"GIRLS BEHAVING BADLY?" YOUNG FEMALE VIOLENCE IN NEW ZEALAND

Nessa Lynch*

While female crime, and particularly young female violence, has long been a titillating subject for the media, recent reports suggest an upsurge in violence amongst girls in New Zealand. This short article uses raw apprehension and sentencing data to consider the question of whether violence by girls is indeed increasing. It is concluded that while there does seem to have been an increase in violence by girls in the earlier part of the decade, the level of violence has fallen in the last three years. There may also be other explanations for an increase in apprehensions for violent offences such as changes in Police practice and societal attitudes.

I INTRODUCTION

The situation of girls¹ in conflict with the law in New Zealand is a notably under-researched aspect of the youth justice system. In this short article, I consider the question of whether offending by girls, particularly violent offending, is indeed on the increase, as is commonly portrayed in the media. First, I set the context by reviewing the literature, noting the lack of research on the background and experiences of girls in the criminal justice system in New Zealand. I discuss the historical and contemporary construction of girls' violence in the popular media. I analyse the raw data on apprehension and sentencing trends to conclude that while there is some evidence that apprehensions for violent offending are increasing, a moral panic is unjustified and is largely based on anecdote rather than evidence. I place the statistics in context, particularly that apprehensions of girls make up a small minority of child and youth apprehensions. I suggest other possible reasons for increasing apprehensions, including Police decision making and changes in societal attitudes. I

* Senior Lecturer, Faculty of Law, Victoria University of Wellington. My thanks to Elena Mok for her careful and diligent research assistance, particularly with obtaining statistics.

¹ I use the term "girls" to describe those within the ambit of the youth justice system, ie 10–16 year olds. The age of penal majority in New Zealand is 17. In this, New Zealand is out of step with ages of penal majority in comparable jurisdictions and does not accord with the definition of "child" in the United Nations Convention on the Rights of the Child CRC 1577 UNTS 3 (opened for signature 20 November 1989, entered into force 2 September 1990), art 1. See Nessa Lynch "Youth Justice in New Zealand: A children's rights perspective" (2008) 8 Youth Justice at 215–228.
conclude by critiquing the lack of specific research on the situation of girls in the youth justice system in New Zealand.

II SETTING THE CONTEXT

Feminist criminology has been an established discipline since the 1970s, critiquing the male-centric focus of research and policy, and the view of female criminality as biologically determined. As Chesney-Lind notes, for most of the 20th century "girls and women in conflict with the law were overlooked or excluded in mainstream works while demonized, masculinized, and sexualized in the marginalized literature that brooded on their venality".

Internationally, there has been considerable treatment of the special situation of girls in conflict with the law. The literature has examined changing portrayals of the causes of juvenile female offending, the importance of specific rehabilitation and re-integrative programmes, and changing socio-political attitudes to this group of young offenders. The professional response to female offending has historically been "welfare-oriented", and essentially a "proxy" for public concerns.


about female sexuality and the declining moral fabric of society. There has been a tendency to consider female youth offending through the lens of gender rather than age, with the result that traditional theories about female delinquency “virtually ignored girls and their problems or misrepresented them” and responses within the youth justice system to girls were primarily shaped by wider social expectations of female conduct. Concerns were also expressed by youth justice practitioners throughout the literature regarding the difficulty of working with girls due to their perceived verbally and sexually aggressive behaviour, and tendency to manipulate and be dishonest. There has, however, been a gradual shift towards redefining female delinquency as “criminal”, and recognition of the need for gender-specific services for girls which address their particular risk factors and experiences. It has been recognised that frequently girls in conflict with the law are not only perpetrators but have themselves frequently undergone extensive victimisation.

Moving to the New Zealand context, there is a considerable body of research on the adult female experience with crime and the criminal justice system. Research has considered the woman as victim/survivor or witness, and the particular situation of the woman as battered defendant has

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12 See Kaye L McLaren Tough is not Enough – Getting Smart about Youth Crime (Ministry of Youth Affairs, June 2000) at 33.
13 Batchelor and Burman, above n 10, at 276.
received considerable attention at an academic and policy level. It is arguable that the experiences of woman as offender or prisoner are less examined.

It is apparent however that the particular needs and interests of girls in conflict with the law is a rarely considered topic in this jurisdiction. A literature search revealed a paucity of published research on offending by, or treatment of young female offenders in New Zealand. Two recent examples of primary research which seek to fill this lacuna are Swift's examination of girls' violence and anti-social behaviour (both in the schoolyard and in a criminal sense) in the Nelson-Tasman region, and Goldingay, who carried out primary research on the experiences of girls and young women in New Zealand prisons with a focus on the implications of age-mixing. There is also a comprehensive series of scientific articles resulting from the Dunedin Health and Multidisciplinary Study, some of which deal particularly with young female offenders.


19 Dunedin Multidisciplinary Health & Development Research Unit <dunedinstudy.otago.ac.nz>.

III THE CONSTRUCTION OF GIRLS' OFFENDING

Female criminality, and particularly that of girls, has long been a titillating subject for the popular media. Two particular historical examples from New Zealand are illustrative of common themes. The Mazengarb Report was commissioned in response to reports of moral delinquency amongst minors in the Hutt Valley region of Wellington in the early 1950s. Despite charges stemming from the incidents involving charges of illegal sexual activity with underage girls, the Report placed considerable blame with the girls themselves.

The Final Report opined that:

It is unfortunate that in many cases girls, by immodest conduct, have become the leaders in sexual misbehaviour and have in many cases corrupted the boys. ... Another disturbing feature is that in the case of boys more than half were committing their first offence, whereas only one-fifth of the girls were offending for the first time ... The following extract from the evidence of a headmaster is impressive of this new feature:

... We have not the same worry about boys as we have about girls. The worst cases we have are girls, and it is quite clear some of them are an absolute menace. They have dragged boys into this sort of thing. In general the girls are far worse than the boys.

Contemporaneously, the murder of a Christchurch mother at the hands of her teenage daughter and her daughter's best friend, shocked the nation, particularly the insinuations of a lesbian relationship between the two offenders. The calculating nature of the crime – the two offenders


23 Mazengarb Report, above n 22, at 18.


had calmly planned the murder for a considerable amount of time with the apparent objective of spending more time together – was particularly shocking to the public.26

These cases are demonstrative of two longstanding themes in the popular portrayal of offending by girls. First, that girls' offending may arise from deviant sexuality which acts as a corrupting influence on boys. Secondly, that girls' offending is more likely to be calculated and cruel, while boys' violence is habitually portrayed as quasi-natural.28 Prevalent also is the "liberation hypothesis".29 This was first proposed in the 1960s/1970s in the context of a moral panic linking the women's liberation movement to increase in crime.30 This theory holds inter alia that "liberation" from traditional gender roles would lead to more violent offending by women, and that the level and frequency of such offending would gradually catch up with the male rate.31

A search for contemporary articles in New Zealand online newspaper archives revealed some familiar and some newer themes in the popular portrayal of girls' violence. Contemporary media coverage portrays girls' violence as increasing in frequency and gravity.32 A March 2013 article in the Christchurch Press newspaper (entitled "Girls Behaving Badly") informed its readers that.33

26 Bennett "Fifty Years of Parker and Hulme: A Survey of Some Major Textual Representations and Their Ideological Significance", above n 25.
29 Nancy C Jurik and Russ Winn "Gender and Homicide: A Comparison of Men and Women Who Kill" (1990) 5 Violence and Victims 227 at 228.
32 See Simon Collins and Vaimoana Tapaleao "Schoolgirls 'more violent than boys'" Rotorua Daily Post (online ed, Rotorua, 8 May 2012); Cassandra Mason and Sandra Conchie "Schoolgirl violence a concern" Bay of Plenty Times (online ed, Bay of Plenty, 8 July 2013); Rebecca Malcolm "Girls find fighting acceptable" Rotorua Daily Post (online ed, Rotorua, 17 June 2013); Abby Gillies "Mall girls snapped in the act" The New Zealand Herald (online ed, Auckland, 3 April 2011); Amanda Harper "Rise in girl violence alarms" Waikato Times (online ed, Hamilton, 24 July 2010); Ashleigh Stewart "Video of attack on girl 'sickening'" The Press (online ed, Christchurch, 7 January 2014).
Experts say disenfranchised, displaced and inebriated young women are lashing out to take control in their homes and on the streets. Overall, youth crime in New Zealand is at a record low, with offending down more than a third since 1995, but aggressive girls are bucking the trend.

This report displays elements of the "liberation hypothesis", notably that girls' violence is catching up with those of boys. Further to this theme, an article in the *Rotorua Daily Post* noted that "school counsellors say girls have become more violent in the past 15 years and boys have become less violent, apparently reflecting feminist messages in popular media". Another familiar theme is that girls' violence stems from deviant sexuality. A 2009 article (entitled "'Barbie bitches' plague school playgrounds") stated that "the 'Barbie Bitches' syndrome had compounded violence among girls, as they tried balancing desires to be attractive with being tough and mean". Another described violent behaviour as the "new 'sexy'" for teenage girls.

**IV THE STATISTICAL PICTURE**

**A Operation of the Youth Justice System**

As discussed, perusal of contemporary media reporting would suggest that girls’ violence is increasing greatly in both frequency and gravity. Before considering the statistical picture of girls’ offending, and examining the question of whether violent offending by this group is in fact increasing, it is necessary to provide a brief overview on the operation of the New Zealand youth justice system.

The age of criminal responsibility in New Zealand is 10 years. Those aged 10–13 years are referred to as "children", while those aged 14–16 are termed "young persons". Ten and 11 year olds may only be prosecuted for homicide and then in the adult court system. Twelve and 13 year olds may be prosecuted in the Youth Court for certain serious and/or persistent offending (mainly

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34 Collins and Tapaleao, above n 32.

35 "'Barbie bitches' plague school playgrounds" *The Press* (online ed, Christchurch, 24 May 2008).

36 Natalie Akoozie "Violence is the new sexy for teen girls" *The New Zealand Herald* (online ed, Auckland, 10 August 2013); Kiri Gillespie and Teuila Fuatai "'Kick-ass' women in media blamed for violent offending" *The New Zealand Herald* (online ed, Auckland, 30 March 2012). See also Sally Kidson "Teen girls sucked into crime by older men" (6 February 2010) Stuff.co.nz <www.stuff.co.nz>.

37 For a comprehensive overview of the New Zealand youth justice system, see Nessa Lynch *Youth Justice in New Zealand* (Thomson Reuters, Wellington, 2012).

38 Crimes Act 1961, s 21.

39 Children, Young Persons, and Their Families Act 1989, s 2(1) definition of "child".

40 Children, Young Persons, and Their Families Act 1989, s 2(1) definition of "young person".

41 Children, Young Persons, and Their Families Act 1989, s 272(1)(a).
offences of interpersonal violence). The presumption of doli incapax applies to those aged 10 to 13 years. From the age of 14, young persons may be prosecuted for all type of offences, with the majority of offences dealt with in the specialised Youth Court. Homicide is always within the jurisdiction of the High Court, while other more serious offences may be dealt with in the District Court. Transfer out to the District Court is available from age 14. A key feature of the New Zealand youth justice system is the emphasis on diversion, with the clear majority of apprehensions disposed of without recourse to prosecution. Diversionary mechanisms include Police warnings, the Police Youth Diversion Scheme, family group conferences and absolute discharges under s 282 of the Children, Young Persons, and Their Families Act 1989.

B General Crime Trends

It must first be acknowledged that crime is trending downwards in New Zealand. For children and youth, the apprehension rate (an "apprehension" refers to any time a child or youth is dealt with by the Police in relation to an offence, ranging from no action through diversionary responses to prosecution), has also remained steady or trending downwards in the last decade or so.

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42 Children, Young Persons, and Their Families Act 1989, s 272(1)(b) and (c). Until 1 October 2010, children aged 12 to 13 years could only be charged with homicide or minor traffic offences. This position was changed under the Children, Young Persons, and Their Families (Youth Courts Jurisdiction and Orders) Amendment Act 2010.

43 Crimes Act 1961, s 22(1).

44 See s 272(3) of the Children, Young Persons, and Their Families Act 1989, which states that any young person charged with an offence other than homicide, an infringement offence against the Psychoactive Substances Act 2013, a traffic offence not punishable by imprisonment, or an infringement offence against the Sale and Supply of Alcohol Act 2012 or the Summary Offences Act 1981, or s 239A of the Local Government Act 2002, shall be brought before the Youth Court.

45 Children, Young Persons, and Their Families Act 1989, s 275(2)(b).

46 Children, Young Persons, and Their Families Act 1989, s 283(o)(i).


50 New Zealand Police Annual Report 2012/2013 (2013) at Figure 2.

Figure 1: Police apprehension rates (per 10,000 for children and young people by age group, 2002 to 2011)\textsuperscript{52}

Figure 2: Number and percentage of violent offences by children and young people, 2003/2004 to 2012/2013\textsuperscript{53}

\textsuperscript{52} Ministry of Justice \textit{Trends in Child and Youth Prosecutions in New Zealand 2002–2011}, above n 48, at Figure 2.

\textsuperscript{53} Ministry of Justice \textit{Child and youth prosecutions – trends for 2012/13}, above n 51.
While the majority of offending carried out by children and youth are offences involving property (such as vandalism, graffiti, shoplifting, other theft offences and car conversion), the rate of violent offending by children and young persons has generally trended upwards in the earlier part of the decade, with a decline since 2009. The New Zealand system for recording offences considers violent offences to be homicide and related offences, acts intended to cause injury, abduction and kidnapping, deprivation of liberty/false imprisonment and robbery.

C Gender-Specific Statistics

As discussed, there is an almost complete lack of research on the particular situation of girls in conflict with the law in New Zealand. Gender-breakdown of statistics is not freely available. Both the Police and the Principal Youth Court Judge noted in a 2009 interview that a lack of specific statistics hinders the understanding of, and response to, girls’ offending. The statistics presented here were derived from the raw data available on the Statistics New Zealand website or obtained directly from the Ministry of Justice.

It must first be noted that girls are very much under-represented in the apprehension statistics. Ministry of Justice figures show that, in 2010, 78 per cent of all children and young people apprehended by Police were male, while only 22 per cent were female, though the gap was slowly lessening since 2001. In 2013, 82 per cent of children and young people charged in court were male, while only 18 per cent were female. Thus, offending by girls makes up a small minority of youth offending.

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<td>2002/03</td>
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Figure 3: Total females aged 10 to 16 apprehended

The figures for the apprehension rate demonstrate that apprehensions of girls have tracked the general rate, declining from a high of 531 per 10,000 in 1995/96. There was a spike in 2009/10 but 2011 to 2013 has seen the lowest apprehension rates in 20 years.

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<td>Rate per 10,000</td>
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Figure 4: Females aged 10 to 16 apprehended for violent offences

This graph demonstrates that the rate of apprehension of girls for violent offences has trended slowly upwards from 1994 to 2009/10, reaching a high of 81 per 10,000 population in 2009/10, but has rapidly declined from 2009 to present.

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<td>Rate per 10,000</td>
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<td>71</td>
<td>81</td>
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59 Statistics obtained directly from Ministry of Justice. See Email from Adrian Angus (Data Analyst, Information and Analysis, Ministry of Justice) to Nessa Lynch regarding youth justice statistics (29 January 2014).

60 Statistics obtained directly from Ministry of Justice. See Email from Adrian Angus (Data Analyst, Information and Analysis, Ministry of Justice) to Nessa Lynch regarding youth justice statistics (29 January 2014).
The conviction rate is a useful measure in determining whether girls are committing top-end violent offences (remembering that the span of the New Zealand definition of violent offence is wide). Conviction and transfer to the District Court or the offer/election of the adult jurisdiction is

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61 Statistics derived from the Statistics New Zealand database on file with the author.
reserved for the most serious offences (formerly known as the purely indictable offences). This rate has been steady or declining since 1992. The sharp fall since 2010 is probably related to broader sanctions being available in the Youth Court jurisdiction after legislative reform that year, thus resulting in judicial willingness to retain young persons in the youth justice system.

**V ANALYSIS**

This article set out to question whether violence by girls in New Zealand is indeed increasing. As noted, it must be remembered that offending by girls makes up less than a fifth of child and youth offending. Consideration of the gender-specific statistics demonstrates that the apprehension of girls for all offences is trending downwards, with the last three years showing the lowest rates in 20 years. This is similar to the trend for adults and for the general child/youth rate. However, the rate of apprehension of girls for violent offences has increased steadily in the last 20 years, reaching a high in 2009/10. In a positive development, the rate has declined sharply to 2013 returning to 2006/2007 levels.

The simplest explanation for the increase in apprehensions over the last 20 years is patently that girls are getting more violent. It is indisputable that a rise in actual violence accounts for some of the increase in apprehensions. The literature on young female violence appears to shy away from acknowledging this aspect, preferring instead to offer feminist analyses of the labelling of girls as violent. As Carrington argues, this reluctance to engage in analysis of female violence through a feminist lens has left a "discursive space for anti-feminist sentiment to reign".

The evidence suggests, however, that increases in apprehension rates may also be due to changes in recording practices, Police practices and changing societal attitudes. A 2008 report by the Ministry of Justice noted that the trend upwards in apprehensions for violent offending (for all children and youth) may not automatically or definitively mean that the actual rate of violent offending in society is increasing. It was noted that explanations for the increase may also include "changes in Police recording practices, including changes in Police's crime recording IT system in 2005", "reduced public tolerance of family violence and hence increased propensity to report to Police", and a "concomitant change in Police attitudes towards and focus on family violence.

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62 Lynch, above n 37, at [9.3].


64 See Anselm Blumer and others "Occam's Razor" (1987) 24 Information Processing Letters 377.


combined with changes in recording practices”. It must be noted that the raw numbers are quite small, in the 1,000 to 1,500 range. Thus even a small change in Police decision making practice would have a large impact.

An increased focus on family violence in New Zealand in the last decade is likely to have had an effect on the apprehension rate for girls. It is known that girls are more likely to commit their acts of violence within a family or close personal contact context, whereas boys are more likely to be violent in a street violence setting. Studies in other jurisdictions have offered other gender-specific explanations for increased apprehension rates for girls. In an echo of the liberation hypothesis, it may be argued that in contemporary society girls have increased freedom and mobility, and are increasingly free from gendered expectations. This may lead to increased opportunities and motivations for violent behaviour. It has also been suggested that the "chivalry effect" is diminishing as a result of greater equality between the sexes. In the past, violence by girls may have been dealt with through informal means such as family disciplinary methods, while it is possible that more instances are now dealt with through the formal mechanisms of the criminal justice system.

The rapid decrease in apprehensions of girls for all offences and for violent offences since 2009/10 is to be welcomed. A new approach under the 2010 amendments to the Children, Young Persons and Their Families Act 1989 has increased powers to deal with serious and persistent offending by 12 and 13 year old children, as well as new reintegrative Youth Court orders, including orders for parents and guardians. It is likely that this legislative focus as well as an increased focus

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67 Ministry of Justice Improving Interventions to Reduce Violent Offending by Young People in New Zealand (August 2008) at Appendix One.

68 For official reports focussing on the issue of family violence in New Zealand, see Ministry of Social Development Te Rito: New Zealand Family Violence Prevention Strategy (2002); Janet Lynn Fanslow Beyond Zero Tolerance: Key Issues and Future Directions for Family Violence Work in New Zealand (Families Commission, 2005).


71 Christy A Visher "Gender, Police Arrest Decisions, and Notions of Chivalry" (1983) 21 Criminology 5 at 6 and 24.


73 Lynch, above n 63.
on youth under the Fresh Start policy, has influenced a decline in youth offending. As noted, the numbers of apprehensions of girls for violent offending are small. Successful desistance from violent offending by a small number of girls would change the rate hugely.

VI CONCLUDING REMARKS

It is evident that there is no empirical data to suggest that the rate of violent offending by girls should give cause for major concern. The rate of apprehension for all offences is trending downwards and for violent offences has fallen sharply in the last three reporting years. The raw numbers are small, and are thus sensitive to policy imperatives such as changes in Police practice. It appears as if a popular (and possibly professional) perception of an increasing number of violent girls is driven by anecdote rather than evidence.

Despite the positive developments in decreasing numbers of apprehensions, a pressing issue is the lack of gender-specific research which considers the offending profiles and background of young female offenders. The lack of an empirical New Zealand-specific foundation means that the issue is apparently ignored at the policy level. The Government's Youth Crime Action Plan, which contains comprehensive actions to be taken in the 2013 to 2015 period, has no mention of specific programmes or research on the particular situation of girls. There is also a notable lack of female-specific rehabilitative and re-integrative programmes in New Zealand.

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74 Child, Youth and Family A Fresh Start for Young Offenders (Ministry of Social Development, CYF145, August 2010).
