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A Literature Review and Analysis of Prison Offences and Punishments in England and Wales in 2007 by Gender

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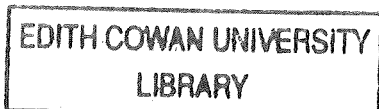
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A Literature Review and Analysis of Prison Offences
and Punishments in England and Wales
in 2007 by Gender



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September 2009

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Abstract

It is commonly agreed by scholars, members of the criminal justice system and the general public that court imposed sentences at times differ depending on the gender of the offender. However, there has been little empirical research conducted in regards to gender differences related to offending and discipline within prisons. The few published studies have reported contradictory results.

Prison discipline is an essential part of upholding the good order and security of prisons along with maintaining the safety of prison staff, visitors, prisoners and the general public. The proposed research will identify any discrepancies between the punishments handed to male and female prisoners within the United Kingdom (England and Wales) for infractions of prison legislation. Available data provided by the United Kingdom prison service will be examined and a comparison made between the disciplinary offences committed, and subsequent punishments incurred by, male and female prisoners. The results in relation to the rates of offending and punishments will then be discussed in further detail. In addition, information will be provided in regards to the current legislation surrounding prison offences in the Western Australian prison system, with the aim being to highlight differences and similarities in prison legislation in Western Australia and the United Kingdom.

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Introduction

Prisons in most developed countries are managed with a system of 'prisoner management' – where prisoners are encouraged to improve themselves and are given opportunities to do so through the provision of purposeful activity (Australian Capital Territory Corrective Services, 2009) rather than the system of prisoner 'warehousing'. 'Prisoner warehousing' merely quarantines prisoners from the rest of society (Jewkes, 2007). Although this system is still used in some countries, it is no longer used in Australia or the United Kingdom (Mahoney, 2005). The system of prisoner management's main objectives are to rehabilitate prisoners for re-entry into the community at the expiration of their custodial sentences and to discourage re-offending by prisoners upon release (Mahoney, 2005).

To achieve these objectives, prison authorities in jurisdictions that use systems of prisoner management allow prisoners to remain out of their cells for up to 12 hours per day to interact with other prisoners and staff, engage in prison employment or education and to complete programs designed to reduce their offending behaviour (Naylor, 2002). These interactions can and do lead to infractions of prison rules and regulations (Naylor, 2002), which are in place to maintain the good order and security of the prison and to ensure the safety and security of the prisoners, staff and the general public (Carleen & Worall, 2004). When these infractions occur and are brought to the attention of prison officials, prisoners can be informally warned or cautioned, given an immediate sanction such as a loss of privilege or can be formally charged in accordance with prison legislation. In Western Australia, this includes the Western Australian *Prisons Act* (WA) (1981) and the Director General's Rules (2009) in Western Australian prisons and The Prison Rules 1999, as amended, and The Young Offender Institution Rules 2000 which are in operation in United Kingdom prison establishments (United Kingdom Ministry of Justice, 2008).

Research undertaken by various Government Departments and academic writers has unearthed a possible gender bias in relation to the severity of the penalties imposed for prison offences, with research suggesting that women receive harsher penalties for similar offences than men in the prison setting

(Godfrey, Farrall & Karstedt, 2005, United Kingdom Home Office Statistical Bulletin, 2004, Naylor, 2002). Indeed, a similar issue has been studied extensively in relation to gender disparities of court imposed sentences, yielding mixed results (Rodriguez, Curry & Lee, 2006, Reuter, 1996, Potas & Walker, 1987). The issue of prison punishment has not been extensively studied. However, research suggests that punishments are more severe for female prisoners (Sisters Inside, 2004, Naylor, 2002).

Most relevant available literature suggests that females breach prison discipline more often than males and are more likely to receive prison charges for these breaches (Western Australian Inspector of Custodial Services, 2006). Nevertheless, it would be of use to examine statistical data further to determine trends in the rates of prison offending, identify any differences or similarities in the rates of offending between male and female prisoners and the differences or similarities in punishments given for particular offences in the prison system. Finally, the purpose of this research is to examine whether there is a gender disparity in the punishments issued for prison offences, and whether prison offences, or certain prison offences, are more likely to be committed by women. As data from the Western Australian prison system are not available for this study, available data from the United Kingdom (England and Wales) prison system will be examined and trends will be identified.

Chapter 1

Literature Review

Prison Disciplinary Systems and Gender Differences in Prison Based Punishments.

Research has exposed possible instances of offenders' gender bias in sentencing decisions when offenders are sentenced in the court systems in Australia and overseas jurisdictions (Rodriguez, Curry & Lee, 2006, Reuter, 1996, Potas & Walker, 1987, Whitehead & Blankenship, 2000). Thus far, very little research has been undertaken as to whether or not this is the case in regards to sentencing offenders for infractions against prison disciplinary systems (United Kingdom Home Office Statistical Bulletin, 2004, Naylor, 2002). The focus of this review will mainly revolve around Western Australian, Australian, New Zealand and, in particular, United Kingdom research and legislation. These jurisdictions have been chosen in particular due to the fact that their prison systems use similar methods with regards to prisoner management (Naylor, 2002). A range of literature and statistics is available regarding the United Kingdom's penal system (United Kingdom Ministry of Justice, 2008), and it is envisaged that examination of the literature and data from this jurisdiction may be relevant and useful in Australian jurisdictions. The scope of research and literature surrounding the role of prisons, prison disciplinary systems and gender differences in sentencing will be studied in detail. Implications for prison administrators in terms of reducing disparities in prison offending and prison discipline in regards to gender will be explored.

The Role of Prisons

Imprisonment is the most severe form of criminal justice sanction since the abolition of corporal and capital punishment in Australia, New Zealand and the United Kingdom and is to be used as a last resort mechanism to protect society from crime (Western Australian Office of the Inspector of Custodial Services, 2007). The main objective of the prison system is, therefore, to remove the offender's liberty as punishment (Mahoney, 2005). Secondary objectives are to keep prisoners securely in prison, to keep prisoners and those working with them

safe, to rehabilitate offenders, and to provide reparation to society and to offenders' victims (Mahoney, 2005).

Weatherburn (1982) suggests that where deprivation of liberty is used as punishment it is essential for prison management to accord prisoners all rights and dignities appropriate to anyone in society. Prison discipline should only be administered to maintain the good order and security of the prison (Weatherburn, 1982). According to the International Prison Policy Development Instrument (2001), prison discipline should not involve harsh or degrading treatment or physical or psychological abuse. A prison disciplinary system must be a formal system by which prisoners who are alleged to have committed prison offences are adjudicated upon and receive fair and just punishment (Dugan, Roche & Tucker, 2003). Disciplinary systems must also serve as a mechanism to ensure staff, visitors and prisoners are protected from intimidation, threats, harassment and bullying and to ensure property is protected (Dugan, Roche & Tucker, 2003).

The Western Australian and United Kingdom Prison Disciplinary Systems – A Comparison

As prisons comprise large numbers of people who want to be anywhere else but confined to prison and some of whom dislike, distrust and fight each other (Naylor, 2002), maintaining order is at the forefront of upholding prisons' objectives. The general population has rules to maintain security, safety and good order, and prisons are no different (Groves, 1998). As prison populations have more people that may interact in a negative manner with each other and staff, and who have frequently proven from their histories that they can be aggressive or violent (Groves, 1998), it can be suggested that it is even more necessary to have rules and regulations to govern prisoners' behaviour (Naylor, 2002). There is an inherent need to maintain security, good order and discipline within prison facilities to ensure the safety of staff, prisoners, visitors and members of the community (Queensland Government, 2004).

Similarities abound between the Western Australian and the United Kingdom prison systems and prison legislation. In both jurisdictions, prison disciplinary offences are those that constitute breaches of prison discipline and are primarily administrative in nature, rather than criminal (United Kingdom Ministry of Justice, 2008, Western Australian Inspector of Custodial Services,

2007b) and therefore normally do not require intervention by external or judicial agencies. This is primarily due to the fact that some infractions that constitute prison offences are breaches of the many restrictions and prohibitions that prevail only in the prison environment and not in the wider community (Dugan, Roche & Tucker, 2003). However, the rule of law does not end at the prison gates in either jurisdiction as police must investigate any criminal offence that is committed in a prison in the same way they would in the wider community (Western Australian Office of the Inspector of Custodial Services, 2007). In Western Australia, prison offences are mainly dealt with by prison staff or independent adjudicators. In some cases, the severity of the prison offence committed will prompt prison administrators to refer the matter to a court of summary jurisdiction (*Prisons Act* (WA), 1981). The United Kingdom uses a similar method of enforcing prison discipline by allowing prison Governors and independent adjudicators to deal with breaches of prison discipline, along with allowing governors to refer the most serious offences to the police (United Kingdom Home Office Statistical Bulletin, 2004, HM Prison Service, 1995).

Western Australian prisons operate a binary disciplinary system where offences are classified into two groups according to their seriousness as either minor or major (aggravated) prison offences (Law Institute Victoria, 2003). Under the binary system, which is also in effect in New South Wales and South Australia (Dugan, Roche & Tucker, 2003), the laying of charges and the performance of hearings for major prison offences are conducted within the prison environment and presided over by external adjudicators such as visiting justices (Groves, 1998). In other states of Australia and in the United Kingdom the unitary system is used, where offences are not classified according to their seriousness and a single system for charging, hearing, determination and punishment of all prison disciplinary offences by prison staff is used, except in those cases where an alleged offence is referred to police to be dealt with as a criminal offence, such as sexual assault or murder (Dugan, Roche & Tucker, 2003).

According to the *Prisons Act* (WA) (1981), which is in force in Western Australian prisons, offences are classified as either minor offences (Section 69) or aggravated offences (Section 70). Minor offences include disobeying a rule or order, being idle, behaving in a disorderly manner, using indecent language,

pretending illness or injury, wilfully damaging or destroying property, preferring a false or frivolous complaint against an officer, or doing any act or omission of insubordination or misconduct. Aggravated offences include behaving in a riotous manner, assaulting others, escaping or attempted escaping, using or possessing of drugs not lawfully issued, using of drugs other than as prescribed, consuming or possessing alcohol not lawfully issued, being in possession of glue containing toluene or another intoxicant without permission, being in possession of a weapon or a copy of a weapon or failing to submit to having a body sample taken.

According to The Prison Rules 1999, as amended, and The Young Offender Institution Rules 2000, as amended, in force in the United Kingdom, offences that are punishable include assault, unlawful detention of prison staff or prisoners or fighting, possessing unauthorised articles, denying access to prison officers, setting fire to prison property, being disrespectful towards officers, using threatening or abusive language, disobeying a rule or regulation and offending against good order and discipline. Similarities are therefore evident in the types of offences punishable in both the United Kingdom and Western Australian prison systems.

In Western Australia, visiting justices can determine minor or aggravated offences or can direct the prison Superintendent to commence a prosecution for an aggravated prison offence in a court of summary jurisdiction (*Prisons Act* (WA), 1981). In contrast, in the United Kingdom, prisons' Governors can decide to refer a prison charge to a board of visitors (The Prison Rules 1999). In both Western Australia and the United Kingdom, the legislation regarding the penalties able to be imposed for prison offences are available to both prisoners and members of the general public and Superintendents of Western Australian prisons and Governors of prisons in the United Kingdom have the ability to impose one or more penalties for prison offences (*Prisons Act* (WA), 1981, United Kingdom Ministry of Justice, 2008). Penalties available in Western Australian prisons include a caution, a reprimand, cancellation of gratuities for a period of less than 14 days or confinement in the prisoner's sleeping quarters for a period of less than 72 hours (*Prisons Act* (WA), 1981). In contrast, in the United Kingdom, Governors can impose such penalties as a caution, forfeiture of privileges for a period not exceeding 28 days, exclusion from work for a period up

to 14 days, stoppage of earnings for up to 28 days, confinement to a cell for a period up to 3 days or forfeiture of up to 28 days of remission of sentence (The Prison Rules 1999).

Alternatively, visiting justices have the ability in Western Australia to impose a penalty for minor prison offences or to determine charges for aggravated prison offences as minor prison offences – in either case, punishments able to be issued include separate confinement in a punishment cell for up to seven days, confinement to a prisoner's sleeping quarters for up to seven days, separate confinement to a punishment cell for specified hours during a weekend or two weekends, restitution or confiscation or destruction of property associated with the offence (*Prisons Act (WA)*, 1981). In addition, more than one penalty can be imposed for an offence. In the United Kingdom, a board of visitors can impose penalties such as a caution, forfeiture of any privilege for any period, exclusion from work for a period up to 56 days, confinement to a cell for up to 56 days or forfeiture of remission for up to 120 days (The Prison Rules 1999). Again, more than one penalty can be imposed for any one offence (United Kingdom Ministry of Justice, 2008).

Trends in Male and Female Offending and Punishments for Offences Against Prison Legislation

Females in the general population have a relatively minimal role in offending and make up only a small proportion of prison populations, including those in Western Australia and the United Kingdom (Godfrey, Farrall & Karstedt, 2005). In 2008, men were almost fourteen times more likely to be in prison in Australia than women, with women constituting only 7% of the Australian prisoner population (Quinn, 2008). Nevertheless, it is generally agreed in available literature that women offend more frequently against prison discipline than men in Western Australia, other Australian States and in overseas jurisdictions (Naylor, 2002, Dugan, Roche & Tucker, 2003, McClellan, 1994). In addition, Corrections Victoria has found that women are charged with more internal prison offences than men and that women plead guilty more often than men at disciplinary hearings (Cerveri et al., 2005).

Similarly, it has been recorded that female prisoners in the United Kingdom tend to offend more often against prison discipline than men, with 213

offences per 100 prisoners recorded against women in 1999 compared with 158 offences per 100 prisoners recorded against men (United Kingdom Home Office, 2000). In addition, it was found that, in the same year, women were more likely to receive a caution or a cancellation of earnings (similar in severity to a loss of gratuities, applicable as a punishment in Western Australia) than men, although it was found that for both groups additional days were the main punishment for prison offences (United Kingdom Home Office, 2000).

Furthermore, the United Kingdom Home Office Statistical Bulletin (2004) reports that in the United Kingdom in 2004, female prisoners had a higher offence rate than male prisoners for all offences except for escapes and unauthorised possessions, which were the same for both males and females. The greatest offence rate occurred for disobedience and disrespect, in both male and female prison populations, although the rate was significantly higher in the female prison population (United Kingdom Home Office Statistical Bulletin, 2004). It was also found that, overall, females had a higher rate of punishment than male prisoners (United Kingdom Home Office Statistical Bulletin, 2004). Interestingly, males received more penalties than females per offence (it is possible to receive more than one penalty per offence in the United Kingdom), with 1.7 punishments per offence for males and 1.4 punishments per offence for females (United Kingdom Home Office Statistical Bulletin, 2004).

In Victoria, it was noted by Naylor (2002) that in June 2001, 31% of prisoners in the main women's prison were subjected to Governor's hearings (the equivalent of having the Superintendent in Western Australia's prison system hear a charge) whereas in the men's prisons, male prisoners were subjected to Governor's hearings at a rate of between 8.7% and 11.7% for the same month. Additionally, Weigall (2005) suggests that women in the Victorian prison system clearly experience discrimination and possibly bias in discipline matters, where women are charged at three times the rate of men for 'good order' offences and five times the rate for assault related incidents, however she does not state the source of these figures. Similarly, Dugan, Roche and Tucker (2003) comment that their analysis of Victorian prison system data has shown that although females make up only 8% of Victoria's prison population, they are much more likely on average to be subject to a disciplinary hearing than male prisoners and females are more likely to be charged with offences relating to 'good order' than

male prisoners. Additionally, observing the literature in reference to an overseas prison system, McClellan (1994) found that, in the United States, women in Texan prisons were more often reported for prison offences than men, finding that 43% of male prisoners had no reports compared to only 9.8% of female prisoners.

Results in line with the literature from interstate and overseas have been duplicated in the literature available in regards to the Western Australian prison system where, between November 2004 and April 2005, 250 women at Bandyup Women's Prison – Western Australia's maximum security female prison for remand and sentenced prisoners housing all security classifications (maximum, medium and minimum security) - were subject to 219 orders for loss of privilege (Western Australian Inspector of Custodial Services, 2006). Over the same period 570 men in Hakea Prison – Western Australia's maximum security male prison for all security classification remand and sentenced prisoners - were subject to 215 loss of privilege orders and 370 men in the maximum security Casuarina Prison, which houses mainly sentenced (rather than remand) male prisoners of all security classifications, had 250 loss of privilege orders (Western Australian Inspector of Custodial Services, 2006). Staff at Bandyup Women's Prison have explain the high incidence of loss of privilege orders by suggesting that they tended to use the immediate sanction of a loss of privilege rather than proceeding with formal prosecutions (Western Australian Inspector of Custodial Services, 2006). Interestingly however, it was noted by the Western Australian Inspector of Custodial Services (2006) that Bandyup Women's Prison held 4.2% of Western Australia's total prison population in 2002/2003 but administered 12.4% of Western Australia's total prison charges, and in 2003/2004 Bandyup's prison population was 5% of Western Australia's total prison population but issued 16.7% of Western Australia's total prison charges.

Carleen and Worrall (2004) suggest that, in their research of prisons in the United Kingdom, female prisoners routinely commit twice as many disciplinary offences than men and are therefore subject to more disciplinary charges. While female prisoners are more likely to commit offences such as failing to obey an order, creating a disturbance and using vulgar language, explanations of why this is the case are inconsistent (Dugan, Roche & Tucker, 2002). Interestingly, prison discipline, reporting of incidents and penalties for discipline offences are reported

to be notoriously difficult to research in prisons due to privacy legislation and the availability of documents to the general public (Cerveri et al., 2005). Further, Noblet (2008) comments that a vast majority of the literature available on gender differences in regards to punishment is written by feminist writers which may result in their data having a biased slant.

Why Women May Commit More Prison Offences and May Receive Harsher Punishments

McClellan (1994) attempts to explain any obvious gender disparity in prison discipline by commenting that although most offences recorded against women are less serious, women are punished more severely because certain rules are ignored in the male prisons whereas they are strictly enforced in the female prisons. Although little research is available as to why women prisoners reportedly offend more often against prison discipline than men, Cerveri et al. (2005) suggest that women may display aggressiveness and irrationality more frequently than men due to being 1.7 times more likely to suffer from a mental illness than male prisoners, with 84.5% of female prisoners having a mental disorder, including a drug or alcohol related disorder compared to 5.8 percent of the total Australian population (Anti-Discrimination Commission Queensland, 2006). Garde (2003), in addition, comments that the incidence of drug or alcohol related mental disorders may be higher still in prisoners with proven relationships with drugs or drug related activities, such as those with prior or current convictions for drug offences.

Noblet (2008) adds to the evidence in relation to the incidence of mental disorders in prison populations by commenting that 63 percent of women in prison have a neurotic disorder such as depression or anxiety compared with 40 percent of male prisoners and contrasting with less than a fifth in the general population. Similarly, a significant number of female prisoners suffer from a psychotic disorder, with 14 percent of female prisoners suffering from a psychotic disorder, compared with 7 percent of male prisoners – this is 23 and 14 times the rate as in the general population (United Kingdom Prison Reform Trust, 2006). Neurotic disorders such as schizophrenia or delusional disorders and severe mental illnesses frequently results in instability, aggression and violent behaviour (Noblet, 2008).

In addition, Dugan, Roche and Tucker (2003) comment that because there are fewer women in the (Victorian) prison system, their placement options are more restricted which can result in conflicts and the inability to move incompatible prisoners to other locations to avoid verbal or physical altercations. This is reflected in the Western Australian prison environment, where, aside from the minimum security Boronia Pre-Release Centre for Women, Bandyup Women's Prison is the only maximum security women's prison, which holds both remand and sentenced prisoners and all security classifications – minimum, medium and maximum prisoners (Western Australian Inspector of Custodial Services, 2006). In contrast, prisoner movements for management reasons are quite possible in the Western Australian male prison system where there are numerous placement options (Western Australian Inspector of Custodial Services, 2007b).

Interestingly, Garde (2003) adds another theory as to why prisoners offend against prison legislation by suggesting that prison incidents appear to be a reflection of the offending behaviour which caused the offender to receive a custodial sentence - for example, violent offending in the community is reflected by violence perpetrated inside the prison. Naylor (2002) comments that the reasons for gender disparities in prison discipline may be that women prisoners may be more violent, more difficult to manage and more resistant to authority than male prisoners.

With regard to the Western Australian prison system, the Western Australian Inspector of Custodial Services (2008), following an inspection of Bandyup Women's Prison, reported that Bandyup Women's Prison has more prisoners charged for prison offences in proportion to the prison's population than any other Western Australian prison. The Western Australian Inspector of Custodial Services (2008) continues by stating that there were also a number of trivial charges recorded which was suggested to have resulted from less-experienced officers, or long standing officers who used trivial charges to deny privileges or assert control over women who complained about their treatment. However, these assumptions, according to the Western Australian Inspector of Custodial Services (2008), are reports from prisoners and therefore are unfounded in fact, and these suggestions may play a similar part in the male prison system.

In addition, Noblet (2008) comments that discipline is excessively harsh in female prisons because prison authorities expect higher standards of behaviour for women prisoners than they do from men. However, it is evident that this is speculation and Noblet (2008) does not state the source of this information. However, for whatever reasons disparities exist, as prison offending is a factor taken into account when a prisoner's security rating is reviewed and when they are being assessed for their eligibility for parole (Anti-Discrimination Commission Queensland, 2006), it is pertinent that prison offences are pursued fairly and equitably by prison authorities, regardless of any factors such as gender, race or age.

Legislation Relating to Fairness and Equity in Sentencing

In determining a criminal sentence, it is suggested that certain factors must be taken into account - being the type of crime, the degree of intent, the offender's life circumstances and their particular motivations (Sporer & Goodman-Delahunty, 2009). Gender should be an irrelevant ground on which to distinguish people and this principle is now entrenched in all other areas of public life in countries such as the United States, the United Kingdom and, indeed, Australia (Queensland Taskforce on Women and the Criminal Code, 2008). Bearing this in mind, the Australian Law Reform Commission (1988), after examining sentencing practices in Victoria, recommended that the gender of an offender should not be taken into account in itself for sentencing, and differential treatment should not be given simply because of the sex of the offender.

Similarly, in regards to prison discipline, according to the Western Australian Inspector of Custodial Services (2007a), prisons should deal with the discipline of prisoners openly and fairly, and "punishments should be commensurate with the serious [sic] of the offence" (p. 35) and that secondary punishment (being an additional custodial sentence) should be commensurate with the offence or rule breach. The New Zealand Department of Corrections' legislation states that prisoners who are subject to disciplinary action and found guilty of breaching the rules and regulations of the prison must be disciplined in a fair, just and humane manner (New Zealand Department of Corrections, 2008) with discipline and order maintained with firmness and fairness, consistency and transparency (Law Institute of Victoria, 2003). For prisoners not to have

confidence that a fair, equitable and accountable process will be undertaken following an infraction against prison discipline is unreasonable, oppressive, and not conducive to a transparent complaints resolution mechanism (Tasmanian Ombudsman, 2003).

Existing Guidelines in Australian and Overseas Jurisdictions

Punishment goals and sentencing philosophies have been recognised as major determinants of sentencing decisions (Hogarth, 1971). The distinct goals and philosophies can be generally distinguished as being retribution (the sentence should be in proportion to the severity of the offence), general deterrence (preventing others from committing crimes), specific deterrence (preventing the offender from committing crimes in the future by removing the offender from the community for a period of time) and rehabilitation (changing the offender's behaviour through treatment) (Sporer & Goodman-Delahunty, 2009). No guidelines exist in Western Australia as to penalties which can be or should be imposed for certain prison offences, other than maximum penalties which are listed in Sections 77, 78 and 79 of the *Prisons Act (WA)*, 1981. The Western Australian Inspector of Custodial Services (2007a) states simply that the seriousness of the penalty for the offence should take into account the circumstances of the offence including whether or not there was a victim as well as all aggravating and mitigating factors.

Similarly, it is noted by Naylor (2002) that there are no guidelines as to sentencing at Governor's Hearings in Victoria. However, the Governor must, according to legislation, review the circumstances of the case, consider mitigating factors and invite the prisoner to make a plea in relation to the penalty before determining the penalty to be imposed (Law Institute of Victoria, 2003). In the same way, the Prison Discipline Manual (1995) used in the United Kingdom, although not stating formal guidelines, suggests that levels of punishment should be consistent and adjudicators should have a list of recent offences and punishments in order to maintain this consistency. The New Zealand Department of Corrections (2007) has more precise guidelines operating in the New Zealand prison system which state, for example, that if a prisoner behaves in a threatening manner he or she should receive 10 days confinement to their cell and 50 days loss of privileges, the first offence for possessing a drug should

receive 2 days confinement to cell and 7 days loss of privileges and the third drug offence should receive 8 days confinement to cell. The New Zealand Department of Corrections (2007) however states that these penalties vary depending on the circumstances of the offence and are decided on a case-by-case basis – these punishments are suggested penalties only. A ‘loss of privilege’ in both Western Australian prisons and prisons in the United Kingdom entails withdrawing a single privilege, such as the use of a television set or radio, and results from the misuse of the privilege or a breach of a lawful order (Western Australian Adult Custodial Rules, 2009, HM Prison Service, 1995). In comparison, a ‘loss of privileges’ penalty in New Zealand entails the loss of such privileges as movement in common areas, participation in recreational activities, the use of televisions, radios, audio cassette players or compact disc players and the purchase of anything other than essential items for the period imposed by the visiting justice or prison administration (New Zealand Department of Corrections, 2004).

In relation to the need for guidelines, visiting justices to Bunbury Prison in Western Australia began to refer more aggravated prison offences to open court in 2002 where prisoners then received additional custodial terms to be served cumulatively with their sentences, whereas other prisons throughout the State were not pursuing this option as frequently (Western Australian Inspector of Custodial Services, 2003). This resulted in prisoners at Bunbury Prison receiving harsher penalties than prisoners at other Western Australian prisons (Western Australian Inspector of Custodial Services, 2003) – the introduction of guidelines may eliminate such discrepancies in prison-based punishments in prison systems.

Gender, Discipline and Punishment in Society

International guidelines have been developed which affirm that prisoners must be treated with respect for their dignity and set down minimum standards for matters such as prisoner classification and discipline (Bastick & Townhead, 2008). The International Covenant of Civil and Political Rights (1966) states clearly that all persons are equal before the courts and tribunals, whereas the Universal Declaration of Human Rights (1948) plainly states that all persons are entitled to equal rights without any distinction of any kind, such as race, colour or sex or other status. Bastick and Townhead (2008) additionally state that the

equality of rights between men and women is a fundamental norm reiterated in all major human rights instruments and that women and girls who are imprisoned are entitled to equal enjoyment and protection of all their human rights without any discrimination.

With reference to these human rights instruments, it is arguable that men and women should be treated equally in the criminal justice system. Even so, academic scholars and members of the public have frequently criticised apparent disparities in the manner and severity in which men and women are disciplined in substantially similar cases (Sporer & Goodman-Delahunty, 2009). Nevertheless, researchers have found conflicting evidence of this. Eastaer (1991) found that gender does not impact directly on the length of sentence given to men and women. However, particular aspects of the female defendant in the courts system may affect the length of sentences – it has been noted by Kapardis (2009) that attractive female defendants may receive more lenient sentences and in the American legal system, pregnant female defendants commonly have their sentences deferred (Scheb, 2003). Similarly, Naylor's (1992) research into sentencing in the Victorian court system found that more women received bonds than men and more men, as a percentage, received fines. However, when other matters such as prior criminal history and offence seriousness were taken into account, the only difference remained was a slightly smaller fine for women. Additionally, Mauer, Polter and Wolf (1999) comment that a host of factors could be at work when studying sentences given to male and female offenders, including the severity of the offence, the offender's prior record and individual circumstances, which all need to be evaluated to make a full assessment of whether or not disparities exist solely on the basis of the offender's gender.

Reducing Disparities in Punishments for Prison Discipline

The Tasmanian Ombudsman (2003) emphasises that training should be conducted for all prison staff in the disciplinary process, where a clear understanding of the structure and processes is essential to ensure fair, effective and consistent treatment is provided to all prisoners. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (2004) states that there is no better guarantee against the ill-treatment of a person deprived of his liberty than a properly trained prison officer.

In addition to training of prison officials in the provision of the disciplinary processes and the establishment of flexible guidelines in relation to penalties, Dugan, Roche & Tucker (2003) comment interestingly that prison officials should also be trained in gender differences in conflict and dispute resolution, to ensure women are not unfairly treated in regards to being charged with prison offences.

Further, the Western Australian Inspector of Custodial Services (2005) recommended, following a review of the management of offenders in custody, that changes should be made to the *Prisons Act (WA)*, (1981) to include appellate provisions to an external body. Currently, in Western Australia, prisoners cannot appeal against prison disciplinary sanctions unless the penalty is imposed by a court of summary jurisdiction (*Prisons Act (WA)*, 1981). However, it is suggested that some disparities in sentencing are inevitable as the decisions are being made by humans – sentencing involves discretion applied within the constraints of the judicial process and the balancing of many, often conflicting considerations and facts that can not always be assigned individual weight (Traynor & Potas, 2002). Mauer, Polter and Wolf (1999) suggest that an effective system under which sentences are determined is through a sentencing 'grid', where several factors such as the severity of the offence and the offenders' prior record in sentencing which in turn restricts judicial discretion, but does not eliminate it – judges may depart from the presumptive sentence if they can document aggravating or mitigating circumstances that support the departure from the guidelines (Mauer, Poulter & Wolf, 1999).

It is debatable that a set of guidelines may be helpful for use in prison systems to administer the tariff of penalties available for particular prison offences, which should take into account the seriousness of the offence and the prisoner's prison offence history (Tasmanian Ombudsman, 2003). However, authorities should still be able to use discretion in sentencing for prison offences, to take into account the idiosyncrasies of the particular case, and any mitigating circumstances. Mustard (2001) comments that, with guidelines developed by the United States Sentencing Commission in regards to court imposed penalties, sentences for individuals with the same offence level and criminal history can not differ by more than 25 per cent – judges may depart from the guidelines and issue a more lenient or harsher sentence, but reasons for this must be explicitly stated. This therefore allows judges the flexibility to take into account mitigating

or extenuating circumstances when sentencing. This idea is reflected by Dugan, Roche and Tucker (2003) who state that guidelines should facilitate flexibility to enable correctional officers to respond to individual cases. However, such guidelines would provide direction to officers about appropriate levels of sanctions applicable for certain offences (Dugan, Roche & Tucker, 2003).

It has been noted that judges dislike sentencing guidelines. Yet, when the use of discretion is reduced, biases attributable to extra-legal factors such as the offender's gender and appearance can be reduced (Sporer & Goodman-Delahunty, 2009). Hartley, Madden and Walker (2006) remark that a comparison of sentences in Arkansas in the United States both before and after voluntary guideline introduction found that the influence of extra-legal factors of race and gender were negligible after the guidelines were introduced. However, unintended consequences of sentencing guidelines have been reported by Mustard (2001), those being that traditional sentencing can lose its moral force and that judges can be denied the opportunity to develop a principled sentencing jurisprudence.

In regards to prison discipline, the Victorian Human Rights Law Resource Centre (2009) comments that it is concerned about the overly broad discretion given to disciplinary officers under the Corrections Act (Victoria) (1986) in force in Victoria, suggesting that instead, offences should be categorised and each category should correspond to a penalty that is clearly expressed in Victoria's regulations. Additionally, Sporer and Goodman-Delahunty (2009) submit that in the absence of written reasons for sentences, it is difficult for offenders, where legislated, to have their sentences reviewed on appeal. In the case of sanctions referred to and imposed by a magistrate or two justices in a court of summary jurisdiction, it is to be expected that judges and other criminal justice officials will inevitably bring their own values and perceptions to their decision making and it is probable that various factors will affect the decision made, those being such things as the seriousness of the offence and the offender's comportment towards the court (Naylor, 1992).

An additional tool, which may be valuable in ensuring fair and equitable treatment of prisoners in terms of prison discipline, is that of the Official Visitors. Official Visitors, active in many Australian jurisdictions including Western Australia and Queensland, are generally members of the public who are

appointed to visit corrective services facilities to hear and investigate prisoner complaints (Queensland Government, 2005, Western Australian Inspector of Custodial Services, 2007b). In Victoria it is not unusual for an independent prison visitor to be present as observers at Disciplinary Hearings, which enhances accountability and transparency, particularly as Official Visitors report directly to the Minister for Corrections each month (Dugan, Roche & Tucker, 2003). In the absence of the ability for prisoners to appeal prison punishments given by Superintendents, governors or visiting justices, this may be a useful tool in modern prison systems to enhance transparency and reduce potential issues surrounding discrimination or favouritism (Dugan, Roche & Tucker, 2003).

Theoretical Framework – Why Women May Receive Differing Penalties

A theory which attempts to explain why women may receive harsher penalties in the criminal justice system is that of the 'evil woman thesis' or 'selective chivalry theory' (Farrington & Morris, 1983). Rodriguez, Curry and Lee (2006) suggest that this theory is predicated on the belief that women whose criminality violates the conventional norms of femininity are treated equally or perhaps more harshly to men convicted of comparable offences. Female offenders can be seen by some as 'doubly deviant' and are punished for the offence and for defying gender and social norms, representing a threat to the stability of family life and of social order (Noblet, 2008). Similarly, sentencing leniency is reportedly only apparent with females who commit crimes that are 'typical' of females and female gender roles such as shoplifting or fraud (Farrell, 1998) – 'evil women' who commit masculine crimes such as those involving violence are not preferentially treated compared to men and may even receive harsher sentences as they are not only violating the law but also their gender roles (Rodriguez, Curry & Lee, 2006).

Similarly, with regards to prison systems and prison discipline, prisoners who are also mothers are seen to abrogate socially constructed female ideals of compliant, law abiding women and they are also seen to have contravened their primary maternal role as nurturing responsible parents (Farrell, 1998).

Mansnerus (1997) suggests that offending women are treated more harshly due to the fact that they have defied their nurturing stereotypes. In addition, Godfrey, Farrell and Karstedt (2005) comment that disparities in sentencing of male and

female offenders for criminal acts are due to gender-related contextual factors, rather than gender bias. However, women are sometimes disadvantaged by appearing to offend both against the law and against conventions of femininity (Montgomery, 1998). In agreement, Mustard (2001) offers that females are objects of discrimination and receive worse outcomes in sentencing than males due to being seen to offend against the norms of femininity, in addition to society's norms and regulations.

Polk and Tate (1988), Visher (1983) and Naylor (1992) add that females can be treated more harshly than men if they are found to engage in 'unfeminine' crimes, such as those involving violence. However, they can be treated more leniently when they act in an approved feminine role, such as stealing clothing items or items necessary for young children (Visher, 1983). Noblet (2008) further comments that women tend to commit offences because of 'need not greed'. For example, women may shoplift food or clothing for their families or to provide for their children or murder their spouses due to violence within the family unit (Polk, 1991) and may then receive more lenient sentences in court when these mitigating circumstances are taken into account (Sentencing Advisory Council, 2005) – further supporting the 'selective chivalry theory'. Sporer and Goodman-Delahunty (2009) agree by suggesting that women who commit crimes that violate traditional gender roles that they behave in a warm, nurturing fashion are punished more severely than their male counterparts. Similarly, Rodriguez, Curry and Lee (2006) found that men are more than twice as likely to receive a prison sentence for property and drug offences, but there were no gender differences in the likelihood of incarceration for violent offences. These comments have been echoed in Noblet's (2008) research which suggests that women may receive more lenient sentences for minor crimes but can receive harsher treatment than men for more serious crimes.

With regard to the wide-ranging effect that the 'selective chivalry' or 'evil woman' theory may have on decisions within the criminal justice system, Mustard (2001) comments that when female stereotypes affect decisions within the system, they result in inequitable treatment for female offenders from predominantly male police officers, prosecutors or judges. Bias may have an effect on any or all of the decision points in the criminal justice system, from a police officer making an arrest, a prosecutor pressing charges or jurors'

evaluations of a witness's credibility and the judge's sentencing decision (Sporer & Goodman-Delahunty, 2009). Mustard (2001) offers comments in agreement by suggesting that differences could exist in arrest patterns, the allocation of police resources and the prosecution of alleged offenders.

It can be said, therefore, that court-imposed sentences tend to be affected by the degree in which the female offender conforms to prevailing female stereotypes, with females treated more harshly when engaging in 'unfeminine' crimes involving violence, but treated more leniently in regards to offences that seem to conform to prevailing feminine stereotypes (Mansnerus, 1997, Wilkie, 1993). In addition, as this bias may affect any or all decision points in the criminal justice system, bias may affect all decision points within the process of punishing offending against prison legislation.

Chapter 2

Research Question/Hypotheses

Research Question

While it has been noted in the literature discussed in the foregoing Chapters that women are more likely to offend against prison discipline than men and that women tend to receive harsher punishments than women, research seems to be lacking in regards to the thorough examination of available data insofar as the trends and patterns in prison offending and prison based punishments given for such offending.

The purpose of this research therefore is to investigate differences and similarities in the rate of offending against prison discipline between male and female prisoners in the United Kingdom (England and Wales) prison system and to investigate whether any difference exists between the sentences imposed on male offenders and female offenders in regards to particular prison offences. Prison offences are those that are outlined in The Prison Rules 1999 and relevant amendments (see Appendix 1) and The Young Offender Institution Rules 2000 and relevant amendments (see Appendix 2), in force in all English and Welsh prisons, and will include all reported offences and punishments in the 2007 calendar year.

Hypotheses

Data collected by the United Kingdom Ministry of Justice (2008) will be collated and examined to test the following two hypotheses:

1. Female prisoners in United Kingdom (England and Wales) prison establishments are punished more frequently for offending against prison legislation than male prisoners in United Kingdom prison establishments, in 2007.
2. Female prisoners receive harsher penalties in terms of prison based punishment than males who offend against prison legislation.

Chapter 3

Materials and Method

1. Instruments and Materials

The research to be undertaken will be based on secondary or historical data, defined by Zikmund (1984) as data previously collected and assembled for some project other than the one at hand. Quantitative research will utilise official statistics from the United Kingdom Ministry of Justice (2008) which has available detailed data in relation to prison offending and prison based punishments. Additional information has been sourced from literary journals and prison statistics and other records appropriate to the research topic.

There are many advantages in using secondary data examination – one of those advantages being that there is a significant amount of information available and the use of such data is advantageous in terms of saving time and money (Bryman, 2004). Disadvantages include that the data are collected for the specific purposes of the researcher collecting the data, which poses a risk in terms that the research question will not be fully addressed or the hypotheses not fully proved or disproved (Bryman, 2004). Ethical considerations are minimised. However, the use of official statistics can prove to be complex as they often have their own political agenda (Zikmund, 1984). Therefore, caution should be taken when interpreting results (Bryman, 2004).

2. Participants

This research is based on secondary or historical data only.

3. Procedure

The procedure involved extracting existing aggregated data and recalculating information from the available secondary data and assembling it into a format that is appropriate for statistical analysis and comparison.

4. Data Analysis and Presentation

The data gathered have been collated in graphical form using bar charts, pie charts and graphs in forms that provide detailed and specific comparisons of the data to allow justifiable conclusions to be reached. In other cases the secondary data were reformulated in a manner that allowed some quantitative data analysis to be undertaken in the form of simple mean deviation presentations to compare the differences between the two groups (female and male prisoners). Additional data are included in an effort to ascertain whether any patterns exist as to the likelihood or frequency of offending against prison legislation.

Chapter 4

Data Analysis

The following sections contain the data gathered during the period of research, along with a thorough assessment of this information. Through these sections an attempt will be made to prove or disprove the hypotheses and by doing so, to answer the research questions.

Prison offences are those which are outlined in The Prison Rules 1999 and relevant amendments and The Young Offender Institution Rules 2000 and relevant amendments in force in all English and Welsh prisons, and will include all reported offences and punishments in the 2007 calendar year. See Appendix 3 for relevant data tables.

Statistical Information

Prisoner Populations and the Rates of Offending Against Prison Legislation – 1997 to 2007

It is apparent, according to the available data, that the population of prison establishments has increased in recent years. However, no such rise has been recorded in the rate of offending against prison legislation. As shown in the following graphs, the male prisoner population in the United Kingdom (England and Wales) has increased from approximately 58500 prisoners in 1997 to almost 76000 prisoners in 2007. The female prisoner population in the UK has, similarly, increased from almost 2700 in 1997 to just below 4400 female prisoners in 2007. Interestingly, it can be noted that offending against prison legislation has remained relatively stable in both male and female prison populations (Figure 2), despite the significant rise in the prisons' populations, as shown in Figure 1.

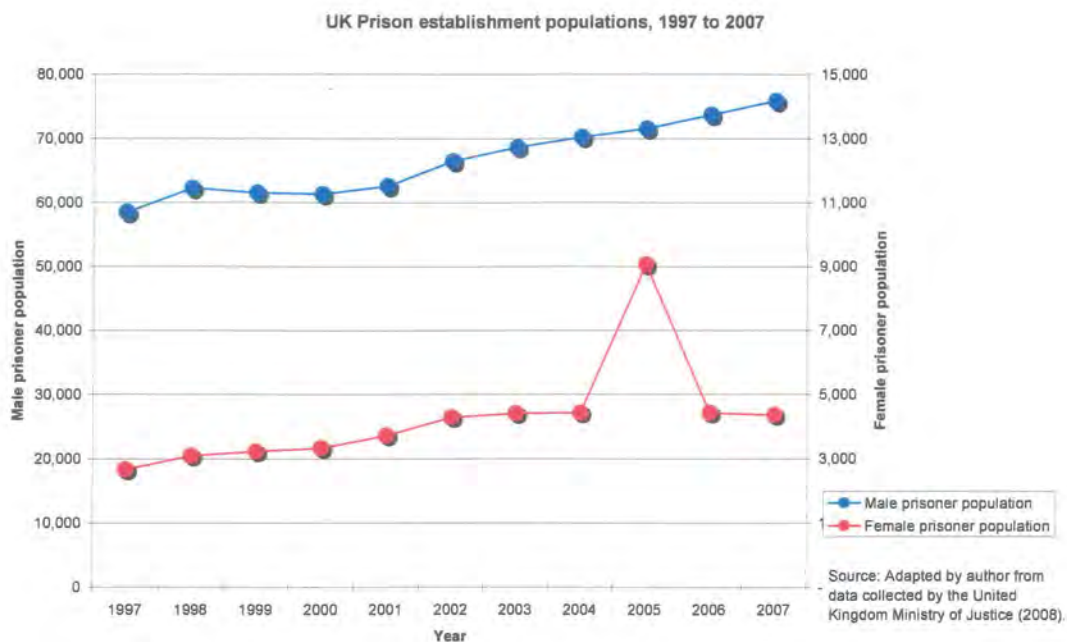


Figure 1 - United Kingdom (England and Wales) prison populations from 1997 to 2007.

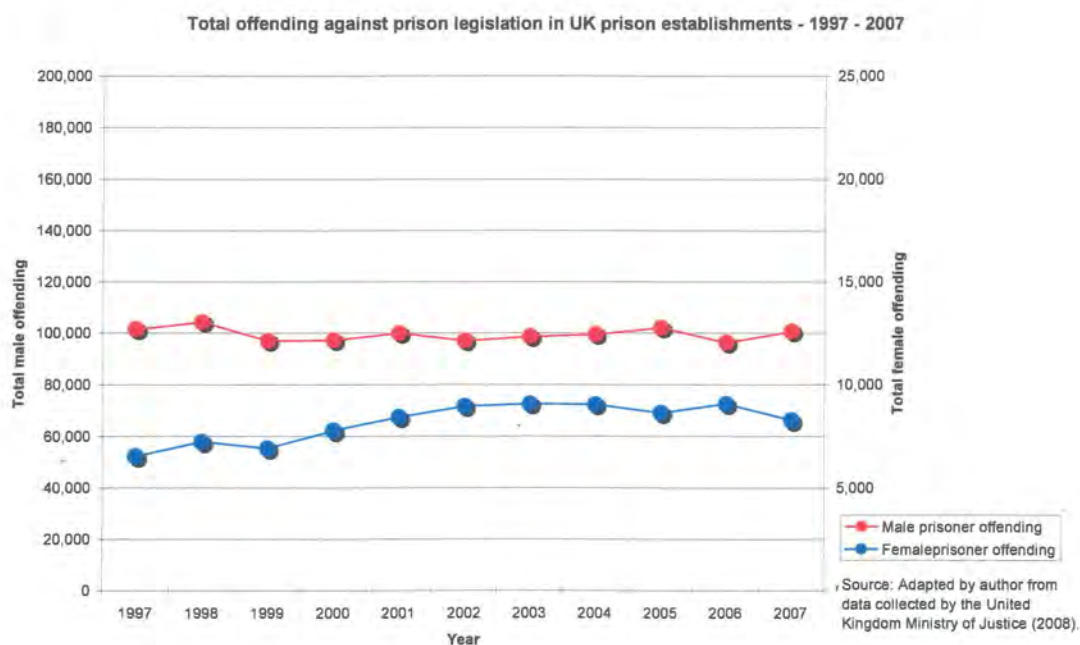


Figure 2 – Total offending against prison legislation in United Kingdom (England and Wales) prison establishments from 1997 to 2007

It is noted, however, that although overall offending has remained relatively stable in both male and female prisoner populations in relation to the total prison populations, the rates per 100 prisoners, both male and female, have decreased from 1997 to 2007 (a decrease of 24 percent from 174 per 100 male

prisoners in 1997 to 133 per 100 male prisoners in 2007, and a decrease of 23 percent from 244 per 100 female prisoners in 1997 to 189 per 100 female prisoners in 2007). However, female prisoners have continued to be punished for offending behaviour at a higher rate per 100 female prisoners than male prisoners over the duration of the period of examination:

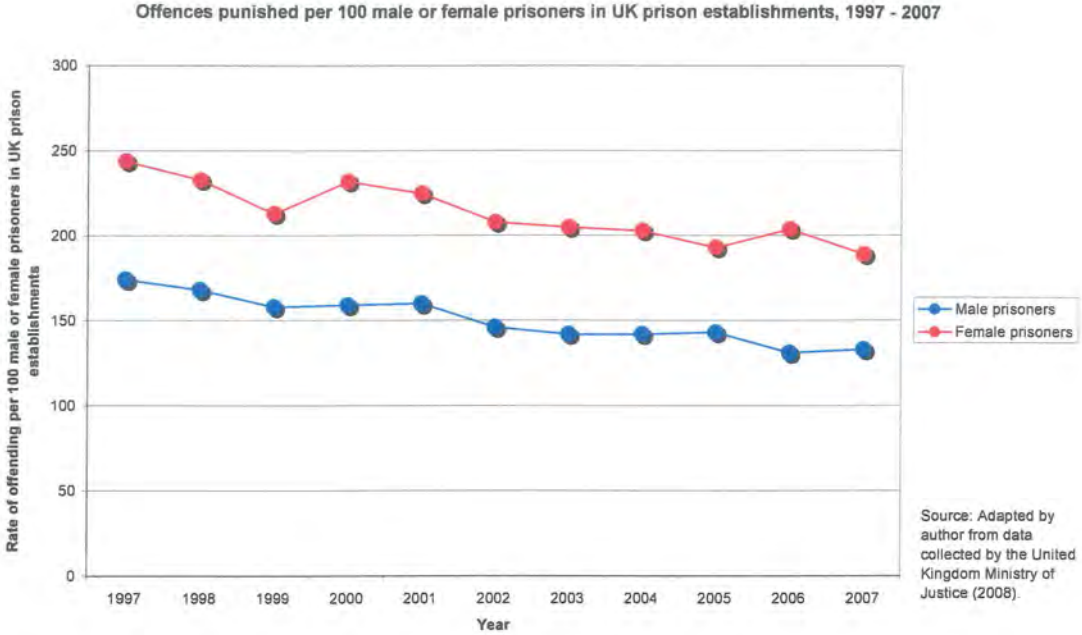


Figure 3 - Offences punished per 100 prisoners in United Kingdom (England and Wales) prison establishments from 1997 to 2007

Rates of Offending in 2007 by Type of Offending

The following data analysis demonstrates the rates of offending, grouped by the type of offending, according to Prison Rule 51 (United Kingdom Ministry of Justice, 2008).

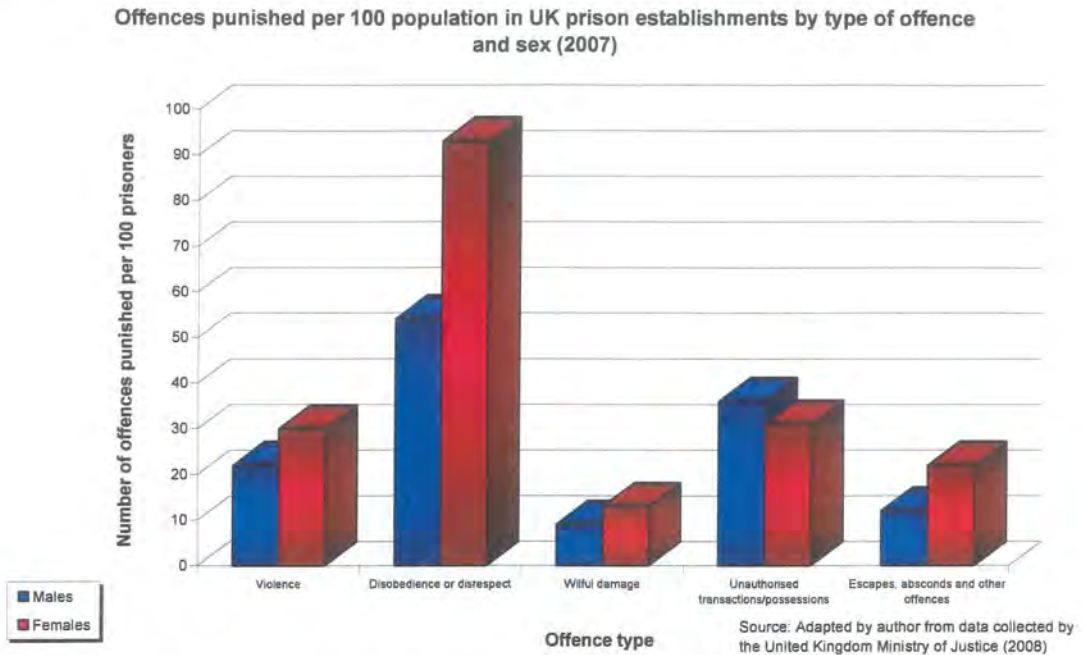


Figure 4 - Offences punished per 100 United Kingdom (England and Wales) prison populations by type of offence and sex

It is clearly demonstrated in Figure 4 that females are punished at a higher rate for most groups of offending behaviours including Violence Offences, Wilful Damage Offences and Other Offences. Males are punished at a higher rate for Unauthorised Transactions/Possessions. The greatest rates of offending in both male and female prisoner populations are recorded for Disobedience/Disrespect Offences. However, females are almost twice as likely to be punished for this type of offending per 100 prisoners as male prisoners (54 offences punished per 100 male offenders in comparison with 93 offences punished per 100 female offenders).

Although that rates of offences punished per 100 prisoners show that female prisoners offend more often than male prisoners against prison legislation, the following two graphs demonstrate that, when specific groups of offences are considered as part of a total rate of offending, males and females offend in similar methods in terms of the types of offending punished. The

greatest rate of offending in both male and female prison populations occurs in the offence group of 'disobedience or disrespect' offences, with the least offences committed by both males and females in relation to all offences in the 'escape/abscond' offence group. Male prisoners, however, recorded a greater percentage of 'unauthorised possessions/transactions' offences than female prisoners:

Offences punished per 100 population in UK prison establishments by type of offence - Males (2007)

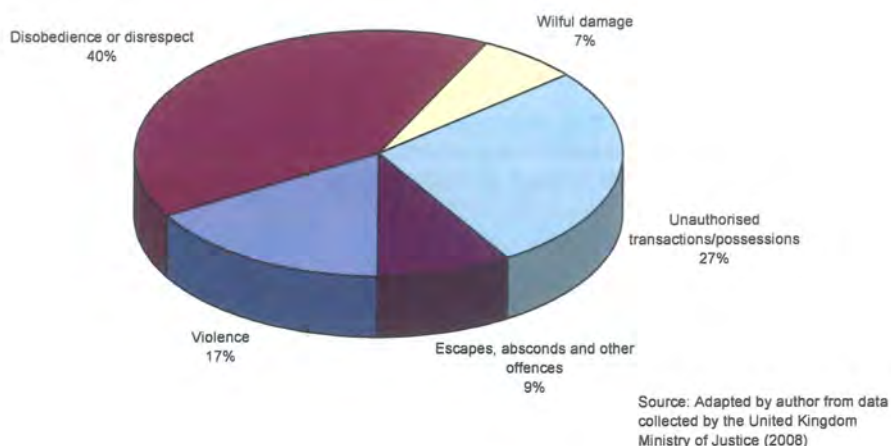


Figure 5 - Offences punished per 100 male prisoners in United Kingdom (England and Wales) prison establishments in 2007 by type of offence

Offences punished per 100 population in UK prison establishments by type of offence - Females (2007)

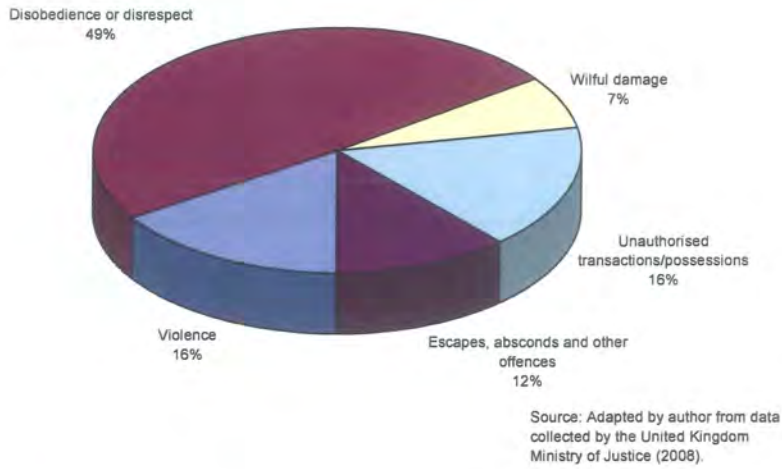


Figure 6 - Offences punished per 100 female prisoners in United Kingdom (England and Wales) prison establishments in 2007 by type of offence

The following graphs illustrate the rate of offending per 100 male or female prisoners in United Kingdom prison establishments for each offence in the groups of offending described above:

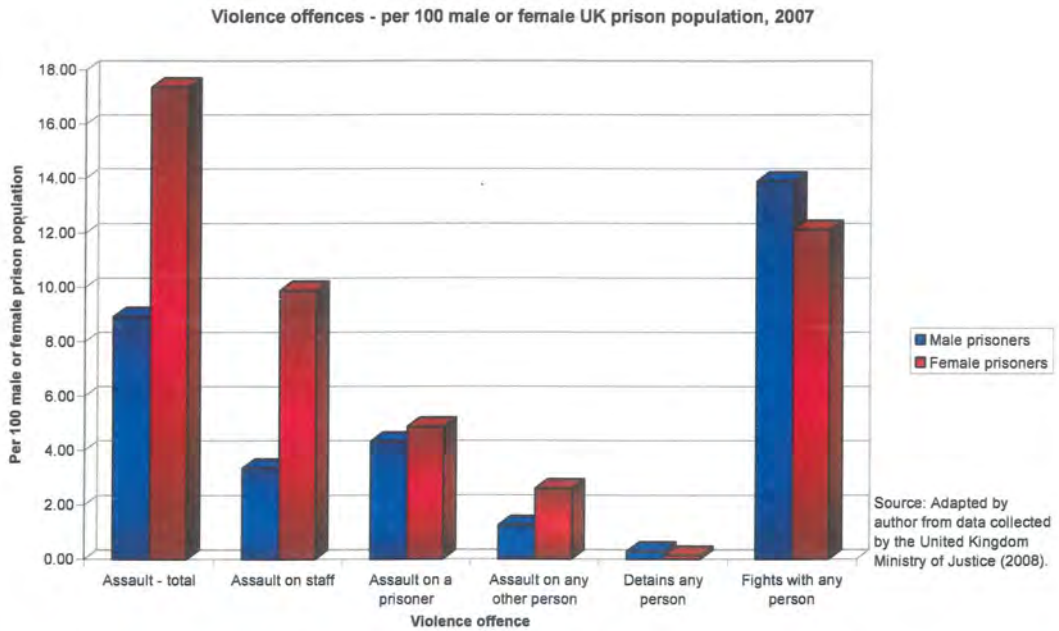


Figure 7 - Violence offences punished per 100 male and female prisoners in United Kingdom (England and Wales) prison establishments in 2007.

Figure 7 shows that female prisoners exhibit a higher rate of violence offending for assaults on staff, assaults on other prisoners and assaults on any other person. Of particular note is the total rate of 'assault' offences – the rate of punishment for offending in this manner for female prisoners is more than double that of the rate of punishment for the total 'assault' offences for the male prison population. Male prisoners are more frequently punished for offences of 'detains any person' and 'fights with any person'.

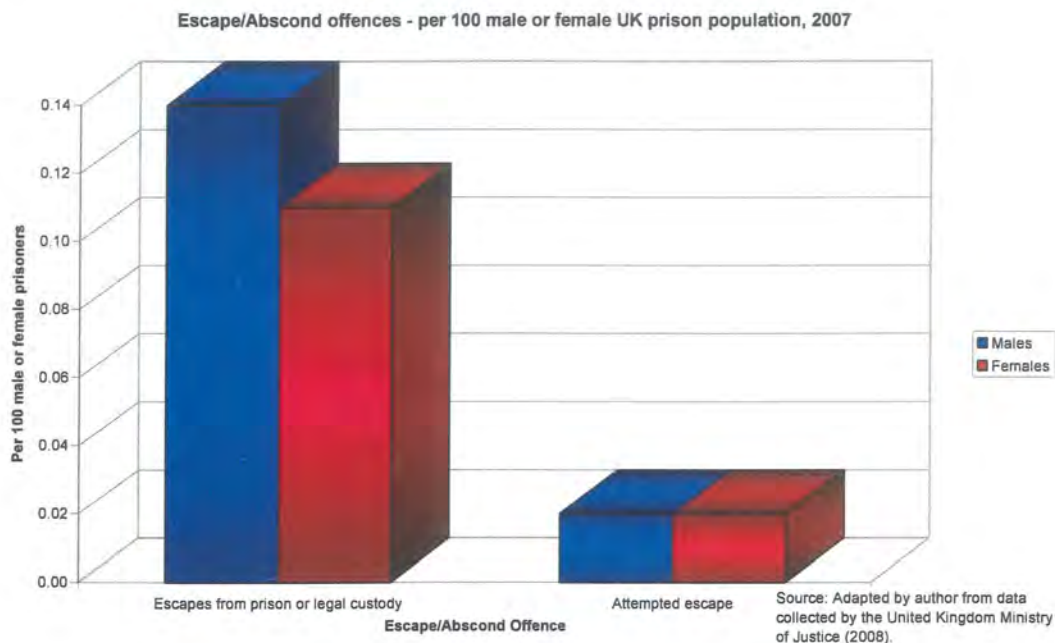


Figure 8 - Escape/abscond offences punished per 100 male and female prisoners in United Kingdom (England and Wales) prison establishments in 2007.

Figure 8, above, illustrates the frequency of escapes and attempted escapes in terms of the rates per 100 male or female prisoners in the United Kingdom prison population. In 2007, a relatively small number of escapes and attempted escapes were recorded – 119 escapes or attempted escapes were recorded by males and females for the 2007 calendar year for a total United Kingdom prison population of 80,216. Male prisoners were slightly more likely than female prisoners to escape from prison or legal custody with 14 offences punished per 10000 male prisoners in comparison to 11 offences punished per 10000 female prisoners. Male and female prisoners both recorded a rate of 2 per 10000 prisoners for the offence of 'attempted escape'.

Disobedience/Disrespect offences - per 100 male or female UK prison population, 2007

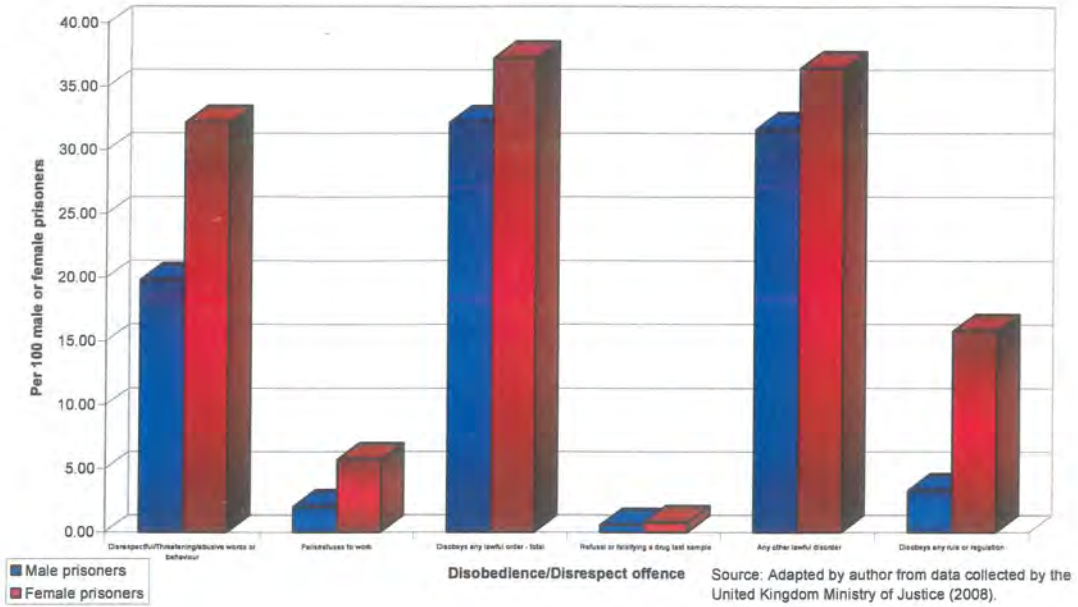


Figure 9 - Disobedience/disrespect offences punished per 100 male and female prisoners in United Kingdom (England and Wales) prison establishments in 2007.

With regards to the offence group of ‘Disobedience/Disrespect Offences’, Figure 9 shows that female prisoners are punished more frequently for all such offences, with exception of the offence of ‘falsifying a drug test sample’. Male prisoners were slightly more likely to commit this offence than female prisoners (18 per 10000 male prisoners in comparison with 4 per 10000 female prisoners). Female prisoners were more likely to receive punishment for offences such as ‘threats/abusive words or behaviour (19.31 offences punished per 100 male prisoners compared to 31.16 offences punished per 100 female prisoners) and ‘disobeys any rule or regulation’ with males recording 3.29 offences punished per 100 male prisoners compared with 15.82 offences punished per 100 female prisoners.

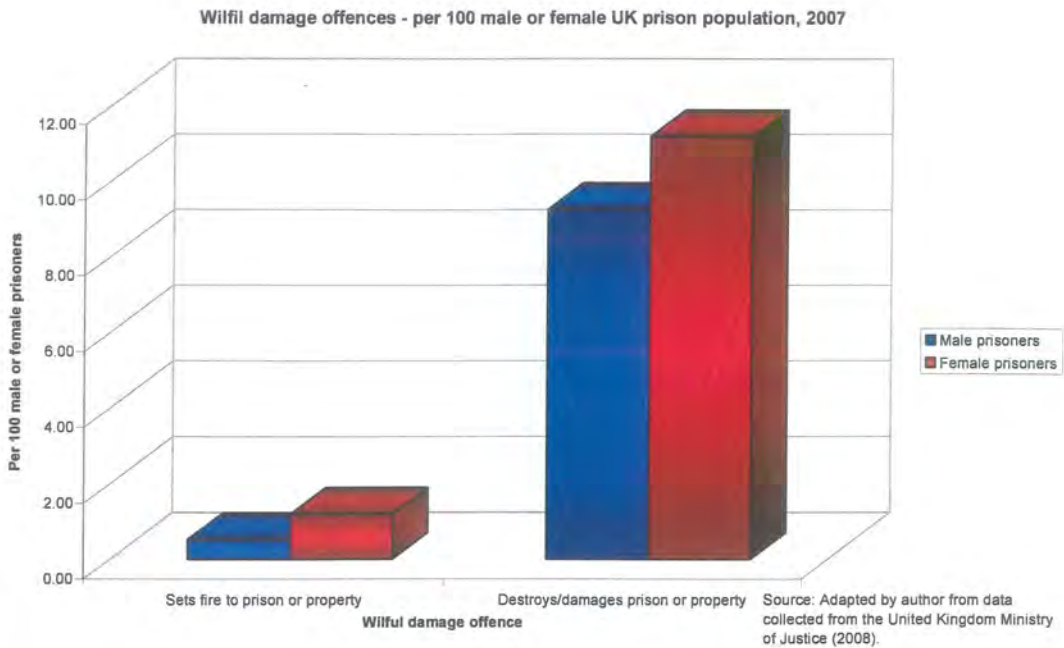


Figure 10 - Wilful damage offences punished per 100 male and female prisoners in United Kingdom (England and Wales) prison establishments in 2007.

With regards to 'wilful damage' offences, Figure 10 shows that female prisoners in the United Kingdom in 2007 were more frequently punished for setting fire to the prison or prison property (52 offences punished per 10000 male prisoners in comparison to 119 offences per 10000 female prisoners) and were more frequently punished for destroying or damaging the prison or prison property (9.24 offences punished per 100 male prisoners compared with 11.17 offences punished per 100 female prisoners).

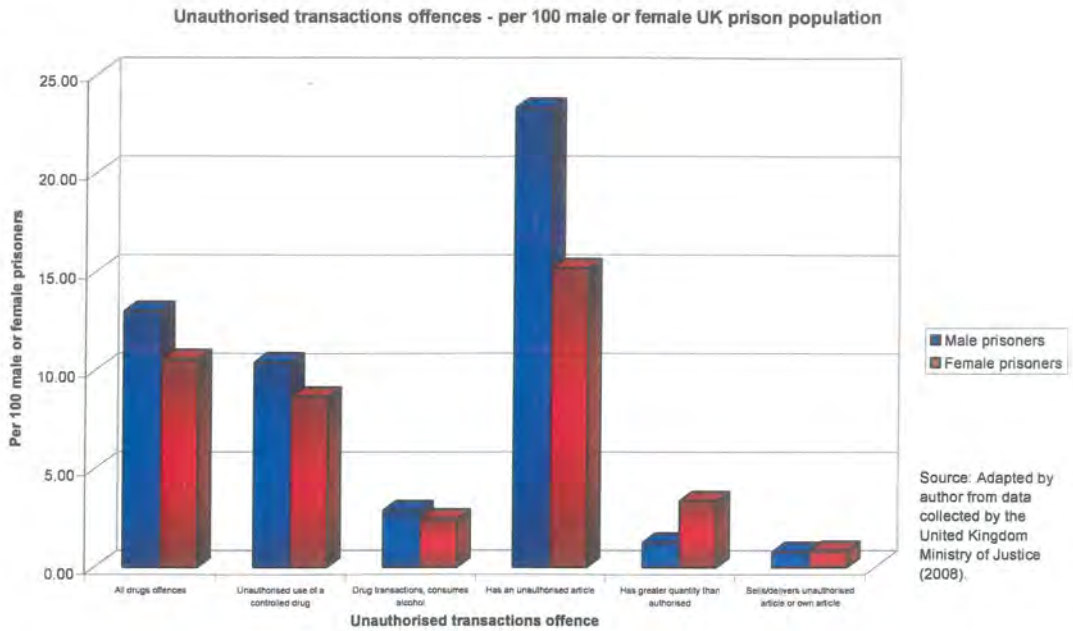


Figure 11 - Unauthorised transactions offences punished per 100 male and female prisoners in United Kingdom (England and Wales) prison establishments in 2007.

Figure 11 displays the rates of 'unauthorised transactions' offending in UK prison establishments in 2007. Male prisoners were more frequently punished for unauthorised use of controlled drugs and possession of controlled drugs, whereas female prisoners were punished more frequently than male prisoners for having an unauthorised article (23.32 offences punished per 100 male prisoners compared with 15.18 offences punished per 100 female prisoners). Female prisoners were punished almost three times more frequently than male prisoners for being in possession of a greater quantity of items than authorised (1.26 offences punished per 100 male prisoners in comparison with 3.38 offences punished per 100 female prisoners). Female prisoners were more likely to be punished for knowingly consuming alcohol than male prisoners, however male prisoners were more likely to be punished for conducting drug transactions (selling, delivering or receiving drugs) than female prisoners.

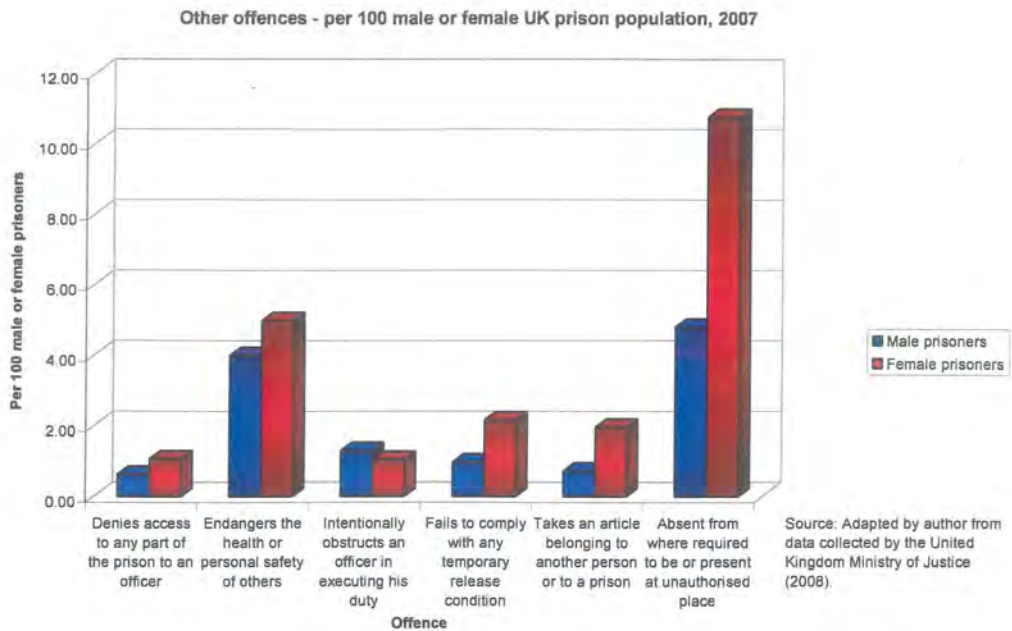


Figure 12 – Other offences punished per 100 male and female prisoners in United Kingdom (England and Wales) prison establishments in 2007.

With regards to other offences not listed in previous groups of prison offences, Figure 12 displays the rates per 100 prisoners punished for these offences. Again, female prisoners in UK prison establishments in 2007 were punished more frequently for all offences in this group aside from the offence of intentionally obstructing an officer in executing their duty, where male prisoners recorded a rate of 1.3 offences punished per 100 male prisoners, whereas female prisoners recorded a rate of 1.05 offences punished per 100 female prisoners. A large difference in the rate of offending between male and female prisoners is evident for the offence of ‘absent from where required to be or present at an unauthorised place’, where males recorded a rate of 4.8 offences punished per 100 male prisoners compared to more than double this rate for female offending – where 10.77 offences were punished per 100 female prisoners.

Punishments Issued Following Breaches of Prison Legislation

Total Rates of Punishments Issued for Prison Offending

To test one previously stated hypothesis suggesting that female prisoners who offend against prison legislation in the United Kingdom prison system receive harsher penalties in terms of prison based punishment than males who offend against prison legislation, this section will focus on the examining the data available in terms of punishments given following breaches of prison discipline in the male and female United Kingdom prison establishment populations in 2007.

The following two illustrations provide a basis for comparison between the punishments issued to male prisoners and female prisoners in United Kingdom prison establishments in 2007 as a whole, without specifying each individual offence. Similarities are evident in the relationships between each punishment in regards to the male and female prisoner populations, with 'forfeiture of privileges' being the most frequently used punishment in both male and female prisoner populations. In both male and female prisoner populations, a stoppage or reduction of earnings was the second most frequently used penalty for offending against prison legislation, followed by prisoners' confinement to their cell or room. The one notable difference in the punishments issued the use of prisoners' removal from their wings or living units – male prisoners recorded the use of this punishment at a rate of 3 punishments per 100 male prisoners, whereas this punishment was not used as a punishment for female prisoners who offended against prison legislation.

Punishments per 100 population in UK prison establishments - Males (2007)

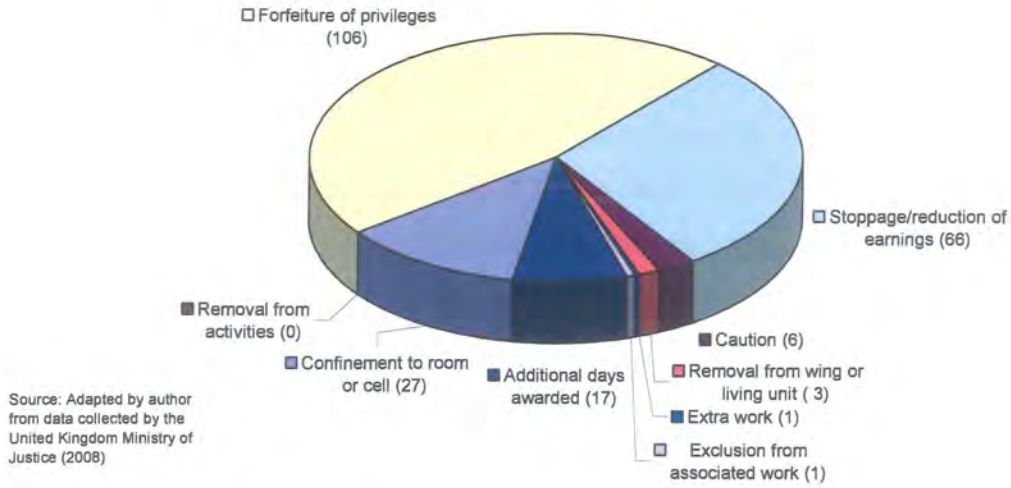


Figure 13 – Punishments given to male prisoners for breaches of prison discipline in United Kingdom (England and Wales) prison establishments in 2007.

Punishments per 100 population in UK prison establishments - Females (2007)

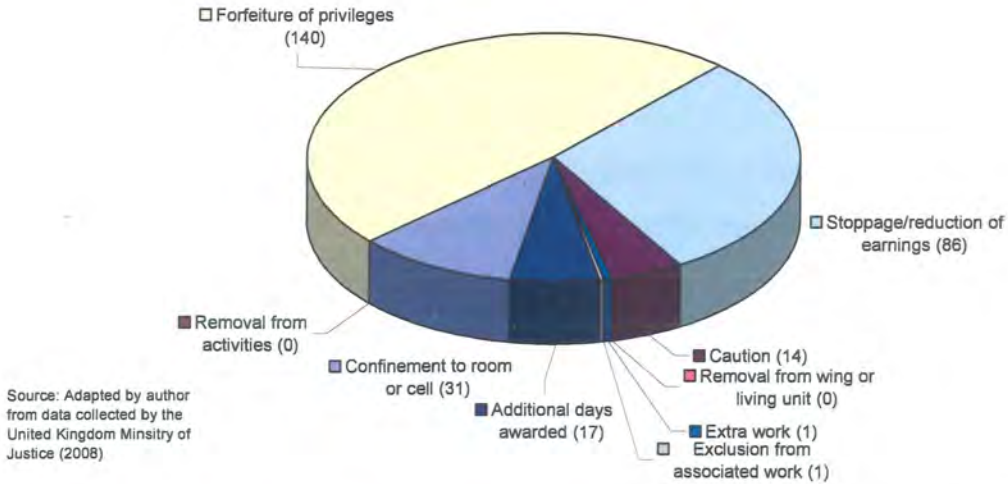


Figure 14 - Punishments given to male prisoners for breaches of prison discipline in United Kingdom (England and Wales) prison establishments in 2007.

Rates of Punishments Issued for Prison Offences

The following series of figures illustrate similarities and differences in the punishments given to male and female prisoners in United Kingdom prison establishments in 2007 per 100 prisoners. It is noted that in each instance, the proportion of each available punishment being used in each group of offences shows very little variation in terms of differences in the use of each offence for male and female prisoner populations. In all cases other than for escape or abscond offences, the most often used penalty for prison offending is forfeitures of privileges. The punishment of additional days is given most often for escape or abscond offences.

As discussed, very little difference is evident in regards to the distribution of penalties issued male and female prisoners who are punished for offending against prison legislation. For example, 47.15% of male prisoners who offended against prison legislation, for all offences except escape or abscond offences, received the penalty of forfeiture of privileges whereas a strikingly similar 47.87% of female prisoners who offended against prison legislation were recorded to receive this penalty. Similarly, 30.26% of male offenders received the penalty of confinement to cells or rooms for all offences except escape or abscond offences whereas 30.07% of female offenders received this penalty for similar offences against prison legislation.

As can be noted in the following illustrations, a discrepancy is apparent in the penalties imposed for escape or abscond offences. Male prisoners are noted to be more likely than female prisoners to receive the penalty of additional days (62.68% in comparison to 57.14%) and are more likely than female prisoners to receive the penalty of forfeiture of privilege (28.57% compared to 14.79%). 12.68% of male offenders who committed escape or abscond offences received the penalty of a stoppage or reduction of earnings, whereas female offenders were not issued this as a punishment.

Male escapees or absconders were confined to their cells or rooms in 7.75% of the cases in comparison to 14.29% of female escapees or absconders. However, these relatively large variations in penalties can be attributed to distortion by rather small rates of escape or abscond offences, with 14 escape

offences recorded per 10000 male prisoners and only 11 escape offences recorded per 10000 female prisoners. The rate of attempted escape was recorded to be even lower still at 2 each per 10000 male and 10000 female prisoners.

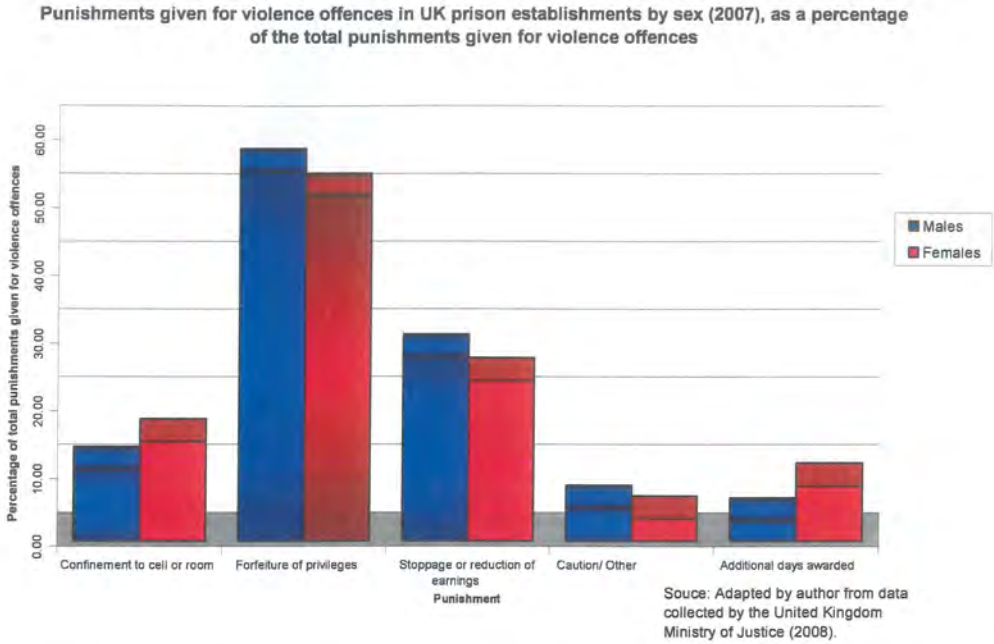


Figure 15 – Punishments given for violence offences in prison establishments in the United Kingdom (England and Wales) by sex as a percentage of the total punishments given for violence offences in 2007.

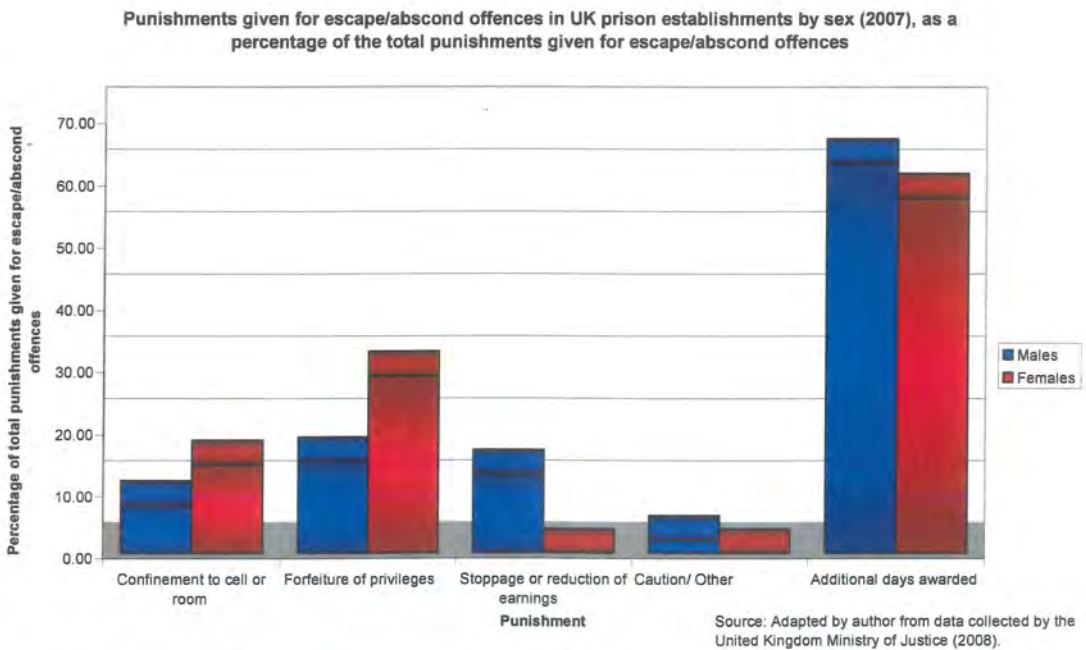


Figure 16 - Punishments given for escape/abscond offences in prison establishments in the United Kingdom (England and Wales) by sex as a percentage of the total punishments given for escape/abscond offences in 2007.

Punishments given for disobedience or disrespect offences in UK prison establishments by sex (2007), as a percentage of the total punishments given for disobedience or disrespect offences

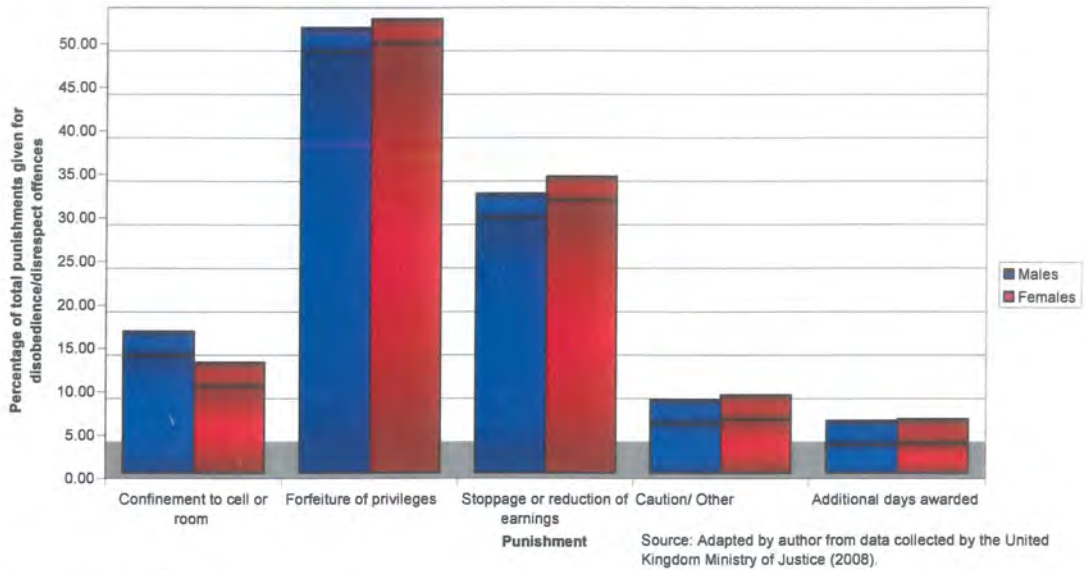


Figure 17 - Punishments given for disobedience/disrespect offences in prison establishments in the United Kingdom (England and Wales) by sex as a percentage of the total punishments given for disobedience/disrespect offences in 2007.

Punishments given for wilful damage offences in UK prison establishments by sex (2007), as a percentage of the total punishments for wilful damage offences

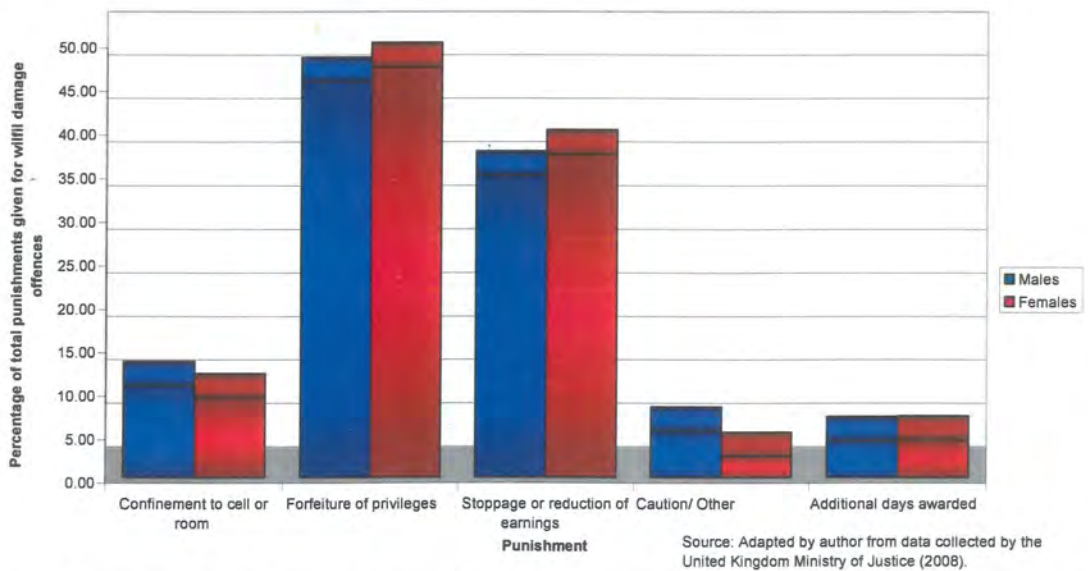


Figure 18 - Punishments given for wilful damage offences in prison establishments in the United Kingdom (England and Wales) by sex as a percentage of the total punishments given for wilful damage offences in 2007.

Punishments given for unauthorised transactions/possessions offences in UK prison establishments by sex (2007), as a percentage of the total punishments given for unauthorised transactions/possessions

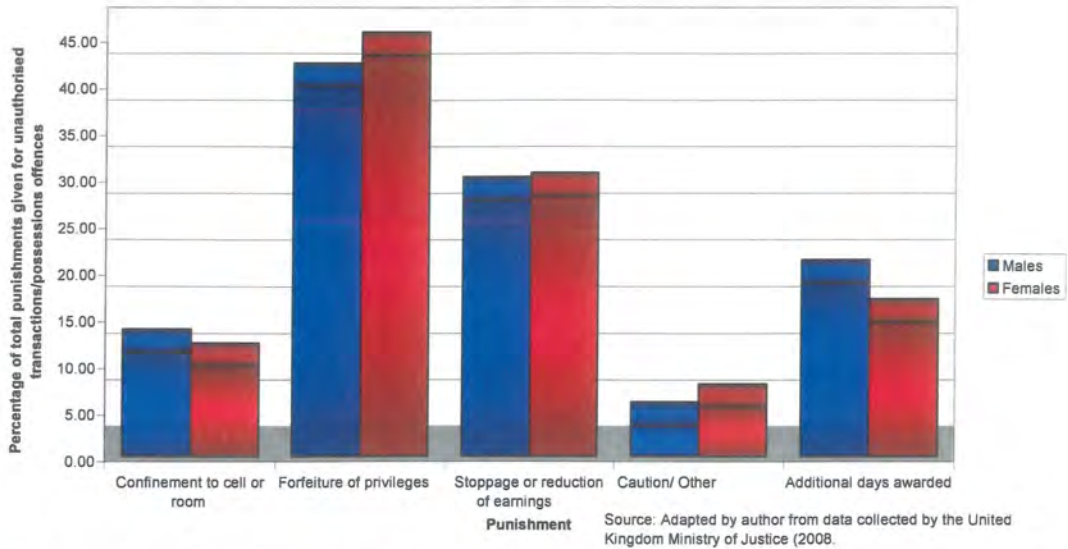


Figure 19 – Punishments given for unauthorised transactions/possessions offences in prison establishments in the United Kingdom (England and Wales) by sex as a percentage of the total punishments given for unauthorised transactions/possessions offences in 2007.

Punishments given for miscellaneous offences in UK prison establishments by sex (2007), by percentage of the total punishments given for miscellaneous prison offences

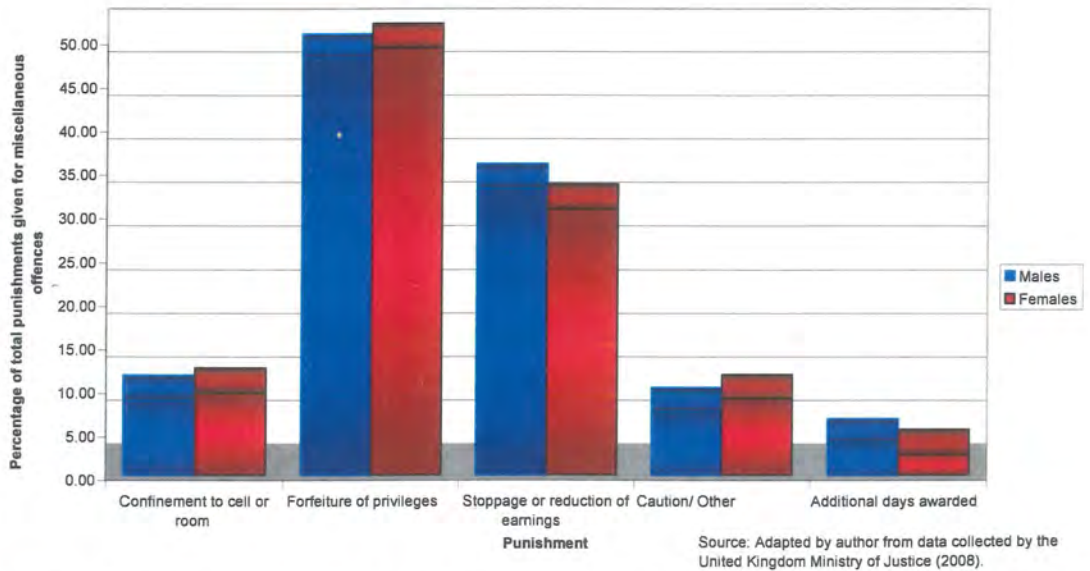


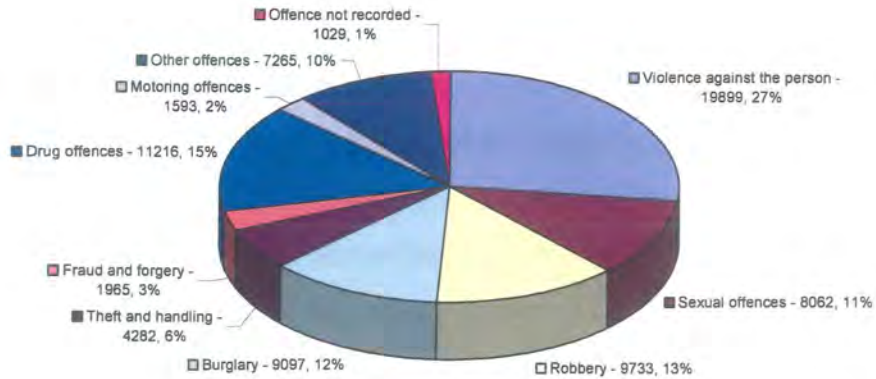
Figure 20 - Punishments given for miscellaneous offences in prison establishments in the United Kingdom (England and Wales) by sex as a percentage of the total punishments given for miscellaneous offences in 2007.

Additional UK Prison Population Data Examination

It is evident that female prisoners in the United Kingdom were more likely to be punished for offending against prison legislation than male prisoners in 2007. In an attempt to explain this difference, an examination of the data in regards to the offences that resulted in prisoners' incarceration will be examined in this section. As discussed in the previous review of the literature, it has been suggested that prison incidents may be a reflection of the offending behaviour which caused the offender to receive a custodial sentence - violent offending in prison environments has been suggested to be a reflection of violence in the community. Similarly, it has been suggested that female prisoners have a high incidence of mental disorders, including a drug or alcohol related disorder, which may be directly related to the percentage of female prisoners incarcerated for drug related offences. A full discussion of the results from this data examination is included in further sections of this report.

The following two figures display the breakdown of the male and female prisoner populations in the United Kingdom in 2007 according to the group of the main offence committed resulting in prisoners' incarceration. The United Kingdom Ministry of Justice (2008) states that when a person is received under sentence for several offences, only the principal criminal offences is recorded in the data. Where a person is under sentence for two or more criminal offences, the offence selected for the data is the one for which the heaviest sentence is imposed. Where the same sentence is imposed for two or more criminal offences or where the prisoner is not under sentence, the offence selected is the one for which the statutory maximum penalty is the most severe. Both remand and sentence status offenders are included in the data (United Kingdom Ministry of Justice, 2008).

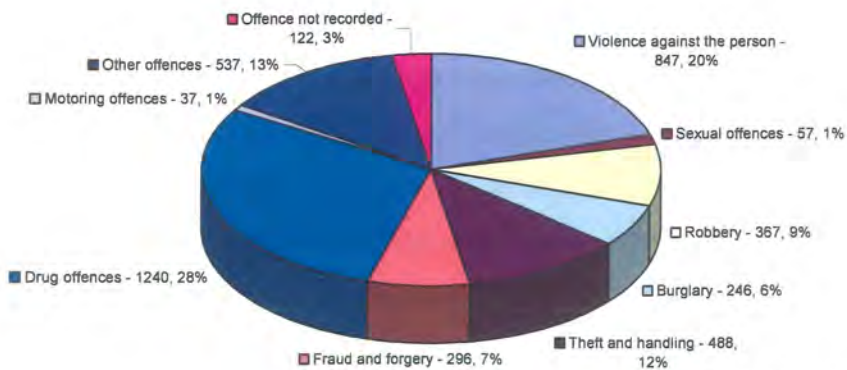
Male remand and sentenced population in UK prison establishments by offence group, 2007



Source: Adapted by author from data collected by the United Kingdom Ministry of Justice (2008).

Figure 21 - Male United Kingdom (England and Wales) prison establishment populations in 2007 by offence type resulting in prisoners' incarceration

Female remand and sentenced population in UK prison establishments by offence type, 2007



Source: Adapted by author from data collected by the United Kingdom Ministry of Justice (2008).

Figure 22 - Female United Kingdom (England and Wales) prison establishment populations in 2007 by offence type resulting in prisoners' incarceration

The previous figures show that proportionately more males were imprisoned for violence offences, sexual offences, robbery and burglary (63% in total) compared to a total of 36% for these offence groups for female prisoners. Female prisoners were less likely to be imprisoned for such 'personal' offences

as violence and sexual offences. Nevertheless, they were more likely to be imprisoned for offences such as fraud and forgery and theft and handling (with 19% of the female prison population being imprisoned for these offences compared to 9% of the male prison population). Females were almost twice as likely to be imprisoned for drug offences (28% of the female prison population in comparison with only 15% of the male prison population). As discussed in previous sections, there is some difference between male and female prison populations in relation to the percentage of prisoners imprisoned for drug offences may have implications when examining the rate of offending against prison legislation.

Chi-squared Test

The examination of data thus far has focused on the evidence provided in tables and graphical presentations of the research that has established that that female prisoners commit more offences against prison legislation than male prisoners. When these transgressions occur female are punished more harshly than male prisoners in similar cases. However in order to add further rigor to the analysis a chi-square test was undertaken. The chi-square test is concerned with comparing the observations of particular categories with the expected outcomes for those categories. Taylor (2001) sees the chi-square test as an appropriate means by which to establish if the proportions in a sample are the same as the proportions in the whole population. In this analysis, the chi-square test was used to test whether the apparent gender differences in prison offence types and prisoner punishments are statistically significant.

The chi-square test statistic that was produced at 5 degrees of freedom with a significance level of 0.05 was 553.9171 regarding the level of offences committed by male and female prisoners when compared with the critical test value at 5 degrees of free with a significance level of 0.05 of 11.07 (see Appendix 8). Similarly, for punishments, the chi-squared test statistic that was produced at 5 degrees of freedom with a significance level of 0.05 was 364.6092 compared to a critical test value of 11.07 (see Appendix 9). Because the test values produced by the chi-squared test exceed the critical value the hypothesis that there is a relationship between the level of offences and nature of punishments between male and female prisoners is rejected.

In conclusion, the data at hand is not conducive to conducting thorough testing and very little previous research and no thorough analyses are available as to the direct correlations between prison offending and the criminal offence which resulted in the prisoners' incarceration. Therefore further research should be conducted if additional data becomes available.

Chapter 5

Discussion

This research was undertaken with two main aims, those being to study the differences in the rates of prison offending between male and female prisoners, and to assess the differences between the prison punishments given to male and female prisoners in regards to breaches of prison discipline, with the ultimate goal being to test previously stated hypotheses, being:

1. Female prisoners in United Kingdom (England and Wales) prison establishments are punished more frequently for offending against prison legislation than male prisoners in United Kingdom prison establishments, in 2007.
2. Female prisoners receive harsher penalties in terms of prison based punishment than males who offend against prison legislation.

The Need for Equitable Punishments

It is apparent that penalties should reflect the seriousness of the offence and act as a punishment for the offender and as a deterrent to future offending by the offender and others (Queensland Government, 2004). The Queensland Taskforce on Women and the Criminal Code (2008) suggests that the gender of an offender in itself should not be a matter relevant to sentencing. However, the problems associated with and of relevance to female offenders should not be ignored. Sisters Inside (2004) comment that women in prison are often from similar backgrounds in regards to their low levels of education, their poor socio-economic groups and their histories of physical and emotional abuse. Nevertheless, it can be said that males in the prison system are similarly from poor and abusive backgrounds. Therefore, it seems that no grounds exist for gender disparities in punishments handed down for prison disciplinary offences. In society, women's lives are very different to those of men in ways that should be taken into account in sentencing in open court where a gender-neutral stance would reinforce existing biases (Queensland Taskforce on Women and the Criminal Code, 2008). However, the prison environment is very different to life in society. Noblet (2008) clarifies this suggestion by stating that a vast majority of the literature is written by feminist writers and often fails to highlight that similar

issues and problems facing female prisoners also affect male prisoners. Both populations possess the same criminogenic factors such as poor cognitive skills, strong ties to and identification with anti-social role models, weak social ties, anti-social attitudes and feelings, dependency on drugs and alcohol and adverse family or social circumstances (Noblet, 2008).

With the situations of male and female prisoners being similar, according to the above research, Weatherburn (1982) found that unfairness of discipline in the prison system is a major cause of dissatisfaction among inmates. Dugan, Roche and Tucker (2003) also found that offenders who perceive punishment as fair in regards to prison offences are more likely to be compliant, while offenders who perceive punishment as unfair are more likely to be defiant. In Victoria, complaints are regularly received regarding the absence of reasons for the imposition of penalties and in regards to inconsistencies in the administration of the disciplinary process and disparities in the withdrawal of privileges and the impositions of sanctions (Law Institute of Victoria, 2003). One of the most common complaints in the Victorian prison system, according to Dugan, Roche and Tucker (2003), is in regards to the lack of consistency between prisons – prisoners charged with identical offences can receive substantially different penalties – for example, a prisoner assault resulted in six different outcomes in Victoria, ranging from a reprimand at Won Wron to 28 days loss of privileges at Fulham Correctional Centre. It must be noted, however, that while offences may appear the same, extenuating circumstances make each case different and may therefore warrant a different penalty – there must be flexibility and discretion allowed in imposing penalties which are ultimately fair and reasonable and take into account the circumstances of each particular case (Dugan, Roche & Tucker, 2003).

Rates of Punishment for Offending Against Prison Legislation

The picture that has emerged in terms of the rates of offending in male and female prison populations in the current research showed that female prisoners are punished more often for offending against prison legislation than male prisoners. This higher rate of punishment was seen in all groups of offences, including Violence Offences, Wilful Damage Offences, and Other Offences. Similarly, the rate of female offending against prison legislation in terms of

Disobedience/Disrespect Offences was also higher, being almost twice that of the male prison establishment population. Female prisoners were more likely to be punished for such Disobedience/Disrespect Offences as being disrespectful, using abusive or threatening words or behaviour, refusing or failing to work, disobeying a lawful order, refusing to provide a sample for drug testing and disobeying rules and regulations. Female prisoners were also punished at a higher rate than male prisoners for offending against prison legislation in terms of Wilful Damage Offences and Violence Offences, with females being punished for offending at more than double the rate of male prisoners for such offences as setting fire to the prison or prison property, assault (total), assaults on staff and assaults on any other person. In addition, female prisoners were punished for offending at higher rates for other offences such as assaults on prisoners and destroying or damaging prison property, although the differences in the rates of offending in such manners were not as apparent as the aforementioned offences.

Male prisoners were punished for escaping or attempting to escape from prison or legal custody at a higher rate than female prisoners. However, only 119 escapes or attempted escapes were recorded for a total prison establishment population of over 80,000 in 2007 (United Kingdom Ministry of Justice, 2007). Male prisoners also committed the offence of 'detain any person' and 'fights with any person' and 'falsifying a drug test sample' more often than female prisoners. The differences in the rates of punishments were comparatively smaller for offences where male prisoners recorded a greater number of offences punished than offences in which female prisoners recorded a greater number of offences punished. This was the case for all offences where male prisoners recorded a higher rate of punishment for offending except for the offence of possessing unauthorised articles, where male prisoners recorded a rate of punishment for offending of almost twice that of female prisoners.

Why Female Offenders are Punished More Frequently for Prison Offending

In line with comments provided by the Western Australian Inspector of Custodial Services (2006), it is apparent that literature suggesting that female prisoners breach prison discipline more often than male prisoners is supported by the current research. In addition, research undertaken by Corrections Victoria

(Cerveri et al., 2005) finding that women are charged with more internal prison offences than men is reflected in the current research and it is apparent that this has been the case consistently from 1997 to 2007 within prison establishments in the United Kingdom.

In an attempt to explain this obvious disparity in rates of offending within the United Kingdom prison system, the 'evil women thesis' or 'selective chivalry theory' can be utilised. This theory, which has been discussed Chapter 1, purports that women are treated more harshly when they violate the conventional norms of femininity (Rodriguez, Curry & Lee, 2006). In the case of the current research, female prisoners may be subjected to gender bias in terms of their offending coming to the attention of prison authorities. As discussed by McClellan (1994), rules may be ignored by prison officials in male prisons whereas they may be strictly enforced in female institutions. An example of this is that swearing by male prisoners may be ignored whereas if a female prisoner engages in such behaviour they may be punished. This behaviour may be somewhat acceptable in a male prison environment and completely frowned upon in a female prison environment, where this behaviour is seen to be unorthodox in a female environment in terms of conforming to society's ideals of femininity. This may explain the disproportionately higher rate in the current research for the offence of 'threats/abusive words or behaviour', along with other offences, in the female prison establishment population studied. In this way, female offenders may be punished for defying social and gender norms (Noblet, 2008) which suggest that this behaviour is 'unbecoming' of a woman.

As discussed in earlier sections, this bias may affect many stages of the decision process in terms of punishing offending against prison legislation, from a prison official being made aware of the offending behaviour to whether a formal charge is processed (Mustard, 2001). Prison staff may choose to ignore offending behaviour in male populations or issue informal cautions for offending behaviour in male prison populations, whereas prison staff may choose to formally charge prisoners in female prison populations.

In regards to comments made by Garde (2003) who suggests that prison incidents appear to be a reflection of the offending behaviour which caused the offender to receive a custodial sentence, this seems not to be the case, as 63% of male prisoners were imprisoned for violence offences, sexual offences,

robbery and burglary compared to a total of 36% for these offence groups for female prisoners. Nonetheless, female prisoners were more often punished for violence offences within the prison environment than male prisoners (22 per 100 male prisoners were punished for violence offences in comparison to 30 per 100 female prisoners).

Other explanations of the disparity in the rate of punishment for offending against prison legislation as discussed in the previous section may include that female prisoners indeed commit proportionately more offences against prison legislation than male prisoners. If prison officials and other individuals required to make decisions regarding the punishment of offending for male and female prisoners show no bias in terms of whether or not punishments for offending are sought, other such variables which may affect the rate of offending against prison legislation may include the incidence of mental illness and instability within prison populations (Noblet, 2008) or the inability to effectively manage female prison populations due to the lack of suitable facilities (Dugan, Roche & Tucker, 2003), or female prisoners may simply be more difficult to manage and more resistant to authority than male prisoners (Naylor, 2002). In addition, as discussed by Garde (2003), the rate of offending against prison legislation may have a direct correlation with the incidence of instability, aggression and violent behaviour resulting from drug or alcohol related mental disorders (Noblet, 2008) within the female population. Female prisoners in United Kingdom prison establishments were almost twice as likely to be imprisoned for drug offences as male prisoners (28% of the female prison population in comparison with only 15% of the male prison population) which may in turn influence rates of female prisoners' drug or alcohol induced mental disorders. This is further supported by Worrall (2002) who suggests that 23 percent of sentenced female prisoners are drug dependent compared with 11 per cent of male prisoners in the United Kingdom. Additional research should be conducted into the rates of reported mental illnesses to form a more conclusive view on this suggestion.

As discussed earlier in this dissertation, prison officials may benefit by being involved in training in gender differences in conflict and dispute resolution to reduce the frequency by which female prisoners are charged with offending against prison discipline, however those officials that work with male offenders may also benefit from training to ensure that male prisoners are not foregoing

formal sanctions for offences that they should, indeed, be punished for. Other possible explanations for the disparity in punishments for prison offending in the male and female prison populations include that male prisoners may offend covertly and therefore their offending may be harder to detect by prison officials.

More staff may be employed or available in female establishments which aids in the detection of prison offending or female prisons may have less access to meaningful activities which results in female prisoners being idle for much of the day (Western Australian Inspector of Custodial Services, 2006), thus resulting in more altercations and disobedience due to boredom. The lack of programs designed and available for women in the Western Australian prison system in terms of reducing violence and drug use in preparation for prisoners' release into society (Western Australian Inspector of Custodial Services, 2006) may also have an impact on prison offending, as female prisoners may be less equipped to remove themselves from violent behaviour and drug activities after completing programs and prior to their release into society than male prisoners who have accessed similar programs in male prisons. These, however, are merely suggestions and are not supported by prior research or literature as very little information regarding explanations of disparities in prison punishments is available at present. In addition, data available at the time of this research were not made available to fully explore reasons for disparities in the current research. Future research is required to fully explore these suggestions.

Penalties Imposed for Offending Against Prison Legislation

In regards to the penalties imposed for prison offending, it has been noted that there is no discernable difference in the types of punishments given to male and female prisoners in response to offending against prison legislation in regards to all groups of offences other than Escape/Abscond Offences. In all cases other than for escape or abscond offences, the most often used penalty for prison offending is forfeitures of privileges, with the next most frequently used punishment being stoppage or reduction of earnings. The punishment of additional days is given most often for escape or abscond offences, which may reflect the severity of the offence. Similarities are further noted with 47.15% of male offenders, for all offences except escape or abscond offences, receiving the penalty of forfeiture of privileges and a strikingly similar 47.87% of female

offenders receiving this penalty. Likewise, 30.26% of male offenders received the penalty of confinement to cells or rooms for all offences except escape or abscond offences whereas females received this penalty 30.07% for similar offences.

Limitations of Current Research/ Further Research

It has been suggested in previous sections of this dissertation that the existence of guidelines can prevent discrimination in terms of punishments imposed for offending against prison legislation. The HM Prison Service (1995) provides guidelines as to when governors of prison establishments should seek the intervention of the police service in regards to criminal offences which occur within prison establishments. However, it does not specify which penalties should be issued for any particular offence, merely stating that punishments must be within the range expressed in the Prison or Young Offenders Institution Rules. The Prison Rules 1999 and the Young Offenders Institution Rules 2000 (see Appendix 2 and 3) state the range of penalties available for prison offending, such as a caution, forfeiture of privileges for up to 42 days, exclusion from work for up to 21 days, stoppage or reduction of earnings for up to 84 days, confinement to a cell for up to 21 days or removal from a wing or living unit for up to 28 days (The Prison Rules 1999). According to the Young Offender Institution Rules 2000, penalties available for young offenders include a caution, forfeiture of privileges for up to 21 days, removal from activities for up to 21 days, stoppage or reduction of earnings for up to 42 days or confinement to a cell or room for up to 10 days.

It is evident, then, that to complete a thorough analysis of the punishments issued to male and female prisoners in prison establishments, specific data must be sought specifying the period of time for which punishments were awarded. What is clear from the current research is that male and female prisoners in the United Kingdom receive the same type of punishment. What is not clear is whether or not male and female prisoners receive similar punishment in terms of punishment severity. Further research in this area should be undertaken in conjunction with prison administrators to enable the collection of all necessary and relevant data to facilitate the full examination into whether male and female prisoners are treated equally in terms of prison punishments when the severity of

punishments is taken into account. In addition, it may be useful to examine the reasons as to why female prisoners are punished more frequently than male prisoners. As discussed earlier in this dissertation, many factors may influence the likelihood of being caught and punished for prison offending, including staff to prisoner ratios. These and other variables such as the availability of meaningful employment or participation in programs to reduce reoffending may be studied as part of future research to ensure a full understanding as to why female prisoners are punished more frequently than their male counterparts.

Chapter 6

Conclusion

The system of 'prisoner management' used within prison establishments in the United Kingdom (England and Wales) ensures that prisoners interact with staff and other prisoners and enable prisoners to engage in employment or education and to complete programs designed to reduce offending behaviour. These interactions may lead to offending against prison legislation which is in place to maintain the good order and security of the prison and to ensure the safety and security of the prisoners, staff and the general public.

Literature available prior to the commencement of this research suggested that, in relation to offending against prison legislation, female prisoners offended more frequently against prison legislation and that female prisoners incurred harsher penalties for this offending than their male counterparts. In an attempt to broaden the available literature in regards to gender disparities in prison discipline and hypotheses were formulated in relation to the rates of offending against prison legislation and the penalties imposed following breaches of prison discipline in male and female prison populations. Data were sourced from the United Kingdom Ministry of Justice (2008) and subsequently analysed to give correlations between the rates of prison offending and the penalties imposed for offending in the male and female prisoner populations in United Kingdom (England and Wales) prison establishments.

The study has shown that females were recorded as being punished for offending behaviour consistently more often than men in terms of all groups of offending, aside from the offence groups of 'Escape/Abscond Offences' and 'Unauthorised Transactions/Possessions Offences'. However, the total rate of punishment for offending against prison legislation in the female population remained, in 2007, as per previous years, higher than that recorded in the male prisoner populations in United Kingdom prison establishments. In addition, this study has shown that female prisoners were recorded to be treated relatively equally in terms of punishments issued for offending against prison legislation to male prisoners. This study found little or no difference in the type of punishments issued to female prisoners in comparison to those issued to male prisoners in

United Kingdom prison establishments, yet the available data are insufficient to either prove or disprove the hypothesis in terms of the severity of the penalties imposed on the male and female prisoner populations. Further research in this area should be undertaken in conjunction with prison administrators to enable the collection of all necessary and relevant data, such as detailed information as to the prison offence committed, and the punishment issued (including type of punishment and duration). Furthermore, the collection and analysis of additional information such as the severity of the offences committed and offenders' prior history of prison offending may prove useful in further studies. This will enable the facilitation of a full examination into whether male and female prisoners are treated equally in terms of prison punishments when the severity of punishments is taken into account. This will then enable the stated hypotheses to be fully tested and will then give prison policymakers a full representation of where resources should be allocated, in terms of staffing, training and program development and implementation.

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Appendices

**Appendix 1 – Excerpt from The Prison Rules 1999 (as amended) Detailing
'Offences Against Discipline' and Related Sections (Sections 51 to 61)**

THIS DOCUMENT CONSOLIDATES AMENDMENTS TO THE PRISON RULES 1999.

ITS PURPOSE IS TO PROVIDE STAFF AND PRISONERS
WITH A CURRENT VERSION OF THESE RULES.

STATUTORY INSTRUMENTS

1999 No. 728

PRISONS

The Prison Rules 1999

as amended by the Prison (Amendment) Rules 2000, the Prison (Amendment) (No. 2) Rules 2000, the Prison (Amendment) Rules 2002 and the Prison (Amendment) Rules 2003

Original rules came into force 1st April 1999. Latest amendment came into force 26th January 2004

OFFENCES AGAINST DISCIPLINE

Offences against discipline

51. A prisoner is guilty of an offence against discipline if he -

- (1) commits any assault;
- (1A) commits any racially aggravated assault;
- (2) detains any person against his will;
- (3) denies access to any part of the prison to any officer or any person (other than a prisoner) who is at the prison for the purpose of working there;
- (4) fights with any person;
- (5) intentionally endangers the health or personal safety of others or, by his conduct, is reckless whether such health or personal safety is endangered;
- (6) intentionally obstructs an officer in the execution of his duty, or any person (other than a prisoner) who is at the prison for the purpose of working there, in the performance of his work;
- (7) escapes or absconds from prison or from legal custody;
- (8) fails to comply with any condition upon which he is temporarily released under rule 9;
- (9) administers a controlled drug to himself or fails to prevent the administration of a controlled drug to him by another person (but subject to rule 52);
- (10) is intoxicated as a consequence of knowingly consuming any alcoholic beverage;
- (11) knowingly consumes any alcoholic beverage other than that provided to him pursuant to a written order under rule 25(1);
- (12) has in his possession -
 - (a) any unauthorised article, or
 - (b) a greater quantity of any article than he is authorised to have;
- (13) sells or delivers to any person any unauthorised article;
- (14) sells or, without permission, delivers to any person any article which he is allowed to have only for his own use;
- (15) takes improperly any article belonging to another person or to a prison;

- (16) intentionally or recklessly sets fire to any part of a prison or any other property, whether or not his own;
- (17) destroys or damages any part of a prison or any other property, other than his own;
- (17A) causes racially aggravated damage to, or destruction of, any part of a prison or any other property, other than his own;
- (18) absents himself from any place he is required to be or is present at any place where he is not authorised to be;
- (19) is disrespectful to any officer, or any person (other than a prisoner) who is at the prison for the purpose of working there, or any person visiting a prison;
- (20) uses threatening, abusive or insulting words or behaviour;
- (20A) uses threatening, abusive or insulting racist words or behaviour;
- (21) intentionally fails to work properly or, being required to work, refuses to do so;
- (22) disobeys any lawful order;
- (23) disobeys or fails to comply with any rule or regulation applying to him;
- (24) receives any controlled drug, or, without the consent of an officer, any other article, during the course of a visit (not being an interview such as is mentioned in rule 38);
- (24A) displays, attaches or draws on any part of a prison, or on any other property, threatening, abusive or insulting racist words, drawings, symbols or other material;
- (25)
 - (a) attempts to commit,
 - (b) incites another prisoner to commit, or
 - (c) assists another prisoner to commit or to attempt to commit, any of the foregoing offences.

51A. Interpretation of rule 51

(2) For the purposes of rule 51 words, behaviour or material are racist if they demonstrate, or are motivated (wholly or partly) by, hostility to members of a racial group (whether identifiable or not) based on their membership (or presumed membership) of a racial group, and “membership”, “presumed”, “racial group” and “racially aggravated” shall have the meanings assigned to them by section 28 of the Crime and Disorder Act 1998(a).

Defences to rule 51(9)

52. It shall be a defence for a prisoner charged with an offence under rule 51(9) to show that:

(a) the controlled drug had been, prior to its administration, lawfully in his possession for his use or was administered to him in the course of a lawful supply of the drug to him by another person;

(b) the controlled drug was administered by or to him in circumstances in which he did not know and had no reason to suspect that such a drug was being administered; or

(c) the controlled drug was administered by or to him under duress or to him without his consent in circumstances where it was not reasonable for him to have resisted.

Disciplinary charges

53. - (1) Where a prisoner is to be charged with an offence against discipline, the charge shall be laid as soon as possible and, save in exceptional circumstances, within 48 hours of the discovery of the offence.

(2) Every charge shall be inquired into by the governor or, as the case may be, the adjudicator.

(3) Every charge shall be first inquired into not later, save in exceptional circumstances or in accordance with rule 55A(5), than:

(a) where it is inquired into by the governor, the next day, not being a Sunday or public holiday, after it is laid;

(b) where it is referred to the adjudicator under rule 53A(2), 28 days after it is so referred.

(4) A prisoner who is to be charged with an offence against discipline may be kept apart from other prisoners pending the governor's first inquiry or determination under rule 53A.

Determination of mode of inquiry

53A - (1) Before inquiring into a charge the governor shall determine whether it is so serious that additional days should be awarded for the offence, if the prisoner is found guilty.

(2) Where the governor determines:

(a) that it is so serious, he shall:

(i) refer the charge to the adjudicator forthwith for him to inquire into it;

(ii) refer any other charge arising out of the same incident to the adjudicator forthwith for him to inquire into it; and

(iii) inform the prisoner who has been charged that he has done so;

(b) that it is not so serious, he shall proceed to inquire into the charge.

(3) If:

- (a) at any time during an inquiry into a charge by the governor; or
- (b) following such an inquiry, after the governor has found the prisoner guilty of an offence but before he has imposed a punishment for that offence, it appears to the governor that the charge is so serious that additional days should be awarded for the offence if (where sub-paragraph (a) applies) the prisoner is found guilty, the governor shall act in accordance with paragraph (2)(a)(i) to (iii) and the adjudicator shall first inquire into any charge referred to him under this paragraph not later than, save in exceptional circumstances, 28 days after the charge was referred.”.

Rights of prisoners charged

54. - (1) Where a prisoner is charged with an offence against discipline, he shall be informed of the charge as soon as possible and, in any case, before the time when it is inquired into by the governor or, as the case may be, the adjudicator.

(2) At an inquiry into a charge against a prisoner he shall be given a full opportunity of hearing what is alleged against him and of presenting his own case.

(3) At an inquiry into a charge which has been referred to the adjudicator, the prisoner who has been charged shall be given the opportunity to be legally represented.

Governor's punishments

55. - (1) If he finds a prisoner guilty of an offence against discipline the governor may, subject to paragraph (2) and to rule 57, impose one or more of the following punishments:

- (a) caution;
 - (b) forfeiture for a period not exceeding 42 days of any of the privileges under rule 8;
 - (c) exclusion from associated work for a period not exceeding 21 days;
 - (d) stoppage of or deduction from earnings for a period not exceeding 84 days;
 - (e) cellular confinement for a period not exceeding 21 days;
 - (f) [revoked by 2002 amd]
 - (g) in the case of a prisoner otherwise entitled to them, forfeiture for any period of the right, under rule 43(1), to have the articles there mentioned.
 - (h) removal from his wing or living unit for a period of 28 days.
- (2) A caution shall not be combined with any other punishment for the same charge.

(3) If a prisoner is found guilty of more than one charge arising out of an incident, punishments under this rule may be ordered to run consecutively but, in the case of a punishment of cellular confinement, the total period shall not exceed 21 days.

(4) In imposing a punishment under this rule, the governor shall take into account any guidelines that the Secretary of State may from time to time issue as to the level of punishment that should normally be imposed for a particular offence against discipline.

Adjudicator's punishments

55A. - (1) If he finds a prisoner guilty of an offence against discipline the adjudicator may, subject to paragraph (2) and to rule 57, impose one or more of the following punishments:

(a) any of the punishments mentioned in rule 55(1);

(b) in the case of a short-term prisoner or long-term prisoner, an award of additional days not exceeding 42 days.

(2) A caution shall not be combined with any other punishment for the same charge.

(3) If a prisoner is found guilty of more than one charge arising out of an incident, punishments under this rule may be ordered to run consecutively but, in the case of an award of additional days, the total period added shall not exceed 42 days and, in the case of a punishment of cellular confinement, the total period shall not exceed 21 days.

(4) This rule applies to a prisoner who has been charged with having committed an offence against discipline before the date on which the rule came into force, in the same way as it applies to a prisoner who has been charged with having committed an offence against discipline on or after that date, provided the charge is referred to the adjudicator no later than 60 days after that date.

(5) Rule 53(3) shall not apply to a charge where, by virtue of paragraph (4), this rule applies to the prisoner who has been charged..

Forfeiture of remission to be treated as an award of additional days

56. - (1) In this rule, "existing prisoner" and "existing licensee" have the meanings assigned to them by paragraph 8(1) of Schedule 12 to the Criminal Justice Act 1991[12].

(2) In relation to any existing prisoner or existing licensee who has forfeited any remission of his sentence, the provisions of Part II of the Criminal Justice Act 1991 shall apply as if he had been awarded such number of additional days as equals the numbers of days of remission which he has forfeited.

Offences committed by young persons

57. - (1) In the case of an offence against discipline committed by an inmate who was under the age of 21 when the offence was committed (other than an offender in relation to whom the Secretary of State has given a direction under section 13(1) of the Criminal Justice Act 1982[13] that he shall be treated as if he had been sentenced to imprisonment) rule 55 or, as the case may be, rule 55A shall have effect, but -

- (a) the maximum period of forfeiture of privileges under rule 8 shall be 21 days;
- (b) the maximum period of stoppage of or deduction from earnings shall be 42 days;
- (c) the maximum period of cellular confinement shall be ten days.
- (d) the maximum period of removal from his cell or living unit shall be 21 days.

(2) In the case of an inmate who has been sentenced to a term of youth custody or detention in a young offender institution, and by virtue of a direction of the Secretary of State under section 99 of the Powers of Criminal Courts (Sentencing) Act 2000, is treated as if he had been sentenced to imprisonment for that term, any punishment imposed on him for an offence against discipline before the said direction was given shall, if it has not been exhausted or remitted, continue to have effect:

- (a) if imposed by a governor, as if made pursuant to rule 55;
- (b) if imposed by an adjudicator, as if made pursuant to rule 55A".

Cellular confinement

58. When it is proposed to impose a punishment of cellular confinement, the medical officer, or a medical practitioner such as is mentioned in rule 20(3), shall inform the governor whether there are any medical reasons why the prisoner should not be so dealt with. The governor shall give effect to any recommendation which may be made under this rule.

Prospective award of additional days

59. - (1) Subject to paragraph (2), where an offence against discipline is committed by a prisoner who is detained only on remand, additional days may be awarded by the adjudicator notwithstanding that the prisoner has not (or had not at the time of the offence) been sentenced.

(2) An award of additional days under paragraph (1) shall have effect only if the prisoner in question subsequently becomes a short-term or long-term prisoner whose sentence is reduced, under section 67 of the Criminal Justice Act 1967[14], by a period which includes the time when the offence against discipline was committed.

Removal from a cell or living unit

59A. Following the imposition of a punishment of removal from his cell or living unit, a prisoner shall be accommodated in a separate part of the prison under such restrictions of earnings and activities as the Secretary of State may direct..

Suspended punishments

60. - (1) Subject to any directions given by the Secretary of State, the power to impose a disciplinary punishment (other than a caution) shall include power to direct that the punishment is not to take effect unless, during a period specified in the direction (not being more than six months from the date of the direction), the prisoner commits another offence against discipline and a direction is given under paragraph (2).

(2) Where a prisoner commits an offence against discipline during the period specified in a direction given under paragraph (1) the person dealing with that offence may -

(a) direct that the suspended punishment shall take effect;

(b) reduce the period or amount of the suspended punishment and direct that it shall take effect as so reduced;

(c) vary the original direction by substituting for the period specified a period expiring not later than six months from the date of variation;

or

(d) give no direction with respect to the suspended punishment.

(3) Where an award of additional days has been suspended under paragraph (1) and a prisoner is charged with committing an offence against discipline during the period specified in a direction given under that paragraph, the governor shall either:

(a) inquire into the charge and give no direction with respect to the suspended award; or

(b) refer the charge to the adjudicator for him to inquire into it

Remission and mitigation of punishments and quashing of findings of guilt

61. - (1) The Secretary of State may quash any finding of guilt and may remit any punishment or mitigate it either by reducing it or by substituting another award which is, in his opinion, less severe.

(2) Subject to any directions given by the Secretary of State, the governor may remit or mitigate any punishment imposed by a governor or the board of visitors.

Appendix 2 – Excerpt from The Young Offender Institution Rules 2000 (as amended) Detailing ‘Offences Against Discipline’ and Related Sections

THIS DOCUMENT CONTAINS
THE YOUNG OFFENDER INSTITUTION RULES 2000
ITS PURPOSE IS TO PROVIDE STAFF AND PRISONERS
WITH A CURRENT VERSION OF THESE RULES.

STATUTORY INSTRUMENTS 2000 No. 3371

**YOUNG OFFENDER INSTITUTIONS
ENGLAND AND WALES**

**The Young Offender Institution Rules 2000
As amended by The Young Offender Institution (Amendment)
Rules 2002 (S.I.2002 no. 2117)**

Original rules made 21st December 2000, laid before Parliament 5th January 2001, coming into force 1st April 2001; amendment made and laid 14th August 2002, coming into force 15th August 2002

Offences against discipline

50. An inmate is guilty of an offence against discipline if he -

- (1) commits any assault;
- (2) commits any racially aggravated assault;
- (3) detains any person against his will;
- (4) denies access to any part of the young offender institution to any officer or any person (other than an inmate) who is at the young offender institution for the purpose of working there;
- (5) fights with any person;
- (6) intentionally endangers the health or personal safety of others or, by his conduct, is reckless whether such health or personal safety is endangered;
- (7) intentionally obstructs an officer in the execution of his duty, or any person (other than an inmate) who is at the young offender institution for the purpose of working there, in the performance of his work;
- (8) escapes or absconds from a young offender institution or from legal custody;
- (9) fails to comply with any condition upon which he was temporarily released under rule 5 of these rules;
- (10) administers a controlled drug to himself or fails to prevent the administration of a controlled drug to him by another person (but subject to rule 56 below);
- (11) is intoxicated as a consequence of knowingly consuming any alcoholic beverage;
- (12) knowingly consumes any alcoholic beverage, other than any provided to him pursuant to a written order of the medical officer under rule 21(1);
- (13) has in his possession -
 - (a) any unauthorised article, or
 - (b) a greater quantity of any article than he is authorised to have;
- (14) sells or delivers to any person any unauthorised article;
- (15) sells or, without permission, delivers to any person any article which he is allowed to have only for his own use;
- (16) takes improperly any article belonging to another person or to a young offender institution;

- (17) intentionally or recklessly sets fire to any part of a young offender institution or any other property, whether or not his own;
- (18) destroys or damages any part of a young offender institution or any other property other than his own;
- (19) causes racially aggravated damage to, or destruction of, any part of a young offender institution or any other property, other than his own;
- (20) absents himself from any place where he is required to be or is present at any place where he is not authorised to be;
- (21) is disrespectful to any officer, or any person (other than an inmate) who is at the young offender institution for the purpose of working there, or any person visiting a young offender institution;
- (22) uses threatening, abusive or insulting words or behaviour;
- (23) uses threatening, abusive or insulting racist words or behaviour;
- (24) intentionally fails to work properly or, being required to work, refuses to do so;
- (25) disobeys any lawful order;
- (26) disobeys or fails to comply with any rule or regulation applying to him;
- (27) receives any controlled drug or, without the consent of an officer, any other article, during the course of a visit (not being an interview such as is mentioned in rule 16);
- (28) displays, attaches or draws on any part of a young offender institution, or on any other property, threatening, abusive, or insulting racist words, drawings, symbols or other material;
- (29) (a) attempts to commit,
- (b) incites another inmate to commit, or
- (c) assists another inmate to commit or to attempt to commit, any of the foregoing offences.

Defences to rule 50(10)

51. It shall be a defence for an inmate charged with an offence under rule 50(10) to show that -

- (a) the controlled drug had been, prior to its administration, lawfully in his possession for his use or was administered to him in the course of a lawful supply of the drug to him by another person;
- (b) the controlled drug was administered by or to him in circumstances in which he did not know and had no reason to suspect that such a drug was being administered; or

(c) the controlled drug was administered by or to him under duress or to him without his consent in circumstances where it was not reasonable for him to have resisted.

Interpretation of rule 50

52. For the purposes of rule 50 words, behaviour or material shall be racist if they demonstrate or are motivated (wholly or partly) by hostility to members of a racial group (whether identifiable or not) based on their membership (or presumed membership) of a racial group, and "membership", "presumed", "racial group" and "racially aggravated", shall have the meanings assigned to them by section 28 of the Crime and Disorder Act 1998[9]

Disciplinary charges

53. - (1) Where an inmate is to be charged with an offence against discipline, the charge shall be laid as soon as possible and, save in exceptional circumstances, within 48 hours of the discovery of the offence.

(2) Every charge shall be inquired into by the governor or, as the case may be, the adjudicator.

(3) Every charge shall be first inquired into not later, save in exceptional circumstances or in accordance with rule 60A(5) or rule 65(4), than:

(a) where it is inquired into by the governor, the next day, not being a Sunday or public holiday, after it is laid;

(b) where it is referred to the adjudicator under rule 54A(2), 28 days after it is so referred.

(4) An inmate who is to be charged with an offence against discipline may be kept apart from other inmates pending the governor's first inquiry or determination under rule 54A.

Determination of mode of inquiry

54A. - (1) Before inquiring into a charge the governor shall determine whether it is so serious that additional days should be awarded for the offence, if the inmate is found guilty.

(2) Where the governor determines:

(a) that it is so serious, he shall:

(i) refer the charge to the adjudicator forthwith for him to inquire into it;

(ii) refer any other charge arising out of the same incident to the adjudicator forthwith for him to inquire into it; and

(iii) inform the inmate who has been charged that he has done so;

(b) that it is not so serious, he shall proceed to inquire into the charge.

(3) If:

(a) at any time during an inquiry into a charge by the governor; or

(b) following such an inquiry, after the governor has found the inmate guilty of an offence but before he has imposed a punishment for that offence,

it appears to the governor that the charge is so serious that additional days should be awarded for the offence if (where sub-paragraph (a) applies) the inmate is found guilty, the governor shall act in accordance with paragraph (2)(a)(i) to (iii) and the adjudicator shall first inquire into any charge referred to him under this paragraph not later than, save in exceptional circumstances, 28 days after the charge was referred.

Rights of inmates charged

55. - (1) Where an inmate is charged with an offence against discipline, he shall be informed of the charge as soon as possible and, in any case, before the time when it is inquired into by the governor or, as the case may be, the adjudicator.

(2) At an inquiry into charge against an inmate he shall be given a opportunity of hearing what is alleged against him and of presenting his own case.

(3) At an inquiry into a charge which has been referred to the adjudicator, the inmate who has been charged shall be given the opportunity to be legally represented.

Governor's punishments

56. - (1) If he finds an inmate guilty of an offence against discipline the governor may, subject to paragraph (3) and rule 65 impose one or more of the following punishments:

(a) caution;

(b) forfeiture for a period not exceeding 21 days of any of the privileges under rule 6;

(c) removal for a period not exceeding 21 days from any particular activity or activities of the young offender institution, other than education, training courses, work and physical education in accordance with rules 37, 38, 39, 40 and 41;

(d) extra work outside the normal working week for a period not exceeding 21 days and for not more than two hours on any day;

(e) stoppage of or deduction from earnings for a period not exceeding 42 days;

(f) in the case of an offence against discipline committed by an inmate who was aged 18 or over at the time of commission of the offence, other than an inmate who is serving the period of detention and training under a detention and training order pursuant to section 100 of the Powers of Criminal Courts (Sentencing) Act 2000, confinement to a cell or room for a period not exceeding ten days;

(g) removal from his wing or living unit for a period not exceeding 21 days;

(2) If an inmate is found guilty of more than one charge arising out of an incident punishments under this rule may be ordered to run consecutively, but, in the case of a punishment of cellular confinement the total period shall not exceed ten days.

(3) A caution shall not be combined with any other punishment for the same charge.

(4) In imposing a punishment under this rule, the governor shall take into account any guidelines that the Secretary of State may from time to time issue as to the level of punishment that should normally be imposed for a particular offence against discipline.

Adjudicator's punishments

57A. - (1) If he finds a inmate guilty of an offence against discipline the adjudicator may, subject to paragraph (2) and to rule 65, impose one or more of the following punishments:

(a) any of the punishments mentioned in rule 60(1);

(b) in the case of an inmate who is a short-term prisoner or long-term prisoner, an award of additional days not exceeding 42 days.

(2) A caution shall not be combined with any other punishment for the same charge.

(3) If an inmate is found guilty of more than one charge arising out of an incident, punishments under this rule may be ordered to run consecutively but, in the case of an award of additional days, the total period added shall not exceed 42 days and, in the case of a punishment of cellular confinement, the total period shall not exceed ten days.

(4) This rule applies to an inmate who has been charged with having committed an offence against discipline before the date on which the rule came into force, in the same way as it applies to an inmate who has been charged with having committed an offence against discipline on or after that date, provided the charge is referred to the adjudicator no later than 60 days after that date.

(5) Rule 58(3) shall not apply to a charge where, by virtue of paragraph (4), this rule applies to the inmate who has been charged."

Confinement to a cell or room

58. - (1) When it is proposed to impose a punishment of confinement in a cell or room, the medical officer, or a medical practitioner such as is mentioned in rule 27(3), shall inform the governor whether there are any medical reasons why the inmate should not be so dealt with. The governor shall give effect to any recommendation which may be made under this paragraph.

(2) No cell or room shall be used as a detention cell or room for the purpose of a punishment of confinement to a cell or room unless it has been certified by an officer of the Secretary of State (not being an officer of a young offender institution) that it is suitable for the purpose; that its size, lighting, heating, ventilation and fittings are adequate for health; and that it allows the inmate to communicate at any time with an officer.

Removal from wing or living unit

59. Following the imposition of a punishment of removal from his wing or living unit, an inmate shall be accommodated in a separate part of the young offender institution under such restrictions of earnings and activities as the Secretary of State may direct.

Suspended punishments

60. - (1) Subject to any directions of the Secretary of State, the power to impose a disciplinary punishment (other than a caution) shall include a power to direct that the punishment is not to take effect unless, during a period specified in the direction (not being more than six months from the date of the direction), the inmate commits another offence against discipline and a direction is given under paragraph (2).

(2) Where an inmate commits an offence against discipline during the period specified in a direction given under paragraph (1), the person dealing with that offence may -

(a) direct that the suspended punishment shall take effect; or

(b) reduce the period or amount of the suspended punishment and direct that it shall take effect as so reduced; or

(c) vary the original direction by substituting for the period specified therein a period expiring not later than six months from the date of variation; or

(d) give no direction with respect to the suspended punishment.

(3) Where an award of additional days has been suspended under paragraph (1) and an inmate is charged with committing an offence against discipline during the period specified in a direction given under that paragraph, the governor shall either:

(a) inquire into the charge and give no direction with respect to the suspended award; or

(b) refer the charge to the adjudicator for him to inquire into it

Remission and mitigation of punishments and quashing of findings of guilt

61. - (1) The Secretary of State may quash any findings of guilt and may remit a disciplinary punishment or mitigate it either by reducing it or by substituting a punishment which is, in his opinion, less severe.

(2) Subject to any directions of the Secretary of State, the governor may remit or mitigate any punishment imposed by a governor.

Forfeiture of remission to be treated as an award of additional days

62. - (1) In this rule, "existing prisoner" and "existing licensee" have the meanings assigned to them by paragraph 8(1) of Schedule 12 to the Criminal Justice Act 1991.

(2) In relation to any existing prisoner or existing licensee who has forfeited any remission of his sentence, the provisions of Part II of the Criminal Justice Act 1991 shall apply as if he had been awarded such number of additional days as equals the number of days of remission which he has forfeited.

Appendix 3 – Statistical Tables

Table 1 - Prison population in United Kingdom prison establishments 1997 to 2007 by year and sex of prisoner

Year	Males	Females	Total	Females as a proportion (%)
1997	58,439	2,675	61,114	4.4
1998	62,194	3,105	65,298	4.8
1999	61,523	3,247	64,771	5.0
2000	61,252	3,350	64,602	5.2
2001	62,560	3,740	66,301	5.6
2002	66,479	4,299	70,778	6.1
2003	68,612	4,425	73,038	6.1
2004	70,208	4,448	74,657	6.0
2005	71,512	9,072	75,979	5.9
2006	73,680	4,447	78,127	5.7
2007	75,842	4,374	80,216	5.5

Annual average population
Excludes police cells

United Kingdom Ministry of Justice (2008)

Table 2 - Offences punished per 100 population in United Kingdom prison establishments 1997 to 2007 by type of offence and sex

England and Wales	Number of offences punished per 100 population										
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
MALES AND FEMALES	177	171	161	163	163	150	145	145	146	136	136
Violence	23	23	24	25	25	25	23	23	24	23	22
Escapes or absconds	2	1	1	1	1	1	1	1	0	0	0
Disobedience or disrespect	68	68	62	65	67	64	62	62	62	56	56
Wilful damage	9	10	10	11	11	10	10	10	10	10	9
Unauthorised transactions/possessions	59	53	48	46	42	33	33	36	36	34	36
Other offences	16	15	16	16	17	17	16	14	13	12	12
MALES	174	168	158	159	160	146	142	142	143	131	133
Violence	23	23	23	24	25	24	23	22	23	22	22
Escapes or absconds	2	1	1	1	1	1	1	1	0	0	0
Disobedience or disrespect	66	66	61	63	65	63	60	60	61	53	54
Wilful damage	10	10	10	11	11	10	10	10	10	10	9
Unauthorised transactions/possessions	59	54	48	45	42	33	34	36	36	34	36
Other offences	15	13	15	15	15	15	15	13	13	12	12
FEMALES	244	233	213	232	225	208	205	203	193	204	189
Violence	27	25	27	33	32	32	32	31	33	33	30
Escapes or absconds	5	5	3	2	2	1	0	1	0	0	0
Disobedience or disrespect	110	103	83	94	95	84	93	90	86	99	93
Wilful damage	8	9	8	10	13	11	12	11	14	12	13
Unauthorised transactions/possessions	44	44	48	52	42	34	30	36	34	35	31
Other offences	49	48	44	42	41	47	38	33	25	25	22

(1) Including attempts.

United Kingdom Ministry of Justice (2008)

Table 3 - Punishments per 100 prison population in United Kingdom prison establishments 1997 to 2007 by sex

England and Wales	Number of punishments per 100 population										
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
MALES AND FEMALES											
All punishments	298	290	278	275	276	256	252	249	250	230	231
Confinement to cell or room	24	22	20	21	20	24	31	30	27	26	27
Removal from activities	1	1	1	1	1	1	1	0	0	0	0
Forfeiture of privileges	68	69	68	72	80	96	114	112	115	106	108
Stoppage/reduction of earnings	68	66	65	68	69	72	82	79	77	68	67
Caution	8	9	8	9	9	9	9	8	8	7	7
Removal from wing or living unit	2	2	2	2	4	4	3	4	4	3	3
Extra work	2	2	1	1	1	1	1	1	1	1	1
Exclusion from associated work	4	4	3	3	3	3	4	3	2	2	1
Additional days awarded	121	115	109	99	90	46	9	13	16	16	17
MALES											
All punishments	295	287	276	271	273	252	249	246	248	225	227
Confinement to cell or room	23	21	20	21	20	24	30	29	28	26	27
Removal from activities	1	1	1	1	1	1	1	0	0	0	0
Forfeiture of privileges	66	67	67	70	79	95	112	111	114	103	106
Stoppage/reduction of earnings	67	65	65	67	68	70	80	78	76	66	66
Caution	8	8	8	9	9	9	8	8	8	7	6
Removal from wing or living unit	2	2	2	2	4	5	3	4	4	3	3
Extra work	2	2	1	1	1	1	1	1	1	1	1
Exclusion from associated work	4	4	3	3	3	3	4	3	2	2	1
Additional days awarded	121	115	109	98	89	46	9	13	16	16	17
FEMALES											
All punishments	361	348	315	350	325	317	301	296	291	315	291
Confinement to cell or room	30	30	21	22	21	28	35	33	23	29	31
Removal from activities	0	0	0	0	0	0	0	0	0	0	0
Forfeiture of privileges	97	94	84	94	88	111	132	133	145	152	140
Stoppage/reduction of earnings	87	86	79	90	86	102	105	95	87	95	86
Caution	17	15	15	13	14	15	18	17	14	13	14
Removal from wing or living unit	0	0	0	0	2	1	2	2	1	0	0
Extra work	1	0	1	1	1	1	1	1	0	2	1
Exclusion from associated work	3	4	1	5	2	2	2	3	2	2	1
Additional days awarded	127	117	115	124	112	58	6	12	19	22	17

United Kingdom Ministry of Justice (2008)

Table 4 - Offences punished and punishments given in United Kingdom prison establishments by offence type and sex, 2007

England and Wales

	Confinement to cell or room	Forfeiture of privileges	Stoppage or reduction of earnings	Caution	Other	Additional days awarded	All punishments	All offences
MALES AND FEMALES								
All offences	21,440	86,523	53,789	5,342	3,922	13,460	184,486	109,117
Violence	3,304	16,594	9,210	614	824	1,028	30,574	17,667
Escapes or absconds	12	23	18	1	2	93	149	119
Disobedience or disrespect	10,073	37,079	22,648	2,828	1,527	2,482	76,515	45,064
Wilful damage	1,395	6,091	4,857	227	447	568	13,375	7,536
Unauthorised transactions/possessions	5,247	18,949	13,066	891	708	8,742	47,603	28,958
Other offences	1,409	7,787	5,302	781	414	577	16,270	9,873
MALES								
All offences	20,104	80,389	50,035	4,744	3,828	12,717	171,817	100,835
Violence	2,993	15,516	7,709	574	809	856	28,456	16,343
Escapes or absconds	11	21	18	1	2	89	142	113
Disobedience or disrespect	9,456	33,994	20,591	2,501	1,471	2,251	70,264	41,005
Wilful damage	1,319	5,702	4,355	212	441	523	12,552	6,984
Unauthorised transactions/possessions	5,056	18,095	12,612	792	703	8,457	45,615	27,501
Other offences	1,269	7,061	4,850	684	402	542	14,788	8,889
FEMALES								
All offences	1,336	6,134	3,764	598	94	743	12,669	8,282
Violence	311	1,078	501	40	15	173	2,118	1,324
Escapes or absconds	1	2	0	0	0	4	7	6
Disobedience or disrespect	617	3,085	1,955	327	56	211	6,261	4,059
Wilful damage	76	389	302	15	6	35	523	552
Unauthorised transactions/possessions	191	854	554	99	5	285	1,988	1,357
Other offences	140	726	452	117	12	35	1,482	984

United Kingdom Ministry of Justice (2008)

Table 5 - Offences punished and punishments given in United Kingdom prison establishments by offence and sex - Males

Prison Rule 51 or YOI Rule 50 Offence ⁽¹⁾⁽²⁾ Paragraph	Type of punishment ⁽³⁾							All punish- ments ⁽⁵⁾	All offences ⁽⁵⁾
	Confine- ment to cell or room	Forfeiture of privileges	Stoppage or reduc- tion of earnings	Caution	Other ⁽⁴⁾	Additional days			
TOTAL MALES									
All Offences	20,104	80,389	50,035	4,744	3,828	12,717	171,817	100,835	
Violence	2,993	15,516	7,709	574	809	855	28,456	16,343	
1 Assault:	1,751	5,355	2,831	148	467	787	11,339	6,389	
<i>on staff</i>	754	1,734	934	45	156	488	4,131	2,395	
<i>on a prisoner</i>	739	2,850	1,534	82	269	206	5,680	3,101	
<i>on any other person</i>	258	771	343	21	42	93	1,528	893	
2 Detains any person	7	18	6	1	1	8	41	21	
4 Fights with any person	1,235	10,143	4,872	425	341	60	17,076	9,933	
Escape/Abscond	11	21	18	1	2	89	142	113	
7 Escapes from prison or legal custody	6	14	11	1	0	84	116	98	
25 Attempted escape	5	7	7	0	2	5	26	15	
Disobedience/Disrespect	9,456	33,994	20,591	2,501	1,471	2,251	70,264	41,005	
19 Is disrespectful	65	318	185	19	21	10	618	361	
20 Threats/abusive words or behaviour	2,765	12,835	7,425	547	610	257	24,439	13,819	
21 Fails/refuses to work	87	1,175	932	133	77	9	2,413	1,431	
22 Disobeys any lawful order:	6,289	17,634	10,649	1,597	700	1,927	38,796	23,035	
<i>refusal to provide a drug test sample</i>	32	94	60	3	1	177	367	258	
<i>falsifying a drug test sample</i>	7	51	86	5	0	36	185	129	
<i>any other lawful disorder</i>	6,250	17,489	10,503	1,589	699	1,714	38,244	22,648	
23 Disobeys any rule or regulation	250	2,032	1,400	205	63	48	3,998	2,359	
Wilful Damage	1,319	5,702	4,355	212	441	523	12,552	6,984	
16 Sets fire to prison or property	95	295	191	9	35	58	683	375	
17 Destroys/damages prison or property	1,224	5,407	4,164	203	406	465	11,869	6,609	
Unauthorised Transactions	5,056	18,095	12,512	792	703	8,457	45,615	27,501	
Drugs offences:	2,185	5,370	3,668	74	199	3,791	15,287	9,308	
9 <i>unauthorised use of a controlled drug</i>	1,640	4,268	3,156	54	151	3,041	12,310	7,439	
12a <i>possession of a controlled drug</i>	404	834	355	8	41	408	2,050	1,223	
13 <i>sells/delivers drugs to any person</i>	4	7	4	1	0	10	26	19	
9 <i>administers any controlled drug</i>	1	0	2	0	0	22	25	25	
24 <i>receives drugs during a visit</i>	136	261	151	11	7	310	876	602	
Has in his possession:	2,786	12,227	8,478	686	488	4,583	29,248	17,581	
12a <i>an unauthorised article</i>	2,666	11,578	8,012	646	465	4,377	27,744	16,681	
12b <i>greater quantity than authorised</i>	120	649	466	40	23	206	1,504	900	
13 <i>Sells/delivers unauthorised article</i>	44	158	103	11	1	56	373	220	
14 <i>Sells/delivers article allowed only for own use</i>	12	141	92	19	7	6	277	167	
10/11 <i>Knowingly consumes alcohol</i>	29	199	171	2	8	21	430	225	
Other Offences	1,269	7,061	4,850	664	402	542	14,788	8,889	
3 <i>Denies access to any part of the prison to an officer</i>	139	297	181	8	28	118	771	448	
5 <i>Endangers the health or personal safety of others</i>	529	2,426	1,400	146	182	157	4,840	2,863	
6 <i>Intentionally obstructs an officer in executing his duty</i>	196	815	505	51	40	55	1,662	932	
8 <i>Fails to comply with any temporary release condition</i>	16	453	465	89	27	52	1,102	697	
15 <i>Takes an article belonging to another person or to a prison</i>	46	481	303	41	22	7	900	516	
18 <i>Absent from where required to be or present at unauthorised place</i>	343	2,589	1,996	329	103	153	5,513	3,433	

United Kingdom Ministry of Justice (2008)

Table 6 - Offences punished and punishments given in United Kingdom prison establishments by offence and sex – Females

Prison Rule 51 or YOI Rule 50 Offence ⁽¹⁾⁽²⁾ Paragraph	Type of punishment ⁽³⁾							All offences ⁽⁵⁾
	Confinement to cell or room	Forfeiture of privileges	Stoppage or reduction of earnings	Cautions	Other ⁽⁴⁾	Additional days	All punishments ⁽⁵⁾	
TOTAL FEMALES								
All Offences	1,336	6,134	3,764	598	94	743	12,669	8,282
Violence	311	1,078	501	40	15	173	2,118	1,324
1 Assault:	208	551	248	14	11	159	1,191	776
<i>on staff</i>	106	299	133	8	7	112	665	442
<i>on a prisoner</i>	64	176	73	4	4	19	340	218
<i>on any other person</i>	38	76	42	2	0	28	186	116
2 Detains any person	1	2	1	0	0	4	8	6
4 Fights with any person	102	525	252	26	4	10	919	542
Escape/Abscond	1	2	0	0	0	4	7	6
7 Escapes from prison or legal custody	0	2	0	0	0	4	6	5
25 Attempted escape	1	0	0	0	0	0	1	1
Disobedience/Disrespect	617	3,085	1,955	327	56	211	6,251	4,059
19 Is disrespectful	2	27	16	8	1	0	54	41
20 Threats/abusive words or behaviour	233	1,174	652	92	19	56	2,226	1,392
21 Fails/refuses to work	15	159	163	36	7	0	380	255
22 Disobeys any lawful order:	310	1,180	702	125	24	147	2,488	1,664
<i>refusal to provide a drug test sample</i>	0	8	7	0	0	25	40	33
<i>falsifying a drug test sample</i>	0	0	0	0	0	2	2	2
<i>any other lawful disorder</i>	310	1,172	695	125	24	120	2,446	1,629
23 Disobeys any rule or regulation	57	545	422	66	5	8	1,103	707
Wilful Damage	76	389	302	15	6	35	823	552
16 Sets fire to prison or property	16	29	17	0	1	13	76	53
17 Destroys/damages prison or property	60	360	285	15	5	22	747	499
Unauthorised Transactions	191	854	554	99	5	285	1,988	1,357
Drugs offences:	68	201	137	2	1	234	643	472
9 <i>unauthorised use of a controlled drug</i>	64	141	99	1	1	212	518	388
12a <i>possession of a controlled drug</i>	3	53	33	1	0	14	104	69
13 <i>sells/delivers drugs to any person</i>	0	0	0	0	0	1	1	1
24 <i>receives drugs during a visit</i>	1	7	5	0	0	7	20	14
Has in his possession:	112	610	386	92	4	49	1,253	829
12a <i>an unauthorised article</i>	99	493	288	79	3	38	1,000	678
12b <i>greater quantity than authorised</i>	13	117	98	13	1	11	253	151
13 Sells/delivers unauthorised article	1	14	8	2	0	1	26	16
14 Sells/delivers article allowed only for own use	1	18	14	2	0	0	35	22
10/11 Knowingly consumes alcohol	9	11	9	1	0	1	31	18
Other Offences	140	726	452	117	12	35	1,482	984
3 Denies access to any part of the prison to an officer	12	34	17	2	1	11	77	48
5 Endangers the health or personal safety of others	28	194	117	14	1	10	364	223
6 Intentionally obstructs an officer in executing his duty	7	50	19	0	1	1	78	47
8 Fails to comply with any temporary release condition	14	46	30	26	1	5	122	97
15 Takes an article belonging to another person or to a prison	4	65	43	22	1	1	136	88
18 Absent from where required to be or present at unauthorised place	75	337	226	53	7	7	705	481

United Kingdom Ministry of Justice (2008)

Table 7 - Populations in United Kingdom prison establishments 1997 to 2007 by type of custody, offence group and sex

England and Wales 30 June	Number of persons										
	1997	1998	1999	2000	2001	2002	2003	2004	2005 ⁽²⁾	2006 ⁽³⁾	2007 ⁽⁴⁾
MALES AND FEMALES											
Remand	12,105	12,903	12,589	11,432	11,061	13,081	13,073	12,495	12,864	13,067	12,844
Violence against the person	2,215	2,331	2,231	2,111	2,148	2,543	2,541	2,717	2,902	3,105	3,129
Sexual offences	629	761	702	588	492	590	559	623	760	896	784
Robbery	1,198	990	1,167	1,020	912	1,409	1,273	1,206	1,110	1,316	1,351
Burglary	2,414	2,244	2,419	1,938	1,702	2,000	1,952	1,526	1,511	1,396	1,422
Theft and handling	1,725	2,046	1,804	1,818	1,685	1,963	1,856	1,449	1,356	1,272	1,064
Fraud and forgery	224	202	206	165	184	215	240	306	359	482	522
Drug offences	1,420	1,783	1,732	1,582	1,507	1,534	1,545	1,499	1,830	1,570	1,844
Motoring offences	336	299	302	286	359	393	421	313	249	227	146
Other offences	1,407	1,699	1,500	1,459	1,294	1,519	1,624	1,756	1,854	2,017	1,812
Offence not recorded	537	548	526	465	779	916	1,062	1,101	726	786	768
Immediate custodial sentence	48,674	52,159	51,293	53,093	54,169	57,272	59,393	60,924	62,179	63,404	65,533
Violence against the person	10,424	10,944	10,858	11,217	11,744	12,212	12,985	13,974	15,178	16,215	17,616
Sexual offences	4,077	4,795	4,946	5,090	5,107	5,294	5,540	5,773	6,185	6,598	7,336
Robbery	6,438	6,626	6,331	6,353	6,784	7,522	8,286	8,448	8,378	8,415	8,747
Burglary	8,077	8,656	8,780	8,982	8,570	9,156	8,816	8,643	8,082	7,791	7,920
Theft and handling	4,263	4,492	4,411	5,044	4,799	4,739	4,651	4,404	4,126	4,125	3,706
Fraud and forgery	1,225	1,199	1,104	1,016	1,071	1,040	1,022	1,147	1,454	1,692	1,738
Drug offences	7,174	7,893	8,169	8,473	9,148	10,067	10,330	10,486	10,661	10,647	10,613
Motoring offences	1,915	1,924	1,934	2,320	2,461	2,259	2,689	2,403	2,163	1,920	1,484
Other offences	3,321	3,501	3,464	3,723	3,587	3,911	4,186	4,842	5,289	5,594	5,991
Offence not recorded	1,760	2,120	1,296	866	898	1,072	886	803	654	408	383
MALES											
Remand	11,518	12,168	11,837	10,764	10,288	12,083	12,001	11,544	11,863	12,165	11,953
Violence against the person	2,114	2,215	2,126	2,012	2,035	2,411	2,403	2,579	2,753	2,981	2,970
Sexual offences	625	754	695	581	489	587	556	616	762	886	775
Robbery	1,158	951	1,126	982	867	1,304	1,157	1,130	1,049	1,248	1,296
Burglary	2,382	2,202	2,366	1,882	1,634	1,914	1,850	1,451	1,437	1,342	1,374
Theft and handling	1,576	1,849	1,590	1,640	1,500	1,687	1,580	1,235	1,187	1,093	950
Fraud and forgery	202	177	185	146	167	191	207	267	463	415	453
Drug offences	1,296	1,617	1,564	1,430	1,320	1,360	1,374	1,310	1,627	1,407	1,647
Motoring offences	329	294	298	280	353	386	409	308	246	224	140
Other offences	1,321	1,586	1,372	1,362	1,187	1,397	1,463	1,604	1,687	1,858	1,607
Offence not recorded	515	523	515	448	735	846	1,002	1,044	652	703	681
Immediate custodial sentence	46,611	49,793	48,862	50,434	51,272	53,936	55,919	57,475	58,703	59,898	62,188
Violence against the person	10,033	10,524	10,429	10,807	11,301	11,674	12,480	13,371	14,541	15,537	16,929
Sexual offences	4,069	4,779	4,929	5,070	5,082	5,270	5,514	5,746	6,146	6,561	7,287
Robbery	6,277	6,449	6,174	6,158	6,534	7,208	7,879	8,056	8,035	8,100	8,437
Burglary	7,976	8,538	8,622	8,824	8,416	8,917	8,576	8,395	7,844	7,563	7,723
Theft and handling	3,929	4,097	4,021	4,537	4,347	4,278	4,157	3,988	3,716	3,691	3,332
Fraud and forgery	1,104	1,080	993	885	941	921	907	1,021	1,281	1,456	1,512
Drug offences	6,483	7,099	7,294	7,526	8,010	8,749	8,988	9,252	9,427	9,484	9,569
Motoring offences	1,887	1,898	1,913	2,291	2,417	2,223	2,630	2,364	2,124	1,887	1,453
Other offences	3,159	3,310	3,265	3,538	3,386	3,686	3,934	4,522	4,954	5,242	5,598
Offence not recorded	1,694	2,019	1,222	797	838	1,009	852	759	636	378	348
FEMALES											
Remand	587	735	752	669	773	998	1,072	951	1,001	902	891
Violence against the person	101	116	105	99	113	132	138	138	150	124	160
Sexual offences	4	7	7	7	3	3	4	7	4	11	9
Robbery	40	39	41	38	45	104	117	76	61	68	56
Burglary	32	42	53	56	68	86	101	75	74	54	49
Theft and handling	149	197	214	178	185	276	275	214	169	180	114
Fraud and forgery	22	25	21	19	17	24	33	39	95	68	69
Drug offences	124	166	168	152	187	174	171	188	203	163	196
Motoring offences	6	6	5	6	6	7	12	5	3	3	6
Other offences	87	112	127	97	107	122	161	152	167	149	145
Offence not recorded	22	25	11	17	43	70	59	56	74	83	87
Immediate custodial sentence	2,063	2,366	2,431	2,859	2,897	3,336	3,474	3,448	3,476	3,506	3,345
Violence against the person	391	420	429	410	443	538	506	603	638	678	687
Sexual offences	8	16	17	20	25	23	26	27	38	37	48
Robbery	161	177	157	195	250	314	407	392	343	315	311
Burglary	101	118	158	158	154	239	240	247	238	228	197
Theft and handling	334	395	390	507	452	461	494	416	410	435	374
Fraud and forgery	121	119	111	131	130	119	115	126	173	236	227
Drug offences	691	794	875	947	1,137	1,317	1,342	1,235	1,234	1,163	1,044
Motoring offences	28	26	21	37	44	36	59	39	39	33	31
Other offences	162	191	199	185	200	225	251	320	335	352	392
Offence not recorded	66	110	74	69	61	63	35	45	29	30	35

(1) Excludes police cells

Table 8 - Chi-Square - Offences committed by prisoners in UK prisons in 2007

Critical Value

$r = 6, c = 2, X^2_{0.05, 5 df} = 11.07$

Decision Rule

Reject H_0 if $X^2_{test} > X^2_{Critical} = 11.07$

Observed Frequencies (fo)			
Offences Committed by Prisoners			
Offence group	Male	Female	Total
Violence	16343	1324	17667
Escapes or absconds	113	6	119
Disobedience or disrespect	41005	4059	45064
Wilful damage	6984	552	7536
Unauthorised transactions possessions	27501	1357	28858
Other offences	8889	984	9873
Total	100835	8282	109117
Expected Frequencies (fe)			
Offences Committed by Prisoners			
Offence group	Male	Female	Total
Violence	16326	1341	17667
Escapes or absconds	110	9	119
Disobedience or disrespect	41644	3420	45064
Wilful damage	6964	572	7536
Unauthorised transactions/possessions	26668	2190	28858
Other offences	9124	749	9873
Totals	100835	8282	109117
$X^2 = (fo - fe)^2 / fe$			
Offence group	Male	Female	Total
Violence	0.01770	0.21551	0.23321
Escapes or absconds	0.08182	1.00000	1.08182
Disobedience or disrespect	9.80504	119.39211	129.19714
Wilful damage	0.05744	0.69930	0.75674
Unauthorised transactions/possessions	26.01954	316.84429	342.86383
Other offences	6.05272	73.73164	79.78436
Totals	42.03425	511.88285	553.91710

Therefore $X^2 = 553.91710$

Source: Adapted by author from data collected by the United Kingdom Ministry of Justice (2008)

Table 9 - Chi-Square - Punishments imposed on prisoners in UK prisons in 2007

Critical Value

$r = 6, c = 2, X^2_{0.05,5 \text{ df}} = 11.07$

Decision Rule

Reject H_0 if $X^2_{\text{test}} > X^2_{\text{Critical}} = 11.07$

Observed Frequencies (fo)			
Punishments imposed on prisoners			
Punishment type	Male	Female	Total
Confined to cell or room	20104	1336	21440
Forfeiture of privileges	80389	6134	86523
Stoppage/reduction of earnings	50035	3764	53799
Caution	4744	598	5342
Other	3828	94	3922
Additional days	12717	692	13409
Total	171817	12618	184435

Expected Frequencies (fe)			
Punishments Imposed on Prisoners			
Punishment type	Male	Female	Total
Confinement to cell or room	19973	1467	21440
Forfeiture of privileges	80604	5919	86523
Stoppage/reduction of earnings	50119	3680	53799
Caution	4977	365	5342
Other	3653	269	3922
Additional days	12491	918	13409
Totals	171817	12618	184435

$X^2 = (fo - fe)^2 / fe$			
Punishment type	Male	Female	Total
Confinement to cell or room	0.85921	11.69802	12.55723
Forfeiture of privileges	0.57348	7.80960	8.38308
Stoppage/reduction of earnings	0.14079	1.91739	2.05818
Caution	10.90798	148.73699	159.64496
Other	8.38352	113.84758	122.23110
Additional days	4.08902	55.63834	59.72737
Totals	24.95400	339.64792	364.60192

Therefore $X^2 = 364.89951$

Source: Adapted by author from data collected by the United Kingdom Ministry of Justice (2008)