



16 Oct 2012

Sentencing (Female Offenders)

[Sandra Osborne *in the Chair*]

2.30 pm

Philip Davies (Shipley) (Con): Thank you, Mrs Osborne. I am grateful for the opportunity to bring this debate to the House today.

One of the starkest examples of how politically correct this country has become is the issue of women in the justice system and, more specifically for this debate, women in prisons and in courts. About 5% of the prison population at any one time in recent history has been female. The other 95% has been male, yet much time, effort, concentration and brow-beating has taken place over the very small number of women in prison. There are countless groups and organisations calling for the number to be reduced. Far too many politicians—male as well as female—are willing to trot out politically correct nonsense on the subject, repeating facts that do not bear any scrutiny at all, and there are far too many calls for something to be done about a problem that, by anybody's standards, is hard to see exists based on the actual evidence.

Let us imagine that the male population in prison represented just 5% of the total and that women made up the remaining 95%. Would there be an outcry on behalf of the men at the expense of the women? Of course not. There is absolutely no chance on earth that that would happen, so why is there all this concern over 5% of the prison population? How can normally thoughtful, intelligent people have taken such leave of their senses over the issue? The answer is simple. It is all about being politically correct, and not many people in public life like to challenge it, but I do, Mrs Osborne, and today I want to take the opportunity to scotch some myths about all types of sentencing for women. I want to bust five particular myths.

There is an old political maxim that if someone tells a lie often enough, people will believe that it is true. I can only conclude that has happened in this case. I heard the lie that women are more likely to be sent to prison than men and that they are treated much more harshly by the courts, and I was taken in by it. I presumed it was true, because I had heard it so often, and I thought it was an absolute outrage. I was so outraged by the inequality in sentencing that I decided to do some research into it. As many people know, I spend a lot of time researching matters to do with prisons, sentencing and justice, and I wanted to get to the bottom of why women were being treated so badly.

Imagine my surprise when, having looked at all the evidence, I found it was not the case that women are treated more harshly by the courts. The unequivocal evidence is that the courts treat women far more favourably than men when it comes to sentencing. I want to expose five myths today.

The first myth is simple: women are very likely to be sent to prison and are more likely than men to be given a custodial sentence. That is simply untrue. Everyone I have spoken to who is involved with the justice system confirms anecdotally that it is not the case, but let us not just take their word for it. Let us look at the facts. I asked the Library to provide evidence that more women

16 Oct 2012 : Column 33WH

than men were being sent to prison, as I had been told. Not only did it not provide that information, but it confirmed that the exact opposite is true. The Library stated:

"The published statistics show that a higher proportion of men are given a sentence of immediate custody than women, irrespective of age of offender (juveniles, young adults or adult) and type of court (magistrates or Crown). This has been the case in each year between 1999 and 2009...For each offence group, a higher proportion of males are sentenced to custody than females...In 2009 58% of male offenders who entered a guilty plea for an indictable offence were given an immediate custodial sentence compared to only 34% of women."

Seema Malhotra (Feltham and Heston) (Lab/Co-op): Will the hon. Gentleman clarify whether the information he received from the Library also looked at statistics by type of offence?

Philip Davies: Absolutely. It looked at every category of offence. For every single category, women are less likely than men to be sent to prison.

Kate Green (Stretford and Urmston) (Lab): I congratulate the hon. Gentleman on securing this important debate. I hope that at the end of it we will not be peddling myths, but facts. Will he comment on the fact that although 70% of men are in prison for a non-violent offence, 81% of women are, which suggests that although some statistics may favour women, that one most certainly does not.

Philip Davies: It does not mean that at all. The figures that the hon. Lady quotes, which groups are fond of quoting, show the exact opposite of what they think the figures show. They show that women are treated more favourably by the courts. If she will let me continue with the speech, it will become evident to her, I hope. If she still has queries towards the end, and if the figures do not make sense, I will happily give way to her again. I am sure that the figures will make perfect sense, even to the hon. Lady. I will continue with the quote from the Library:

"In 2009 58% of male offenders who entered a guilty plea for an indictable offence were given an immediate custodial sentence compared to 34% of women. For each offence group a higher proportion of males pleading guilty were sentenced to immediate custody than females."

The Ministry of Justice's publication, "Statistics on Women and the Criminal Justice System", published in November 2010—it is produced to ensure there is no sex discrimination in the system—states:

"Of sentenced first-time offenders (7,320 females and 25,936 males), a greater percentage of males were sentenced to immediate custody than females (29% compared with 17%), which has been the case in each year since 2005."

People have had a briefing from the Prison Reform Trust, which tries to persuade them that women with no previous convictions are more likely to be sent to prison than men, but that is categorically not the case, as the Ministry of Justice's own publication makes abundantly clear.

Jenny Chapman (Darlington) (Lab): I congratulate the hon. Gentleman for providing us with an opportunity to help him understand the issue. Women convicted of a

16 Oct 2012 : Column 34WH

first offence—the same offence as a man—are more likely to receive a custodial sentence. I do not think he has the figures for that.

Philip Davies: No, they are not. That is the whole point. For every category of offence, men are more likely to be sent to prison than women. According to the Ministry of Justice's own publication, of first-time offenders, men are much more likely—not just slightly—to be sent to prison. That is a fact.

Jenny Chapman: May I explain again? I am talking about the first offence and the same offence. The hon. Gentleman has figures for first-time offending overall and for different categories of offence. However, if we take the same offence for men and for women—the first conviction—women are more likely to get a custodial sentence.

Philip Davies: No, they are not. For the benefit of the hon. Lady, I have every single category of offence. I have figures for the likelihood of men and women being sent to prison for exactly the same offence. What she is saying is simply not the case.

The Home Office undertook statistical research some years ago to try to ascertain the best comparison for similar situations. Home Office Research Study 170, "Understanding the sentencing of women", edited by Carol Hedderman and Loraine Gelsthorpe, looked at 13,000 cases and concluded:

"Women shoplifters were less likely than comparable males to receive a prison sentence...among repeat offenders women were less likely to receive a custodial sentence. Women first offenders were significantly less likely than equivalent men to receive a prison sentence for a drug offence".

The Ministry of Justice publication I mentioned earlier also covers the issue of pre-sentence reports and their recommendations for sentences in the courts. It says:

"In 2009, a lower proportion of women who had a pre-sentence report that recommended immediate custody went on to receive this sentence than men (83% compared with 90% for males). For all other sentence options recommended in pre-sentence reports (Suspended Sentence Order, all community sentences or fines), a higher proportion of males received custodial sentences than females."

Even probation officers, and we all know how soft on sentencing they are, recommend a higher number of custodial sentences than are actually given, and women again are on the receiving end of that particular benefit.

Guy Opperman (Hexham) (Con): I congratulate my hon. Friend on securing the debate. I am not sure, however, that I agree with the entire thrust of what he is saying. What he is driving at, and the argument behind his thesis, is that women are being treated more preferentially, but would he accept at the very least that one of the reasons why women should be treated more preferentially is that, as mothers, they are in the position of having to look after those who might, if their mothers are not present to support them, lapse into the criminal justice system? I am sure that that is one thing with which he would wish to agree.

Philip Davies: I will come to the issue of women looking after children. As it happens, a large number of mothers who are sent to prison are no longer looking after their children when they are sent to prison. None

16 Oct 2012 : Column 35WH

the less, my hon. Friend makes a reasonable point. There may well be good reasons for women to be treated more favourably in the criminal justice system in the courts than men. That is a perfectly legitimate argument to follow. If people want to use the facts to prove that women are treated more favourably than men and then actually give reasons why that should be the case, I am perfectly content for them to do so. What I cannot allow to happen is for the myth to perpetuate that women are treated more harshly in the sentencing regime than men, because that palpably is not the case. If we can start having a debate along the lines that my hon. Friend suggests, I would be perfectly happy, but we are a long way from even getting to that particular point.

In addition to the undeniable evidence that women are less likely to be sent to prison than men is the fact that their average sentence length is shorter than that of men, too. Again, I refer to the Ministry of Justice's own published figures of November 2010. "Statistics on Women and the Criminal Justice System:"

"In 2009, women given an immediate custodial sentence for indictable offences received shorter average sentence lengths than men (11.0 months compared to 17.0 months for males)."

That is not a minor difference. The figures show that the average male prison sentence is over 50% more than the average female prison sentence. That is something that those who allege to be so keen on equality should think about.

Kate Green: It is important to understand some of the factors behind those figures. For example, a substantially higher proportion of women in prison are first-time offenders—29% compared with 12% of men. Naturally, therefore, we would expect the sentencing for first-time offenders to be set at a lower level than for those with a pattern of offending behaviour. I am not suggesting that that explains all the difference in the figures, but it is important that the hon. Gentleman gives us the full analysis and not just the headlines.

Philip Davies: It is equally important that the hon. Lady listens to what I am saying rather than wrapping herself in her brief from the Prison Reform Trust. We have all heard it once but I will repeat it for her benefit. The Ministry of Justice's own publication, "Statistics on Women and the Criminal Justice System" says:

"Of sentenced first-time offenders (7,320 females and 25,936 males), a greater percentage of males were sentenced to immediate custody than females (29% compared with 17%), which has been the case in each year since 2005."

To suggest that more female first-time offenders are more likely to be sent to prison than men is not the case. The hon. Lady says that a higher proportion of women in prison are first-time offenders, but that is because they are less likely to be sent to prison unless they commit particularly serious offences and leave the courts no option but to send them to prison. It is a complete distortion of the facts, and the Ministry of Justice publication makes that perfectly clear.

The Parliamentary Under-Secretary of State for Justice (Mrs Helen Grant): Will my hon. Friend clarify whether all those statistics take into account the type and gravity

16 Oct 2012 : Column 36WH

of offence, previous offending history and all relevant mitigating factors, which sentencers are required to consider? It would be an unjust system if they failed to do that.

Philip Davies: Yes, they do. I will happily supply the Minister with the relevant information from the House of Commons Library, which goes to show, beyond all doubt—I am sure that she trusts

the figures from her own Department—that for every single category of offence, for all ages and in all types of court, men are more likely to be sent to prison than women. There is not one blip anywhere. For every single offence, for every age, in every type of court, women are less likely to be sent to prison than men.

Mr David Nuttall (Bury North) (Con): The point raised by the Minister is important. Surely these other factors that have to be taken into account on sentencing would not affect the statistics, because they would be taken into account whether it was male or female. In fact, one assumes that they would be taken into account for both sexes, so they will not affect the statistics.

Philip Davies: My hon. Friend makes a good point and he is right. Not only are women less likely to be sent to prison than men, and more likely to be sentenced to a lesser term than their male counterparts, but they are also more likely to serve less of the sentence they are given in prison. In its Offender Management Statistics, the Ministry of Justice says:

“Those discharged from determinate sentences in the quarter ending December 2011 had served 53 per cent of their sentence in custody (including time on remand). On average, males served a greater proportion of their sentence in custody – 53 per cent compared to 48 per cent for females in the quarter ending December 2011. This gender difference is consistent over time, and partly reflects the higher proportion of females who are released on Home Detention Curfew”.

Seema Malhotra: To what extent are family circumstances, especially circumstances of children, taken into account in sentencing? Every year, 18,000 children see their mothers go to prison and only 5% of those children stay in their homes during that sentence. There are also statistics to suggest that a third of women in prison are lone parents, and it is more likely that their children will lose their homes or be placed in care as a consequence of their mothers’ custody.

Philip Davies: The hon. Lady is right. That is a fact that is given in the courts, which is why women are less likely to be sent to prison than men. That was a point that my hon. Friend the Member for Hexham (Guy Opperman) made earlier. Let me emphasise my point with a case from earlier this year. Rebecca Bernard, who had 51 previous convictions for crimes including violence and threatening behaviour, led an all-girl gang that brought terror to her town. She has been the subject of two antisocial behaviour orders for making the lives of her elderly neighbours a misery. When this 23-year-old attacked two innocent men in a night club with a champagne bottle, it was thought that a custodial sentence was inevitable. However, she walked free from court after a judge decided that she was a good mother to her three young children. Bernard had smashed a bottle over one victim’s head and then stabbed the other in the arm with its jagged neck. A court heard that she had

16 Oct 2012 : Column 37WH

launched the attack because she believed wrongly that the men were laughing at her. Quite clearly, those factors are taken into account by the courts, which explains why someone such as Bernard, who clearly should have been sent to prison, and who, if she had been a male, would definitely have been sent to prison, was not sent to prison. That is the explanation. I am perfectly content for the hon. Lady to say that that should be the case, but at least let us argue from the facts, because then we will be acknowledging that men are more likely to be sent to prison than women.

Guy Opperman: I understand the basis on which my hon. Friend is making his case. Will he address the nature of the sentence for female offenders and the degree to which they are required to work, take literacy lessons and address drug and alcohol addiction as part of the offending management programme?

Philip Davies: No, I will not, because that is a debate for another day. These are all important issues, but this particular debate is about the sentencing of female offenders, and I am concentrating on the likelihood of people being sent to prison. If my hon. Friend was listening carefully at the start of the debate, he would know that the myth that I am currently exposing is that women are more likely to be sent to prison than men. As the figures that I have just quoted show, that is palpably not the case. I will go through other myths as we go through the debate, but there may not be time to go through every aspect of the criminal justice system at the moment.

Mrs Grant: It is important to clarify something. Regarding mitigation, does my hon. Friend not accept that there may be some factors that are more relevant to women than to men and hence the difference—for example domestic violence, self-harm, mental ill-health and caring responsibilities?

Philip Davies: I will come on to some of those points later. However, as the Minister will know from her Department’s own figures, quite a lot of victims of domestic violence are men. In fact, for

certain ages—I think that it is between 20 and 30—there are more male victims of domestic violence than female victims. The point is that all of the things that apply—

Mrs Grant *indicated dissent.*

Philip Davies: The Minister shakes her head. I know that she has not been in her post for long, but I advise her to go and look at the figures from the Ministry of Justice on domestic violence for different age ranges, because they were the figures that the MOJ quoted to me in a parliamentary answer about three or four years ago. They may well have changed, but I urge her at least to go and look at them before she shakes her head.

Andrew Stephenson (Pendle) (Con): I secured a 90-minute debate on domestic violence here in Westminster Hall just before the recess, which a number of Members contributed to. I completely agree that there are many men who are victims of domestic violence. However, a number of studies have shown that as many as half of all the women in jail at the moment—I think that is the figure—have been victims of domestic violence and

16 Oct 2012 : Column 38WH

almost a third of all female prisoners have been victims of sexual abuse. So those factors are very relevant. I do not want to get into a statistical argument with my hon. Friend, but I hope that this debate will broaden to discuss some of the other challenges faced by female prisoners and some of the factors that must be taken into account in sentencing.

Philip Davies: I am elated, because we now appear to have a consensus in Westminster Hall, which is an acceptance at last that men are more likely than women to be sent to prison. What we are now hearing from a variety of people are reasons why that should be the case. Those reasons may well be true—that is a debate for another day—but at least we are getting to the nub of the purpose of this particular debate that I have secured, which was to show that men are more likely than women to be sent to prison.

I will come on to discuss the women who are in prison and perhaps my hon. Friend might like to explain which of the women in prison he would like to see released; perhaps other Members could do the same. However, that is the second myth; I will just finish off on the first myth that I am discussing.

All other MOJ figures confirm that men are treated more harshly by the courts than women, and that there is quite a disparity. In the past few years for which the figures are published, women had 50% more chance than men of being released from prison early on home detention curfew. So it is perfectly clear that on the likelihood of being sent to prison, on the length of sentence being handed out and on the proportion of sentence served, women are treated more favourably than men, and that applies to all ages and all categories of offences, in Crown courts and magistrates courts. At least we have made that particular point clear.

The second myth that I want to discuss, and my hon. Friend the Member for Pendle (Andrew Stephenson) may well be interested in hearing about it, is that most women are in prison for petty or non-violent offences, and are serving short sentences. Many campaigners say that far too many women are in prison and should not be there; that instead, they should be serving their sentences in the community.

We can take a snapshot of the sentenced female prison population at a moment in time. The last figures that I have are for June 2010. Let us just look at the detail of all these “poor women” who are serving prison sentences and who—apparently—should be out and about. Which of these women prisoners do those who advocate reducing the female prison sentence want to let out? Frances Crook, the director of the Howard League for Penal Reform, was quoted in *The Guardian* in 2007 as saying that

“For women who offend, prison simply doesn’t work. It is time to end the use of traditional prisons for women.”

Perhaps she might explain which of these particular women she would like to see out and about, and not serving a prison sentence. Maybe it is the 211 women serving sentences for murder; maybe it is the 135 women in prison for manslaughter or attempted homicide; maybe it is the 352 women convicted of wounding; maybe it is the 142 women convicted of serious assault or other violence against the person; maybe it is the 58 women imprisoned for cruelty to children; it could be the 83 women who are in for rape, gross indecency

16 Oct 2012 : Column 39WH

with children or other sexual offences; maybe it is the 272 women who are in for violent robbery, or the 151 women who are in for burglary; or maybe it is the 398 female drug dealers who should not be in prison. The total of those figures is about 1,800, or just over 1,800, which is a figure often bandied around as the target for women offenders in prison. Maybe people would say,

"Those people should be in prison, it is the others who shouldn't be in prison." As I have indicated, there are some people who say that no women should be in prison at all, but that argument is just so ridiculous that I hope nobody here is in favour of it.

Kate Green: I am sure that the hon. Gentleman will agree that prison serves a number of purposes. One is the protection of the public. Another, though, is of course to rehabilitate offenders and prevent reoffending. It is pretty clear that prison is not doing a very good job at those things—for all sorts of reasons—both for women and for men. And the protection of the public could be better achieved through dedicated secure units for women rather than putting them into a system that is predominantly designed for a male lifestyle and male behaviours, and therefore incarcerates them in masculine-led regimes.

Philip Davies: These women are in women's prisons, which are not "masculine regimes". They are in female prisons, for goodness' sake.

Guy Opperman: Everybody accepts that those women are in women's prisons, but at the same time we cannot ignore a statistic that says that upwards of 70% of offenders—male or female—reoffend. Therefore, does my hon. Friend accept that we have to look at a different approach, not only to sentencing male offenders—both Governments in the last five to 10 years have tried to do that—but to sentencing and dealing with female offenders.

Philip Davies: My hon. Friend might be right if it was not the case that according to the MOJ—so I am sure it is true—the longer people spend in prison the less likely they are to reoffend, and quite markedly. The high rates of reoffending that he mentions only relate to people who spend short periods of time in prison. The longer that people spend in prison, the less likely they are to reoffend. The figures are something like this: for those sentenced for up to 12 months, 61% of people reoffend; for one to two years, the figure goes down to about 47%; for two to four years, it is about 37%; and for more than four years, it is down to about 17%. So the longer that people spend in prison, the less likely they are to reoffend. If my hon. Friend and other people are suggesting that—

Guy Opperman: Will my hon. Friend give way?

Philip Davies: Hold on, hold on. If my hon. Friend and other people are suggesting that the 5,442 women who are sent to prison each year for up to six months should not be in prison, presumably they must also be saying that the 51,588 males who are sent to prison each year for less than six months also should not be in prison.

16 Oct 2012 : Column 40WH

Kate Green *indicated dissent.*

Philip Davies: If people wish to go round their constituencies, I will look forward to their election address—the hon. Lady may well send me a copy of her election address at the general election. If she would like to go round her constituency emblazoning the message that those who are sentenced to up to a year in prison—that is 70,000 people each year—should not be sent to prison, I will look forward to her issuing a leaflet to that effect. If she will not do that, I may well do it for her.

Kate Green: As the hon. Gentleman knows, I represent a Manchester constituency where we have been piloting intensive alternatives to custody. In other words, those people who would otherwise meet the custody threshold and receive a short prison sentence of less than six months are diverted to community penalties. I must tell him that not only is that approach producing lower reoffending rates but it is very popular in Manchester. So he should not make a simplistic assumption that my constituents are not prepared to look at the deeper arguments about when custody works.

Philip Davies: I will make an offer to the hon. Lady today—I am happy to go to Manchester and debate sentencing with her, any time that she wants to fix up a debate, and we will see what the majority of her constituents think. I think that the point that she makes is nonsense, but if she wants to argue it, that is perfectly fair. However, the point is that those things apply to men more than women, so this argument that this is all about women is complete nonsense. All of these issues relate to men just as much as they do to women.

Guy Opperman: All of us in this House would agree that those who are convicted of serious offences should go to prison. That is not in dispute, and neither is the desire to make prison more effective at rehabilitation. The statistics that my hon. Friend has produced show that longer sentences produce a lower likelihood of reoffending. Does he not accept, therefore, the overwhelming logic that if short sentences do not stop reoffending, short sentences are not necessarily working?

Philip Davies: We are getting slightly off the point, but I will respond to my hon. Friend's intervention. The statistics do not suggest that. They suggest two things. The first is that people should perhaps have longer sentences, for which the reoffending rate is lower, not that they

should have no sentences at all. The high reoffending rate for short sentences is an argument for longer sentences, not for no sentences.

The second point is that, in the main, someone has to have committed many offences to get to prison. If someone goes to court with more than 100 previous convictions they are more likely not to be sent to prison than to be sent there. People have community sentence after community sentence, and the only reason they go to prison is that those community sentences have not worked—they have not prevented them from reoffending. The reoffending rate for that cohort of people in prison, therefore, is lower than for those people when they were on community sentences.

Mrs Grant: Will my hon. Friend give way?

16 Oct 2012 : Column 41WH

Philip Davies: I am very conscious of time, Mrs Osborne. I will give way one last time, otherwise no one will have spoken in the debate, bar me.

Mrs Grant: I understand. My hon. Friend has been very reasonable. Clearly, he has worked extremely hard on collating the statistics. I wonder, however, whether he has actually visited a female prison, or some of the alternatives to custody, one of which was referred to by the hon. Member for Stretford and Urmston (Kate Green).

Philip Davies: I have indeed. I have visited the intensive alternatives to custody in my part of the world and have visited 12 UK prisons, including Holloway and a women's prison up in Yorkshire—so I have visited two women's prisons in the UK. I have also visited prisons in Denmark and the USA, to see what they do. If my hon. Friend was trying to suggest that I did not know what I was talking about, I hope that I have made her aware that I have some experience in this field. Interestingly, no one has, as yet, managed to tell me which of those people I listed should not be in prison. Perhaps we have a consensus that they should be in prison. If people want to limit the debate to the 1,800 women I have mentioned, let us continue to consider which of them should be let out. Perhaps it is the 91 arsonists, the 24 people convicted of violent disorder, or the 45 serving time for kidnapping and blackmail. Perhaps it is the 192 people who are in for serious fraud and forgery, the 320 who have been convicted of importing drugs that end up being sold onto our streets, or the 111 serving time for other serious drug offences. If we do not want to let all of them out, we appear to be running out of options. Perhaps people will tell us which of those women they think should not be in prison.

Jenny Chapman: Will the hon. Gentleman give way?

Philip Davies: I will be delighted to hear from the shadow Minister which of them the Labour party does not believe should be in prison.

Jenny Chapman: The Labour party believes, and I think we have the agreement of the Minister—who is from the hon. Gentleman's own party—on this, that it is not about letting people out of prison, but about preventing them from going there in the first place. We want to see interventions that work and are properly resourced earlier on in people's criminal careers, to prevent them from having to go to prison. That is the point we are trying to make.

Philip Davies: With respect, that is not the point that people are making, because it applies equally to men as to women. In debates and in questions we hear all this thing about women being treated more harshly than men. It is no good talking about these things, because they apply equally to men and women. No one, as yet, has been able to identify where women are treated more harshly in the criminal justice system, and that is the whole point of my debate. Perhaps we are coming down to the other numbers. Perhaps it is the two dozen who are in for perjury—

16 Oct 2012 : Column 42WH

3.3 pm

Sitting suspended for a Division in the House.

3.18 pm

On resuming —

Philip Davies: No one has yet been able to tell us which of those people should not be in prison, so I presume that we can only conclude that all of them should be in prison. Therefore, we do not really have a problem.

I want to decouple one other thing. The number of women who receive short sentences in any one year is a completely different figure from the female prison population at any one time. Looking at recent figures as an example, just under 16% of female prisoners are serving sentences of less than six months, which is clearly a minority. If that is not classed as a short sentence, a further 6% are in prison for up to one year, so 22% of female prisoners are in custody for up to 12 months, which covers all cases heard in magistrates courts and some cases heard in Crown courts.

All other female offenders are serving sentences of more than one year, which means their offences were so serious that they had to be dealt with by a Crown court. Those women, 78% of the total female prison population, are not serving short sentences for not-so-serious offences, as people would have us believe, but are serving much longer sentences for the most serious crimes. The figure of 78% of the female prison population comprises 34% serving between one and four years, 28% serving sentences of four years to life and 11% serving indeterminate sentences. A further 5% of offenders are in prison because after previously being released, they have either reoffended or breached their licence conditions. That is the second myth: women are imprisoned for short sentences and not very serious offences.

The third myth is that women are often remanded in custody but then are not sentenced to custody. I have heard the misuse of many statistics over the issue of remand and female offenders, so I want to introduce the House to the facts. The Ministry of Justice's own figures show that women are more likely than men to get bail. The figures are in "Statistics on Women and the Criminal Justice System" of November 2010.

"In 2009 80% of females were bailed, compared with 62% of males; 20% were remanded in custody compared with 38% of males. The percentage remanded for both males and females is at a five-year low."

Those figures yet again back up the fact that more men than women are sentenced to custody. The document goes on:

"Of those remanded in custody, 66% of females were then sentenced to immediate custody in comparison with 75% of males."

When people complain about women being more likely to be remanded in custody and then not sent to prison, it is solely due to women being treated more favourably when they are sentenced. It is not that they are more harshly treated when the decision is made to remand them in custody or give them bail. The figures are perfectly clear: yet another deliberate myth.

The fourth myth is that prison separates mothers from their children, which unfairly punishes them. It is said that 17,000 children are separated from their mothers

16 Oct 2012 : Column 43WH

and that 60% of women in custody have children under the age of 18. It is also suggested that about 700 of more than 4,000 women are in prisons more than 100 miles away from their children. Let us take that in stages. First, it is not the system that separates any mother from her children. It is that individual's actions in breaking the law that have led to prison and that is almost certainly 100% their fault and their responsibility alone. As we already know from the evidence, they are less likely than men to go to prison. In addition, recently updated sentencing guidelines also incorporate consideration of the effect that custody would have on others, when the defendant is the primary carer for another. That again is likely to benefit further more women than men when they are sentenced.

If we are so concerned about the children of women offenders, what about the estimated 180,000 children who are separated from their fathers who are in prison? In this age of equality, what about that much higher figure? Should we not be more, or at least equally, outraged about that? If not, why not? Some women may be further away from their children than others in prison, but let us turn to the main point about all those women who are allegedly being so unfairly dragged away from their poor children by over-harsh magistrates and judges. That is another big myth.

My understanding is that a senior civil servant at the Ministry of Justice has helpfully confirmed recently that two thirds of the mothers sent to prison who have children were not even looking after them at the time. She apparently said of the women being sent to prison:

"Two-thirds of them didn't have their kids living with them when they went to prison."

Why on earth is there such a huge outcry about separating mothers from their children, when most of the mothers in prison were not being mothers to their children anyway?

Jenny Chapman: I congratulate the hon. Gentleman; he marshals his argument well. He makes good use of statistics up to a point. However, on this I must differ. Only 5% of children with a mother in custody are able to stay in their own home. That is not the case for men. What does the hon. Gentleman think about that? What is the effect? We know that people who have parents in custody are much more likely to commit offences in future. We are trying desperately hard to break that pattern of offending, so it seems an obvious step to try to keep those relationships alive. We know that, especially with women, that is one of the single most important factors in preventing their reoffending.

Philip Davies: My point is that men are parents as well as women. The problems that the hon. Lady articulates apply to men as well as women. The argument goes that this is all about women;

it is not all about women. Let us not focus just on the very small proportion of women who are in prison. Let us also think about all the men, too. The whole point of the debate is to make people aware that where there are issues they apply equally to men, and that some of the issues are not even issues at all because the facts do not back them up.

Mrs Grant: On mother and baby units, it is not, with the greatest respect, all about the mother. The principal criterion for entering a mother and baby unit is that it

16 Oct 2012 : Column 44WH

must be in the best interests of the child. That is the most important criterion. Does my hon. Friend not accept that?

Philip Davies: The point is that 66% of women sent to prison who have children are not actually looking after their children when they are sent to prison. That is the point I am making, so I am not entirely sure why we are all pulling our hair out about people who are not even looking after their children. Those children have probably either been put into care or are being looked after by other family members, probably because the mother is considered unfit to look after the children. Why should the courts treat her less harshly when the children have already been removed from her? It is a completely spurious argument.

When it comes to the minority who are looking after their children, we should not assume that they are all fantastic mothers and role models for their children. Many will be persistent offenders with chaotic lifestyles. Some will end up dragging their children into their criminal lifestyles and some will scar their children for life along the way. We presume it is in the children's best interest to stay with those mothers. It may not be in the best interest of the child for the mother to be released. It may be in their best interests for their mother to go to prison in some cases.

Others will have committed very serious offences. The same official from the Ministry of Justice said recently of women offenders:

"They can be very damaged and also very damaging."

That is absolutely right. Sarah Salmon of Action for Prisoners' Families said:

"For some families the mother going into prison is a relief because she has been causing merry hell."

That is another worthy point we should consider. Let us, finally, not forget those who are in prison for being cruel to their children, for abusing their own children.

The final myth is that women are generally treated more harshly than men in the justice system. It is clear that women are less likely than men to be sent to prison. Therefore, we need to look at other court disposals to see if they are then treated more harshly than men in other areas. If they are not being sent to prison as frequently as men they are presumably being sentenced at the next level down—a community order. They are not. The Ministry of Justice's figures yet again show that men are more likely than women to receive a community order: 10% of women sentenced are given a community order compared with 16% of men. The Ministry of Justice goes on to confirm that

"these patterns were broadly consistent in each of the last five years".

Women are less likely than men to go to prison and less likely to be given a community order.

That is not all. Of those who are given a community order the ones given to men are likely to be much harsher. The Ministry of Justice says:

"The average length of all community sentences for men was longer than for women...For women receiving a community order, the largest proportion had one requirement, whereas the largest proportion of men had two requirements."

I do not want to veer into the realms of domestic violence that my hon. Friend the Member for Pendle tried to go down; that is a debate for another day.

16 Oct 2012 : Column 45WH

However, one thing worth noting about sentencing is that despite all the evidence that shows women as the perpetrators of domestic violence in far more cases than some would like us to think, the community requirement imposed on those who commit an offence in a domestic setting is imposed only on men and cannot be handed down to women. As usual, this shows that the whole issue of equality works only one way, even when we are dealing with exactly the same offence.

Given the more severe sentences for men at the higher end of the sentencing spectrum, it is unsurprising that women are more likely to receive low levels of punishment at courts. It is a fact

that a higher proportion of female defendants receive fines. All of that shows that throughout the court sentencing regime men are on average treated more severely than women. Before I conclude there is another interesting statistic that is worth sharing. There is even an imbalance in the number of women reaching court compared with men, as more females than men were issued with pre-court sanctions. That has been consistently the case in recent years according to the Ministry of Justice. That is the evidence.

All the hysteria surrounding women in the justice system is completely without foundation, yet people want to be seen to be doing something about the so-called problem. We have the Together Women project, women-only groups for community sentences, a criminal justice women's strategy unit, women's centres, a proposal for women-only courts and, just the other day in Manchester, the right hon. Member for Tooting (Sadiq Khan) proposed a women's justice board. That is all on top of the Corston report, which looked at the whole issue of female offenders and came up with even more suggestions.

Looking at the evidence, there appears to be sex discrimination in the sentencing of offenders, but the people being discriminated against are men not women. Women cannot have it both ways. They cannot expect to be treated equally in everything in society except when it comes to being sentenced by the courts for the crimes that they commit. People may want to argue that it is reasonable for women to be given lighter sentences than men, and that it is right that fewer women are sent to prison than men. That is an argument for another day, but at least when we have these debates about sentencing for men and women let us stick to the facts as they are and not what we would like them to be. Men are treated more harshly by the courts than women. If we can at least have debates that flow from that, based on the facts, we will have made a good start today.

3.30 pm

Jenny Chapman (Darlington) (Lab): It is a pleasure to take part in the debate, and I congratulate the hon. Member for Shipley (Philip Davies) on securing it. It is useful for debates to be formed on the basis of fact, and I think that we will all go away and have another look at some of the statistics. However, I do not think that we will all necessarily jump to the same conclusion as the hon. Gentleman.

I take exception to the charge of inappropriate political correctness and hysteria on my part and on the part of the Minister. We are trying to devise a criminal justice system that is sensible, just, effective and helps to reduce

16 Oct 2012 : Column 46WH

reoffending and the number of victims. I think that that is something that we all share, and we are trying to do it within a very tight budget. In the past, I have agreed with the hon. Member for Shipley on issues such as indeterminate sentencing. It is slightly rich for him then to say that we are all getting a bit woolly-headed and soft. We are not; we are trying to deal with these issues sensibly.

If we take a look at what we know about women in the criminal justice system, the first thing that we see is that there are far fewer of them than there are male offenders. As the hon. Gentleman said, women make up only 5% of the prison population. However, being a minority has meant that in the past they have not been served as appropriately as the male population. For example, as well as committing less crime, the female population tends to commit different types of offences. Importantly, they are less likely to commit violent crime. Conversely, we know that they are more likely than their male counterparts to be given a custodial sentence for their first offence. We will all go away and frantically try to check that out. Their most common offence appears to be theft, particularly shoplifting. Once there, women experience prison differently from men. Despite inhabiting only 5% of our cell spaces, female offenders account for nearly 50% of all incidents of self-harm that happen inside prison walls. The majority of women in prison are serving short sentences of six months or less. Once out, the majority of them reoffend and are back within one year. Clearly, something is not working.

Philip Davies: I can only conclude that the hon. Lady did not listen to what I said. The fact is, at any point in time, 78% of women in prison are serving a sentence of over one year. It is simply not true to say that the majority of women in prison today are serving a short sentence—they are not.

Jenny Chapman: The majority of women who are sentenced serve less than six months. It goes without saying that serious and violent offenders, whether men or women, should be punished and imprisoned to protect the public. However, it needs to be said that the majority of women, viewed by sentences, have committed minor, non-violent offences. We are aware that our new Secretary of State for Justice is keen to tell us that prison works, but when 62% of women who serve a short

custodial sentence get out and quickly reoffend, it is a sure sign that something is not working. I am sure that the hon. Gentleman would like all classes of offender to serve longer sentences, but I am curious to know where the budget will come from.

Philip Davies: There are plenty of areas from which the extra resources for the prison budget could come. A starter would be the £19 billion that we give to the European Union. Perhaps the recent vast increase in overseas aid—the money that we give to India—would be a good place to start, actually to have some prison places in this country.

Jenny Chapman: I really should have thought before I said that; I should have predicted that answer. I look forward to the hon. Gentleman raising that point with the leader of his party.

16 Oct 2012 : Column 47WH

In 2007, the Labour Government published the Corston report, which was commissioned precisely to consider this cohort of offenders. Irritating though it is to the hon. Gentleman, we still believe that specific things can be done for this group of offenders to reduce their reoffending that are not currently taking place, and they are different from those interventions that may be successful for male offenders.

More than 50% of the women in prison report that they have experienced domestic abuse. One in three of them have suffered sexual abuse, and a quarter of the women in prison were in care as children. They are disproportionately more likely to suffer from serious mental health problems than either male offenders or the wider population. Some 37% of women sent to prison say they have attempted suicide at some point in their lives, and 74% left school before they were 16. Drugs and substance misuse are also disproportionately a factor in women's offending before entering custody—75% of women had used illegal drugs. I have already mentioned the appallingly high amount of self-harm that occurs in this population.

Baroness Corston was led to describe these women as "troubled" rather than simply "troublesome", although they certainly can be troublesome. A short prison sentence, mandated on top of an already chaotic life, does little to address the root causes of offending. The problems that were there before a female offender entered the gates will be there when she leaves them, only then there might be more. Some 30% of women lose their accommodation while in custody. Many of them had inadequate housing or were homeless before arrest, and they are not the only ones at risk of losing their homes due to imprisonment.

Nearly 18,000 children are separated from their mothers every year by a prison sentence. Female offenders are often the primary or sole carer in a family—this is where they differ from male offenders. Some 66% of women in prison have dependent children under the age of 18. Only 5% of children with a mother in custody are able to stay in their own homes while their mum is inside. The burden often falls on extended family members or on the care system. We cannot afford to inappropriately sentence female offenders who do not pose a serious risk to the public. It costs too much. It costs children their family and their homes. It makes it harder for women, who are often vulnerable or victims in their own right, to get their lives back on track. It condemns communities to have offenders returned to their streets without any meaningful preventative work done; and on top of it all, it simply costs too much.

The Prison Reform Trust, which I know the hon. Member for Shipley holds in very high regard, reports that it costs an average £49,000 per year to hold a woman in prison. *The Independent*, which I am also sure that the hon. Gentleman reads very carefully, recently ran an article about a woman who had been sent to prison for stealing a lasagne. The ex-governor of Styal women's prison tells a story of a woman who was given a custodial sentence for stealing a sandwich when she was hungry. In a women's centre in Manchester earlier this month, I talked to a woman who had been made

16 Oct 2012 : Column 48WH

homeless due to domestic abuse and had been sent to prison after committing petty theft to survive—she had stolen a sandwich.

I reiterate that of course there are crimes where a custodial sentence is the most appropriate punishment for an offender, female or not. However, a disproportionate or ineffective custodial sentence, as is clearly suggested by current reoffending rates, is an awful lot to pay for a solution that solves very little.

Baroness Corston made a series of recommendations about changes that needed to be made to the content and provision of women's sentences. Her report was greeted with strong support by all parties, including the two—or the one—that now sits opposite me.

Philip Davies: Is the hon. Lady claiming that someone was sent to prison for stealing a sandwich as a first offence? Is that really what she is claiming? If so, I find that very hard to believe. If people are sent to prison for what she considers to be minor offences, I can guarantee that men are more likely to be sent to prison for those offences because, for every category of crime, men

are more likely to be sent to prison than women. This applies equally to men—it is not only women.

Jenny Chapman: Of course, that is true. If something positive can come out of this debate, it might be a sense that in raising issues concerning women we are not solely concerned about women offenders. What is true, however, is that we could have much more success with that group of offenders if they were dealt with slightly differently. Given that we have such a problem with reoffending, it makes perfect sense to break offenders down into groups to be dealt with and with whom we could first have some success.

The Labour Government accepted almost all of Corston's 43 recommendations, and a lot of good progress was made. Five years on, some of the achievements that we should be most proud of are the end to mandatory strip searching and the targeted investment in community and diversion services for women. I pay tribute to my hon. Friend the Member for Garston and Halewood (Maria Eagle) who, according to my right hon. Friend the Member for Blackburn (Mr Straw), argued ferociously for change and did not stop until she got her way—a fine example of the effectiveness of a women's justice champion, a role that has, sadly, been conspicuous by its absence in the first two years of this Government.

Progress, I am disappointed to report, has stalled. I have already noted that the current Secretary of State for Justice did not find time to make women a priority in his conference speech, although, to be fair to him, he is simply following the example set by a Government who did not include a single mention of female offenders in a Bill with the size and scope of the Legal Aid, Sentencing and Punishment of Offenders Bill. The Secretary of State has made much of his desire to be tough on crime and, even more perhaps, of his fractious relationship with community sentencing. This is not about being hard or soft, however, but about what works, and smart community interventions are the most effective way to sentence and rehabilitate the majority of women who enter the criminal justice system. Such reform is tough on crime, as it reduces it. When I asked staff and service users at the Pankhurst women's centre in Manchester

16 Oct 2012 : Column 49WH

what needed to change, they answered that politicians needed to grow a backbone—they were actually a lot less polite, but I think we know what they meant.

In opposition, Labour has continued our commitment to such reform—this month my right hon. Friend the Member for Tooting (Sadiq Khan) announced plans to set up a women's justice board. Reducing the number of the women in prison, he argued, should be a priority for any Government. The Secretary of State for Justice is not known for his desire to reduce the prison population, but if our criminal justice system is to be sensible and effective and provide value for money, it may be time for the Government to think outside the gates.

3.42 pm

The Parliamentary Under-Secretary of State for Justice (Mrs Helen Grant): It is a pleasure to serve under your chairmanship today, Mrs Osborne. I congratulate my hon. Friend the Member for Shipley (Philip Davies) on securing this important debate, and I welcome the opportunity to update the House on the steps that justice agencies are taking to address women's offending. Before doing so, I want to set out two important parts of the wider context on female offenders: to explain how our current sentencing framework deals with gender and to show how important it is to look carefully at the evidence on how women are sentenced by the courts.

To begin with, therefore, it is important to be clear about how our sentencing framework is gender-neutral: everyone is absolutely equal before the law. The same criminal offences and maximum penalties apply to every case, regardless of the offender's gender. Alongside that, however, we also need to remember that every offender who is brought before the courts is unique. A long-standing principle of our justice system is that courts should consider the full circumstances, not only of the offence but of the offender, when sentencing. A sentencing framework that did not allow courts to take into account individual circumstances would not be a just one.

In many cases, an offender's personal characteristics, such as previous convictions, failure to comply with earlier court orders or abusing a position of trust, can all be treated as aggravating factors when sentencing. Other personal characteristics, however, may provide mitigation. Previous good character, age, physical or mental health and caring responsibilities are all factors that courts can take into account when deciding the appropriate sentence.

All such factors may apply to both male and female offenders. For example, that an offender is a primary carer for dependent relatives is the important fact for the court, not whether the offender is the mother or the father. Probation pre-sentence reports give courts the detailed assessments that they need to make informed judgments about the factors that they should take into account.

I should make it clear that courts need to weigh mitigating factors against the others circumstances. For example, although it is recognised that parental imprisonment can have considerable effect on the lives of children, caring responsibilities will not necessarily mean that an offender will be spared prison. The overriding aim of the courts will always be to impose a sentence

16 Oct 2012 : Column 50WH

that reflects the seriousness of the offence and that is proportionate to the culpability of the offender and the harm caused.

We need to bear in mind all such issues when looking at the sentences imposed on male and female offenders. Differences in the type and severity of sentence given to men and women may be attributable to a wide range of factors, such as the type and gravity of offence committed and the individual's previous offending history.

Philip Davies: Is the Minister therefore conceding—the main purpose of my debate—that for each category of offence men are more likely to be sent to prison than women? She did not say so explicitly, but she was about to give reasons for that being the case.

Mrs Grant: No, I do not accept that at all. What I have just said is that the sentencing framework and guidelines are gender-neutral: everyone is absolutely equal before the law. That is exactly what I said.

Philip Davies: I will give the Minister one more chance, because I do not want her to mislead the House inadvertently. She can use her Ministry of Justice figures for the answer. Does she accept that, for each category of offence, men are more likely to be sent to prison than women? We can take all the reasons why that may be the case and we can put in all the mitigating factors, but will she confirm for the benefit of the House, as the Minister in this Department, that for each category of offence men are more likely to be sent to prison than women? The reasons are irrelevant; it is only the facts that we want at this stage.

Mrs Grant: We could go round in circles, but I shall repeat myself: the sentencing framework and guidelines are gender-neutral and everyone is equal before the law. The sentencer has an obligation to take into consideration all factors relating to the offence and to the offender. In our judicial system, if the sentencer failed to do so, we would have an unjust system.

We need to be careful when interpreting the statistics, many of which have been cited by my hon. Friend today. At a high level, for example, the figures show that 10% of male offenders and 3% of female offenders were sentenced to immediate custody in 2011. The average custodial sentence length for males was longer than for females, at 15 months and 10 months, respectively. Equally, however, proportionally more males than females received sentences in 2011 for serious offences such as violent crime, sexual crime and robbery. There were also differences in the severity of offences committed within the groups. For example, 343 offenders were sentenced in 2011 for murder, but only 23 were female offenders.

The available statistics on aggravating factors suggest that a similar proportion of males and females sentenced to short custodial sentences are persistent offenders. In June 2011, around half of both men and women serving sentences of six months or less in prison had 15 or more previous convictions.

A number of mitigating factors are particularly associated with women offenders, including the high prevalence of mental health needs and child care responsibilities. Prisoner surveys tell us that more than a quarter of female

16 Oct 2012 : Column 51WH

prisoners reported having been treated for a mental health problem in the year before custody, compared with 16% of male prisoners.

Women are also more likely than male offenders to have child care responsibilities, and 60% of mothers with children under the age of 18 lived with those children prior to imprisonment, compared with around 45% of fathers. So there is a nuanced story behind the statistics, which reflects the fact that every offender, whether male or female, is a unique individual. Whether offenders are punished in custody or in the community, the Government are committed to ensuring that both men and women who offend are successfully rehabilitated.

For those offenders who are best dealt with out of court, we are piloting mental health and substance misuse liaison and diversion services in police custody and at courts by 2014. We are also developing intensive treatment options in the community for offenders with drug or mental health problems, including four women-only services in Wirral, Bristol, Birmingham and Tyneside. In prisons, we are piloting drug recovery wings for short-sentence, drug and alcohol-dependent prisoners at three women's prisons: HMPs New Hall, Askham Grange and Styal. We are also ensuring that courts have the right mix of punitive and rehabilitative requirements available when

sentencing female offenders to community sentences. The National Offender Management Service is providing £3.78 million in this financial year to fund 31 women's community services that can be used as part of, or in conjunction with community sentences. To protect the provision of services for women in these times of financial challenge, that funding will be embedded within the baseline for future probation trust settlements with a requirement that it results in enhanced services for women.

We have issued gender-specific standards in all areas of the prison regime, including training for staff working with women offenders in prisons, now extended to services provided in the outside community, and new search arrangements, ending routine full searches of women prisoners. Seven mother and baby units in England and Wales provide an overall total capacity of 77 places for mothers, with capacity for up to 84 places for babies to allow for twins. Mother and baby units provide a calm and friendly place within prison for babies to live with their mothers. They enable the mother and child relationship to develop, thereby safeguarding and promoting the child's welfare.

In closing, I thank the hon. Members for Stretford and Urmston (Kate Green) and for Feltham and Heston (Seema Malhotra), and my hon. Friends the Members for Pendle (Andrew Stephenson) and for Hexham (Guy Opperman), as well as the hon. Member for Darlington (Jenny Chapman), for contributing to the debate. We can continue to improve how we tackle offending together only if we continue to address the wide range of factors associated with offending, whether the offenders are male or female. I welcome the constructive and knowledgeable contributions from all hon. Members this afternoon, as they have highlighted how important it is to continue to focus on responding to the specific circumstances of women offenders.

16 Oct 2012 : Column 52WH