

Agenda alliance
House of Lords Briefing for Second Reading of the
Police, Crime, Sentencing and Courts Bill
- September 2021 -

Agenda is an alliance of over 100 organisations working in England and Wales to build a society where women and girls are able to live their lives free from inequality, poverty and violence. We campaign for women and girls facing abuse, poverty, poor mental health, addiction, contact with the criminal justice system and homelessness to get the support and protection they need.

The status of the Bill

The Police, Crime, Sentencing and Courts (PCSC) Bill was introduced on 9 March 2021 in the House of Commons. First reading in the House of Lords took place on 6 July 2021, and second reading will take place on **Tuesday 14 September 2021**.

Introduction

It is our view that the impact of the PCSC Bill will fundamentally undermine the Government’s ambitions of reducing reoffending and creating safer communities, outlined in the National Concordat on Women at Risk of or in Contact with the Criminal Justice System (2021)¹ and the Government’s Female Offender Strategy (2018).²

As it currently stands, the Bill runs counter to achieving the Government’s commitment to radically reduce the number of women and girls in prison, as well as prevent families being torn apart by prison.ⁱ This briefing highlights **two key areas** of the Bill that will disproportionately impact negatively on women and girls, particularly younger women and girls, Black and minoritised³ women and girls, and women and girls who have experienced abuse and trauma.

This is not an exhaustive list of clauses that will have a disproportionate impact on women and girls, and we refer you to the ‘**Other briefings**’ section at the end for more resources from our partners on the Bill’s impact.

1) Serious Violence Reduction Orders (SVROs)

Clause	Change to the PCSC Bill needed
<p>140 - Creation of Serious Violence Reduction Orders (SVROs) SVROs introduce a new civil order which can be imposed on a lower standard of proof, but allows for a period of imprisonment of up to two years following a breach of an order’s terms.</p>	<ol style="list-style-type: none"> 1. Plans for SVROs should not move forward until data relating to women and girls’ offence types broken down by ethnicity is analysed and reported on. 2. Remove ‘ought to have known’ provision. 3. There should be routine enquiry into current and historic experiences of abuse by trained professionals to establish the context in which SVRO is being applied, and requirements for police to refer to specialist voluntary women and girls’ services.

ⁱ The Farmer Review found that strong family ties were linked to reduced reoffending, and we know three in five women in prison have children under the age of 18. (Appendix 1, [HM Chief Inspector of Prisons \(2020\) Annual report 2019-20](#))



The **creation of Serious Violence Reduction Orders (SVROs)**, will directly impact women – particularly young women and Black and minoritised women - experiencing criminal exploitation, leaving them facing up to **2 years imprisonment** for the possibility they “**ought to have known**” someone in their company was in possession a weapon. This clause is in the vein of Joint Enterprise laws which are known to have brought women into the criminal justice system that had no involvement in the alleged offence.⁴ Research has found that in **90% of joint enterprise cases against women, they had engaged in no violence at all, and in half of the cases they were not even present at the scene.**⁵

For women who are present at the scene of the crime, or who are involved in some way (for example, holding a weapon), the proposed terms of an SVRO render invisible the impact of coercion in relationships experienced by many women drawn into the criminal justice system, or at risk of criminal exploitation.

Razia'sⁱⁱ story⁶

Razia, 23, experienced abuse in her relationship with her ex-partner who was arrested for drugs offences.

“I was in a coercive and abusive relationship, and it was the wrong place, wrong time... Because I turned a blind eye to it, I was still sort of involved inadvertently because I was in contact with him and because he'd been making phone calls from my phone...”

“When I got to court, my ex-partner and all his friends were there... They were looking at me, making snide comments... Saying, “If you say something... It's game over for you”...”

The introduction of SVROs may **particularly impact Black women and girls**, as Black women and girls tend to be disproportionately impacted by punitive criminal justice policy. For example, Black girls are significantly more likely to be arrested than white girls,⁷ and data from 2016 shows that Black adult women and women of mixed ethnicity were also more than twice as likely to be arrested than white women.⁸ Between 2015-19, **the number of Black women prosecuted for possession of an article with a blade increased by 71%**, compared to a 14% increase for white women.⁹

SVROs are not set to be applied to children/girls but it is **very concerning** that the consultation on Serious Violence Reduction Orders reported that 65% of respondents said that SVROs should apply to adults and juveniles aged 12 and over,¹⁰ **and this remains ‘under review’**. Expanding SVROs to U18s will **widen the net of criminal exploitation for girls**.

Policy context

The [Female Offender Strategy](#) (2018) set out to reduce the number of women in the criminal justice system, acknowledging the importance of a gender-informed approach that takes account of other inequalities women experience: *“Given the overrepresentation of [Black, Asian and minority ethnic] women in the criminal justice system (CJS) and the proportion of female offenders with experience of domestic abuse, our workforce, environment and interventions must become more alive to their experiences and responsive to their individual needs.”*

The most recent draft of the [Domestic Abuse Act statutory guidance](#) (2021) includes a new section on “Criminal Justice System and Women.” It acknowledges the importance of understanding the role of abuse, including coercive control, in women's offending behaviour: *“More than half (57%) of women in prison report having suffered domestic violence, and women in prison are more than twice as likely as men to say they have committed offences to support someone else's drug use.”¹¹*

ⁱⁱ Not her real name.

Question for the Minister

Research has found that in 90% of joint enterprise cases against women, they had engaged in no violence at all, and in half of the cases they were not even present at the scene. The introduction of SVROs will mean women face up to 2 years imprisonment for the possibility they 'ought to have known' someone in their company was in possession of drugs or weapons. **To avoid widening the net of criminalisation, does the Minister agree that the 'ought to have known' provision should be removed – in line with the aims of the Female Offender Strategy?**

The Female Offender Strategy, the Violence Against Women and Girls Strategy 2016-2020, and the latest iteration of the Domestic Abuse Act statutory guidance all recognise the role that domestic abuse, including coercive control, plays in women's offending behaviour. However, the proposed terms of an SVRO render invisible the impact of coercion in relationships experienced by many women drawn into the criminal justice system, or at risk of criminal exploitation. **Does the Minister appreciate the importance of establishing the context in which SVRO is being applied? Does the Minister agree there must be routine enquiry into current and historic experiences of abuse by trained professionals, and requirements for police to refer to specialist voluntary women and girls' services?**

2) Increased penalty for assault on emergency workers

Clause	Change to the PCSC Bill needed
2 - Increase in penalty for assault on emergency worker from 12 months to 2 years.	<ol style="list-style-type: none">1. The proposed change to increase the sentence length in the Assaults on Emergency Workers Act 2018 should be scrapped.2. Justice Minister with responsibility for the 'Vulnerable Offenders Policy Team' to monitor and report on sentencing disproportionalities for this offence, considering disparities across all protected characteristics – particularly gender, age and ethnicity. There must also be data on the prosecution rate for this offence where histories of poor mental health were identified in pre-sentence reports.3. Frontline emergency workers must be trained to respond to vulnerable women and girls in a gender, age and trauma-informed way.4. Investment in women and girls' specialist community-based services, that can work with women and girls to address the root cause of their offending behaviour, including experiences of trauma, abuse and poor mental health.

Far from acting as a deterrent, the increased penalty for **Assaults on Emergency Workers from 12 months to 2 years** will drive more traumatised women and girls into the criminal justice system, and for longer.

Assaults on emergency workers are **serious offences which should not be accepted as 'part of the job'**. However, these professionals - be they police officers, prison officers or healthcare workers¹² - **are on the frontline of dealing with severe and complex problems**, and are **not always equipped and adequately resourced** to identify and respond to the challenges facing women and girls, with research showing that women displaying 'challenging or unusual behaviour' are often arrested, despite showing signs of distress or themselves being victims of crime.¹³

Challenges facing women and girls

Women and girls experience a number of challenges that may increase the likelihood of negative interactions with frontline public services staff. They face **higher levels of violence, abuse and trauma**, as well as **higher levels of poor mental health** than men and boys:

- Agenda research shows **women are twice as likely as men to experience interpersonal violence and abuse**, and the more extensive the violence the more likely that it is experienced by women rather than men. About **one in 20 women have experienced extensive physical and sexual violence as both a child and an adult**: that's 1.2 million women in England alone.¹⁴
- **One in five women (19%) experience common mental health problems** (such as anxiety or depression), compared with one in eight (12%) men.^{15 16}
- **Girls and young women are at greatest risk of developing mental health problems**, with the gap between young women and young men also steadily increasing.^{17 18 19}
- **Black and minoritised women and girls are also at particular risk of poor mental health**: 29% of Black and Mixed race women, and 24% of Asian women have a mental health problem, compared to 21% white British and 16% white 'other' women.^{20 21 22}

[Tackling Violence Against Women and Girls Strategy 2021-2024](#) *"Being exposed to domestic abuse can affect a child's educational attainment and mental health as well as increase the risk of engaging in risky behaviours, such as smoking or substance use or violence victimisation and perpetration later in life."*

Women and girls, who experience higher levels of violence, abuse and poor mental health than men and boys, are more likely to have a trauma responseⁱⁱⁱ during a coercive interaction with staff (such as restraint). Assaults on emergency workers by women and girls are therefore often responses to negative interactions with professionals which **trigger past trauma**, including discrimination.

Younger women, particularly Black girls and young women, will be most affected by this law change. Young women aged (18–24) are **more likely to be prosecuted** for assault on an emergency worker than their male counterparts, with this offence making up 6% of all offences that young women (18–24) were immediately sentenced to prison for in 2019, compared to 2% for young men.²³ Black young women are particularly likely to be drawn into the criminal justice system this way – it was the **most common offence** that Black young women were sent to prison for in 2019, making up a staggering **17%²⁴ of total offences leading to a custodial sentence for Black young women aged 18-24.**²⁵

Assaults on emergency workers are the most common offence that result in Black young women aged 18-24 being sent to custody – making up 17% of offences.

Niya's^{iv} story

Niya is now 22. She has experienced extensive abuse and trauma as she grew up with domestic abuse taking place in the family home and was then taken into care, during which time she was groomed and raped. As an older

ⁱⁱⁱ **Trauma response:** Trauma can be life-altering, changing the way that an individual views the world and their place within it. A 'trigger' is a stimulus that can prompt a survivor to recall previous traumatic experiences. The way in which an individual responds to a trigger or trauma itself is often involuntary and can result in a temporary loss of the ability to process information, plan and take appropriate action. Survivors of violence and abuse may be particularly vigilant and aware of potential threat for some time after their original experience(s) of trauma, and this can become chronic.

AVA (2013) [Complicated Matters: A toolkit addressing domestic and sexual violence, substance use and mental ill-health](#)

Women and Girls Network and Women's Resource Centre (2020) [Good Practice Briefing – Developing A Trauma Informed Approach: The importance and application of a Trauma Informed Approach for Working with Survivors of Gender Based Violence.](#)

^{iv} Not her real name.

teenager, she began living with family members again and was forced to enter into a marriage with a man much older than her. When she told members of her family that she wanted to leave her marriage, she was attacked and tried to kill herself. This incident resulted in a police call-out, during which Niya herself was arrested after she kicked a police officer.

“It’s like, you assaulted a police officer, you’re a criminal..., but when you look at the rest... That’s just the tip of the iceberg...”

There was like four or five police officers, and I was crying... I’d just tried to kill myself and been beaten up by my family really badly – dragged across the ground by my hair... And then the police said, “You’re going to get arrested.” No one was listening to me.

They were all gathered around me... If they had just backed off a little bit, I think I would have reacted differently but they were all in my face after going through what I had just gone through...”

Negative interactions include the use of restraint which is used disproportionately against women and girls in both custodial and mental health settings²⁶ and can be particularly distressing for survivors of abuse, particularly when carried out by male staff.²⁷ **Young women feel that staff do not always try to de-escalate a situation** prior to using restraint, and report restraint being used in response to young women exhibiting emotional distress, including the use of self-harm.²⁸

Remembering Annelise

“She had already done six months. Even an extra week would have been like a lifetime.”

The devastating death of Annelise Sanderson, aged 18, in HMP Styal demands an urgent and radical rethink of how the criminal justice system responds to young vulnerable women with mental health conditions who are charged with assaulting an emergency worker.

Annelise’s tragic death is suspected to have been self-inflicted while she was in custody on 22 December 2020, as reported by [The Sunday Times](#). She was sent to an adult women’s prison just weeks after her 18th birthday, receiving a 52-week sentence after stealing a pair of trainers while under the influence of alcohol, pouring petrol on herself and trying to drink it, and then assaulting emergency workers during her arrest and “damaging a foil blanket provided by the emergency services”.

At the time of her arrest, Annelise was experiencing poor mental health. According to the draft of a Prison and Probation Ombudsman report seen by The Sunday Times, Annelise had experienced “significant trauma” in her life. She was taken into care aged eight around concerns she was living in an abusive household, and went on to move between foster carers and children’s homes. While in care, her family said that she reported she had been restrained and choked by a staff member at a children’s home. She also had learning difficulties and was badly bullied at school. At 13 she was found wandering along a motorway alone. To cope with this trauma, Annelise was regularly using alcohol.

Despite Annelise reporting being depressed and having previously attempted to take her own life, magistrates gave her a 12-month custodial sentence, expecting her to serve half the sentence. Annelise had been told she would be released on Christmas Eve, but on December 11 she appeared at South Cheshire Magistrates Court via video link and was sentenced for another offence that took place before she was first sent to prison. Court records show she had changed her plea to guilty and that **no pre-sentence report was provided at the hearing**. Four weeks were added to her sentence.

The extended sentence was highly distressing for Annelise. Her mental health had deteriorated while in prison, reporting to staff that she was suicidal. When she arrived at the prison, she had been given suicide and self-harm prevention measures, but nine days after it started, staff closed the plan. Annelise was not referred to a psychologist or psychiatrist, and instead was prescribed antidepressants.

Her mother said ***“She had already done six months. Even an extra week would have been like a lifetime.”***

Ten days after finding out about her extended sentence, Annelise tragically died in custody.

Longer sentences for women and girls who have committed this offence will have a further detrimental impact on their mental health and life chances. To ensure staff safety, as well as women and girls’, **we must equip emergency workers with the skills to respond in a gender, age and trauma-informed way** to women and girls in crisis.

Question for the Minister

The devastating death of Annelise Sanderson, aged 18, in HMP Styal demands an urgent and radical rethink of how the criminal justice system responds to young vulnerable women with mental health conditions who are charged with assaulting an emergency worker. Frontline staff - be they police officers or healthcare workers - regularly come into contact with extremely vulnerable and traumatised individuals who need mental health support – not prison. The proposed change to increase the sentence length in the Assaults on Emergency Workers Act 2018 - which will criminalise more women and girls rather than acting as a deterrent- should be scrapped. Does the Minister agree that to ensure staff safety, as well as women and girls’, it would be much more effective to equip emergency workers with the skills to respond in a gender, age and trauma-informed way, and invest in women and girls’ specialist community-based services, that can work with women and girls to address the root cause of their offending behaviour, including experiences of trauma, abuse and poor mental health?

Data from the Ministry of Justice shows that assaults on emergency workers are the most common offence that result in Black young women aged 18-24 being sent to custody – making up 17% of offences. We know that Black women are more likely to have a mental health condition than women of any other ethnicity. Assaults on emergency workers by women and girls are often responses to negative interactions with professionals which trigger past trauma, including discrimination. Will the Minister agree that in order to tackle racial disproportionalities in the criminal justice system, the Justice Minister with responsibility for the ‘Vulnerable Offenders Policy Team’ must monitor and report on sentencing disproportionalities for this offence, considering disparities across all protected characteristics – particularly gender, age and ethnicity? There must also be data on the prosecution rate for this offence where histories of poor mental health were identified in pre-sentence reports.

This briefing is supported by

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Other briefings

- [Agenda and Women in Prison](#)'s joint briefing for Report Stage and Third Reading of the Police, Crime, Sentencing and Courts Bill highlights key parts of the Bill that will disproportionately negative impact on women and girls, as well as areas of the Bill that could be strengthened to improve outcomes for women and girls and key gaps in the legislation.
- [Criminal Justice Alliance & EQUAL coalition briefing](#) concludes the PCSC Bill risks deepening racial inequality in the criminal justice system and sets out the clauses which are indirectly discriminatory and assesses the evidence and relevant information contained in the equality statement and/or equality impact assessment.
- [Alliance for Youth Justice briefing](#) highlights clauses that should be removed which will exacerbate inequalities and increase the criminalisation and incarceration of children and puts forward suggested provisions to ensure custody is a last resort and enshrine welfare and rights-based approaches in children's sentencing legislation.
- [Prison Reform Trust briefing](#) examines Part 7 (sentencing and release), Part 8 (youth justice), Part 10 (management of offenders) and Part 11 (rehabilitation of offenders).
- [Friends, Families and Travellers briefing](#) outlines some context on Part 4 ('unauthorised encampments') of the PCSC Bill which will criminalise trespass and further compound inequalities experienced by Gypsies, Traveller and Roma communities.

¹ Ministry of Justice (2021) [Concordat on women in or at risk of contact with the Criminal Justice System](#)

² Ministry of Justice (2018) [Female Offender Strategy](#)

³ The term 'Black, Asian and Minority Ethnic' is commonly used in policy contexts but it can reinforce the idea that certain groups automatically occupy a minority position. Drawing on critical analysis of this term by services led by and for marginalised groups, we refer to 'Black and minoritised' girls and young women to highlight the way in which these groups are constructed as 'minorities' through processes of marginalisation and exclusion.

⁴ Clarke, B. and Chadwick, K. (2020) [Stories of Injustice: The criminalisation of women convicted under joint enterprise laws](#).

⁵ Clarke, B. and Chadwick, K. (2020) [The criminalisation of women convicted under joint enterprise laws](#)

⁶ Razia and Niya's stories were shared with Agenda through interviews conducted in partnership with the Muslim Women in Prison project as part the Young Women's Justice Project research, highlighted additional barriers to disclosure facing Muslim young women caught up in the criminal justice system. This includes the stigma associated with pre-marital relationships within some Muslim communities and the 'silencing' of experiences of abuse in order to protect so-called 'honour' codes.

⁷ Ministry of Justice (2017) [Women and the Criminal Justice System 2017](#)

⁸ All Party Parliamentary Group on Women in the Penal System (2019) [Arresting the entry of women into the criminal justice system](#), The Howard League

⁹ Ministry of Justice (2021) Prosecution (by specific offence) [2015-2019] [Women in the CJS: Local Data Tool](#)

¹⁰ Home Office (2021) [Consultation on Serious Violence Reduction Orders Summary of Consultation Responses and Conclusion](#)

¹¹ Prison Reform Trust (2017) [There's a reason we're in trouble: Domestic abuse as a driver to women's offending](#)

¹² <https://www.legislation.gov.uk/ukpga/2018/23/section/3/enacted>

¹³ The Howard League (2021) [Arresting the entry of women into the criminal justice system](#). All Party Parliamentary Group on Women in the Penal System.

¹⁴ Agenda (2016) [Hidden Hurt – Violence, Abuse, And Disadvantage In The Lives Of Women](#)

¹⁵ NHS Digital (2014) [Adult Psychiatric Morbidity Survey: Survey of Mental Health and Wellbeing, England, 2014](#)

¹⁶ *ibid.*

¹⁷ NHS Digital (2014) [Adult Psychiatric Morbidity Survey: Survey of Mental Health and Wellbeing, England, 2014](#)

¹⁸ NHS Digital (2014) [Adult Psychiatric Morbidity Survey: Survey of Mental Health and Wellbeing, England, 2014](#)

¹⁹ <https://www.independent.co.uk/news/uk/home-news/suicides-teenage-girls-young-women-rise-figures-a9698296.html>

²⁰ Cabinet Office (2017) [Race Disparity Audit: Summary Findings from the Ethnicity Facts and Figures Website](#)

²¹ Cooper, J. et al. (2010) Ethnic differences in self-harm, rates, characteristics and service provision: three-city cohort study, *The British Journal of Psychiatry*, 197 (3), 212-218.

²² Husain, M. et al. (2006) Self-harm in British South Asian Women: Psychosocial Correlates and Strategies for Prevention, *Annals of General Psychiatry*, 5 (7), 7.

²³ Ministry of Justice (2021) Immediate Custody (by specific offence) [2019], [Women in the CJS: Local Data Tool 2019](#). Accessed on 20th August 2021.

²⁴ Assault of an emergency worker is jointly the most common offence Black young women are sent to prison for, along with the offence of 'Production, supply and possession with intent to supply a controlled drug – Class A'. Ministry of Justice (2021) Immediate Custody (by specific offence), [Women in the CJS: Local Data Tool 2019](#). Accessed on 20th August 2021.

²⁵ As young women make up a minority in the criminal justice system on account of both of their age and gender, total numbers receiving a custodial sentence for this offence are low. However, just one year after the Assaults on Emergency Workers Act (2018) was introduced, we expect numbers will continue to grow for this offence, and will continue to disproportionately criminalise young women.

²⁶ Agenda (2020) [Young Women's Justice Project: Literature Review](#)

²⁷ Agenda (2017) [Agenda briefing on the use of restraint against women and girls](#)

²⁸ Agenda research commissioned by Plan International UK for [The State of Girls' Rights in the UK 2019-2020](#)