

SENTENCING ACADEMY

Sentencing Academy Research Summary

Drunk and doubly deviant? Gender, intoxication and assault

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A recent study of cases heard at Crown Court in England and Wales highlighted how the sex of the defendant serves to differentially shape sentence outcomes for offences involving intoxication (Lightowlers, 2019). It found that intoxication increased sentence severity more so for women than for men (both in terms of the probability of custody and severity of the sentence dispensed). Namely, that the aggravation applied for being intoxicated was higher for females than for males. Whilst the probabilities of women going to prison or attracting a more severe sentence were still lower than for their male counterparts, the increase in probability where intoxication featured in an offence for females was over twice that applied to male defendants. It is thus important to address gender (in)equality in sentencing in relation to intoxication as well as other aggravating and mitigating factors considered in arriving at the final sentence.

Findings from this study suggest intoxication remains a contested sentencing factor, as its influence does not uniformly aggravate male and female offending. With this in mind, the Sentencing Council may wish to consider monitoring the use of the aggravation of intoxication in sentencing practice and issuing further guidance as to how this ought to be applied in determining sentence outcomes for both male and female defendants. Indeed, the need for further data capture concerning female offenders is also highlighted in the recent female offender strategy (Ministry of Justice, 2018). Further data collection about sentencing practices and outcomes would benefit from detail concerning substance use, needs and any treatment requirements mandated as part of the sentence.

Given that ongoing data collection about sentencing practice is key to monitoring the operation and effect of sentencing guidelines (as required by the Sentencing Council under section 128 of the Coroners and Justice Act 2009), it is a shame the Crown Court Sentencing Survey (on which this study was based) was ended. The revised approach - bespoke data collection to inform the development of (offence) specific guidelines – represents a loss of transparency in monitoring how sentencing impacts upon minority and disadvantaged groups and limits insight into changing practices over time (for example, convergence in sentencing outcomes for males and females). It also limits the ability to look at the role of intoxication (or other factors) across a range of crime types.

Although the Sentencing Council continues its drive to promote consistency and standardise the administration of justice through sentencing, there exists little practical direction on the extent to which alcohol intoxication should aggravate sentence outcomes, for whom, and in which contexts. Or how to reconcile such standardisation against other policy imperatives – such as those advanced in the female offender strategy (Ministry of Justice, 2018) – which advocate a more gender-informed approach to sentencing.

Citation:

Lightowlers C. (2019). Drunk and doubly deviant? Gender, intoxication and assault. *British Journal of Criminology*. 59(3): 693-717

Further Reading:

Lightowlers C. and Pina-Sánchez J. (2017) Intoxication and assault: an analysis of Crown Court sentencing practices in England and Wales. *British Journal of Criminology* 58(1): 132-154

Ministry of Justice, (2018). *Female offender strategy*. London: Ministry of Justice

Pina-Sánchez J. and Harris, L. (2020) Sentencing gender? Investigating the presence of gender disparities in Crown Court sentences. *Criminal Law Review* Issue 1, 3-28

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