

# Fighting fire with fire: Why harsher punishments for young female offenders are not the answer

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**ABSTRACT:** Female juvenile crime is on the rise. In response, some agencies are suggesting a remedy to revise the Canadian Youth Criminal Justice Act in favour of harsher sentences for youth. This paper delves into the potential negative repercussions of said amendment such as increased involvement in gangs and deteriorating mental health. Furthermore, alternative methods such as after school programs, mentorships, and therapeutic means of rehabilitation are shown to not only be more effective for reducing crime among young women but more cost effective as well. Prisons have been shown to worsen the situations of young women who have grown up in extremely disadvantageous circumstances. Thus, this paper argues that harsher sentences for female youth will not only be ineffective in solving the current problem of female youth crime but may make it worse.

## INTRODUCTION

Young women have not always been a popular topic of discussion among criminologists. Although there has been limited research on young women in the criminal justice system in the past, a 1993 study showed that law enforcement agencies in the United States made an estimated 570,100 arrests of women under the age of 18, a 3% increase since 1983, and more recent studies are showing that this trend is continuing (Poe-Yamagata & Butts, 1996). While a 3% increase may not sound like a concerning figure, this equates to approximately 17,000 more young women who are committing crime in a ten-year period, and few have any leads as to why. What is known, however, is that a large majority of young women entering the youth justice system have experienced some kind of abuse in their homes, are involved in drug use, have one or more mental illnesses, or some combination of the above (Haringsma, 2012). This increase of young women offending is prompting a conversation as to what should be done in remedy.

An important topic in criminology is whether or not prison sanctions effectively decrease recidivism among those who serve prison sentences,

and research is showing that prison is failing to do so (Smith, Goggin, & Gendreau, 2002). Nonetheless, one argument is that the Canadian Youth Criminal Justice Act should be revised once more to impose harsher sanctions for youth. The Youth Criminal Justice Act is the body of law that applies to Canada's youth who are between the ages of 12 and 18, and has been revised in the past to implement such changes (Department of Justice, 2017). This article will discuss alternatives to increasing the severity of sentences for young girls, such as non-profit after school programming, as well as the disadvantages of harmful and ineffective prison sentences. It will be argued that increasing the severity of sanctions will not only be unjust to young women, but that they will contribute to the issue of female youth crime.

## DISCUSSION

### *Adverse backgrounds*

Children coming from dysfunctional, abusive home and family environments have been found to develop maladaptive coping strategies in order to survive their environment (Levenson, et al., 2017). Further, children with criminal histories have the highest rates of childhood abuse and dysfunctional families than the general population, which has been found to lead to mental health disorders, drug abuse and continued criminality in their adulthood (Levenson, et al., 2017). Youth in the criminal justice system have been consistently found to have higher rates of adversity and to have experienced prolonged, multi-formed trauma which puts them on the path towards a life of crime unless interventions are introduced to address said trauma (Levenson, et al., 2017). One model to address the adversity that young people are facing is trauma-informed care. Trauma-informed care is care that is aimed to help youth identify their unmet emotional needs in ways that are healthy and do not harm others (Levenson, et al., 2017). Trauma-informed care should be integrated into all forms of rehabilitation for youth, whether it be inside institutions or as a part of alternative sanctions. Additionally, staff

working with youth who have traumatic pasts are encouraged to avoid excessive authoritarian interactions while modelling boundaries and effective use of communication to express feelings (Levenson, et al., 2017). Using trauma-informed care practices in prisons and similar environments can ensure that young women's traumatic pasts are being addressed and recognized as a part of their rehabilitation.

On the topic of girls in the youth criminal justice system, a study from the University of San Diego found that incarcerated girls were more likely to receive clinical diagnoses of major depression, post-traumatic stress disorder, separation anxiety, and disruptive disorders than their male counterparts (McCabe, Lansing, Garland, & Hough, 2002). Girls also reported significantly greater rates of physical, sexual, and emotional abuse and greater rates of physical neglect than boys (McCabe, et al., 2002). This suggests that many young women entering the criminal justice system are growing up in environments of great adversity. Therefore, it could be said that much of their criminal behaviour is a product of a number of sociological, psychological and economic disadvantages, rather than being inherently flawed individuals. In these cases, young women need positive resources to address the underlying issues that led to their criminality. Increasing the severity of sanctions for young women may only postpone additional acts of crime until they are released unless something more is done to address the reasons they are committing crime in the first place (Smith et al., 2002).

### *Alternative programming*

The hardships young girls in the juvenile criminal justice system face are plenty and more apparent than those found among young male offenders. McCabe et al. found that "families of delinquent girls are often more dysfunctional than those of male delinquents, and are characterized by a high [frequency] of mother-daughter conflict" (2002). In cases such as these, a program such as the Big Sisters program, an alternative to severe sanctions, could be useful for young women who lack important relationships in their lives. Relationships, such as the between mother-daughter relationship, are vital, and weakness in that relationship may create more problems for young women. An addition of a positive female role model would be highly beneficial according to criminologist Travis Hirschi, creator of the Social

Bond Theory. In said theory, Hirschi outlines the importance of our attachments, commitments, involvements and beliefs (Hirschi, 1969). According to Hirschi, a weakness in one or more of these bonds may result in delinquent behaviour (1969). By referencing Hirschi's theory alone, young women, as well as the communities they inhabit, could benefit greatly by introducing positive female role models who can continually promote prosocial behaviour.

In addition to programs such as the Big Sisters program and other similar after school activities, research has shown that alternative treatments to incarceration such as therapy and counselling for mental health issues may be beneficial to young women in the criminal justice system (Haringsma, 2012). Female youth have been shown to be more likely to be open to therapeutic interventions than their male counterparts, suggesting that this alternative could be both effective and desirable to young women (Haringsma, 2012). Because of the adversity young females in the youth criminal justice system face, programs that offer gender specific help have been proven to be greatly beneficial. Programs such as Working to Insure and Nurture Girls Success (WINGS), Reaffirming Young Sisters' Excellence (RYSE) and Holistic Enrichment for At-Risk Teens (HEART), have yielded extremely positive results. Some of these results include more protective factors and fewer risk factors upon leaving the programs, significant increases in school attendance, higher rates of girls completing their probation, and improved social, family, and relationship support (Zahn, Day, Mihalic, & Tickavsky, 2009). With the research done showing the various forms of abuse young female offenders suffer, in collaboration with the positive outcomes of alternative treatments for female youth, it could be said that increasing punishment for young women would be unjust.

### *Prisons*

Not only are the benefits of alternative programs for young female offenders very apparent, so are the disadvantages of prison sentences for youth. It is becoming increasingly easy for youth to be sentenced as adults, therefore receiving longer prison sentences despite the fact that there is little evidence that suggests longer sentences decrease youth crime (Taylor, 1996; Smith, et al., 2002). When youth are sentenced to significant amounts of jail time, it further removes them from the protective

factors that may better rehabilitate them to become more prosocial members of society. Protective factors can be defined as “characteristic[s] at the biological, psychological, family, or community... level that [are] associated with a lower likelihood of problem outcomes or that reduces the negative impact of a risk factor or problem” (Youth.gov, n.d.). In other words, protective factors aid youth in properly working through trauma they have experienced that made them at risk for becoming offenders in the first place. When sentenced to prison incarceration, young women are removed from their peers, family, school and any other potentially positive association that could rehabilitate them. Some may argue that it could be a youth’s peers, family members, or lack thereof, that put them on a trajectory for committing crime in the first place. However, I argue that immediately resorting to incarceration for these youth would only lessen the possibility for reparation of those relationships, which could be highly influential in improving young women’s long-term wellbeing.

In addition to being removed from their peers, family, and schools, female youth are being imprisoned in facilities that are furthering their likelihood to commit more crime. Due to overcrowding, youth are being faced with poor living conditions, increased health issues, and more youth-on-youth incidents as a result (Taylor, 1996). Furthermore, over 11,000 youth in prisons have engaged in over 17,000 incidents of suicidal behaviour while being imprisoned in juvenile facilities (Taylor, 1996). Youth prisons are lacking the resources for young women who need quality mental health professionals to aid in their rehabilitation while in the juvenile criminal justice system (Scott & Ruddell, 2011). Because of the lack of supportive programs and positive role models to aid in their recovery while in prison, detained youth are seeking relationships and engaging in gang activities that further their criminal activity (Scott & Ruddell, 2011). Female youth are often entering the criminal justice system under severe cases of adversity, which may include a lack of attachments, commitments, involvements and beliefs (Hirschi, 1969). Later research has supported Hirschi’s theory by showing that the seeking of security and sense of belonging in gang membership is a consequence of having dysfunctional, abusive families, absent or uninvolved parents or attachments, as well as family disadvantage and poverty (Scott & Ruddell, 2011). To counter these deficits, or socialization voids,

young women may turn to prison gangs to fulfil their need for affiliation, achievement, and social support (Carrasco, 1999; Scott & Ruddell, 2011). Due to the increase in popularity of female gangs, along with the increase of female youth crime, the likelihood of girls to join a gang is increasing (Moore & Hagedorn, 2001).

While there is limited research on the long-term consequences of gang membership, preliminary research suggests that a lack of positive role models for these girls, in combination with the risk factors associated with gang membership, such as low socioeconomic status and history of abuse, may lead to more crime (Moore & Hagedorn, 2001). Furthermore, it has been shown that any environment that groups high risk youth together in the absence of structured programs is associated with higher levels of criminal behaviour (Ross, Duckworth, Smith, Wyness, & Schoon, 2010). While prison itself could be considered a structured program, the nature of prisons does not facilitate the kind of supportive environment that is required for programs to be effective. The combination of poor living conditions associated with prison life is currently putting young women at risk for committing more crime while harming their mental health in the process (Taylor, 1996).

One study has shown that more therapeutic approaches to at risk youth was more effective than methods of control or coercion (Ross, et al., 2010). The authors state that,

Evidence suggests that [programs] that mainly [focus] on deterrence or discipline can actually have the opposite effect and lead to an increase in offending behaviour. For example, [programs] that employ shock tactics, such as ‘scared straight’ programs, where young offenders are taken to maximum security prisons and told of the horrors and difficulties of life in prison by the inmates, have been linked with increased offending (Ross et al., 2010).

This demonstrates the need for youth to feel supported rather than being attacked and criminalized. Feeling victimized by the criminal justice system may only push youth further toward anger and distrust towards a system that does not address their adverse backgrounds, ultimately resulting in increased recidivism upon their release (Smith, et al., 2002). Alternative sanctions and options such as trauma-informed care can give girls the opportunity to learn healthy coping mechanisms that do not result in

criminal behaviour.

### *Cost benefits to alternative sentencing*

In addition to the social justice-based arguments against increasing the severity of sanctions for youth, there are also significant economic benefits to keeping youth out of prisons. The incarceration of a woman in a federal prison can cost up to \$250,000 a year for a single female inmate in Canada (Prisonjustice.ca, 2008). Not only is the cost alone staggering, it is upwards of two times the cost of the incarceration of a male inmate (Prisonjustice.ca, 2008). The needs of young women are plentiful, and despite the enormous cost of incarcerating them, they are still not receiving the required help. Programs such as Big Brothers and Big Sisters are volunteer-based, and many others work as non-profits that work to improve the lives of at risk youth and promote prosocial behaviour (Zahn, et al., 2009).

Research has shown that youth who participate actively in afterschool programs have significantly lower rates of juvenile crime which in itself is cost-beneficial (Healthy City, 2012). After school hours are known as the peak for youth crime, and since the implementation of after school programs in San Diego, juvenile arrests have decreased by 13.1%, a decrease which the San Diego Police Department credits to said programs (Healthy City, 2012). Furthermore, it was found that for every dollar spent on afterschool programs, a benefit of \$2.50 was returned to the community in the form of costs avoided due to youth crime (Healthy City, 2012). Thus, not only are alternative options for female youth cost effective in terms of reducing prison costs, enrolling them in afterschool programs has the potential to give money back to the communities in which they live. While post-offence alternatives have been shown to be effective in preventing further criminal activity, a focus on preventative crime controlling measures could mean that young people do not have to come into contact with the youth criminal justice system at all. It has been estimated that a life-long offender or "career criminal" can cost the criminal justice system upwards of \$1,000,000 (Smith, et al., 2002). Therefore, disrupting the trajectory of career criminality of even one young person has substantial financial benefits. While it cannot be assumed that all children coming from disadvantaged backgrounds are going to become offenders, it is a risk factor that cannot be ignored. And nevertheless, being able to provide programs

for at risk youth would be beneficial whether they are on a trajectory of criminal activity or not.

### **CONCLUSIONS**

The aforementioned arguments against harsh prison sentences should not be misconstrued to say that young offenders should not receive any kind of punishment for their crime. Simply giving girls a softer punishment for breaking the law will not reduce youth crime either. In a study titled, 'What Girls Need from the System,' female inmates were asked what the system could offer them that would have benefited them as young girls. One inmate replied as such:

... I think stricter discipline is ... a necessity because if not, then you feel like, "well shit that was easy" . . . They fed me and they patted me on the head, and you know one year later, here I am back on the streets and if I do this again and get into trouble then I'm just [going to] go back to a place where they are [going to] feed me and I don't have to worry about somebody [beating] me there. I don't have to worry about somebody [molesting] me there, you know? (Garcia & Lane, 2010).

This response illustrates the need for a balance between a safe and rehabilitative environment and an appropriate sanction that will provide consequences for their actions. In the same study, the three highest rated needs for girls in the system involved discipline and consequences, role models and mentors, and therapeutic treatments (Garcia & Lane, 2010). Research is showing that it is the combination of support and discipline that should be offered to young women in the criminal justice system. The hardship girls are facing going into the criminal justice system need to be addressed and repaired before sending them back to the communities they came from so that they can better maneuver and cope with their situations in healthier ways. It should be the responsibility of the prison industrial complex to address these social programming deficits within their institutions.

Research has shown that prison sentencing is increasing youth's involvement in criminal activity, is harmful to inmates' mental health, and expensive to maintain (Smith, et al., 2002; Taylor, 1996). Along with the beneficial behavioural and financial results of alternative rehabilitative programming, the need to overhaul the Youth Criminal Justice Act in favour of more severe sanctions is reduced significantly. Any revision to the Youth Criminal Justice Act should involve ways society can help youth move past the

criminal justice system, not keep them there longer. The benefits to alternative sanctions are so promising that if government funding was redirected to existing and new programs, society would be able to give young women coming out of the criminal justice system the opportunity enter their adulthood as prepared, prosocial individuals, or better yet, keep them from entering the system in the first place. Keeping female youth behind bars will not only take away their adolescence, but it could put them on the path to being kept in the criminal justice system forever.



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