

WOMEN IN PRISON: THE CRIMINAL COURT PERSPECTIVE

Jacqueline Fitzgerald

The number of women in NSW correctional centres has increased significantly in recent years. Several changes in criminal court processes may have contributed to this rise: overall more women are being convicted in the courts, women are more often appearing for offences likely to incur a prison penalty, and courts are more readily handing down sentences of imprisonment.

The number of women in NSW correctional centres has increased significantly in recent years. Figure 1 shows the total number of women in prison by month as recorded by the Department of Corrective Services. Women on remand are included in these figures. It can be seen that the number of women in prison has been steadily rising over the past five years. A sharp increase can be observed from early 1998.

This briefing paper will consider how changing patterns in the NSW Criminal Courts may have contributed to the rise in female prisoners.

NSW LOCAL COURTS

The number of women found guilty in the Local Courts has risen by 23.5 per cent over the five years from 1994 to 1998. The figures are presented in Table 1 below. In addition to the rise in the absolute number of women being convicted, the proportion of

convicted women being sentenced to prison has also increased by 14.7 per cent over five years. In 1994, only 3.4 per cent of women convicted in the Local Court were sentenced to prison, whereas by 1998 the proportion had risen to 3.9 per cent. Overall, in 1998 there were 179 more women sentenced to prison than in 1994.

These figures can be partly accounted for by a substantial increase in the numbers of women appearing for offences which are likely to attract prison penalties. Specifically, increases have been seen in the number of females convicted of offences *against the person* (up 51.4% from 1192 in 1994, to 1805 in 1998) and *against justice procedures* (up 61.3% from 724 in 1994, to 1168 in 1998). There was also a large rise in the number of women appearing for *driving* offences (up 30.8% from 4158 in 1994, to 5439 in 1998). Driving offences, however, are generally unlikely to attract a

Figure 1: Total female population in NSW correctional centres

Number of women in prison

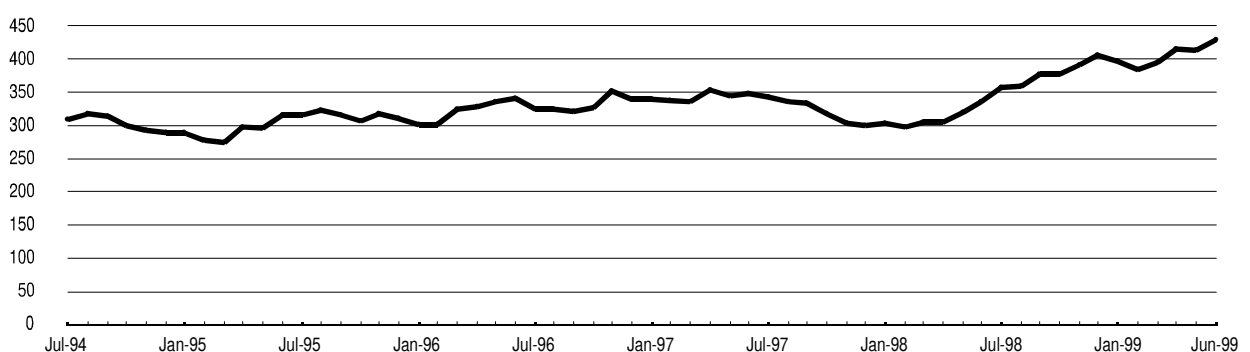


Table 1: Trends in female convictions and sentences in the NSW Local Courts, 1994 - 1998

	1994	1995	1996	1997	1998
Number of women convicted	13,077	13,824	15,013	14,849	16,145
Number of women imprisoned	451	509	539	537	630
Percentage of women imprisoned (%)	3.4	3.7	3.6	3.6	3.9
Average sentence length (mths)	3.7	3.6	3.8	3.8	3.9

penalty of imprisonment. Appendix table A1 details the trends in convictions and sentencing by offence category in Local Courts.

Bureau research has also shown that the percentage of convicted offenders sentenced to imprisonment has been rising within certain offence categories. While this research did not consider women separately, it strongly suggests that the Local Courts are increasingly inclined to hand down custodial penalties (Baker, 1998).

Perhaps as a function of the changing offence profile and changing judicial severity, the average sentence length has also increased slightly. In 1994 the average sentence length imposed on women in the NSW Local Courts was 3.7 months. By 1998 this figure had risen 5.4 per cent to an average of 3.9 months.

NSW HIGHER COURTS

The number of women convicted in the NSW Higher Courts fell by 31.5 per cent between 1994 and 1998. The proportion of women sentenced to prison, however, has steadily increased over this time. In 1994, there were 87 women sentenced to prison from the Higher Courts (24.5% of convicted women). In 1998, the number of guilty women receiving a prison sentence had risen to 117 despite the overall drop in convictions (48.1% of convicted women).

This increase can be partly accounted for by an increase in convictions for *robbery*. The number of women found guilty of this offence rose from 25 in 1994, to

45 in 1998. Robbery has been associated with drug-related offending. Recent household survey results show a substantial rise in the number of women reporting recent heroin use. In 1995, 0.2 per cent of Australian women reported using heroin in the past 12 months. By 1998, the proportion of the female population reporting recent heroin use had risen to 0.5 per cent. This equates to 39,100 recent female users in 1998 (AIHW, 1999).

In addition to the greater number of female robbery offenders in recent years, such offenders are also more likely to receive a prison sentence than in the past. In 1994, 52.0 per cent of women convicted of robbery were imprisoned. By 1998 this proportion had risen to 68.9 per cent. This is consistent with research by the Bureau which looked at general trends in court sentencing without regard to gender (Baker, 1998).

The number of women convicted of offences against the person excluding robbery remained fairly stable between 1994 and 1998 (44 and 41 women respectively) as has the proportion sentenced to prison. The numbers of convictions for drug offences and property offences have dropped; however, the proportion of people being sent to prison has increased for these offences. In 1994, 24.5 per cent of female *drug* offenders went to prison, whereas in 1998 the proportion had risen to 56.1 per cent. Similarly with *property* offenders, only 18.4 per cent went to prison in 1994. In 1998, however, 37.3 per cent received a prison term. Appendix table A2 details the trends in convictions and sentencing by offence category in the Higher Courts.

Table 2: Trends in female convictions and sentences in NSW Higher Courts, 1994 - 1998

	1994	1995	1996	1997	1998
Number of women convicted	355	274	235	209	243
Number of women imprisoned	87	75	86	76	117
Percentage of women imprisoned (%)	24.5	27.4	36.6	36.4	48.1
Average sentence length (mths)	25.9	19.4	18.5	25.1	19.8

Unlike the Local Courts, the average sentence length for women in the Higher Courts has dropped between 1994 and 1998. This could be because less serious offences are increasingly receiving prison penalties for short time periods. In the past these offences would have attracted non-custodial sentences.

CONCLUSION

It seems that several factors in both the Higher Courts and Local Courts may be contributing to the increase in the number of women in prison but in different ways.

In the Local Court:

- There has been a substantial increase in the overall number of women convicted in the NSW Local Court.
- In addition to the increased number of women found guilty, the proportion receiving prison terms has also increased. This is probably due to convictions for offences *against the person* and *against justice procedures* accounting for a greater proportion of offenders, as well as the increased popularity of prison as a penalty for some offences dealt with in Local Courts.
- Sentence length has also risen slightly.

In the Higher Courts:

- The overall number of women sent to prison from the Higher Courts has increased over the past five years, despite the number of convictions dropping by 31.5 per cent.
- The increase in women sent to prison may be due to the number of convictions for robbery (for which prison is a common penalty) nearly doubling over the past five years.
- In addition, the proportion of female offenders receiving prison terms for *robbery*, *property* crimes, and *drug* offences has increased over the past five years.

Therefore, the increase in female imprisonment is likely to be due to both harsher penalties handed down by the courts, and a shift in the types of offences being committed by women towards those more likely to receive prison penalties. The growth in the number of women appearing in court for offences such as robbery may be related to the general growth in heroin use among women.

Further information on this issue can be obtained from the NSW Bureau of Crime Statistics and Research.

REFERENCES

- Australian Institute of Health and Welfare (1999) *1998 National Drug Strategy Household Survey: First Results*, AIHW: Canberra.
- Baker, J. (1998) *Are the Courts Becoming More Lenient? Recent Trends in Convictions and Penalties in NSW Higher and Local Courts*, Crime and Justice Bulletin No.40, NSW Bureau of Crime Statistics and Research: Sydney.

APPENDIX

**Table A1: Trends in female convictions and sentences in NSW Local Courts
by offence category, 1994 - 1998**

	1994	1995	1996	1997	1998
Offences against the person					
Number of women convicted	1,192	1,264	1,557	1,678	1,805
Number of women imprisoned	49	47	67	58	63
Percentage of women imprisoned (%)	4.1	3.7	4.3	3.5	3.5
Property offences					
Number of women convicted	4,299	4,490	4,732	4,401	4,480
Number of women imprisoned	252	274	279	291	353
Percentage of women imprisoned (%)	5.9	6.1	5.9	6.6	7.9
Property damage					
Number of women convicted	344	393	422	419	428
Number of women imprisoned	5	7	16	8	5
Percentage of women imprisoned (%)	1.5	1.8	3.8	1.9	1.2
Environmental					
Number of women convicted	2	11	11	8	8
Number of women imprisoned	1	1	0	0	0
Percentage of women imprisoned (%)	50.0	9.1	0.0	0.0	0.0
Against justice procedures					
Number of women convicted	724	839	972	1,039	1,168
Number of women imprisoned	67	105	91	99	121
Percentage of women imprisoned (%)	9.3	12.5	9.4	9.5	10.4
Against good order					
Number of women convicted	1,138	1,138	1,023	1,031	1,320
Number of women imprisoned	5	13	13	7	17
Percentage of women imprisoned (%)	0.4	1.1	1.3	0.7	1.3
Drug offences					
Number of women convicted	1,116	1,081	1,208	1,128	1,318
Number of women imprisoned	40	41	49	45	39
Percentage of women imprisoned (%)	3.6	3.8	4.1	4.0	3.0
Driving offences					
Number of women convicted	4,158	4,509	4,956	4,975	5,439
Number of women imprisoned	20	21	24	29	29
Percentage of women imprisoned (%)	0.5	0.5	0.5	0.6	0.5
Other					
Number of women convicted	104	99	132	170	179
Number of women imprisoned	12	0	0	0	3
Percentage of women imprisoned (%)	11.5	0.0	0.0	0.0	1.7
Total					
Number of women convicted	13,077	13,824	15,013	14,849	16,145
Number of women imprisoned	451	509	539	537	630
Percentage of women imprisoned (%)	3.4	3.7	3.6	3.6	3.9

**Table A2: Trends in female convictions and sentences in NSW Higher Courts
by offence category, 1994 - 1998**

	1994	1995	1996	1997	1998
Offences against the person					
Number of women convicted	44	32	33	36	41
Number of women imprisoned	17	11	16	15	21
Percentage of women imprisoned (%)	38.6	34.4	48.5	41.7	51.2
Robbery and extortion					
Number of women convicted	26	36	33	37	46
Number of women imprisoned	13	20	18	20	32
Percentage of women imprisoned (%)	50	55.6	54.5	54.1	69.6
Property offences					
Number of women convicted	125	87	73	55	75
Number of women imprisoned	23	20	23	19	28
Percentage of women imprisoned (%)	18.4	23.0	31.5	34.5	37.3
Property damage					
Number of women convicted	5	5	9	8	3
Number of women imprisoned	1	2	1	1	0
Percentage of women imprisoned (%)	20	40	11.1	12.5	0
Against justice procedures					
Number of women convicted	30	19	29	14	21
Number of women imprisoned	3	3	2	4	6
Percentage of women imprisoned (%)	10	15.8	6.9	28.6	28.6
Weapons					
Number of women convicted	2	3	0	1	2
Number of women imprisoned	0	0	0	0	0
Percentage of women imprisoned (%)	0	0	0	0	0
Against good order					
Number of women convicted	2	2	1	1	1
Number of women imprisoned	0	1	1	0	0
Percentage of women imprisoned (%)	0	50	100	0	0
Drug offences					
Number of women convicted	102	81	48	49	41
Number of women imprisoned	25	16	23	15	23
Percentage of women imprisoned (%)	24.5	19.8	47.9	30.6	56.1
Driving offences					
Number of women convicted	19	5	8	8	12
Number of women imprisoned	5	0	1	2	6
Percentage of women imprisoned (%)	26.3	0	12.5	25	50
Against prison rules					
Number of women convicted	0	1	1	0	1
Number of women imprisoned	0	1	1	0	1
Percentage of women imprisoned (%)	0	100	100	0	100
Other					
Number of women convicted	0	3	0	0	0
Number of women imprisoned	0	0	0	0	0
Percentage of women imprisoned (%)	0	0	0	0	0
Total					
Number of women convicted	355	274	235	209	243
Number of women imprisoned	87	75	86	76	117
Percentage of women imprisoned (%)	24.5	27.4	36.6	36.4	48.1