

# Diverting women from custody: The importance of understanding sentencers' perspectives

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**Abstract**

There is an unusual degree of consensus around the idea that the trend towards using custody more frequently for women should be reversed. Both the current and previous governments in England and Wales have invested in the development of community-based one-stop shop centres for women with this in mind. Interviews with a small sample of judges and magistrates, after the Together Women project had been running in their areas for three years, suggest that the increased provision of community support for women has been welcomed. However, other changes may be needed before one-stop shops are seen as a replacement for prison rather than just as a useful supplement to community orders. These interviews also suggest that sentencers see the probation service as having a key role to play in bringing about such a transformation.

**Keywords**

community orders, one-stop shop, prison, sentencers, women

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## Introduction

The second Corston report (2011) drew attention to how much had been achieved in the four years since the first review (Corston, 2007) examined women's treatment in the criminal justice system and considered what improvements were needed. The funding and development of one-stop shop women's centres were particularly welcomed because they provide the courts with 'strengthened community sentences as an alternative to custody' (Corston, 2011: 4), while offering holistic support to women whose complex social problems put them at risk of offending and reoffending.

In a context of swingeing cuts to public expenditure, it is encouraging that the Coalition government has continued to follow the previous administration's lead by allocating some funding to support community-based provision for women.<sup>1</sup> It would seem that politicians from all sides are keen to reverse the 15 year rise in the number of women being sentenced to short prison sentences. Of course, in the longer term, this makes good economic sense because so little of the money spent on short sentence women prisoners goes on their resettlement needs (National Audit Office, 2010); and because, as reception numbers have increased, so have reconviction rates.<sup>2</sup>

Although the national evaluation of the Together Women initiative (Jolliffe et al., 2011) is a better critique of central government assessments of local delivery, than an evaluation of community-based provision for women, there is evidence from Together Women (Hedderman et al., 2011) and other similar schemes (e.g. Gelsthorpe et al., 2007; Loucks et al., 2006) that the one-stop shop approach is effective in helping women to gain the confidence and the skills they need to desist from offending.

So, arguably, the political will exists to reduce the use of custody for women, a growing number of areas are developing the community-based resources to offer courts more effective alternatives, and there is some evidence that such approaches are effective. There is also now clearer evidence that differences in reoffending following a community or prison sentence are not simply a consequence of differences in the women receiving them. For example, a recent study has shown that the one-year reoffending rates of samples of women on community orders released between 2005 and 2008 were between 6 and 12 per cent lower than closely matched samples released from custody over the same period (Ministry of Justice, 2011b). Surely, taken together, these factors will finally reduce the use of custody for women? The answer to that question depends heavily on how the new community-based options are perceived by sentencers; and how far they accept that women should be treated differently to men. Experience from the Together Women project suggests that, while the increased provision of one-stop shops has been welcomed by sentencers, other changes may be needed before these are seen as a replacement for prison rather than just a useful supplement to community orders. And it seems that the probation service has a key role to play in bringing about such a transformation.

## The current study

The Together Women initiative received around £9m of central government funding over a three year period (2007–2010). It operated at five centres in the North of

England, where it sought to provide holistic support to women 'offenders' and those 'at risk' of offending. Neither category was well-defined in that someone who had offended many years earlier, but had no recent history of offending, could be classified as either an 'offender' or 'at risk'. This made little difference to how they were dealt with by Together Women but does affect whether it is appropriate to look for offending-related outcomes when evaluating impact and how Together Women was perceived by local sentencers. Also, while the Ministry of Justice, which funded the project, expected 'at risk' to relate to risk of offending, in practice it was used to refer to any woman who was beset by two or more social problems such as homelessness, mental illness, drug or alcohol abuse, and current or previous victimization. A key element of the Together Women approach was to involve service users in the design and review of their support plans, enabling them to take a degree of control over their lives. This recognized that female offenders are often disempowered by their experiences of victimization (e.g. Hollin and Palmer, 2006) and was modelled on best practice lessons (Gelsthorpe, et al., 2007) from other schemes such as the Asha Centre (Rumgay, 2004a, 2004b) and the 218 Centre (Loucks, et al., 2006).

It is axiomatic that the availability of an option like Together Women will only affect the decision to use custody if sentencers are aware of it, approve of it, and think it provides a suitable alternative to custody. Understanding how a new option for women might affect sentencing decisions also requires a broader appreciation of how far such decisions are affected by an offender's sex or gendered responsibilities (being a 'breadwinner' or heading a 'single-parent' family, for example). To this end we sought interviews with judges and magistrates at each of the ten local courts where Together Women had been promoted. Five group interviews involving a total of 14 magistrates were held at four courts and six sentencers were interviewed at four Crown Court centres. Interviews varied in length from 40 minutes to 1 hour 24 minutes. One judge asked not to be recorded and the recording equipment failed during one interview with magistrates. Detailed notes were taken during these interviews and all the recorded interviews were fully transcribed.

The interviews addressed three main questions:

- What influences sentencers' decisions to use custody for women?
- How did the availability of Together Women affect the decision to use custody?
- What might help to reduce the use of short prison sentences for women?
- Each interview was guided by a list of topics to be covered under these three headings, but this was only to ensure that each interview covered similar ground. The wording and ordering of questions was not prescribed to ensure that interviewees were free to express their views in their own terms.

All of those interviewed had many years' sentencing experience. On average, the judges had 12 years' experience (range 5–26 years) and the magistrates had 15 years' experience (range 5–37, one unknown). An equal number of men and women were interviewed, but only one came from a Black or Minority Ethnic background.<sup>3</sup> While variation in the length of time respondents had been sentencers, and

the equal numbers of men and women interviewed, suggests that the results are likely to be reasonably representative, the number of sentencers interviewed is small. As we asked the courts to suggest interviewees who were knowledgeable about Together Women, it could be argued that this had a biasing effect, although knowledge and approval are of course different things. In fact, two judges agreed to be interviewed because they were interested in the sentencing of women but knew nothing about Together Women and wanted to find out about it. Also, the two courts which refused to participate did so because they knew too little about Together Women to feel able to comment, although Together Women had been available in their local area for three years. This may be regarded as a finding in itself.

## **What influences sentencers' decisions to use custody for women?**

Judges and magistrates all agreed that the first question they considered when sentencing anyone who had entered a guilty plea or had been convicted is whether the offence was so serious that only a custodial sentence would be appropriate. This, they said, was followed by concerns about protecting the public. They all expressed the view that men and women should be sentenced in the same way when their offending and personal circumstances were equivalent; however, most noted that this was rarely the case:

**J5-M** Oh there's no question about it... that they are a very... and I always feel this... a much more complex group of offenders, and are usually there with much more baggage than even some of their most difficult, sort of more complicated, male counterparts.

**M11-F** Yes. When I say, I think women's... you know, equality, it's very... it is unequal. I think the women that come to court and end up in front of court, it's not usually as... my colleagues may disagree, maybe I'm not expressing it properly. It's not always as reckless as maybe a male approach to offending... And you can just see the overwhelming responsibility that some women carry. Now, that's not... I don't wish to be... you know, be unfair to male defendants, because we have many male defendants with incredibly difficult lives and difficult issues. But I do think that women... they have lots of these short sentences, you know, that maybe they shouldn't have, at times. Because they haven't had anybody to speak to and sort out the problems that were behind the offending.

While estimates varied about the frequency with which they dealt with women, from between one in ten to one in three, all the sentencers interviewed agreed that women constituted a minority of defendants. The main sex differences sentencers perceived in the nature of offending were that women's offending tended to be less diverse (public order, drug possession and theft were mentioned most often); and it was generally less serious. Three judges and two groups of magistrates believed that, in recent years, the number of women dealt with for violence had increased. When asked if this experience was based on statistical evidence, most said that it

was not but reflected their experience in the courtroom. One group of these magistrates and one judge explained that their views about women becoming more violent had been informed by documentaries and reality TV programmes about policing ('Street Crime UK' was mentioned in one interview as an example). One magistrate also said that her view was informed by walking through the local town centre at night, rather than her experience in court.

A small number of offences including benefit fraud, failing to ensure their children attended school, and soliciting were perceived to be unusual in that more women than men were prosecuted for them. Some women offenders were also described as offending under pressure from a male partner. This was mentioned more often by Crown Court judges who often characterized women's offending as subordinate to that of male co-defendants. When asked for recent examples, judges mentioned women who had allowed boyfriends to store stolen goods, drugs and, in one case, guns in their homes. Other examples included a woman who had acted as a lookout during domestic burglaries; and another who provided information on potential burglary targets.

When asked to describe the typical characteristics of men and women coming before them for sentencing, magistrates and judges described both the men and women as tending to be drug users, to lack qualifications, to have poor or non-existent work records, and to have unstable family lives. Women were characterized as typically having additional problems. In particular, they were described as frequently having sole or main responsibility for children and other dependents (e.g. elderly relatives), being victims of domestic violence, suffering from mental illness, and having histories involving abuse as children:

**M2-F** I do think that in one sense women have more problems than men, in that a lot of their problems are caused by the men. Like domestic violence, single parenthood, and they have to bear the brunt of that. Equally, if they've got children, whereas men can just float off and just be on their own, can't they? Without any responsibilities.

**M13-F** But mental health issues that they carry from childhood, from abusive relationships from a child, and from seeing their parents, you know. They kind of almost inherit it, you know. That is something that has featured a lot in my work with female offenders; those I've met in court and those I've met in prison.

Women's problems were also seen as more inter-related and hard to disentangle:

**J5-M** ... there's all the issues related to their ... children and their relationships with often violent or difficult male partners, that makes them a very vulnerable and very difficult group to deal with. It's difficult to decide sometimes, because you don't know whether it's mental health that is the root, which is being disguised by alcohol, drug abuse, or both. Or whether, actually, the alcohol or drug abuse has triggered the mental health issues. And so often, you get this multi-layered sort of difficulty, that you've got somehow to deal with within a fairly ... particularly in the traditional system ... constrained sentencing regime that we have; very difficult to do.

While all the sentencers interviewed spoke sympathetically about the backgrounds of the men and women they sentenced, there was considerable variation in how far they described taking factors like a history of victimization or mental illness into account. There was more agreement over the importance of being a carer. Every sentencer who mentioned this added that they would take such factors into account regardless of whether the offender was male or female. However, they also said that in practice this came up more frequently when the offender was a woman. For example:

**J4-M** ... what will always be an important factor for me ... is the impact of a custodial sentence on any child, who's being cared for by the woman, or with whom the woman has some sort of relationship, such as contact. There is also quite a significant incidence of women who are looking after elderly or infirm relatives, or people, or contribute some part of the support package. And I tend to place a lot of weight, and probably in criminal terms a disproportionate amount of weight, on the interest of third parties like that. That is more likely to operate with a woman, but by no means is exclusive to women. So, that's one factor.

However, it would be a mistake to think that women with children automatically escaped custody, as the same interviewee also said:

Clearly, a woman who has responsibilities as a carer, whether it's a child or a relative, will have special sentencing needs. And it's, I think, very, very difficult, actually, to gain a clear understanding, when you're confronted with this, as to the reality of their role as a carer; whether anybody else can substitute for them, etc. Because it's being presented to you as a means of trying to escape what would otherwise be a custodial sentence.

Two other judges interviewed in another area noted that they had recently sentenced a number of young mothers to custody for smuggling drugs into several nearby prisons for their male partners. They argued that it had been essential to use custody in these cases to promote general deterrence even though the women involved were first time offenders:

**J1-F** Yes, we are close to a number of prisons here, and we have an enormous number of cases of young women with no previous convictions taking, usually heroin, sometimes cannabis into the prison. ... And the reason being that it would be very easy for a bloke to say to his girlfriend 'Come on bring it in, they won't do anything to you because you're pregnant, or you've got a baby'. And if that message goes out, it's 'Oh we can get away with this'. They are now, just recently I've noticed, prosecuting the men as well, in the prison. Just recently, because I've always felt very aggrieved that the chaps, who set the whole thing up, have got away with it. But I think these women are probably very well briefed, by the time they get to court, by their lawyers, about what's going to happen to them. ... In fact, if you go into prison, the local one here, they've got newspaper articles up showing what people get. I think if you go soft on them it's just a green light.

All of the sentencers interviewed insisted that their sentencing was consistent with sentencing guidelines in that they only considered a custodial sentence automatically when the offence was 'so serious' that only custody was appropriate or where public protection was a consideration (see Sentencing Guidelines Council, 2004). In other cases, where they felt they had a choice, sentencers described using custody reluctantly and as a last resort for women and men. Perhaps because they tend to deal with a higher proportion of serious cases, this view was most strongly expressed by judges, several of whom explained that this was because they considered prison to be ineffective in reducing reoffending, except very occasionally when it allowed someone 'time-out' to detox. When judges were asked to give examples of cases that were 'so serious' that only custody would be appropriate they described cases involving serious violence, drug supply and domestic burglary.

All of the magistrates interviewed stressed that they very rarely used custody because most serious offending was dealt with at the Crown Court. However, when asked to describe cases which had met the 'so serious' threshold, what they actually described, at all four of the magistrates' courts visited, were cases involving repeat offenders who had served previous noncustodial sentences rather than inherently serious offences. Sometimes the magistrates acknowledged this distinction; in other cases they seemed unaware of it. Quotes from each of the magistrates' courts at which interviews were conducted illustrate this point:

**M5-F** We have a procedure when sentencing and you work through the procedure and, when you've tried everything else ad nauseam, there comes a point where there is no alternative. You're not thinking of anything other than there is no other road. I don't think you are thinking 'Is it punishment?', 'Is it protection of the public?', you're thinking 'I have no choice in this'.

**M2-F** It does depend on the number of offences which have been committed. Because that ratchets it up. It starts off here, and the next time it's gone up a step, and up a step.

**M9-M** ... if you've got a situation where someone is just completely non-compliant, everything has been tried to help in the past, etc. ...

**M7-M** No ... the ones that we do see, that are at risk of custody, it's not because of the seriousness of the original offence. I think it's because of the total non-compliance with ... that they've got an offence which they'll probably get a community order for, but they don't like having to do the community order, so they will breach. And they're more likely to be sentenced to custodial sentence, because they're just persistently breaching.

This finding is consistent with the findings of Hough, Jacobson and Millie (2003) whose interviews with sentencers also showed that magistrates were particularly likely to view custody as inevitable because of the offender's previous offending and sentencing history, rather than because of the seriousness of the current offence.

## How did the availability of Together Women affect the decision to use custody?

Between 2007 and 2010 Together Women was certainly the best funded, and probably the highest profile, intervention for women in the country. For example, it won the Howard League's Community Award in both 2008 and 2010 and was featured on BBC Radio 4's 'Woman's Hour' programme in December 2010. Also, the majority of the sentencers we interviewed had a good understanding of the scheme. Yet two of the ten local courts said they were unable to identify sentencers who knew enough about Together Women to be interviewed and two of the sentencers who were interviewed also said they knew nothing about it. The explanation for this may lie in the fact that where sentencers did know about Together Women, they described the probation service as playing a key role in this awareness. Some of those interviewed were able to describe presentations from the local Together Women managers and subsequent visits to Together Women centres, but an initial probation endorsement seemed to be key to agreeing to such presentations and visits. A number of sentencers described the way short-term funding led to a high turnover of local providers and that in this context they relied on probation to filter out the weaker options and identify the useful ones:

**M5-F** I think it's about funding. They are only on short-term funding. We're always very sorry when a service provider folds or loses a contract. Continuity is very important for us and the users. We've got to know what we're doing and the changes don't seem to add anything, only to bring confusion. We have to learn about each one as they come up and figure out which to trust all over again – and some are not as good as others. We always want to see what's going on, to visit, and that's more time used up. It's not ideal when we have other things to do.

Those who were aware of Together Women all welcomed it as filling an important gap in local services. They saw its focus on tackling the range of a woman's social and personal problems as central to addressing the underlying causes of offending and thus preventing future offending. Its holistic, client-centred, and individually-tailored approach were seen as setting it apart from existing services and as the features which were likely to secure success.

However, while three of the six judges interviewed said they had referred women to Together Women in place of custody, all of the magistrates said they had never done this and were not aware of it ever happening, although most could describe cases in which they had either encouraged a woman to attend alongside a community order or had seen the positive results of women doing so. Given that judges generally deal with much more serious cases, and that magistrates impose nearly five times as many short custodial sentences as judges,<sup>4</sup> this difference in approach is worth exploring.

The three judges who had used Together Women in place of custody had usually done so by making attendance a specified activity as part of a generic community order (with the agreement of the local Together Women centre). Their reasons for deciding not to use custody seemed to reflect their belief that while a short prison

sentence might be the right punishment, it did not offer much protection to the public, and it was ineffective in tackling the causes of offending:

**J6-M** ... my view is that you've got to look at what is likely to be on offer for them in that prison environment, and is that going to assist them to rehabilitate, when they come on the outside? The answer is almost always no. There's not much on offer and no, they're not going to be able to rehabilitate with what is on offer, because it's not going to be sufficient.

With hindsight one of these judges thought that making attendance mandatory in one case might have been a mistake. The very range and depth of the woman's problems (a history of abuse, drug use, and chaotic lifestyle), which made her such a suitable client for Together Women, had also meant that she did not attend as directed and was therefore breached and sent to prison. One of the other judges who had referred women to Together Women said that he had found encouraging women to attend was usually enough to ensure that they did so.

All of the magistrates interviewed disputed the notion of any community sentence being an 'alternative to custody'. In the case of Together Women, however, this consideration did not seem to arise as all of those interviewed said they had never considered making attendance at Together Women part of an order. Because they understood that attendance was only ever offered on a voluntary basis, they regarded it as a useful 'addition' to a sentence rather than part of a sentence:

**M2-F** I wouldn't like to think that the difference between sending someone to prison or not was the Together Women project, because it's not statutory. They could go out and say 'Well, I'm not doing that'.

Some magistrates also queried whether attendance at Together Women *should* ever be mandatory, even if this was the only way they could be persuaded to use it as a high tariff option to be imposed before custody. They suggested that this would conflict with Together Women's client-centred ethos and undermine its effectiveness, partly because it would be regarded by the woman as another form of statutory intrusion and oversight, and almost indistinguishable from probation. Echoing Worrall (2002), these sentencers were concerned about the ethics, legality, and negative consequences of sentencing someone to 'help'. They argued that this could lead to much longer sentences being imposed than could be justified on offending grounds as sentencers sought to respond to the longstanding and difficult nature of the problems some women displayed. Worryingly, a few magistrates admitted to already sentencing in this way and did not seem to see any problem with such an approach as, for them, the end seemed to justify the means:

**M2-F** The very first case I reviewed, she was a shoplifter and she didn't really reach the threshold to make a community order but somehow we wangled it and we strongly suggested that she went to Together Women. ... So we reviewed her in two months. ... What had happened to this lady in eight weeks. Her whole demeanour had changed,

because she had somebody there for her. We were all absolutely amazed. Now that, you could say, was a one off, but still. . . .

Other magistrates argued that making attendance enforceable might lead to some women attending and benefiting from Together Women who might not initially attend voluntarily. This was illustrated by the following exchange:

**M2-F** With Together Women we know some of them lack motivation and I think if it was part of the order, even if it was only for a short time, it would concentrate their thinking. And make them think 'Right, it's part of my order' and they would go down and see what the benefits are.

**M1-M** But I go back to that the logic to me is that it's still got to be a voluntary thing. Unless you really want to do it you ain't going to change. If you think about the atmosphere there, down at Together Women, I think you've got to feel you're part of this, that appearing is to some extent of your own volition.

## **What might help to reduce the use of short prison sentences for women?**

When asked what would most encourage them to reconsider sending a woman to custody, magistrates said that having another option recommended by a Probation Officer could sometimes do this, but simply knowing of the existence of an initiative like Together Women would not influence such a decision, no matter how worthwhile they considered such an intervention to be. When specifically asked about whether there were any gaps in service provision or different types of order they would like to be able to use, those working in courts where the Intensive Alternative to Custody pilot<sup>5</sup> was running described this as adding a new step to the community sentence tariff, so that they had one more option to try before imposing custody on those who had exhausted other options. Otherwise, they were unable to identify any community option which would lead them to reconsider the decision to use custody in most cases arguing, like those interviewed by Hough et al. (2003), that the decision to use custody was an active and deliberate response to the offender rather than reflecting a lack of satisfactory or appropriate community options. Magistrates were, however, able to think of two gaps in service provision where mental illness or drug use were issues for women (or men). In these cases they argued that the current choice of pure community or pure custody was too stark and that residential accommodation, which offered both respite from an offender's current circumstances and a degree of daily monitoring, was desirable.<sup>6</sup> They argued that, in these cases, the current range of community sentences offered little day-to-day supervision, because the probation service was not staffed to provide it, and they regarded imprisonment as an excessively harsh and even damaging alternative.

Although none of the magistrates interviewed mentioned this, given that their custodial decisions seemed to be heavily influenced by offenders' sentencing histories and their performance on previous orders, further sentencing guidance on

how to take these factors into account when contemplating custody might help to reverse the trend to use short custodial sentences. It may also be useful to provide more advice on how different community order conditions might be ranked in tariff terms in relation to each other. Certainly a number of judges suggested that revising sentencing guidance would be the most effective way of reversing what most of them believed to have been an upward sentencing drift caused by the existing guidance, although their particular concerns focused on the way longer sentences of custody had replaced shorter ones, rather than custody replacing community sentences:

**J3-M** The sentencing guidelines have ratcheted up the bottom bracket in a lot of cases, so sentences of under 12 months are now much less common... and it's only when the sentence is less than 12 months that suspending can be considered, or a community sentence is an alternative. So the effect has been to drag sentencing upwards. We are always looking for exceptional circumstances to avoid custody, but you have to be constantly aware of the prosecution's right to appeal in indictable-only cases, it's a little more straightforward in either-way cases.

## Conclusions

Between 2007 and 2010 Together Women was probably the best known intervention for women in the country, yet two of the ten courts where it operated said they were unable to identify sentencers who knew enough about it to be interviewed and two of the sentencers we did interview said they knew little about the scheme. Those who were familiar with Together Women were keen to see their colleagues made more aware of its benefits. They suggested that the most efficient and effective way to inform them about this, and other initiatives, was via the probation service whom they trusted to select useful options from what they viewed as a succession of short-lived voluntary sector projects of variable quality. A probation endorsement was most likely to lead to an intervention being considered and utilized. The Coalition government has made it clear that it will be encouraging 'independent providers' to bid to take overall responsibility for supervising offenders in the community' (Ministry of Justice, 2010a: 41) and 'to compete to provide probation services for offenders, with providers increasingly paid for the results they achieve' (Ministry of Justice, 2012: 6). The Together Women experience suggests that while sentencers welcome any new service which enhances the support offenders receive in the community, how they use it depends less on the way the service 'markets' itself to them, and more on how far the probation service endorses it. Sentencers clearly value the 'intelligent customer' function the probation service currently undertakes as this gives them confidence that the independent providers they do have contact with have passed a certain quality threshold.

Any attempt to reduce the number of short custodial sentences being imposed on women each year must be informed by an understanding of how sentencers make sentencing decisions. The current research is very small scale and any conclusions from it must be tentative. However, these results accord with those of previous

research in that judges and magistrates described approaching sentencing differently. Judges' sentencing decisions seemed to be most influenced by offence seriousness. They also considered whether the offender posed a risk to the public. The examples they gave were consistent with this. Perhaps because they sentenced women less frequently, because the women they deal with have sometimes played a subordinate role in an offence, and because at least some judges are sceptical about the value of prison in reducing reoffending, they were more sympathetic than magistrates to the idea of referring women to Together Women in place of custody. Three of the four judges who were aware of Together Women prior to being interviewed said they had referred women there in place of imposing custodial sentences.

While the magistrates interviewed also said that seriousness of offence determined their use of custody, what they further described were cases involving previous failures to comply with community orders. None of those interviewed had used a referral to Together Women in place of custody; and, while they spoke very enthusiastically about the gap in local services it had filled, magistrates described encouraging women to attend Together Women alongside or in place of a community order. While there were mixed views on whether attendance at Together Women *should* be enforceable, because some saw this as contradicting the essential idea of women being in charge of their own support plans, magistrates were all in agreement that unless attendance was mandatory Together Women could only ever be a low tariff option.

All of the sentencers interviewed spoke with sympathy about the circumstances of many of the women and men they sentenced, but only the potential impact of custody on innocent third parties seemed to make them question the need for custody when they believed either the offence, or the offender's previous behaviour on community orders, justified a short custodial sentence. This suggests that appeals to divert from custody based on the needs of the offender are less likely to succeed than those which focus on the effectiveness of an intervention in reducing offending.

Finally, if the reason that magistrates use custody is that other options have been tried and failed, it seems sensible to offer them as many credible community alternatives as possible and to present them as options of increasing severity. While bringing all the previous forms of community supervision (community work, community rehabilitation orders, community punishment and rehabilitation orders, etc.) together in the single generic community order may have increased magistrates' abilities to tailor supervision to the offender's 'risks' and 'needs', it may also have replaced four of five different steps on the sentencing tariff with a single broad one. Guidance which provides magistrates with a clearer idea of how different combinations of conditions may relate to each other in tariff terms may help to reintroduce additional steps on the sentencing ladder for women and thus delay the decision to impose a short custodial sentence.

## Notes

1. In January 2012, an additional £3.5m was announced by the Parliamentary Under-Secretary of State for Justice, Crispin Blunt See: <http://www.justice.gov.uk/about/moj/departmental-board/crispin-blunt.htm>.

2. For example, in 2009 62 per cent of women serving sentences of less than 12 months were reconvicted within one year compared to 58 per cent in 2000. Over the same period reconvictions following court orders served in the community fell slightly from 33.5 per cent to 31 per cent (Ministry of Justice, 2011a).
3. To ensure anonymity, each respondent in the current report is referred to by a code J1 to J6 for judges and M1 to M14 for magistrates. The suffix M or F shows the sex of the respondent.
4. Tables 2.2 and 2.3 of *Sentencing Statistics, 2009* (Ministry of Justice, 2010b) show that Magistrates' Courts imposed 47,302 custodial sentences of six months or less and the Crown Court imposed 10,050. These figures are not available separately for men and women.
5. The Intensive Alternatives to Custody (IAC) pilot programme ran in seven areas from 2008–2009 to 2010–2011. IACs were community orders comprising intensive probation supervision with demanding requirements and interventions to divert offenders from short-term custodial sentences (see Hansbury, 2011).
6. It is not clear whether comments concerning a lack of secure accommodation for the mentally ill reflected a lack of local access to, or a lack of understanding of, Low and Medium Secure Units.

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