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The Alcoholic, the Probation Officer, and AA: A Viable
Team Approach to Supervision
The Perceptions and Attitudes of Judges and Attorneys
Toward Intensive Probation Supervision Arthur J. Lurigio

The Role of Defense D. Weintraub

The Youth Correction 105787-105799 as R. Kane

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This Issue in Brief

Community Service: A Review of the Basic Issues.—Triggered by the Federal Comprehensive Crime Control Act of 1984, the evolution of community service as a formal condition of probation has caused judges and probation officers to pay increased attention to the requirements of community service programs. Authors Robert M. Carter, Jack Cocks, and Daniel Glaser state that as various options are considered, basic issues must be identified, related to a system of judicial and correctional philosophy, and implemented in an atmosphere in which citizens have ambiguous feelings about community service as a sentencing option. In this article, the authors attempt to identify the basic issues and to place them in a frame of reference for practitioners.

The Alcoholic, the Probation Officer, and AA: A Viable Team Approach to Supervision.—Probation officers are encountering increasing numbers of problem drinkers and alcoholics on their caseloads. Most officers are not specifically trained to work with the alcoholic, and author Edward M. Read advances a practical treatment model for use in the probation supervision setting. The author stresses the necessity for an important re-education process which includes full acceptance of the disease model of alcoholism and an accompanying renunciation of several damaging myths still all too prevalent. Several techniques of countering the alcoholic denial system are discussed, and the author highlights the appropriate use of Alcoholics Anonymous in the supervision process.

The Perceptions and Attitudes of Judges and Attorneys Toward Intensive Probation Supervision.—In recent years the spectrum of criminal justice sanctions has widened to accommodate an intermediate sentencing alternative known as intensive probation supervision (IPS). In his study of the perceptions and attitudes of court personnel toward IPS in Cook County, Illinois, author Arthur J. Lurigio found that, overall, judges and public defenders viewed IPS favorably, whereas state's attorneys were essentially unwilling

to accept IPS as a viable option to prison. According to the author, the success of IPS programs often hinges on developing effective strategies to promote the program so that it appeals to the various elements in the criminal justice system.

The Role of Defense Counsel at Sentencing.—This article establishes the duties and obligations of defense

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Gender Differences in the Sentencing of Felony Offenders

BY JANET B. JOHNSTON, THOMAS D. KENNEDY, AND I. GAYLE SHUMAN*

A LONG WITH recent attempts to link changes in the nature and extent of female criminality with the women's movement (Adler, 1975; Simon, 1975; Smart, 1977), there has been increasing interest in differences in sentencing patterns between male and female criminal defendants. It is generally recognized that the sexes are treated differentially in the courtroom (Crites, 1978; Kanowitz, 1969; Steffensmeier, 1980), but there is disagreement as to why (cf. Kruttschnitt, 1982; Moulds, 1978) and whether such differences favor men or women.

A few studies report that women are treated the same as or more harshly than men (Bernstein, Kick, Leung, and Schultz, 1977; Foley and Rasche, 1976; Hagan, 1974), an outcome consistent with the punitive evil woman thesis that predicts harsh sanctions for women when their criminal behavior violates gender role expectations (Chesney-Lind, 1978). On the other hand, in some states women are disfavored as criminal defendants due to legislation that "specifically prescribes more severe sentences for women for the same offense, and special statutes call for indeterminant [sic] sentences for women" (Tjaden and Tjaden, 1981:76). Based apparently on a paternalistic and protectionist attitude (i.e., the chivalry thesis), such statutes have resulted in more severe sentences for women (Clements, 1972; Ross, 1973; Temin, 1973).

The preponderance of the evidence suggests, however, that consistent with the traditional interpretation of the chivalry/paternalism thesis¹ (Pollack, 1950), women receive preferential judicial treatment over men irrespective of the sentencing structure used and across most offense categories (Babb and Furgeson, 1967; Bernstein, Cardascia, and Ross, 1979; Kritzer and Uhlman, 1977; Moulds, 1978; Nagel and Weitzman, 1971, 1972; Scott, 1974; Singer, 1973; Swigert and Far-

rell, 1977). In their excellent review, Nagel and Hagen (1983) concluded that the relation of gender to court processing varies from stage to stage: (a) other things being equal, women are more likely than men to be released on personal recognizance, but bail amounts appear to be unaffected by gender; (b) prosecution, plea negotiations, or conviction decisions are not systematically affected by gender; and (c) in sentencing, women receive preferential treatment (e.g., probation versus prison) although the effect of gender is small relative to other factors such as prior record and offense severity. Steffensmeier (1980:349) also found that sentencing outcomes produce "the most clear-cut pattern of preferential treatment [in] that women are less likely than men to be committed to prison."

Steffensmeier (1980) argued, however, that chivalry is a relatively unimportant variable in explaining gender differences in sentencing outcomes. Since women are known to commit fewer and less serious offenses and, therefore, to have milder criminal records (cf. Crites, 1978), the general finding that women tend to receive more favorable judicial dispositions may be an artifact of inadequate attempts to control for seriousness of offense and prior record, two variables known to be correlated with processing outcome. To address this problem more precisely, Fenster and Mahoney (1981) compiled a sample of male and female codefendants adjudicated in a felony court. They found that as the criminal backgrounds of the pairs became more homogeneous (i.e., similar prior records or no prior records), their dispositions became more similar, yielding no statistically significant differences. Nonetheless, when codefendants received differential dispositions, men were more likely to receive the harsher sanction, although the tendency was greater when the pairs' prior records were dissimilar than when they were similar.

Using discriminant analyses to control for the interactive effect of a number of criminal justice variables—including offense seriousness, prior record, and offense

¹The literature most commonly pits the evil woman thesis against the chivalry/paternalism thesis. Nagel and Hagen (1983:134-135) suggest, however, that the two may be corollaries rather than opposites, and that future research might best explore conditions under which evidence of both is manifest.

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This article was adapted from a presentation at the annual meeting of the Southwestern Psychological Association, Fort Worth, Texas, April 1986. The research was conducted with the cooperation of the Maricopa County Adult Probation Department. The authors wish to thank especially Rob Payne, Judicial Information Systems Supervisor, without whose assistance and advice the research would not have been possible. Requests for reprints should be sent to Thomas D. Kennedy, School of Justice Studies, Arizona State University, Tempe, AZ 85281.

characteristics—Tjaden and Tjaden (1981) found some preferential treatment for women consistent with previous research, but that much of the difference was related to the different types of crimes committed. Offenses charged for females piled up in the larceny, drugs, and fraud/forgery categories. Because of the differences in the type of criminality, the authors reasoned that characteristics surrounding the commission of offenses would also vary between male and female offenders—with male offenses more likely to involve the use of a weapon and to result in victim injury—and that these characteristics “distinguish males from females more readily than differential treatment by the criminal justice system” (Tjaden and Tjaden, 1981:86).

Thus, in addition to the variables of offense seriousness and prior criminal record noted by a number of researchers as important determinants of judicial outcomes, characteristics surrounding the offense—most notably weapons use and victim injury—may be an important factor in understanding gender differences in the processing and sanctioning of criminal defendants. The present study provides a preliminary examination of this notion by investigating the relationship between offense seriousness and sentencing disposition of first-time “nondangerous” felony offenders found guilty of serious crimes against persons and property.

Felony Offense Classes and Sentencing Options

Arizona's recently enacted determinate sentencing law is well-suited for testing gender sentencing differences across a wide spectrum of serious person and property crimes in which neither probation nor prison is precluded as a sentencing option. Furthermore, although defendant's criminal backgrounds may vary, they may be treated by the court as technically similar for purposes of sentencing. Among other things, major objectives of the new criminal code which became effective on October 1, 1978 were to: (a) reduce judicial discretion and sentence disparity through a standardized schedule of presumptive sentences for different classes of offenses; (b) prescribe just and deserved sentences in proportion to the nature and severity of the offense; and (c) increase the certainty of punishment by imprisonment through longer, mandatory sentences for dangerous and repetitive felony offenders (cf. De Graw, Twist, and Gerber, 1977; Gerber, 1977a, 1977b; Gerber, Twist, and Chambliss, 1978; Kennedy, 1987).

The new code incorporates six felony classes. First degree murder is treated separately as a Class 1 felony carrying a mandatory term of imprisonment or the death penalty.² The sentencing options for the remaining five felony classes can “best be described as a two-tiered presumptive sentencing system (Gerber et al.,

1978:17). There is one set of sentencing options available for first-time, “nondangerous” offenders and a second set for repeat and/or “dangerous” offenders. Dangerous offenders are those who use or exhibit a deadly weapon or dangerous instrument, or who intentionally or knowingly inflict serious physical injury upon another. There is a critical distinction between these two tiers: Only first-time, nondangerous offenders are eligible for probation;³ repeat, nondangerous offenders, and all dangerous offenders, are probation ineligible—judicial discretion is preempted by legislatively mandated terms of imprisonment.

Imposition of the repeat and dangerous offender provisions requires, however, the allegation and proof by prosecutors of a prior conviction or the dangerous nature of the felony. It is through these new code provisions that the discretion lost by judges shifted to prosecutors, giving them greatly increased latitude not only to amend charges but to stipulate sentences through plea negotiations that “crucially shape the eventual sentence range all the way from probation to flat-time imprisonment” (Gerber, 1977b:34).

Thus, for example, a suspect with an alleged prior felony conviction charged with a violent crime in which it is alleged a dangerous instrument was used, would face a substantial mandatory prison term if convicted and sentenced under the repeat and dangerous offender provisions. Because the allegations may be difficult to prove and time consuming, a prosecutor may enter into a plea agreement that stipulates a prison term—most likely of a shorter duration—and drops all allegations. If the agreement is approved by the court, the defendant would be sentenced as a first-time, nondangerous offender. By the same token, as a first-time, nondangerous offender before the bar, the individual could be sentenced to a term of probation if provided for in the agreement and approved by the court. Alternatively, the sentencing decision—probation, jail, or prison—could be left to the discretion of the sentencing judge.

In essence, then, defendants sentenced in accordance with the standardized schedule of presumptive sentences for first-time, nondangerous offenses may, in fact, have been first-time, nondangerous offenders or repeat offenders whose crimes involved weapons use and/or victim injury. Technically, however, those fac-

²Second degree murder was upgraded to a Class 1 felony carrying a mandatory term of imprisonment in 1985.

³Those convicted of child molesting and certain narcotics offenses are exceptions to the first offense probation eligibility rule (cf. Gerber et al., 1978:18). Probation terms for a Class 2, 3, or 4 felony are for the same number of years (i.e., 7, 5, and 4 years, respectively) as the presumptive prison terms for first-time, nondangerous offenders. The term of probation for a Class 5 or 6 felony is 3 years, whereas presumptive prison terms for these two felony classes are 2 and 1½ years, respectively.

tors are set aside for sentencing purposes, thereby providing a natural control for prior record and, in Tjaden and Tjaden's (1981) terms, characteristics surrounding the crime. Thus, with the range of sentence severity greatly narrowed we did not expect to find any major patterns of differences between the sentences of male and female offenders convicted of crimes of similar seriousness.

Data and Methods

The data utilized in this research were extracted from sentencing tapes of the Maricopa County Law Enforcement Judicial Information System by the Maricopa County Adult Probation Department located in Phoenix, Arizona. Maricopa County is the state's most populous county containing approximately 55 percent of the state's total population. From 1979-83, the Maricopa County Attorney's Office recorded, on the average, 52 percent of the state's total felony filings (Arizona Supreme Court, 1979, 1980, 1981, 1982, 1983).

The data pool consisted of all convicted felony offenders sentenced either to probation, jail, or prison in Maricopa County Superior Court from 1979-83 as *first-time, nondangerous* offenders whose conviction offenses could reasonably be coded according to the eight Part I Index Crimes of the FBI *Uniform Crime Reports*. Since males outnumbered females six-to-one over the 5-year period, computer generated random samples of males for each year were obtained with the constraint that any year's sample of males would approximately equal the total number of females sentenced for that year. This procedure yielded a total of 1,249 males for the 5-year period as compared to the 5-year total of 1,241 females. Table 1 shows the distribution of Part I offense convictions by gender. As can be seen in table 1, approximately one-third of the total convictions were for crimes against persons, with the percentage of women slightly below and for men slightly above the average. Conversely, approximately two-thirds of the total convictions were for property crimes, with women being slightly above the average and men slightly below. Overall, males and females are remarkably comparable in terms of the nature and severity of offense convictions, with the overall seriousness of female criminality being slightly less than that of males.

Consistent with previous research (Katzenelson, 1978; Nagel and Weitzman, 1971), males were convicted more often of "masculine-type" crimes (robbery and burglary) while women were more likely to be convicted of "feminine-type" crimes such as larceny-theft. There are exceptions to this generalization, however, as table 1 reveals. For other so-called masculine-type crimes, men and women were essentially equally re-

TABLE 1. COMPARISON OF MALE AND FEMALE DEFENDANTS BY CONVICTION OFFENSE

Conviction Offense	Male		Female		Total	
	n	%	n	%	n	%
CRIMES AGAINST PERSONS						
<i>Homicide</i>	16	1.3	43	3.5	59	2.4
<i>Rape</i>	57	4.6	7	0.6	64	2.6
<i>Robbery</i>	95	7.6	74	6.0	169	6.8
<i>Aggravated Assault</i>	260	20.8	265	21.4	525	21.1
Subtotal	428	34.3	389	31.5	817	32.9
PROPERTY CRIMES						
<i>Burglary</i>	449	35.9	337	27.2	786	31.6
<i>Larceny-Theft</i>	310	24.9	472	38.0	782	31.4
<i>Motor Vehicle Theft</i>	56	4.5	31	2.5	87	3.5
<i>Arson</i>	6	0.5	12	1.0	18	0.7
Subtotal	821	65.8	852	68.7	1673	67.2
TOTAL	1249	50.2	1241	49.8	2490	100.0

presented in convictions for assault and women were convicted of homicide almost three times more often than men. The assault and homicide findings may be due to preferential treatment accorded to women during plea negotiations as discussed below. That is, ignoring the sentencing distinction between dangerous and nondangerous offenses, men are convicted of aggravated assault and homicide approximately nine times more frequently than women. Since only nondangerous convictions are included in the present analysis, the atypical proportions of women in these two crime categories may have resulted from a bargaining process that allows female defendants to plead down to nondangerous offenses more readily than male defendants.

The Part I Index Crimes are comprised of those serious violent and property crimes considered as most representative of the trend of criminal activity across the country. They are well-known and commonly understood and, accordingly, they were used in the present research as a convenient schema for classifying conviction offenses. Still, they are broad offense categories and do not include many of the less serious crimes for which the majority of women—as well as men—are ar-

rested and processed by the courts,⁴ and they are defined in general terms that may vary extensively from legal definitions. Further, in the present case, some offenses were included in the index crime categories that go beyond those designated by the FBI.⁵

In comparing the treatment received by male and female offenders in the criminal justice process, one pre-sentence variable and two sentence variables were examined using bivariate relationships and analyses. As plea negotiations frequently entail charge modifications, differential treatment at this stage of the process is likely to influence sentence outcomes. Thus, the manner in which guilt was determined—by plea or trial—and whether pleas to the original charge as opposed to pleas to a reduced charge differed between the sexes—were examined. To explore the clearest pattern of favorable treatment received by female offenders (i.e., the lower likelihood of being sentenced to prison) the sentence dispositions of probation, jail, and prison were compared across offense seriousness. Finally, the average length of probation, jail, and prison sentences between the sexes were compared.

Results and Discussion

Plea Negotiations

Nationwide the overwhelming majority of felony cases that meet prosecutors' charging standards are settled through plea negotiations. Since these negotiations typically involve charge bargaining as well as sentence bargaining, agreements at this critical stage of processing are likely to have profound implications for the eventual disposition of cases, particularly in terms of sentence severity, and to be a major source of differential sentence outcomes between female and male defendants. The data presented in table 2 reveal that 98.1 percent of all cases were resolved through pleas—either guilty pleas to the original charge or to a lesser charge—or to no contest pleas. Compared to male defendants, females were slightly more likely to employ no contest pleas and to have their cases determined by jury or bench trials.

⁴See Steffensmeier (1980) for methodological shortcomings in this area. In the present research, 65 percent of the total sample was convicted of the two least serious felony classes (Classes 5 and 6). Some Class 6 felonies may be treated as "open-ended" offenses, wherein at the successful completion of a term of probation a felony conviction is reduced to and recorded as a misdemeanor. Respectively, 51.7 percent and 61.1 percent of the male and female defendants were convicted of Class 6 felonies, with approximately 40 percent of those felonies classified as open-ended offenses.

⁵For example, the crimes of manslaughter and negligent homicide are included in addition to the index crimes of murder and nonnegligent manslaughter. Similarly, forcible rape includes sexual assault and sodomy, either of which may be strong-arm or occur with a gun or weapon. The index crime of burglary involves breaking or entering; for present purposes, the possession of burglary tools is included. The index crime of motor vehicle theft excludes boats, airplanes, or construction equipment, but they are included here.

TABLE 2. COMPARISON OF TYPE OF GUILT DETERMINATION BY GENDER

Guilt Determination	Male		Female		Total	
	n	%	n	%	n	%
<i>Plead Reduced</i>	619	49.6	685	55.2	1304	52.4
<i>Plead as Charged</i>	504	40.4	399	32.2	903	36.3
<i>No Contest</i>	108	8.6	128	10.3	236	9.5
<i>Trial</i>	18	1.4	29	2.3	47	1.9
TOTAL	1249	50.2	1241	49.8	2490	100.0

Table 2 also shows that the great majority of cases (88.7 percent) were determined by guilty pleas to the original charge or to a lesser charge, two plea options that are of particular importance in shedding light on the issue of differential treatment by gender. As can be seen in table 2, women were more likely than men to have outcomes determined by pleas to reduced charges than to original charges. This difference was highly significant, $\chi^2(1) = 14.86, p < .001$, suggesting that female defendants received preferential treatment during plea negotiations. More favorable treatment accorded to female defendants at this stage of prosecution may, in turn, account for the slightly less overall serious nature of female criminality than that of males as reflected in conviction offenses (cf. table 1). If so, the two groups appear to be comparable in terms of the nature and severity of crimes committed and, by inference, in terms of original charges.

Quantitative data on the effect of gender on the favorability of plea bargains is sparse and inconclusive. Consistent with present results, Crites (1978) found that women more often than men had their charges reduced. On the other hand, using multivariate analyses and controlling for a number of relevant variables, Bernstein, et al. (1977) found gender unrelated to the magnitude of the reduction in charge severity (relative to the reduction possible), and Sterling and Haskins (1980) reported that gender had trivial effects on charge reduction. Nagel and Hagan (1981) maintain, however, that until research takes into consideration the strength of the prosecutor's case, the role that gender plays in plea negotiations cannot be accurately assessed.

Sentence Disposition

Those who maintain that women defendants receive preferential judicial treatment argue that women are more likely to receive leniency once convicted of a felony offense. That is, they are more likely than men to receive a term of probation or other alternative sen-

tence than to be incarcerated (cf. Nagel and Hagan, 1983; Steffensmeier, 1980). As can be seen in table 3, present findings are consistent with this perspective. Overall, males were almost twice as likely to be sentenced to prison as females. Comparing total incarceration (jail and prison) with probation, proportionately fewer women (17 percent, $N = 208$) than men (28 percent, $N = 354$) were incarcerated and, conversely, more women than men received probation grants. This difference in sentence dispositions between genders was highly significant, $\chi^2(1) = 47.78, p < .001$.

Table 3 also shows that while prison and probation sentence dispositions varied greatly across the eight conviction offense categories, the differential between men and women was always in the same direction. That is, the percentage of men sentenced to prison by conviction offense category always exceeded the percentage of women. Conversely, women were more often sentenced to probation than men, and in no offense category was there a reversal of this difference. Ironically, for the one crime that is generally thought to be peculiar to men—that of rape—women were almost as

likely to be sentenced to prison as men. In fact, this was the smallest difference between groups out of the eight offense categories.

Jail dispositions present a different picture. For the offense convictions of robbery and assault (more "masculine-type" crimes), women were more likely to be sentenced to jail than men. But for property crimes (more "feminine-type" crimes), men were more likely than women to go to jail, although the proportions were equal for the crime of burglary. Thus, jail dispositions were generally consistent with the thesis that women tend to be treated more harshly when their criminal behavior violates sex role stereotype assumptions (cf. Chesney-Lind, 1978). However, the small numbers involved weaken the suggestion.

Sentence Length

Studies of gender differences that have included sentencing outcomes as a dependent variable have, with few exceptions, focused on type of sentence disposition (e.g., suspended sentence, probation, prison). Consequently, there is a relative dearth of empirical evidence concerning the severity of the disposition between sexes as measured by sentence length (cf. Bernstein, et al. 1977; Crites, 1978; Nagel and Weitzman, 1971; Pope, 1975). Similar to present findings, previous studies typically report that sentence lengths for women offenders are shorter than for men.

The distribution of sentence lengths in years for male and female offenders with type of sentence disposition collapsed are shown in table 4. Because of the small numbers involved, sentence lengths over 5 years are combined into two blocks: 6–10 years and 11–15 years. As can be seen, proportionately more women than men

TABLE 3. COMPARISON OF MALE AND FEMALE SENTENCE DISPOSITIONS BY CONVICTION OFFENSE (AS A PERCENTAGE)

Conviction Offense	Gender	Sentence Disposition				
		Prison	Probation	Jail	Total	
<i>Homicide</i>	Male	50	50	0	100	(N=16)
	Female	37	63	0	100	(N=43)
<i>Rape</i>	Male	46	54	0	100	(N=57)
	Female	43	57	0	100	(N=7)
<i>Robbery</i>	Male	51	49	0	100	(N=95)
	Female	35	64	1	100	(N=74)
<i>Aggravated Assault</i>	Male	14	82	4	100	(N=260)
	Female	7	86	7	100	(N=265)
<i>Burglary</i>	Male	21	75	4	100	(N=449)
	Female	8	88	4	100	(N=337)
<i>Larceny-Theft</i>	Male	25	70	5	100	(N=310)
	Female	13	83	4	100	(N=472)
<i>Motor Vehicle Theft</i>	Male	16	73	11	100	(N=56)
	Female	6	88	6	100	(N=31)
<i>Arson</i>	Male	50	50	0	100	(N=6)
	Female	8	92	0	100	(N=12)
Totals	Male	N 305	895	49	1249	
		% 24	72	4	100	
	Female	N 155	1033	53	1241	
		% 13	83	4	100	

TABLE 4. COMPARISON OF SENTENCE LENGTH IN YEARS BY GENDER (AS A PERCENTAGE)

Sentence Length	Male	Female	Total
1	11.4	15.4	13.4 (N=333)
2	20.1	23.0	21.5 (N=536)
3	40.0	38.8	39.4 (N=982)
4	11.4	10.2	10.8 (N=269)
5	11.6	10.2	10.9 (N=272)
6-10	5.0	2.1	3.5 (N=88)
11-15	0.7	.2	0.4 (N=10)
Totals	N 1249	1241	2490
	% 50.2	49.8	100

received the two shortest terms. With the longer sentence lengths—those of 3 years or more—the percentage of men exceeded that of women with two exceptions: the two sexes were equally represented at sentence levels of 10 (two each) and 15 years (one each).

Table 5 presents mean prison, probation, and jail sentence lengths (in years) for males and females. Inspection of the sentence means reveals that, for each type of disposition, men received longer terms than women. An analysis of variance of sentence lengths yielded significant results, $F(2, 2487) = 292.11, p < .0001$. Comparisons of the differences between mean sentence lengths by sentence disposition revealed that: (a) prison terms of males and females did not differ, $t(458) = 1.56, p > .10$; (b) the term of probation of males was significantly longer than that of females, $t(1926) = 2.57, p < .01$; and (c) males received significantly longer jail terms than females, $t(100) = 2.72, p < .01$. Thus, although women tended to fare better than men across all sentence types, the differences were small (on the order of 4 months) and the sexes were not statistically different in terms of the severest penal sanction—time sentenced to prison.

TABLE 5. COMPARISON OF AVERAGE SENTENCE LENGTH IN YEARS FOR MALE AND FEMALE OFFENDERS BY SENTENCE DISPOSITION

Sentence Disposition	Gender	Mean	S.D.	N
Prison	Male	4.11	2.52	305
	Female	3.76	2.16	155
Probation	Male	2.95	1.12	895
	Female	2.81	1.18	1033
Jail	Male	0.48	1.00	49
	Female	0.10	0.17	53
Totals		2.97	1.62	2490

Conclusion

Although providing a measure of control for prior record, seriousness of conviction offense, and characteristics surrounding the offense (i.e., weapons use and victim injury)—variables known to be correlated with sentencing outcomes and often found to moderate differences in the treatment of males and females in the criminal justice system—present results reveal a consistent pattern of preferential treatment of female defendants. Compared to men, women were accorded leniency in charge bargaining, prison confinement, and sentence length. There was no evidence that women were treated more harshly than men, although when comparing the most severe penal sanction—length of

prison term—women were treated no differently than men. This latter finding is consistent with the conclusion reached by Nagel and Hagan (1983) that preferential treatment is more likely to be observed in the less severe sentencing options whereas fewer gender differences are found when examining variation in the more punitive sentencing outcomes. Similarly, Simon and Sharma (1978) found that for most offense categories women received more lenient outcomes, but that for some violent types of crimes the sexes were approximately equal in their likelihood of receiving long terms of imprisonment, suggesting an interaction effect between sex, type of offense, and sentence outcome.

The results of the present study may be due less to preferential treatment by prosecutors and judges, however, than to a number of other factors beyond our control that differentiate between male and female defendants. All defendants were technically processed and sentenced as first offenders, yet the data source did not distinguish between those who in fact had prior felony convictions and those who did not. In addition there was no way to tell whether previous criminal activity when present was of a dangerous or nondangerous nature. Nonetheless, prosecutors and judges are aware of defendants' criminal histories, and it would be unreasonable to assume that prior criminality when present did not exert some influence on charging and sentencing decisions within the parameters set by the criminal code's standardized sentencing schedule and variances for mitigating and aggravating circumstances. Since it is more common to find career or habitual criminals among men and since men tend to be more violent than women, it would hardly be credible to find no differences under these circumstances. In examining the effect of gender on the question of whether defendants spent any time incarcerated, Nagel, Cardascia, and Ross (1980) found that the adverse effect of a prior record was stronger for males than for females.

Likewise, defendants' motivations and degree of culpability were not discernible from the sentencing tapes. According to Feinman (1980), women charged with Part I property crimes other than larceny/theft are often accomplices or accessories to male-initiated crimes and, therefore, less likely to be sentenced as severely as their male counterparts. Part I violent crimes (e.g., homicide and aggravated assault) committed by women often occur spontaneously in reaction to being beaten and are motivated by self-defense. Because these violent crimes usually are not premeditated and involve mitigating circumstances, women are more likely to receive less severe sanctions than men who commit similar offenses.

Arguably, consistent, albeit small, differences found

between male and female defendants in the present research are as readily explainable by reliable differences between the sexes as by preferential treatment by the criminal justice system. It may also be that determinate sentencing, based on the ideal of equal treatment for all offenders regardless of race, class, or sex, and designed to reduce sentence disparities, may be another factor in the trend toward the diminution of sex differences in the treatment of adult criminal defendants discussed by Steffensmeier (1980).

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