

The ordinary crimes of female offenders

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In 1887 an inquiry into Queensland's prison system reflected on the difference between the prevailing conception of crime as the province of a distinct criminal class, and the ordinariness of most of the offenders that entered the colony's gaols, observing that:

Criminal population is here used in its widest signification as embracing all persons who have brought themselves within the grasp of the police or prison authorities. These may not, and very probably do not, all come within the category of persons making a profession of crime; the majority, in all likelihood, are the victims of a sudden accession of passion, a momentary succumbing to strong temptation, a temporary lapse from an honest and upright course of life.¹

Of Queensland's women prisoners it was stated that while repeat offending among them was especially high, most of these recidivists could be classed as 'confirmed drunkards rather than professional criminals'.²

Popular constructions of criminality often do not match its more prosaic realities, perhaps especially when it comes to female offenders. The violent crimes of women still notorious today – like husband-poisoner Louisa Collins and baby-farmer Frances Knorr – were the exception, not the rule. Of the 1,351 female arrests in Queensland in 1887 (around a tenth of the number of male arrests), less than ten per cent were for serious offences involving violence or property (compared to just over twenty per cent among men). The bulk of arrests were for offences against public order, such as drunkenness (45 per cent of women's arrests, 40 per cent of men's).³ This reflects a more general trend repeated across other jurisdictions and time periods: violent crimes typically constitute a minute proportion of charges against women and a small one of those against men, with property offences constituting the majority of serious charges against both, and petty offences (particularly drunkenness offences in the nineteenth and early twentieth century, and traffic offences from the mid twentieth century onwards) forming the vast bulk of 'criminal' activity dealt with by the State.

However, such statistics provide only a single snapshot of female offending, telling us little about women's participation in criminal underworlds, which can more accurately be assessed by examining women's offences across their entire life-course. An example is provided by the lives of 33 female inmates interviewed by the 1887 prisons inquiry at Toowoomba Gaol (the colony's gaol for women serving sentences of longer than a fortnight) on 29 June 1887. Looking only at the offences for which they were imprisoned on that day, the picture of female offending is similar to that disclosed above: only two were gaoled for offences against the person, one for murder, the other for concealment of birth after being acquitted of the more serious charge of infanticide; six were imprisoned for property offences; and the remainder for public order offences such as vagrancy, drunkenness, obscene language or indecent exposure. However, a slightly different image of the degree of these women's 'criminality' emerges when looking at their entire conviction histories, with 27 out of the 33 being repeat offenders, many amassing dozens of convictions. The bulk of these convictions

¹ "Report with Minutes of Evidence taken before the Board of Inquiry appointed to inquire into the general management of the gaols, penal establishments, and lockups of the Colony of Queensland," *QV&P*, 1887, x.

² *Ibid*, xi.

³ "Report of the Commissioner of Police for the year 1887," *QV&P*, 1888, 938.

also consisted of petty offences, but 14 women were convicted at some point in their lives of violent offences (mostly minor assaults) and 17 of property offences (predominantly pickpocketing from men in the course of prostitution).⁴ Individual convictions thus do not always disclose the extent to which an individual may be considered a serious offender or part of a criminal underworld.

Examining the women's entire life-histories is also revealing of the role that gender played in the policing of women and the contexts of female offending. Violence had a larger role in the lives of many inmates than the figures above disclose. Several were victims of gender violence, assaulted by intimate partners, pimps, 'johns' or random strangers; at least one interviewee's conviction for violence resulted from provocation by an abusive partner. Violence between women themselves also appears commonplace, but was seldom dealt with seriously by police, who instead often charged both parties of such assaults with offences like disorderly conduct. Some property crimes also point to a police tendency to minimise the seriousness of female offending, charging women for larceny from the person in cases that could have merited a conviction for robbery with violence. This provides potential support for the 'chivalry' interpretation of why crime figures generated by police suggest women offend less, and less seriously, than men.

Inmates' theft convictions also point to the limited economic opportunities of women in this period. Poorly paid domestic service was the largest legitimate employer of women, including one interviewee who, following coercion from the man courting her, stole from the house where she worked. That many women were charged with stealing within the context of soliciting prostitution underscores how sex work was one of the few viable options women had to support themselves.

Although prostitution was not illegal in Queensland at the time, police used public order charges against sex-workers in an expression of community double standards over sexuality (male clients facing no such policing). More generally, women who contravened the gender norms, from using obscene language to white women engaging in sexual relationships with men of colour, became targets for petty charges. Some inmates claimed they had been doing absolutely nothing when arrested by police for riotous behaviour, perhaps victims of officers eager to increase their arrest rates with easy convictions of known offenders whose own evidence was seldom believed by magistrates. This cycling in and out of gaol – sometimes with less than 24 hours in between – also meant many of the women struggled with homelessness as it became harder to secure or maintain employment or lodgings. With no alternatives, a return to prison became their only means of support, with some women even requesting police arrest them for this reason. Many women also struggled with substance abuse, with 26 out of the 33 female interviewees in the Toowoomba Gaol amassing at least one conviction for drunkenness, while five were convicted of opium use. Such addiction was perhaps symptomatic of the other struggles in the women's lives that left them vulnerable to criminalisation. Police, magistrates and prison officials frequently expressed the uselessness of repeatedly returning such troubled women to gaol, but continued to do so due to the perceived lack of alternatives.

While their conviction records consisted overwhelmingly of minor offences, many of the 33 inmates interviewed in the 1887 inquiry thus belonged to a female criminal subculture centred around the sex trade in Brisbane. A loose network existed among them, with 18 of the women having had documented connections to each other (such as joint arrests) prior to 1887, and 14 having such connections afterwards. This led to a companionable subculture

⁴ Alana Piper, "'I go out worse every time': Connections and corruption in a female prison," *History Australia*, volume 9, no. 3 (2012): 132-153.

within the prison, with the board of inquiry horrified by inmates' disclosures of women in the cells at night singing, dancing, discussing lewd topics, sharing smuggled goods including tobacco and alcohol, and even engaging in sexual intimacy together. Not all the women interviewed were part of this subversive subculture; according to the testimony of prison officials and the women themselves, those excluded were usually the long-sentence prisoners arrested for more serious but typically one-off offences. It was the women who passed in and out of gaol frequently for petty offences who were portrayed as the greater nuisance both to the prison and broader community.

While it is sensationalist offences that have received the greatest attention in popular culture and even academic studies, ordinary offences thus also provide significant insights into how gender and legal history mutually shaped each other.