across the participating authorities. When interviewees used the term 'gender specific allocation' they were almost exclusively referring to the practice of female staff being allocated

female clients to supervise, although some interviewees referred to consideration of gender of worker for all clients. The practice of allocating the supervision of female probationers to female social workers was reportedly widespread. Regret was expressed if such an allocation procedure was not yet being practised, with this usually attributed to workload pressures.

Table 6.1 Gender of SER writer

	Male offenders	%	Female offenders	%	Total	%
Male SER writers	103	43	74	42	177	42
Female SER writers	136	57	104	58	240	58
Total	239	100	178	100	417	100

Note: There were 3 cases (1 male and 2 female offenders) where the researcher was unable to ascertain the gender of the SER writer. These cases were excluded from the analysis.

Although there was no evidence of gender specific allocation, a higher percentage of SER writers were female. This reflects the gender balance of main grade criminal justice workers in Scotland in 2000: when 61% were female and 39% were male (Scottish Executive, 2001a: 13). Despite the prevalence of female staff in criminal justice social worker posts this does not reflect in the representation of female staff in senior positions. Also in 2000, from the position of team leader upwards there were 46 men but only 19 women (Scottish Executive, 2001a: 13). Assuming that policy and practice is guided by senior staff, then it is still being directed by a predominantly male group. Dominelli observes, regarding social work generally, that it “remains dominated by men at the higher echelons of policy making and resource allocation hierarchies” (Dominelli, 1996: 155). There is therefore a predominantly female staff group being assigned the task of delivering frontline services which are managed, primarily, by males. This issue will be revisited later in this thesis in discussion of attempts at introducing and developing gender specific services.

Comparing disposal by gender of author

The rates of the three disposals were compared for male and female writers. Chi-square tests revealed no significant differences, with neither male nor female SER writers being more likely to obtain any of these categories of disposal. Selecting only male offenders, again there was no significant difference in terms of the disposals obtained by either male or female SER writers. However, selecting only female offenders there were significant gender differences with regard to disposal categories of community service and probation. These differences are detailed in Table 6.2.

Table 6.2 Gender of author and offender by disposal category

	Community Service	%	Probation	%	Custody	%	Total	%
FEMALE OFFENDERS								
Male SER writer	35	56	24	31	15	39	74	42
Female SER writer	28	44	53	69	23	61	104	58
Subtotal	63	100	77	100	38	100	178	100
MALE OFFENDERS								
Male SER writers	30	40	35	43	38	46	103	43
Female SER writers	45	60	46	57	45	54	136	57
Subtotal	75	100	81	100	83	100	239	100
Total	138	/	158	/	121	/	417	/

Female offenders sentenced to community service were significantly more likely to have had their SERs compiled by male SER writers than by female SER writers ($X^2 = 7.85$, 1 DF, $P < .01$). This suggests that underuse or different use of community service (discussed in Chapter 5) with female offenders identified, to a greater or lesser degree, in previous research (Dominelli 1984, Moxon, 1988, McIvor 1998a) and in this research (albeit tentatively) could be more of an issue with regard to female SER writers. In order to understand the process by which this is happening, firstly the arguments (as distinct from recommendations for reasons explained earlier in this chapter) for community service in the conclusion/recommendation section of the report are analysed separately for male and female offenders.

Arguments for community service

For community service it was found that overall the differences in arguments made between reports on male and female offenders were not significant. There were four main categories of arguments created. It was recorded that a 'positive' argument had been made where overall community service had been presented favourably and was being advocated as a viable option. An example of a positive argument then would be where the SER writer cited previous compliance with supervision and concluded that the offender was suitable for community service. A 'negative' argument was recorded where overall community service was not presented as a favourable viable option. An example of such an argument might make reference to recent non-compliance with a community-based disposal and conclude that the offender lacked the motivation to complete such an order. In cases where the information was presented in such a way that the researcher considered that the overall arguments were conflicting and it was unclear if community service was being presented as favourable and viable or not, then the category of 'not clear/equivocating' was used. Such an argument might include reference to previous completion of an order but conclude with a comment that an individual's work commitments would make it difficult for him/her to comply with an order. Finally, where Community Service was not discussed as an option for disposal at the current appearance then the category of 'not discussed' was used.

The overall difference in the arguments made for male and female offenders was not significant. However more male offenders - 62% compared to only 54% of female offenders - had positive arguments made for community service. The percentages of negative arguments were similar at 16% for male offenders and 18% for female offenders. The percentage of female offenders who did not have community service discussed (16%) was slightly higher than that for males (13%). Of the 51 cases identified where community service was not discussed, 16 (31%) resulted in custody outcomes, accounting for 16% of the female custodial outcomes and 12% of the male custodial outcomes. From the overall sample of the 121 custodial cases, in 67 (i.e. 55%) of these cases there

were no indications of a previous community service order having been imposed. This represents 47% of the male offenders who were sentenced to custody and 76% of the female offenders.

Gender of SER writer and arguments for community service

It was found that the overall difference in arguments made for community service (in terms of support or otherwise for this disposal) by male and female SER writers was not significant.

Differences between arguments made by male and female SER writers for just male offenders were not significant. For male SER writers the positive arguments accounted for 62% of the male offenders cases and the negative arguments accounted for 17% of the male offenders cases. Similarly for female SER writers the positive arguments accounted for 62% of cases and the negative arguments 15%.

With female offenders, differences between arguments made by male and female SER writers were again not significant, although the differences were more noticeable. For male SER writers the positive arguments accounted for 65% and the negative arguments for 11%. For female SER writers the positive arguments accounted for 45% of the cases and the negative arguments accounted for 23%. Male writers then were more likely than female SER writers to give positive arguments for community service for female offenders, although they were not significantly more likely to do so.

Recoding the categories of arguments to categories of positive argument made for community service and any other argument yielded interesting results as detailed in Table 6.3. With the overall sample there was no significant difference in the arguments made by male and female SER writers. With male offenders there was also no significant difference but with female offenders a difference between male and female SER writers was found ($X^2 = 6.72, 1 \text{ DF}, P < .01$). Female SER writers

were significantly less likely than male authors to make a positive argument for community service in their SERs.

Table 6.3 Gender of SER writer and positive arguments for community service for female offenders

	Male SER writers	%	Female SER writers	%	Total	%
Positive argument is made for community service	48	65	47	45	95	53
A positive argument was not made	26	35	57	55	83	47
Total	74	100	104	100	178	100

Note: For two female offenders the gender of the SER writer was not known

The finding that female offenders sentenced to community service were less likely to have had their SERs compiled by a female writer may then be a reflection of the fact that female SER writers were less likely to provide positive arguments for community service for female offenders. As discussed earlier in this chapter there were inconsistencies in whether or not and how recommendations were made which has been the reason for a greater focus on arguments in relation to disposals rather than recommendations. However the researcher did endeavour to record whether there was a positive recommendation for disposal and if so what it was. A disposal was recorded as positively recommended if it was clearly supported in the SER as a suitable disposal and explicitly singled out and presented as the preferred option. Despite this, when recommendations for community service were analysed according to the gender of writer for the overall sample and for male and female offenders separately, there was no statistically significant difference. Regardless of the gender of the SER writer neither male or female offenders were more likely to have community service recommended. Clearly it appears that an argument contained within a report can influence a sentencer even if it is not supported by a recommendation.

Undermining community service

The researcher attempted to identify cases where it was considered that community service had been inappropriately undermined. This obviously entailed a degree of subjective interpretation. For clarity, an attempt to define the criteria used will be made. Firstly, where the writer had ruled out community service on the basis that the offender had no previous work experience or where reference was made to the offender having difficulties with regard to childcare commitments and no reference was made to ways of overcoming these difficulties. A further reason for inclusion in this category was where community service was not discussed but could have been in terms of Dunscore (five or above which would represent a very clear risk of custody) or reference was made in the report to a risk of custody, then an SER writer not discussing community service would qualify as having inappropriately undermined community service.

There were also instances where substance misuse was used to rule out community service. Whether or not this was recorded as inappropriate would depend on the extent and nature of substance misuse, as described in the report. There were instances when the SER cited previous substance misuse, when the offender was being described as having stabilised or no longer using, as an argument against community service. This would be recorded as community service being undermined inappropriately.

The researcher recorded 'no' for inappropriate undermining of community service where either community service was not discussed, and this was considered feasible (in contrast to the above criteria), or where it was discussed but the reasons for undermining/ruling it out were not considered inappropriate in terms of the criteria indicated above. 'Not clear' was used where it seemed the reasons for reservations/discounting community service were in line with what have previously been outlined as inappropriate, but either lack of clarity or incomplete information created uncertainty about whether or not this was the case.

Table 6.4 Undermining community service by gender of client

	Male offenders	%	Female offenders	%	Total	%
No	223	93	124	69	347	83
Yes	8	3	41	23	49	12
Not clear	9	4	15	8	24	6
Total	240	100	180	100	420	101

The resulting data presented in Table 6.4 indicate that female offenders were more likely than male offenders to be identified as having had community service inappropriately undermined ($X^2 = 44.30$, 2 DF, $P < .001$).

Undermining community service and gender of SER writer

Given the pattern identified earlier in this chapter, whereby female offenders sentenced to community service were more likely to have had their SER compiled by a male SER writer, possible patterns in report writing which might explain this were explored.

Table 6.5 Undermining community service by gender of SER writer

	Male SER writers authors	%	Female SER writers	%	Total	%
No	155	88	191	80	346	83
Yes	18	10	29	12	47	11
Not clear	4	2	20	8	24	6
Total	177	100	240	100	417	100

N=417, 3 cases where the gender of the writer was not known were deleted

Although overall the differences between male and female SER writers were significant ($X^2 = 6.94$, 2 DF, $P < .05$) with regard to undermining community service, as indicated in Table 6.5, this did not reflect the differences between male (10%) and female (12%) SER writers in cases where community service had been *inappropriately* undermined.

Undermining community service for female offenders

The gender of the SER writer was not significant in terms of community service being undermined for female offenders. As Table 6.6 shows female authors were almost as likely as male authors to have been recorded as having inappropriately undermined community service.

Table 6.6 Undermining community service for female offenders

	Male SER writers	%	Female SER writers	%	Total	%
No	54	73	70	67	124	70
Yes	17	23	22	21	39	22
Not clear	3	4	12	12	15	8
Total	74	100	104	100	178	100

N= 178, 2 cases were deleted where the gender of the SER writer had not been established

So although female writers were not arguing for or securing community service for female offenders they were no more likely than male SER writers to be inappropriately undermining community service. This might call into question the prior tentative conclusion that underuse of community service seemed, on the basis of disposals and arguments in the summing up section, to be a more significant issue with female SER writers. However there could be a discrepancy between different sections of the reports. Although female SER writers may not have more often met the researchers' criteria for inappropriately undermining community service for women, it seems that in their overall summing up argument/assessment they were less likely to present information in a way that would yield a community service outcome. Therefore it seems that the way in which arguments are presented by female SER writers on female offenders may influence the outcome away from a community service disposal.

It appears then that female social workers in particular may be especially inclined, in their report writing practice for female offenders, towards a stance which deters them from supporting community service as a disposal. There are various possible explanations for this. It may be that female social workers are more perceptive in relation to gender issues and they may detect problematic practices in community service schemes with regard to placement provision for female

offenders. It may be that they are more biased against community service schemes in terms of their placement provision for female offenders. Alternatively it may be that they consider a community service order to be a less appropriate response to female offenders than, for example, probation. As discussed later in this chapter female offenders whose SERs resulted in disposals of probation were significantly more likely to have had their report compiled by a female SER writer. Chapter 9 discusses these issues further.

Undermining community service on the basis of failing to discuss childcare arrangements

Where community service was discussed 42% of female offenders and 14% of male offenders were reported as having at least one child residing with them. There were only six cases in the total sample of 420 SERs where reference was made to the availability of departmental childcare provision to enable an offender to undertake community service. This would seem to reflect staff's lack of awareness, as discussed later in this thesis, of departmental policies in this regard. There were eight cases in total where specific provisional care arrangements, not involving the department, were reported as having been set up in the event of a community service order being imposed. In all eight cases the offenders were female and six of the eight SER writers were male. All eight cases resulted in community service being imposed: seven community service orders and one probation order with a condition to undertake unpaid work.

Twenty-eight cases were recorded as inappropriately undermining community service on the basis of failing to discuss childcare arrangements. Twenty-seven of these cases involved female offenders and 1 involved a male offender. Of the female offenders the information on gender of the SER writer was missing from 2 cases and in the remaining cases 16 of the SER writers were female and 9 were male. In seven of the cases of female offenders identified as having community service inappropriately undermined the SER writer also made reference to the negative impact of custody in terms of the clients' caring commitments to dependent children (i.e. no alternative carers being available). It could be argued that reference to childcare posing a concern in the event of a client

being sentenced to custody might have inadvertently undermined the case for community service as it emphasised the offender's responsibility for childcare while at the same time no solutions/alternative care arrangements were being offered. As detailed in Chapter 5, 50% of the female offenders being sentenced to custody were reported as having children. Yet community service, potentially an alternative to custody, is sometimes being ruled out or at least undermined by SER writers on the basis that the client has care commitments.

Undermining community service on the basis of tariff issues

Fifteen cases were categorised as inappropriate undermining of community service by not discussing it when it seemed that it should have been discussed in terms of risk of custody. Five of these cases involved male offenders (who had average Dunscores of 5.8), and 10 cases involved female clients (who had average Dunscores of 5.5). Of these cases 4 had average Dunscores of less than 5 but a risk of custody was acknowledged in the report on account of factors which were not reflected in the Dunscore.

Undermining community service on the basis of mental/physical health and/or substance misuse issues

Armstrong (1990) found that health issues were identified for women in particular with regard to their unsuitability for community service. Of the cases categorised as inappropriate undermining of community service on the basis of mental/physical health and/or substance misuse issues, 12 involved female offenders and 4 involved male offenders. This could be inferred as reflecting an overprotective attitude which is operating against female offenders with regard to community service. Some of the arguments made against community service, for female offenders in particular, appeared to be rather vague. The following comments were taken from fieldwork notes which were recorded at the time of gathering the data:

Female offenders

The client was reported simply as being unfit “physically and emotionally for undertaking the strict rigours required of community service”.

In one case where a client had had four previous custodial sentences but no community service the writer cited “ankle and wrist injury, substance abuse and psychological problems” as factors deeming community service to be unsuitable.

Community service was deemed to be unsuitable on the basis of a client’s “previous heroin use and other unresolved issues which were affecting Ms ...” (the unresolved issues were not specified in the report)

Another reference was made to previous rather than current substance misuse “... given Ms ...’s recent drug use it is my assessment Ms ... would not be a suitable candidate”.

It seems that there is, similar to the concept of the ‘gender contract’ referred to earlier in this thesis, an ideology at work which is attempting to exploit experience of substance misuse and health difficulties with a view to eliciting sympathy and getting female offenders ‘out of’ community service. This is counterproductive if the net effect is that the client is then sentenced to a period of imprisonment. Such report writing could also be construed as pathologising.

Male offenders

Although the emphasis with male offenders may be different there did appear to be similar difficulties in relation to health and access to community service:

Lifestyle and alcohol misuse which the offender was reported as having addressed, were cited against his suitability for community service.

Community service was ruled out on the basis of the client’s drug misuse even although he was reported to be ‘currently drug free’.

Community service was ruled out on the basis of mental health issues and level of substance misuse although these issues were described as being only moderately problematic.

Reference was made to restricted mobility as a consequence of involvement in a car crash, as being the reason for the client being unsuitable for community service.

If there are traits which render offenders vulnerable, such as psychological problems, these would arguably be even more of a drawback in serving a prison sentence than complying with a community service order. In terms of injuries such as an ankle or wrist injury then community service schemes are expected to cater for a range of offenders and not to discriminate against individuals who are disabled in some way. The operational standards for community service stipulate that community service schemes should have “a sufficient range of placements suited to the particular needs and requirements of...people who are disabled” (SWSG, 2000: part 2 para 1.6.4). In interviews, as discussed further in Chapter 9, a number of criminal justice staff identified problems in their areas in relation to the lack of suitable placements for particular client groups.

The impact of undermining community service

Of the 47 cases identified as having community service inappropriately undermined 16 (i.e. 34%) received custodial outcomes. This accounted for 13% of the total custodial outcomes as indicated in Table 6.7. Female offenders being sentenced to custody were significantly more likely than males to have had community service inappropriately undermined ($X^2 = 11.94, 1 \text{ DF}, P < .001$). It is possible then that inappropriate undermining of community service could be a factor contributing to the female custody rate.

Table 6.7 Percentage of custodial disposals which had community service undermined

	Male offenders	%	Female offenders	%	Total	%
CS inappropriately undermined	5	6	11	29	16	13
CS not inappropriately undermined	78	94	27	71	105	87
Total	83	100	38	100	121	100

The importance of any instances of inappropriately undermining community service is highlighted when consideration is given to the fact that of the 140 community service orders made in this sample, 130 of the SERs (93%) had a positive argument made for community service. This contrasts with only 44 (36%) of the 121 reports resulting in custodial outcomes having had a positive argument made for community service.

It would appear that in addition to the subtle gender differences in the content of SERs compiled by female SER writers with regard to the discussion of viability of community service as a disposal for female offenders, SER writers are generally more likely to inappropriately undermine community service for female offenders than for males. Previous studies have demonstrated that often gendered perceptions are used to account for women being portrayed as representing a "poor risk" of completion of community service (Dominelli 1984; Jackson and Smith 1987). The 1996 Home Office Review of Probation Service Provision for Women Offenders found that although the majority of areas included in the inspection had funds available to pay for childcare, "There was some evidence ... that the lack of knowledge among PSR authors about the provision of childcare facilities continued to contribute to women offenders being excluded from consideration for a community sentence, particularly community service." (HMI, 1996: 10).

Jackson and Smith (1987) found that of the 69 cases studied where women were sentenced to custody, in 32 instances community service had not been considered as an option for disposal. They also found that while those who were not recommended for community service did not appear to be different from the sample as a whole with regard to employment history and previous criminal record, they were more likely to be pregnant or to be carers for young children (Jackson and Smith, 1987).

In contrast to this, the impact of supporting disposals of community service for female offenders is demonstrated by Dickie's study (1995) which found that in the 21 reports on female offenders where positive recommendations were made for community service, the conversion rate to community based disposals was 100%, with community service orders being imposed in seventeen cases, and probation orders in the remaining four.

Samuel concluded in relation to female offenders subject to SERs, based on her review of criminal justice and related services in Scotland, that it is "concern for how they will manage their domestic/mothering responsibilities that prevents probation officers from recommending Community Service. The cruel irony is that their hesitation may have disastrous consequences for the welfare of female offenders and their children" (Samuel, 1994: 76). As has been discussed in Chapter 2, there tends to be a polarized response to women who offend (Feinman 1980, Pollok 1978). Hine has argued that this tendency to vindicate or vilify female offenders influences the sentencing process. She argues that this ideological framework works against community service being imposed on female offenders: "This scenario, if accurate, leaves little place for community service: the options are either probation (help for the pathetic) or custody (punishment for the sophisticated)" (Hine, 1993: 67).

Gender of SER writer and outcomes of probation

Female offenders being sentenced to probation were significantly more likely to have had their SERs compiled by female SER writers ($X^2 = 6.05, 1 \text{ DF}, P < .05$). As illustrated in Table 6.2, 53 of the 78 (68%) of the probation outcomes for female offenders were imposed following submission of an SER by a female writer. It seems that a particular orientation adopted by female SER writers towards female offenders, which may be influencing them away from supporting community service orders as suitable disposals for female offenders, may also be at work in encouraging female SER writers to support disposals of probation for female offenders. This is discussed further in Chapter 9. Given that female offenders sentenced to probation were more likely to have had their SERs compiled by a woman the arguments made in SERs for disposals of probation were analysed.

Arguments for probation

There were four main categories of argument made, as detailed in Table 6.8. It was recorded that a 'positive argument for probation' had been made where overall probation had been presented favourably and as a viable option for disposal. Similarly 'probation is discounted' was recorded where overall probation was not presented as a favourable viable option.²¹ In cases where the information was presented in such a way that the researcher considered that the overall arguments were conflicting and it was unclear if probation was being presented as favourable or not, then the category of 'not clear/equivocating' was used. Where probation was not discussed as an option for disposal then the category of 'not discussed' was used.

²¹ This category does not correspond to the categories used for community service as probation is often discounted for positive reasons. For example, it may be the offender has made progress or is not considered to present a risk of further offending. In such instances to record this as a negative argument could be misleading.

Table 6.8 Arguments for probation

	Male offenders	%	Female offenders	%	Total	%
Positive argument for probation	119	52	91	53	210	52
Probation discounted	69	30	66	39	135	34
Not clear/equivocating	27	12	8	5	35	9
Probation not discussed	15	6	6	4	21	5
Total	230	100	171	101	401	100

There were a few anomalies which were categorised as 'other'. These included instances such as the case where probation was being considered as a final disposal but only after a period of assessment during a period of deferment. To enable chi-square tests to be conducted these 16 anomalous cases were excluded. Comparing the percentages in Table 6.8, the category with the greatest difference is that with probation discounted. A higher proportion of female offenders were recorded as having probation discounted ($X^2 = 9.50, 3 DF, P < .05$), although upon closer inspection this difference seems to be offset to a degree by the category of not clear/equivocating. A similar percentage of both male and female offenders were represented in one or other of the two categories. The higher proportion of female offenders having probation discounted may reflect the lesser criminal history of female offenders relative to males in this sample, as discussed in Chapter 5. The above analysis however did not differentiate between male and female SER writers.

Arguments were compared between male and female SER writers in respect of the overall sample and separately in relation to male and female offenders. There were no significant differences. This suggests that the higher likelihood of probation outcomes for female offenders when the report is compiled by a female SER writer did not reflect the specific arguments contained within the SER in relation to probation as an option for disposal.

Comparing recommendation categories for male and female offenders there were no significant differences. When the reports were analysed separately according to the gender of the SER writer

there was still no significant difference in recommendation categories with male SER writers. However, unlike the situation with community service, for female SER writers there was a difference. With female SER writers female offenders were more likely than males to have a probation order recommended ($X^2 = 4.35$, 1 DF, $P < .05$). This concurs with a higher proportion of probation outcomes amongst reports compiled for female offenders by female SER writers. It seems then that with female writers there maybe an association, for female offenders, between negative arguments for community service and a lower likelihood of a community service order being imposed. On the other hand with probation there may be an association between a higher rate of recommendation for probation and outcomes of probation when the author and the subject of the report are both females.

The fact that male and female SER writers compile reports differently on female offenders and obtain different outcomes impinges upon any argument concerning the allocation of female offenders to female social workers. The analysis of information from the reports in terms of gender of client and gender of the writer suggests that allocation of SERs in these authorities is not gender specific. However, the practice of allocation of female clients to female social workers appears, on the basis of the interviews conducted in this study, to be widespread. Also gleaned from the interviews in this study, and from the researchers' own experience, it seems that the general practice within criminal justice social work would be that SERs requested for clients who are subject to supervision would generally be compiled by the supervising officer. Given the indications, from these data, that there appears to be an association between the gender of the writer and the final court outcome for female offenders, the practice of allocation of supervision of female offenders to female social workers has implications for female offenders who are then subject to a request for an SER during their period of supervision.

Reasons for discounting probation

The arguments for or against probation tended to be more nuanced than for community service. As referred to earlier in this chapter, a negative argument for probation could be encompassed in a positive representation of the offender, in that it might suggest that the offender was not considered to present a risk of further offending and therefore did not require intervention. There was, however, still scope for analysing the nature of the argument used by SER writers with regard to discounting probation. The arguments used revealed interesting interpretations of the ideological and policy shift from the welfare to the justice model. There were indications that the way in which this shift was being interpreted and applied was inconsistent and at times problematic. The following comments, taken from fieldwork notes made at the time the data was gathered, demonstrate this:

Reference was made to the offender being a mature individual who has made choices “and subsequently has to accept the consequences”. These comments were made in relation to the argument against the use of probation. They referred to an individual who in the report was described as having been involved in substance misuse and who was HIV positive.

In a similar case included in the reasons for discounting probation it was stated that there was a lack of focus for probation. This was related to the comments the SER writer made in describing the factors contributing to offending, that the offender “made a conscious decision to take the goods”.

A slightly different appropriation of the idea of giving regard to an offender having made a choice was where it was decided not to pursue probation as an option on the basis that the offender did not want to address his childhood problems. The writer had in fact linked the offender’s disturbed behaviour in childhood to his offending in terms

of “a continuation of inappropriate responses”. Despite this, the SER writer ruled out probation, claiming a lack of focus on the following basis: “I would consider Mr ... has exhausted any benefit derived from social work contact. He has said that he wishes to leave the events of his childhood and early youth behind him”.

In yet another vein, there was a case where probation was ruled out on the basis that the offender “lacks insight”.

In contrast to the above, a case involved probation being ruled out on the strength that the offender is a “competent and reflective person for whom probation would not represent an appropriate disposal” .

In another case the SER writer argued against probation on the basis that the offender’s denial would mean that he would be difficult to engage.

In one particular case the SER writer argued that the offender “has poor behaviour control when driving and needs to face the consequences of his actions”.

“The writer would not recommend probation at this time, rather ask the court to allow him to carry full responsibility for his own personal development” This draws on the ethos of responsibility and individualism to the extent where it is considered that the individual has to address his behaviour himself and without the support of probation supervision.

It seems that the concepts of individual choice and responsibility on which cognitive behavioural programmes are based - currently the main approach (at least officially) dominating probation supervision in Scotland - are being used to reject the option of probation supervision. Rather than

'denial' being used to discount the option of probation it could have been argued that probation supervision might address denial. Related to some of the arguments being made here there seems to be an underlying theme of clients' lack of motivation to address their offending being used to discount the option of probation. Trotter suggests that motivation can change, and indeed he implies that this may be part of the task of the supervising social worker: "Involuntary clients are for the most part motivated by a court order or the threat of some legal action. Given a choice they would not be involved with the direct practice worker. Nonetheless once they are involved in the client-worker relationship they may be motivated to different degrees" (Trotter, 1999: 39).

Some of these comments also reveal the way in which the concepts of choice and responsibility, depending on the context, can be applied punitively. In her study of SIRs (conducted in England where court reports are referred to as Social Inquiry Reports) Stephen (1993) identified a negative effect, with regard to sentencing, if the client was described in a pejorative way. She found that "if the offence is quite minor and its non-description is combined with what has been called 'character assassination' then the effect is to make the offender seem more culpable" (Stephen, 1993: 25, emphasis in original). As with community service, the importance of any instances where the reasons for discounting probation are problematic is emphasised when it is considered that of the 159 cases where probation disposals were made, 131 (82%) had positive arguments made for probation. This contrasts with only 51 (42%) of the 121 reports which led to custody having a positive argument for probation.

It is also possible that the tenor of some of some of these comments, sometimes a punitive one, may reflect a tendency, discussed in more detail in Chapter 7, for social workers to shift between the welfare and the justice perspectives depending on who they perceive as the client. As discussed in Chapter 7, when social workers are compiling social enquiry reports they view the sentencer, rather than the offender, as the client.

Probation action plans

Arguments for probation disposals can be supported by a probation action plan. National Standards require that probation supervision is guided by a probation action plan, which should be drawn up by the SER writer:

The plan should set out what will be done during the course of the order to address problems and issues associated with offending behaviour with the aim of reducing the risk of reoffending. Depending on the circumstances, the plan may identify ways of tackling behavioural difficulties, personal and family problems, and may identify resources which will be used to assist the social re-integration of the offender with particular reference to such areas as education, employment and employment training. (SWSG, 2000: part 2 para 20)

In the 60% (251) of cases where probation was considered as an option for disposal the items included in the action plans were analysed. Of these 251 cases only 36 (14%) did not have a probation action plan included in the SER. The main items included in the probation action plans are illustrated in Table 6.9. Male offenders were more likely to have anger management ($X^2 = 3.841$, 1 DF, $P < .05$) and addressing peer group/associates ($X^2 = 6.77$, 1 DF, $P < .01$) included in their probation action plans. Female offenders were more likely to have budgeting ($X^2 = 7.54$, 1 DF, $P < .01$), assertiveness/self-esteem ($X^2 = 8.17$, 1 DF, $P < .01$) and childcare ($X^2 = 5.21$, 1 DF, $P < .05$) included in their probation action plans.

Table 6.9 Content of probation action plans

Items included in probation action plan	Number of SERs which included this item in the action plan (male offenders)	%	Number of SERs which included this item in the action plan (female offenders)	%	Total	%
Offending behaviour	106	33	70	30	176	32
Substance misuse/addiction	89	28	62	27	151	27
Victim awareness	28	9	11	5	39	7
Support with education/training/employment	24	7	14	6	38	7
Family problems/relationship difficulties	15	5	13	6	28	5
Anger management	17	5	5	2	22	4
Housing	9	3	12	5	21	4
Assertiveness/self-esteem	4	1	13	6	17	3
Budgeting	3	1	11	5	14	3
Associates/peer group	12	4	1	0	13	2
Mental health	7	2	6	3	13	2
Childcare issues	3	1	9	4	12	2
Lifestyle	4	1	6	3	10	2
Total	321	100	233	102	554	100

N=215 some SERs had more than one of the above items in the probation action plans²²

²² There were other items in the action plans which had low frequencies i.e. counselling for sexual abuse, bereavement or perpetrating domestic violence

The difference in the extent to which anger management was included in male and female offender action plans did not appear to reflect the levels of involvement in violent offending, as has been detailed in Chapter 5, male offenders were not significantly more likely to have been sentenced for a main offence involving violence. This apparent discrepancy (between issues included in action plans and the nature of offending) may indicate that SER writers in compiling their action plans are responding to more subtle gender differences in offending behaviour which are not apparent from just the offence category. Alternatively, gendered perceptions of female offenders may prevent SER writers from perceiving female offenders as dangerous or harmful to others. This may relate to the tendency of practitioners to fail to acknowledge agency in female offending (Allen 1987, Warren 1995). Warren, on the basis of his research, concluded that there had been “a considerable dilution of agency for the women’s offending” (Warren, 1995: 22). It does have to be conceded though that on close inspection this apparent discrepancy is less than it first seems in that the difference in the inclusion of anger management in probation action plans is only marginally significant. Further, although there was no significant gender difference in violence for the main offence male offenders did have higher levels of violence than females.

Despite the gender differences in relation to inclusion of associates/peer group as an item in action plans, Chapter 4 did not identify a corresponding difference in relation to either clients’ reported reasons for involvement in offending or SER writers’ explanations for offending. However the tendency found here (albeit the numbers are small) for SER writers to be more likely to include this item in male offender action plans does appear to reflect a general gender difference. Mair and May (1997), based on their interview sample of 1,213 probationers, found that male offenders were more likely to have “friends who had been in trouble with the law” (Mair and May, 1997: 62). A further gender difference, discussed in Chapter 4, but not reflected in the data collected from probation action plans, is that female offenders appear to be more likely to become involved in offending through their personal relationships than through their wider social circle.

The gender difference, in terms of action plans for female offenders being more likely to include reference to budgeting, also reflects the finding by McIvor and Barry (1998) that women's action plans more often identified financial problems. This reported higher prevalence of support for budgeting with female offenders may reflect a response to their different circumstances, as outlined in Chapters 3 and 4, in terms of income, childcare responsibilities and history of unemployment. This also appears to concur with female clients being more likely to be reported as giving their reason for involvement in the offence as finance-related. However, support with budgeting appears to be a reference to income management rather than income enhancement. This is arguably not challenging the poverty experienced by women in these circumstances but rather teaching them how to cope with it. This could relate to the idea of the criminal justice system constituting part of the social control, discussed earlier in this thesis, to which women are subjected. It perhaps also reflects the current context of social work, discussed further in Chapter 7, insofar as social workers' attempts at intervention can be influenced by the context of limited resources such that the focus has to be on the client more than on their circumstances. Social workers operating in such a context may feel they have to focus on the client rather than on the wider issues of their socioeconomic circumstances which they might consider are more difficult to change.

Assertiveness/self-esteem did not emerge as a category in either clients' reasons or writers' explanations for involvement in the offence(s)/offending. The closest to this category was emotional stress/relationship difficulties. There was no difference between male and female offenders reported as having emotional stress/relationship difficulties, either in clients' reasons or writers' explanations for offences/offending. So although the numbers are small the gender differences in action plans in relation to assertiveness/self-esteem, in terms of female offenders being more likely to have this item included in their action plan, does not reflect reported clients' or writers' reasons/explanations for offences/offending. Stephen (1993) found that probation officers were more likely than clients to explain offending in terms of factors other than social factors, and this applied especially to female offenders. This included factors such as values, medical/psychiatric

problems and underlying emotional problems. This inclusion then of assertiveness/self-esteem in the probation action plans of female offenders could be interpreted as yet another illustration of the common tendency, discussed throughout this thesis, to pathologise women who offend.

Alternatively, given the acknowledged different routes which female offenders have taken into their criminal lifestyles, often involving adversity and sometimes including abusive experiences, then they may be more likely to have difficulties with their assertiveness/self-esteem.

The higher prevalence of childcare issues as an item in probation action plans for female offenders is likely to simply reflect, as detailed in Chapter 3, the much greater likelihood of female offenders to have children and to have the children living with them. It is not possible to compare this item in the probation action plan with reported clients'/writers' reasons/explanations for offences/offending as this category did not appear amongst these reasons/explanations.

In addition to the areas of work which were identified in the probation action plans groupwork was identified as a method of probation supervision in 26 cases (7% for male offenders compared to 6% for female offenders). It is possible that groupwork would have been part of the supervision but was not referred to in the action plan. However McIvor and Barry (1998) found that the most striking feature of probation provision was the extent to which the work was undertaken on a one-to-one basis. On the basis of interviews with social workers in this study there did appear to be a growing interest in groupwork with female offenders.

Comparison of details included in action plans for men and women would seem to indicate that the issues being identified for female offenders tend to be generally more welfare oriented, i.e. housing (albeit this was not significantly higher for female offenders), budgeting, assertiveness/self-esteem and childcare. This does not necessarily indicate that the issues contained within the action plans for female offenders are less appropriate or less likely to resolve offending behaviour than the issues identified for male offenders: it may simply reflect a recognition of the different social context from

which female offending emerges. As discussed further in Chapters 7 and 8 social workers have found that it is not always possible, and may not even be appropriate, to demarcate such welfare issues as irrelevant to women's offending.

Conclusion

Previous studies (Gelsthorpe 1992, Horn and Evans 2000) have found evidence of gender specific allocation of reports, but this study found no evidence that gender specific allocation of reports was taking place. However, there was evidence that report writing practice differed according to the gender of the SER writer. It was only with female offenders that there appeared to be an association between gender of the SER writer and the court outcome. Male SER writers were more likely to have been the authors of SERs which led to community service disposals for female offenders. This appeared to reflect a pattern of report writing where female offenders were more likely to have had a negative argument presented for community service when the report writer was female. Conversely, female SER writers were more likely to have been the authors of SERs which led to probation disposals for female offenders. On analysis of various aspects of the SER this seemed to reflect a pattern of report writing on female offenders where female SER writers were more likely to have recommended probation.

As discussed further in Chapter 9 there are indications that female social workers are guided by an urge to protect female offenders from the experience of community service and this may provide an explanation for the gender differences in report writing with regard to what appears to be a subtle undermining, by female report writers, of community service where the offender is female. This practice of discounting community service may in itself, by default, increase the likelihood of a female social worker supporting probation for female offenders in that one 'alternative to custody' in the form of community service is not being considered. However it seems more likely that the

greater prevalence of female SER writers when the disposal for female offenders is probation is more than simply default.

It seems, as will be discussed in Chapter 9, that an orientation, similar to the one which is discouraging female SER writers from using community service for female offenders, is also at work in encouraging them to be more proactive in supporting probation as a disposal. As will also be discussed further in this thesis it appears that there is a stronger welfare orientation towards female offenders when the SER writer is female, with this having a bearing on the content of reports and subsequently impacting on court outcomes. Similar to the possible adverse effects of the protection afforded to female offenders as children, as discussed in Chapter 4, this inclination on the part of female social workers to protect may in some cases escalate female offenders to custody by 'removing' community service as 'an alternative'. Despite such differences in report writing, there were no indications that the approach to, or content of supervision with female offenders, both of which will be discussed more fully in Chapters 7 and 8 respectively, differed according to the gender of the social worker.

Both the apparent practice, on the part of female SER writers to subtly undermine community service as well as the nature and range of some of the arguments used to undermine community service and probation, highlight the subjectivity involved in the compilation of reports. This challenges the idea contained within the Streatfeild Report of SERs as being involved in the objective conveyance of facts. Some of the arguments used to undermine community service for female offenders suggest a gendered pathology similar to that identified in previous research (Horn and Evans, 2000).

The arguments used to undermine community service and to discount probation suggest that among SER writers there was variable commitment to the policy guidance that custody should be a last resort (Rifkind, 1989). As discussed earlier in this chapter has acknowledged, there are a range

of factors which may account for an apparent relationship between report 'recommendation' and a final outcome, however on balance, it would seem on the basis of these data, that the content of reports is not irrelevant to the sentencing process. This chapter has demonstrated the prevalence of positive arguments for probation and community service featuring in reports where these disposals have been the final outcome in contrast to the paucity of such arguments where custodial disposals are made. Given that this is the case this, the gender differences in report writing which have been identified in this study, warrant attention within the context of any discussion of gender specific allocation of work.

The general differences in action plans between male and female offenders suggest a more welfare oriented response to female offenders. This appears to be a response to women's different routes into offending (Chesney-Lind, 1997) and may reflect a greater likelihood of criminogenic needs of female offenders being welfare ones. Previous research (Warren, 1995) has cautioned against the emphasis on welfare needs of offenders on the basis that it can contribute to the uptariffing of female offenders onto probation. However, analysis of the relevant data for this sample (see Chapter 5) suggested that female offenders were not, necessarily, being uptariffed onto probation. The perception that women offenders were being uptariffed onto probation on the basis of welfare needs may have generated an anxiety that welfare needs can be misappropriated as criminogenic needs. However, the fact of a specific need being a welfare one does not prevent it from also being a criminogenic need.

As discussed in Chapter 2, the relative rarity of female offending appears to have consequences in terms of how female offending is perceived, explained and responded to. The template for designing services within criminal justice relies on gendered perceptions of offenders and offending, disadvantaging or even ignoring female offenders. As acknowledged by McIvor (2004) there is still a lack of theoretical material specifically relating to female offenders. As such, social workers are endeavouring to find their own ways of responding appropriately to female offenders.

It is from such a context that the 'strategy' adopted by female SER writers when writing reports on female offenders has emerged. Addressing the challenges presented by gender differences and striving for equality in service provision is not a simple task with a ready set of guidelines. Two key areas which are explored in the following chapters are the nature of the services provided in the context of probation and community service as well as the ideological frame of reference used by criminal justice personnel when delivering services to female offenders.

Chapter 7

Welfare and Justice Models of Intervention

Introduction

Morgan (2000) acknowledges the inescapably political dimensions of crime:

... crime is a category which is politically and not academically determined. No amount of obscurantist language and arcane conceptual recategorization can evade this fundamental nexus. (Morgan, 2000: 76)

Similarly Criminal Justice policy is susceptible to change according to the party in power at the time and this is related to different political perspectives on the causes of crime. As Morgan explains:

The Conservative Party typically assumes that crime is the product of individual pathology and the breakdown of established patterns of authority. The Labour Party tends to assume that crime is the product of structural forces, in particular inequality and lack of legitimate opportunity. (Morgan, 2000: 66)

Albeit that New Labour have sought to distance themselves from this aspect of traditional labour ideology, it could reasonably be inferred that the election of a Conservative government in Britain in 1979 had implications in terms of the nature of criminal justice policies which were implemented. This government change marked the transition away from welfare towards neo-liberalism. As explained earlier in this thesis, in Scotland the provision of Central Government funding and the introduction of National Objectives and Standards for Criminal Justice Social Work in 1991 coincided with a formal confirmation of, and attempt to support, a significant change in policy

direction including a move away from the welfare model towards a more offence-focussed approach.

Aside from the general demise of the rehabilitative ideal as alluded to in Chapter 1, there were a range of factors which contributed to the fairly fundamental changes in criminal justice social work in the nineties in Scotland. Prior to the implementation of National Standards criminal justice services were delivered by generic social workers. McAra (1998) found that courts had lost confidence in the services being delivered to offenders. Generic social workers were considered to lack the necessary skills required for effective supervision of offenders and there was a growing concern that supervision of offenders was not taking place.

In tandem with these specific policy shifts there was, a wider move towards a managerialist culture which impacted on criminal justice social work services. Indeed the nature of this impact, although referring to England and Wales, prompted Oldfield (1994) to describe it as the 'McDonaldisation' of the probation service. He considers that an effect of managerialism has been to render the workforce more manipulable. Perhaps reflecting that she is commenting specifically in the Scottish context, McAra (1999) considers that there have been positive aspects of this new managerialist culture. She considers that there has been a sharpened focus which has created a greater clarity of purpose, which has in turn helped to advance welfare aims. Nellis (1996) argues that managerialism brought with it changes in training which involved a shift in focus away from content to assessable outcomes, associated with the competency-based approach referred to in Chapter 1. Nellis considers that this new approach subordinates education and undermines the professionalism of the worker. He argues that definitions of competency are unlikely to be neutral but will reflect the priorities of employers and the managerialist agenda. He considers that the dangers of the discourse of competencies are that:

... practitioners can easily lose sight of the real political context in which they operate
... The greater the managerial influence, the greater the demand for uncritical employees and for competence-based practice. (Nellis, 1996:14)

A similar perspective is offered by Dominelli who claimed the current managerial context has contributed to changes in social work education and practice including the development of the competency-based approach which she contends, is "leading to the demise of the autonomous reflective practitioner" (Dominelli, 1996: 153).

The current model of practice, referred to as either the justice or responsibility model, which has been endorsed and formalised with the introduction of National Standards, places greater emphasis than did the welfare model on addressing offending behaviour. It could be argued that the differences between the two models reflect fundamentally different beliefs in the causes of offending: "In contrast to the welfare model, which sees offending behaviour as primarily a response to personal and social circumstances, the responsibility model recognises both that offenders make active choices in their behaviour and that choice is always situated within a person's particular social and personal context" (Paterson and Tombs, 1998; xii). As such the justice and welfare models could, crudely, reflect right and traditional left wing political positions respectively. However Labour has not rejected the justice model. Rather its neo-liberalism emphasises the idea of individual responsibility which is encompassed by the justice model.

As discussed in Chapter 4, there is a credible argument to be made that social work with offenders should give recognition to their social exclusion. However, it could be argued that the justice model divorces practice from its social and political context and as such it reduces the scope for social work intervention. This has particular implications for interventions with women; while the welfare model may have elicited unwarranted intrusion, the justice model arguably takes it to the other extreme.

The terms 'responsibility model' and 'justice model' tend to be used interchangeably by social workers and are used to represent the same model of practice. The justice model, though, seems to be the more commonly used term in criminal justice social work and is in fact the term used by the majority of interviewees in this study. It is therefore the term that has been used in this thesis.

Despite the prominence given to offence-focussed intervention by the adoption of the justice model, a commitment to social inclusion was reflected in the consultation paper *Community Sentencing: The Tough Options*: "For the future there needs to be integration between policies which address the causes of social exclusion - health, education, employment, housing - and those, including criminal justice, which have to deal with the consequences" (Scottish Office, 1998: 10, emphasis in original). There seemed therefore to be an inclination to retain elements of the traditional social welfare philosophy which had been encompassed in the 1968 Social Work (Scotland) Act. There is a clear potential for conflict between the simultaneous emphasis on offence-focussedness and a commitment to social inclusion as the former concentrates on the individual while the latter gives consideration to structural factors. This chapter will consider, based on the interviews, how managers and practitioners have assimilated the policy changes and how such policies are being integrated into practice.

A persuasive argument against the welfare model had been that women were being subject to more intrusive interventions than was warranted by their offending due to their perceived welfare needs (Samuel, 1994). The shift to the justice model might have been seen as ameliorating the situation as it incorporated ideas of proportionality, such that the level of response should accord with seriousness of offending. However it has been argued that the change in approach in recent years has had a negative impact on custodial rates for women. Worrall argues that, "Feminist critiques of 'welfarism' in the 1980s resulted in moves towards 'just deserts' for girls which promised much but delivered greater criminalisation and incarceration in the 1990s" (Worrall, 2001: 89).

Balance between welfare and justice

Interviewees were asked to identify the approach used within their authority and their views around the appropriate balance between welfare and justice. This was discussed both generally and then specifically in relation to male and female offenders. Given the lack of formal policy on the relative balance of approaches with male and female offenders interviewees were asked how shifts in policy, where identified, had impacted on services to both male and female offenders and how appropriate these changes were.

While one social worker claimed to be exclusively justice in orientation, no-one claimed to be mainly welfare in orientation. One manager also claimed that the approach within his authority was almost exclusively justice oriented. This manager was confident that this approach was one which was supported by research:

We have devised a programme of intervention based on assessed criminogenic needs. I think we have responded to the issues rather than just been aware of them. I think a lot of our services have actually put into place a response based on the lessons from research (CJM 4).

The comment by this criminal justice manager revealed a commonly held view amongst the interviewees, that the justice model was the one which had been unanimously endorsed by the research community and thus the one to which they felt they should subscribe. This manager also appeared however, over the course of the interview, to personally endorse the justice approach.

Although only one social worker appeared to be operating exclusively according to the justice model, it is possible that the range of views represented in the research sample reflects, at least in part, one element of the bias referred to earlier, in terms of 'random selection' and 'volunteering'. Some of the comments gained from analysis of SERs, with regard to reasons for discounting

probation (Chapter 6), suggest that a number of SER writers were drawing on a model of practice in which the welfare model played little part: a model which may have reflected an extreme interpretation of the justice model. The following comment used in an SER to discount the use of probation is an example of such practice:

I am of the opinion that a probation order would dilute the seriousness of her behaviour ... Ms is fully responsible for her actions so she subsequently must suffer the consequences of these.

It could be argued that practitioners drawing exclusively on the justice model occupy a more dogmatic and therefore arguably a less reflective stance and, in turn, they may have been less interested in research to the point where they would agree to be interviewed. However the one criminal justice manager (CJM 4) who specifically referred to research subscribed to the justice model more than others.

The following comments made by the social worker who was drawing on an exclusively justice model revealed one end of the ideological spectrum informing criminal justice social work practice:

It is not easy to live on benefits but people do. People do struggle by on benefits ... maybe because they're not spending the majority of their income on alcohol or drugs. So if we consider Joe Bloggs who comes in every Friday with a sob story and says, I'm needing money for electricity ... I don't get my Giro till next Wednesday and we continually hand Joe Bloggs 90 quid, knowing ... he's gonna go out and spend that on smack – then we're condoning his drug habit ... That is the bottom line of why most people become involved in offending – because they have failed to take responsibility ... [re: the justice/responsibility model] ... I think that it is far more constructive because people are like, oh it's not my fault. Well, it is your fault, you know. I think

people need to start taking responsibility. I mean, we have to, everybody else has to ... Clients will say to me, oh you don't have to worry, you're a social worker, you won't have any financial problems. I said, no, let's talk about that ... That's why I come in here five days a week. Right, what do I do with that money? I pay my mortgage with it ... you choose to spend your money on drugs so, yeah, I don't have the same problems as you, but if I don't work, I don't live, you know, I don't live in a house, I don't put food on the table ... I think what is valuable is ... saying, in your eyes, I may look as if I live a far better life than you but that's because I've chosen to make my life the way it is. You've chosen to make yours – my job is to assist you to take some responsibility back, if and when you are ready to change (SW 4).

This extract demonstrates the perspective offered by Nietzsche, discussed in Chapter 1, that the concept of responsibility can be utilised to apportion guilt. It also reflects the way in which the responsibility or justice model attributes personal circumstances to personal choice, an approach easily adapted for potentially punitive purposes. Social worker 4's language may be an example of what Smith and Stewart are referring to when they raise objections to "the language of hostility and aggression-or-warfare" (Smith and Stewart, 1997: 105) which they argue has been increasingly associated with what probation officers are expected to do in terms of confronting offending behaviour. Admittedly, they were referring to England and Wales, where such criticisms would have more relevance, given that shifts in probation policy has incorporated a more extreme rejection of the welfare model. Probation in England and Wales has been realigned within a correctional service (National Offender Management scheme), alongside the prison service²³ (Robinson and McNeill, 2004).

²³ There have been recent proposals in Scotland to move in this direction. It remains to be seen what impact such changes will have on the nature of criminal justice social work services as they currently exist.

Trotter concludes from his research that "Approaches which blame, punish and judge clients in the hope that their behaviour will change seem doomed to failure" (Trotter, 1999: 40). One criminal justice manager interviewed in this study identified the problem of punitive attitudes amongst some of her staff and the negative consequences of this:

Sometimes the staff are exceptionally punitive and quite arrogant with clients, you know. If you treat people like that you're not going to be able to do any effective work with them (CJM 6).

While social worker 4 had used the idea of choice as a basis on which to condemn offenders, another used the concept of choice very differently, explaining that social work practice should focus on assisting the offender to understand and explore the range of choices available:

Probation is ... trying to get them to look at their own offending and get them to see – are they wanting to stop what they're doing and trying to say, well I'm not here to judge you ... If you go back to court then, you know, and you get involved in it, then that's up to you, but I'm here and you can use me to look at different ways to deal with certain situations. So trying to get them to look at their offending, rather than you sitting in there and going, right, this is wrong and this is wrong. Do you want to be at court? No. Well, these are some of the things you have to look at (SW 8).

This discussion perhaps highlights the distinction between saying 'you have made the choice' and saying 'you can make the choice'. The former, at least in the context of discussing offending behaviour, potentially apports blame, while the latter facilitates change by highlighting the availability of choices that have possibly not previously been considered as options by the offender. Exploration of the link between masculinity and offending is an example of a specific area of work where the latter way of intervening could be useful. As Johnstone suggests:

Working with men in the Probation Service should aim to introduce critical, alternative and creative thinking processes by exploring the social construction of masculinity. This would seek to enable male offenders to appreciate the way in which their own social construction of masculinity acts as a 'strait jacket' to their thinking and behaviour (Johnstone, 2001: 12).

There is then a perspective which holds that individuals can be empowered by being assisted to appreciate that there exists a wider range of choices than they may have realised.

Related to issues of power and the question of approach a view was offered to the effect that the provision of practical assistance can create a power relationship which undermines the client. A number of interviewees expressed concern that by adopting the welfare approach, in addition to the risk of developing a dependency on the part of the client, workers may find themselves in the position of trying to effect change in factors over which they have no control:

I think the welfare approach has been characterised by – by trying to address all of the issues ... which in fact you have very great difficulty in influencing, that – that you develop a kind of model dependency almost because you sustain people through certain things (CJM1).

Social worker 4, who supported an exclusively justice approach, also acknowledged such limitations facing social workers and suggested that ultimately a welfare model was unworkable on resource grounds:

Because of the demand on the social work resource base ... we can't afford the welfare model. That is the bottom line. We can't afford to do that. We're being cut back (SW 4).

This respondent is offering resource constraints as a rationale for rejecting the welfare model. Describing this rationale as the 'bottom line' arguably reflects uncritical thinking and acceptance of such constraints. It could be argued that the aforementioned criticisms of the competency-based approach to training - that it bleaches out the political dimensions of practice and discourages reflection (Dominelli, 1996) - may contribute to such uncritical acceptance. This tension between needs and the constraints on resources is perhaps, at least currently, inherent in criminal justice social work practice. Mair and May found, based on their interviews with 1,213 probationers, that 14% of the sample reported that "there were other things which they would have liked help with but their probation officer had not been able to offer or succeed in supplying" (Mair and May, 1997: 40). These had included difficulties with finding accommodation, clearing debts and securing employment. Jordan and Parton, writing in the early 1980s, perhaps showed prescience when they predicted just such a fundamental shift in social work practice as a result of the Conservative government's intention to redefine the nature of social work. They claimed the government's aim was:

... to make it clear that social work should adopt the rationing and controlling functions seen as appropriate in an era of stricter social discipline, and should enforce the new ethos of individual and family responsibility ... there will be unrelenting pressure on social workers to alter their priorities, and concentrate on a narrow range of statutory tasks, with fewer available resources. (Jordan and Parton, 1983:18)

It could be argued that such an alteration of priorities in criminal justice social work, as supported by the context of managerialism, has assisted the shift away from a welfare to a responsibility/justice model, corresponding to a shift from state to personal responsibility.

Discrepancy between rhetoric and practice

The majority of interviewees equivocated with regard to the approach they adopted, tending to vacillate throughout the interview. They tended initially to assert a slant towards justice and then appeared to seek to justify why they would incorporate a welfare element within their work. One female criminal justice manager initially offered the following explanation of the welfare approach:

Interviewer: What would you say is your understanding of the welfare approach?

Criminal Justice Manager 2: Oh well, I could sum that up in four words: namby pamby social work.

In so doing, she was, it seems, disparaging the welfare model. The Concise Oxford Dictionary defines 'namby-pamby': " *a & n* 1. *a.* insipidly pretty, weakly sentimental, lacking vigour. 2 *n.* talk or person of this kind. [*fanciful form. on name of Ambrose Philips, Engl. pastoral writer d. 1749*"]. It has been argued that criminal justice social work/probation services have had a 'legacy of masculinization'²⁴ (Annison, 2001). Annison argues that gender has been significant, "in accounting for the extent and pace of change that is impacting on the Probation Service" (Annison, 2001: 89). Although she is referring specifically to England and Wales the argument may have some relevance to a Scottish context where there has been related, if less extreme, policy shifts. Despite Criminal Justice Manager 2's apparently strident anti-welfare stance it subsequently transpired that her views incorporated at least an element of the welfare approach:

The welfare approach is ... it's a concentration on the non-offending behaviour bits which I think are very real and need to be addressed and I think what we've got to do is

²⁴ See Chapter 6 for statistics on gender and representation in the criminal justice social work hierarchy in Scotland.

offer a holistic approach but there is a danger in only offering - only looking at the welfare issues ... things like housing, education, you know, health, personal relationships. But ... all those things, they actually all impact on offending behaviour (CJM 2).

This interviewee was obviously ambivalent on the question of approach and this was a recurring theme with a number of interviewees. A number of social workers appeared to feel that there was an expectation on them to adopt more of an offence-focussed model of practice than they would prefer, as illustrated by the following comment:

I remember ... the risk assessment training ... I was quite – not vocal, but I was saying yes, we can deal with offending and risk ... but you have to deal with the other side of things because sometimes these contribute to offending behaviour, you know, if you've not got a stable address, the chances of offending are higher (SW 17).

A few interviewees appeared to have found a comfortable equilibrium between the two approaches. The following criminal justice manager considered that the policy slant in her authority was towards the justice model but she believed that there had to be a welfare element incorporated within that:

Interviewer: So within your authority, where do you think the balance lies between welfare and justice, on a spectrum?

Criminal Justice Manager 1: I think we're trying to move it slightly in favour of justice but I think - I think ... we do recognise that with some people for very good reasons, you have to deal with some of the chaos, otherwise you're not going to get them to address their offending behaviour.

The significance of the welfare model in continuing to influence criminal justice practice in Scotland is supported by McNeill's study which found that there was a range of "ways in which the welfare or social work tradition continued to find expression" (Robinson and McNeill, 2004: 291). For instance, there was a view that engaging with offenders in order to address their offending behaviour requires that a relationship is established as the medium for change. It was considered that a willingness on the part of the worker to address the client's welfare needs might encourage the client to engage in the working relationship.

Aside from the various formal and informal policies and practices within authorities, social workers when writing reports clearly felt that they had to respond to what they perceived as the preferences of courts/sentencers. Most of the interviewees who touched on this issue felt that the preference of sentencers was for an emphasis on the justice model. As one social worker expanded:

...because if you're working for the courts, ... you know, the Sheriff is my client, he's asking me for reports. So therefore I have to ... some degree go with ... the remit that he's working under. So I couldn't just take a completely welfare based approach because then, I think, my credibility would go (SW 10).

Comparing the comments made in relation to supervision and report writing, several respondents seemed to be leaning more to the justice model in their report writing practice than in their supervision. This may also explain the tenor of the comments (discussed in Chapter 6) being used in SERs to discount probation. The view that the sentencer, rather than the offender, is the client, at least when an SER is being compiled, is supported by the policy emphasis outlined in the Social Work Services Inspectorate report on SERs (SWSI, 1996). It appears that social workers may be altering their allegiance to the justice or welfare model depending on who they view as the client. The more punitive tone of some of the comments within SERs seems incompatible with the way in which supervision was being described by the interviewees. Although this could simply reflect a

bias, as discussed earlier, amongst the sample of individuals interviewed, it was clear from the comments made during interviews that when compiling SERs social workers viewed the sentencer as the client, and as a client with a preference for a justice perspective rather than a welfare one.

In contrast to this perspective – albeit that the following statement is commenting on supervision rather than SERs - one interviewee reported that sheriffs from the main feeder court in his authority had recently indicated that they felt services to probationers were too justice oriented at the expense of welfare:

While now we have, as a criminal justice social work department, adopted an approach of trying to work with offending behaviour and change that, that Sheriffs ... have indicated to us that people have welfare needs and we shouldn't be ... just about ... preventing the offending and keeping people out of prison. It should be about helping them in a way that is ... traditional welfare social work (CSS 4).

As this study did not include interviews with sentencers it is not possible to comment on how prevalent such a view is amongst sheriffs and therefore to what extent the aforementioned perception amongst SER writers, reflects the preferences of sentencers.

Another area of discrepancy in terms of these two models of intervention was that they were considered to be applied differently in childcare social work and in criminal justice social work. A few interviewees made the point that there is a discontinuity between the two. The former is considered to be more welfare oriented and the latter to have relatively greater emphasis on the justice model. The response to children in the childcare system, including children who offend, has been shaped by the recommendations of the Kilbrandon Committee (1964). This committee considered that there was no essential difference between children who are involved in offending and children who require general care and protection. Children's offending behaviour was therefore

to be viewed as symptomatic of their need. Interviewees held the view that children who have social work involvement become accustomed to the welfare approach and if they then subsequently find themselves in the criminal justice system they have difficulties making the transition. Interviewees considered that this may well have adverse consequences in terms of compliance and subsequent breach. Related difficulties were identified in terms of the approach adopted towards female offenders.

Approaches to female offenders

From the outset it seemed clear that there was a lack of conviction amongst criminal justice managers with regard to appropriate approaches to female offenders. Respondents were generally willing to acknowledge their lack of confidence in this respect, suggesting that amongst the relevant professionals there seemed to be a lack of consensus regarding “what works” specifically for women offenders. The following comment reflects this uncertainty:

I think we're struggling more with female offenders because ... our view is probably that what works with men doesn't necessarily work with women and that we've not yet cracked what it is that works with women offenders (CJM 1).

When interviewees were asked if the shift in balance between the two approaches had impacted equally on services to male and female offenders, they tended to be hesitant and appeared reluctant to acknowledge a difference in approach according to the gender of the offender. However they would then go on to suggest that the approach used was different or to describe differences in ways of working which effectively constituted a different approach. This seemed to be more than simply a gradual reflective unraveling of ideas which might naturally occur during discussions. Instead it seemed that interviewees were wary of being perceived as stereotyping or being discriminatory.

The following exchange illustrates an interviewee vacillating over the issue of whether or not there should be more of an emphasis on welfare in work with female offenders as well as a concern to avoid either being or being perceived as discriminatory:

Interviewer: Generally would you say there's a difference in terms of balance between welfare and justice when it comes to men and women?

Social Worker 10: I would think it's the same. I think common sense would tell you that with women it's more likely to be more welfare based, although I'm not sure actually if that's discriminatory. But I'm thinking of the fact that, you know, women are still treated as if that their role in society is childcare and from that stems a lot of welfare issues.

All criminal justice managers seemed hesitant about articulating whether or not the balance between these approaches did and should differ between male and female clients. For example:

Interviewer: Do you think this shift that you've identified has impacted equally on male or female offenders or do you think it's been different?

Criminal Justice Manager 6: I think it's probably impacted on both but I think people are much more aware now since the Safer Way of sort of factors associated with women offenders and the differences in women offenders.

Interviewer: Do you think that has had any effect on the balance between these two approaches”?

Criminal Justice Manager 6: Well, no, because I think you've got to retain the justice side, you know. With an alternative to custody, we have to be seen to be addressing offending behaviour and adopting the same approaches to women offenders as to male offenders. I think it's equal to both men and women. I think that, within that, how you deliver the service might be quite different.

Interviewer: Could you say a bit more about any differences in the way services were delivered.

Criminal Justice Manager 6: I mean, that's, I think, ultimately where we'd like to get to with women offenders, where we have more specialist workers, where we can deliver group work programmes, where we can bring in a bit more of a holistic type approach.

Criminal justice managers frequently started out by saying that the approach should not be any different with women but they then ended by effectively saying the approach should be different. A number of interviewees concluded, as did Criminal Justice manager 6, that they thought there should be more of a holistic approach with women. The term 'holistic approach' could be interpreted as being closer to the welfare than the justice approach.

Another manager ended her deliberations by suggesting that the question should not be one of gender but responding to individuals:

We have tended to have a bit of a blanket approach and we need to be more gender specific ... the women's group is a good start in that it's focusing on ... picking up on the issues that women have in dealing with their drug use and associated problems, why they offend and what needs to be put in place to help them get out of that. But that's

only one service ... It has to come down to the individual at the end of the day and I think individual needs (CJM 2).

This interviewee, although initially identifying a need to be gender specific, then almost retracted this by simply saying that it is about responding to individuals. Such a response was used repeatedly throughout the interviews. This concern not to be perceived as discriminatory seemed to undermine both practitioners' and managers' confidence about asserting the knowledge gained from practice wisdom and from the relevant research literature about gender and difference.

It is hardly surprising given the hesitation amongst criminal justice managers that social workers were also hesitant in their responses to questions asking them to compare approaches with male and female clients. Despite this hesitation, across the spectrum of managers and social workers an overall general view persistently re-emerged, at various points over a number of different interviews, which was that a more welfare oriented approach was appropriate for female offenders.

The idea of individualism was being presented almost as resistance to generalising about gender differences. This ambivalence about the appropriate response to women (and indeed to other categories of oppressed client groups) can be traced back to the contradictions contained within the range of social work values as outlined by the Central Council for Education and Training in Social Work:

The following values were included amongst those specified by The Central Council for Education and Training in Social Work: Qualifying social workers are expected to have a commitment to:

- the value and dignity of individuals
- the right to respect privacy and confidentiality
- the right of individuals and families to choose

Qualifying social workers must be able to:

- develop an awareness of the inter-relationship of the processes of structural oppression, race, class and gender
- develop an understanding of gender issues and demonstrate anti-sexism in social work practice
- recognise the need for and seek to promote policies and practices which are non-discriminatory and anti-oppressive

(summarised from CCETSW, 1989)

Consideration of any of the first three values outlined would constitute a gender-blind approach where the client would be treated simply as an individual, without any prejudgements being made. However, to do so would disregard the political and structural aspects of oppression which social workers are being asked to take into account in the latter three values. Shardlow (2002) teases out social work values as being either 'radical' ones which challenge oppression or 'traditional' ones which emphasise the individualised nature of social work. It appears that the tensions between the two is creating dilemmas in practice.

Conclusion

There are, clearly, a number of unresolved issues in relation to the question of approach in terms of the justice and welfare models. There appears to be a discrepancy between policy and practice insofar as practitioners are adhering to the welfare model to a greater extent than is endorsed by formal policy. Further, there are indications that practitioners are shifting their level of commitment between the welfare and justice perspectives depending on who they perceive to be the client; the court/sentencer or the offender. While practitioners seem to be adopting a more welfare oriented

approach with female offenders there is some hesitation amongst both practitioners and managers about asserting that this is the case.

Staff were expressing, at least initially, more of an allegiance to the justice model of practice than they were actually practising. Social workers were being asked to adhere to a particular model but they were altering this. Such a tendency is clearly not a new phenomenon for social work practitioners, as acknowledged by Finkelstein “those who are expected to administer and enforce policies are found to reinterpret, distort, evade and [even] reformulate policies to satisfy their perspectives” (Finkelstein, 1996: 89). It appears that the shift from welfare to justice, as endorsed by policy changes, has created confusion which has then been exacerbated by a further shift (towards a balance between the two) which seems to have been conveyed more informally “through the grapevine” rather than having been informed by research or policy.

The vacillation of interviewees over the course of interviews may also be related to an attempt to combine these two approaches when in some ways they are difficult to reconcile. The welfare model is shaped by a belief that social, political and economic factors affect behaviour, while the justice model is founded on a much more individualist philosophy anchored in the idea that the individual is in control of his/her life and is making entirely rational choices about whether or not to offend. Despite such difficulties there were indications that some staff were finding a middle ground by integrating the two perspectives. There seemed to be an implied view that while offenders can make choices, there has to be regard for the constraints on those choices in terms of personal and social circumstances. It was recognised that while offending behaviour has to be addressed, this is more likely to be successful if welfare problems, which are significant in the context of the client's everyday life, are acknowledged and efforts are made to alleviate them. As will be discussed more fully in the following chapter this is considered to apply to female offenders especially.

As in the current study, Paterson and Tombs (1998) found that the formal policy shift from a welfare model to an offence-focussed or responsibility model had not entirely translated into social work practice. The nature of Scottish civic culture is one with a strong democratic and socialist tradition (McAra, 1999) and in Scotland social workers are generically trained. Such factors may explain why, despite the growth of managerialism, practitioners in Scotland do not generally appear to have been 'minionised' (Nellis, 2001). On the contrary they are clearly exercising discretion in how to interpret and apply policy.

Not only are social workers wrestling with the tension between current formal policy and the way they feel they want to practise, they are also positioning themselves differently depending on whether they view the sentencer or the offender as the client. It seems that social workers when compiling their SERs, in an attempt to be more persuasive, are attempting to conform to their perceptions of what the sentencer prefers - which is that social work practice should be guided more by a justice perspective than a welfare one. However, there could be a misalignment between social workers' perceptions of sentencers preferences' and sentencers' actual preferences. This in turn could have significant implications for women offenders, for whom, as discussed throughout this thesis, a more welfare orientation would appear to be particularly appropriate.

It is possible that apparent 'uncertainty' regarding questions of approach with female offenders in particular might in part have reflected the interviewees temporarily adjusting their rhetoric in response to being interviewed by a researcher. This is more likely if they were conscious of not practising entirely in line with the formally endorsed justice approach. As Bar-On concluded from her study, based on observation of social work practice "as often is the case with social workers, they saw little congruity between their bureaucratically dictated roles and their professional brief" (Bar-On, 1993: 218-219). The particular confusion apparent with regard to female offenders, on whom there was less of a consensus to start with, has been exacerbated by the range of overlapping

and still unresolved debates and tensions with regard to both approach and appropriate responses to gender differences.

There are positive aspects to the equivocation which has been discussed. A tendency for workers to be reflective, to question practice on an ongoing basis and to avoid entrenchment is preferable to dogma. Banks (1995) argues that the social worker can and should be a reflective practitioner:

Reflective practitioners recognise ethical dilemmas and conflicts ... They are more confident about their own values ... they integrate knowledge, values and skills; reflect on practice and learn from it ... There is a recognition that personal and agency values may conflict and that the worker as a person has moral responsibility to make decisions about these conflicts. (Banks, 1995: 140, emphasis in original)

Perhaps the dilemma for interviewees regarding acknowledgement of difference in approach with male and female offenders is understandable. Exposing difference can either unveil inequity or it can be appropriated to justify discrimination. The impression gained, however, was that practitioners and managers alike had not had sufficient opportunity to exchange and clarify issues related to their practice and whether this should be the same or different with male and female offenders. As highlighted by Denney (1996) the link between ideas and practice is crucial in any discussion of anti-discriminatory practice.

The level of prevarication identified in this study could have an undermining effect on the coherence and focus of intervention and its 'effectiveness'. This is not to apportion blame to individual practitioners and managers who participated in the interviews. As argued by Raynor, Smith and Vanstone, quality of practice is not the product "of individual vices or virtues but generated and reinforced by training and the everyday context of practice; quality is a collective responsibility" (Raynor, Smith and Vanstone, 1994: 65). Carlen elaborates in this vein by stressing that a

democratic mode of policy-development ultimately contributes to improved service provision (Carlen, 2002b: 141). This is pertinent to understanding responses to the imposition of a centrally determined approach, especially if it is not wholly compatible with the existing value base or ideological framework of those who are delivering the service.

The apparent lack of an opportunity for social workers to exchange and develop their ideas may allow for extreme applications of the justice model to pass unchecked. Christie describes a phenomenon which may partly explain extreme interpretations of policy, arguing that the way in which increases in pressures on welfare states create the need for increases in expenditure on welfare that can in turn adversely impact on the criminal justice system (Christie, 1994: 54). He suggests that this leads to a situation which can “erode much of the moral basis of the welfare principles ... Several major lines of defence have been drawn up ... Some social workers create more distance between themselves and those in need of welfare” (Christie, 1994: 54).

The potential for conflict between the welfare and justice models arguably compounds the tension referred to earlier with regard to social workers’ hesitation about whether equal treatment should mean the same or different treatment. This question also relates to whether in responding to individuals we should divorce people from their social context or pay attention to the relevance of their specific social experience, taking into account issues such as race, class and gender. In relation to gender, McIvor argues that current conceptions of crime are historically gendered:

Our current understanding of offending and our knowledge of more effective ways of responding to crime has been developed largely from studies of men and boys. That knowledge underpins the ‘responsibility’ or ‘justice’ model of supervision promoted by the National Standards, raising fundamental questions about the relevance to female offenders of an approach to supervision which has been based upon an understanding of, and developed primarily to address the issue of, offending among young men.

(McIvor, 1998b: 5)

It appears that there may be a conflict between how policy is dictating practice and what workers consider they “know” about how to practise, based on their practice wisdom. It seems that workers may have found that to impact specifically on offending, effective intervention may not necessarily have to focus explicitly on the offending behaviour. It may be that the shift to managerialism, with its concomitant emphasis on evaluation and evidence-based practice, privileges certain kinds of practice which may conflict with knowledge which practitioners have accumulated through practice. The subtlety and nuances of the models of practice being utilised may not be encouraged by the technocratic style of practice fostered by the competency-based approach to training. This is not to endorse the pursuit of practice based solely on practice wisdom, so much as recognising that when practitioners do not consider existing policy and theoretical frameworks to be particularly relevant they will improvise and such improvisation can sometimes be problematic. This could include, for example, the strategy being adopted by female social workers of undermining community service when compiling SERs on female offenders. The extent to which such issues and general questions related to approach and ideas about equality remain unresolved has profound implications for the content of supervision.

Chapter 8

Nature of Probation Supervision

Introduction

The “what works” agenda, as Mair (2004) acknowledges, may well have begun as a “worthy aspiration” and as a protest against the despondency of the ‘nothing works’ era. Despite this it is not without difficulties. Not least is the fact that the underpinning research, as discussed in Chapter 1, tended to neglect female offenders such that the resulting ‘principles’ are of limited use in creating programmes which are responsive to women who offend. These problems were exacerbated by the fact that the “what works” agenda rapidly assumed what Mair describes as “the status of an orthodoxy which cannot be challenged” (Mair, 2004: 13), an orthodoxy which he considers is simplistically over-reliant on a “naïve positivism”.

Criminal justice social work practice from the early 1990s has also been directed by National Standards. McAra (1999) has argued that the introduction of National Standards at this time represented a marked shift towards managerialism, while Barry (2000) has argued that the emphasis within National Standards is on level of contact rather than *content* of supervision. She highlights the danger of this in that it may “encourage social workers to focus unduly on the quantity rather than quality of meetings” (Barry, 2000: 590). This raises the question of the role of National Standards; are they operating as a guiding framework for “imaginative practice” (McIvor, 1994) or are they policing imagination? The danger with any guiding framework is clearly an overreliance on it. The impetus behind drawing up National Standards was related to improving quality and professional standards (McNeill, 2000) but how criminal justice social work staff use National Standards is crucial. National Standards have the potential to undermine professional critical practice if they inhibit “imaginative practice”. While Finkelstein acknowledges that National

Standards may promote consistency and accountability he highlights the risk of prescriptiveness of such measures which:

... may distort the relationship between ... officer and offender from being one that is negotiable to one that is prescribed and externally regulated. (Finkelstein, 1996: 93)

As will be discussed later in this chapter, this issue has particular implications for the supervision of women. The managerialist culture which emerged was amenable to the positivism of “what works”; as argued by Smith (2004) the attraction of the “what works” research lay in the presumption that the social world was knowable and predictable. National Standards could be construed or misconstrued, depending on interpretation, as a vehicle for imposing the priorities of managerialism onto practice.

The “what works” literature endorses a set of ‘principles for effective practice’, detailed earlier, and these include a recommendation that intervention should focus on criminogenic as opposed to non-criminogenic needs. Criminogenic needs have been defined as those which “contribute to or are supportive of offending” (McGuire and Priestley, 1995:15), in contrast to non-criminogenic needs, which were considered to be either unrelated or only indirectly related to criminal behaviour. There is arguably no intrinsic difference between a criminogenic and a non-criminogenic need; what constitutes a criminogenic factor for one client may be non-criminogenic for another. Further, even once criminogenic needs have been identified for an individual client they do not necessarily have to remain static over time, since the factors contributing to crime for a particular individual could be in a state of flux. Barry (2000) has suggested that ring-fencing criminogenic needs as the focus for intervention can be ineffectual as it fails to address the underlying reasons for offending.

The attempt to identify criminogenic needs for female offenders may be particularly problematic. If Gilligan’s (1982) explanation of the female moral code is accepted, that is, it is seen to be

contextual and dependant on women's relations with others and being able to meet others' needs, then it is much more likely that women's criminogenic needs will fluctuate over time. Taking into account that women's pathways into criminal lifestyles tend to be different from men's (Chesney-Lind 1997, Shaw and Hannah-Moffat 2004) and the ways in which they are different, as discussed earlier in this thesis, then it is feasible to argue that women's criminogenic needs are more likely to be welfare ones. There is a risk, though, that welfare needs can be dismissed as non-criminogenic and therefore not worthy of attention within the context of addressing offending behaviour. The following comment by one manager interviewed in this study is an illustration of this:

I would claim that we have abandoned the welfare approach. Our approach is based purely on criminogenic need and if welfare needs arise, we would direct them [clients] to the appropriate agency (CJM 4).

However the majority of interviewees seemed to have given some consideration to the problem of differentiating criminogenic from non-criminogenic needs. The distinction created between criminogenic and non-criminogenic needs therefore, if not a false one, is at least potentially misleading.

Despite the existence of "what works" and National Standards to apparently guide and inform current practice there are clearly still valid reasons for practitioners to be grappling with how to supervise female offenders. McIvor has described the current situation as requiring social workers to operate "in something of a theoretical and empirical vacuum in their supervision of women who offend" (McIvor, 2004: 318). The relative lack of knowledge and lack of consensus about "what works" with women was identified as creating difficulties in supervising women:

What we need is an adapted programme for female clients. So not assuming that programmes that work for ... a white male population are gonna be effective (SW 14).

Another interviewee made reference to the STAC (Stop Think and Change) pack for women but to make the point that it had not particularly been designed as a response to the needs of women:

It was ... oh, look, there's a women's programme, isn't that great. It was STAC for women. ... But it was pretty much STAC for men with masculinity taken out, a bit about women slotted in, it was awful. (SW15)

This appears to be a general problem with interventions which have ostensibly been developed for female offenders (Koons *et al*, 1997).

Despite a few interviewees referring to groupwork with female offenders, as discussed in Chapter 6, there are indications that the bulk of probation supervision in Scotland has taken place in a one-to-one context. Although discussions with interviewees suggested a growing interest in groupwork with female offenders and a number of interviewees did identify that women appeared to respond particularly well to group supervision there has not been a specific focus on groupwork supervision within this thesis. Government reorganisation in the nineties led to smaller authorities in Scotland and this, combined with women's small numbers on probation caseloads seems to militate against groupwork provision.

Compliance

Underdown (2001) has argued that, "an issue central to rehabilitative work in a community setting, [is] the issue of compliance and engagement" (Underdown, 2001: 118). Compliance regarding attendance was a key issue to emerge in discussing the supervision of women. A range of views emerged about the factors that contributed to women's attendance problem. Although childcare was thought to have been a possible factor, the prevalent opinion seemed to be that it was more than just

a childcare issue. A number of interviewees specifically identified the difficulties of women's attendance at addiction services:

They're very, very difficult to engage with, possibly more so than the male offenders ... with women we have a particular problem in getting women through the [initial stages]. ... A lot of it's to do with just the chaos in their life and moving around (CJM 6).

One social worker offered a similar perspective, suggesting that women's chaotic lifestyles made it difficult for them to comply:

We picked mums up outside the crèche after they dropped their kids off at the nurseries in the morning, we wheeled them into the place ... we tried these sorts of things just to increase their attendance. That didn't work ... we thought it might be ... levels of chaos in terms of their drug use. At that time, I think that the numbers of women ... we were seeing more and more women with heroin problems (SW15).

In general discussion of the background problems experienced by offenders another interviewee elaborated on the nature of women's problems which can contribute to the chaos:

The women's profile is much more problematic and they've got greater mental health issues ... they are, by and large sole carers of children and their ability to handle drugs is maybe less than maybe looking at males to handle drugs, they're a bit more chaotic and a bit more frightened as well, I think of authorities... they're frightened maybe of losing their children if they get too close (CJM 7).

As discussed in Chapter 4, drug misuse was widely reported for those offenders whose SERs were included in this study (41% of male offenders and 45% of female offenders). Of those offenders

reported in this study as misusing drugs, female offenders were more likely to have been reported as having experienced childhood abuse and their drug misuse may represent a form of self-medication. If female offenders are indeed misusing drugs as a form of self-medication or even self-harming behaviour rather than, for example, on a recreational basis, then this in turn is likely to have implications for the nature of their drug use and its impact on their lifestyle. It may also account for the chaos which was associated, in this study, with female offenders' lifestyles. The relationship between compliance and general lifestyles has been identified by Underdown (2001).

Women's different reasons for using drugs also has implications for their treatment, and in turn their compliance with such treatment. This is a long standing problem, again relating to a gender bias in service design. It has been argued that drug resources tend to be more suitable for male drug users (Malloch 2004, Oppenheimer 1989). Oppenheimer contends that: "by their very nature [the treatment models used] ... discourage female addicts from entering into treatment programmes ... the so called *Physiological* model, in which addiction is viewed as a narcotics-fuelled metabolic disorder, relies predominantly on Methadone maintenance for treatment. Such treatment, which is primarily aimed at reducing criminality and the use of illicitly obtained drugs, does not attempt to tackle the underlying problems which led people to take drugs ... There is evidence that women are not attracted to these programmes" (Oppenheimer, 1989: 187-188, italics in original).

It is also possible that female offenders who are addicts and mothers, as suggested by Criminal Justice Manager 2, avoid contact with agencies responsible for supervising their probation order for fear of their children being removed from their care. As discussed in Chapter 3, in this study female offenders were reported as more likely to have and be caring for children. The current shifts in policy requiring agencies involved in providing services to drug users to share information with the appropriate agencies in the event of childcare concerns (Scottish Executive, 2001b) may further discourage female addicts from accessing required services, though McKeganey, Barnard and

McIntosh support such a policy shift in that they consider it appropriately prioritises child protection (McKeganey *et al*, 2002).

A number of critics have identified the greater taboo attached to involvement in offending for women generally (Heidensohn 1985; Dobash *et al*, 1986). Two interviewees alluded to this taboo as possibly being a factor which prevents female offenders from engaging with supervision. As one commented:

Some women have more difficulty recognising that – identifying themselves as offenders and I think ... there's a stigma for women about the label of offenders that is perhaps not there for men, particularly young men (CJM1).

The taboo of being a female offender and the related fact of simply being in a minority as a female client within criminal justice premises is possibly contributing to the compliance problem. Malloch (2004) has argued that this taboo is exacerbated when female offenders use illegal drugs. It has been suggested (Warren 1994; Armstrong 1990) that the male oriented environment of criminal justice/probation offices may be creating difficulties for female offenders in terms of the sexual harassment they can be subjected to.

Another factor which emerged as possibly undermining compliance specifically for women was the idea of women generally being less likely to have support to do what is required of them, including complying with their order. This may relate to the fact that, as discussed in Chapter 4, female offenders appear to be more likely to have partners who are misusing drugs. As one social worker commented:

I find that if you've got a male on probation, that their female partner is more willing to do the joint work whereas if you've got the female on probation, the male partner's maybe not willing to do work (SW 2).

Rex (1999) cited an example from her research study where a female partner was being included in the process as a means of exerting control over the male probationer. Similarly, Rungay has identified that "women subject to the attentions of agencies such as social work and probation may find themselves co-opted as tools in the attempt to regulate the behaviour of men" (Rungay, 2004: 102). The present interviews, however, suggested that female probationers were less likely to have such family involvement in their probation supervision. The data gathered from SERs for this study also found that female offenders were less likely than their male counterparts to be living with relatives and more likely to be living alone.

Perhaps related to women's social network was an issue about their perception and understanding of statutory supervision via the criminal justice system. A number of interviewees considered that women did not always appreciate the seriousness of the involvement and the importance of strict compliance. One interviewee referred to the failure of an all-women group which had collapsed on account of poor attendance:

I suppose clients who know other clients know that if you don't turn up, you get a warning or if you don't turn up you get breached ... I don't think ... it was known 2 strikes and you're out (SW15).

Resistance to what has been termed the 'gender-contract' could be a factor in explaining non-compliance. Worrall has argued that clients and staff alike sometimes enter into a collusive relationship as a way of dealing with women's anomalous position within the criminal justice system (Worrall, 1990). Worrall describes the women who do not reject this 'gender

contract' outright but who struggle with it, as being women who "tend not to assert themselves or to challenge openly, but who use a variety of subterfuges to sabotage attempts to observe, assess, classify and change them" (Worrall, 1990: 32). Such a reaction may partly account for the earlier accounts, discussed in chapter 2, of female offender's behaviour as deceitful (Pollak, 1950) or as cunning (Thomas, 1967). Despite the tendency among traditional theorists to pathologise female offenders there were no indications amongst any of the interviewees in this study that women's non-compliance in relation to attendance was being accounted for by such explanations.

Carlen comments, on the basis of her study involving interviews with criminal justice managers across the US, UK and Scotland:

Most of the project leaders interviewed were very aware that because of the complex social problems in which a majority of female offenders and/or female addicts were enmeshed, they often required a long time and many attempts before they could take the first steps towards the attainment of non-criminal lifestyles. (Carlen, 2002b: 150)

Her conclusion that non-compliance with female offenders is related to the complexity of their problems concurs with the views of the interviewees in this study.

The greater emphasis on the welfare approach with women also seemed to be a factor which in itself might have contributed to non-compliance. As Trotter acknowledges, work with involuntary clients tends to mean that workers "generally have two roles, a legalistic, or surveillance, role and a helping, therapeutic or problem-solving role" (Trotter, 1999: 3). The emphasis on the welfare model in the supervision of women identified, albeit tentatively, in the previous chapter, accentuates the care versus control dilemma.

One social worker touched on these issues when trying to explain why women's attendance, both at groupwork and individual appointments, was a problem:

Social workers had women on probation and were responding to those needs and weren't saying, you've to turn up every Tuesday at 1 o'clock for your group. But they were popping out to see them or they'd turn up and they'd talk about what their man was doing or their relationships ... it was never established for people to realise that if they didn't turn up, something happened and they had to do this in a much more structured way now [Interviewee continuing this discussion in relation to one to one supervision] ... it's probably weighted ... a lot more to welfare work in response to the chaos and sort of emotionally demanding women, do you know what I mean? Like the way that they don't turn up for appointments, turn up an hour late or turn up 2 days late and then you're like, you give them a lecture about not turning up and ... come next week, they don't come in (SW 15).

Perhaps when workers are engaging with women on difficult and emotive issues it is then more difficult to impose the standards of discipline expected within statutory criminal justice social work supervision. Another interviewee makes a related point about the distraction from focussing on offending when dealing with women:

It's very hard when somebody comes in with whole hoards of difficulties, this, that and the next thing and you try to sort that out and then you're thinking, oh, that's sorted out. Okay next time we'll look at something else more offence-focussed and the next time there's something else to deal with. I don't think that problem will ever go away (SW 7).

As discussed earlier in relation to the distinction between criminogenic and non-criminogenic needs being more complicated with female offenders, interviewees considered that focussing on issues specifically contributing to offending seemed to be more problematic with women offenders:

Social worker 15: I mean, I had one woman on probation who was extremely violent and she was on probation for very, very violent offences and it wasn't till I closed the file I thought, I've just done welfare work for the whole year. That wasn't my plan, that wasn't my intention.

Interviewer: So why do you think it happened?

SW 15: Because ... the kind of welfare type stuff that I was doing needed to be done ... So I ended up doing work on responding to her crisis, after crisis, after crisis, with domestic abuse and drug use.

A number of interviewees considered that the court system's criteria for sentencing women to probation occasionally included attempts to access what they saw as services which would respond to identified need. One social worker identified one such instance where she considered probation had been used in this way as an inappropriate way of accessing appropriate services for a woman:

Another woman on probation for – young woman – two years for breach of the peace for self-harming. That's a first offence. But I mean, appropriate – appropriate as in not through a probation order but appropriate as in social work involvement. That young woman's took all the support that's been on offer to her ... and it's really ... impacted on her in her present situation ... Whether she would have got that intervention otherwise – I don't know (SW 2).

A few social workers explained that this in turn influenced how they supervised women who they considered had been sentenced according to such criteria, in terms of the level of leniency afforded to the client and the balance of approach between the welfare and justice models.

One interviewee suggested that the problem, identified by some workers, of having a wider remit of issues to address with women could be solved by providing more hours of supervision time:

My manager isn't happy about this ... I give them extra hours.I suppose the other thing is that it wouldn't have to be me that would do that but for her at the moment it is ... It may well be that we need to do a hell of a lot more for women and we need to provide a lot more hours in supervision, we need to do things totally differently ... financing services and things like that (SW 15).

Carlen's findings also identified the difficulties of providing services tailored to the needs of female offenders in terms of the excessive demands on staff time which are not formally recognised:

... the most common threat to gender-specific projects in the early stages of their development was posed by the overlong hours worked by project leaders driven to deliver a holistic and very demanding service outside of any effective official recognition that the social, economic and health burdens of women in trouble with the law are, at the present time, usually much more complex than that of males. (Carlen, 2002b: 145)

The discrepancy between the official justice stance and the actual welfare input being provided by social workers with female offenders is, perhaps conveniently, a way of avoiding the resource implications of responding to the presenting level of need of female offenders.

Gender and ways of engaging

Dominelli has defined the 'essence' of social work as its:

... commitment to establishing relationships between workers and users which aim to provide the user with the resources, encouragement (and sometimes coercion) to change his or her existing lifestyle in more socially adaptive and purposive directions.

(Dominelli, 1996: 171)

It may be that this emphasis on relationships has particular relevance for female offenders. There was a fairly universal view that despite the attendance problems which women present, when they do attend they engage differently and more effectively with their supervising social worker and gain more from supervision than do men. For example:

I would be working with a woman and they'd be more likely to gain more information and be able to do something with that information (SW10).

I think they've got a greater ability to see ... things in greater depth. And so they answer more questions. It's never superficial or monosyllabic (SW11).

I've rarely had women who don't talk away and, you know, engage. Whereas with some men, they might turn up but it's a waste of time (SW 7).

In turn this greater inclination to communicate was related to a perception that they were more motivated to establish a relationship:

I believe ... as a worker, that a relationship is much more crucial with women, that you have to get that to do the work with them ... And that's not to say that you shouldn't engage with your male clients (SW 15).

Another interviewee made a similar point:

I wonder if female clients respond to a more relational approach ... I think in general, women would be better with a person if he's more relationship orientated than work orientated (SW 5).

The view that relationships are more significant to females generally is supported by a number of academics. This would include Gilligan's work (1982), as referred to earlier, and the work of Miller and Stiver who argue that relationships involving emotional engagement and verbal communication can operate as a healing process for women (Miller and Stiver, 1997). This would seem to be important given, as discussed in Chapter 4, the greater likelihood that female offenders will have experienced adversity and abuse. Similarly, De Cou argues: "Women's style of learning is more frequently experiential and characterized by much interpersonal dialogue and 'processing'" (De Cou, 2002: 105). This is related to her arguments that a relational model is preferable in work with women: "The relational model (with its emphasis on interpersonal skills and learning) offers an alternative to the cognitive model (with its emphasis on individual reflexivity)" (De Cou, 2002: 105).

A few interviewees expressed the view that, in addition to the significance of the relationship and women being more talkative, women also endeavoured to have more influence over the actual process of supervision:

Women are more – the guys are quite adaptable ... if you give them an instruction, they'll carry it out or not, as the case may be. Women are more likely to debate and

consider and look at alternatives. It's better getting challenged rather than feeling as if you're processing people because you get a better end result. I can think of the one word answers you get back from guys whereas it's more an open conversation (SW 20).

Workers' descriptions of ways of engaging with clients seem to indicate that with female offenders there was more likely to be collaboration in terms of identifying problems to be addressed.

Trotter's research suggests that approaches which focus "on the client's definitions of problems and goals" is a feature of more effective intervention with involuntary clients (Trotter, 1999: 17).

Perhaps this negotiation which women are seen to engage in is partly a reflection of how they respond to authority and to people in positions of power over them. Women offenders were perceived as seeking a less hierarchical relationship with their social worker. Wright and Kemshall, specifically in relation to female probationers, endorse such a non-hierarchical supervisory relationship:

For many women, relationships mean subordination. Integral to a woman-centred approach is the notion that non-hierarchical relationships are likely to be the most empowering in supervision. Whilst social control is a function of a probation order, there is room for reciprocity in the relationship between women and officer (Wright and Kemshall, 1994: 75).

The inclination for women to participate in setting the agenda would seem to suggest, as has been argued by Kendall (2002), that the "what works" principles which favour set behavioural goals are not responding to the specific learning styles of female offenders.

Although interviewees emphasised the significance of relationships with women in particular, a few individuals highlighted the importance of relationships generally, regardless of the gender of the

client, in the supervision process. Douglas, a critic of the process of attempting to change human behaviour, has emphasised the importance of the relationship as the medium in which the change takes place:

The relationship, then, is the channel through which acceptable communications between subject and agent can pass in either direction; some of the main barriers to communication will have been removed when this is established, and thus the value of the communication it carries is increased. (Douglas, 1997: 107)

The significance of the relationship, from the offender's perspective, has been identified in previous studies (McIvor and Barry 1998, Rex 1999). More than this, Rex found that effective engagement was linked to reducing offenders' involvement in offending "probationers seemed to need to feel engaged in the supervisory relationship if their probation officers were to influence them to take or refrain from certain actions or activities" (Rex, 1999: 370).

Only one interviewee in this study, the social worker who subscribed exclusively to the justice model, indicated that she did not view relationships with clients as especially significant:

I still have clients who say, I need a social worker. What do you need a social worker for? Just somebody I can come in and talk to. It's not what we're here for (SW 4).

The narrow focus of the justice model is arguably less amenable to developing relationships with clients. However the majority of interviewees did view the relationship with the client as central and particularly so with female offenders. Given that this is the case perhaps more regard should be given to the continuity of the relationship in terms of allocation of the worker from the outset of an order being made, as it is currently common practice for initial appointments to be offered before a specific worker has been allocated. The concerns highlighted in relation to the initial engagement

stage as being problematic for female offenders would be a further reason to pursue such continuity in practice.

Despite finding differences in SER content for female offenders, this research did not highlight any differences in probation supervision for female offenders according to the gender of the social worker. This may partly reflect female offenders' ability, as discussed earlier in this chapter, to engage effectively over a period of probation supervision and to influence the supervision agenda. Such a working relationship perhaps diminishes any differences between male and female social workers in terms of their inclinations on how to supervise female offenders. However a larger qualitative sample might have uncovered gender differences between social workers in terms of their inclination towards a protective or welfare oriented style of probation supervision, given that such differences in orientation, as discussed later in this thesis, influence report writing practice.

Ideas of equality

The question of whether equality, particularly with regard to gender, should be represented within the context of criminal justice as the same treatment or different treatment, has been widely considered (Eaton 1986, Gelsthorpe and Morris 1988, Heidensohn 1986, Smart 1990). Heidensohn (1986), albeit she was focussing more specifically on the court system, contrasted two models of treatment which she termed as the Portia and Persephone models; she teased out the core issue in the debate of equality as whether equality should entail the same or different treatment. Her Portia model encapsulates the idea of equality as representing the same treatment:

The focus of the 'Portia' model is clearly male and a rational, clear thinking, procedurally competent male at that ... there is only one world-view which is ultimately valid, that of white middle-class males. The concept of justice is one of legal equity. (Heidensohn, 1986: 289)

Heidensohn highlights the problem with the Portia model as being that it fails to consider women's disadvantage:

... a traditional concept of justice [i.e. the Portia model in this context] as equality or as fairness ... ignore[s] huge stretches of women's experiences and their discontent (Heidensohn, 1986: 297).

Heidensohn contrasts the Portia model with the Persephone model which, by contrast, would allow for the possibility of acknowledging women's different experiences. This latter model could endeavour to "improve women's lot in *relation to their present position*" (Heidensohn, 1986: 293, emphasis in original). She identifies the drawback of the Persephone model being that it would still have to operate within a patriarchal context in which the power base is still primarily a male one.

In discussion, with interviewees, of the content of supervision there was a continuation of the hesitation and lack of confidence which has already been identified in relation to gender difference and ideological approach. The following response exemplifies this:

Interviewer: Is there a difference in the proportion of your time which is dedicated directly to offending work with women compared to men or do you think it is the same?

SW 10: It's probably the same. However, there are ... issues, particularly in relation to things like childcare and that, you'd do more with women and that's because generally women are carers for their children.

The theme of 'you can't generalise - it's about individuals' emerged again and this was compounded by the anxiety that to respond to gender difference might be discriminatory:

Interviewer: In probation supervision do you think the aims differ or are they the same for male and female clients?

Social Worker 14: I think there's a danger to generalise between male and female clients. I think the important thing is to connect with the individual.

Interviewer: In probation supervision do you think the aims differ or are they the same, for male and female clients?

Social Worker 18: I like to think I am fair and equal but I've no doubt I'm not because you know, I don't doubt that there'll be certain things in the way I consider, you know, how I would do more home visits to a female client rather than a male because there may be difficulties. Well, I'm already discriminating there against the male.

Related to this dilemma, two criminal justice managers indicated that they were expected to explain, justify and defend to some of their colleagues why there should be a specific focus on women:

In some cases, it should be the same and it should be geared to the individual and individual needs. I mean, I'm hesitating because I had a discussion yesterday with one of the seniors about the women's group because I was going to some meeting about that. ... It was just what she said ... what was interesting was this 'why the focus on the women's group?' and I knew I would be asked at the discussion 'why a women's group?' (CJM 2)

There was that issue about why should we be having a focus on women offenders? ... It was quite a few of the managers. But bear in mind ... you were talking at that time

about a predominantly male management group ... you've got to bear in mind that, I mean, our management team – for a while, I was the only female on it (CJM 6).

This interviewee seemed to be making a connection between a resistance to exploring gender-specific practice and the underrepresentation of women within criminal justice management. Given this apparent lack of consensus amongst managers, combined with the aforementioned context of a “theoretical and empirical vacuum” (McIvor, 2004), it was hardly surprising that practitioners were not always confident in their practice of supervising female offenders.

Although questions on client gender and service provision often elicited at least an initial response along the lines of ‘it’s not about gender, it’s about individuals’, and that it was not viable to generalise about gender differences, it transpired that service provision tended to differ according to the gender of the client. However, when people were asked more generally about their ideas of equality in terms of service provision only a minority viewed equality, in this respect, as meaning the same. The majority of interviewees concluded, with varying degrees of confidence, that their idea of equality in service provision should entail a consideration of, and response to, difference.

The following responses are illustrative of such a position:

Really the best service specifically for ... not necessarily the same as the next person ... So it's not necessarily exactly the same; it's the right thing for the right person (SW 8).

We're human beings. We're all different ... You might have 25 factors that are influencing your life. It's kind of like putting a lasso round your neck stopping you from doing community service and I might just have one. So that's gonna be a lot

easier for me to get through it than what it is for you. So what we have to do is try and smooth these things over for people (CSS 2).

Equality? I suppose for women offenders, it needs to be that as much time and effort is made to meet their needs as is needed to meet men's and a recognition that those are going to be different. It's not about offering the same service but it's about making services equally accessible (SW 7).

These responses may suggest that interviewees have wrestled with the concept of equality and what it should mean in terms of service provision. It is feasible that initial responses to gender and difference in relation to supervision may have partly reflected initial defensiveness amongst practitioners rather than their actual practice. The most prevalent view of equality detailed above was similar to that offered by Bloom who has argued that "Equality does not mean sameness ... equality must be defined in terms of providing opportunities which are relevant to each gender" (Bloom, 2000:10). It would seem, despite their initial tentativeness, that interviewees were by implication subscribing to a Persephone concept of equality. It also seems that, possibly more so in the past, there are attendant difficulties in putting into place such ways of working within a context which is creating difficulties by its adherence to what could be viewed as a Portia concept of justice which endorses the idea of equal treatment being represented by the same treatment. Despite an apparent recognition of a need to respond differently to gender differences, the lack of a clearly articulated framework to direct and support gender specific practice is likely to detract from the development of such services.

Cognitive behaviouralism and the accreditation process

The priorities of personal engagement and negotiating, identified as important for female offenders particularly, are not supported by the 'principles for effective practice' as outlined by the

mainstream “what works” literature. Instead the “what works” literature has sanctioned the cognitive behavioural approach to work with offenders which attributes offending behaviour, at least in part, to cognitive deficits which supervision should aim to address. However Mair challenges the basis on which cognitive behaviouralism occupies such a dominant position:

What Works is not the evidence-based policy we have been led to believe; cognitive behaviouralism is not the objective, scientific method that its proponents claim, but is deeply implicated in neoliberal politics and has been constructed on offenders who are white and male. (Mair, 2004: 9)

The cognitive behavioural approach necessarily dictates that the intervention style should be an educative/teaching one whereby social workers teach offenders how to correct their cognitive deficits. Given the poor educational background of the majority of offenders, as discussed earlier in this thesis, such a style of supervision is arguably unlikely to appeal to offenders. Not only does cognitive behaviouralism rely on the now outdated and discredited medical models of deviance, it compounds the social exclusion, discussed earlier in this thesis, experienced by the majority of offenders, by pathologising through attributing their offending behaviour to cognitive deficits and thereby treating them as ‘others’.

A recent development in criminal justice social work practice in Scotland has been the setting up of an accreditation panel, reflecting similar developments in England and Wales. Critics (Mair 2004, Roberts 2002) have identified the bias of accreditation criteria towards cognitive behavioural programmes. The comments made earlier about the National Standards could similarly be applied to accreditation panels; in attempting to ensure minimum professional standards they may also be overly prescriptive. In this vein, Carlen has identified potential problems with the accreditation system:

If strict accreditation demands lead to programmes which are inappropriate to the very specific requirements of clients differently circumstanced by gender, ethnicity, and other differentiating sociobiographies, such procedures may, to put it mildly, be self-defeating. (Carlen, 2002c: 84)

Although the recently established accreditation process (2003) in Scotland is influenced by “what works” McIvor considers that it is less so than accreditation panels in England and Wales and that approved programmes will be “more likely to have a clear grounding in practice than be based wholly on theory” (McIvor, 2004: 311). It is possible that the enduring influence of the “what works” agenda could undermine the accreditation of programmes for female offenders which have been established in Scotland, outwith the criteria of accreditation panels, as being effective in work with women. Roberts (2002) cited, as an example of such practice, the case of the West Mercia area programme developed for working with women offenders. This programme was twice refused accreditation despite its success with clients and the courts and in terms of its reconviction rates. At this stage it is not yet clear to what extent the accreditation panel in Scotland might help or hinder the development of innovative programmes for working with female offenders.

Conclusion

Specific problems of compliance relating to attendance were identified with female offenders. However, when women do attend they tend to engage effectively and appear to benefit from establishing a relationship with their supervising social worker and from being able to negotiate within that relationship. While social workers appear, without the support of a relevant guiding policy framework or available resources, to be intuitively and creatively responding to gender differences there is hesitation about asserting that this is the case.

On the basis of interviews conducted for this study it seems that a more sophisticated welfare model has evolved and been adopted for the supervision of female offenders. This is a model which has been influenced by a growing awareness of the different and more complex issues presented by female offenders in terms of their different characteristics and routes into offending lifestyles (Chesney-Lind 1997, Shaw and Hannah-Moffat 2004), including their greater experience of adversity. The difficulties created for practitioners in attempting to deliver a service to female offenders, without the direction of a guiding theoretical and policy framework, are compounded by the specific compliance problems presented by female offenders.

This welfare model being adopted in work with female offenders is attempting to address the range of problems presented, including offending, in recognition of the fact that the overly simplistic distinction between criminogenic and non-criminogenic needs is particularly difficult to apply to female offenders. Similarly the context of chaos and adversity experienced by women who offend detracts from the extent to which they are able to make choices. It would appear that, for such reasons, rational choice theory is not a significant element of this new model. The emphasis is not being placed directly on offending but on the range of problems women are experiencing. This method of working is not supported by either current policy or levels of resources but rather is made possible by the ingenuity and commitment of individual workers.

McLachlan in her discussion of the supervision of female offenders supports separating out criminogenic needs and accordingly restricting the focus of intervention (McLachlan, 2000). However it is clear from interviews with practitioners participating in this study that they found it virtually impossible to do this given the complexity of factors which they found contribute to female offending. Rungay argues that:

The distinction which probation officers have become accustomed to draw between offending behaviour and personal difficulties is achievable only in consideration of

male offenders. Far from being irrelevant to an understanding of women's offending, the contention here is that personal difficulties and welfare problems are inextricable from it. (Rumgay, 1996: 108)

Similarly Covington and Bloom contend that the approach to working with female offenders should involve a shift in perspective: "from the individual woman to include the context of her life" (Covington and Bloom, 1999: 10).

It is apparent that female offenders are presenting supervising social workers with different agendas, the responses to which are not necessarily found within the mainstream "what works" literature. The importance of empowerment and the arguably related emphasis on a relational approach to women, as emphasised by these findings, is not supported by the mainstream "what works" literature with its 'principles for effective practice' (Andrews *et al* 1990, McGuire and Priestley 1995). Rumgay, in this vein, draws attention to the conflicts between such literature and that which supports gender specific practice:

The foci of intervention recommended by ... proponents [of gender specific practice] do not conform to the criminogenic needs targeted by cognitive-behavioural treatment ... the relational thrust of gender-specific programmes conflicts with cognitive-behavioural treatment goals of promoting individual autonomy in thinking and behaviour. (Rumgay, 2004: 107)

The managerial context, in which criminal justice social workers are currently practising, may well have rendered criminal justice social work practice more amenable to the shift from the welfare to the justice model. This managerial context may have, in tandem with the shift towards the justice model as discussed in Chapter 7, served to license less reflective practitioners (Dominelli, 1996) and as discussed in Chapter 3 this might have been yet more evident if there had been the opportunity to

select a strictly representative sample. Further, managerialism may have increased the pressure to meet performance targets (Rumgay, 2004), which are not reflected in the gender specific approach which practitioners in this study have adopted in their work with women. However, the findings of this study would suggest that managerialism may have had the effect of encouraging practitioners to focus on their practice and its effects and particularly so in work with female offenders. It is possible then that managerialism has had conflicting influences on practice and service provision depending on how individual practitioners have interpreted and appropriated existing ideological and policy frameworks.

Despite reflecting on the implications of striving for equality of service provision for female offenders, social workers and managers were generally hesitant about asserting differences in service provision as an appropriate response to diversity. So long as this level of uncertainty persists then it is likely to impede the development of services for female offenders. It seems that to supervise female offenders on probation effectively, demands recognition of the need for interventions and theoretical understanding which relate and respond specifically to women offenders. The following chapter discusses the ways in which supervision via community service entails different but related problems.

Chapter 9

Community Service

Introduction

From the outset the community service order has occupied an ambiguous status as an alternative to custody and this may well exacerbate the problems related to appropriate targeting of this disposal for female offenders. Such ambiguities in relation to sentencing of women are then compounded by the apparently gendered nature of both the nature of the tasks and the overall organisation of community service schemes. These difficulties have created problems of access to community service for female offenders and this seems to be perpetuating the existing gender bias within the operation of community service schemes. The views of female social workers, in terms of the perceived suitability of community service for female offenders, will be explored within this context.

Status of community service as an alternative to custody

The Community Service by Offenders Act (1978) allowed for the imposition of community service for offenders who had been convicted of offences punishable by imprisonment, which in practice was open to extremely wide interpretation:

... where a person of or over 16 years of age is convicted of an offence punishable by imprisonment, other than an offence the sentence for which is fixed by law, the court may, instead of dealing with him in any other way, make an order (in this Act referred to as a 'community service order') (Home Office, 1978: sec. 1 (i)).

Carnie (1990) identified inconsistencies in the way in which community service was used, in terms of its status as an alternative to custody. He found that there was strong opposition among sentencers, ostensibly in the interests of justice, to the suggestion of legislative change geared to

redressing this inconsistency. The following comment, by a sentencer participating in the study, reflects the nature of the opposition:

What we are dealing with here is not cans of meat or tins of beans; we are dealing with human beings who must be treated as human beings as diverse as humanity is. (Carnie, 1990: 38)

The implementation of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 was intended to address inconsistencies in the use of community service as an alternative to custody. This Act stipulated that community service should only be imposed where otherwise the offender would have been sentenced to a period in custody.

Subsequent research by McIvor and Tulle-Winton (1993) identified a positive effect of this new legislation in terms of community service being used more frequently as an alternative to custody than had been the case before its introduction. However, despite such changes it was also found that there were still apparently cases in which orders were made instead of other non-custodial disposals. As referred to earlier, a study involving interviews with sheriffs found some support for the view amongst practitioners that sentencers were not restricting their use of community service to those who were at risk of custody (SWSI, 1997). The present study revealed that there was a widely held consensus among criminal justice managers, community service seniors and social workers that sheriffs were not confining the use of community service to cases where it was serving as an alternative to custody:

The Act states that community service is a direct alternative to custody. It's not ... It's simply being used as another disposal that the court has available to it (CSS 5).

A lot of the [local] Sheriffs certainly use community service not as an alternative to custody. They just use it as a disposal, you know, it's not supposed to be in lieu of a fine but I think a lot of Sheriffs, you know, if somebody's on benefits, think they cannae pay a fine, there's no focus for probation, we'll put them on CS (SW 13).

The use of community service for low tariff offenders who otherwise might have been sentenced to a fine, for example, is arguably counterproductive in that it places people at risk of custody who were not at such risk in the first place. Carnie argues that "in view of the lack of a systematic approach to this problem a risk of custody, however small, undoubtedly remains for some offenders who breach and whose original order replaced a non-custodial sentence" (Carnie, 1990: 51). This problem would appear to be especially relevant to female offenders who, as discussed in Chapter 5, seem to be more susceptible to being placed on community service prematurely.

There was a prevalent view that the way in which courts processed breaches of orders was further evidence that community service was often not being utilised strictly as an alternative to custody:

I've been aware of, for example, situations where an offender's been breached and the outcome is often not custody ... Whether or not at the outset ... the sentencer was genuinely making a disposal because they were otherwise going to imprison the offender is something which I find impossible to know (CSS 4).

The view that of breach of community service often leads to an outcome other than custody is supported by figures available from the Scottish Executive. For the year 1999-2000, the year in which the SERs included in this study were compiled, only 25% of applications for breach of community service led to the order being revoked and a custody disposal being made. For the subsequent three years this figure dropped from 20 to 17 to 12% respectively (Scottish Executive, 2003: 19). These figures seem to suggest, if action taken on breach is an indicator of the risk of

custody at the time of imposition of the original order, that the use of community service orders as other than a direct alternative to custody is on the increase. The impact of the Law Reform Act does not appear to have been sustained.

The idea of community service being at least intended by law as an alternative to custody was considered by a number of interviewees as an explanation for the under-representation of women on community service. Women were generally seen to occupy a lower tariff position which would not warrant an alternative to imprisonment:

We're aware that women are very much under-represented in community service which might in itself be something to do with ... women were less likely to go into custody ... It could be they're not getting community service but it might be for justifiable reasons ... they are under-represented but ... most of them are not in the alternative to custody bracket ... Clearly it would not be credible to increase the numbers of women on community service by placing women who were not at risk of custody in the first place (CJM 4).

From my own experience, not ... not very many women that I have written a report on have got custody. So ... I wouldn't be aiming for an alternative to custody. It's not been appropriate (SW10).

As has been demonstrated in Chapter 5, female offenders being sentenced to custody were less likely to be reported as having previously been subject to a community service order (76% of the female offenders being sentenced to custody had no reference to a previous community service order, compared to 47% of the male offenders). Given that specific cases were not discussed during interviews it is not possible to know to what extent the view that women who were not at risk of

custody could have influenced the content of SERs for those women who were sentenced to custody. It is not as simple as whether or not community service is discussed as in the majority of cases the court has asked for a community service assessment to be included in the SER. Social enquiry reports in which community service was not discussed accounted for only a minority of cases resulting in custodial disposals (16% of female offenders receiving custodial outcomes and 12% of male offenders). Therefore the majority of custodial sentences in this sample were arising from SERs which had included discussion of community service. It has been established in previous studies (Dickie, 1995, McIvor 1998a) that community service is being underused for high tariff female offenders and so it would seem that the view, as expressed by Criminal Justice Manager 4, that under-representation of women on community service is proportionate to, and reflects, their generally lower risk of custody is based on a misconception.

Community service and the work ethic

In addition to its role as an alternative to custody a number of interviewees suggested that community service was being used by sheriffs to provide people with work experience. Likewise a number of community service managers saw employment training/skills development as part of the legitimate role of community service. The idea of work as punishment existed long before the Community Service by Offenders Act (1978) (Cameron, 1983). The role of work being used as a punishment or as a means of reparation or rehabilitation relates to the unresolved and vexed question of the work ethic in relation to the cause and cure of criminal behaviour.

Recently, consideration has been given to formalising the element of employment training as part of an overall effort to maximize the scope for community service to reduce offending (Rex and Gelsthorpe, 2002: 311). However the imposition of the work ethic as a form of punishment has been questioned by a number of critics (Jordan and Jones, 1988; Oldfield 1993; Worrall 1997). While the premise of unpaid work as punishment may not be problematic in times of full

employment, in times of recession and high unemployment it seems meaningless. Ethical dilemmas presented with the use of work as punishment are further complicated when dealing with female offenders. Dominelli poses the question “Is it justice to ask women who already perform the bulk of society’s unpaid work to perform even more ‘voluntary’ work as punishment?” (Dominelli, 1984:103).

Placements

Placement development

Within community service schemes in Scotland types of placement fall into one of three broad categories:

- 1) Agency placements (sometimes referred to as personalised placements) where the individual is given a placement in an organisation which usually involves personal work.
- 2) Team placements where a group of offenders are escorted to a specific project in the community which usually involves manual work such as gardening or painting and decorating.
- 3) Workshop placements which usually involve offenders working in a workshop setting with others and can involve activities such as joinery or craftwork.

It was clear on the basis of the interviews that the majority of existing placements available were team or workshop placements. This reflects previous findings on the nature of community service placements (Mair and May 1997; McIvor 1991). Although agency placements were considered best for the offender, a number of interviewees referred to the problem of time/resources to develop such

placements especially when the community service officer was responsible for placement development in addition to supervising offenders on orders.

The task of placement development was allocated differently across the authorities. In some areas there were specific placement development officers, while in other areas placement development was added to the other tasks of either the community service officer, or the community service manager (sometimes with the help of the community service assistant).

A few interviewees also referred to competition from the New Deal²⁵ as hindering the development of community service placements. One interviewee suggested that problems with placement development were further exacerbated by interventions from the council which attempted to impose its agenda by influencing work which should be carried out on community service placements. The difficulties of an external agenda being imposed on community service schemes is not new (McIvor, 1991). It may be that councils' priorities with regard to the operation of community service schemes is not determined by the preferences of the community service schemes or what is most helpful for offenders or beneficiaries. Clearly, problems in developing placements in turn restrict the range of placements available.

Nature of placements

When interviewees were asked if there tended to be any differences in the nature of placements used for male and female offenders the responses were usually vague or again made reference to the inability to generalise. The following replies reflect this view:

It's a case by case decision again. What's most appropriate for that particular individual (CSS 5).

²⁵ See Chapter 4 for an explanation of the New Deal.

We used to run a laundry and there was an assumption made by people from outwith community service that that would mostly be for female offenders because women are good at washing and ironing. No. That's not how we work at all. If that's an appropriate placement for a female offender, that's where she'll go. If it's appropriate for a male offender, that's where he'll go. (CSS 5)

A few interviewees did, however, state that female offenders were more likely to be given individual agency placements as indicated in the following response:

A lot of the lads just go into the squads and some women may well go into the squads as well but I mean, I think we would tend to use personalised placements a lot more for women (CJM 6).

The researcher gained the distinct impression that women were more likely to be allocated to agency placements than squads or workshops. Such practice is reflected in findings by Goodwin and McIvor (1999) who, in their sample drawn from 24 Local Authorities across Scotland, found that female offenders were more likely to be allocated to individual agency placements than to any other type of placement.

The following examples of agency placements cited by one interviewee seemed to reflect the general tendency for agency placements to involve domestic or caring work:

... we've got lunch clubs and we've got day care centres and a church centre and ... a charity shop ... and stuff like that (CSS 6).

For another interviewee, women's community service placements are still related to gender stereotyping:

I expect the laundry would have been around since before National Standards ... I suppose then there was totally gendered ideas and nobody was really questioning it. Even although it's now been questioned for years, it's not necessarily translating into practice (CJM 6).

The fact of women more often being placed in agencies may partly reflect that women's profiles present less barriers than men when it comes to placement allocation. The following interviewee explained why the offenders currently in agency placements had been so placed:

... it was deemed they would have the sort of personality traits required to get on. It's like a job. They're working with staff and clients and they're treated very much as a member of staff and they're required to make the additional effort of getting on with people and having a smile on their face and actually making the effort to integrate with a client ... not all individuals are able to do that ... you can tell ... whether or not somebody is agency material at an interview because, you know, if somebody comes in and they're sitting dour and you don't get any eye contact and you can hardly get a word out of them (CSS 6)

If the perceived gender differences in ways of engaging, as discussed in Chapter 8 are accepted as having some validity, perhaps the criteria of suitability for agency placements as outlined above inherently renders agency placements more suitable for female offenders.

The nature of work undertaken on projects or teams was described as follows:

House removals – removal of furniture for example – gardening during the summer season, painting and decorating and maybe there's been one or two environmental projects (CSS 4).

... the tasks will fall into one of two categories ... interior decorating or environmental work ... environmental work covers a whole host of things. We're grass-cutting at the minute ... but we clear up the river here regularly ... We've got chest waders (CSS 6).

The following comment by one of the above interviewees inadvertently reveals the gender bias of some project work:

So females who find themselves on projects because circumstances prevent allocation to the agencies ... tend to find themselves in interior decorating projects which are lighter – physically lighter than some of the heavier environmental projects (CSS 6).

In an effort to portray community service as being more punitive, a circular was produced (SWSG,1996) which placed a greater emphasis on physically demanding work. This is unlikely to ameliorate the problem of community work being viewed as men's work. Some interviewees specified that they would ask and take into account offenders' feelings as to placement preference. When interviewees indicated that they asked such questions they tended to be referring to female offenders. This is possibly because the offenders subject to community service are predominantly male and women are more likely to find themselves in a minority in a community service group context. There was a prevalent view that women might not be comfortable in a predominantly male group:

Again, I think there's always this tendency to think female clients shouldn't be in a squad of hairy-arsed offenders, you know. I've been very flexible about that. Sometimes this is highly inappropriate ... I think I would be quite uncomfortable with some females in some squads (CSS 3).

Another interviewee emphasised that the choice was available to both male and female offenders:

We've got women in environmental projects because they choose it. Because they say. If we can give them choices, we give them choices. That's with women and men. It's not a gender thing (CSS 6).

Clearly however, the "choice" available to male and female offenders is different. For example women being offered a group placement will probably be in a minority in that group while that is unlikely to be the case for a male.

Flexibility and availability of placements

Related to the nature of the placement is the issue of flexibility. The flexibility of a placement clearly has implications for carers and so for female offenders particularly. As detailed in Chapter 3, the information reported in SERs suggested that female offenders were more likely to have children and to have their children living with them. Interviewees highlighted the fact that different types of placement allowed for different levels of flexibility in terms of work hours. Agency placements were seen to offer more flexibility while teams or workshops could be more rigid.

Teams and workshops were often constrained by set council work hours which may not apply to an agency placement. As one community service senior explained:

... we don't really have as many opportunities for working, you know say, outside the hours of 5 in the evening to 9 o'clock the following morning. But there's some agencies in the community which will offer that, you know, for example, there might be youth centres ... that stay open after hours (CSS 4).

One authority seemed to have dramatically shifted away from the rigid 9 to 5 timetable by using sessional workers, which allowed considerable scope for flexibility to accommodate offenders' circumstances:

We do not start our work parties as we used to do ... It's less regimented ... and we can take women now because I've got supervisors who work evenings ... but in the past my women offenders could only work Monday to Friday in the craft workshop ... I think we are lucky in a way that ... I have full-time staff and I have some sessional staff, you know ... to cover every day of the week. (CSS 2)

Agency placements were seen as offering the most scope for flexibility. This may partly explain the tendency to allocate women to agency placements:

Agency placements are where we can build a lot more flexibility in terms of the hours that they work and what times ... which often makes it particularly relevant to female offenders if they've got childcare responsibilities, you know, they might start an agency placement at 10 o'clock after they've got children off to school and be finished for half past three so that they can meet them (CSS 3).

There seemed to be almost universal agreement that team placements rather than agencies or workshops were the least flexible because of the need to pick people up at different points en route to the work location. An interviewee explained this practice:

Project teams have pick-up points locally here, they're picked up at nine o'clock ... you're picked up, you're into a van, you're then off to wherever the workplace is and ... you do your ... work and you're dropped off ... from the back of three onwards because the supervisor finishes at four. So it's far more difficult to arrange flexible hours on a project team. In fact, it's virtually impossible (CSS 6).

Flexibility was linked by some interviewees to the issue of resources, mainly in terms of staff. It seemed that placement flexibility was curtailed by restricted availability of staff:

Basically if there is good reason, then it's very flexible. The problem ... is one of staff resourcing to do things (CSS 1).

Inflexible working times were also identified by Goodwin and Melvor (1999) as a difficulty. They advocated an increase in the range of available placements for women by expanding the use of team or workshop placements.

A number of interviews identified that there was sometimes a lack of placements available in their authority as explained by the following social worker:

The number of placements. We've got a real problem. Like, we've a waiting list and that ... That'll not affect whether they ... get put on an order. It'll affect when they start their order (SW 2).

The researcher observed that in some authorities these resource difficulties were being communicated to sheriffs in the SERs. It was not clarified in the case cited above if the lack of placements was linked to staff shortages/ absences. Although this interviewee is asserting that availability of placement does not affect sentencing it is difficult to know on what basis this claim can be made. If sheriffs know that orders are not starting immediately, it seems feasible that it may well affect whether or not they impose a community service order. Carnie (1990) concluded on the basis of his interviews with sentencers in Scotland that "Many sheriffs were reluctant to impose an order if they knew that there would be a significant delay in start-up time" (Carnie, 1990: 49).

Overall, it seems there is an issue with placement availability for female offenders. An inspection of community service carried out in Scotland across three local authorities found that there were no placements specifically tailored to cater for women, which could necessitate women having to work in otherwise all-male groups. The report concluded that "the needs of women offenders were not fully considered and there were insufficient placements that properly cater for them"

(SWSI, 1997:19, emphasis in original). It appears on the basis of these interviews that this situation has not significantly altered since then.

Access

Access for offenders who are disabled or on incapacity benefit

There seemed to be agreement amongst community service seniors that in the case of individuals who are in receipt of incapacity benefit, although placements could be available in principle, advice should generally be sought from their GPs as to the person's suitability to perform community service. Community service seniors in particular seemed to want endorsement from GPs that individuals were fit to undertake specific tasks and this appeared to arise from an anxiety regarding health and safety issues:

We try to always have a place available for people but ... Now, we're not qualified in terms of if somebody's got a heart complaint or arthritis, what duties they should do ... I don't want to put anybody out to a place and then ... and ... they're going to injure themselves. (CSS 2)

The nature of existing community service placements is unlikely to alleviate such anxieties. One interviewee, although saying that community service would ultimately be available, expressed concern about the suitability of community service for individuals in receipt of incapacity benefit:

I mean, by definition I suppose they're not suitable for community service. If they've been on incapacity benefit long-term then their definition is unfit for work. This is a labour-intensive disposal ... we probably would say that we had concerns over whether he would be fit enough to do community service but the option was always offered and

we would ask them in the more serious cases for the court to ask for a medical report prior to making an order (CSS 6).

Clearly there is the possibility that expressing concern about someone's suitability and highlighting the need to obtain a medical report may deter courts from pursuing community service orders, especially if the court wants to dispose of the case without further delay.

A few interviewees referred to difficulties related to suitability and availability of placements for offenders who have disabilities. One social worker cited a specific occasion where she felt her local community service scheme's response to placing a disabled offender was inappropriate:

Social Worker 7: My most recent problem with community service was regarding a man who had a disability so I was outraged because he was a quantity surveyor and could work fine ... he couldn't walk for more than 100 yards ... without extreme difficulty and extreme pain ... they weren't refusing access. They just – they couldn't – they said there would be serious difficulties in offering him a placement.

Interviewer: On account of his disability?

Social Worker 7: He must ... have a range of skills that could have been utilised ... I just couldn't see what the issue was. Surely they could use their imagination sometimes.

This response in particular reveals that access can be problematic even if not explicitly refused. It seemed on the basis of these interviews that services for disabled offenders were falling short of the equal opportunities statement outlined in the National Standards referred to in Chapter 5.

Access to community service for offenders who are involved in substance misuse

A few interviewees made references to historical problems within their particular authorities with regard to access to community service for individuals experiencing addiction or involved in substance misuse:

That's historically been quite a problem with us because we felt that we were writing off addicts far too quickly. For a host of reasons – health and safety, general chaoticness (CJM 6).

In the past, community service would never take people with drug problems (CJM 2).

One interviewee made reference to continuing problems, created by attitudes towards offenders involved in substance misuse, in terms of trying to develop the range of placements available:

We've got people who will say automatically ... that they just don't want to touch them because there's a fear out there in the community. I think our job is to try and say to them, right, you just can't label somebody that they're useless now because they're taking a type of drugs whatever it is ... I mean, I see officers ... when they're trying to develop placements they're like salesmen (CSS 2).

In terms of access to community service workers generally considered the extent of addiction in determining suitability. One interviewee described how he would take into account the extent of the addiction on the offender's lifestyle and whether this would curtail his/her ability to comply with the requirements of community service:

I take into account the circumstances in each individual case ... a chap who uses heroin every day ... he himself said, well the chances of me getting up at 8 o'clock in the

morning or half past 7 to get a bus from where I live to be in town for 9 o'clock are virtually nil ... because he needs to go out and get his stuff first before he can even function (SW 16).

A number of interviewees identified the general rigidity and inflexibility in community service as disadvantaging offenders who were experiencing addiction, particularly with regard to the start time of placements:

There's also people on scripts, you know, if they've to be there ... for 9 o'clock in the morning, how are they gonna get their script [i.e. prescription] before they go? I don't think there's enough flexibility (SW18).

Some interviewees held the view that unless offenders with substance misuse problems were stable and on a prescription they would be unsuitable:

Unless someone's stable and on a recognised treatment regime, we would assess them as unsuitable but we would also make the point that assessment of unsuitability is at that point in time ... someone referred to us who we identified had addictions but wants to do something about it. In that situation, we can say to the court, defer, let them get the treatment and we'll re-assess at the end of the period of deferment. (CSS 5)

One social worker, however, took issue with the definition of 'stability' with regard to addiction:

This is a big bone of contention because community service say people have to be stable. But what's stability? Because stability to one person – to me, anyone who's perhaps been 12 months on a £10 bag a day is pretty stable (SW18).

In contrast to the blanket requirement operating in some schemes that people who were experiencing addiction should be on a prescription, there seemed to be a greater number of interviewees who were striving to maximise access and who advocated an inclusive approach to those with difficulties regarding addiction.

Perceptions of community service which are operating as barriers to access for female offenders

There was a view that the problems of access to community service for women have become self-perpetuating:

Interviewer: Would you say in your authority there are any barriers at all to accessing community service for any client group?

Criminal Justice Manager 1: I ... think that we probably don't have services yet that are sensitive enough to gender, disability or race. People would be dealt with on a one-off basis, rather than we have a service that can meet that need. I mean, that doesn't mean to say that some – some people don't have a good experience of it but I don't think it's sensitive enough to them.

Interviewer: Do you think the situation you have described affects the experience on community service for the particular client groups you mentioned?

Criminal Justice Manager 1: Yes ... the other thing is we haven't had a lot of referrals from people in any of these categories but ... it is a wee bit like the argument about, well, it's not a problem for us because we don't have any black people here, you know.

It means that we don't actually look at that. It may mean we don't actively look at that as an option sometimes.

The idea that community service is a disposal suitable for men arguably affects access by determining who is sentenced. In turn, the profile of the majority of those on community service then informs and shapes the way in which it is developed. There are various ways in which perceptions of community service as a disposal for male offenders may perpetuate the problem of access specifically for female offenders.

SERs and sentencing

Chapter 6 discussed gender of SER writer in relation to disposal category and it seems to be the case on the basis of the sample included in this study that community service disposals for female offenders are more likely to be secured on the basis of SERs which are compiled by male SER writers whereas probation disposals are more likely to be secured on the basis of SERs which have been compiled by female SER writers. Chapter 6 identified possible factors that may be contributing to this practice. Perhaps female SER writers are more perceptive about problems with community service provision for females, perhaps they are more biased against community service, perhaps they just consider community service to be less appropriate for female offenders than, for example, probation. It may be that some combination of these factors is at work. The following female social worker articulated her views on the appropriateness of community service for female offenders:

I'm far less likely ... women have a number of needs that probation can address and community service is really for high risk of custody but no criminogenic needs. So you might be less likely – you know, if women have got particular needs, then, you know, community service isn't as appropriate (SW10).

There was a general tendency to view women as too vulnerable for community service as reflected in the following statement, again given by a female social worker:

A lot of the women have mental health issues ... Whether it be anxiety, depression – post-natal depression, post traumatic stress syndrome ... So when you're writing the actual assessment, maybe you'd be saying, I don't think this is appropriate, I really don't think that the person would manage this at this period in time (SW 8).

Another female social worker expanded on the way in which women being in a minority on community service and her perception of the gendered nature of placements combined to prevent her from pursuing community service for female offenders on whom she was compiling SERs:

There would be difficulties ... the vast majority ... are males and finding appropriate placements for females that won't ... pigeon-hole women ... Like they might be more likely to get ... residential placements with ... older people ... that's again about being forced into their sort of stereotypical role – they're born carers, we'll put them there ... It's difficult to overcome that because again ... you wouldn't want to be putting vulnerable women out in squads ... You can either get a single placement or you can go out in squads. Because there's not enough women being placed on community service, there's not enough to constitute a squad. You can't put a vulnerable woman in with a squad of men as the only woman because I think that opens up room for manipulation and further abuse actually for a woman (SW10).

Another interviewee, a male criminal justice manager, while not endorsing the perspective which contends that women are too vulnerable for the rigours of community service, acknowledged that it influenced the sentencing process:

There seems to be a general reluctance across the board for women coming into community service ... within social enquiry reports or some other information going to court ... women are seen as more in need of nurturing or caring and so all the information going to court ... indicates that the individual, the woman, might be better served by a more nurturing caring disposal as opposed to your community service, which is seen as non-therapeutic, out digging trenches in what people call the squads (CJM 7).

Only 21 social workers were interviewed, 13 female and 8 male. Although there are potential difficulties in generalising from such small numbers there is no reason to consider that the views expressed by interviewees are idiosyncratic. The responses from female social workers in relation to community service seemed to reflect a disinclination to pursue and support it as an option for female offenders. Female social workers, when discussing the issues of appropriateness of community service for female offenders, appeared to adopt a tone of benign protectiveness.

Nature of community service placements

Worrall considers a paternalistic, protective attitude to be responsible for the tendency to avoid the use of community service for women:

The chivalrous view is that it isn't quite nice for ladies to be doing such hard work and that probation is much better for all but the most hardened of them. (Worrall, 1997: 95)

The nature of community service placements might be a deterrent to a sentencer or SER writer when dealing with a female offender. The following interviewee considered that what he viewed as sentencers' misconceptions of what community service had to offer may put them off imposing community service for women:

There may be sentencers out there that ... have ... a very narrow view of what community service offers, that it's about physical work. People still think in terms of painting and decorating ... that was the bread and butter stuff of most schemes and it still is for most schemes and ... it still is here because there's a huge demand for it. But that's not to say that we haven't been involved in a lot of more imaginative stuff. I think people don't ... appreciate that. So as far as females are concerned ... they may be regard females as being unsuitable to do heavy physical work because that's the association – it's heavy graft (CSS 3).

Despite the commonly held view that sentencers perceived community services schemes and placements as being designed to cater for male rather than female offenders one criminal justice manager expressed reservations about the financial implications of developing gender-specific services:

There might be a need to discuss the possibility of having specific projects for women or specific work groups for women but the numbers wouldn't really merit it. It would be an expensive response (CJM 4).

One particular interviewee held the view that, in addition to community service not addressing their needs, there were some women whose lives were so chaotic that they would not be able to complete community service given the way it operates:

I think that community service – my impression of it anyway ... my impression of it here is that it probably targets men more appropriately. It certainly doesn't target women appropriately. We do get a lot of women on community service that you can just tell a mile off aren't going to cope with it. They just aren't going to make it. Their lifestyles are just so – their lives are chaotic. Not just about drug use though. Their

relationships, their childcare problems, they are just generally more chaotic I think in their lifestyles. I'm thinking of a particular group of women who I don't think should be on community service and the community service team doesn't do anything to meet the women's needs. It's just here's a community service order and the task is - regardless, of their circumstances (SW 15).

There does seem to be a recurring theme emerging whereby community service schemes are perceived to be operating too rigidly and therefore failing to meet the needs of often vulnerable client groups.

Without a more formal audit of actual service provision within community service it is difficult to gauge to what extent staff perceptions of community service do reflect practice within schemes. However, regardless of whether or not painting and gardening, for example, are less suitable for women, if such tasks are widely seen as men's work and these placements predominate, this may deter not only SER writers but sentencers from pursuing the option of community service for female offenders.

Childcare provision and community service

Childcare is an issue which, although it potentially relates to both sexes, is much more likely to affect female offenders. The attitude of a minority of social workers was not conducive to providing access to those women caring for children as illustrated in the following comment:

If they've got children and they've no one else to look after the children, then we would recommend to the court that ... community service was unsuitable. When we do the community service assessment ... it's all taken into account and if they had the problem of somebody looking after their children, then the court would be very unlikely to impose a community service order (SW 3).

Some interviewees discounted community service on account of the financial implications of providing childcare:

I did a report on a woman which included a request for a CS assessment looking at that as a direct alternative anyway to custody. However ... this woman had three children. She had no family support networks or whatever and there wasn't a high likelihood of her being able to actually go out and perform community service because the bill for the childcare would have been a problem (SW 18).

Interviewer: And what did you say in your report?

Social Worker 18: Well I had to say that she would then have to be responsible for childcare which may be problematic ... I think it would have led her to breach the order very quickly.

Despite considering community service to be an alternative to custody, this worker appeared to discount the option of community service on account of concerns related to childcare. Worrall draws attention to the irony of such practice: "the absence of childcare facilities is the main problem - though the fact that it is a much greater problem if the woman goes to prison tends to be overlooked" (Worrall, 1997: 95).

There seemed to be a widespread lack of knowledge amongst report writers with regard to whether or not there was an existing policy regarding the provision of departmental childcare to allow offenders to undertake community service. In this regard the following responses were fairly typical:

I'm not really – because I've not been in that position – I'm not really aware of what resources there are (SW 10).

I'm not aware of a specific provision set up by the Council ... I've not come to that bridge yet (SW 14) .

Well, there used to be but I don't know what they were exactly ... There were policies, I mean, a long time ago. But I don't know whether they're implemented (SW 12).

Interviews with community service seniors seemed to suggest a lack of formal policy with respect to childcare provision and an almost ad hoc approach, which might go some way to explaining the lack of conviction in the replies of many social workers when asked about their authority's policy:

Interviewer: With childcare, what kind of provision is made?

Community service senior 3: It's very, very rarely that I've had to deal with it. I can think of a couple of cases in the last year ... We don't have any particular route to securing childcare ... The bottom line is if we have to provide it we will. We've never actually – been required to go that far down the line to actually put it into place.

Interviewer: Does your authority make any provision for childcare to allow somebody to do CS?

Community service senior 2: What we've done is we don't have a budget per se in community service but what we do is we go to the teams.

This is similar to Armstrong's finding (1990) that not all community service officers were aware of the possibility of accessing departmental resources to set up childcare. Even where interviewees were aware of resources being available they described difficulties in accessing them:

I have to get in touch with the Children and Families Unit and then they'll put me in touch with the pre-school organiser. She sends me a form, some sort of assessment form. I've got to then see the offender again and fill in this form and you've got to get the details about why the care is needed and why somebody else can't do it and then work out some sort of costing and then give it back to the Children and Families section, who then have to okay the cost and then I have to get involved again to ... it gets a bit involved but it's only two or three times a year ... I think it should be more streamlined ... somebody suggested that maybe in the future we will have a kind of element in the budget, in our own budget, for childcare. That would make it easier (CSS 6).

The situation is that when we have somebody on community service who is ... a carer we contact our resource team and then try and establish day care which takes weeks ... sometimes months ... They have to go along to assessment panels and everything like that and evidence that they need it ... They don't just get childcare ... They don't just get it because they need it. I mean, one way I got round it was I just phoned up a local nursery and we paid for it (SW 15).

Such difficulties in accessing departmental resources for childcare provision were also identified by community service officers in Armstrong's study (1990).

Given the information, detailed in this chapter, on the operation of community service in terms of its organisation and the nature of the tasks having a gender bias it seems probable that female SER writers are being more perceptive about problems with service provision to female offenders. Female SER writers' way of dealing with this is to be protective towards female offenders by not supporting community service as a suitable disposal.

It may be that female social workers' views of community service contribute to increasing outcomes of probation partly but not solely by default. The discounting or undermining of community service, albeit subtly, discussed in Chapter 6, thereby removing an alternative to custody option could increase the likelihood that either the SER writer and/or the sentencer will opt for probation as an alternative. The greater protectiveness shown towards female offenders by female SER writers would not appear to concur with the supposed greater punitiveness of female SER writers, as discussed in Chapter 6. Nash (1995) identified that reports compiled on female offenders by female rather than male SER writers tended to be more punitive. However, Nash's criteria for determining this punitiveness focussed, rather narrowly, on descriptions of offending contained within court reports, in terms of mitigating and aggravating factors. However Nash qualified his conclusion by conceding:

It is of course possible that women probation officers have produced a more accurate picture of the offence than their male colleagues. They may have moved on from the traditional client-centred culture to one which takes account of a wider perspective on offending. (Nash, 1995: 256)

On the basis of the data produced in the current study the gender of the social worker clearly does impact on the content of SERs compiled for female offenders. It seems likely though that with female SER writers who are compiling reports on female offenders there is overall a more welfare oriented influence shaping reports which generally favours probation over community service

orders as suitable disposals. Similarly, although not specifically in relation to female SER writers, Samuel (1994), in her explanation of women being placed at risk of custody on account of the underuse of community service, considered that this was related to the view of community service as being incompatible with the welfare model of female offending. Samuel's response was to challenge such a welfare oriented perception. However, it may be more appropriate for community service schemes to adapt the services they provide so that they are more amenable to female offenders.

The position of female SER writers in this study did not seem to represent a knee-jerk or ill-thought out response, although it is a problematic one, so much as representing an attempt to respond both appropriately to background problems experienced by female offenders and to protect them from what is perceived as inappropriate service provision. This preference, with regard to female offenders, for disposals of probation rather than community service could be interpreted as reflecting elements of, as discussed in Chapter 2, social control theory. Arguably probation discussed in Chapter 8, can be employed to help women cope with their existing, usually domestic, roles. In contrast community service, at least theoretically, offers scope for employment training and therefore to acquire or enhance earning potential.

The report writing 'strategy' being adopted by female social workers when compiling reports on female offenders compounds the existing situation whereby women are under-represented on community service schemes. Although female social workers are apparently guided by an urge to protect female offenders from the experience of complying with a community service order the net effect is not protection if it increases the likelihood of a women being sentenced to custody because an 'alternative' has been discounted. This is yet another illustration of the way in which, as discussed earlier in this thesis, women are often subject to practices, which, although motivated by a desire to protect, can contribute to drawing them further into the criminal justice system.

Conclusion

The earlier discussion with regard to approach and content of probation supervision highlighted the problem of trying to identify patterns related to gender because respondents were often reluctant to generalise. This phenomenon persisted in discussions of community service, particularly on the topic of the nature of placements. Although it has been stated that there is a choice available to both male and female offenders, the inflexibility of certain placements with regard to offenders who have restrictions placed on the time they are available because of childcare commitments in effect places restrictions on that choice. For reasons outlined earlier this is more likely to impact on female offenders.

Community service schemes appears to be reinforcing gender roles through the placement experiences they provide. McIvor (1989) found that workshops and teams were more likely to allow for acquisition of new skills. On the basis of interviews with criminal justice staff it seems that female offenders are more likely to be given agency placements which are more likely to involve domestic or care work. By contrast, male offenders were more likely to undertake team or workshop placements. Across the authorities overall the majority of placements available were in either teams or workshops, and this reinforces findings by Mair and May (1997) and McIvor (1992b). If women's availability for placements is restricted by their existing care arrangements it seems unfortunate that a response to this is to then make available further domestic/care work rather than alternative opportunities. Given that adverse socioeconomic circumstances, as discussed earlier in this thesis, appear to be a particular problem for female offenders, failing to take the opportunity to provide work experience which might enhance their employment prospects and their earning potential seems to be a wasted opportunity.

The lack of staff time (partly related to staff shortages) to develop new placements is curtailing the range of placements available. This is undermining the ability of community service schemes to

respond to offenders who may have more specific needs such as women, individuals with disabilities/health problems and, to a lesser extent, offenders with severe addictions. Aside from placement development, constraints on staff time can contribute to the aforementioned inflexibility of placements in terms of hours that offenders are able to work.

The lack of clarity with regard to policies on provision for childcare commitments seems to be a factor militating against access to community service, especially for women. Where such policies exist, staff seem to have difficulties accessing resources. Armstrong's study concluded "There was no realistic provision for women with childcare responsibilities to complete community service orders" (Armstrong 1990; 36). This study has to draw the same conclusion.

This study has found evidence, if any was needed, that community service continues to be haunted by its historically ambiguous status as an alternative to custody. The fact that it is, ostensibly, an alternative to custody was being used almost as a rationale for not considering female offenders for community service on the basis that this would lead to up-tariffing. However Chapter 5 demonstrated that a higher proportion of women, compared to men, receiving disposals of custody were reported as never having been sentenced to community service.

There clearly seems to be a multitude of different factors, reinforcing each other, which suggests a perception among practitioners that community service is a disposal suitable for and amenable to male, rather than female offenders. Not least of these is the nature of the work on community service. The majority of placements available involve teams or workshops. It appears that the nature of the work performed in these settings is perceived to be 'men's work' and this is helping to perpetuate the perception of community service as being more suitable for male offenders. There are a number of different ways in which community service schemes could alter to counter the accusation that there is a gender bias in the way they operate. The emphasis could shift away from projects and workshops and where such projects remain the hours could be more flexible than the

rigid 9 to 5 timetable which is currently prevalent. More use of sessional staff might facilitate this. Such flexibility would allow community service to be more suitable for particular categories of offenders such as those having to take children to school and those who have to collect daily Methadone prescriptions. The nature of the tasks on teams and workshops could be developed so as not to discriminate against individuals who deviate from the physically fit male stereotype of an offender on community service (Worrall, 1997). The range of agency placements could be developed to allow for the opportunity of gaining experience in work outwith the domestic sphere.

Both information in this chapter and in Chapter 6 suggests that there are particular issues in securing community service orders for female offenders when the SER writer is female. This seems to be a response to what is being perceived by female social workers as the gender bias in the overall operation of community service as well as an arguably related view that probation would be more appropriate for female offenders who are deemed to be more vulnerable than men. Although female social workers were adopting a tone of benign protectiveness when discussing female offenders, the effect of discounting community service is not benign. The response to the gender bias of community service has to be to redress this bias and not to further discriminate against female offenders by effectively removing an alternative to custody as an option for disposal. This 'strategy' being adopted by female SER writers to female offenders requires to be further examined and, if appropriate, challenged.

Chapter 10

Conclusion

The policy shift from the welfare to the justice model has impacted differently on criminal justice social work service provision to male and female offenders. There is a general discrepancy between policy and practice in that the latter draws on the welfare model more than is endorsed by policy. The discrepancy is greater with female offenders in that the supervision of women involves a stronger emphasis on the welfare model. This appears to be a response to women's greater experience of adversity. In the context of apparent adversity, women's offending behaviour rather than reflecting an attempt to protest against or reject the controls to which they are subjected (Carlen 1988), may in fact reflect their attempts to cope with or conform to such controls. Perhaps in response to their greater adversity, women offenders are subject to attempts by social workers to protect them. This begins in childhood and is evident in their treatment as adults. The latter occurs specifically when the social worker is female.

This study did not find evidence of gender specific allocation of reports however, it did find that male and female social workers compile their SERs on female offenders differently and this appears to reflect in the final court outcome. While probation supervision is striving to respond to the presenting problems of female offenders with a new "welfare" model, supervision via community service is still confined by a male template. Female social workers in their SERs are subtly undermining the option of community service for female offenders. By contrast they are more pro-active, than male SER writers, in supporting disposals of probation for female offenders.

Women were more likely to have been reported as experiencing backgrounds of abuse in childhood and/or adulthood; to have experienced mental health problems; to have a history of employment; to be living on benefits; to attribute their involvement in offending to alleviating financial difficulties; to have children and to have their children residing with them. Their lives appear to be generally more chaotic and this has implications for their supervision. It appears that social work's response to the

greater adversity experienced by female offenders in childhood manifests itself as a desire to protect, with the consequence that female offenders are drawn into the Children's Hearings and childcare systems as a means of protection.

There were indications that throughout the hierarchy of criminal justice social work there is a wavering commitment to the current formal policy in terms of the extent to which it has rejected the welfare model in favour of a more direct focus upon offending. This possibly reflects the stronger welfare tradition in work with offenders in Scotland (Robinson and McNeill, 2004). Although this discrepancy between policy and practice applied generally it was clearly more marked with female offenders. In the context of a formal policy which endorses the justice approach, practitioners have devised their own more complex welfare model in their supervision of female offenders. While it could crudely be said that the previous welfare model dealt with offenders according to a hierarchy which prioritised the welfare of the individual over the offending behaviour, this new model seems to have emerged out of a growing awareness of the particular circumstances from which female offending emerges. It is attempting to address female offending while at the same time recognising that that behaviour may be inextricable from the array of welfare problems encountered by women who offend.

An understanding of women's routes into a criminal lifestyle is a noticeable aspect of this new welfare approach. It also incorporates an emphasis on the relationship between worker and client and allows for the client to negotiate within that relationship. Such a relationship is different from that which might traditionally have been established in the context of a welfare approach to female offenders in that it resists the paternalism of the traditional welfare model (Hudson, 1989).

Dominelli highlights the important nature of the client/worker relationship:

Processual considerations or questions of how relationships are conducted, and on whose terms, are ... crucial ... This is in contrast to traditional understandings of

'client'/worker relationships in which ethics focus more on the ends to be achieved than on the mechanisms whereby these are to be reached. (Dominelli, 2002: 8)

Despite the fact that the different approach being adopted by female practitioners towards female offenders appears to have derived from reflection and a recognition that equal treatment can be represented by different treatment, there was hesitation about asserting this difference. The concern hinged on an anxiety that to do so would have amounted to discrimination.

In addition to the discrepancy between how social workers, at least initially, described their practice and how they were in fact practising, there appeared to be evidence of different levels of commitment to the ideology of the welfare and justice models depending on who was viewed as the client. When discussing their report writing practitioners would describe adherence to an ideology closer to the justice model. This reflected a perception that the sentencer in this context was the client and would prefer them to adopt this stance. This strategy reflected a desire on the part of social work practitioners to be more credible in the view of the courts on the basis that this might enhance their persuasive powers. This practice may also have reflected social workers' inclination to conform to formal policy to a greater extent when their practice was more visible. Supervision takes place behind closed doors while the contents of a court report are revealed in open court and can be held up for scrutiny. The clear risk with this 'strategy', however, is that social workers' views of what sentencers want could be based on misconception.

The argument used to support a shift from the welfare model, which in Scotland was formalised with the introduction of the National Standards (1991), was that it would be more equitable. Sentencing would be proportionate to the offending and discrimination would be reduced (Samuel 1994, Warren 1995). Perhaps such arguments and related research findings have informed and altered report writing practice with female offenders. Contrary to the widely cited view expressed by interviewees in this study, female offenders, were not, relative to males, being uptariffed onto

probation. It is possible that the current findings reflect a change in the use of probation for female offenders. Despite the concerns that female offenders are being uptariffed, the more recent focus on offending and on criminogenic need may have assisted more effective targeting of probation recommendations for female offenders. It may also have been the case that the policy of maximising the use of probation as an alternative to custody (Rifkind, 1989) had more scope to impact on report writing and sentencing with female offenders because it was less often used with women as an alternative to imprisonment.

Coinciding with the shift from the welfare to the justice model there has been, as discussed in Chapter 1, an increase in the numbers of women being sentenced to custody in Scotland. Worrall has highlighted the way in which the adoption of a justice model in favour of a welfare model has disadvantaged women:

As the 'welfarisation' and 'soft policing' of young women's behaviour, by both formal and informal social control mechanisms, has now given way to the straightforward 'criminalisation' of that same behaviour, we are seeing increasing numbers of young women being incarcerated, not on spuriously benevolent welfare grounds, but on spuriously equitable 'justice' grounds. (Worrall, 2001: 86)

As detailed in Chapter 5, female offenders being sentenced to custody were not only likely to have had a less serious criminal history, the majority of them, unlike male offenders, had not previously been sentenced to community service. It appears that the thresholds for custody are lower for women. Relative to men, women appeared to have been uptariffed onto community service in terms of their criminal history, though they tended to have been convicted of more serious offences and this is likely to have been reflected in the choice of sentence imposed. As identified by Brown and Levy (1998), seriousness of offence was a criterion required by sentencers before they imposed community service.

A possible factor contributing to the uptariffing to custody of female offenders may have been a disinclination on the part of female SER writers to support community service for female offenders. It seems that male and female social workers compile their reports on female offenders differently. Disposals of community service were more likely to be obtained on female offenders when the report was compiled by a male SER writer. Disposals of probation were more likely to be made when the SER writer was female. Analysis of the content of SERs indicated that this was associated with differences in presentation within the SER. When writing reports on female offenders, female SER writers were more likely, than male SER writers, to have included a negative argument for community service and to have made a positive recommendation for probation.

The inclination to 'protect' female offenders in childhood appears to continue into the adult criminal justice system. Interviews with social workers suggested that female social workers specifically are inclined to protect female offenders from the experience of community service because they consider community service schemes to be operating with a gender bias favouring male offenders. They also view female offenders as more vulnerable and therefore more suited to the sentence of probation. Interviews with social workers indicate that female social workers are more influenced by a welfare orientation when compiling reports on female offenders. These findings appear to conflict with earlier research (Horn and Evans 2000, Nash 1995) which concluded that female report writers were more punitive than male report writers when compiling reports on female offenders. The protective stance being adopted by female social workers towards female offenders also contradicts the premise on which the chivalry hypothesis, referred to earlier in this thesis, is based. This hypothesis contends that male personnel within criminal justice services will be more protective than female personnel towards women who offend. Although the current study found that female social workers adopted a tone of benign protectiveness when discussing female offenders, the effect is not benign if it contributes to escalating a female offender into custody by discounting, however subtly, a possible alternative.

Despite differences in orientation between male and female social workers and related differences in the compilation of reports, this study did not find corresponding differences between male and female social workers in terms of their reported supervision of female offenders. This may reflect, as discussed in Chapter 8, female offenders' capabilities in terms of contributing to the supervision agenda and in generally negotiating aspects of the supervision process.

Female social workers' anxieties that community service schemes do not cater appropriately for females are not without foundation. In terms of their organisation and the nature of work on placements, community service schemes do seem to operate with a gender bias. Placements tended to be inflexible in terms of work hours and they involved arguably gendered tasks such as river clearance. Policies in relation to departmental provision of childcare to allow offenders to complete community services appear to be either ad hoc or non-existent. Female offenders are in a minority on community service and the perception that community service schemes are more suited to male offenders seems to be acting as a deterrent to the pursuit of community service for female offenders whose offending profile might merit such a disposal.

Theoretical significance of these findings

It could be inferred from Carlen's study (1988) that integral to women's involvement in offending is a form of protest and, if not rebellion, at least an attempt to reject the circumstances, sometimes domestic, in which they find themselves. Carlen suggested that: "A drift into crime, accompanied by the concomitant rewards of friendship, financial gain and excitement, can ... gradually commit the women law-breaker to a way of life more satisfying than that offered by conventional labour and marriage markets" (Carlen, 1988: 11).

Carlen's (1988) descriptions of spirited young women, albeit she does acknowledge their adversity and poverty, enjoying a criminal camaraderie did not concur with the findings of this study. By

contrast, interviews with social workers in this study suggested that women tended to be isolated in terms of their involvement with the criminal justice system. Similarly there were no suggestions that excitement featured as a motivation for women's involvement in offending. It does have to be conceded though that this study did not, like Carlen's (1988), involve interviews with female offenders. The profile of female offenders as identified in this thesis would not appear to be that of women resisting the controls they are subjected to but rather one of individuals whose offending may be a way of conforming to, or coping with, their roles which often entail trying to struggle with general adversity including the demands of unpaid caring and economic disadvantage.

While social control theory (Hirschi, 1969) may explain why women offend less, paradoxically some of the women who do offend appear to be doing so partly in an effort to cope with the social controls to which they have been subjected including their gender roles, for example, as carers. This argument could be extended, for example, to the addicted female offender who is self-medicating to deal with domestic abuse or to the single mother who is subsidising her meager income by shoplifting or committing benefit fraud. Female offending behaviour has emerged from this study as being quite different from men's and could, in some circumstances, be construed as survival behaviour. As referred to throughout this thesis, Gilligan (1982) emphasises the extent to which women's moral reasoning is dependent on their relationships with others. If women have a stronger sense of obligation to others than do men, then this could either contribute to or prevent offending in ways not applicable to men. The general social control of women's behaviour which seems to be effective in preventing the majority of women from offending is also in evidence in the services delivered to female offenders both as adults and as children. On occasions this control appears to have been motivated by an arguably well-intentioned but misguided desire to protect.

Despite such controls in evidence within social work practice generally, the model of supervision being adopted with female offenders, as identified by this study, seems to be sensitive to the general control and constraints to which female offenders may be subjected. This new welfare model does

not share the emphasis placed within the mainstream “what works” literature on the distinction between criminogenic and non-criminogenic needs, on the significance of cognitive deficits as contributing to offending or on the importance of rational choice theory in explaining offending. It became increasingly clear during interviews that the conventional distinction between criminogenic and non-criminogenic needs was not particularly helpful with female offenders. In this vein Covington and Bloom have argued that “The philosophy of criminogenic risks and needs does not consider factors such as economic marginalization, the role of patriarchy, sexual victimization or women’s place in society” (Covington and Bloom, 1999: 2). This study has highlighted how difficult it is to distinguish between criminogenic and non-criminogenic needs and that, in fact, the dichotomy may be a false one. With women offenders, particularly, practitioners are blurring the distinction and this would appear to be appropriate. Similarly in the context of the constraints which governed their lives little emphasis was placed on rational choice as an explanation for female offenders’ circumstances. Accordingly Hudson has drawn a distinction between agency and choice, the two components of responsibility:

Offenders may have agency in the sense that they are not acting out of mental or physical compulsion, but they may have a very restricted range of choice compared with the middle-class, white, legal subject. (Hudson, 2002: 37)

Women were viewed as offending in the context of generally difficult personal and social circumstances and social workers placed very little emphasis on cognitive deficits as contributing to women’s offending. It seems to be for just such reasons that practitioners have largely rejected the justice model in their supervision of female offenders. The focus on offending behaviour within the justice model was seen to detract from the focus on the individual within the context of their life history and social circumstances which, for women appears to be inseparable from their involvement in a criminal lifestyle. The efforts on the part of practitioners to devise new ways of working with female offenders reflect the extent to which, more recently, critics (Covington and

Bloom 1999, Rungay 2004, Shaw and Hannah-Moffat 2004) are asking questions about the relevance of the mainstream “what works” literature to work with women offenders.

When embarking on this research it was believed, on the basis of practice experience, that the development of a managerial culture was not conducive to the efforts of social workers in Scotland to retain welfare elements within their practice. Critics (Dominelli 1996, Nellis 2001) have argued that managerialism could “minionise” staff. Instead it appears from the present findings that while workers who are so inclined can, within a managerial context, appropriate the justice model to support punitive ends and to resist meaningful engagement with clients, this does not appear to be common practice. On a positive note it is possible that developments in managerialism, including the introduction of National Standards, may have provided the necessary structure to bring about greater focus in supervision. It is, after all, within this context that the ‘new’ welfare model has emerged. Although this model may be appropriate for the supervision of female offenders, it is not without its problems. Denney (1996) explains how the effects of managerialism may create difficulties in achieving stated aims in relation to anti-discriminatory practice:

... fundamental concepts which are ostensibly related to rights and quality are conflated with other polemical aspects of policy more closely related to the financing and administration of public services. (Denney, 1996: 68)

The discrepancy between formal policy and actual practice has created a situation where there are insufficient resources to support the services that social workers are struggling to provide for female offenders. This may well be compounded by aspects of the managerialist culture which are more concerned with outcomes and targets than process (Annison, 2001). One effect of this may have been the creation of a climate where the development of services for minority groups, such as female offenders, may not be considered to be cost-effective.

Implications for further research, policy and practice

It would assist practitioners if the current gap between policy and practice with regard to the balance of approach between the welfare and justice models could be closed. This would provide a more realistic framework to guide practice and would reflect differences in approaches currently being used with male and female offenders. This would create the opportunity to build on the progress which has been made in work with female offenders and it could address the resource implications of current ways of working with female offenders in which demands are outstripping resources.

Although this study did not find evidence of gender specific allocation of reports this was cited as a practice to aspire to and an informal policy seems to prevail which involves allocating the supervision of female offenders to female social workers. Given the apparent effect of the gender of the report writer on SERs compiled for female offenders, this policy could have implications for female offenders since it is likely that female social workers would be assigned to prepare their reports. The 'strategy' being adopted by female SER writers in relation to undermining the option of community service for female offenders is worthy of further investigation. The findings could be used to inform further discussions and policy developments with regard to the practice of gender specific allocation.

Although differences between male and female social workers in terms of their approach to supervision were not identified, given the apparently stronger welfare orientation adopted by female social workers in their compilation of SERs on female offenders, it would seem feasible that a larger scale qualitative study might reveal gender differences between male and female social workers in the way they supervise men and women who offend.

This study suggests there is a need for a detailed and formal audit of community service schemes in terms of the specific nature of placements available and the extent to which the overall operation of

community service schemes is amenable to female offenders. This might reveal ways in which community service schemes could improve access generally for particular categories of offenders. Consideration could be given to the viability of extending the practice, found in some authorities, of using sessional workers to accommodate particular categories of offenders such as those with caring commitments or those who are required to collect daily Methadone prescriptions.

This research involved interviews with community service seniors but not community service officers or placement supervisors; interviews with the latter might give greater insight into the nature of the placement experience. Sentencers were not interviewed in this study but further research could usefully explore to what extent sentencers are persuaded by an SER which is framed within the justice model perspective. Such an exercise could help to clarify how useful it is for SER writers to continue to be influenced in their report writing by perceptions that sentencers have a preference for reports to be framed within this perspective. Interviews with sentencers could also explore their perceptions of the suitability of community service for female offenders and whether this influences their inclination to impose community service orders on women who appear before the court. Such information could in turn inform, if necessary, the development of community service schemes.

The finding that female offending may arise from women's attempts to cope with or even conform to the social control in its various guises to which they are subjected, is significant insofar as the new welfare model of supervision with female offenders appears to be an appropriate response to vulnerable women who are either unable to either attain or sustain conformity to conventional female roles. This would include the nature of the supervision relationship which is endeavouring to be non-hierarchical and is striving for an element of reciprocity. More significantly this approach appears to be informed by, and responding to, the social and personal circumstances of female offenders' lives.

The suggestion that female offenders may be trying to conform rather than rebel merits consideration in any discussion of how to supervise women who offend. While it may be tempting for social workers to attempt to incorporate ways of challenging stereotypes this may not reflect the wishes of female offenders. It may be the case that women offenders will value what Wright and Kemshall (1994) describe as "role support". The relationship between women's socio-economic disadvantage and their involvement in crime has been widely acknowledged (Box and Hale 1983, Carlen 1988, Chesney-Lind 1997). Wright and Kemshall argue that given such disadvantages criminal women are "rarely 'liberated', and [are] very likely to lead lives dominated by domesticity" (Wright and Kemshall, 1994: 76). While the option for women to reject conventional gender roles should be made available, for example, via choice of community service placement, it would be futile to impose alternatives to conventional roles on individuals who are intent on striving to fulfill conventional ones.

Despite the progress that has been made in social work practice with female offenders there are clearly limitations to the existing disposals of probation and community service as alternatives to custody. Although these disposals are available to men and women they are more often used for men. The nature of supervision via disposals of community service, and less so probation, is currently designed with an overall gender bias. Although greater use could be made of both community service and probation for women, there is further scope for improving the nature of community supervision and for reviewing report writing practice.

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APPENDIX 1

Letter requesting consent from clients

Dear _____,

We are writing on behalf of Geraldine Gallagher of the Social Work Research Centre, University of Stirling. Geraldine is conducting a research project on report writing and the use of probation and community service as alternatives to custody.

In order to do this research, she requires access to casefiles. We are writing to ask for your permission to have your file accessed by Geraldine Gallagher. You are under no obligation whatsoever to allow consent to your file being accessed. No identifying information will be recorded or published at any point during or after the study. Confidentiality and anonymity will be respected at all times. The Social Work Department assures you that your decision about whether or not to allow access to your file will not influence the nature of any contact you may have with the social work department.

If you do not want your file to be accessed for this purpose please return the slip below to us in the stamped addressed envelope provided. However if a reply has not been received within two weeks, it will be assumed that you are giving your permission to the researcher to access your file.

Yours Sincerely,

Senior Social Worker, Criminal Justice

I do not consent to my file being accessed for research purposes

Name:

Address:

Signature:

APPENDIX 2

Coding Sheet for SERs

1 Date of completion

2 Local Authority/Region

3 Date of court disposal

4 Gender of SER writer

5 Status of SER writer

If other, comment: _____

6 Gender of sentencer

7 SER no:

8 Date of birth

9 Gender of client

10 Dunscore subgroup for main offence

11 Nature of main offence

Details of offence where appropriate, e g kind of offensive weapon used _____

12 Dunscore subgroup for second main offence

13 Further details of 2nd offence or even further offences: _____

14 Ethnic origin of client

15 Accommodation

16 Marital status

17 Living group

Other, comments: _____

General comments: _____

18 Children (actual no)

Comments: _____

19 Whereabouts of oldest child

Other, comments: _____

General comments: _____

20 Whereabouts of 2nd child

Comments: _____
 General comments: _____

21 Whereabouts of 3rd child

Comments: _____
 General comments: _____

22 Whereabouts of 4th child

Comments: _____
 General comments: _____

23 Whereabouts of 5th child

Comments: _____
 General comments: _____

24 Whereabouts of 6th child

Comments: _____
 General comments: _____
 Note: Expand where there are more than six children

25 Current care status of oldest child

Other, comments: _____
 General comments: _____

26 Current care status of 2nd child

Other, comments: _____
 General comments: _____

27 Current care status of 3rd child

Other, comments: _____
 General comments: _____

28 Current care status of 4th child

Other, comments: _____
 General comments: _____

29 Current care status of 5th child

Other, comments: _____
 General comments: _____

30 Current care status of 6th child

Other comments: _____
 General comments: _____

31 Educational background

Other, comment: _____

32 Highest educational qualification obtained

33 Reference to literacy problems

Yes comment: _____

34 Abused as an adult

Comments: _____

35 Abused as a child

Comments: _____

36 Nature of contact during childhood

Comments: _____

37 Reasons for contact during childhood

Other, comment: _____

General comment: _____

Other reasons/Comments: _____

38 Portrayal of abuse

Comments: _____

39 Employment history

40 Employment status of client

Other, comments: _____

General comments: _____

41 Employment status of partner

Other, comments: _____

General comments: _____

42 Own income

Other, Comment: _____

General comments: _____

43 Prostitution (currently or previously)

44 Partner's income

Other, comments: _____

General comments: _____

45 Are any other sources of income reported

If yes, comment: _____

46 Is client currently in debt

47 Nature of current debts

Other, comment: _____

General comment: _____

48 Main source of debt (i e from above list)

49 Total amt of debt

50 Difficulties attending court

If yes, then comment on difficulties: _____

51 Disability

Other comments: _____

General comments: _____

52 Level of discussion of disability

53 Mental health/mental illness

General comments: _____

54 Extent of self-harm/parasuicide

55 Treatment

Comments: _____

56 Substance abuse

Comments: _____

57 Substances used

If other, comment _____

58 Illnesses

If other, comment: _____

59 Procedure

60 Court type

61 Court name:

62 Form of continuation

Comments/Details if client was in custody on other matters _____

63 Dunscore

64 No of current charges libeled

65 No of prev crt disposals libeled

66 Gravity rating of main offence

67 Pled/found guilty

68 No of previous convictions

69 Current supervision
 comments: _____

70 Previous S W disposals
 comments: _____

71 No of probation orders

72 No of community service orders

73 No of 229's

74 Outstanding breach re: CS
 Comments: _____

75 Outstanding breach re: probation
 Comments: _____

76 No of previous custodials
 Comments: _____

77 Length of longest custodial

78 How long since last sent to prison

79 Break in convictions

80 On bail

81 Outstanding charges
 Comments: _____

82 Discussion of risk
 Comments: _____

83 Assessment
 If N/A or no then, comments: _____

84 Explanation for offence
 If no, then comment: _____

85 Who is responsible
 Other, comment: _____
 General comments: _____

86 Overemphasis on unrelated problems
 Comments: _____

87 Bias re: domestic tasks
 Other comments: _____
 General comments: _____

88 Inappropriate undermining of CSO
 Comments: _____

89 Fail to focus on employment/occupation/career
 Comment: _____

90 Inappropriate emphasis on welfare/dependency needs
 Comments: _____

91 Inappropriate emphasis on pathology
 Comments: _____

92 Mental health/offending
 Comments: _____

93 Substance abuse/offending
 Comments: _____

94 Anti-authority
 Comments: _____

95 Attitude to offending
 Comments: _____

96 Client's reason/motivation
 If Other, comment: _____
 General comment: _____

97 Code for main motivation

98 Code for 2nd motivation

99 Code for 3rd motivation

100 Contributing factors
 If other, comment: _____
 General comment: _____

101 Code for main factor

102 Code for 2nd main factor

103 Code for 3rd main factor

104 Discussion of impact
 If No or N/A then comment: _____

105 Reflection on impact
 If N/A, then comment: _____

106 Effect of attitude on risk
 If yes, then comment: _____

107 Assessment for CS

108 Who initiated CS assessment
 Other, comment: _____

109 Argument re: probation
 If other, comment: _____
 General comment: _____

110 Reasons for positive argument for probation
 If other, comment: _____
 General comment: _____

111 Reasons for discounting probation
 Other, comment: _____
 General comment: _____

112 Case re: CS
 Other comments: _____
 General comments: _____

113 Reasons for positive argument for community service
 Other comments: _____
 General comments: _____

114 Reasons for discounting community service
 If other, comment: _____
 General comments: _____

115 Reference to childcare provision
 If other, comment: _____
 General comments: _____

116 Discussion of impact of custody on offender
 Other comment: _____
 General comment: _____

117 Plea for leniency
 If yes, comment: _____

118 Discussion of range of disposals

119 Positive recommendation for disposal

120 Fail to consider options re: CBD

If yes, comment: _____

121 Recommendation

If Other, then comment _____

General comments: _____

122 Probation action plan

If Other, comment: _____

General comment: _____

123 Offender's agreement with above

General comments: _____

124 Outcome

Other comments: _____

General comments: _____

125 Length of custody

126 Length of probation

127 Type of probation order

Other, comment: _____

General comment: _____

128 No of hrs CS

APPENDIX 3

Schedule for analysis of SERs/Casefiles

Sec A - General Information

1. Date of completion of coding by researcher

___/___/___

2. Local Authority/Region

Edinburgh
Aberdeen
North Lanarkshire
South Lanarkshire
West Dunbartonshire
East Ayrshire
Fife

3. Date of court disposal

4. Gender of SER writer

Male
Female
Information not available

5. Status of SER writer
select one category only

Criminal justice worker
Childcare worker
Community care worker
Worker involved in more than one of these areas of work
No information
Other

If other, comment _____

6. Gender of sentencer

Male
Female
No information

7. SER no:- _____

Sec. B - Information available to the court - report papers - request, PC's, SER and disposal sheet.

Client Profile

8. Date of Birth

9. Gender of client

Male
Female

10. Dunscore subgroup for main offence
select one category only

Non-sexual crimes of Violence
Crimes of Indecency
Crimes of Dishonesty
Firearms/Vandalism
Other/Drugs
Miscellaneous
Motor Vehicle

11. Nature of main offence
select one category only

Non-sexual crimes of violence

Carrying airgun/offensive weapon
Assault airgun/offensive weapon
Serious assault (inc. assault of police officer)
Assault with intent to rob
Cruelty/neglect/assault children
Robbery < £100
Robbery > £100
Assault to severe injury (permanent disfigurement/other) CHECK

Crimes of Indecency

Breach of the peace
Indecent assault/
Lewd and libidinous
Attempted rape
Indecent assault on child
Incest involving child
Rape
Other

Crimes of Dishonesty

Housebreaking/OLP < £1000

Housebreaking/OLP £1000 - £2999

Housebreaking £3000 +

Theft/reset/fraud/forgery, < £50

£50-£199

£200-£1499

£1500 - £4999

£5000 +

Theft of motor vehicle

Stealing by employee < £500

Stealing by employee £500 +

Theft from OAP < £500

Theft from OAP £500 +

Other

Firearms/Vandalism

Vandalism/criminal damage < £50

£50 - £199

£200 - £1499

£1500 - £4900

£5000

Possession (firearms) with intent

Threat (firearm)

Fire-raising - (include. willful fire-raising)

Fire-raising with intent to cause harm

Other

Drugs

Drugs possession cannabis

“ cultivate/supply cannabis

“ possession amphetamines

“ supply amphetamines

“ possession heroine/cocaine

“ supply heroine/cocaine

“ export/import drugs

Other

Miscellaneous

Common assault

Drunk/disorder/loitering

Breach of the Peace

Motor Vehicle

RTA's minor (e.g., MOTs)
Without licence/insurance
Dangerous speed/manner
Reckless driving
While disqualified (age)
While disqualified
Excess alcohol/failure to provide specimen
Injury by reckless driving
Culpable homicide/reckless driving
Other

Details of offence, e.g. kind of offensive weapon used:
(Note here if current charges are Breach of either probation or community service).

12. Dunscore subgroup for second main offence
select one category only

Note: Codes don't match actual dunscore subgroups for this question

N/A, one offence only
Non-sexual crimes of violence
Crimes of Indecency
Crimes of Dishonesty
Firearms/Vandalism
Other/Drugs
Miscellaneous
Motor Vehicle

13. Further details of any offences other than the main offence:

Code for second main offence

14. Ethnic origin of client
select one category only

- Chinese
- Bangladeshi
- Pakistani
- Indian
- Black - Caribbean
- Black - African
- Black - Other
- White
- Traveller
- Other
- No information

Personal/Background Information

15. Current Accommodation (if presently in prison state usual accomm. when not in prison)
select one category only

- Supported
- Hostel
- Parental home
- Other relative's home
- Home of parent(s) and other relative(s)
- Foster home
- Own/shared tenancy (L. A./Hous. Ass)
- Private rented
- Owner-occupied
- Private lodgings
- Caravan
- No fixed Abode
- Other
- No information
- Friend (s) accommodation

Other, comments: _____

General comment: _____

16. Marital status
select one category only

- Single
- Separated
- Divorced
- Widowed
- Cohabiting/ Married

17. Living Group
select one category only

- Living with partner
- Living with parent/s
- Living with other relative(s)
- Living with some combination of above
- Living alone (except for kids i.e. no other adult)
- Living with friend(s)
- No information
- Other

Other, comments: _____

General comment: _____

18. Children
state actual number

Note: Include children 18 and under only include step/adopted/fostered/cohabitee's kids if he/she lives with them. Include natural children even if client is not looking after them.

No. of children _____
If complications, Comments: _____

19. Whereabouts of oldest child
select one category only

- N/A no children involved
- Child currently residing with client
- Child usually resides with client but presently residing elsewhere
- Child presently and usually, living elsewhere
- No information given on whereabouts
- None of the above apply, an alternative situation exists

Comments: _____

General comments: _____

20. Whereabouts of 2nd child
select one category only

N/A

Child currently residing with client

Child usually resides with client but presently residing elsewhere

Child presently and usually, living elsewhere

No information given on whereabouts

None of the above apply, an alternative situation exists

Comments: _____

General comments: _____

21. Whereabouts of 3rd child
select one category only

N/A

Child currently residing with client

Child usually resides with client but presently residing elsewhere

Child presently and usually, living elsewhere

No information given on whereabouts

None of the above apply, an alternative situation exists

Comments: _____

General comments: _____

22. Whereabouts of 4th child
select one category only

N/A

Child currently residing with client

Child usually resides with client but presently residing elsewhere

Child presently and usually, living elsewhere

No information given on whereabouts

None of the above apply, an alternative situation exists

Comments: _____

General comments: _____

23. Whereabouts of 5th child
select one category only

N/A

Child currently residing with client

Child usually resides with client but presently residing elsewhere

Child presently and usually, living elsewhere

No information given on whereabouts

None of the above apply, an alternative situation exists

Comments: _____

General comments: _____

24. Whereabouts of 6th child
select one category only

N/A

Child currently residing with client

Child usually resides with client but presently residing elsewhere

Child presently and usually, living elsewhere

No information given on whereabouts

None of the above apply, an alternative situation exists

Comments: _____

General comments: _____

25. Current care status of oldest child
select whichever categories apply

N/A no children involved

Child subject to voluntary supervision arrangement

Child subject to compulsory supervision in the community

Child in foster care or in residential care

Child in secure accommodation

Child not subject to any social work involvement

No information

Other

Other, comments: _____

General comment: _____

26. Current care status of 2nd child
select whichever categories apply

N/A

Child subject to voluntary supervision arrangement

Child subject to compulsory non residential order

Child in foster care or in residential care

Child in secure accommodation

Child not subject to any social work involvement

No information

Other

Other, comments: _____

General comment: _____

27. Current care status of 3rd child
select whichever categories apply

N/A

Child subject to voluntary supervision arrangement

Child subject to compulsory non residential order

Child in foster care or in residential care

Child in secure accommodation

Child not subject to any social work involvement

No information

Other

Other, comments: _____

General comment: _____

28. Current care status of 4th child
select whichever categories apply

N/A

Child subject to voluntary supervision arrangement

Child subject to compulsory non residential order

Child in foster care or in residential care

Child in secure accommodation

Child not subject to any social work involvement

No information

Other

Other, comments: _____

General comment: _____

29. Current care status of 5th child
select whichever categories apply

N/A

Child subject to voluntary supervision arrangement

Child subject to compulsory non residential order

Child in foster care or in residential care

Child in secure accommodation

Child not subject to any social work involvement

No information

Other

Other, comments: _____

General comment: _____

30. Current care status of 6th child
select whichever categories apply

N/A

Child subject to voluntary supervision arrangement

Child subject to compulsory non residential order

Child in foster care or in residential care

Child in secure accommodation

Child not subject to any social work involvement

No information

Other

Other, comments: _____

General comment: _____

31. Educational background
select whichever categories apply

No information

Was educated outwith mainstream school (even if just for a period)

Left school without any formal educational qualifications

Attained formal educational qualifications while still at school

Attained formal educational qualifications after leaving school

Experienced exclusion from school

No difficulties reported

32. Highest educational qualification attained
select one category only

No information

No formal educational qualifications obtained

O grade/ Std grade/scotvec or equivalent

A level/ II grade / ONC

Diploma

Degree

Other

Comment: _____

33. Reference to literacy problems?
select one category only

No information

Client does not experience literacy problems

Yes. Client experiences literary problems

If yes, comment: _____

34. Experience of abuse as an adult (i.e. aged sixteen or over)
select whichever categories apply

N/A no reference to any abuse

Client has been subject to domestic violence

Client has been subject to physical abuse

Client has been subject to sexual abuse

Client has been subject to emotional abuse/mental cruelty

Reference to suspected abuse of some form

Comments: _____

35. Experience of abuse as a child (i.e. under sixteen)
select whichever categories apply

N/A no reference to any abuse

Client has been subject to neglect

Client has been subject to physical abuse

Client has been subject to sexual abuse

Client has been subject to emotional abuse/mental cruelty

Reference to suspected abuse of some form

Comments: _____

36. Nature of contact with the SWD during childhood
select whichever categories apply

N/A, No previous contact mentioned

Informal/voluntary supervision/attended panel but NFA

Statutory supervision in the community

Supervision which involved residing with foster carers

Supervision which involved residing in a children's home

Supervision which involved residing in a residential school

Supervision which involved residing in secure accommodation

Previous contact but no information on nature

37. Reasons for involvement with the SWD during childhood
select whichever categories apply

- N/A, No previous contact mentioned
- Client subject to child protection procedures
- Concerns regarding the level of care provided to client
- Concerns regarding moral danger
- Concerns regarding involvement in offending behaviour
- Concerns regarding some other kind of behaviour
- Concerns regarding school/educational difficulties
- Other reason, not referred to above
- No information available on nature of previous contact
- Concerns re: drug/alcohol use

Other, comment: _____

General, comment: _____

38. If there is reference to an individual experiencing any of the above forms of abuse, how is this portrayed in the SER?
select one category only

- N/A no abuse discussed/mentioned
- It is mentioned but not discussed
- There is discussion, but minimal info is given with points left unexplained
- Sufficient/appropriate account is provided
- There is an excessive amount of detail of client as victim

Comments: _____

39. Employment History
select one category only

- No information
- never worked
- mostly unemployed with occasional periods of employment
- mostly employed with occasional periods of unemployment
- has worked fairly consistently

40. Employment Status of client
select whichever categories apply

- Full-time education
- Part-time education
- Full-time employment
- Part-time employment
- Unavailable for work due to nature/extent of addiction
- Unavailable for work for other health reasons
- Unavailable for work due to caring responsibilities
- Unemployed but not necessary for any of above reasons
- Govt. training scheme
- No information
- Other

Other, comments: _____

General comments: _____

41. Employment Status of partner (if residing with partner)
select whichever categories apply

- N/A, not residing with partner
- FT education
- PT education
- FT employment
- PT employment
- Unavailable for work for health reasons
- Unavailable for work due to caring
- Unemployed but not necess. for either of above reasons
- Govt. training scheme
- Other
- No information on partner's employment status

Other, comments: _____

General comment: _____

42. Own Income
select one category only

- Earned
- Earned plus support
- Benefit
- Pension only
- Pension plus support
- Pension plus earned income
- Grant
- Grant plus earned income
- Other
- None
- Not known/No information

Other, comments: _____

General comment: _____

43. Is the client reported, either currently or previously, as working in prostitution? (either in SER or in libeled convictions)
select one category only

- Yes
- No
- Unclear

44. Partner's Income
select one category only

- N/A
- Earned
- Earned plus support
- Benefit
- Pension only
- Pension plus support
- Pension plus earned income
- Grant
- Grant plus earned income
- Other
- None
- Not Known/No information

Other, comments: _____

General comment: _____

45. Are any other sources of income reported (legal or otherwise)

If yes then give details_____

46. Is client currently in debt?

No information

No

Yes

Comments:_____

47. Nature of current debts

select whichever categories apply

No information on whether or not there are debts

Debts reported but no information on their nature

Rent arrears

Catalogue payments

Other HP payments

Currently has an outstanding social fund loan

Has outstanding payments to 'loan sharks'/illegal lender

Has outstanding payments to drug dealers

Has other outstanding personal loans/credit cards

Has outstanding fine payments

Other debts

It is stated that there are no debts

Other, comments:_____

General comment:_____

48. Main source of debt where specified (record code as above i.e. mainly catalogue debt, then record 3)

Where there are some details of debts but the main source of debt is not identified

49. Total amount of debt reported
select one category only

- No information/no debt reported
- Less than £100
- £101 - £500
- £501 - £1,000
- £1001 - £5,000
- £ 5,001+

50. Is there any reference to the client experiencing difficulty with attending for court?
select one category only

- Yes
- No
- N/A(appearing from custody)

If yes, then comment on the difficulties:

Health/Addiction

51. Disability
select whichever categories apply

- The client is described as having learning difficulties
- The client described as having a physical impairment
- No reference made to any disability
- Other disability

Other, comments: _____

General comment: _____

52. If there is reference to the client experiencing disability, how is this portrayed in the SER?
select one category only

- N/A, no disability mentioned
- A disability is referred to but it is not discussed
- There is mention, but only minimal information is provided
- Sufficient account is provided
- There is an excessive amount of detail of client as being disabled

53. Experience of mental illness/mental health issues
select whichever categories apply

- No problems re: MI/MH problems were reported
- Reference to past experience of MI/MH problems
- Reference to current experience of MI/MH problems
- Previous attempted suicide or self-harming behaviour
- Unclear whether or not client has experience of MI/MH problems
- No reference to whether or not client has experience of MI/MH problems

General comments: _____

54. Extent of self-harm/parasuicide
select one category only

- No reports of attempted suicide/self-harming behaviour/risk of self-harming
- Indications of att suicide/self-harm but no information on extent
- Only one previous incident of attempted suicide/self-harming reported
- Has engaged in attempted suicide/self-harming behaviour on more than one occasion
- No reports of previous attempted suicide/self-harm but is identified as being at risk of self-harm

55. Treatment for mental illness/mental health/self-harming behaviour problems
select whichever categories apply

- N/A as no problems identified re; MI/MH
- Client has been treated/prescribed medication by GP in relation to above
- Client has been/still is an out-patient at a psychiatric hospital
- Client has been admitted to a psychiatric hospital
- Experience of MI/MH/SH but no reference to treatment

Comments: _____

56. Main form of substance misuse (if abusing now or at time of offence)
select one category only

- None
- Alcohol
- Drugs
- Solvents
- Some combination of the above
- No information/not clear

Comments: _____

57. Substances being used/misused - either currently or at time of offence
select whichever categories apply

Client is not abusing any substance
Cannabis
Heroin,
Morphine
Methadone
Cocaine
Amphetamines
Barbiturates
Solvents
Alcohol
Other
Type of drugs being used not specified

If Other, comment:

58. Any illnesses/health problems reported which can be related to addiction/substance use?
select whichever categories apply

N/A, no addiction reported
None reported (i.e. which relate to addiction)
Hepatitis B
Hepatitis C
HIV +/-AIDS
Epilepsy
Diabetes
Other

If Other, comment:

Information Related to Current Offence and to Offending/Sentencing History

59. Procedure
select one category only

Summary
Solemn
No information (e.g. if papers are missing)

60. Type of court
select one category only

Sheriff
Other

61. Name of court: _____

62. Form of Continuation

select one category only

Remanded

Ordained

Bailed

In custody on other matters at time of interview

Comment/details, if client was in custody on other matters at time of interview: _____

63. Dunscore

state actual score

—

64. No. of **current** charges libeled (i.e. as available to SER writer and sentencer, in info. attached to SER)

state actual number

—

65. Number of previous court disposals (as in number 17 of request sheet, note does not necessarily match number. of convictions or no. of charges)

If no information

66. Gravity rating of main offence

state actual rating

(Note re: Breach of CS/Breach of probation take offence client was put on probation/community service for)

67. Did any of the current charges involve the client being found guilty rather than pleading guilty?

select one category only

Yes

No

No information

68. Number of previous convictions
state actual number

(Note: count per diet/per block/group of charges, note don't count deferments if the final disposal is recorded)

If no information

69. Current form of supervision:
select whichever categories apply

- Probation, but no further details re: conditions
- Probation with no added conditions
- Probation with condition only to attend an intensive programme
- Probation with condition to do intensive probation and other conditions
- Probation and other conditions but not community service
- Probation with added condition only to do community service
- Probation and community service and other conditions
- Community service, not as a condition of probation
- Supervised attendance order
- Supervised release order
- Parole
- Fine supervision order
- Restriction of liberty order
- Not currently subject to supervision
- Subject to supervision via the children's hearings system

Note: If in breach of order don't count as currently subject to supervision, unless supervision is being continued pending breach

Comments (possibly add to coding above for other, note if breach proceedings are outstanding and if so for which order):

70. Previous social work disposals
select whichever categories apply

- Probation with no added conditions
- Probation order with condition to attend an intensive programme
- Probation with condition to do intensive probation and other conditions
- Probation and other conditions but not community service
- Probation with added condition only to do community service
- Probation and community service and other conditions
- Probation order, but no details on whether or not conditions were added
- Community service, not as a condition of probation
- Supervised attendance order
- Supervised release order
- Parole
- Fine supervision order
- Restriction of liberty order
- No previous social work disposals
- No information

If "other" form of supervision via the CJ system then comment:

RE: 71, 72 and 73 do not count the same order twice

71. Number of Probation Orders imposed (include previous and current, but don't count orders imposed at this appearance, also note 229's will be counted here and in Q.73)
state actual number

If no information/papers missing —

72. Number of Community Service Orders imposed (include previous and if currently subject to supervision, but don't count orders imposed at this appearance)
state actual number

If no information/papers missing —

73. Number of 229 orders imposed (include previous and current)
state actual number

If no information/papers missing

74. Is client currently subject to outstanding breach proceedings in relation to a community service order?
select one category only

Yes

No, not currently subject to an order (except if one has just been imposed)

Subject to an order but no reports of being subject to breach proceedings

No information/not clear

Comments:

75. Is client currently subject to outstanding breach proceedings in relation to a probation order?
select one category only

Yes

No, not currently subject to an order (except if one has just been imposed)

Subject to an order but no reports of being subject to breach proceedings

No information/not clear

Comments:

76. Previous custodial sentences
state actual number of custodial sentences

(Note: Take one custody where entered in blocks/convictions. An exception where deferment means it is entered in more than one block. Don't concern with consec./concurrent or with different custodials for different charges of the same dict. If it's the same date but different convictions/diets/blocks then take as separate custodials).

—

If no information/papers missing

77. Length of longest previous custodial sentence
state actual number of months

(Note: For a specific charge ignore concurrent and consecutive sentences, just take a specific sentence for a specific charge)

—

If no information/papers missing

78. Length of time since last sentenced to custody.
(Note: Take as time since last sentenced and date of current disposal)
(Note: not actual number of months)

- N/A not previously sentenced to custody
- Less than a month
- Between 1 - 6 months
- Between 7 - 12 months
- Between 1 - 2 years
- Between 2 - 5 years
- More than five years
- No information

79. Has there been a break of more than a year since clients' last conviction (just treat as a year between date of current disposal and date of last disposal)?
select one category only

- N/A, no previous
- No - most recent conviction is more recent
- Yes
- No information

Note: For breaches of CS and of probation take period between current court date and date put on probation or CS)

80. Was client on bail at the time of committing any of the current charges?
select one category only

- Yes
- No
- Don't know/no information

Current Assessment

81. Any further outstanding charges identified in the SER?
select one category only

- Yes
- No
- No information/not clear

Comments: _____

82. Risk: Level of discussion of future risk of offending behaviour?
select one category only

- N/A
- None
- Minimal reference as appropriate (e.g. low/no risk perceived or other reason)
- Minimal reference with factors left unexplained
- Sufficient discussion on future level of risk

Comments:

83. Level of assessment of the clients potential for change?
select one category only

- N/A
- None
- minimal reference as appropriate
- minimal reference with factors left unexplained
- Sufficient discussion on potential for change

If N/A or no, then comment:

84. Is there an attempt at explanation by the writer of why the offence occurred?
select one category only

- Yes
- N/A
- No

If no, then comment:

85. Who is attributed (by the report writer) with the main responsibility for the current offence?
select one category only

- Mainly the client
- Mainly others
- In between (e.g. has been influenced partly by associate(s))
- Other

Other, comment: _____

General comment: _____

86. Does the report overemphasize background problems unrelated to offending?
select one category only

- Yes
- No
- Not Clear
- N/A

Comments:

87. Bias: Is there an overemphasis on the client as carer or as provider of domestic support?
select one category only

- Yes
- No
- Other

Other, comment: _____

General comment: _____

88. Does the report contain material which inappropriately militates against CSO?
select one category only

- N/A
- No
- Yes
- Not/Clear

Comments: _____

89. Does the report fail to focus on employment/ occupation/ career?
select one category only

- N/A
- No
- Yes

Comments: _____

90. Does the report clearly place inappropriate emphasis on “welfare/dependency” needs?
select one category only

- N/A
- No
- Yes

Comments: _____

91. Does the report clearly place inappropriate emphasis on “pathology”?
select one category only

- N/A
- No
- Yes

Comments: _____

92. Are mental health issues identified as related to offending?
select one category only

- N/A, no mental health issues identified
- Yes
- No
- Not Clear

Comments: _____

93. Has substance abuse/addiction been identified as contributing to offending?
select one category only

- N/A, no SA/addiction identified
- No, SA/addiction is evident but is not identified as related to offending
- Yes, abuse of/addiction to alcohol
- Yes, abuse of/addiction to drugs
- Yes, abuse of/addiction to solvents
- Add'n to some comb'n of the above
- Not clear

94. Is the client described as being anti-authority? (now or at the time of the offence)
select one category only

- Yes
- No
- Not clear

95. Is the client's attitude to offending discussed?
select one category only

- Yes
- No
- Not clear

Comments: _____

96. Client's stated reason for involvement in current offence
select whichever categories apply

- Not specified
- Opportunistic (e.g. theft)
- Boredom
- To alleviate financial difficulties (include. funding subs abuse)
- Financial gain
- Initiated by somebody else
- Impulsive (e.g. violence)
- Associates
- Under the influence - Drugs/alcohol/solvents
- Other

Other, comment: _____

General comment: _____

97. Main reason for involvement in current offence
(code as above e.g. To alleviate financial difficulties is the main motivation then code 4)

98. Second most important reason given for involvement in the current offence
(code as above)

99. Third most important reason given for involvement in the current offence
(code as above)

100. Factors (identified by writer as) contributing to offending
select whichever categories apply

- Drugs/Addiction/abuse
- Alcohol/Addiction/abuse
- Solvents/Addiction/abuse
- Financial Problems
- Mental Health Problems
- Homelessness
- Associates
- Unemployment
- Emotional stress/relationship difficulties
- Immaturity
- Anti-authority attitude
- None
- Other

Other, comment: _____

General comment: _____

101. Main factor identified by the writer
(code as above e.g. Alcohol is the main factor then code 2)

102. Second most important factor motivating involvement in the current offence
(code as above)

103. Third most important factor motivating involvement in the current offence
(code as above)

(Note for 102 & 103 code 12 when there's nothing)

104. Is there discussion of client's attitudes towards the impact of his/her offending on others?
select one category only

- Yes
- No
- N/A

If No or N/A, then comment:

105. Is the client assessed as having reflected on the impact of their offending on others?
select one category only

- Not clear/equivocating
- Yes
- No (s/he hasn't reflected)
- N/A - no info.
- Not relevant

If N/A comment:-

106. Is the clients' attitude considered to increase his/her risk of offending?
select one category only

- Not clear
- No
- Yes
- No information

If yes, then comment:

107. Is an assessment for Community Service included in the SER?
select one category only

- Yes
- No

108. Who initiated the Community Service Assessment?
select one category only

- N/A, assessment not included
- Court
- SER writer
- Don't know/information missing

Recommendation and Outcome

109. Argument for/against probation
select one category only

- Positive argument for probation
- Probation discounted
- Not clear/equivocating
- Probation is not discussed
- Other

If other, comment: _____

110. Reasons for positive argument for probation
select one category only

- N/A, probation not discussed
- N/A, argument is against the use of probation/probation discounted
- Argument related to offending behaviour only
- Argument related only to factors other than offending
- Argument related both to offending and other factors
- There isn't a supporting argument but probation is being presented/promoted as an option
- Other

Other, comment: _____

General comment: _____

111. Main reasons for discounting probation
select whichever categories apply

- N/A (i.e. not discounted)
- Inappropriate due to nature of offending
- Inappropriate due to client's caring commitments
- Not viable due to client's work commitments
- Ruled out on grounds related to offending
- Ruled out on grounds related to previous -ve response to supervision
- Ruled out as not viable as the client has yet to complete a significant part of a custodial sentence
- Client not considered to be motivated to respond to supervision
- Lack of focus for intervention/ Probation not required
- Assessed as low/no risk of further offending
- Other
- Ruled out on the grounds that previous supervision failed to impact on offending

Comments: _____

112. Case for/against community service
select one category only

- Positive
- Negative
- Not clear/equivocating
- CS not discussed
- Other

Other, comment: _____

General comment: _____

113. Reasons for positive argument for community service
select one category only

- N/A, community service is not discussed
- N/A, there isn't a positive argument for CS
- Argument related to offending behaviour only
- Argument related only to factors other than offending
- Argument related both to offending and other factors
- There isn't a specific argument being made although CS is being presented /promoted as an option
- Other

Other, comment: _____

General comment: _____

114. Main reasons for discounting community service
select whichever categories apply

- N/A - not discussed
- N/A, not discounted
- Inappropriate due to level of offence seriousness
- Inappropriate due to clients caring/domestic commitments
- Not viable due to clients work commitments
- Ruled out on grounds related to previous -ve response to supervision
- Ruled out as not viable as the client has yet to complete a significant part of a custodial sentence
- Client is not considered to be motivated to respond to supervision
- Client considered to lack the skills necessary for compliance
- Nature of offending pattern
- Priority should be given to probation due to nature of presenting problems
- Other factors not referred to above

Other, comment: _____

General comment: _____

115. In relation to the discussion of community service did the report writer mention the availability of childcare provision (i.e. via the department)?
select one category only

- N/A, CS was not discussed or it was rejected on grounds unrelated to childcare issues
- Yes
- No, childcare is not an issue (i.e. client is not a FT carer)
- No, for some other reason
- Other

Other, comment: _____

General comment: _____

116. Issues addressed during discussion of impact of custody on the offender.
select whichever categories apply

- N/A, no discussion of impact of custody
- Caring commitments regarding dependants
- Mental health/illness/emotional well being
- Addiction
- Impact on employment/career
- Impact on education
- Custody is considered to present a -ve influence in terms of risk of further offending
- Other

Other, comment: _____

General comment: _____

117. Did the report clearly make a generalized plea for leniency unsupported by reasons?
select one category only

N/A

No

Yes

If yes, then comment: _____

118. Level of discussion on range of disposals?
select one category only

A Range of disposals discussed with no one preference expressed

A Range of disposals discussed with one selected as preferred

Only recommended/preferred disposal discussed

No disposal discussed

119. Did the report contain a positive recommendation for disposal?
select one category only

Yes

No

Not clear

120. Did the report clearly fail to consider options which would encourage use of a community-based disposal, e.g. availability of childcare, women-specific provision?
select one category only

N/A

No

Yes

If yes, then comment: _____

121. Recommendation of report
select whichever categories apply

Absolute discharge
Admonition
Fine
Fine Supervision Order
Compensation Order
Compensation Supervision Order
Supervised Attendance Order
Deferred sentence
Community service order
Probation order (no conditions.)
Probation Order with CSO
Probation with condition to reside at a rehabilitation centre
Probation with other residential condition
Probation with addiction counseling
Probation with medical/psychiatric treatment
Probation with compensation condition
Probation with other condition attached
Referral to Children's Hearing
Probation/CS/Social work intervention not appropriate
Custodial sentence inappropriate
Custodial sentence
No recommendation made
Other recommendation

Other, comment: _____

General comment: _____

122. Details included in probation action plan
select whichever categories apply

N/A, probation not discussed
N/A, probation is not considered to be a viable option
N/A, probation is presented as an option but action plan is not prepared
Addiction counseling
Other form of counseling
To address offending behaviour
Support with budgeting/finances
Support with housing problem(s)
Support with planning/ preparing for employment/training/education
Other form of support
Victim awareness
Individual work
Groupwork
Other
Assistance with family problems/relationship difficulties

Other, comment: _____

General comment: _____

123. Is there commentary on the offenders agreement (or otherwise) with the action plan?
select one category only

- N/A
- Yes
- No
- Not clear

124. Outcome
select one category only

- Custody
- Community Service
- Probation Order (no additional requirements)
- Probation Order with compensation requirement
- Probation with residential condition
- Probation with medical/psychiatric treatment
- Probation with CSO
- Probation with Day Centre/Group/Programme
- Probation with alcohol treatment or education
- Probation with drugs treatment or education
- Some other combination of above
- Other disposal

Other, comment: _____

General comment: _____

125. Length of custodial sentence
state actual no. of months

126. Length of probation order
state actual no. of months

127. Type of probation order
select one item only

- N/A, no probation order made
- Probation order (no condition.)
- Probation Order with CSO
- Probation with condition to reside at a rehabilitation centre
- Probation with other residential condition
- Probation with addiction counseling
- Probation with medical/psychiatric treatment
- Probation with compensation condition
- Probation with other condition attached

Other condition, comment: _____

General comment: _____

128. Community Service Order
state actual no. of hours

APPENDIX 4

SPECIMEN DUNSCORE SHEET

Ring only those factors relevant to the current case.

Factor	Value	Comments
High Court	2	All high court cases are heard on solemn procedure (Therefore, they attract a value 2 (court) + 2 (solemn procedure) = 4
Solemn procedure	2	Cases heard under summary procedure attract no value on the DUNSCORE.
Remanded in Custody	3	Cases which are O/A and on bail attract 0 on the DUNSCORE.
In custody (for another offence)	3	
Gravity Rating 1 or 2	0	Caution! Care is needed here. Note that a gravity rating of 0-2 attracts NO DUNSCORE value. Gravity rating 3 attracts a value of 2 etc.
Gravity Rating 3	2	
Gravity Rating 4 or 5	3	
Any previous custody	2	
Previous probation or community service in the past year	2	This refers to current orders and/or orders made within the past year. Do not double count. (Someone who has had probation and community service in the past year will attract a DUNSCORE value of 2 only).

TOTAL DUNSCORE:

APPENDIX 5

Interview Schedule for Heads of Service/Criminal Justice Managers

Introduction

I am attached to the Social Work Research Centre at Stirling doing research on female offenders, as part of a PhD. Before this I worked as a criminal justice social worker for a number of years and my interest in this area arose from practice. As part of this study I am carrying out interviews with a number of social work staff. All of your contributions will be treated anonymously.

1) Interviewee/Current position

a) What is your current position and how long have you been in post?

b) How long have you worked for this authority?

b) How long have you worked in criminal justice?

d) Nature of your work?

PROMPT

Exclusively criminal justice work or does your remit include other areas of work?
Partly criminal justice work, if other areas are included then explore this.

2) Offenders, offending and contributing factors

Which do you consider to be the main offence groupings for males?

Possibly prompt - violent, public disorder, theft/fraud, possession of drugs, supplying drugs

What do you consider are the main presenting problems, not necessarily related to offending, featuring amongst the male offenders which your authority comes into contact with?

Prompt where necessary - Addiction (drugs), Addiction (alcohol), Addiction (solvents), financial issues, impulsiveness, provocation, mental health problems, homelessness, associates/peer pressure, unemployment, emotional stress/relationship difficulties, immaturity, anti-authority attitude, tendency to overreact to situations, lifestyle/lack of structure, opportunistic, lack of self-control/anger, acting out of character, naivete, bereavement, stupidity, intellectual limitations

What factors, which possibly you have already identified above, do you think specifically contribute to male offending?

Comments:

Repeat above for females i.e. 1) Main offence groups

2) Main presenting problems

3) Factors which specifically contribute to male offending

3) General trends/changes since introducing funding

Do you consider that offenders general problems, not necessarily to do with offending, have changed in the last ten years?

If so can you explain in what ways?

(possibly prompt if necessary - level of drug misuse, nature of social/personal problems/housing issues).

Do you think there has been any changes in the factors contributing to offending?

If so has this been the same or different for male and female offenders? If different, in what ways?

More specifically do you think that the nature of offending, in terms of the offences people commit, has changed during this same period?

If yes, in what way has it changed? Again have these changes been the same or different for male or female offenders?

Prompt: possibly funding drug abuse

*If changes (in problems or the nature of offending) have been identified ask
Has there been implications for:*

- 1) The content of an SER
- 2) Supervision.

Prompt: level of referral to other agencies

Can you specify if the implications have been different in any way for male and female offenders.

***Again in the last ten years, do you think there has been any change in the characteristics of offenders who are given probation?**

Prompt: in terms of their general background, factors contributing to their offending or even their offending history/their tariff position.

Repeat *for community service.

Do these changes (i.e. characteristics of offenders given probation or community service) apply equally to male female offenders? If not can you explain?

4) Impact on practice of shift from the welfare to the justice model

A more general question about the approach used:

What would you say is your understanding of the welfare approach?

And would you say is your understanding of the justice approach?

So confirm whether or not there has been a shift between these approaches?

Providing a shift from welfare to justice has been acknowledged then ask the next questions in this section:

If not identified above, clarify how the shift in approach has impacted on specific aspects of practice?

Prompt where necessary: the content of an SER, the content of supervision?

Do you consider that the shift in approach in your authority has impacted equally in terms of practice with male and female clients? If not, please can you explain this?

Views on this? How appropriate has this been?

5) Views on gender specific allocation of work

A more general policy question

In your authority is the gender of either the worker or the client taken into account **when allocating an SER**? If so, can you please explain your answer?

Again, is the gender of either the worker or the client taken into account **when allocating a probation order**? If so can you please explain your answer?

If a policy involving gender specific allocation has been identified, then ask: What is the policy involving gender specific allocation based on?

Have you found this policy to be effective? If so, in what ways? *(depends on the response to the previous question).*

Is there a policy that clients be asked if they'd prefer a male or a female worker? If so is it all clients who would be asked? If not, then who? If there is a policy, when did it come into being (in relation to the period covered by the analysis of SERs)?

6) Probation supervision

We have already touched on possible changes in approach over the past decade, we have also referred to responses to possible changes in offenders problems or the nature of their offending are there any other changes in probation supervision in your authority in this period which haven't touched on? And more generally do you think there have been changes (i.e. outwith your authority)

Prompt: Content - areas covered, Structure -groupwork/joint/one-to-one/use of referral to other agencies/level of contact, Approach - Welfare/Cognitive Behavioural/Other

Clarify points particularly in relation to research period 1999-2000

Have these changes identified applied equally to males and females. Please explain your answer.

Within the probation caseload what would you gauge as the ratio of male: female clients. Is the proportion of women on probation increasing or decreasing compared to previous years?

7) Access to CS for offenders

Within the community service caseload what would you gauge as the ratio of male: female clients. Is the proportion of women on community service increasing or decreasing compared to previous years?

In your view what are the barriers in your authority, if any to accessing community service?

Prompt: resources, prejudice, attitudes of sentencers/report writer's/community service officer's

How, if at all, do these barriers you have mentioned differ between men and women?

To what extent do the policies in your authority overcome these barriers if at all?

Are there any ways in which you think access to community service could be improved in:

a) Your authority, if so how?

b) Across authorities, if so how?

If chil care issues have not been identified then bring in here:

Are there policies on childcare provision for parents with dependant children in order to allow individuals to be available for community service? If so what are they?

Assessment, SERs and outcomes

8) Assessment of risk

Risk of offending

Is there a main tool used in your authority by report writers for assessment of risk of further offending? If so, what is it?

Do you think this is equally appropriate for male and female offenders?

Risk of custody

Do you use Dunscore?
If not did you use Dunscore in 99-2000?

In your authority has a localized Dunscore been calculated?

9) Conclusion/Assessment

What do you consider to be the role or purpose of the SER writers when preparing a report for court?

What do you consider is the purpose of an SER?

Prompt: Do you consider that it is part of the writer's role to inform sentencing, influence sentencing or both?

How do you think what you have said about these roles influences policies in your authority regarding SER content?

Prompt: re: conclusion of report: specific recommendation made, a tentative recommendation, a specific disposal supported/favoured but not recommended, only preferred option is discussed disposal(s) simply discussed in terms of their pros and cons.

To return to the issue of risk assessment - of custody or further offending - how important are each of these in influencing the sentencing process? Is one more important than the other?

Prompt: in the SER and in terms of the sentencer

10) Use of deferred sentence

a) Is intervention during a structured period of deferment presented as a possible option for disposal in your authority?

b) Is funding available in your authority for this?

c) Do you consider that deferred sentences are used differentially in your authority with male and female clients? If so, can you explain this?

11) Appropriateness of custodial disposals

Do you consider that use of custody is ever appropriate?
If so, under what circumstances and for which categories of clients?

Do you consider that use of custody is ever inappropriate?
If so, under what circumstances and for which categories of clients?

What factors do you consider might affect a sentencer's decision to use/not to use custody?

Do you think that Social Worker's should ever recommend/support the use of custody in their SERs? If so, for whom?

12) Perceptions of sentencing patterns

In relation to your main feeder court(s) (i.e. the courts which make up the bulk of your court report requests), do you think there is generally differential use of specific court disposals for male and female offenders?

If so, in what way

What factors do you think now have a bearing on the way that different sentences are used by the court for men and women?

Prompt: report quality, preconceived ideas on part of SER writer or sentencer about some disposals being more suitable.

Personal value question

13) Understanding of equality/anti-discriminatory practice with regard to gender

Don't raise gender unless client does not include gender in their response.

What would be your understanding of equality in terms of service provision?

If necessary prompt would this mean the same, consistent or different? Should equality be about tailored services/responses to individual needs or should standards be applied across the board?

Do you consider that there should be equality with regard to service provision? If so can you explain what this equality would involve?

Monitoring and staff development

14) Views on evaluation/monitoring of practice

Do you routinely conduct monitoring/evaluation of SERs within your authority?

If so how is it done and what is monitored?

Prompt: random sampling, conversion rates, quality of SERs, report writing practice

How often do you conduct monitoring and evaluation?

How are the outcomes used?

Prompt: Maintaining information systems, Scottish executive returns, Staff development

If feedback has not covered above then ask this question:

Who are the outcomes fed back to? How are they fed back?

Prompt: Social workers, development days, team meetings, supervision/one-to-one?

How effective do you think your monitoring/evaluation process is?

How do you think this process is viewed by social workers?

Are there ways you think this monitoring/evaluation process could be improved if at all?

15) Training/Staff Development

Supervision/Assessment skills - Do you consider that members of your staff group might require further training to further develop particular skills in working with male offenders. If so, could you please explain?

Repeat for female offenders

Do you consider your staff to have had sufficient access to training with regard to gender awareness/gender issues or anti-discriminatory issues generally? If not, could you please explain?

Local authority _____

Gender of interviewee _____

Thank you for the time and thought that you have given to this interview. Your contributions will be treated anonymously.

APPENDIX 6

Interview Schedule for CS Seniors/Managers

Introduction

I am attached to the Social Work Research Centre at Stirling doing research on female offenders, as part of a PhD. Before this I worked as a criminal justice social worker for a number of years and my interest in this area arose from practice. As part of this study I am carrying out interviews with social work staff across Scotland. All of your contributions will be treated anonymously.

SECTION 1 - GENERAL

1) Location

- a) How long have you worked for this authority?
- b) How long have you worked in criminal justice?
- b) What is your current position?
- c) What is the nature of your current workload, exclusively community service or wider than this? If more than just Community service can you explain?

2) Procedure for providing CS assessments to courts

In this authority, who typically writes the actual CS assessment, the SER writer or a member of the CS team?

Is the assessment included in the report or is it attached separately?

3) Role of Community service

What do you consider to be the role or purpose of community service as a disposal available to the court?

Prompt: alternative to custody, punishment, reparation, rehabilitation, employment training for offenders, other purpose (select whichever items apply).

Do you think the use of CS in your authority is the same or different with male and female offenders? (*for example with regard to tariff position, in terms of employment training*) - within your authority? if different, then can you explain in what ways?

And what about generally across authorities?

If no go to next question. *If differences are identified:* Do you agree with these different roles/uses of community service for male and female offenders.

4) Role of community service officer

What do you consider to be the main remit of a community service officer in terms of tasks?

Prompt: main tasks/order of priorities, supervision, development of placements do you consider that there is a social work element to a community service officer's role or that it is quite distinctly different and separate from social work?.

Given the role/tasks/remit that you have identified do you consider that there are any factors which might limit a community service officer in his/her attempt to fulfill this role?

Prompts: time, lack of social work training.

Do you consider that there are any differences in the role a community service officer takes with male or female clients? If so, can you explain?

If not already covered above:

Do you think community service should function separately from, or be integrated within criminal justice services? Can you please explain this?

How does community service function in this respect in your authority?

5) Gender balance of community service caseload

Within the current community service caseload what would you gauge as the ratio of male: female clients?

How does this balance compare with previous years? Would you say that the proportion of women on community service is higher or lower than previous years?

Why do you think are the reasons for this trend?

6) Barriers to CS

In your views, generally what are the barriers, if any to accessing community service for clients?

Prompt: attitudes - sentencers, social workers, community service officers, credibility of community service, resources. cs is less amenable to certain client groups

How, if at all, do these barriers you've mentioned differ between men and women?

To what extent do the policies in your authority overcome these barriers?

Are there any ways in which you think access to community service could be improved in:

- a) Specifically in our authority
- b) Across authorities.

7) Childcare Provision (*only include this if it hasn't been covered in six*)

In the case of clients with dependants does your authority make any provision for childcare, to allow individuals to be available to complete community service?

If so, what are the arrangements?

For whom is it available?

Prompt: male/female, marital status

Do you consider the current arrangements to be satisfactory or not?

If not, explore what improvements could be made.

If reference is made to finances being available to pay for childcare explore further.

Are there any restrictions on these arrangements, that is in terms of who you would make payments to?

Do you consider these arrangements to be satisfactory.

SECTION 2 - COMMUNITY SERVICE PLACEMENTS

8) Nature of work on CS placements

What would you describe as the main kinds of tasks your scheme makes available to offenders on CS?

Prompt: gardening, decorating etc

Are male or female clients more likely to engage in any specific areas mentioned above? If so, explore.

And if so, is this according to the decision/assessment of the supervising officer, or is it a reflection of choices which clients make or does some other factor which explains this?

Do you think your scheme has a sufficient range of placements available to cater for all client groups? If not could you please explain your answer?

Are partnerships likely to have implications for the range of placements available?

9) Structure of placements available

Which different kinds of placements in terms of structure do you have available, prompt where necessary:

agency, team, workshops, any other, are any?

Which of the above mixed/single sex?

Which placement type are males more likely to be given?

Which placements type are females more likely to be given?

Is this on the basis of the decision/assessment of the supervising officer, is it a reflection of choices clients make or on some other basis?

10) Schedule of work hours

Is there flexibility in terms of the number of hours, and which hours, a client can work in a particular day? If not, then can you explain this?

Are there ever any barriers to flexible working hours? If so, what are they?

Ask the following questions if they have not been covered above:

Are work hours ever renegotiated during an order between clients and supervisors? If so can you please explain under what circumstances would this happen? (*whether yes or no*)

Would the nature of the placement influence whether or not there was flexibility? If so, can you explain?(*i.e. might restrictions apply more to people on certain kinds of placements?*)

Would a client's childcare commitments ever encourage greater flexibility in terms of the hours required to be worked?

11) Travel distance to placements

Has travel distance to placements ever presented itself as a problem? If so, can you please explain under what circumstances?

Are any particular groups of clients more likely to have to travel further. If so, explore.

Can you anticipate any ways of overcoming these problems?

12) Assistance with getting to placements

Do you offer any kind of assistance to clients to get to placements? If so, can you explain under what circumstances this would happen?

Do you think the current system is satisfactory? If not, explore problems and possible ways of improving.

If already covered go straight to question 13

13) Developing range of placements in terms of structure, variety of locations, and nature of duties.

Do you consider there are any barriers to developing the range of placements you have available, in any respect? If so, what are they?

SECTION 3 - VALUES

Personal value question

14) Understanding of equality/anti-discriminatory practice with regard to gender

Don't raise gender unless client does not include gender in their response.

What would be your understanding of equality in terms of service provision?

Prompt would this mean the same, consistent or different? Should equality be about tailored services/responses to individual needs or should standards be applied across the board?

Do you consider that there should be equality with regard to service provision?

Policy question

15) Views on gender-specific allocation of work

Is there a policy in place within community service of taking into account the gender of either the worker or the client when allocating work? If so, can you explain and which work would this involve?

If so what was this policy based on (i.e. *if I need to prompt: What is the reason for introducing it?*)

Only if a policy has been identified:

Have you found this policy is effective? If so, in what ways?

Are clients asked if they would prefer a male or a female worker either at the assessment or the supervising stage? If so are all clients asked? If not, then who?

Only ask this question if some reference has been made to some kind of gender specific allocation policy? When did this policy come into being (in relation to the period covered by the analysis of SERs)?

SECTION 4 - SENTENCING

16) Underuse/overuse of CS

Are there any categories/groups of clients for whom you consider CS is being under or overutilised? If so, can you explain your answer?

17) Factors influencing SER writers

Do you think there are factors which might deter SER writers/CS officers from presenting a supporting argument for CS in their report, or at least cause them to report reservations, where community service could have been an alternative to custody?

Prompt: resource limitations, preconceived ideas about when this disposal should be used

If so, can you explain your answer?

Do any of these factors apply more to male or female offenders?

18) Factors influencing sentencers

Do you think there might be any factors which deter sentencers from imposing community service in situations where it could be used as an alternative to custody?

If so, can you explain your answer?

Prompt: inclinations to be more punitive to certain client groups, preconceived ideas about certain disposals being more suited to men/women, quality of report/content of report, conclusion section/ "recommendation"

19) Perceptions of sentencing patterns

In relation to your main feeder court(s) (i.e. the courts which make up the bulk of your court report requests), do you think there is generally differential use of specific court disposals for male and female offenders?

If so, in what way?

What factors do you think have a bearing on the way that different sentences are used by the court for men and women?

SECTION 5 - MONITORING/STAFF DEVELOPMENT

20) Views on evaluation/monitoring of practice

Do you conduct monitoring/evaluation of community service in terms of community service referrals, assessments/outcomes/conversion/completion/breach rates within your authority?

What is monitored?

If so how is it done?

How often do you conduct monitoring and evaluation?

How are the outcomes used?

Prompt: Maintaining information systems, Scottish executive returns, Staff development

If feedback is not covered above then ask this question:

Are the outcomes fed back to social workers? How are they fed back? (development days, team meetings, one-to-one)?

How effective do you think your monitoring/evaluation process is?

Prompt: Do you consider that it influences practice

How do you think this process is viewed by social workers?

How do you think this process is viewed by community service officers?

Are there ways you think this monitoring/evaluation process could be improved? If so, can you explain?

2 1) Training/Staff Development

Supervision/Assessment skills - Do you consider that members of your staff group might require further training in relation to assessing or supervising female offenders. If so, could you please explain?

Repeat for male offenders

Do you consider that your staff have had sufficient access to training with regard to gender awareness/gender issues or general anti-discriminatory issues? If not, could you please explain?

Which local authority _____?
Gender of interviewee _____

APPENDIX 7

Interview Schedule for Social Workers

Introduction

I am attached to the Social Work Research Centre at Stirling doing research on female offenders as part of a PhD. Before this I worked as a criminal justice social worker for a number of years and my interest in this area arose from practice. As part of this study I am carrying out interviews with a number of social work staff. All of your contributions will be treated anonymously.

1) Location

Where are you based?

*Prompt: area team
 court
 prison
 community service
 other*

comments:

2) Interviewee/Current Post

a) What is your current position?

b) Nature of your work

*Prompt: 100% criminal justice work
 partly criminal justice work
 other (e.g. community care, childcare)*

c) How long have you worked in this authority?

d) How long have you worked in criminal justice?

3) Current caseload

Roughly what proportion of your current probation caseload are female offenders?

How does this compare with previous years

4) Impact on practice of shift from the welfare to the justice model

What is your understanding of the welfare approach?
And what is your understanding of the justice approach?

Within this authority where do you think the balance lies between these two approaches?

So confirm whether or not there has been a shift between these approaches

Providing a shift from welfare to justice has been acknowledged then ask the next questions in this section:

If not identified above, clarify how the shift in approach has impacted on specific aspects of practice in your authority?

Prompt where necessary: the content of an SER, the supervision stage?

Do you consider that the shift in approach in your authority has impacted equally on practice with male and female clients? If not, please can you explain this?

Views on this? How appropriate has this been?

In terms of the emphasis on either the welfare or the justice approach in your authority you have described above how does this compare with the emphasis in your own work?

If there are any differences acknowledged then explore.

5) Nature of offences

Which do you consider to be the main offence groupings for males?

Prompt: - violent, public disorder, theft/fraud, possession of drugs, supplying drugs

Repeat for females

6) Problems common to offenders and factors contributing to offending

What do you consider are the main presenting problems, not necessarily related to offending, featuring amongst the male offenders which your authority comes into contact with?

Prompt: Addiction (drugs), Addiction (alcohol), Addiction (solvents), financial problems, financial gain, impulsive, provocation, mental health problems, homelessness, associates/peer pressure, unemployment, emotional stress/relationship difficulties, immaturity, anti-authority attitude, tendency to overreact to situations, lifestyle/lack of structure, opportunistic, lack of self-control/anger, acting out of character, naivete, bereavement, stupidity/folly, intellectual limitations, any other?

What factors, which possibly you have already identified above, do you think specifically contribute to male offending?

Repeat for female offending/offenders

7) General trends/changes since introducing funding

Do you consider that the nature of female/male offenders problems have changed in the last ten years?

If so can you explain in what ways?

(possibly prompt if necessary - level of drug misuse, nature of social/personal problems/housing issues).

Do you think there has been any changes in the factors contributing to offending?

*Tease out any reference to different patterns for either males or females.
(possibly prompt if necessary - level of drug misuse,, nature of social/personal problems/housing issues).*

More specifically do you think that the nature of offending, in terms of the offences people commit, has changed during this same period?

Prompt- drug use, is this related to any of the problems you have identified?

Have the changes been the same or different with male and female offenders?

If there have been changes in the nature of the problems, causes or in the nature of offending in what way have they changed? What have been the implications of these changes:

1) assessment/report writing? *If increase in drug use has been identified are you more likely to recommend an added requirement of addiction counselling.*

2) supervision?

Can you specify if the implications have been different in any way for male and female offenders?

*Again in the last ten years, do you think there has been any change in the characteristics of offenders who are given probation?

Prompt if necessary: in terms of their general background, factors contributing to their offending or even their offending history/their tariff position.

Repeat *for community service.

Are there any ways in which these changes (i.e. characteristics of offenders given probation or community service) relate more to male or female offenders? If so can you explain?

8) Understanding of criminogenic/non-criminogenic terminology

What do you understand by the term criminogenic need?

What do you understand by the term non-criminogenic need?

9) Nature of assessment

What are the key areas you would wish to address when writing reports for male offenders?

Prompt - offending, addiction, employment/training/career, concerns re childcare issues, experience of abuse as an adult, welfare needs, client's level of responsibility for participation in the offence, experience of childhood abuse (neglect, sexual abuse, physical abuse,

emotional abuse/mental cruelty, witnessing domestic violence) mental health, an anti-authority attitude, anger management, peer group/peer pressure, vulnerability in prison/possible detrimental effects of imprisonment, barriers to complying with CSO's

Repeat for female offenders

10) Probation supervision

Aims: What do you consider to be the key aims of probation supervision?

Do you think these aims are similar or different for male and female clients? If they differ, then how?

Content:

In terms of the balance of work with male offenders roughly what proportion of your work focuses on offending compared with more general background problems? Would you spend more or less time on offending than general background issues, or just the same amount of time on each?

Generally how would this compare with supervising female offenders?

Only ask this if it's not covered above

Topics covered - what would be covered with female clients?

Prompt - Addiction counselling (drugs), Addiction counselling (alcohol), offending behaviour, support with budgeting/finances/debt, support with housing problem, support with planning/preparing for employment/training/education, victim awareness, family problems or relationship difficulties, anger management, assertiveness/self-esteem, associates/peer group, lifestyle, childcare issues/parenting, bereavement counselling, counselling re stress/anxiety/MH, counselling re sexual abuse, other

What would be covered with male clients?

How would you compare the format of supervision provided for females and males offenders in terms of:

groupwork

joint/one-to-one

use of referral to other agencies

level of contact

any other factors

If differences are identified, do you agree with these differences?

Explore.

**Do you consider that the learning styles are different for male and female offenders? If so, what do you consider are the implications for practice in terms of probation supervision?
*Prompt: In terms of possibly either being more suited to one-to-one or groupwork.***

Clarify points in relation to period 1999-2000.

Do you consider that there are any difficulties for clients regarding either compliance or maintaining contact with supervising officers during probation supervision (of any description)? If so, what are they?

Prompt: territorial, travel distance timing, childcare,

How would these difficulties compare between male or female clients?

Comments:

Would these factors, or any other factors, ever deter you from recommending probation?

Do these factors apply equally to males and females?

If not, explore/expand.

11) Community Service

Do you consider there is equal access in terms of gender to Community Service schemes? If not, then explore.

Do you consider that there are any obstacles to access to community service for male or female offenders in your authority? If so, what are they?

Prompt: homelessness, chaotic drug use, resources, attitudes etc

Are there policies in place in your authority to widen access to CS specifically to either female or male offenders where appropriate. If so, can you explain, including

Are there policies on childcare provision for parents with dependant children? If so what are they?

If so, who are they available to: gender, marital status

comments:

Do you consider that there are any difficulties for clients regarding either compliance or maintaining contact with supervising officers a community service order (of any description)? If so, what are they?

Prompt: territorial, travel distance timing, childcare,

How would these difficulties compare between male or female clients?

Comments:

Would these factors, or any other factors, ever deter you from recommending community service?

Do these factors apply equally to males and females?

If not, explore/expand.

If you have identified unequal access to CS in terms of gender do you consider this to be a problem? If so can you think of any ways of improving the situation (that hasn't already been covered)? Explore.

12) Role of SER writer

What do you consider to be the role or purpose of the SER writers when preparing a report for court?

What do you consider is the purpose of an SER?

If necessary prompt: Do you consider that it is part of the writer's role to inform sentencing, influence sentencing or both?

In addition to the provision of factual information to the court do you think the SER writer should impart an element of assessment?

If yes, explore the nature of this assessment.

13) Recommendation practice

Did you welcome the change in National Standards regarding the practice of making recommendations for disposal?

If interviewee is not aware of the changes then specify that the change was that writers have no longer to make recommendations to court.

Explore.

Has this change in National standards made a difference to the way that you compile reports? If so, what difference has it made?

Clarify the nature of this change - pre change in National Standards - what was the report writer's style re recommendations - specific recommendation made, a tentative recommendation, a specific disposal supported/favoured but not recommended, only

preferred option is discussed disposal(s) simply discussed in terms of their pros and cons. - Post change in National Standards, position of "preferred option"

If you respondent does tend to favour/support a particular disposal: which factors influence your choice of favoured disposal?

Prompt - Risk of custody, risk of further offending, need, offence seriousness, offence history, personal circumstances.

Order the responses in terms of significance.

Would this be the same or different for female and male clients? Explore if different

Would the order be different for male and female clients? If so explore.

14) Appropriateness of custodial disposals

Do you consider that use of custody is ever appropriate?
If so, under what circumstances and for which categories of clients?

Do you consider that use of custody is ever inappropriate?
If so, under what circumstances and for which categories of clients?

What factors do you consider might affect a sentencer's decision to use/not to use custody?

Do you think that Social Worker's should ever recommend/support the use of custody in their SERs? If so, for whom?

15) Perceptions of sentencing patterns

In relation to your main feeder court(s) (i.e. the courts which make up the bulk of your court report requests), do you think there is generally differential use of specific court disposals for male and female offenders?

If so, how?

Repeat for males

If interviewee has identified differences in the way particular sentences are used by the court for men and women: What factors do you think might have a bearing on this?

In terms of risk - of custody or further offending - how important do you think each of these are in influencing the sentencing process is any one more important?

Prompt: in the SER and in terms of the sentencer

16) Understanding of equality/anti-discriminatory practice with regard to gender?

Don't raise gender unless client does not include gender in their response.

What would be your understanding of equality in terms of service provision?

Do you consider that there should be equality with regard to service provision?

17) Training/Staff development issues

Would you welcome training to further develop particular skills in working with male offenders? If so, could you please explain?

Repeat for female offenders

Do you consider you have had sufficient access to training with regard to gender awareness/gender issues or anti-discriminatory issues generally? If not, could you please explain?

18) Views on evaluation/monitoring of practice

Is there a process of monitoring SERs in your authority?

If so, how does it work? Is it regular or occasional? Are SERs selected randomly or otherwise?

If feedback is not covered above then ask this question:

Are the outcomes fed back to social workers? How are they fed back? (development days, team meetings, supervision/one-to-one)?

If so, how do you feel about monitoring of SERs?

Prompt: feedback is useful in informing your SER writing or it's demoralising/unhelpful criticism.

How effective do you think the monitoring/evaluation process is?

In what ways could the monitoring/evaluation processes be improved, if at all?

Gender of interviewee _____

Local authority _____

Thank you for the time and thought that you have given to this interview. Your contributions will be treated anonymously.