

Gender Disparity in Imprisonment?

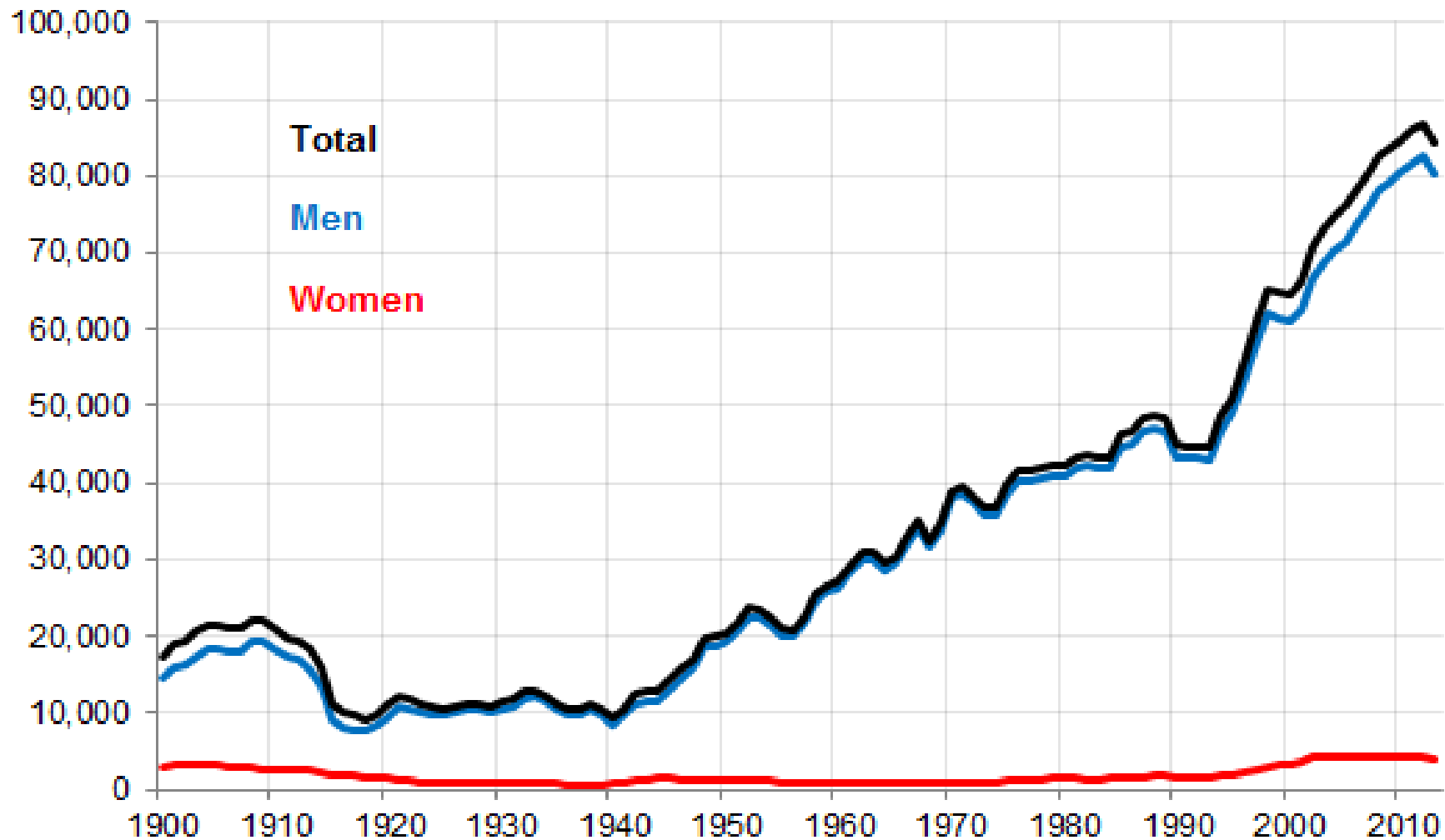
(England & Wales)

Prison Population 1900 – 2013

18th Dec'15: 81,734 men, 3,906 women

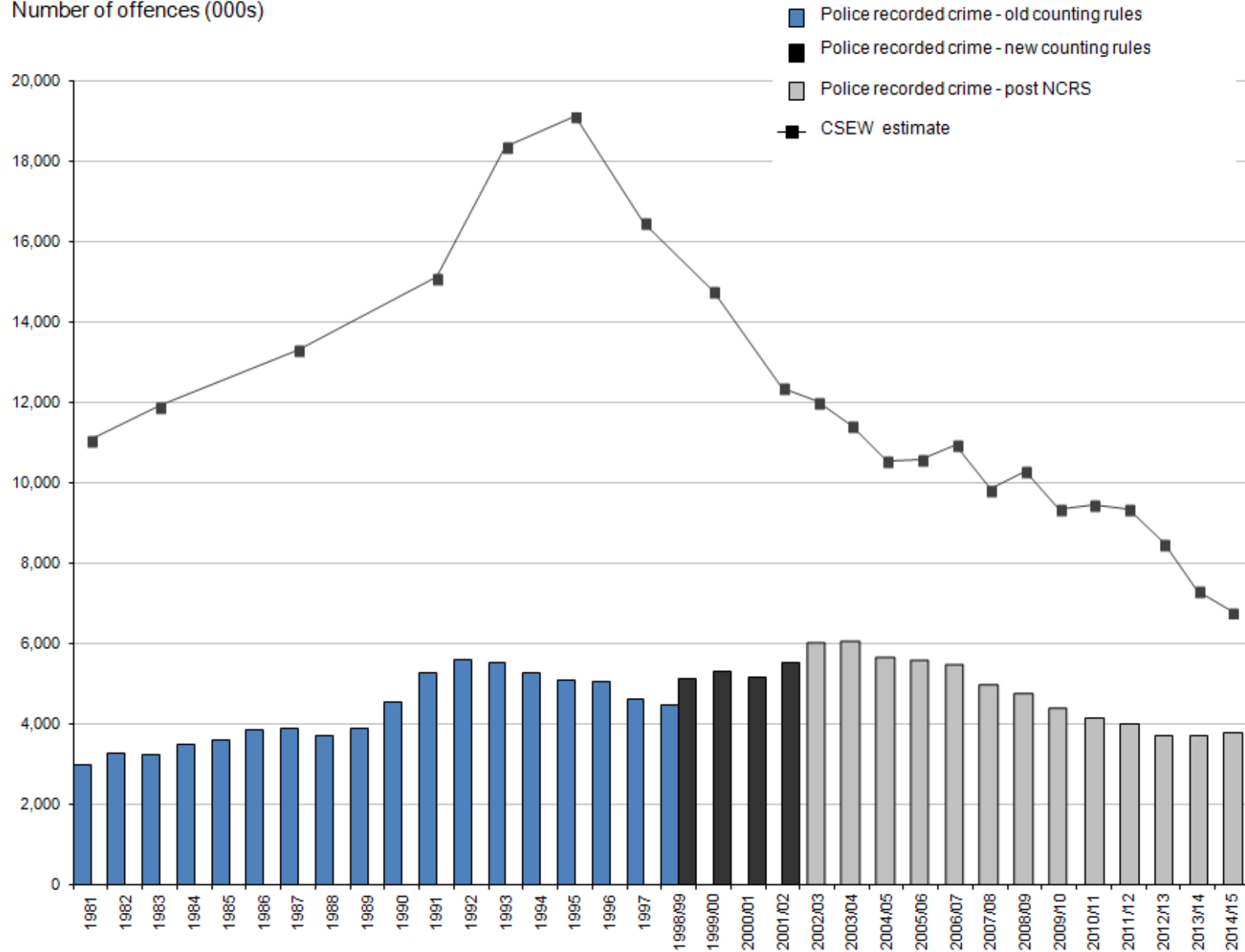
<https://www.gov.uk/government/statistics/prison-population-figures-2015>

[England and Wales]



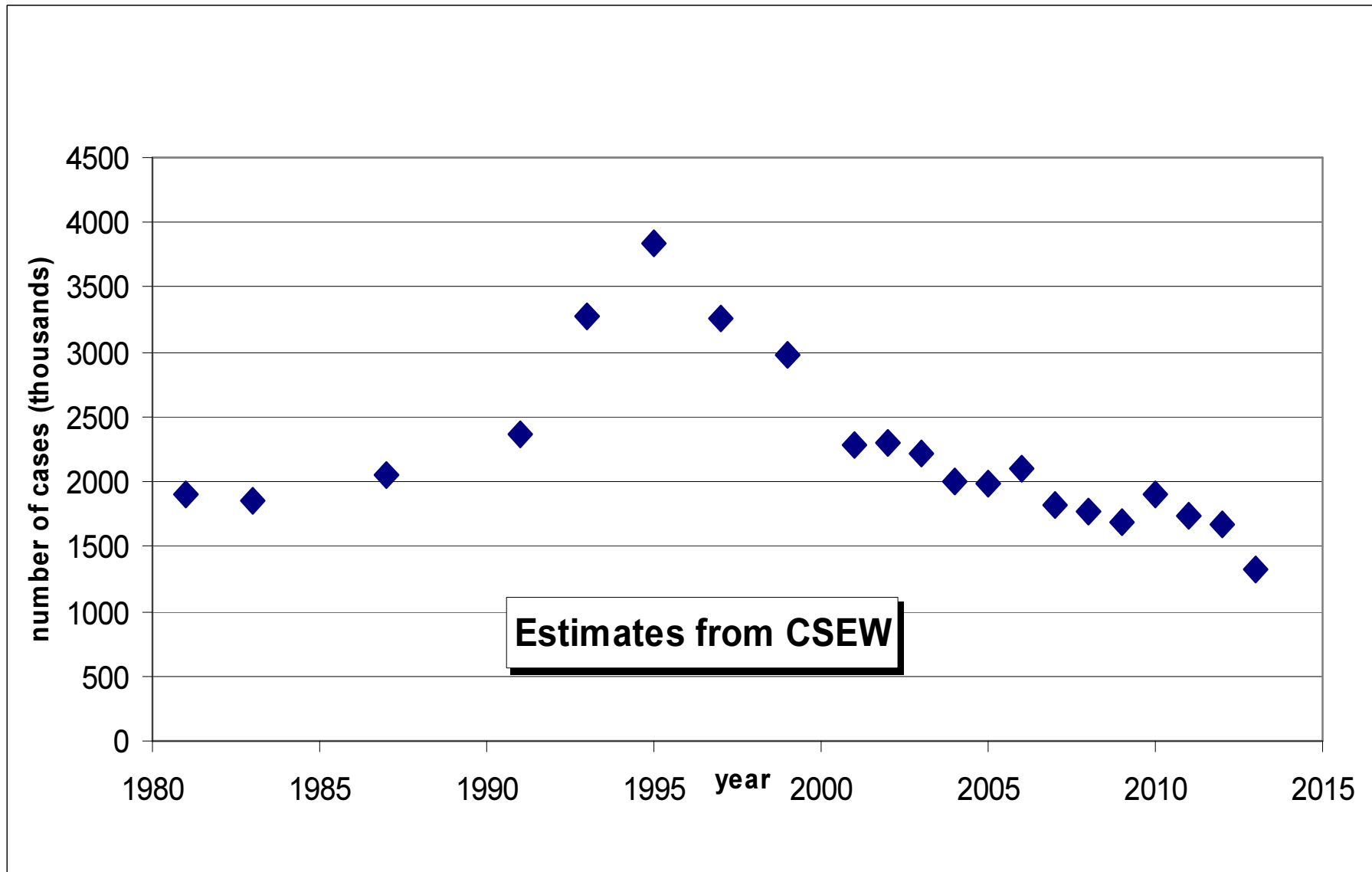
CSEW 2015

Number of offences (000s)



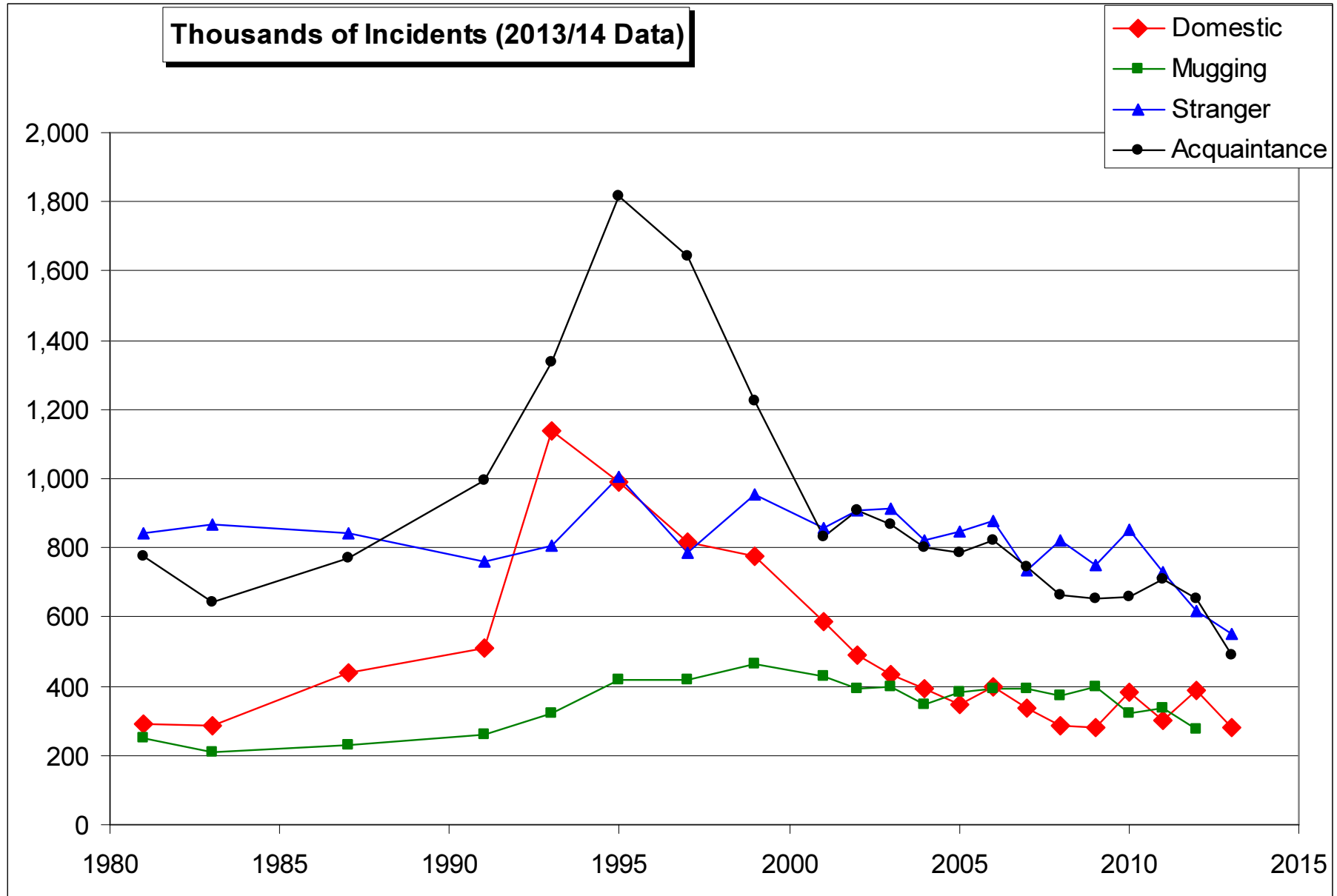
Violent Crime Trend (adults)

ONS Focus on: Violent Crime and Sexual Offences, 2013/14 - Bulletin Tables



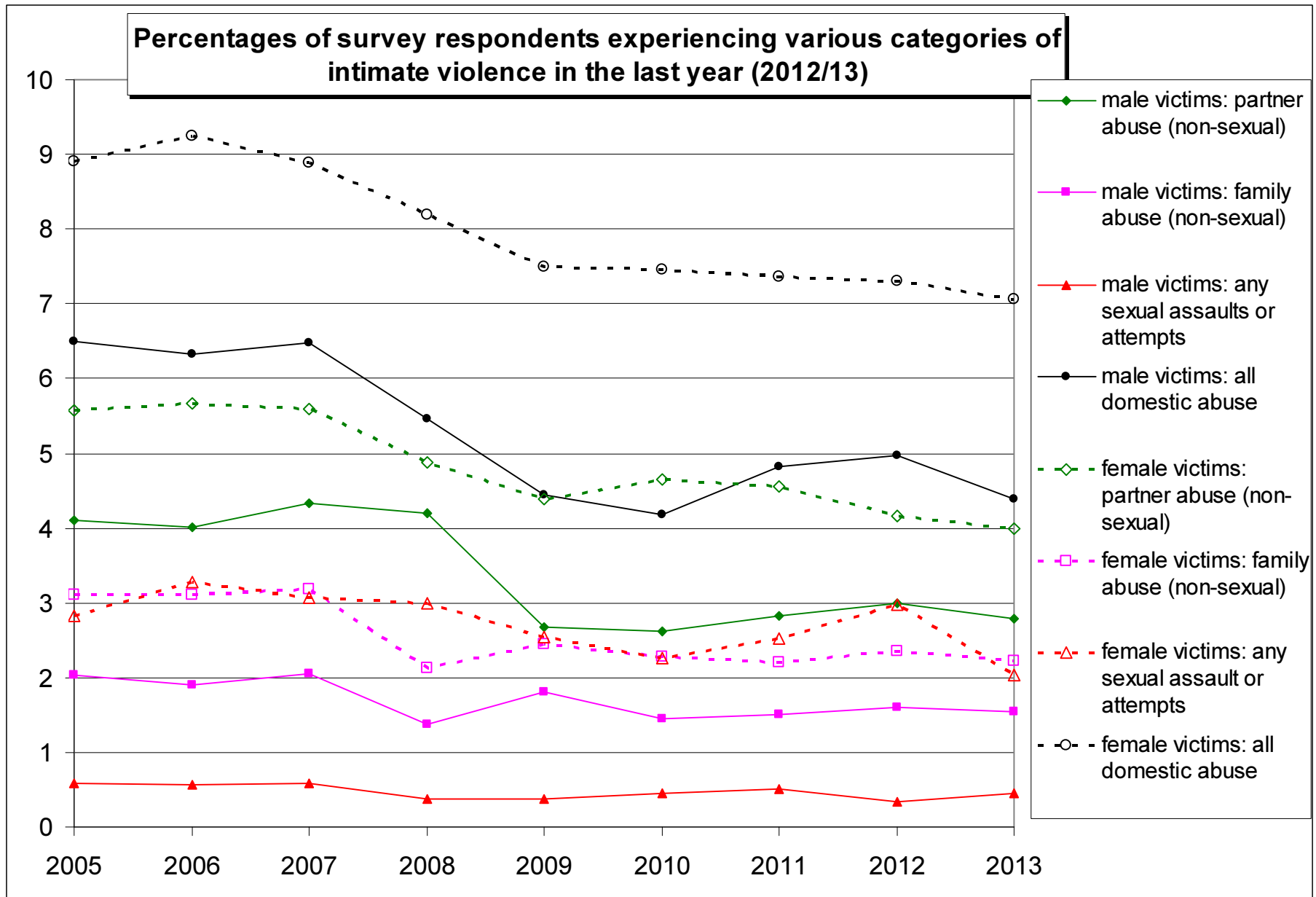
Violent Crime Trend: Breakdown

ONS Focus on: Violent Crime and Sexual Offences, 2013/14 - Bulletin Tables (Adults)



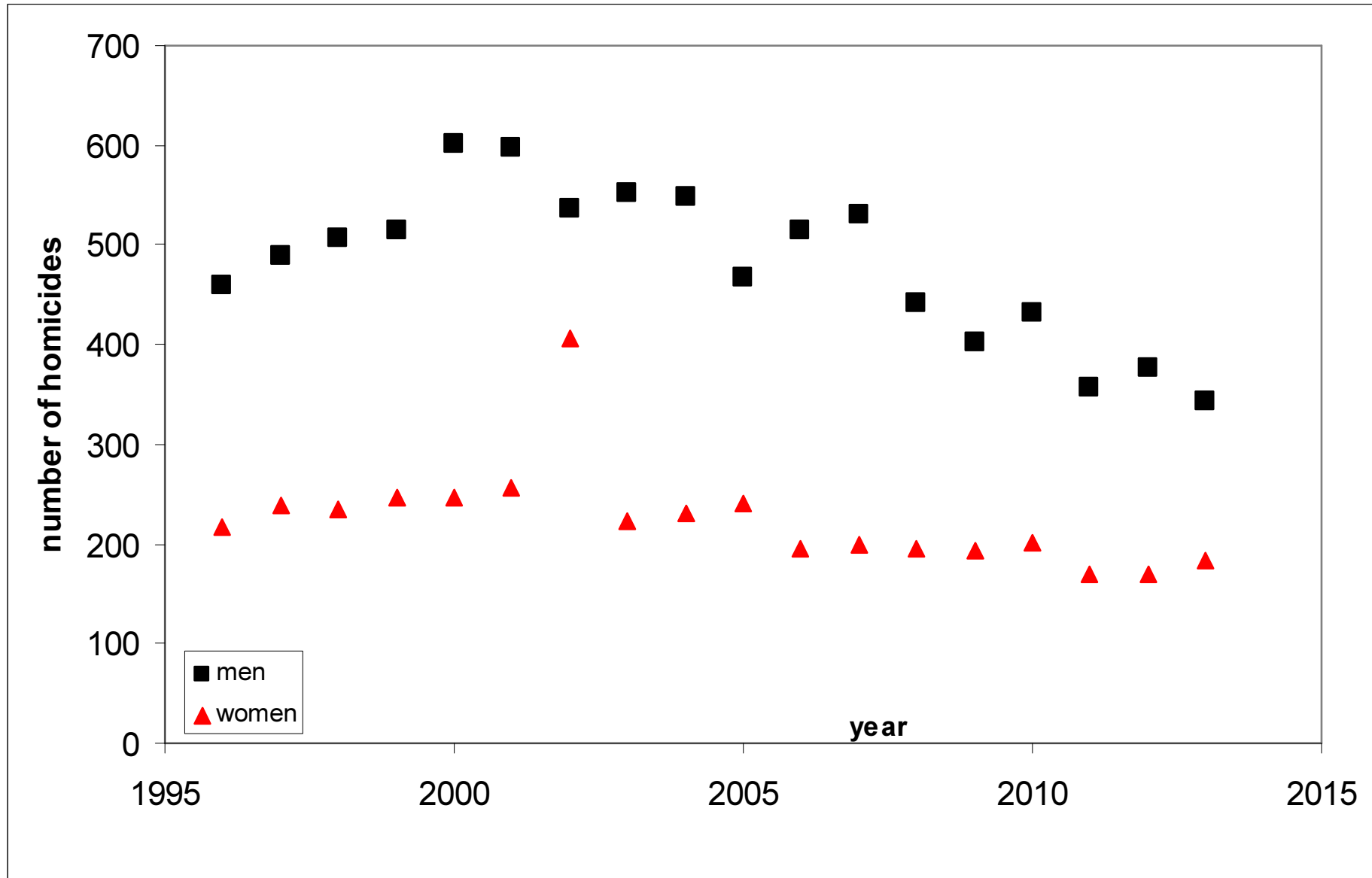
PV & Sexual Offenses: Trend

(CSEW Data to 2013)



Homicides

Year 2002/03 includes 42 male and 130 female victims of Dr Harold Shipman



Prison Population

<https://www.gov.uk/government/statistics/prison-population-figures-2015>

- On 11th December 2015
- 81,926 men
- 3,919 women
- In round terms: 21 men for every woman
- 95.4% men

Where discrimination can arise...

- Being arrested
 - Being prosecuted
 - Being found guilty
 - Sentencing
-
- Initial analysis addresses only the last of these – and hence may be a serious underestimate

Numbers of Males and Females Sentenced (All Courts, All Offences, All Ages)

*from: Criminal Justice Statistics, Quarterly Update to March 2014, Ministry of
Justice Statistics Bulletin*

year	males	females	ratio
2004	1,276,900	280,000	4.6
2006	1,166,200	282,000	4.1
2009	1,031,800	300,800	3.4
2012	921,200	298,100	3.1
2014	811,400	282,700	2.9

x21 versus x3.4

- If men commit 3.4 times more crime than women, why are there 21 times more men in prison?

Fair or Discrimination?

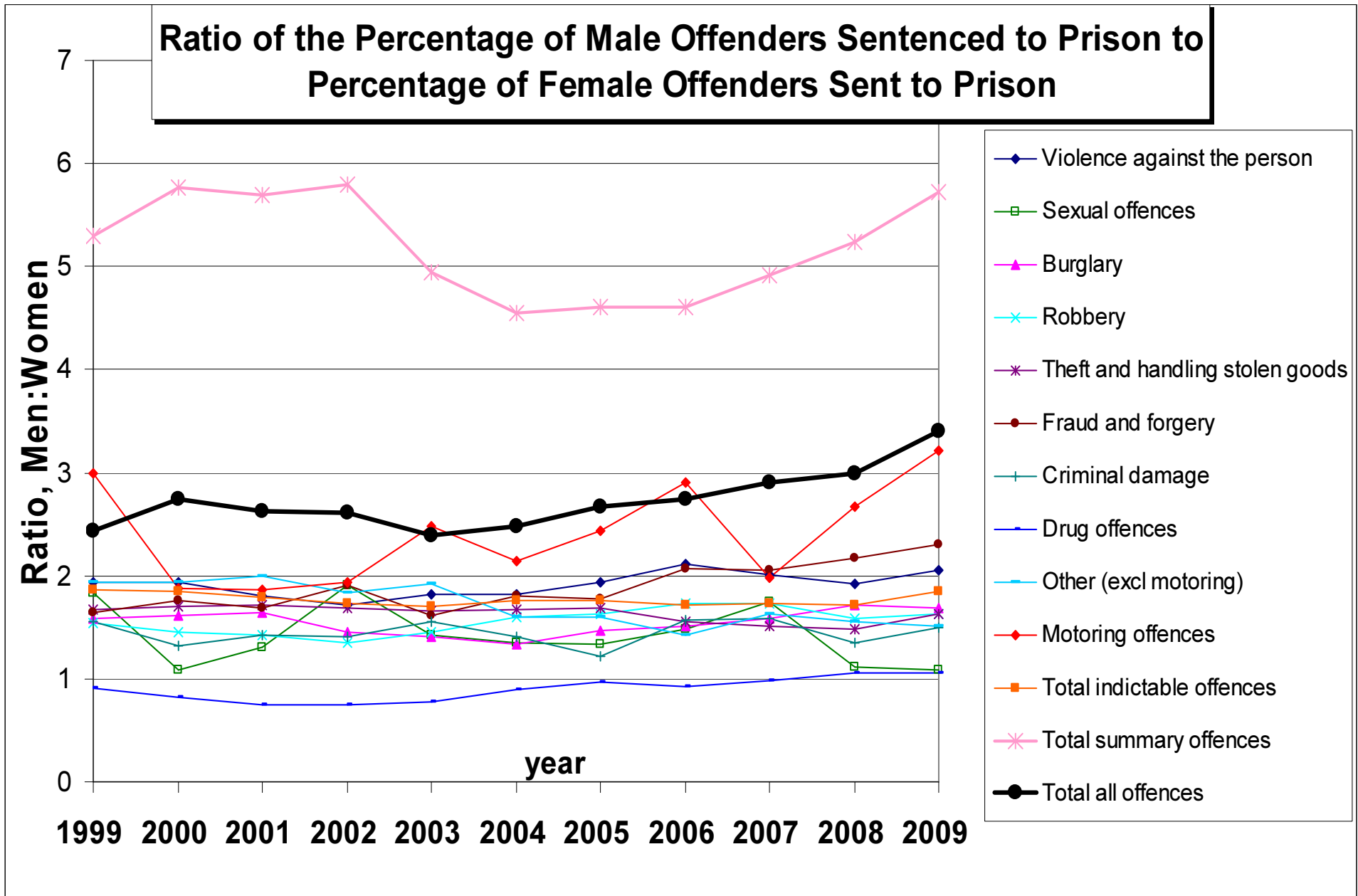
The missing factor of 6 is made up of...

- A greater percentage of convicted men are sentenced to prison;
- Men are given longer sentences on average than women;
- Women are paroled earlier than men

Percentages of the Convicted Sent to Prison (All Offenses): MoJ Data, 2009

- Men 8.8%
- Women 2.7%
- Overall disparity x3.4

<http://www.statistics.gov.uk/hub/crime-justice/offenders/sentencing>.
(supplementary Table 2i)



Disparity in Imprisonment

Sources: 2009: <http://www.statistics.gov.uk/hub/crime-justice/offenders/sentencing>;
2010 & 2011 MoJ Sentencing Datasets 2011, Sheets S4.46, S4.47, S4.12, S4.13 of 2012

Ratio of percentage of male offenders imprisoned to
percentage of female offenders imprisoned

- (1) Based on percentages of those found guilty;
(2) Based on percentages of those proceeded against

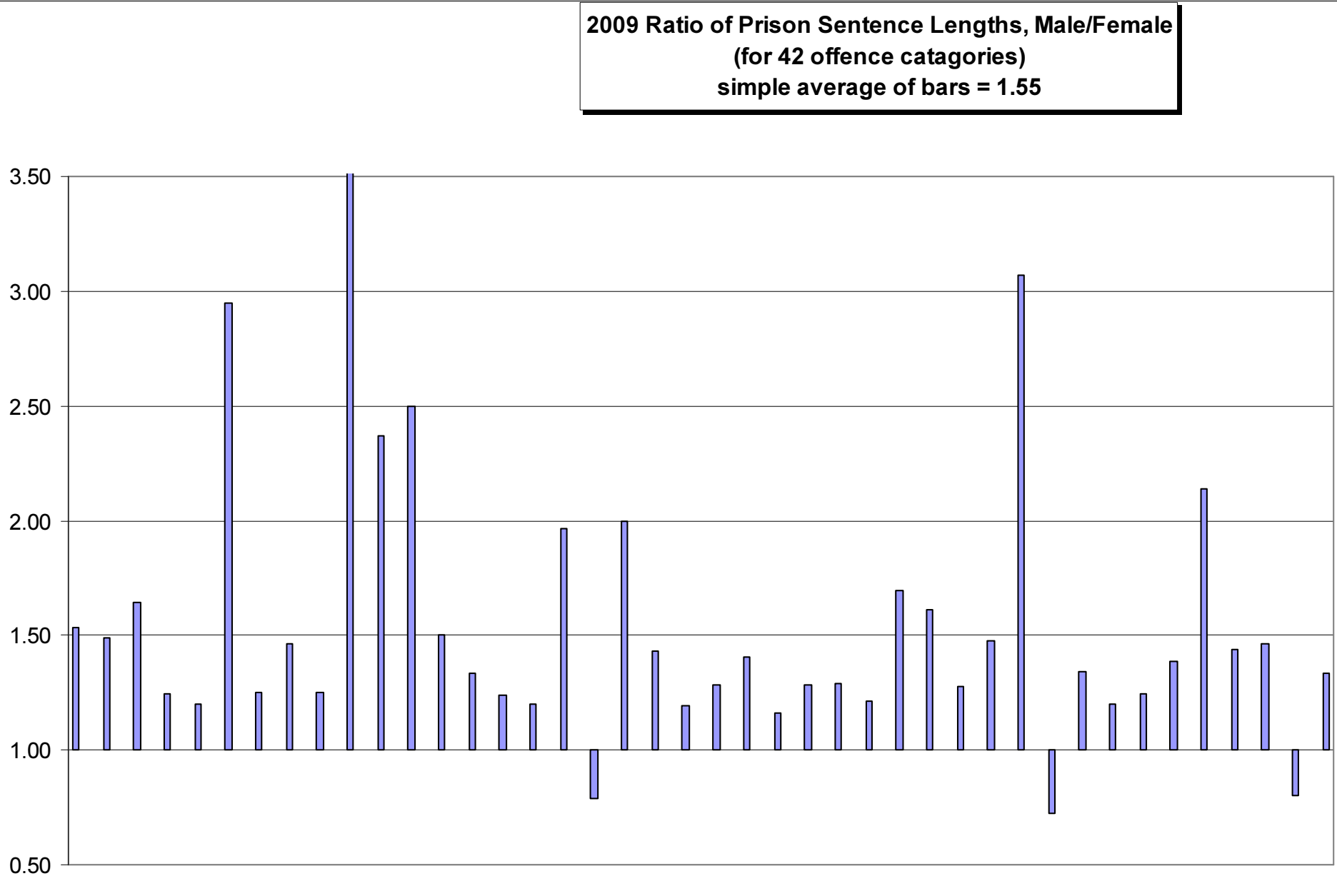
year	Indictable	Summary	Both
2009 (1)	1.9	5.7	3.4
2010 (2)	1.9	5.3	3.4
2011 (2)	1.9	5.7	3.6

Disparity in Prison Sentence

- 2009 data has gender break-down against a fine-graded set of ~120 offence categories
- Analysis ignored categories where <10 people of either sex were imprisoned
- Life / indeterminate sentences ignored initially
- 42 offence categories resulted
- Histogram excludes disparities of less than +/-20%

Disparity in Prison Sentence (2009)

2009 Ratio of Prison Sentence Lengths, Male/Female
(for 42 offence categories)
simple average of bars = 1.55



42 Offence Categories

- Attempted Murder
- Causing Death by Reckless Driving
- Causing Death of a child or vulnerable person
- Wounding or other act Endangering Life
- Other Wounding etc.
- Child Abduction
- Sexual Assault on a Male
- Exploitation of Prostitution
- Sexual activity etc. with a person with a mental disorder
- Abuse of children through prostitution and pornography
- Gross Indecency with Children
- Aggravated Burglary in a Dwelling
- Burglary in a Building Other than a Dwelling
- Robbery
- Money laundering offences
- Theft from the Person of Another
- Theft in Dwelling not Automatic Machine or Meter
- Theft by an Employee
- Theft from Vehicle
- Theft from Automatic Machine or Meter
- Handling Stolen Goods

42 Offence Categories (cont.)

- False Accounting
- Other Fraud
- Other Forgery etc.
- Total Fraud and Forgery
- Arson
- Unlawful importation - Class A
- Unlawful importation - Class B
- Unlawful importation - Class C
- Production or intent to supply a Class A drug
- Production or intent to supply a Class C drug
- Production or intent to supply a controlled drug - Class unspecified
- Possession of a controlled drug - Class B
- Going Equipped for Stealing, etc.
- Kidnapping, etc.
- Other Offence against the State or Public Order
- Firearms Act Offence
- Trade Descriptions Act and Similar Offences
- Total Other Indictable Offences (Excl. Motoring)
- Summary Aggravated Vehicle Taking
- Social Security Offence
- Summary Motoring Offences

Disparity in Prison Sentence

- 2009 data...
 - Simple average disparity **1.55**
 - Ratio of average sentence lengths (excluding life/indeterminate) 14.1 months / 9.8 months = **1.44**
 - Allowance for life/indeterminate sentences: 18 months / 11 months = **1.64**

Disparity in Prison Sentence 2010 & 2011

https://www.google.co.uk/search?sourceid=navclient&aq=&oq=Sentencing+data+2010+and+2011&ie=UTF-8&rlz=1T4LENN_en_GB500&q=Sentencing+data+2010+and+2011&gs_l=hp...0.0.0.11576.....0.BW9u4QWhEUo#q=Sentencing+data+2010+and+2011+Table+S4.57

- Men given longer average sentences in all crime categories listed,
 - Violence against the person
 - Sexual offences
 - Burglary
 - Robbery
 - Theft & handling stolen goods
 - Fraud & forgery
 - Drug offences
 - Indictable motoring offences
 - Other indictable offences
 - Summary motoring offences
 - Other summary offences
- ...bar one (criminal damage)

Disparity in Prison Sentence 2010, 2011, 2013

- Sentence length disparities (M/F)
- All Offences **1.51** (2010), **1.45** (2011)
- Indictable Offences **1.61** (2010), **1.53** (2011)

- https://www.google.co.uk/search?sourceid=navclient&aq=&oq=Sentencing+data+2010+and+2011&ie=UTF-8&rlz=1T4LENN_en_GB500&q=Sentencing+data+2010+and+2011&gs_l=hp....0.0.0.11576.....0.BW9u4QWhEUo#q=Sentencing+data+2010+and+2011+Table+S4.57

- 2013 data...

- 16.2 months / 8.9 months = **1.82**

- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380090/women-cjs-2013.pdf, Figure 5.01

Early Release

https://fullfact.org/factchecks/sentencing_early_release_home_detention_curfew-28945

- Prison discharge tables (2012) indicate that, accounting for parole and release on home detention curfew, men on average serve 53% of their sentence whilst women on average serve 48%
- Hence, there is a disparity factor in actual time served of $53 / 48 = 1.10$

Early Release – Unfair?

- Women's behaviour in prison is worse than that of men based on the frequency of disciplinary action
- In the period 2005-2009, the rate of punishment in prison establishments was higher for women than for men (by between 20% and 56%).
- A larger proportion of women's than men's offences in prison were for violence (by up to 50%).
- ["Statistics on Women and the Criminal Justice System", November 2010](#)

And the upshot is...

(All Offences Combined)

Male:Female Convictions	3.4
Imprisonment disparity	3.4
Sentence length disparity	1.6
Parole / HDC disparity	1.1
Product	20 times more men

Overall Disparity (based on all offences)

x6

Exceptional – Sex Offences

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/495321/offender-management-statistics-quarterly-bulletin-jul-sep-2015.pdf

- At 31st Dec 2015...
- 11,975 sex offenders in prison (14%)
- Up 9% in 1 year
- 8 men's prisons now hold only sex offenders

Lifers

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/495321/offender-management-statistics-quarterly-bulletin-jul-sep-2015.pdf

- 11,314 male prisoners serving life or indeterminate sentences
- (13.8% of male prisoners)
- Down 6% in the last year

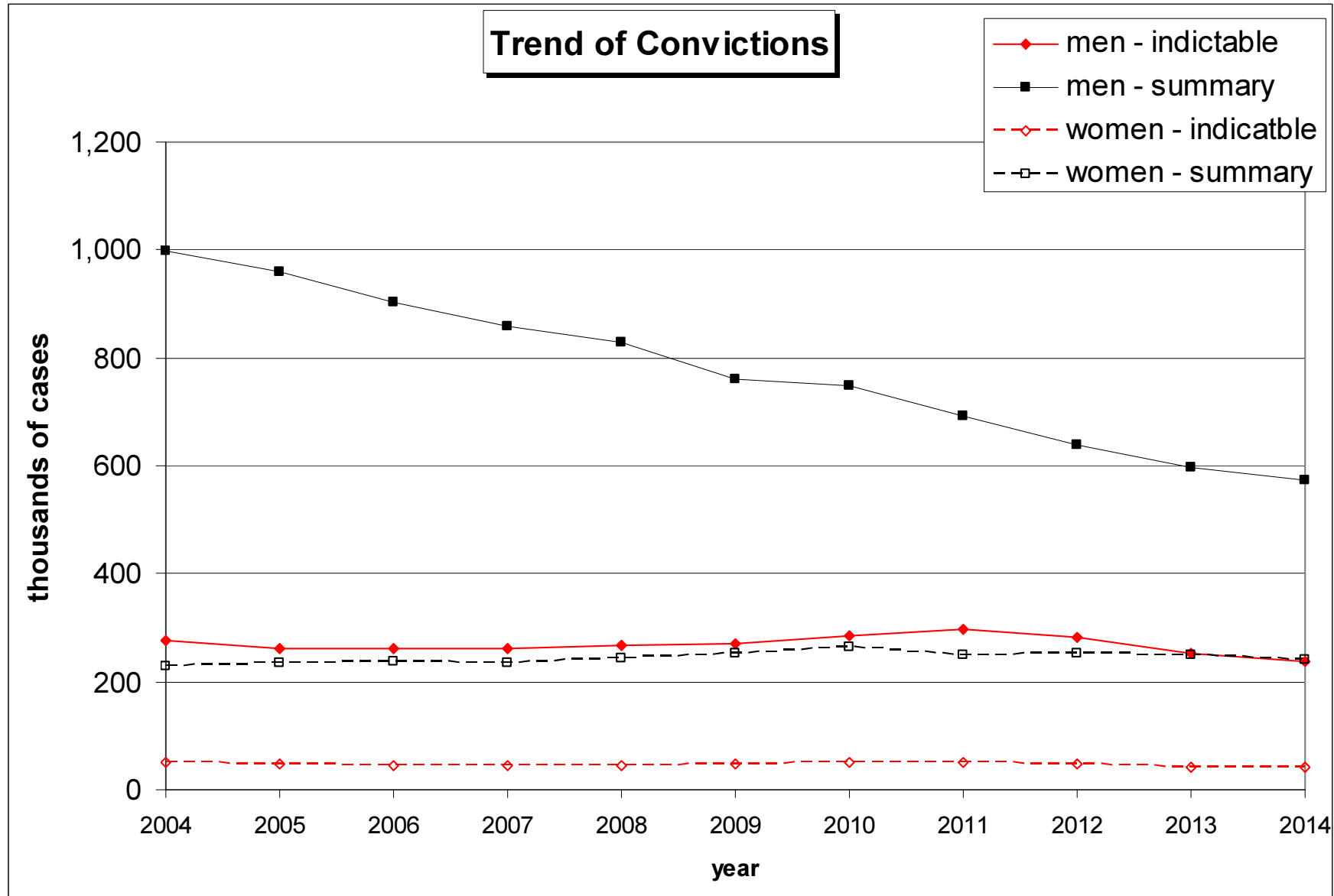
- 361 female prisoners serving life or indeterminate sentences
- (9.4% of female prisoners)

Indictable v Summary Offences

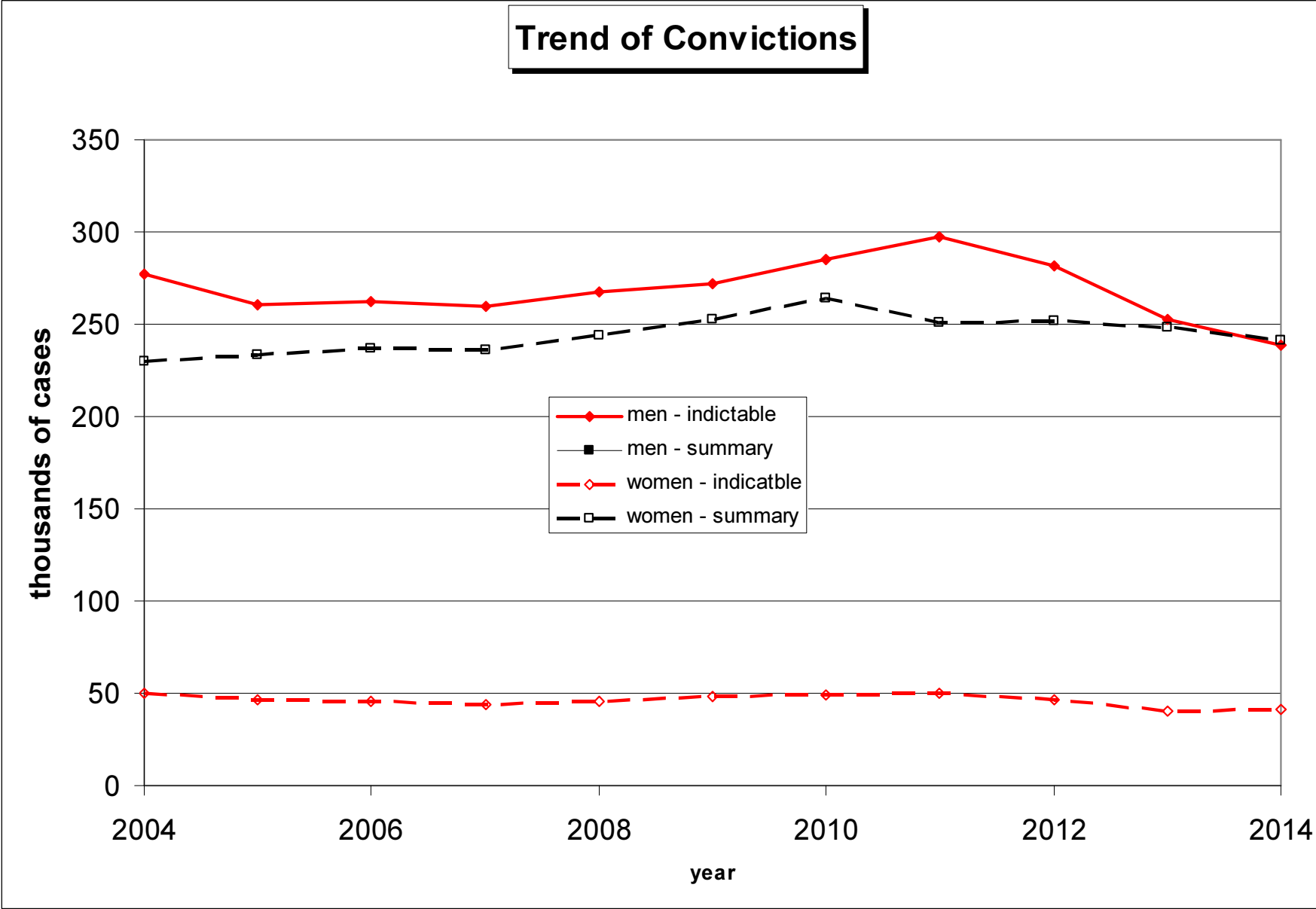
- Summary offences are three times more numerous than indictable offences
- BUT...
 - It is far less likely for an offender to be imprisoned for a summary offence, and,
 - Prison terms for summary offences are far shorter on average than for indictable offences
- As a result, 96% of prisoners are inside for indictable offences
- Hence it makes sense to consider the disparity in indictable offences in isolation
- <https://www.gov.uk/government/statistics/criminal-justice-statistics-quarterly-june-2013> (Table Q5b)

Trend of Convictions for Indictable and Summary Offences

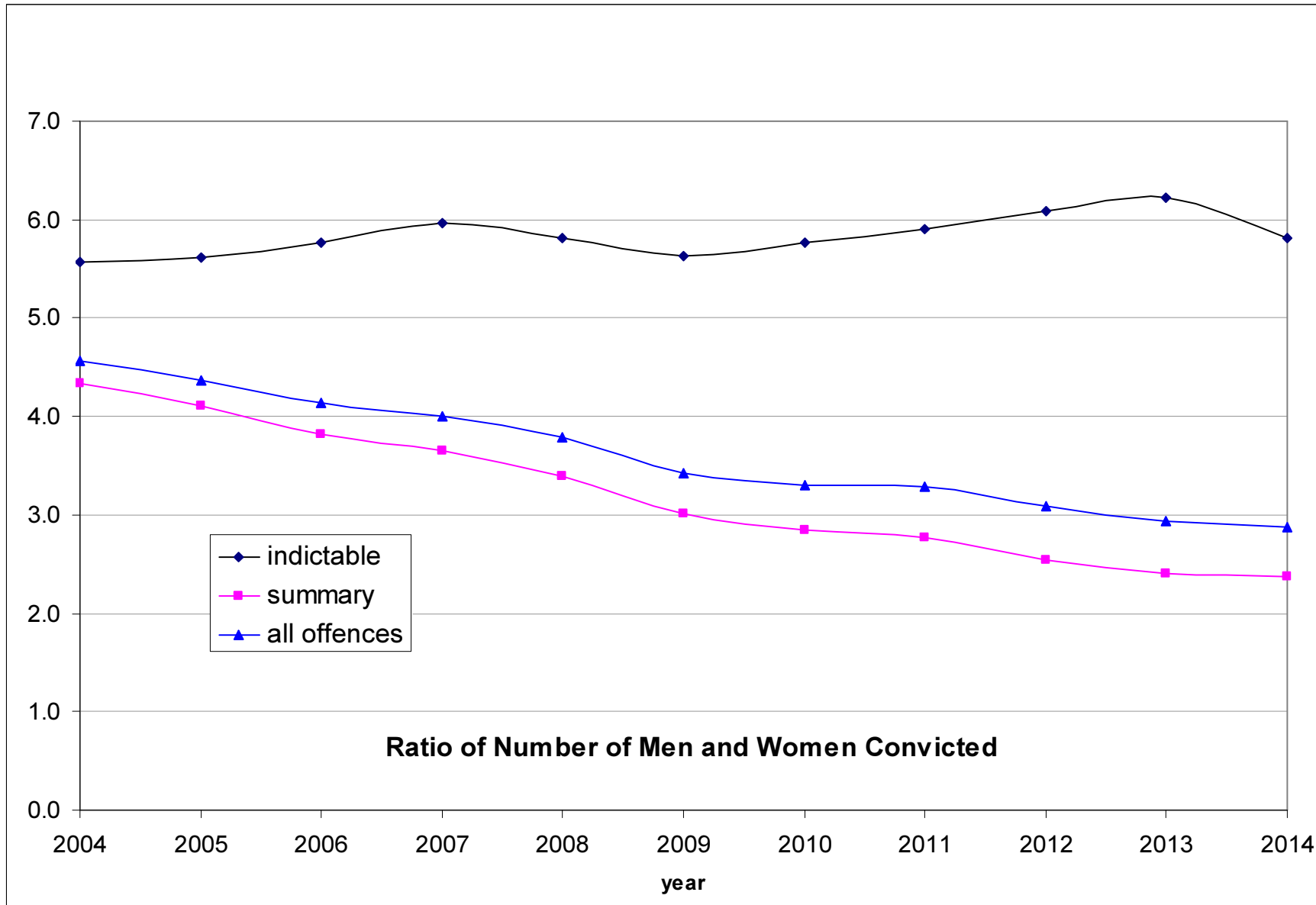
MOJ Sentencing Data: Quarterly Supplementary Tables (Table Q4a, June 2-14)



Trend of Convictions for Indictable and Summary Offences

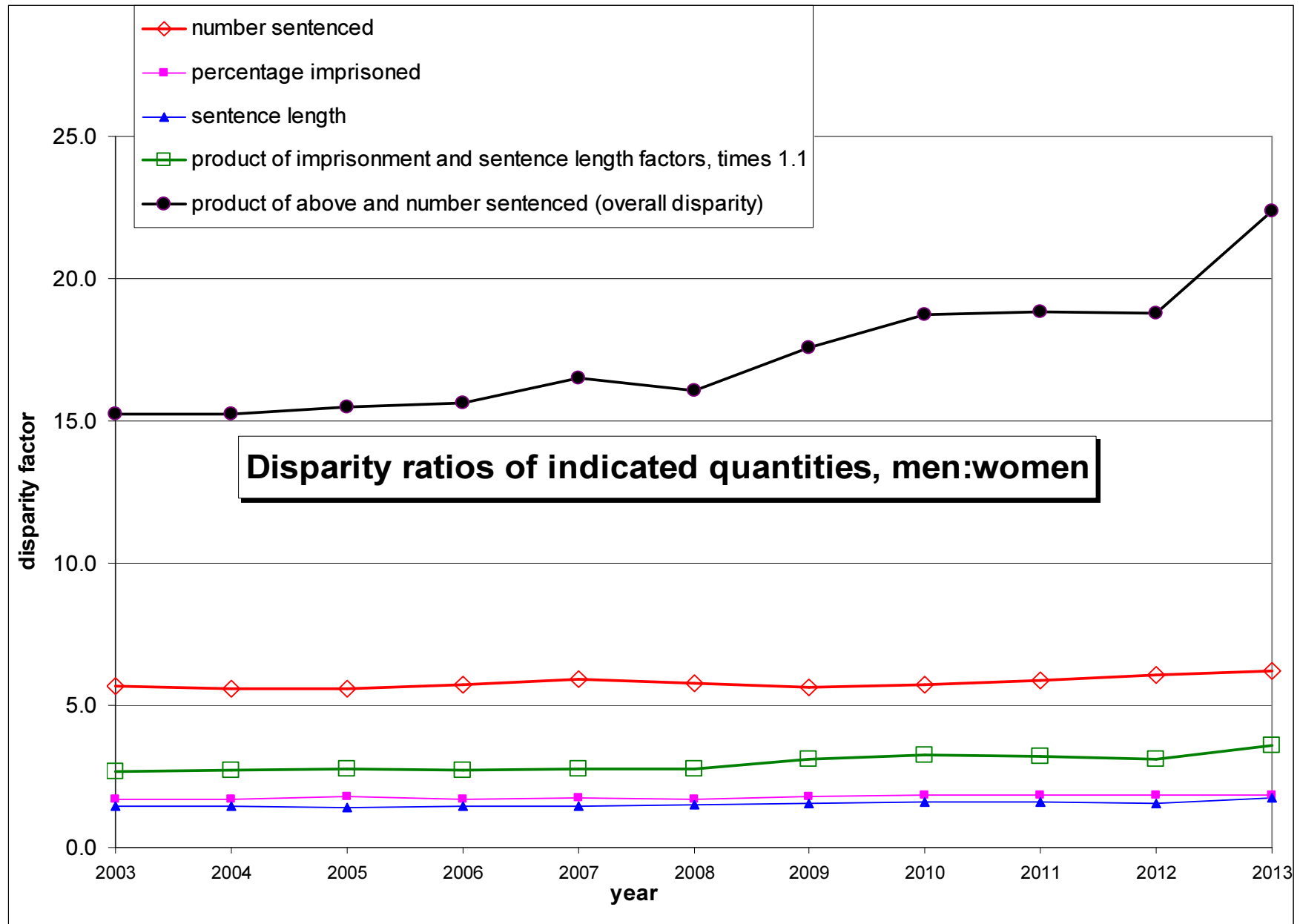


Ratio of Number of Men and Women Convicted



Indictable Offences Alone

MOF Sentencing Data, Quarterly Supplementary Tables June 2013 (Table Q5b)



Indictable Offences Alone

2003 - 2013

Male:Female Convictions	5.7 increased to 6.2
Imprisonment disparity	1.7 increased to 1.9
Sentence length disparity	1.4 increased to 1.7
Parole / HDC disparity	1.1 (assumed constant)
Product (resulting ratio of men:women in prison)	15 increased to 22

Overall Disparity

(based on indictable offences alone)

x2.6 in 2003

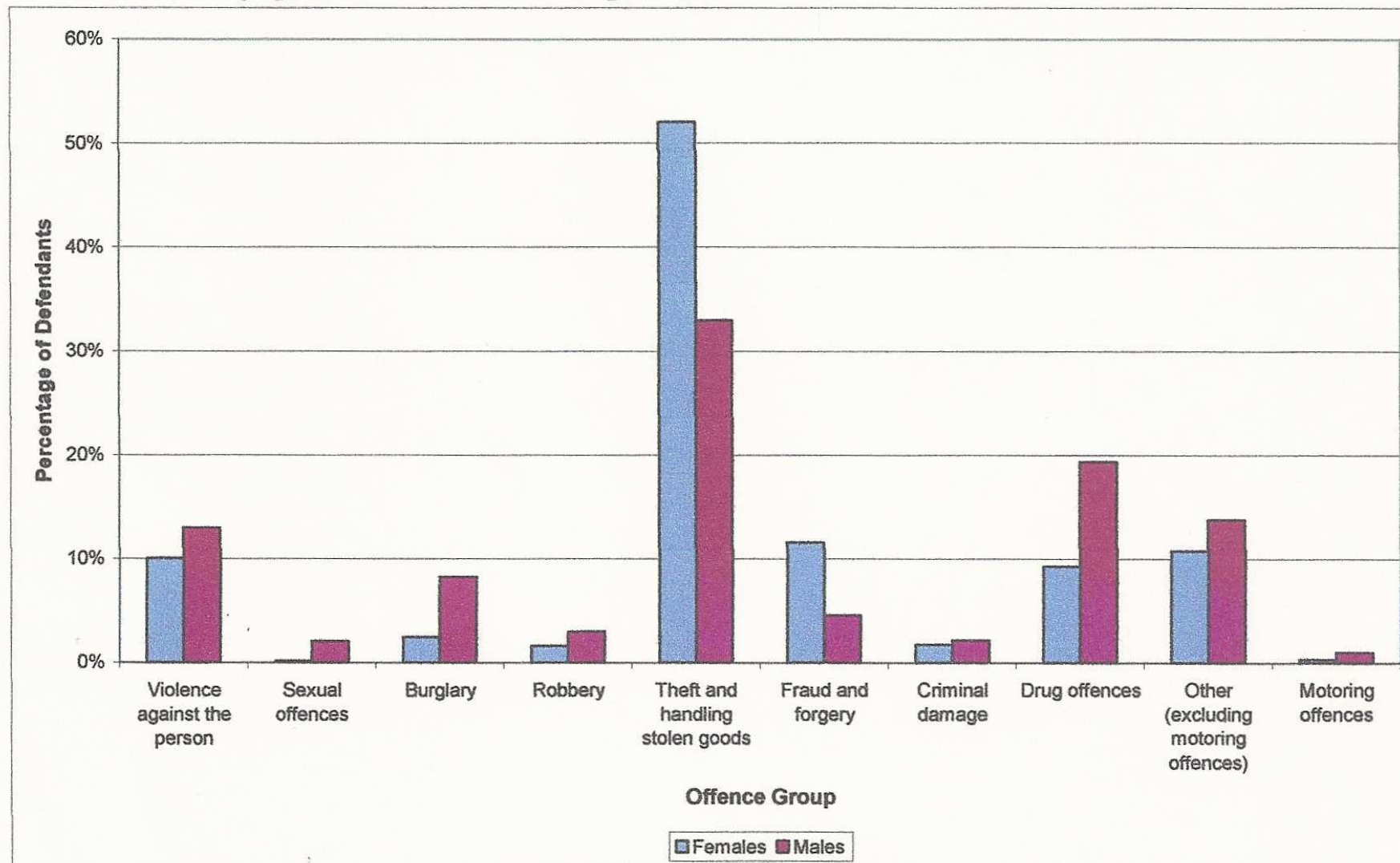
increasing to

x3.6 in 2013

Myth 1: Women's Pattern of Offending is Very Different

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/2200

Figure 4.02: Percentage of defendants sentenced for indictable offences at all courts, by gender and offence group, 2011

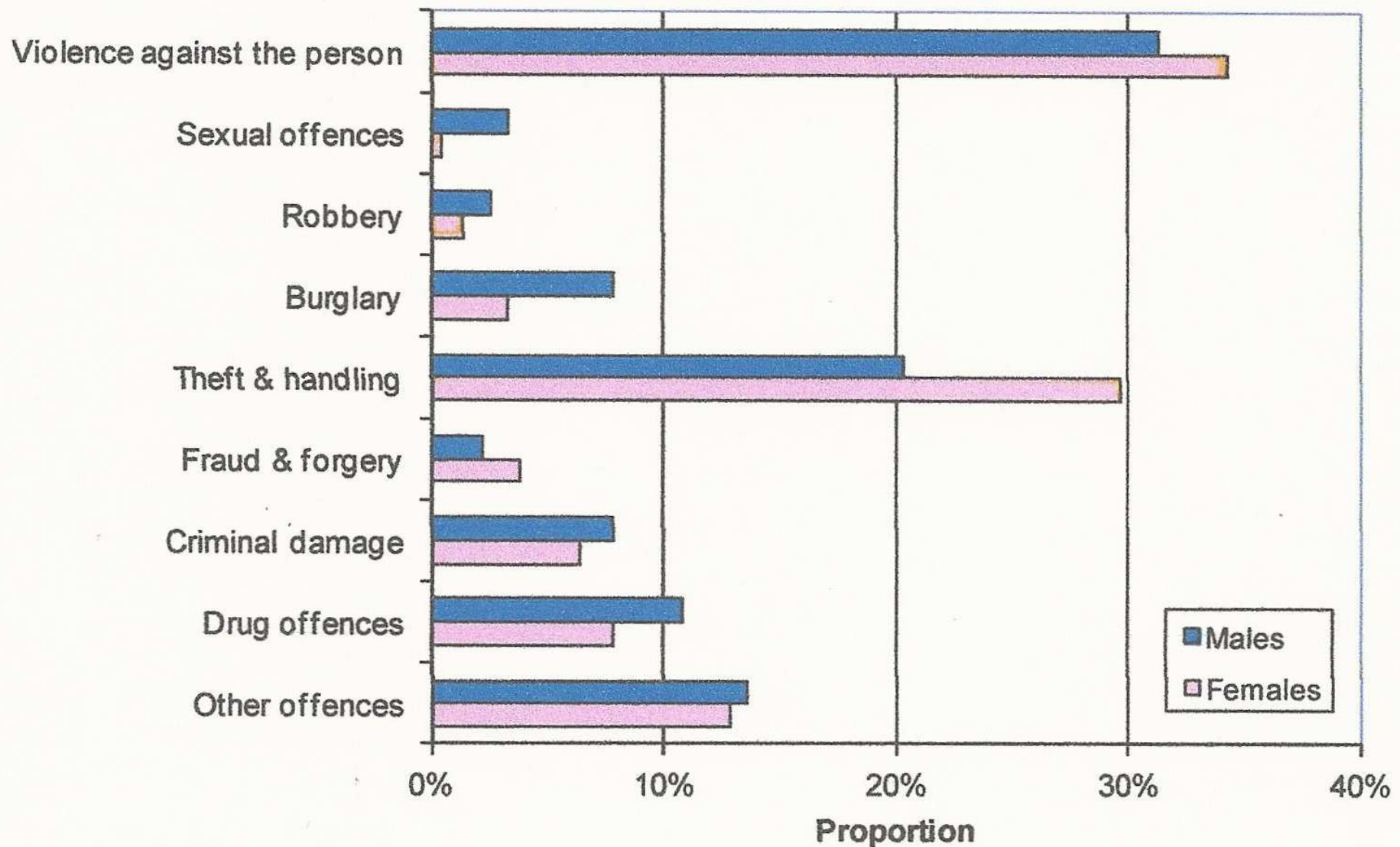


Source: Court Proceedings database

Myth 2: Women Are Not Violent

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380090/women-cjs-2013.pdf

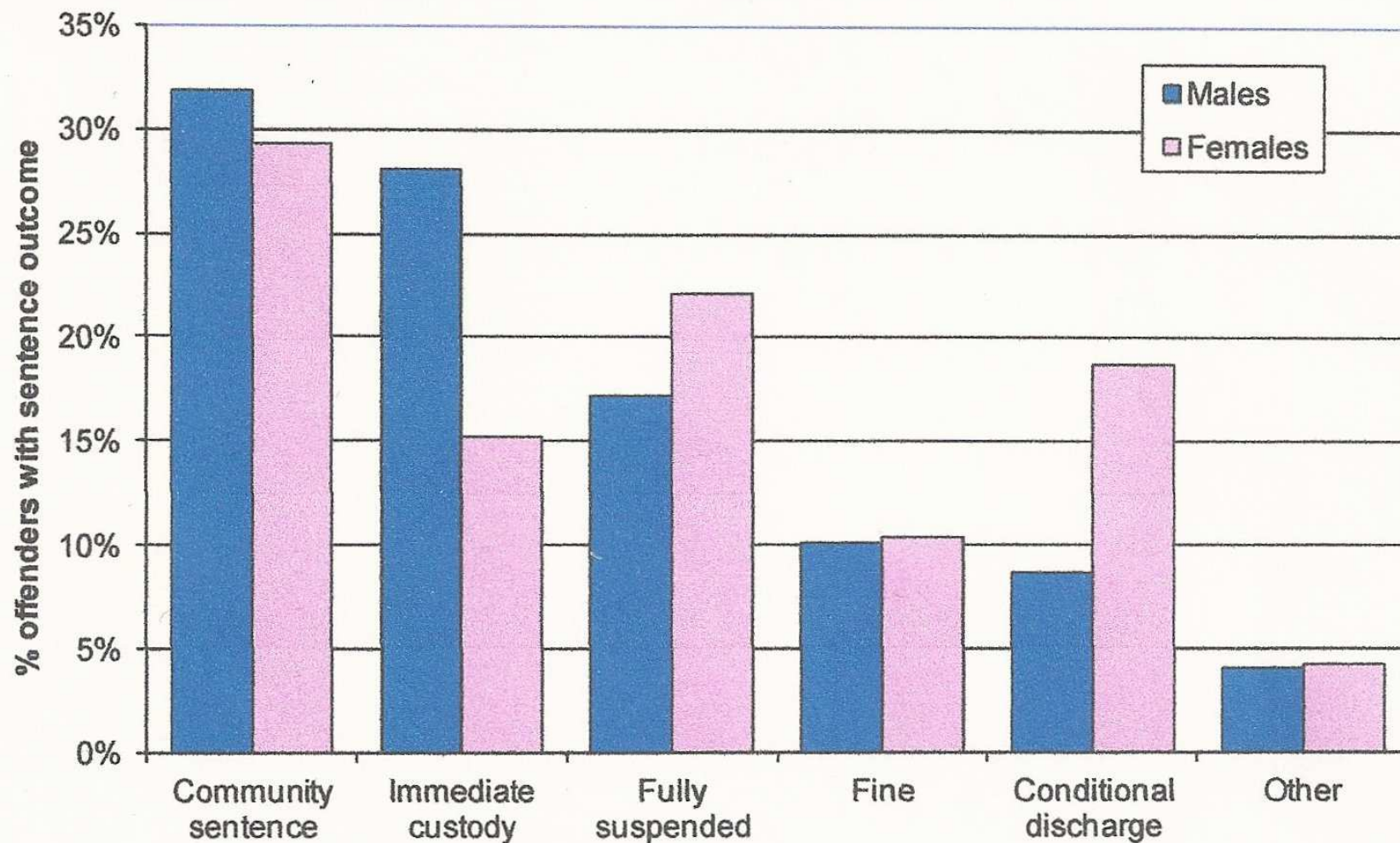
Figure 4.02: Proportion of arrests within each offence group, by sex, 2012/13



Myth 3: Women are more often sent to prison for a first offence

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380090/women-cjs-2013.pdf

Figure 6.02: Offenders sentenced for an indictable offence who have no previous sanctions against them, by proportion who received each type of sentence, by sex, 2013



Myth 4: Men's harsher sentencing is due to their offending history

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380090/women-cjs-2013.pdf (page 53)

- 86% of women and 91% of men who were sentenced for an indictable offence in 2013 were repeat offenders
- 30% of women and 37% of men sentenced for an indictable offence had 15 or more previous sanctions
- 31% of women and 40% of men with 15 or more previous sanctions were sentenced to immediate imprisonment

Myth 5: Women are treated particularly harshly for minor shoplifting offences

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380090/women-cjs-2013.pdf (page 15)

- In 2013, shoplifting made up the majority of theft offences for both male and female offenders
- The two most common disposals for both genders were conditional discharges and community sentences
- Males were far more likely to get an immediate custodial sentence

Myth 6: Most women offenders are caring for children when convicted

Female offenders and child dependents, Ministry of Justice, October 2015

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/465916/female-offenders-child-dependents-statistics.pdf

- Between 24% and 31% of all female offenders have one or more child dependents (<18 years old)
- Among the different disposal types, women receiving immediate custody were significantly less likely to have child dependents (between 13% and 19%).

Myth 7: A smaller percentage of women prisoners were convicted for violent offences than men

- The **same** percentage (28%) of male and female prisoners are in prison for Violence Against The Person offences.
 - [Gavin Berman and Aliyah Dar, “Prison Population Statistics”, House of Commons Library, Standard No SN/SG/4334, June 2013, see Table B]
- Also in Scotland, the **same** percentage (35%) of men and women are in prison for violent offences [Commission on Women Offenders, <http://www.gov.scot/resource/0039/00391828.pdf>]

USA Evidence (1)

<http://www.tandfonline.com/doi/abs/10.1080/07418829500092601?src=recsys>

Sex effects and sentencing: An analysis of the statistical literature Kathleen Daly & Rebecca L. Bordt University of Michigan, University of Notre Dame
Justice Quarterly, Vol.12, Issue 1, 1995

- Half of the cases examined showed sex effects favoring women; one-quarter each showed mixed effects or no effects.
- Sex effects favoring women are far more frequent than race effects favoring whites.

USA Evidence (2)

<http://www.tandfonline.com/doi/abs/10.1080/07418820902926197?src=recsys>

The Independent and Joint Effects of Race/Ethnicity, Gender, and Age on Sentencing Outcomes in U.S. Federal Courts,

Jill Doerner & Stephen Demuth, *Justice Quarterly* Vol.27, 2010

- We find that Hispanics and blacks, males, and younger defendants receive harsher sentences than whites, females, and older defendants after controlling for important legal and contextual factors.

USA Evidence (3)

David B. Mustard, “*Racial, Ethnic and Gender Disparities in Sentencing: Evidence from the US Federal Courts*” by, University of Georgia, in *Journal of Law and Economics*, vol. XLIV (April 2001).

- Males more likely to be imprisoned
- Men’s sentences were double that of women *after controlling for offense severity*
- 70% of the male-female disparity in sentencing is caused by departures from the sentencing guidelines

USA Evidence (4)

Estimating Gender Disparities in Federal Criminal Cases Sonja B. Starr

University of Michigan Law School, 2012

http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1164&context=law_econ_current

- Gender disparities are strikingly large
- Female arrestees are significantly likelier to avoid charges and convictions entirely
- Treatment as male is associated with a 63% average increase in sentence length
- Females are twice as likely to avoid incarceration if convicted

Should We Be Surprised?

- The Judicial College publishes advice to judges on how to ensure 'equal' treatment consistent with the 2010 Equality Act – The Equal Treatment Bench Book.
- Section 11 addresses gender equality
- The **totality** of its opening bullet points are as follows...

Equal Treatment Bench Book

- Women remain disadvantaged in many public and private areas of their life; they are underrepresented in the judiciary, in Parliament and in senior positions across a range of jobs; and there is still a substantial pay gap between men and women.

Equal Treatment Bench Book

- Stereotypes and assumptions about women's lives can lead to unlawful discrimination.

Equal Treatment Bench Book

- Factors such as ethnicity, social class, sexual orientation, disability status and age affect women's experience and the types of disadvantage to which they might be subject; assumptions should not be made that all women's experiences are the same.

Equal Treatment Bench Book

- Discrimination is often unconscious and based on a person's own experience and perceptions; it is important to be aware of the wide diversity of women's experiences.

Equal Treatment Bench Book

- Women may have particular difficulties participating in the justice system, for example, because of child care issues, and courts may need to consider adjustments to enable women to participate fully.

Equal Treatment Bench Book

- Women's experiences as victims, witnesses and offenders are in many respects different to those of men.

Equal Treatment Bench Book

- As judges, we can go some way to ensuring that women have confidence in the justice process and that their interests are properly and appropriately protected.

Equal Treatment Bench Book

In 2013 they added one final bullet point...

- Of course, men can suffer from gender discrimination too; this section reflects the reality that this is rarer.

Equal Treatment Bench Book

- Common stereotypical assumptions often applied to all women and men are that....women are primary carers of children.
- And yet,
- Sentencers must be made aware of the differential impact sentencing decisions have on women and men including caring responsibilities for children or elders.
- The Prison Service **Gender Specific Standards** provide guidance on the various stages of custody and consider the needs of different women – such as.....women with children.

Equal Treatment Bench Book

- Baroness Hale DBE said in her 2005 Longford Trust Lecture:
 - “It is now well recognised that a misplaced conception of equality has resulted in some very unequal treatment for the women and girls who appear before the criminal justice system. Simply put, a male-ordered world has applied to them its perceptions of the appropriate treatment for male offenders.... The criminal justice system could ... ask itself whether it is indeed unjust to women.”

The Corston Report (2007)

- *Equality does not mean treating everyone the same*

The Corston Report (2007)

- *Women must never be sent to prison...to teach them a lesson*

The Corston Report (2007)

- *Prison is disproportionately (sic) harsher for women because prisons and the practices within them have for the most part been designed for men*
- Note that the Cost per prison place in 2009/10 was £39,719 for men but £56,415 for women

The Corston Report (2007)

- *Outside prison men are more likely to commit suicide than women but the position is reversed inside prison*
- False
- Between January 2013 and October 2014, 130 men and 4 women prisoners killed themselves.
- Male prisoners suicide at 6 times the (already appalling) national average rate

And from the Ministry of Justice, National Offender Management Service (NOMS), 2012.....

- “A Distinct Approach: A Guide to Working with Women Offenders”
- (NOMS Women and Equalities Group)
- ...of The Corston Report it notes,
 - Many of these recommendations are now embedded in daily practice.

January 2015

- Then-Justice minister Simon Hughes,
“Half the women in jail should not be
behind bars”
- <http://www.independent.co.uk/news/uk/politics/jail-wrong-for-half-of-women-inmates-10009280.html>

Scotland, June 2015

<http://news.scotland.gov.uk/News/New-plans-for-women-in-custody-announced-1a61.aspx>

<http://www.bbc.co.uk/news/uk-scotland-scotland-politics-30958609>

- Scotland is to adopt a new approach to dealing with female offenders with a move towards custody in the community
- ...and action to reduce the numbers of women receiving custodial sentences.
- Proposals are to be backed by capital investment of up to £82 million
- (There are just 415 women in prison in Scotland at June 2015)
- Most in Corton Vale, which there are calls to close
- A new Scottish women's prison has been scrapped

July 2015

<http://www.independent.co.uk/news/uk/crime/more-than-80-per-cent-of-female-inmates-locked-up-for-non-violent-offences-new-figures-show-10422733.html>

- Arguing that women are treated more harshly than men by the criminal justice system, the Prison Reform Trust announced it had secured a £1.2m lottery grant to mount a three-year campaign to cut the number of female inmates.

November 2015

- Closure is announced of Holloway Prison, the largest women's prison in western Europe
- George Osborne announced that female prisoners would serve their sentences in "more humane" conditions in future.

British Journal of Criminology Web Site

- Too many women have taken their own lives in prisons. The bloodbath that is the women's prison estate is a scar on the nation.
- The treatment of women in these institutions can be degrading, humiliating and an extension to the social deprivation they have experienced in the outside world. How we as a society expect people to stop committing crime by punishment rather than behavioral modification and care is beyond me.

British Journal of Criminology Web Site

- Wider society needs to wake up to the harm caused by the criminalisation of women, many of whom have experienced victimisation, harm and marginalisation.
- The criminal justice system is part of a continuum of violence against women.
- I am involved in research around working with women in the CJS (because I feel it's important!).

The Griffins Society Call for Researchers (May 2015)

- Strap line to the ad...

The Griffins Society has a vision where the response of the Criminal Justice System to women and girls is proportionate, fair and just.

- Previous research experience not necessary

MoJ: Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System (2012)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217328/swift-and-sure-justice.pdf

- The public has a right to expect the justice system to be swift and sure...
- ...so that the system can be relied upon to deliver punishment and redress fairly and in accordance with the law and public expectation.

2010 to 2015 government policy: sentencing reform

<https://www.gov.uk/government/publications/2010-to-2015-government-policy-sentencing-reform/2010-to-2015-government-policy-sentencing-reform>

- We need to make sure that sentences are more effective at punishing offenders

New sentencing measures to take effect next month (March'15)

<https://www.gov.uk/government/news/new-sentencing-measures-to-take-effect-next-month>

- Then Justice Secretary Chris Grayling said...
- Crime has fallen, serious offenders are going to prison for longer and now we have changed the law to deliver tougher and swifter justice for victims and the public

That is the empathy gap

Who Are These Prisoners?

British Academy report <http://www.britac.ac.uk/news/news.cfm/newsid/1106>

- 68% of prisoners were not in paid employment prior to being imprisoned
- 59% of young offenders have learning difficulties or borderline learning difficulties
- 55% of prisoners commit crimes connected to their drug taking
- 47% of prisoners have no educational qualifications
- 41% of male prisoners were permanently excluded from school
- 27% of men in prison are victims of child abuse
- 24% of men in prison were removed from their families and spent time in care
- 21% are from an ethnic minority (compared to 10% of the general population)
- 18% of men in prison have a physical disability
- 15% of male prisoners were homeless prior to being imprisoned
- 12% of imprisoned men are black (compared with 3% of the general population)

Jacobson J et al, *Punishing disadvantage: a profile of children in custody*, London: Prison Reform Trust, 2010, p51

<http://www.prisonreformtrust.org.uk/portals/0/documents/punishingdisadvantage.pdf>

- 76% of 15 – 18 year olds in custody had an absent father and 33% an absent mother