

# A brush with the law...

People with a criminal record who want to forge a 'clean' identity face several challenges getting back into society. One option is through education, but this too is often fraught with difficulty. John Cowley in conversation with Emma Harris explores how university and college counselling services might be able to help



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Gibran, in *The Prophet*, whilst speaking on crime and punishment says,

*...and as a single leaf turns not yellow but with the silent knowledge of the whole tree, so the wrong-doer cannot do wrong without the hidden will of you all.*

Within the FE and HE sector, we rarely encounter clients who discuss past convictions, and occasionally encounter those who are in the process of undergoing a potential prosecution. In discussing this with colleagues at other universities there is sometimes a NIMBY attitude: 'That's because they go to X or Y university'.

It is also interesting, speaking with careers advisors, how scant their knowledge is about disclosure periods and how to disclose. This of course is a complicated, fluid and subjective area.

My interest has developed slowly. However it was brought into sharp focus whilst working with a PhD student in his thirties who had conducted some research that his department were very excited about. They wanted him to present it at a conference in the USA.

Imagine the dilemma and shame involved for this student explaining to work colleagues that, due to a conviction for supplying drugs when he was younger, he would not be able to get a visa.

BACP has recently started a Criminal Justice Forum, which I am chairing, and one aspect of that work concerns educating members. I have invited Emma Harris from Gibran Ltd, a not-for-profit social enterprise, which specialises in working with socially excluded groups, in particular, female ex-offenders, ([www.gibran-uk.co.uk](http://www.gibran-uk.co.uk)) to share her knowledge of working with offenders. Emma has worked in a male prison; however, currently, she is working with an interesting and neglected group in the criminal justice system: women who do not have drug or alcohol issues, who have criminal records. In many respects, therefore, this group is fairly typical of the kind of clients that we see in FE and HE i.e. seemingly functioning adults who may have emotional or psychological issues but are not debilitated by addictions.

I asked Emma for her views to gain an insight into some of the issues that might affect students we see. Her answers focus on women, as this is the group she

is working for; however, many responses apply equally to men.

**JC:** What myths or stereotypes in your experience do people hold regarding the group of individuals with whom you work?

**EH:** Crime, as we know, is a problem for all societies, and crime reduction, importantly, is a priority for communities. When we begin to pick apart the definitions of what we actually mean by crime, a whole host of different opinions will come to light and a hierarchical structure of what is 'acceptable' crime and what is not will begin to emerge, whoever it is you are talking to. Only recently, the media had a field day when a 'man of the cloth' spoke out in defence of shoplifting, suggesting that if it was a means to combat poverty and hunger, then it might not be such a crime after all. I am not about to open up the moral debate about crime. What troubles me is that, whenever crime is mentioned, there seems to be a very clear divide between the 'criminal' and the 'non-criminal': an 'us and them' paradigm.

I have met and worked closely with many 'criminals' and what strikes me is

that even these individuals hold extremely negative attitudes and stereotypes towards 'criminals'. Rarely do they associate themselves with this category, despite having a criminal record themselves! These statements are purposely confusing, and hopefully illustrate the point that the stereotypical, or media-generated portrayal of a 'criminal' is not so typical after all. What I would set out to do in this article is to challenge people's perceptions of 'criminals' and consider that perhaps the 'criminal' among us may not be as far removed as they are often portrayed. To tackle crime successfully as a nation, it is essential that we do not further exclude individuals who are already disadvantaged.

One of the responsibilities I have through my work is to train and supervise mentors, some of whom are women with first-hand experience of going through the criminal justice system. One of the strongest themes that runs throughout the training is identifying and challenging stereotypes and accepting and celebrating diversity.

Women who end up in prison are often perceived as doubly deviant, and the general assumption people often make is

that, if a woman is in jail, then she must have committed an unforgiveable offence. In fact, I have met few women 'serious offenders' – most commit less serious offences, of theft or handling.<sup>2</sup> Contrary to popular belief, many of the women who are held in prison are first time offenders, with more than a third of women in prison having no previous conviction – double the figure for men.<sup>3</sup> The current government's get tough on crime approach has led to an increase in prisoners. Despite being successful in getting criminals off the street, this agenda has caused our prisons to be bursting at the seams, and has also seen growing numbers of 'non-dangerous' offenders put behind bars. Women are receiving harsher punishments than men for the same or first-time offences.<sup>4</sup> Individuals are being jailed (first-time offence) for non-payment of TV licences and theft of food.<sup>5</sup>

## The punishment should reflect the crime.

I read in 2008<sup>6</sup> of a student boarding a London bus with 90p of insufficient funds on her Oyster card and receiving a fine of £120 and a criminal record which she will have for the rest of her life. The crime does not seem to fit the punishment here but unfortunately this is often the case.

According to the Chartered Institute of Personnel and Development, around two-thirds of employers say that they believe between 11 per cent and 30 per cent of the UK population has a criminal record. The actual figure is far higher: there are around 7.3 million people in England and Wales on the Home Office Offenders Index, equivalent to 20 per cent of the UK working population or one in three men and almost one in 10 women<sup>7</sup>.

Going by these figures, if universities and employers exclude people with a criminal record from their organisation, they lose access to around one fifth of the working population.

**JC:** What are the most common problems that your cohort present with when asking for support? How easy is it to source support for these women and what can counselling services offer?

**EH:** Conducting assessments of need is crucial when supporting individuals within the community, as is identifying need during the counselling relationship. A majority of the women whom we work with present with the common problems of accommodation, difficulties gaining work, or finding meaningful courses. Financial troubles are without doubt one of the most prevalent issues that need to be addressed. Substance misuse is a huge problem within the criminal population, for men and women alike. We work with an even more isolated group: those who do not have issues with substance misuse. We have been criticised in the past, accused of not wanting to work with the most difficult individuals. However, our research with women already in prison showed that women 'wished' that they had a problem with drink or drugs as then the support referral route would be clearer.

Despite the practical and obvious problems listed above, women do not usually ask for help with these issues. It is more common for women simply to want to feel secure and settled first and foremost.

Of the comparatively small numbers of women passing through the criminal justice system, most have a sense of shame and exclusion. A majority seek to feel less isolated. Therefore, we have found bringing women together who have common shared experiences is remarkably powerful in helping them realise that they are not alone. This has a great impact on motivating them to improve their lives, and boosts confidence. Often women open up very quickly within group meetings when they know all the individuals there have been through a similar experience. Over and over again we hear that families have 'disallowed' conversations about the prison sentence and tales of mum having been to 'Butlins' for a few weeks are common. Some women have never discussed their sentence for as long as 10 years and thus have unresolved issues that need to be addressed.

One of the most difficult areas of support to source is help or counselling for women with what I would describe as mild to moderate mental health issues. Women often feel depressed and anxious

and do not know what to do. More often than not they are already on medication for depression or anxiety. However they still feel that they need help but do not know exactly what that help is. Counselling services have extremely long waiting lists that are simply not effective for those in crisis. This is not a criticism of the services, but an observation that I have made through my work.

One of the most important lessons that I have learned working with women is that they appreciate not being judged. Our ethos is not to ask a woman what crime it is she has committed. I work with the person I see before me and move forward with them. I think they have been judged enough.

**JC:** What are the greatest obstacles facing women who have a criminal record?

**EH:** The obstacles to resettlement are never-ending, it seems. For those with chaotic and unstable lives, the individual resources needed to keep on top of paper work and appointments alone are exceptional.

I met a young lady whilst working in my current role who had been cautioned in her teens for shoplifting a very inexpensive item and a year or two later was involved in a fight with another youngster. As a result she ended up with a conviction of assault. I met her when she was 23. She had been in touch with the JobCentre following the completion of a degree in Health and Social Care – a success story you may think. However, delving beneath the surface, this young woman would not entertain completing a job application form if it meant having to disclose her convictions. She felt a deep shame for having done what she had. This woman spent several years living off the state, developed some serious anxiety problems and, despite having been successful in education, had next to no work experience, despite wanting very much to work. Working with her, I began investigating what was meant by a satisfactory CRB check and I could not find one. All HE and FE institutions have equality statements. Many make reference to past criminal convictions but without clearer

definitions of what constitutes a satisfactory check, potentially good candidates will not risk applying.

This kind of self-exclusion is common, through shame, or fear of judgement and rejection. Ex-offenders would rather avoid having to disclose than risk the disappointment of rejection and the risk of shame if their darkest secrets were to be shared with others, or having to explain to their families why they could not get into university. We have all made mistakes. I suspect for many this is one of the last taboos that people will be willing to discuss in counselling.

The potential of individuals like this is huge and many ex-offenders have much to give. However, they are often inactive and pose an unnecessary cost to the system, and more sadly, live unfulfilled lives.

### Further problems associated with having a criminal record

These include: having fewer employment opportunities; social exclusion; self-selected exclusion and insurance implications. Companies have to pay higher Personal Indemnity Insurance if employing known ex-offenders, which can be a disincentive to employing someone with a criminal conviction. All criminal offences recorded on a police record remain on the police national computer (PNC) indefinitely. For international immigration, criminal offences must always be declared – the conviction never becomes spent. Thus having a criminal record may also have a detrimental effect on applications to work or live abroad.

What more needs to be done to support people who have a criminal record but would like to rebuild their lives in society?

The rehabilitation of those with a criminal record is very complex and difficult, and many of these complications stem from society, stigmatisation and exclusions. Finding housing is tough, and you are often required to provide a full and detailed history of your criminal past. Insurance is also affected: if you have a conviction of arson, or are living with someone with a

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conviction of arson, you may not be able to get home insurance, and all insurance companies need to be notified of a criminal record, which often affects or invalidates policies.

For the UK, the Rehabilitation of Offenders Act 1974<sup>8</sup> goes some way to help ‘protect’ individuals with a record, by ‘wiping’ the slate following different time periods dictated by the sentence given, with ex-offenders only having to declare unspent convictions. However, this Act really does not go far enough, in my opinion: sentences in prison exceeding two-and-a-half years never become spent (expunged), many crimes take around 10 years to become spent and, furthermore, an increasing number of vocations are exempt from the Act.

Students with a criminal record who are trying to better themselves and who ask for help should be assisted, to prevent further exclusion.

There is an abundance of policies held by UK universities to ‘deal’ with admissions of students and employment of staff with criminal records, and to a point, rightly so. The university reserves the right to refuse admission or let a student go on the grounds of a criminal record.

Fortunately, it is not all doom and gloom. There are some excellent and responsible examples of policies that really take into account the principles of equality and importantly diversity when it comes to selecting both staff and student at university, recognising that a mix of talent, skills and potential is necessary to make the world go around, e.g.: <http://www.campus.manchester.ac.uk/medialibrary/policies/equality-diversity-policy.pdf>

### What can counsellors offer?

■ Help in developing soft skills, confidence and self-esteem; target need; ensure they know how to disclose a conviction; understand what having a criminal record means to someone and how it may affect them and their future job prospects. Ensure individuals have the life skills to accompany any qualifications that they are studying towards and encourage them to acquire additional skills, volunteering or extra-curricular activity in order to maximise their future prospects and take positive steps for the future.

■ Deal with financial issues, and help with finances – ensure individuals are getting

support if they are entitled to it. Ensure that their accommodation is in order.

■ Be mindful of the prevalence of mental health issues and past abuse. Address the reasons for offending, if current, help them to understand their needs and triggers – individuals may need professional drug counselling.

**JC:** It is evident from the views expressed by Emma that there is in fact a role for counsellors in FE and HE to be aware of the potential barriers that face a student with a criminal conviction. As counsellors we have a responsibility to ensure that we are as knowledgeable as possible. Counsellors are used to working with issues of shame and poor self esteem. Student advisors are used to dealing with financial and accommodation issues. However there is potentially a significant task in challenging our own prejudice and stereotyping as we would with many other clients. ■

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### References

- 1 Gibran UK currently manage a BIG Lottery-funded project called ‘Going Home’ that supports female ex-offenders
- 2 Home Office (2006) Offender Management Caseload Statistics 2005 London: Home Office
- 3 Prison Reform Trust (2006) Bromley Briefings Prison Factfile, November 2006 London: Prison Reform Trust
- 4 Criminal Justice Review January 2002
- 5 Courts are now ‘using custody more frequently for women for less serious offences,’ says minister Maria Eagles, who is the official champion for women in the Criminal Justice System (Women in prison October 2008)
- 6 <http://www.thisislondon.co.uk/standard/article-23478854-student-gets-criminal-record-for-sake-of-90p>
- 7 Employing ex-offenders to capture talent – 2007 CIPD. May 2007, Reference 4075. Chartered Institute of Personnel and Development
- 8 [www.dft.gov.uk/pgr/security/crc/rehabilitationoffendersact1974](http://www.dft.gov.uk/pgr/security/crc/rehabilitationoffendersact1974)

If you have a view on this issue or would like to comment, why not email me at: [d.singer@ram.ac.uk](mailto:d.singer@ram.ac.uk)

## Criminal Justice Forum

The area of criminal justice is vast and many BACP members work with both victims and offenders. Contact with counsellors working in further education (FE) and higher education (HE) suggests that this is an area often not spoken about easily with the client, or indeed, the organisation. This is perhaps evidenced by the lack of readily available leaflets explaining, for example, how to disclose a conviction and the potential difficulties for certain occupations visible on FE or HE websites.

In order to respond to the need to provide support, information and networking for our members, a new BACP Forum has been established. Organisations represented currently on the Forum are BACP, Prison Reform Trust, Crown Prosecution Service, Barnardo’s and Unlock as well as practitioners working in this arena.

The key tasks of the Criminal Justice Forum (CJF) are to:

■ inform the membership of the issues, inequalities and barriers which impact on all those touched by the criminal

justice system. This includes victims, witnesses, offenders and reformed offenders

■ support and network with counsellors and psychotherapists who work with such clients.

■ seek opportunities for collaborative working, strategic/political opportunities, and research opportunities for BACP in the four home countries.

As Chair of the BACP CJF, I would like to begin developing a data base of those who are interested in receiving more information as it becomes available. If you, as a member of AUCC, work with clients who have come into contact with the criminal justice system as victims, offenders or those at risk of offending and would like to be kept updated on developments, please contact the forum clerk Tracy Marson at [tracy.marson@bacp.co.uk](mailto:tracy.marson@bacp.co.uk) with your contact details and areas of interest.

John Cowley, BACP Governor and Chair of the CJF