

CHAPTER 24

Gender, Crime, and Criminal Justice

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1. INTRODUCTION

A decade ago, the standard opening paragraph of a review chapter such as this would deplore the paucity of criminological research on females and the sexism inherent in theoretical accounts of female crime (and conformity). Owing primarily to the work of feminist criminologists, the field has happily moved beyond such obvious deficiencies. In this chapter, we review the criminological and criminal justice literature that examines the gendered organization of crime and social control. To do so, we briefly discuss the origins of the feminist critique in criminology and review patterns of criminal offending and justice interventions by gender. Specific issues that have arisen within feminist criminology (e.g., the implications of equal treatment for male and female offenders) are used to highlight more recent theoretical and empirical developments in the field.

Relative to other social science disciplines, criminology was a latecomer to feminist concerns. Second wave feminism was well-established when select criminologists noted the absence of females from major theories of criminal offending and/or the sexist treatment of females within theories in which they were not ignored (Harris, 1977; Heidensohn, 1968; Klein, 1973; Leonard, 1982; Rasche, 1974). The work of two female criminologists—Rita Simon (1975) and Freda Adler (1975)—sparked mainstream criminology's

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interest in the female offender (along with that of the popular press) by hypothesizing that the women's liberation movement had created a new type of female offender. Simon suggested that as employment opportunities opened up for women, so too had white-collar offending opportunities. Adler predicted that female participation in all crimes (including violence) would converge with male rates as the women's movement changed perceptions of acceptable and unacceptable conduct among females. Criticisms of Simon's and Adler's work provided a springboard from which more explicitly feminist understandings of crime and justice were launched.

2. PATTERNS OF CRIMINAL OFFENDING BY GENDER

In the mid-1970s, when Simon and Adler were writing, female rates of participation in most kinds of criminal offending—especially serious crime—were low. Their research raised several important questions regarding the gender and crime relationship that fueled somewhat separate research agendas for mainstream and feminist scholars: (1) What can account for such low participation rates in serious crime by women vis a vis men? (2) Are these patterns changing over time (i.e., is a new female offender emerging)? (3) Are the factors that produce crime and conformity in males and females the same? Do the same forces drive changes in male and female rates? (4) How should feminists study crime?

The answers to some of these questions lie in the empirical record. In the Tables 24-1 to 24-3, male and female rates of offending are compared over time using official arrest data (Uniform Crime Reports) and offender self-reports (Monitoring the Future Project).

In Table 24-1, male and female arrest rates per 100,000 are compared across 15-year intervals beginning in 1960 (columns 1 to 6). These statistics demonstrate several important patterns. First, they show that most crimes are committed by males. This pattern is most notable in violent and serious property crime rates, but exists across the board except for prostitution, in which female rates are higher than those for males. For the most part, increases and decreases in male and female rates over time parallel each other, suggesting that the rates of both "are influenced by similar social and legal forces, independent of any condition unique to women or men" (Steffensmeier & Allan, 1996, p. 462).

Looking at the arrest profiles of males and females (i.e., the percentage of total male and female arrests within each crime category for 1960 and 1990) and comparing data from 1960 and 1990 (columns 7 to 10), it is clear that violent crime (excluding simple assault) is a rare offense for both sexes. Females are most apt to be arrested for larceny-theft (20%), alcohol related offenses (i.e., drunkenness and DUI), and, more recently, forgery, frauds, and drug abuse. The greatest proportion of male arrests are for DUI (15% in 1990, up from 5% in 1960) and larceny-theft, followed by public drunkenness (dropping from 36% of all male arrests in 1960 to 8% in 1990).

Overall, females exceed 50% of the total arrests in only one offense area—prostitution (columns 12 to 13). The next highest categories are minor property offenses (including larceny-theft, fraud, forgery, and embezzlement in which female percentages range between 30% and 43% of total arrests). Males, on the other hand, clearly dominate the arrest statistics in more serious crime categories, such as crimes against persons, major property, and malicious mischief (which includes auto theft and arson). They also account for relatively large arrest percentages in some trivial crime categories (e.g., va-

TABLE 24-1. Male and Female Arrest Rates/100,000, Male and Female Arrest Profiles, and Female Percentage of Arrests (uniform crime reports)

Offenses	Male Rates			Female Rates			Offender-Profile Percentage				Female Percentage (of Arrests)		
	1960	1975	1990	1960	1975	1990	1960	1990	1960	1990	1960	1975	1990
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Homicide	9	16	19	2	3	2	.1	.2	.2	.1	17	14	11
Aggravated assault	101	200	317	16	28	50	1	3	2	2	14	13	13
Weapons	69	137	165	4	11	14	1	2	.5	.7	4	8	7
Simple assault	265	354	662	29	54	129	4	6	.4	.5	10	13	15
Robbery	65	131	124	4	10	12	1	1	.5	.5	5	7	8
Burglary	274	477	319	9	27	32	4	3	1	1	3	5	8
Stolen property	21	103	121	2	12	17	.3	1	.2	.5	8	10	11
Larceny-theft	391	749	859	74	321	402	6	10	9	20	17	30	30
Fraud	70	114	157	12	59	133	1	2	2	7	15	34	43
Forgery	44	46	51	8	18	28	.5	.5	1	1	16	28	34
Embezzlement	—	7	8	—	3	5	—	.2	—	.1	—	28	37
Auto theft	121	128	158	5	9	18	2	1	1	1	4	7	9
Vandalism	—	187	224	—	16	28	—	2	—	1	—	8	10
Arson	—	15	13	—	2	2	—	.3	—	.1	—	11	14
Public drunkenness	2573	1201	624	212	87	71	36	8	25	4	8	7	9
DUI	344	971	1193	21	81	176	5	15	3	9	6	5	11
Liquor laws	183	276	428	28	43	102	3	5	4	5	13	14	17
Drug Abuse	49	523	815	8	79	166	1	7	1	6	15	13	14
Prostitution	15	18	30	37	45	62	.2	.4	4	3	73	73	65
Sex offenses	81	55	78	17	5	7	1	1	2	.3	17	8	8
Disorderly conduct	749	597	499	115	116	119	11	5	14	6	13	17	18
Vagrancy	265	45	26	23	7	4	4	.3	3	.2	8	14	12
Suspicion	222	31	13	28	5	3	3	.1	3	.1	11	13	15
Against family	90	57	51	8	7	12	1	.5	1	.5	8	10	16
Gambling	202	60	14	19	6	2	3	.2	2	.2	8	9	15
Other exc. traffic	871	1139	2109	150	197	430	13	23	19	20	15	15	18
Total	7070	7850	9211	831	1383	212					11	15	19

Source: Steffensmeier & Allen (1996), with permission, from the *Annual Review of Sociology*, Vol. 22, ©1996, by Annual Reviews, Inc.

grancy and gambling). The consistency of most of these figures over time suggests that the new breed of female offender (i.e., becoming more like her male counterpart) is, as described by Steffensmeier (1978) almost 20 years ago, more myth than reality.

In Table 24-2, we present raw arrest statistics for juvenile offenders by sex for the years 1984 and 1994 (*Sourcebook of Criminal Justice Statistics*, 1985; 1995). The figures for juveniles tell a similar but somewhat more complex story. Again, we see that males are arrested much more often than females for almost all types of crimes. For index offenses (murder, rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson), the ratio of male to female arrests was approximately 3:1 in 1994.

TABLE 24-2. Juvenile Arrests, by Offense Charged and Sex, 1984 and 1994

Offense charged	Males Under 18		Females Under 18	
	1984	1994	1984	1994
Total	1,111,692	1,573,567	316,165	503,382
Murder and nonnegligent manslaughter	836	2,838	96	178
Forcible rape	4,014	4,555	53	93
Robbery	24,135	42,010	1,654	4,258
Aggravated assault	23,773	54,875	4,791	12,523
Burglary	108,313	100,110	8,524	10,568
Larceny-theft	229,973	268,385	84,572	126,949
Motor vehicle theft	27,414	61,299	3,516	9,919
Arson	5,291	7,769	511	1,088
Violent crime	52,758	104,278	6,594	17,052
Property crime	370,991	437,563	97,123	148,524
Total crime index	423,749	541,841	103,717	165,576
Other assaults	47,554	121,580	14,398	43,612
Forgery and counterfeiting	3,982	4,254	1,825	2,436
Fraud	12,945	13,514	3,747	4,751
Embezzlement	274	508	141	282
Stolen property; buying, receiving, possessing	19,110	30,703	2,0971	3,919
Vandalism	73,915	104,738	6,901	12,033
Weapons; carrying possessing	17,776	46,363	1,220	4,062
Prostitution and commercialized vice	606	510	1,560	487
Sex offenses (except forcible rape and prostitution)	11,648	12,741	831	1,063
Drug abuse violations	51,805	112,327	9,356	14,898
Gambling	526	1,390	56	73
Offenses against family and children	904	240	497	1,373
Driving under the influence	14,607	8,583	2,361	1,407
Liquor laws	69,818	63,124	24,365	25,421
Drunkenness	18,179	11,746	3,469	2,290
Disorderly conduct	56,223	99,481	12,829	30,274
Vagrancy	1,531	2,913	359	672
All other offenses (except traffic)	192,730	257,226	49,696	72,619
Suspicion (not included in totals)	1,900	1,166	425	297
Curfew and loitering law violations	49,167	72,382	15,163	29,434
Runaways	44,653	65,193	61,577	86,706

Source: Uniform Crime Report Data, taken from the *Sourcebook of Criminal Justice Statistics*, 1985, 1995.

The arrest ratio was much greater for violent than for property crime (e.g., in 1994, the male-to-female arrest ratio for violence was 6:1; for property, 2.9:1). Within the index, the most common offense for which both females and males are arrested is larceny-theft. Female arrests exceed those for males in two main categories: (1) running away from home and (2) prostitution and vice.

In 1984, the top five offenses for which males were arrested were larceny-theft, all other offenses, burglary, vandalism, and liquor laws, and for females during the same time period, larceny-theft, runaway, all other offenses, liquor laws, and curfew and loitering offenses were the top five arrest categories. There were some changes in arrest

patterns by the next decade, although change did not occur at the top of either list. The data in Table 24-2 show that the most common offenses for juveniles are relatively minor. This is particularly true for females where status offenses (such as runaway and curfew and loitering) comprise a significant but declining proportion of female total arrests over time (approximately 24% of all female arrests in 1984 and 23% in 1994).

In Table 24-3, we report findings from a national survey of high school seniors (Bachman, Johnston, & O'Malley, 1988 as reported in the *Sourcebook of Criminal Statistics*, 1995; Johnston, Bachman, and O'Malley, 1983, 1993) in which students report involvement in delinquent activities for the 12-month period prior to their participation in the survey. From these data, we can see that involvement in crime is atypical regardless of gender. As in the arrest statistics, the most common self-reported delinquent activity was theft. In 1983, 34% of the boys and 21% of the girls reported taking something from a store without paying for it on at least one occasion. These numbers increased slightly over the decade. Far fewer reported taking items worth \$50.00 or more, offenses that signify involvement in more serious types of theft. Trespassing is the next most commonly reported act for both boys and girls, followed by vandalizing school property and getting into fights—at school or to support friends. Rarely do the latter result in serious injuries—especially when the combatants are female. It is important to note, however, that few of these respondents report frequent involvement in any of these delinquent acts.

3. MAKING SENSE OF THE EMPIRICAL RECORD

Mainstream scholars find little empirical evidence, either in the United States or cross-nationally, to support Adler's or Simon's claims (Mukherjee & Scott, 1981; Steffensmeier, 1978; see Kruttschnitt 1996 and Simpson, 1989, for further discussion of these studies). The empirical record suggested that female crime rates have been remarkably stable over time, particularly in the more serious crime categories. When increases did occur, it was generally in areas in which female crime had been concentrated for decades (e.g., theft). Some increases were noted in nontraditional areas, such as embezzlement, forgery, and fraud (Simon, 1975, 1990), but disentangling occupational crimes from non-white-collar offenses (e.g., accounting from welfare fraud, stock forgeries from writing bad checks) in the statistical record is impossible without much more detailed investigation. Daly's (1989c) research on gender and white-collar crime demonstrated the fallacy of linking changing rates of female arrests for embezzlement, fraud, or forgery to increases in women's labor force participation. The so-called "white-collar" female offenders in Daly's sample were employed in "pink-collar" positions. Unlike most of the male offenders, but similar to conventional female offenders, presentence reports indicated that these women offended not because they were liberated, but because they were economically marginalized. Need, not greed, drove the "white"-collar offending of most women.

Feminist scholars were highly critical of the women's liberation thesis (Leonard, 1982). First, it ran counter to what feminist criminologists had discovered about female criminals, that is, that criminality was concentrated among the economically disadvantaged and minorities. Prejudice and discrimination, unemployment, the economic segregation of women into low-paying, nonunionized, and unstable jobs, and the feminization of poverty were more likely explanations for female offending than liberation (Giordano, Kerbel, & Dudley, 1977; Klein, 1973; Simpson, 1991). Second, the idea that females were becoming more malelike in their offending patterns captured the imagination of the

TABLE 24-3. Self-Reported Delinquent Involvement by High School Seniors in the Last 12 Months, by Offense and Sex

Delinquency	Class of 1983		Class of 1988		Class of 1993	
	Male (N = 1,671)	Female (N = 1,641)	Male (N = 1,582)	Female (N = 1,651)	Male (N = 1,294)	Female (N = 1,321)
Taken something from a store without paying for it?						
Not at all	68.4%	79.5%	63.2%	76.2%	62.4%	76.7%
Once	13.9	11.9	13.8	11.9	15.1	11.5
Twice	6.7	3.4	8.5	4.5	6.1	5.1
3 or 4 times	5.6	2.6	6.2	3.5	7.1	3.0
5 or more times	5.3	2.6	8.4	3.9	9.4	3.6
Taken a car that didn't belong to someone in your family without permission of the owner.						
Not at all	92.3	97.0	92.9	96.2	91.2	96.2
Once	3.9	2.3	4.1	2.7	4.3	1.7
Twice	1.6	0.5	1.3	0.5	1.7	1.3
3 or 4 times	1.1	0.1	0.7	0.2	1.4	0.4
5 or more times	1.1	0.1	0.9	0.2	1.4	10.4
Gone into some house or building when you weren't suppose to be there.						
Not at all	69.3	84.2	67.1	78.2	65.9	82.5
Once	13.6	9.1	15.0	10.4	13.9	9.4
Twice	9.5	4.2	8.2	5.4	8.2	5.4
3 or 4 times	4.5	1.6	5.4	2.8	5.2	1.7
5 or more times	3.1	0.9	4.2	3.2	6.8	0.9
Set fire to someone's property on purpose?						
Not at all	97.7	99.9	97.3	99.4	94.1	99.1
Once	1.2	0.1	1.5	0.5	2.4	0.4
Twice	0.4	0.0	0.5	0.1	1.1	0.4
3 or 4 times	0.3	0.0	0.2	(a)	1.0	0.1
5 or more times	0.4	(a)	10.4	(a)	1.3	0.0
Damaged school property on purpose?						
Not at all	78.5	93.3	79.8	91.8	77.7	92.8
Once	9.9	4.2	10.6	5.3	8.6	4.3
Twice	4.8	1.6	4.6	1.6	6.2	1.9
3 or 4 times	4.1	0.5	2.4	0.8	3.3	0.7
5 or more times	2.7	0.5	2.6	0.5	4.2	0.3
Damaged property at work on purpose?						
Not at all	90.1	98.9	89.6	98.4	89.5	98.0
Once	4.3	0.8	5.4	1.1	4.4	1.2
Twice	2.6	0.3	2.6	0.3	2.6	0.4
3 or 4 times	1.8	0.0	0.8	0.1	1.4	0.3
5 or more times	1.2	(a)	1.6	0.1	2.1	0.1

TABLE 24-3. *Continued*

Argued or had a fight with either of your parents?						
Not at all	13.3	8.8	10.8	8.0	15.5	8.0
Once	11.2	10.4	9.6	6.7	11.8	7.3
Twice	10.7	12.5	12.6	9.2	12.2	12.1
3 or 4 times	26.2	22.9	23.8	23.9	18.5	22.1
5 or more times	38.6	45.3	43.2	52.2	42.0	50.5
Hit an instructor or supervisor?						
Not at all	94.9	98.7	95.8	99.0	94.3	98.3
Once	2.9	0.7	2.2	0.6	3.3	1.1
Twice	1.1	0.4	1.0	0.3	1.0	0.1
3 or 4 times	4.1	0.1	0.3	0.1	0.4	0.3
5 or more times	1.4	0.1	0.6	0.0	1.0	0.1
Gotten into a serious fight in school or at work?						
Not at all	75.3	89.6	77.6	86.6	78.4	87.0
Once	14.0	7.2	12.0	9.1	11.2	8.5
Twice	5.1	1.6	5.8	2.5	5.2	2.3
3 or 4 times	4.1	1.3	2.9	1.2	3.1	1.9
5 or more times	1.4	0.4	1.7	0.7	2.1	0.4
Taken part in a fight where a group of your friends were against another group?						
Not at all	78.5	86.1	75.6	85.5	71.0	85.5
Once	11.2	9.0	12.8	9.7	13.8	8.2
Twice	5.3	3.1	12.8	9.7	7.2	4.3
3 or 4 times	3.0	1.3	5.4	3.4	4.1	1.4
5 or more times	2.2	0.5	3.6	1.0	3.9	0.6
Hurt someone badly enough to need bandages or a doctor?						
Not at all	81.4	96.7	82.5	96.6	78.6	95.0
Once	11.9	2.5	10.2	2.2	11.1	3.0
Twice	2.9	0.5	3.0	0.8	4.1	1.4
3 or 4 times	2.5	(a)	2.7	0.3	2.9	0.5
5 or more times	1.5	0.2	1.6	0.1	3.3	0.1
Used a knife or gun or some other thing (like a club) to get something from a person?						
Not at all	95.2	99.0	95.6	99.0	91.9	99.0
Once	2.2	0.7	2.4	0.6	2.6	0.7
Twice	1.0	0.7	0.6	0.3	1.7	0.1
3 or 4 times	0.6	0.0	0.5	(a)	2.2	0.2
5 or more times	1.0	0.1	0.9	0.2	1.6	0.0

Continued

TABLE 24-3. *Continued*

Taken something not belonging to you worth under \$50?						
Not at all	61.5	77.2	57.8	74.7	59.9	76.5
Once	16.6	13.3	17.8	12.7	15.8	11.9
Twice	8.8	4.3	9.8	5.0	7.7	6.2
3 or 4 times	6.3	2.9	6.6	3.9	5.7	3.1
5 or more times	6.8	2.3	8.0	3.6	11.0	2.3
Taken something not belonging to you worth over \$50?						
Not at all	89.9	97.8	86.9	96.3	82.5	95.6
Once	5.7	1.0	6.3	1.8	7.6	2.3
Twice	2.0	0.5	3.0	1.0	3.4	0.6
3 or 4 times	1.3	0.4	1.3	0.4	2.1	0.7
5 or more times	1.1	0.2	2.4	0.4	4.5	0.9

Source: Adapted from Johnston, Bachman, & O'Malley (1983, 1993); Bachman, Johnston, & O'Malley (1988).

popular press despite the paucity of empirical evidence supporting the claim. The media's emphasis on the dark side of women's liberation created a "moral panic" (Smart, 1976), giving ammunition to a conservative backlash that challenged the legitimacy of second-wave feminist goals (equality between the sexes). Third, within criminology, the gender question was framed within the parameters of the liberation thesis (Howe, 1990), thereby marginalizing more critical challenges of criminological theories, especially those by feminists (Klein, 1973; Leonard, 1982; Smart, 1976).

4. ACCOUNTING FOR CRIMINAL OFFENDING PATTERNS

4.1. Dominant Paradigms

Mainstream explanations for criminal offending are drawn primarily from developmental, social learning, social (and self-) control, social strain, social ecology, and to a lesser extent labeling and rational choice perspectives.¹ Most of these approaches lay claim to general theory status. As such, each should be able to account for the criminality and/or conformity of both males and females. However, close examination reveals a lack of consideration for females and their experiences. Indeed, most theorizing about crime is generated from the experiences of male subjects (whether criminals or conformists) and then generalized to females. Females are treated as "the other," excluded from theories except (perhaps) as a contrast point for males (Naffine, 1986). Few of the dominant explanations for crime explicitly confront the gender-ratio problem or recognize deficiencies in theory generalizability (Chesney-Lind & Daly, 1988, p. 514; Kruttschnitt, 1996).

¹ Many feminist scholars have reviewed and critiqued early criminological writings about female offenders including Freud (1933), Glueck and Glueck (1934), Lombroso and Ferrero (1915), Pollack (1950), and Thomas (1907, 1923). Although it is clear that many current conceptions about female criminality may be traced to these theorists (Chesney-Lind & Shelden, 1992; Klein, 1973; Rasche, 1974; Smart, 1976), most contemporary criminological perspectives tend to ignore females entirely while claiming to be general theories of criminality.

We have too little space to devote much attention to each of these approaches (excellent critiques are supplied by Chesney-Lind & Sheldon, 1992; Leonard, 1982; Messerschmidt, 1993 and Naffine, 1986). However, a cursory review and brief feminist critique is warranted.

The basic premise of strain theories is that there is a disjuncture for some in society between positively valued goals (e.g., financial success, good jobs, social status) and the opportunity structures available to successfully achieve those goals. As stated by Merton (1938), Cohen (1955), and Cloward and Ohlin (1960), criminality is more likely to occur within the lower classes where legitimate opportunities are less available and illegal alternatives (and criminal subcultures) are apt to arise. Theorists either failed to consider how their theory would account for female criminality (e.g., in Merton's theory, females should be more strained and hence have greater involvement in crime than males) or explicitly excluded females from the theoretical framework because they didn't fit. Cohen, for instance, suggested that females are concerned with a narrower set of issues than males, specifically, relations with the opposite sex. When frustrated in their goals, females resort to getting their man in immoral ways (i.e., promiscuity). Their delinquency was not "real delinquency" (i.e., aggressive and violent) but puny and pitiful—sexual and emotional (Naffine, 1986). Similarly, Cloward and Ohlin discounted females from engaging in "real" crime because of their domesticity—it was neither necessary nor important for females to seek either legitimate or illegitimate opportunities. The fact that working class and many minority women worked out of economic necessity, confronted employment bias on a regular basis, and still had crime rates lower than their male counterparts neither illuminated nor challenged these theorists.

Social learning perspectives, including differential association (Akers, 1973; Sutherland, 1934) account for criminality as learned behavior. Criminality is acquired through a process of association and exposure to definitions favorable or unfavorable to the violation of law. Criminal behavior is reinforced or extinguished through the application of rewards or punishments. While somewhat more inclusive of females than other theories (e.g., Sutherland suggests that gender differences in socialization and control account for gender differences in crime and Akers argues that sexual deviance is related to problems with gender identification and sex-role behavior), social learning perspectives are not explicit about how gendered crime develops nor do they recognize that nonsexual kinds of crime, such as white-collar, are also gendered (see Chesney-Lind & Sheldon, 1992, p. 68).

Social control theory assumes that all are capable of crime. Hence, according to control theorists, the more interesting theoretical question to pose and answer is "Why do people conform?" (Hirschi, 1969, p. 10). Different versions of control theory emphasize different factors that produce conformity (i.e., a positive self-concept, high degree of self-control, stakes in conformity, strong social bonds to society); yet, the fact that females are overwhelmingly more conforming than males has *not* produced theories that begin with this empirical truth. Instead, the delinquency of males is the empirical and conceptual starting point for these theories. Hirschi (1969, pp. 35–36) recognizes the duplicity in this approach when he drops girls from his empirical analysis and offers the following disclaimer: "Since girls have been neglected for far too long by students of delinquency, the exclusion of them is difficult to justify. I hope to return to them soon."

More recent control theory developments have a mixed record on the gender issue. Sampson and Laub's (1993) age-graded theory of informal control, for instance, is exclusively based in the experiences of male offenders and a matched male control group of

nonoffenders. Gottfredson and Hirschi (1990, p. 148), on the other hand, note the stability of gender differences in rates of delinquency and suggest that such differences emerge early in life, "well before differences in opportunity are possible, and persist into adulthood, where differences in supervision by agents of social control are minimal." Consequently, they theorize that the gender ratio problem is "largely the result of crime differences *and* differences in self-control that are not produced by direct external control" (Gottfredson & Hirschi, 1990, p. 149, emphasis in original). Putatively, these differences are attributable to gender differences in children's susceptibility to socialization and parental initiative to recognize deviance and to discipline and control it. However, the authors suggest that "it is beyond the scope of this work (and beyond the reach of any available set of empirical data) to attempt to identify all of the elements responsible for gender differences in crime" (149).

Developmental theories, such as those advanced by Wilson and Herrnstein (1985), Fishbein (1990), Moffitt (1994), and Patterson, DeBaryshe, & Ramsey (1989), draw upon biological, psychosocial, and social factors to explain initiation and continued participation in criminal offending. Few of these authors focus exclusively on gender (an exception is Caspi, Lynam, Moffitt, & Silva, 1993); yet, different rates of participation in violence between the sexes is an empirical consideration that all confront in some way. Moffitt (1994), for instance, proposed two distinct pathways to delinquency. The pathway for life-course persisters is caused by neuropsychological problems that are exacerbated by parental inability to cope with the child's special needs and subsequent problems with social adjustment (a developmental path similar to that proposed by Fishbein, 1990). Life-course persisters become serious chronic offenders, behavior that continues into adulthood. These offenders, Moffitt claims, are almost always male, but she offers little explanation for why this is the case. The other pathway to delinquency emerges in adolescence and is the consequence of a maturity gap between biological maturation and the adolescent desire for, but exclusion from, adult privileges. The delinquency of "adolescent-limited" offenders is minor (e.g., status offenses such as drinking, truancy, smoking; minor property offending, getting into fights). The acts are a statement of defiance of, and "independence" from, adult authority and rules. Adolescent-limited offenders, both males and females, begin offending later than life-course persisters and cease offending in late adolescence as adult opportunities open up to them. Moreover, given the trivial nature of most of their delinquency, there has been no attenuation of the adolescents' bonds to conventional society.

While Moffitt's theory (and other developmental theories) acknowledge gender differences in juvenile crime, there are several noteworthy problems. First, although there are relatively few serious offenders among female adolescents, a recent cohort study (Tracy, Wolfgang, & Figlio, 1990) shows that black female violent crime rates are significantly higher than white female rates. For UCR violent offenses, black female rates are 5.5 times those of white females. Black females are also more apt to be chronic offenders. Therefore, Moffitt's explanation for life-course persistent offenders is not sensitive to potentially important intra-gender differences in crime. Further, although data would support Moffitt's claims that both males and females engage in adolescent limited offenses, it is not clear from her explanation how gender-specific differences would arise. Finally, if Moffitt's arguments are accurate, we would expect few adult females to engage in crime. Although gender differences in crime rates are greater in adulthood than they are during adolescence, adult females do engage in crime. Moffitt's theory offers little in

the way of understanding the situation of adult women and the offenses that they commit.

Labeling theory has generated two main arguments in criminology: deviance amplification and status characteristics. In the former, the deviant label is treated as an independent variable such that its application influences future involvement in crime (Lemert, 1951). In brief, the idea behind deviance amplification is that almost all engage in some acts of deviance (primary deviance) but, through the use of neutralizing techniques, manage to maintain a conformist self-image. However, when deviant acts are repetitive and highly visible, they are likely to come to the attention of authorities. This official reaction to deviance results in the application of a deviant label and the increased likelihood that the labeled person will incorporate that label into his or her conception of self and engage in further deviant acts (secondary deviance). From a feminist perspective, one of the key problems with these theoretical arguments rests in the presumption that primary deviance is evenly distributed in society and tends to be nonserious. This prediction is challenged by the empirical reality of crime. Primary participation rates clearly vary by gender (and race) and by crime seriousness.

Moving to the status characteristics argument, the theory predicts who will receive a deviant label (or more specifically, what category of persons are more likely be officially processed and hence officially labeled as a delinquent/criminal). According to Becker (1963), deviance is defined through the creation and application of rules (laws). Those who are more powerful in society create rules to control and manage the behavior of those less powerful. Thus, the lower class and minority members of society are more apt to have their behaviors criminalized and be officially labeled than upper-class and majority group members. Although equivocal, there is some empirical support for these predictions. However, the implications and failures of the theory regarding gender are clear: females are less powerful than males (Becker, 1963) and therefore should be labeled more often than are males. The empirical record fails to support this assertion.

Labeling theory has not been entirely rejected by feminists (see Chesney-Lind & Sheldon, 1992; Leonard, 1982) because, with modification, the ideas may lead to a better understanding of how gender affects the patterning of crime and the juvenile/criminal processing of offenders (e.g., Harris's ideas about typescripting, 1977). Chesney-Lind and Sheldon (1992, p. 70), for instance, note that the theory has given some direction to those "critical of 'status offenses' and other attempts to label women as deviant."

Social ecology theories of crime, such as those of Shaw and McKay (1972), examine the symbiosis between the physical environment of urban areas and its human inhabitants. Building on the work of Burgess (1928), who traces the development of the city from its core outward through a process of invasion, dominance, and succession, Shaw and McKay discovered that official delinquency rates followed similar developmental patterns. They were highest in areas near the core of the city (zones of transition) and successively lower in zones further from the core. Looking at the characteristics of the transition zones and the populations that lived there over time, Shaw and McKay theorized that the physical deterioration of an area and social disorganization of the population that lived there were linked. High rates of delinquency were symptomatic of the social disorganization of the area.

Although Shaw and McKay (1972) did make note of female delinquency rates in several cities and claimed that the female patterns, like those for males, were higher in the center city zones, the male rates were used throughout their works as "delinquency

rates" (Chesney-Lind & Shelten, 1992, p. 63). The theory also does not address why male rates in some cities were generally higher and less concentrated than those for females. If the social ecology of a place determines offending levels, the theory has little to say about why rates would be different for boys and girls.

The last dominant paradigm to be discussed, rational choice, has been roundly criticized by feminists in fields other than criminology (see, e.g., England & Kilbourne, 1990). In criminology, rational choice perspectives have emerged from deterrence and economic explanations of crime (see, e.g., Becker, 1968; Paternoster, 1987). The general assumptions of the perspective include the following: (1) the criminal offender is reasoned (rationality is bounded); (2) the decision to engage in crime occurs after the offender has weighed the costs and benefits of his/her action; (3) the offending decision is constrained by situational conditions and individual preferences (Cornish and Clarke, 1986; Nagin & Paternoster, 1993; Piliavin, Thornton, Gartner, & Matsueda, 1986). Some models, but not all (see Piliavin et al., 1986), have incorporated law, norms, and values into the decision mix (Bachman, Paternoster, & Ward, 1993; Grasmick & Bursik, 1990; Paternoster and Simpson, 1993, 1996).

Feminists have criticized rational choice perspectives on two grounds. First, women are generally excluded from consideration in the theory. Second, if included, they generally fail to live up to the predictions of the theory (Friedman & Diem, 1993, p. 92). In criminology, many of the studies that draw from a rational choice perspective either exclude females from the analysis altogether (Bachman et al., 1993) or, treat gender as a control variable (Paternoster, 1989; Nagin & Paternoster, 1993; Paternoster & Simpson, 1996) rather than pondering how the decision process may be gendered (an exception is Tibbetts & Herz, 1996). Even in studies in which gender effects are hypothesized, they are viewed as secondary to "more important hypotheses" (Piliavin et al., 1986, p. 110). The importance of interpersonal comparisons of utility within the theory, that is, situations that occur "when an individual attempts to assess the utilities that other individuals would have derived from alternative social situations and tries to compare these utilities with the utilities that she herself will derive from these alternative social situations" (Friedman & Diem, 1993, p. 112), which arguably are especially relevant for the way that women make decisions (England & Kilbourne, 1990), are not considered in the models.

4.2. Feminist Challenges

From a feminist perspective, the dominant paradigms in criminology have generally failed the gender ratio and generalizability tests (Daly & Chesney-Lind, 1988). Feminists have approached these failures in a number of ways. Some seek to modify the deficiencies of the dominant theories and/or rectify the male-centered research focus (Cernkovich & Giordano, 1987; 1992; Giordano, Cernkovich, & Pugh, 1986; Morash, 1986; Rosenbaum & Lasley, 1990). Others have turned to liberalism and Marxism to confront the gender difference problem (see Messerschmidt, 1986; Moyer, 1992; Simpson & Elis, 1996) or have looked outside of the discipline for answers—particularly to postmodern criticism (Cain, 1990b; Daly, 1997; Morris & Gelsthorpe, 1991; Smart, 1995) and/or ethnomethodology (Brod and Kaufman, 1994; Connell, 1987; Messerschmidt, 1993; Newburn & Stanko, 1994; Simpson & Elis, 1995; West and Fenstermaker, 1995).

Daly and Maher (1998) divide feminist criminology into two phases. In phase one, dominant paradigms were critiqued and more research was conducted on females to fill

the knowledge gaps about female offenders and victims. Feminists accomplished a great deal in this first phase by (1) exposing the discipline as androcentric; (2) making female offenders visible; (3) uncovering institutional sexism in the way crime was studied and the ways in which offenders and victims were treated; and (4) problematizing female conformity as natural and self-evident (Gelsthorpe & Morris, 1990, p. 3; Naffine, 1986; Young, 1996). By phase two, feminism had become more self-reflective. Problems with essentialism, the criticism, and in some cases rejection, of both feminist empiricism and standpoint feminism, and the abandonment of grand narratives (structures) shifted the intellectual arena for feminist criminologists.

... The major academic activities have been (1) to problematize the term *woman* as a unified category; (2) to acknowledge that *women's experiences* are, in part, constructed by legal and criminological discourses; (3) to revisit the relationship between sex and gender; and (4) to reflect on the strengths and limits of constructing feminist 'truths' and knowledge. (Daly and Maher, emphasis in original, 1998).

Although feminist critiques of criminology and criminal justice have paralleled one another with regard to phase one research, postmodern (or phase two) challenges have been directed primarily toward analyses of the criminal justice system (especially law; see Smart, 1989, 1995). Conversely, phase two criminological research has adopted ethnomethodological explanations to account for gender differences in offending. In the next section, phase one and two feminist research in gender and justice is reviewed. We conclude this chapter with a feminist interpretation of how crime is accomplished as a consequence of "doing gender."

5. FEMINIST TRANSITIONS: GENDER AND JUSTICE

Reluctance to include female offenders within discussions of social control has largely been explained by the low representation of female offenders in the criminal justice system. In 1995, for instance, adult female offenders composed only 9.7% of all state and federal prison admissions (Brown, Gilliard, Schnell, Stephan, & Wilson, 1996), and in 1991, only 18% of juvenile offenders in all types of facilities were female (DeComo et al., 1995). However, a closer examination of these statistics reveals at least two patterns. First, female offenders are institutionalized for less serious charges than male offenders (e.g., female status offenders were almost six times as likely as male status offenders to be placed in public facilities and twice as likely as male status offenders to be placed in a private facility in 1991; DeComo et al., 1995; Brenzel, 1983; Carlen, 1983; Dobash, Dobash, & Gutteridge, 1986; Rafter, 1985 for historical and cross-cultural statistics). Second, research on women in prison and juvenile institutions indicates that these offenders are disproportionately nonwhite and poor (Carlen, 1983; Dobash et al., 1986; Rafter, 1985).

In response to these patterns, feminist scholars have focused on several issues with regard to gender and social control, including (1) the relationship between informal and formal controls and gender (Hagan, Simpson, & Gillis, 1979; Schur, 1983; Smart and Smart, 1978); (2) the differential sentencing of male and female offenders (Chesney-Lind, 1973, 1986; Daly & Bordt, 1995); (3) the determinants of institutionalization (Brenzel, 1983; Carlen, 1983; Dobash, et al., 1986; Eaton, 1986; Freedman, 1981; Worrall, 1990); and (4) how the social control of women within the criminal justice system relates to their lives outside of the criminal justice system (Carlen, 1983; Eaton, 1986; Howe,

1994). Research addressing these issues represents both the contributions as well as the limitations of feminist criminology to explain and theorize about gender and social control (Carrington, 1990, 1994; Daly, 1997; Smart, 1995). In the 1970s and early 1980s, feminist criminologists established a place for women in the social control literature by exposing the differential treatment that women received compared to men (Freedman, 1981; Nagel & Hagan, 1983; Rafter, 1985) and by analyzing how the type and amount of social control was determined by prevailing stereotypes or typescripts of femininity (Chesney-Lind, 1973, 1986; Feinman, 1986; Merlo & Pollack, 1995; Moyer, 1992). Feminists in the late 1980s and 1990s, however, argue that these views of gender and social control are overly simplistic and fail to adequately address women as subjects of social control (Carrington, 1994; Daly, 1997; Gelsthorpe & Morris, 1990; Howe, 1994; Rafter, 1985; Heidensohn, 1995). To fully explore more the research on females and social control, we turn next to a discussion of the prevailing themes found within this literature and the ways in which these themes have been affected by developments in feminist theory.

5.1. Sexualization, Domesticity, and Medicalization

Sexualization, the ideology of domesticity, and medicalization dominate discussions of female offenders and social control and serve as guiding posts to theorizing how the criminal justice system has defined and reacted to female offenders historically as well as currently. Each of these themes is linked to two fundamental elements found in feminist interpretations of social control: patriarchy and the ideology of separate spheres. Since the 1960s, feminists have argued that the subordination of women and the devaluation of femininity is rooted in a culture and social structure dominated by male power. Patriarchy, in turn, creates and perpetuates the ideology of separate spheres, which not only distinguishes the private (i.e., family) from the public sphere (i.e., employment) but also designates women as responsible for the former (e.g., wife and mother) and men for the latter (e.g., breadwinner).

Patriarchy and the ideology of separate spheres specifically lay the foundation for controlling women's sexuality and for viewing women in terms of domesticity by creating images of true womanhood (Feinman, 1986; Freedman, 1981; Moyer, 1992). Prior to the late nineteenth century, women were often regarded as evil and were closely controlled by the church and the community for even the slightest acts of transgression (Dobash et al., 1986; Merlo & Pollack, 1995). Following the rise of capitalism and the ideology of separate spheres, women were redefined in terms of femininity (i.e., true womanhood). Good women, or Madonnas, internalized Victorian standards of sexuality and were expected to be good mothers, submissive wives, and moral guardians of the home, whereas bad women, or whores, blatantly disregarded these roles and were considered evil (Feinman, 1986; Moyer, 1992).

True womanhood became synonymous with the "nature" of women toward the end of the nineteenth century; consequently, explanations for female criminality switched from describing female offenders as "bad" to "mad" (Klein, 1973). Female offenders who, by definition, did not emulate the standards of good wives and mothers, were declared sick and in need of rehabilitation.² This pathological view of the female offender

² Female offenders charged with more traditional, masculine offenses were still considered evil but beyond rehabilitation (Rafter, 1985).

continued throughout the twentieth century, firmly establishing the idea that female offenders need medical (i.e., psychiatric) attention more than their male counterparts (Chesler, 1972; Dobash et al., 1986; Ehrenreich & English, 1978; Klein, 1973; Phillips & DeFleur, 1982; Rafter, 1985; Smart, 1976); however, the medicalization of female criminal behavior was often reserved for middle and upper-class women while their working-class counterparts faced criminalization more often (for a specific example of this class difference, see Abelson's historical analysis of shoplifting, 1989).

The application of these themes within research on gender and social control depends largely on the theoretical framework and feminist perspective being used in a particular study. A review of both the processing and imprisonment literatures highlights the different ways in which these themes have contributed to feminist interpretations of gender and social control within the criminal justice system.

5.2. Women and Sentencing

One of the more well-researched areas related to gender and social control is the processing of adult and adolescent female offenders. This research indicates that female offenders receive different treatment than their male counterparts in certain situations, but whether this treatment is harsher or more lenient seems dependent upon the age of the offender and the type and quality of the data used (Daly, 1987b). These factors also determine the extent to which sexualization, domesticity, and medicalization are related to social control decisions. Research on the arrest and processing of female adolescent offenders, for instance, attributes harsher penalties for female offenders to the control of sexual behavior and a double standard of morality (Campbell, 1981; Chesney-Lind, 1973, 1986; Mann, 1984; Shacklady-Smith, 1976), whereas more lenient sentences for adult female offenders is often explained by an offender's allegiance to the ideology of domesticity and her parental role (Carlen, 1983; Daly, 1987a; Eaton, 1986; Steffensmeier, Kramer, & Streifel, 1993).

Conclusions regarding the treatment of female offenders often depends on the methodological rigor of these studies. Although early studies on the processing of status offenders found harsh treatment for female offenders (see, e.g., Chesney-Lind, 1973), studies that controlled for relevant legal variables and that were conducted after the Juvenile Justice Delinquency Prevention Act in 1974 found less support for the differential treatment of offenders by gender (Bishop & Frazier, 1992; Johnson & Scheuble, 1991; Teilmann & Landry, 1981; for a discussion of subtle/indirect effects, see Bishop & Frazier, 1992; Zatz, 1987). Conversely, sentencing research consistently indicates that adult female offenders receive lighter sentences than male offenders (for reviews of this literature see Dale & Bordt, 1995; Nagel & Hagan, 1983; Steffensmeier et al., 1993) despite the changes in sentencing procedures (Nagel and Johnson, 1994; Steffenmeier et al., 1993) and the methodological limitations inherent in sentencing research (see Daly & Bordt, 1995; Hagan & Bumiller, 1983; Steffensmeier et al., 1993).

Several theoretical explanations have been offered to explain these findings. The chivalry/paternalism hypothesis is arguably the most longstanding explanation for the differential treatment of women and girls at all stages of the criminal justice process. Both chivalry and paternalism attribute lenient treatment to the attitudes and perceptions that male officials hold toward women. These officials view females as incapable of criminality owing to their feminine nature and attempt to shield or protect female offenders

from the harshness of the criminal justice system (Anderson, 1976; Moulds, 1980). Yet, paternalism and the need to protect female offenders can also result in harsher treatment for female offenders (i.e., institutionalization) in an attempt to protect female offenders from themselves (Nagel & Hagan, 1983).

Extensions of the chivalry/paternalism hypothesis include the evil woman hypothesis and typescripting theory (Harris, 1977; Nagel & Hagan, 1983). The evil woman hypothesis attempts to explain harsher treatment for female offenders compared to male offenders by proposing "... that women will be more harshly sanctioned because their criminal behavior violates sex stereotypical assumptions about the proper role of women" (p. 115). Typescripting theory expands the evil woman hypothesis by suggesting that females engaging in behavior consistent with stereotypes of female crime (e.g., shoplifting) will receive equal or lesser amounts of formal social control compared to males. On the other hand, females engaging in behavior consistent with stereotypes of male crime (e.g., murder) will receive more social control and will be more likely to be viewed in pathological terms relative to males (Harris, 1977; Harris & Hill, 1986; 1977; Phillips & DeFleur, 1982; Visher, 1983).

Another theoretical framework used to explain the differential treatment of male and female offenders is Black's (1976) assumption that formal social controls vary indirectly with informal controls. Based on this proposition, sentencing decisions depend on the number of individuals on whom an offender is dependent, since these relationships represent the amount and strength of informal controls. Kruttschnitt (1982, 1984) then integrated this proposition with the idea that informal controls play a more significant role in women's lives than on men's to support the contention that informal controls will be more influential in sentencing decisions for female offenders. Although she found support for the influence of informal controls for female offenders in her early research (1982, 1984), additional studies found few consistent patterns over time and no convincing gender effects related to the influence of informal controls (i.e., the influence of informal controls seems to affect both male and female pretrial and sentencing decisions; Kruttschnitt & Green, 1984 and Kruttschnitt & McCarthy, 1985).

Unsatisfied by the explanatory power of paternalism and informal controls, Daly (1987a) interviewed several criminal justice officials in an attempt to learn why gender differences may emerge in the course of 'doing justice' " (p. 267). Daly's interviews revealed that leniency was not necessarily related to the dependency of the offender on others but rather the dependency of others on the offenders (e.g., children and/or a spouse). In other words, defendants who were "familied" were more likely to receive a more lenient sentence than those who were "nonfamilied" (see also Eaton, 1986). Further, officials felt that women in the familial category (as long as they were good mothers) deserved greater leniency than familial men because their responsibilities were consistent with gender role expectations. Thus, Daly replaced paternalism with familial paternalism, arguing that court officials are more concerned with preserving the family (especially from a social cost perspective) than with protecting women from the system (Daly, 1987b, 1989a, 1989b).

Steffensmeier and associates (1993) then extended familial paternalism to the notion of "blameworthiness" to explain disparate sentencing found within the sentencing guideline structure in Pennsylvania. "Blameworthiness" incorporates both the familial position of the female offender and her motivation for the crime. Stealing money to feed her children will result in less blameworthiness than a single woman stealing for greed. Daly (1994) also found that individual cases were scrutinized closely and that "women's

biographies were constructed more often than men's with a theme of 'blurred boundaries' between victimization and criminalization" (Daly, 1994, p 163). Such biographies often led to different interpretations of the female offender in relation to her blameworthiness. Less blameworthiness and greater optimism in the potential to reform a woman, in turn, often resulted in less serious sentences for female offenders.

Differences in the treatment of female offenders ultimately leads to a discussion of sentencing disparity as warranted or unwarranted. Different treatment may be appropriate in light of the differences between men and women in offending patterns and in their societal responsibilities. Thus, uncritical acceptance of the equal treatment model is problematic. It assumes that the circumstances and actions that bring men and women to court are comparable, thereby perpetuating the notion that men represent the standard with which to compare women rather than viewing female offenders as subjects in and of themselves (Daly, 1994, 1995). It further assumes that harsher sentences are better for all offenders—a highly debated issue. Finally, the equal treatment model obscures gender interactions with race and class (Daly, 1989a; Gruhl, Welch, & Spohn, 1984; Spohn, Welch, & Gruhl, 1985), the severity of responses over time, jurisdiction variations, and discussion as to whether these sentences are just (see Daly, 1994, p. 163 and Nagel & Johnson, 1994 for more discussion of these issues).

In the same light, gender cannot be discarded from these discussions since seemingly neutral criteria, such as family and offender motivation, can still be gendered (see Daly, 1987a and Steffensmeier et al., 1993). Although family is heavily considered for both male and female defendants, children often have a greater impact on female defendant decisions because (1) females appearing before the court tend to have children more often than do male defendants; (2) being responsible for children is more consistent with role expectations for women than it is for men (i.e., men are traditionally the breadwinners of a family); and (3) such responsibilities signify greater reform potential.

Despite the contributions that this literature has made to understanding the relationship between gender and social control, critics suggest that it is limited in at least two respects. First, this literature has been dominated by quantitative analysis, which, in turn, has discouraged the use of other analytical techniques such as discourse analysis and case study approaches (for critiques and exceptions, see Daly, 1994, 1997; Eaton, 1986; Howe, 1994; Worrall, 1990). Second, its focus on sentencing obscures the inseparable relationship between processing decisions and the institutionalization of female offenders (Carlen, 1983). To address the interrelated nature of sentencing and institutionalization, we turn next to a review of the literature on gender and institutionalization.

5.3. Gender and Institutionalization

Critical studies of gender and institutionalization arguably began in the 1970s when researchers explored the treatment of female adolescent offenders relative to their male counterparts—especially status offenders. These studies consistently found that far more female than male offenders were charged with and institutionalized for these offenses (Brenzel, 1983; Odem, 1991; Rafter, 1985; Schlossman & Wallach, 1978). Each of these studies attributed this differential treatment, in large part, to a double standard of morality for male and female offenders (i.e., the "sexualization thesis"). Carrington (1990), however, questions this longstanding reliance on paternalism and the sexualization thesis to explain such treatment. She points out that these explanations are essentialist,

ignoring the influence of race and class on juvenile justice decisions, as well as discussions of wider social welfare issues that justify juvenile justice control over female sexuality (Carrington, 1990, 1994; see also Gelsthorpe, 1986 and Odem, 1991). Further, Carrington argues that the sexualization processes that operate within the juvenile justice system have been invoked primarily by mothers or female social workers rather than by a patriarchal family or male magistrate. Odem (1991), for example, discusses how poor single mothers in Los Angeles accessed the juvenile justice system to control their daughters' immoral and uncontrollable behavior. Gordon (1988) made a similar observation with regard to the regulation of child abuse and neglect in Boston at the turn of the century, and Chesney-Lind (1973, 1986; Chesney-Lind and Sheldon, 1992) noted the relationship between status offense referrals and a mothers' frustration with daughters whom they feel are uncontrollable (e.g., dating a boy of whom the mother does not approve). Thus, the sexualization thesis falls short of providing an accurate reading of the juvenile justice system's control of female delinquency. Such shortcomings require the "de-essentialization" of gender in feminist readings and the interpretation of sexualization within a variety of relevant discourses (Carrington, 1990; Gelsthorpe, 1986; Odem, 1991).

The ideology of domesticity and the sexualization of female offenses has also been used to explain the differential treatment of adult female offenders. In her history of women's imprisonment from 1870 to 1910, Estelle Freedman (1981) proposes that changing roles of women dramatically affected the ways in which female offenders were viewed and treated. Middle-class women became advocates for the redefinition of the female criminal, separate facilities for women offenders, and the rehabilitation of their working-class "sisters" according to the middle-class notions of domesticity and true womanhood. As a result, women's reformatories became a place in which working-class women were trained to perform domestic tasks and to become the moral protectors of the home. Freedman suggests that the development of separate institutions benefitted women prisoners but concedes that the treatment of women inmates, compared to male inmates, perpetuated the sexual inequalities found within a paternalistic society. Differential treatment, such as domestic rather than academic training, rehabilitation based on the internalization of traditional moral standards expected of a woman, incarceration for moral rather than criminal behavior, and indeterminate sentencing serve as the basis for Freedman's call to abolish the double standard of morality and to acquire equal services for women in prison.

In *Partial Justice* (1985), Nicole Rafter expanded upon Freedman's work by presenting a socialist feminist interpretation of the history of women's imprisonment. Specifically, she focused on the relationship between race, gender, and class and social control. Rafter stresses the widening divisions between social classes and the need to control a growing working class throughout the nineteenth and early twentieth centuries as critical factors in the establishment of women's reformatories. The goal of these reformatories for women was to rehabilitate them by controlling their sexuality and providing them with domestic training. By controlling their sexuality, middle-class women reinforced changes in gender roles, maintained the interests of a patriarchal society, and reified their own values and standards of true womanhood. By controlling the vocational training of women inmates, middle-class reformers supplied a cheap work force to a growing class of middle- and upper-class women.

Not all women offenders were placed in reformatories. Rafter identifies the development of a bifurcated system of social control: reformatories for white, minor offenders

and traditional, custodial prisons for women who committed more masculine types of crime and African-American women, who were classified as beyond reform. Based on her skin color, an African-American offender was perceived as the “. . . deceitful Dark Lady who, behind her apparent femininity, hid opposite traits: self-centeredness, the ability to scheme and use cunning, . . . and voracious sexuality” (p. 181). According to Rafter, both the differential treatment of female offenders and this bifurcated system of control obscure the issue of equal treatment for female and male offenders.

Dobash et al. (1986) built on Rafter's and Freedman's work by focusing on the development of women's prisons in England and Scotland and by approaching this development from a Foucauldian perspective. They argued that women prisoners were and are controlled, watched, and manipulated more than male prisoners via the therapeutic model and a network of institutions specifically created for female prisoners (e.g., refuges and reformatories). Dobash et al. addressed the widespread influence of the myth that female offenders are mentally ill on both penal ideologies and prison policies. Consequently, this myth creates the assumption that all female prisoners need psychiatric treatment and redefines the prison and prison staff in therapeutic terms. Ironically, however, Dobash et al. argued that despite the rhetoric of therapy contained within penal ideology, principles of discipline and punishment prevailed.

Following their therapeutic experience in prison, female inmates were often encouraged, and sometimes required to spend additional time in a refuge or reformatory (especially prostitutes and idle and neglectful women). Similar to the United States, these institutions were established in an effort to provide paternalistic guidance to prevent a woman from sliding back into a life of sin and crime. A comparable network of social control was not created for male prisoners, who were released upon the completion of their sentence. Thus, medicalizing the deviant behavior of women, defining it in sexualized terms, and strict adherence to the ideology of domesticity seem to encourage the differential treatment of offenders by gender, which often translated into more far-reaching control of women's lives than men's.

These historical accounts of women's imprisonment contribute significantly to our understanding of gender and social control but also serve as examples of the gaps still found in this area of research. Not only do these studies rely on traditional methodologies (e.g., comparative analysis) rather than questioning masculinist approaches and developing feminist methodologies (Howe, 1994), but they also illustrate how the social control of women is influenced by stereotypical images of femininity and traditional role expectations without presenting theoretical ideas that would require a paradigm shift in the way we view the social control of female offenders. Research on the contemporary use of social control responds, to some extent, to these limitations by using different approaches to theorize about gender and social control.

Carlen (1983), for example, takes a standpoint feminist approach to women's imprisonment. She interviewed 20 female inmates and several members of the prison staff at Cornton Vale in Scotland to uncover the relationships between the biographies of women prisoners and the discourses that constitute them, both in the courtroom as well as in prison. Carlen argued that discourses of family are used to evaluate the worthiness of women defendants. Regardless of the offense, good mothers and wives often receive community-based sanctions, whereas women who seemingly reject the ideology of the family receive imprisonment. Court and prison officials view these women as having the appropriate social control mechanisms in their lives but being beyond their control (i.e., “outwith”). Once imprisoned, they are defined in pathological terms and controlled via

notions of family and femininity; however, the contradictions inherent in prison discourse and action render these women failures at womanhood. Having been “. . . rejected in penal discourse as ‘real prisoners’, rejected by hospital alcoholic units as being without motivation; rejected by social workers as being outwith reform and beyond help; and rejected by psychiatrists as being outwith treatment and beyond cured” (p. 155), these offenders represent the women that no one wants.

Worrall (1990) is specifically interested in how court officials and psychiatric experts construct and control women offenders who do not fit into stereotypes by deconstructing the ways in which those in power construct “knowledge” about these offenders. Worrall contended that officials and experts normalize the “female conditions of existence” through discourses of domesticity, sexuality, and pathology. Magistrates interpret atypical female defendants within these discourses, solicitors use these discourses to represent their clients as “normal” women, psychiatrists assess their mental health within these discourses, and probation officers describe and react to them within these discourses. Ironically, female offenders who feel powerless and confined within these discourses reject them by “doing contradictory things and exploiting the contradictions of the gender contract” (p. 161), thereby increasing the extent to which discourses of domesticity, sexuality, and pathology are used to control and ultimately oppress them.

Both Carlen’s and Worrall’s studies problematize the model of equal treatment even further than the sentencing literature because they expose its contradictory meaning. This model presumes that equality in law and criminal justice treatment rectifies the disparities between male and female offenders; however, the model of equal treatment does not necessarily help women offenders because it neither acknowledges nor addresses gender-based inequality inherent within the larger social structure. Rather, the current state of unequal treatment potentially serves to reinforce traditional roles and expectations of women, especially for poor women, by using ideologies of sexuality, domesticity, and pathology to determine the type and amount of social control a woman will receive and the type and amount of training women offenders will receive when imprisoned.

Taken together, research on gender and sentencing and gender and imprisonment illustrates a slow progression from describing social control in paternalistic terms to a deconstruction of the “knowledge” used to define and assess women offenders. This research does not mark the end of the story, however. As Howe points out, “In sum, feminist analysts of the punishment of women still have a considerable way to go. They may have come to recognize that women’s prisons are . . . of theoretical interest. . . . But they have not taken what might be called the project of theorisation very far” (p. 159). Specifically, they have yet to fully address feminist questions about research methodologies, to explain how women’s criminal careers are circumscribed by gender, to explore wider issues related to the social control of women, and to explain the ways in which race and socioeconomic status impact the use of social control. Feminists need to expand their analyses to include postmodern interpretations of law, penalty, and social control (e.g., Smart, 1995; Worrall, 1991) and also to expand the bounds within which we understand the social control of women. In other words, our challenge as feminists exploring the social control of women is to develop a methodological framework separate from traditional masculinist approaches from which we can deconstruct the social control of women from not only their experiences within the criminal justice system but also from the “. . . the private prisons of docile yet rebellious bodies, drugged and tranquilized bodies, famished self policing bodies in which many women live their lives, ‘free’ of penal control” (Howe, 1994, p. 207).

6. GENDER, CRIME, AND JUSTICE: FUTURE DEVELOPMENTS

One promising direction for the study of gender, crime, and justice has emerged from work in ethnomethodology (Connell, 1987; West & Fenstermaker, 1995; West & Zimmerman, 1987). Linking social structures (e.g., division of labor, power relations, and sexuality) with individual experience and the situated accomplishment of gender, Messerschmidt (1993, p. 84) described the ways in which crime (which is overwhelmingly enacted by males) is "simply one practice in which and through which power over women can be naturalized." Differently situated males share with other men a construction of masculinity that is unique to their structural position in society. Hence, "different types of masculinity exist in the school, the youth group, the street, the family, and the workplace" (Messerschmidt, 1993, p. 84). The accomplishment of masculinity within these venues will differ according to the types of resources that are available to the males within them. Crime is a means of accomplishing masculinity when other resources do so are limited.

There are several benefits to theorizing about masculinities and crime: (1) it normalizes the aggressive and violent behavior of men; (2) it situates male behavior in the context of unequal power relations with men; and (3) because gender is viewed as an accomplishment—as "a practice," masculinity and femininity are not essentialized (Newburn & Stanko, 1994, pp. 3, 4). The convention in this body of work is to focus on masculinity; however, as more recent work by Messerschmidt (1995) and Simpson and Elis (1996) demonstrates, the accomplishment of gender and its relationship to crime is not an exclusively masculine process. Doing gender does not require crime and, in fact, "emphasized femininity" (Connell, 1987) may negate the practice of most kinds of crimes for females (Simpson & Elis, 1996). However, accomplishing femininity through crime as, say, a "bad girl" in a gang, also draws on and affirms the ways in which gender relations are accomplished (Messerschmidt, 1995). Thus, the approach helps to untangle the sex-ratio problem while also accounting for female conformity and/or criminality. It can also accommodate race and class differences with the notion of hegemonic and subordinated masculinities.³

Other feminists are less enamoured with ethnomethodological approaches. They either find the nonessential argument unconvincing (see, e.g., Collins, et al., 1995) or find the primary focus on masculinity disconcerting and ironic given the past exclusion of women from criminological theorizing (Chesney, Lind, 1995, pp. 85, 86). Others worry that the approach has been inappropriately theorized (i.e., using masculinity to theorize femininity) and quantified (Daly, 1997).

Based on some of these philosophical and epistemological divisions, it is unclear where feminist criminology is heading. Some critics suggest that the only way to transform criminology is to abandon it completely. Howe (1990, p. 7), for instance, argues that criminology is "beyond reclamation." Morris and Gelsthorpe (1991, p. 5) believe that the discipline is impoverished and have "looked elsewhere . . . to where feminists rather than criminologists are working for help in understanding and making sense of our work." Smart (1995, p. 32) casts an even dimmer view by characterizing phase one research as

³ Doing gender is employed by Martin and Jurik (1996) to account for the accomplishment of gender in the occupation of justice (policing, law, and corrections). Maher and Daly (1996) highlight how notions of masculinity (and ethnicity) permeate the illicit drug economy and contribute to the exclusion of women from lucrative opportunities in drug selling and distribution networks.

"misdirected" and suggesting that "the core enterprise of criminology is problematic." These views emerge primarily from postmodern challenges (Smart, 1995; Young, 1996).

Others, however, are more optimistic about the discipline, in part because they recognize some of the limitations of postmodern analysis (see Schwartz & Friedrichs, 1994 for an excellent review and critique of postmodern thought and criminology) or because their version of postmodernism renders the discipline "limited" and therefore amenable to feminist viewpoints (Young, 1996, p. 49). Carlen (1990), for instance, suggested that deconstruction is a useful analytical tool but that the privileging of feminist discourses over earlier "Truths" is a potential threat. Moreover, she took as given empirical realities that must be confronted by feminist criminologists (see also, Cain, 1990a). [In this, she draws from Harding (1986, p. 301) who argues that the dualisms rejected by postmodernism may be empirically false but "we cannot afford to reject them as irrelevant as long as they structure our lives and our consciousness."] One reality is that women are involuntarily processed and held by the criminal justice system. Feminists need to "suggest principled ways in which the criminal justice and penal systems might become more women-wise" (Carlen, 1990, p. 109). Cain (1990b, p. 6) offers a threefold strategy to "transgress" criminology through reflexivity, deconstruction, and reconstruction. Reflexivity is a strategy in which feminists recognize the real concerns of girls and women *and* the discourses that shape those concerns. Once recognized, it is necessary to deconstruct the internal illogic of the discourse and the manner and sites in which it is deployed. Finally, feminist criminology must help girls and women to move beyond the painful experience of living the dominant discourse (reconstruction). All of this involves female-centered research (so that women will not be compared to men); stepping outside of the discourse of criminology to understand how females live their lives (because criminological discourses have lead nowhere and we need to connect offenders, victims, and the criminal justice system to a broader picture); and ultimately, to "reintroduce men" into the study of crime, law, and criminal justice institutions because gender is a relational concept and the failure to do so repeats the essentialism trap (Cain, 1990b, p. 11).

Our own views are somewhat mixed on the feminist criminological enterprise. As empirical realists (Cain, 1990) and structuralists, we are uncomfortable with the rejection of social scientific knowledge (see also, Daly, 1997) and social structure. While postmodernism has added a compelling set of ideas to the study of crime and justice, we do not see exactly where postmodern interpretations will lead us. At the risk of being labeled equivocators, we argue for a middle ground. The investigation of gender, crime, and justice can only benefit from varied and diverse epistemologies and theoretical frameworks.

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