

Gender and Serious Fraud in Australia and New Zealand

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The latest national prison census revealed that on 30 June 2003, there were 23,555 prisoners in Australian jails (ABS 2004). Of these, seven per cent (1,594) were women, an increase of 109 per cent since 1993. Of the 812 prisoners whose most serious offence involved deception or a related offence, 21 per cent were female, representing 11 per cent of the total female prison population, compared to three per cent of men in jail for the same category of offence. Fraud is a significant component of female offending, and examining the dynamics underlying serious fraud is important if we are to understand the broader issues of gender difference in patterns of offending and imprisonment. Using unique data collected by the Australian Institute of Criminology, this paper demonstrates that, contrary to the previous welfarist and needs-focused explanations of fraud, women also are involved in more sophisticated and planned cases of serious fraud.

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The Australian Institute of Criminology (AIC) and PricewaterhouseCoopers (2003) recently examined a sample of 'serious fraud' cases that had been dealt with in Australian and New Zealand higher criminal courts during 1998 and 1999. The study examined why offences were committed and how those convicted were dealt with in the courts. One variable concerned the gender of those convicted of offences. The present paper provides a snapshot of cases (as opposed to an analysis of trends over time) and seeks to challenge the traditional welfarist stereotype of female fraud offending. It is the first analysis of this type in Australia and New Zealand for serious fraud and goes beyond the traditional focus of gender-crime research, which has tended to consider drugs, homicide and violent crime.

Cases were chosen that resulted in a court determination during the two years in question and fulfilled certain criteria of seriousness, namely financial loss of generally over \$100,000 per file, sophistication in the planning and/or execution of the offence, some degree of organisation of the offenders, and whether offences were committed by professionals (see AIC & PricewaterhouseCoopers 2003). The sample comprised 155 separate files, 39 of which involved women. This equated to 208 accused persons, 43 (21%) of whom were women. Although not every case heard in Australian and New Zealand courts involving serious fraud was examined, the 155 files represent the vast majority of cases of this nature dealt with in the two years in question. In Victoria in 1997-98 and 1998-99, for example, only 12 deception cases involving sums in excess of \$50,000 were recorded by police (Victorian Parliament 2004). However, results are not representative of other categories of less serious financial crime. Although some findings were highlighted in percentage distributions, in view of the relatively small number of cases examined it was not possible to subject the data to rigorous statistical analysis. Therefore this study should be regarded as exploratory in nature, with the intention of stimulating further research in the particular areas highlighted (Zietz 1981).

Offender and offence profiles

For all the offenders examined, those convicted tended to have the following characteristics. They were:

- aged in their mid-40s and male;
- born in either Australia or New Zealand;

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- educated to secondary level, with some having professional qualifications;
- company directors or involved in accounting duties and having relatively stable employment;
- no prior criminal record;
- acting alone in the commission of the offence; and
- motivated by greed or gambling.

When the profile of female offenders is examined, some differences emerge (note that data on some demographics were not available for some offenders). Although mean ages for men (42 years) and women (43 years) were similar, women tended to be grouped in the younger age categories, possibly a reflection of higher levels of employment among women at younger ages. Regarding education, like male offenders, a large proportion of women had completed secondary or some tertiary studies. However, it was noticeable that no women in the study had completed any postgraduate qualifications, or had any professional qualifications or statutory registration. By contrast, about two per cent of males had postgraduate qualifications, with 16 per cent belonging to professional associations or having statutory professional registration.

Of the 185 accused persons for whom information on prior criminal history was available (146 men and 39 women), 33 per cent of the women had prior criminal convictions, compared with 48 per cent of the men. Of the 31 persons with prior fraud offences, 25 were men (81%) and six were women (19%). It seems, therefore, that there were fewer first-time female serious fraud offenders than males.

Offenders were sentenced in cases involving a total of \$260.5 million, although there was considerable variability in the amounts involved, ranging from \$219 in one case to \$80 million in another. However, serious female fraud offenders tended to be at the lower end of the financial loss spectrum and even more likely to be at the lower end when their crimes did not involve a male co-offender. About half of the women committed their offences with a male co-offender. When lone females were involved (n=21), and excluding the one case involving \$80 million, the average cost of the fraud was \$165,505. This compared to an average cost of

Table 1: Nature of relationship with co-offender

Relationship category	n
Wife/partner/girlfriend	10
Colleague	4
Friend	4
Other relative	3
Business associate	1
Subtotal	22
Accused acting alone	21
Total	43

Source: Australian Institute of Criminology and PricewaterhouseCoopers, Serious fraud in Australia and New Zealand, 2003 [computer file]

\$1,340,532 where the offender was a lone male (n=103).

Regarding the involvement of co-offenders, of the 43 accused females, 21 had acted alone in the commission of their crime, while 22 had co-offenders. Table 1 shows that 10 (45%) of these were the wife, partner or girlfriend of the co-offender. A review of the individual files revealed comments by a number of women suggesting they had been forced or coerced into the commission of the crimes by their partners. However, such accounts were in a minority.

With respect to the situational context of these acts, nearly 70 per cent of the 43 female offenders (n=29) were accused of committing their offences during the course of their occupation, as opposed to during non-employment-related acts (such as welfare and social security fraud). This challenges some of the traditional research on female fraud offending which tends to view such crime as lower tariff welfare-type fraud committed purely out of financial need rather than greed. Zietz (1981), for

example, found that women who commit white-collar crime were more likely to do so due to family needs than to fund high living, unlike their male counterparts, while Wheeler et al. (1988) argued that women offenders are under-represented in the highest tier of white-collar crime because of the level of their occupational positions. An alternative explanation, however, may be that need-based crimes involved lower sums, thus taking such offenders outside the sampling criteria of the present study.

Table 2 presents data on the occupations of accused persons at the time their last offence was committed (for which they were sentenced). The categories of employment used in the study that appeared to attract most fraudulent behaviour were 'director' and those associated with 'accounting' duties. Women were under-represented in the accounting professional and managerial categories, compared to men. Women were also proportionately less represented in other non-account-related managerial positions, except for that of 'director/proprietor/CEO', in which latter category many women committed offences with male co-offenders.

Although computers were used to facilitate the crime in only 20 per cent of the total cases, the use was more than twice as high for men than women (33 men and 14 women). The use of fictitious documents, however, was slightly higher for women at 77 per cent (n=33), compared to 72 per cent for men (n=119), possibly reflecting the occupational position of many women in the sample at an administrative and clerical level. The use of false evidence-of-identity documents in the commission of the crime was the same across both genders (see Box 1).

Table 2: Occupation by gender of accused – number of accused

Occupation category	Men	Women	Total
Director/proprietor/CEO	35	12	47
Professional/manager – accounting	31	4	35
Professional/manager – other	22	2	24
Admin & clerical – accounting	9	7	16
Admin & clerical – other	12	5	17
Unskilled	2	1	3
Other	30	5	35
Unemployed	15	5	20
Total with information	156	41	197
No information recorded	9	2	11
Total accused persons	165	43	208

Note: The category of 'Other' includes occupations such as car dealer, receptionist, farmer, real estate agent, trades person

Source: Australian Institute of Criminology and PricewaterhouseCoopers, Serious fraud in Australia and New Zealand, 2003 [computer file]

Box 1

A New Zealand woman, who admitted that she was motivated by greed, was convicted on 165 counts of fraud involving \$400,020 and sentenced to four and a half years imprisonment in respect of a 16-month credit card scam. Personal identification information relating to deceased people was obtained and used to create 22 fictitious identities, 10 of which were employed to obtain 18 credit cards that were then used to obtain funds illegally.

Motivations, rationalisations and mitigating factors

Using information available from the trial judge's sentencing remarks, submissions by defence counsel prior to sentencing, pre-sentence reports or more general submissions made on behalf of victims and prosecutors, the data were analysed with respect to motivations, rationalisations and mitigating factors. Motivation and rationalisation (or neutralisation) are words often confused and even used interchangeably. A distinction between them that has been suggested is that 'motivation drives the act, whereas neutralisation nullifies the internal moral objectives' (Duffield & Grabosky 2001: 3). Even when these two processes are delineated, further information is required to determine when any rationalisation took place – that is, before or after the act and, if before, whether this influenced the offender's motivation to commit the act in the first place (Cressey 1953: 94). However post-offending data cannot by themselves shed light on these processes, thus highlighting the need for further research such as interviewing offenders about their crimes. For the present study, motivations for offending were grouped into six main categories. These were:

1. greed;
2. gambling;
3. financial strain (personal or business);
4. continuation/viability of business;
5. influence of others; and
6. other

Greed (that is, obtaining money for personal advancement without any other motivation) was the most frequently cited primary motivation for both genders. Six women stated that their primary motivation was greed. However, only one of these claimed she had been coerced into the commission of the crime by a man. The fact that the remaining five committed their crimes freely suggests it is indeed possible that women as well as men adopt a rational approach

to serious fraud (Davies 1999). This supports the research of Daly (1989), who acknowledged that although motives between men and women differ, such differences may not be as wide as indicated by previous research (for example, that of Zietz 1981 or Cressey 1953), which concentrated on female fraud committed through need, not greed.

The motivation underlying other female accounts aligns with a more traditional welfarist explanation of fraud. Proportionally twice as many women compared to men had a primary motivation of 'pleasing others', with the circumstances of the women frequently centering on someone with whom they had an emotional attachment. In the present study, 'pleasing others' forms part of the general category of 'other'. Accounts of this nature included:

- not being able to refuse their families anything;
- wishing to appear a 'perfect wife and mother';
- needing to contribute to the household finances (especially where the other partner was the major earner);
- supporting children after the break up of a relationship; or
- wishing to buy gifts for partners as a means of demonstrating affection.

Such findings support those of Zietz (1981: 147) who termed this group of women as 'obsessive protectors', that is, those women in positions of trust who were willing to compromise that trust when faced with the needs and responsibilities of their families. Such

attitudes were also found by Collins and Collins (2000) in attempting to measure personality traits and susceptibility to crime of women holding high-level administrative and managerial positions. By comparing their findings to previous research on male white-collar criminals, they found that whereas males were generally motivated by greed, ambition and social status, women generally committed their crimes to help other people.

This study found that, following greed, gambling was the second most frequently identified primary motivation of offenders for both genders (Sakurai & Smith 2003). Women were represented proportionately higher in this category than men, raising the question of whether the motivation for gambling-induced offences differs between genders. Of the six female offenders recorded in this category, two had evidence of earlier psychological or domestic issues, whereas the remainder said they had committed the offences purely out of a need to finance their gambling addiction.

However, not all female offenders stated that they committed their crimes due to greed, gambling or through duty to, or influence of, family or friends. A number of primary motivations for the women, related to ensuring the continuation of a business, whether this was their own, a family business or the organisation for which they worked (see Box 2). This appeared to be especially true in the case of their own or family businesses. However, when considering the category of feeling 'financial strain' in business, women figured proportionately lower than men (three women, 24 men), possibly due to the fact that more men owned businesses in the sample examined.

Fraud offenders frequently seek to justify or rationalise their actions or neutralise their guilt through a number of techniques, often not perceiving offences as 'real' crimes but as a normal part of business activity. Coleman's (1995) discussion of how white-collar criminals

Box 2

On 25 June 2001, seven women from Melbourne were given suspended sentences of imprisonment after each pleaded guilty to conspiracy to cheat and defraud. Employed as dating agency consultants, the women robbed clients through a scam which reportedly netted nearly \$3 million over a three-year period. One victim impact statement submitted in court claimed that one man had lost his life savings as a result of joining the agency. In sentencing, the judge acknowledged that although the women had joined the business in 'good faith' and were only the 'foot soldiers' to the agency owners, they had swindled clients, many who were 'very lonely and very vulnerable people.'

neutralise their motivations, as well as Sykes and Matza (1957) and Benson (1985) all offer explanations for how offenders are able to rationalise what they have done.

In this study, men were more likely to offer both primary rationalisations and mitigating factors compared to women. Women were less likely to record any mitigating factors, with the most common involving influence or implication by others, although this was not the highest category in terms of primary motivation. Men, on the other hand, made more 'excuses', such as the act being a 'mistake' or a 'one-off' incident. The most common categories of mitigating factors for men were the intention to conduct a legitimate business and the intention to repay – the latter of which Cressey (1958) calls the 'just borrowing' syndrome. This findings of the present study, however, support those of Maher and Waring (1990: 49) and Zietz (1981)

Box 4

In 2000, following a 10-day trial, a New Zealand mother of two was sentenced to three and a half years imprisonment after a credit card fraud reported to total more than \$35 million. Over a period of three years, she had operated a number of businesses that made very little, if any profit. She was reported to be the highest American Express spender in New Zealand. An appeal against the conviction was dismissed, although the sentence was reduced to three years.

who found that, with minor exceptions, female offenders made no use of such a rationalisation for their criminal behaviour. These rationalisations by women have, however, occurred in other cases (see Box 3).

One area frequently neglected in the study of serious fraud is the importance of the relationship between managers and their employees. One man stated that his primary motivation was dissatisfaction with his employer. Another two men indicated underpayment as a rationalisation for their offence. No women recorded any primary motivations or mitigating factors with regard to their employers. One woman did comment that due to poor internal control procedures in her organisation, hers was an easy offence to commit, leading to repetition of the crime (see Box 4 for another case where the offence was repeated owing to the ease of its commission). Such attitudes by staff support the desirability of organisations having strong internal controls in place.

Of the 183 offenders in the study who were sentenced, a number of mitigating

Box 3

A secretary in charge of finances for a small building society was convicted of 250 counts of theft and sentenced to three years imprisonment in 2001. She had taken the money to sort out her personal finances with the intention of putting it back, but over a three-year period she had spent over \$230,100. After discovery of this, the society, which had been set up to provide members with savings, budgeting and funeral finance services, was closed.

factors were raised at the time of sentencing. The two most commonly cited were cooperation with the authorities and entering a guilty plea. Although women had fewer prior criminal offences than men, a review of mitigating factors suggested that men were much keener to point out their previous good character. In addition, women appeared to be more remorseful for their criminal activity. This supports the research carried out by Collins and Collins (2000) who, in their sample of 71 incarcerated women, found that all were remorseful for their crimes.

men raised both physical and mental health problems as mitigating factors more than twice as often as did women. Although the average age of offenders was found to be similar across genders, women tended to raise old age as a mitigating factor proportionally more often than men.

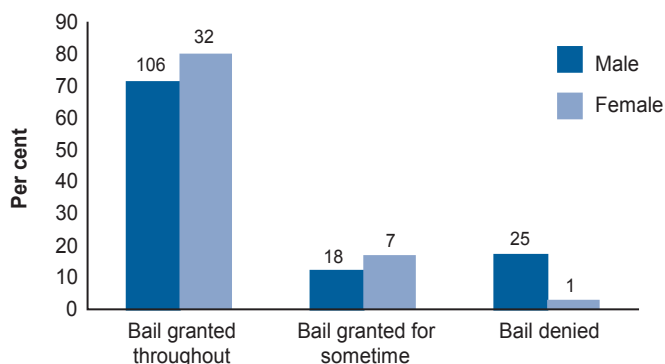
In addition, a number of other personal circumstances were raised by women, including factors relating to past childhood experiences, such as alcoholic parents, childhood sexual abuse and traumatic upbringings (emotionally and physically). Also mentioned were current circumstances such as poor marriages or relationships (including violence), financial difficulties or poor health of partners. Some instances were noted where male partners of the female offenders tried to take some of the blame for the situation, presumably in order to lessen their sentence. Similar support from women for male offenders was not so apparent.

Criminal justice system experiences

The findings of the AIC and PricewaterhouseCoopers study confirmed the conventional wisdom that fraud offenders frequently plead

Men were more likely than women to put forward the destruction of their careers as a mitigating circumstance, though this may reflect the level and nature of positions they held, compared to the women in the sample. However, women more often raised the issue of personal hardship. Contrary to early traditional positivist theories of female offending,

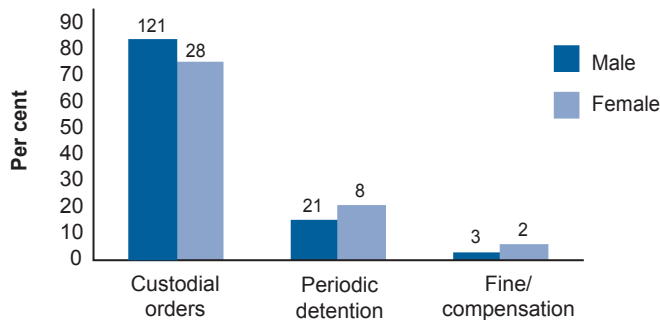
Figure 1: Granting of bail by gender



Note: Information on the outcome of bail applications was recorded for 189 of the 208 accused persons (149 males and 40 females). Included among the cases where information was not recorded were accused persons in custody.

Source: Australian Institute of Criminology and PricewaterhouseCoopers, Serious fraud in Australia and New Zealand, 2003 [computer file]

Figure 2: Sentence types by gender



Source: Australian Institute of Criminology and PricewaterhouseCoopers, Serious fraud in Australia and New Zealand, 2003 [computer file]

guilty to charges (71% for men and 76% for women). For early guilty pleas (which can contribute to a considerable reduction in sentence), women were found to have a higher rate (59%), compared to men (48%). However, as Rothman and Gandossy (1982) caution, some offenders willingly admit their guilt, whereas others may do so more grudgingly. Women tend to more often admit their guilt, readily acknowledge personal responsibility and are more likely to express remorse (Rothman & Gandossy 1982; Collins & Collins 2000).

In relation to bail, consistent with previous research and as demonstrated by Figure 1, most offenders (both male and female), were released on bail at sometime, if not throughout the period leading up to their trial. Only one woman (3%) was denied bail completely, compared to 25 men (17%). Eighty per cent of women were granted bail throughout and 17 per cent sometimes, compared to 71 per cent and 12 per cent for men, respectively.

Information on sentencing was available in respect of 183 of the 208 persons convicted of offences (145 men and 38 women). Full-time custodial sentences were given to some 83 per cent of sentenced men and 74 per cent of women. These differences may be indicative of the nature of the offences committed, the amounts of money involved and other aggravating and mitigating factors. In rare cases, extremely lengthy terms of imprisonment have been imposed on women convicted of fraud (see Box 5).

For all sentenced offenders, the mean maximum term of custodial sentences awarded (both full-time and periodic) was 3.6 years (43 months), while the mean

minimum custodial term awarded was 2.4 years (29 months). However, this varied among jurisdictions, as shown in Table 3. In addition, the data highlight the differences between genders. The mean maximum term of custodial sentence awarded for men was 3.7 years (45 months), compared to 2.6 years (31 months) for women, whereas minimum sentences were 2.4 years (29 months) and 2.1 years (25 months) respectively for male and female offenders.

However, as outlined earlier, in relation to the type of sentences awarded, the length of sentence does not necessarily reflect leniency towards female offenders by sentencing judges. In fact, while a review of the case notes for women in some jurisdictions with comparable offences committed by men did not reveal any major sentencing differential, it

did highlight some differences by judges in terms of language used with respect to women. This was particularly apparent where women had, in the opinion of judges, seriously breached their position of trust and abused power within their organisations or society. This supports the view held by some of women being 'doubly deviant' – they have not only broken the law, but have also breached accepted norms of feminine behaviour (Lloyd 1995).

Box 5

In August 1992, a lengthy term of imprisonment was imposed on a female financial adviser who had established an advisory service specifically for women in Western Australia. The offender was sentenced to 17 years imprisonment for having defrauded over 1,000 investors in her company of almost \$3 million.

A total of 322 aggravating factors were noted in respect of 127 offenders (98 males and 29 females) in equal proportions between genders. In some cases multiple factors were recorded. For all offenders, the most common aggravating factors were:

- breach of trust when the person was in a position of trust/responsibility;
- the long period of criminality involved;
- the large sum involved; and
- where the acts were sophisticated and planned.

Table 3: Period of custodial sentences – mean maximum and minimum terms by gender (months)

Jurisdiction	n*	Male maximum	Male minimum	Female maximum	Female minimum	Total maximum	Total minimum
ACT	7	47	24	18	18	43	23
NSW	12	44	33	48	25	45	31
NT	8	37	15	30	15	32	15
Qld	19	58	27	24	24	56	27
SA	10	65	37	–	–	65	37
Tas.	4	37	35	45	45	39	38
Vic.	13	39	27	–	–	39	27
WA	17	40	39	27	27	37	36
Cwth	28	54	31	28	14	45	25
NZ	30	25	25	30	30	26	26
Total	148	45	29	31	25	43	29

* 'n' relates to number of persons sentenced to full or periodic custodial terms; information was unavailable for one person. Totals are the mean number of months awarded for all jurisdictions

– indicates that there were no female offenders sentenced to custodial terms in South Australia and Victoria

Source: Australian Institute of Criminology and PricewaterhouseCoopers, Serious fraud in Australia and New Zealand, 2003 [computer file]

Conclusions

This paper has examined gender differences in the commission of serious fraud offences in Australia and New Zealand and how offenders' experiences within the criminal justice system may differ depending upon their sex. The study has confirmed some conventionally held views about fraud and criminal prosecution, such as the backgrounds of offenders and the high incidence of guilty pleas, but also highlights some differences from trends evident in previous research.

Although serious fraud has received considerable attention over the past few years, little is known about the extent and nature of involvement of women in this area. Whereas previous fraud research has tended to find women to be lower tariff offenders, this study has revealed that serious and large-scale frauds are not purely the domain of men. Some of the women in the sample had indeed committed very premeditated and quite complex frauds, involving substantial sums of money. There appears to be growing, undeniable evidence of 'frilly-cuff' (Goldstraw 2002) as opposed to 'white-collar' participation in the area of serious fraud in Australia and New Zealand.

This apparent increase in the involvement of women is, however, almost certainly due to a number of complex relationships between women's position in society and their participation in the workforce. This raises a number of questions including:

- Is the incidence of fraud by women really increasing, as suggested by prison statistics, or are female fraud offenders increasingly likely to receive a prison sentence?
- Are women now in positions that provide greater opportunities to commit fraud?

- Are women being sentenced more harshly than their male counterparts for crimes of dishonesty?
- Is this attention just due to increased interest and focus from researchers on female criminality?

As the rate of serious fraud increases against businesses and the government (as indicated by recent business victimisation surveys, such as Ernst & Young 2003), it is important to conduct further research to unravel fully the reasons why serious fraud is committed both by men and women in the 21st century. Armed with a detailed understanding of the reasons why fraud occurs, we can begin to develop appropriately targeted responses.

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