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Feminism in Criminology: Engendering the Outlaw

By DANA M. BRITTON

ABSTRACT: This article assesses the progress of and prospects for feminism in criminology. The focus is on the last 25 years of feminist research and theorizing about women offenders, victims, and workers in the criminal justice system. A general overview is provided of the directions of this scholarship, and key debates between mainstream and feminist perspectives are reviewed. The article also examines the contributions of feminist activists both within and outside the discipline to concrete social change for women victims and offenders. The article closes with a discussion of emerging trends in feminist criminology. New research and theorizing about women's experiences with crime challenge and subvert the traditional divisions and domains of mainstream criminology.

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CRIMINOLOGY remains one of the most thoroughly masculinized of all social science fields; certainly, it is one of the last academic bastions in which scholars regularly restrict their studies to the activities and habits of men without feeling compelled to account for this (Rafter and Heidensohn 1995). The reason lies, at least in part, in the fact that criminology is in possession of one of the most consistently demonstrated findings in all of the social sciences: as long as statistics have been collected, they have revealed that men are considerably more likely than women to engage in activities defined as criminal. Students are thus attracted to criminology courses by the promise of studying dangerous men; so, too, have scholars been fascinated for decades by the allure of the male outlaw, "hoping perhaps that some of the romance and fascination of this role will rub off" (Chesney-Lind 1995, xii).

In this context, the phrase "feminist criminology" may well seem something of an oxymoron. However, while the vast overrepresentation of men as criminals has served some as a rationale for ignoring women, for others, it has been a point of departure for considering them. The founding of feminist criminology can be somewhat arbitrarily fixed at 1976, with the publication of Carol Smart's *Women, Crime and Criminology: A Feminist Critique*. Though a handful of earlier works had addressed some of the general themes she raised, Smart's book brought them together in a systematic critique of the treatment (or lack thereof) of women offenders in main-

stream criminology and the neglect of women's experiences as victims in an attempt to set out some directions for the new field of feminist inquiry.

Almost 25 years later, a substantial body of research has accumulated in the areas specified in Smart's pioneering work, and the field has moved considerably beyond these boundaries. As has been the case for many disciplines, however, the feminist revolution in criminology is still incomplete. Some universities do now routinely offer courses like "Women and Crime," and the Division on Women and Crime has taken its place among other specialty sections in the American Society of Criminology. Even so, these labels bespeak the marginalization of feminist criminology, which is still regarded, by and large, as something outside the mainstream. Feminist criminologists have made great strides in terms of adding women in at the margins of the discipline, but they have, as yet, been less successful in deconstructing its central frames of reference and theoretical and methodological assumptions (Morris and Gelsthorpe 1991).

As is the case in most areas of academic feminism, there is ongoing debate over what the aims of feminist inquiry in criminology should be and over what counts as work that can carry the name. I will not attempt to resolve this debate here. The emerging subject divisions in the field are easier to discern. Feminist criminology may be divided into work that focuses on women as criminal offenders, women as victims of crime, and women as workers in the criminal justice system. Reviews of the field

generally do not include the third category, which is something of a hybrid, attracting scholars from both criminology and the sociology of work. I will focus here, however, on all three areas, attempting to give readers a very brief sense of what we know, a review of some key work and important debates, and a sense of the directions in which the field seems to be moving. I will conclude with a discussion of some of the central challenges that remain for feminist criminology.

Before moving on, a caveat is necessary. Although I have referred to the discipline thus far as if it existed as a unified set of frameworks and assumptions, this is not really the case. There are a wide variety of theoretical and methodological perspectives in criminology, and some (for example, critical, interactionist, and Marxist approaches) have been more receptive to feminism than others. My focus here, however, will be on the mainstream in criminology, which I take to be a set of theoretical and methodological frameworks and empirical studies aimed at understanding the etiology of crime (a category taken to be a given) and proposing, implementing, and evaluating methods of crime control. This kind of criminology has historically been very closely allied with state mechanisms of social control, and it is the state that provides the lion's share of research funding in these areas. Therefore, while one might accurately say that there are a variety of criminologies currently extant, mainstream criminology is clearly hegemonic and has most thoroughly marginalized feminist research and

theory. It will be my focus in the analysis to follow.

WOMEN AS OFFENDERS

Women are vastly underrepresented as criminal offenders. Of course, any data claiming to represent the facts about crime are always the end product of an interaction between the responses of social control authorities and the behaviors of the individuals involved. Even so, there is no serious dispute among criminologists that the extant data substantially misrepresent the actual sex ratio of criminal offending. The primary source of such data, the Uniform Crime Reports (UCR) program of the Federal Bureau of Investigation (FBI), reports detailed information on eight index crimes (these are homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson). Women composed 26 percent of those arrested for these offenses in 1997. The UCR also reports statistics for less serious offenses, which constitute the bulk of all arrests. For men and women, these offenses are consistently similar, with larceny-theft (a category largely of petty theft, including shoplifting), simple (nonaggravated) assault, drug offenses, and driving under the influence of alcohol (DUI) topping the list for women in 1997, accounting for 45 percent of women's arrests. For men, the top four offenses were drug crimes, DUI, simple assault, and larceny-theft, composing 38 percent of men's arrests (Maguire and Pastore 1999).

These data indicate that men and women are actually quite similar in terms of the offenses for which they are most often arrested and that the majority are crimes that most would view as petty, for example, larceny-theft. The most striking difference is the absolute level of men's and women's offending. Although larceny-theft accounts for 16 percent of arrests of women, men's arrest rate for this crime is almost 2.5 times higher. Data for violent offenses illustrate this pattern in much clearer detail. In 1997, women were only 16 percent of those arrested for the index offenses of homicide, forcible rape, robbery, and aggravated assault (known collectively as the index of violent crime). Men's arrest rate for homicide was 9 times higher than women's; for rape, 83 times higher; for robbery (defined as the taking or attempted taking of property by force or fear), 10 times higher; and for aggravated assault, 5 times higher. The only offenses for which women's arrests exceed men's are prostitution, for which women are 60 percent of those arrested, and running away from home (a juvenile offense), for which girls were 58 percent of those arrested in 1997.

Arrest rates vary by race as well. In 1997, whites were 63 percent of those arrested for all index offenses; African Americans were 35 percent. For violent index offenses, whites accounted for 57 percent of arrests, versus 41 percent for African Americans. The FBI does not publish arrest statistics by sex and race. We do know, however, that African American men and women are over-represented among those arrested.

Studies of unpublished UCR data and self-reports show that African American women have higher rates of arrest and participation in homicide, aggravated assault, and other index offenses than white women (Simpson and Elis 1995). For some offenses, such as larceny-theft, arrest rates for African American women most closely match those for white men (Chilton and Datesman 1987); black men's arrest rates are the highest; white women generally rank at the bottom, regardless of the offense.

This statistical picture illustrates some of the challenges facing feminist criminology. The sex ratio of offending is remarkably constant, which seems to indicate the need for theory that would account for why it is that women are so much less likely than men to offend. Indeed, this was the place that criminology, when it considered women at all, often began. Paradoxically, however, rather than being viewed as successes, women have been seen by mainstream theorists as aberrant because they do not commit crime. Newer feminist work in this vein has viewed women's conformity in a somewhat more positive light, relying, for example, on Carol Gilligan's theories of moral development to suggest that women's "ethic of care" makes them less likely to offend (Steffensmeier and Allan 1996). Even a cursory examination of the statistics on sex and race, however, reveals the dangers that can come from viewing women as a unitary category. Differences in arrest rates between African American and white women are often dramatic, and

feminist criminology has only just begun to grapple with the implications of these differences (Daly and Maher 1998). Even more problematic is the almost complete lack of data about criminal offending among other racial groups, such as Asian or Hispanic women.

The first studies of women and offending that fell, at least putatively, in the realm of feminist criminology appeared in 1975, with the publication of Freda Adler's *Sisters in Crime* and Rita James Simon's *Women and Crime*. Though these books differ slightly in focus, both make the same general theoretical argument, which has come to be known as emancipation theory. Adler and Simon both contended that women's lower rates of participation in criminal activity could be explained by their confinement to domestic roles and by discrimination that limited their aspirations and opportunities (Daly and Chesney-Lind 1988). With the advent of the women's movement, the situation could be expected to change, however. Adler saw increasing participation in violent crime as inevitable as women became more like men as a result of their social and political emancipation. Simon believed that opportunities created by women's higher levels of formal labor market activity would lead to higher arrest rates for property and occupational crimes, such as fraud, larceny, and embezzlement. Adler did consider race, arguing that black women's higher rates of participation in crime could be explained by their more liberated status: "If one looks at where Black women are as criminals today,

one can appreciate where white women are headed as liberated criminals in the coming years" (154).

This argument has obvious appeal for opponents of the feminist movement, but empirically, the theory has received very little support. While women's rates of violent crime have increased, in absolute terms, their rates relative to men's have not changed substantially since 1960 (Steffensmeier 1995). Contrary to popular mythology, there is simply no evidence of the large-scale existence of a new, more violent female offender (Maher 1997). Women's rates of property offending relative to men's have increased since the 1960s, but almost all of the increase has come from higher rates of arrest for larceny-theft, mostly shoplifting (Chilton and Datesman 1987). Rather than reflecting expanding opportunities, however, this increase is more likely due to women's increasing economic marginalization and changing views of women by social control authorities (Morris 1987). There is also no evidence that women with more feminist attitudes are more likely to be criminal; in fact, the opposite is true (Simpson 1989). Although there is now fairly broad consensus that Adler's and Simon's work would not fall within the purview of feminist criminology (Morris and Gelsthorpe 1991; cf. Brown 1986), these books did put women's crime on the empirical agenda for the discipline, and they were groundbreaking in their attempts to build a theory that would explain men's as well as women's crime.

In addition to documenting the levels of women's criminal offending,

feminist criminologists have drawn attention to women's (and men's) treatment by police, the courts, and the prison system. Contradicting popular stereotype, studies of women's experiences with the criminal justice system have revealed that women do not benefit, at least not uniformly, from chivalry at the hands of police, prosecutors, and judges. In some instances, such as juvenile status offenses, girls are subject to much harsher treatment than boys (Chesney-Lind 1989). Some research reveals that African American women receive more negative treatment by police, are more likely to be sentenced to prison, and receive longer sentences than white women (Mann 1995), although there is still considerable debate around this issue. A series of studies (for example, Daly 1987) has shown that women who are married and have children do sometimes receive more leniency than other defendants. This effect is double edged, however; women who do not conform to traditional stereotypes of wives and mothers or who are perceived to shirk their responsibilities may be dealt with especially severely (Morris and Wilczynski 1994).

The kinds of quantitative studies reviewed here have provided some answers to the question of how women's rates of offending and treatment by the system compare to men's and, as such, are a crucial first step. This equity approach (Cain 1990) has been guided largely by liberal feminist precepts, conceptualizing gender as an independent variable and seeing men and women as essentially equal and therefore deserving of

equal treatment (Daly and Maher 1998). The fundamental limitation of such a strategy is put best by Cain (1990):

Equity studies do not enable us to pose the question whether or not even absolutely equal sentences might be unjust . . . too high or too low in themselves, or [whether] behaviour . . . should not, from some standpoints at least, be subject to penalty. A concern with equity leaves the substance of what is being equalised un-analysed. (2-3)

This kind of liberal feminist approach poses men as the criminal yardstick and equates justice with equality. Larger questions about the processes of criminalization of some acts, rather than others, and the inherent justice or injustice of the system are left unanswered. Such studies also fail to question the meanings and active construction of the categories of sex, race, and class, taking them simply as givens.

More recently, a substantial body of ethnographic and interview research has appeared that takes as its central focus the construction and meaning of such categories. This work has substantially deepened our understanding of the lives of women involved in crime. Mirroring overall trends in feminist theory, the best of this work is moving toward a nuanced and contingent conception of women's agency, one that sees women neither exclusively as victims nor as unfettered actors. Lisa Maher's richly textured ethnographic study of women involved in street-level sex and drug markets (1997) is a particularly good example. Maher convincingly demon-

strates that the women she studies are not liberated drug kingpins, but nor are they mindless slaves, willing to sink to any depth of depravity to serve their addictions. Rather, they actively work within the constraints of the male-dominated informal economy, rarely controlling significant resources; they perform a range of gender-typed tasks, such as "coping" (buying) drugs for customers fearful of being arrested. While women do sometimes initiate violence, they are more likely to be the targets of victimization by police, male partners, and "tricks."

Feminist research and theorizing on women's offending has also been closely connected with activism. This has been the case on a number of fronts but has perhaps been most visible in the area of women's imprisonment. America is in the throes of an imprisonment binge—since 1990, our prison population has grown by about 6.5 percent per year. Women constitute only about 7 percent of those incarcerated, but their rates of imprisonment have been rising much faster than men's. Between 1988 and 1997, arrests for men increased by only 11 percent, and the number of men incarcerated increased by 96 percent. For women, the situation was much starker: arrests increased by 40 percent, and women's prison population increased 146 percent. This increase fell particularly heavily on Hispanic and African American women, whose rates of incarceration, respectively, are 3.5 and 8.0 times those of white women (Maguire and Pastore 1999).

Advocates for women in prison have been instrumental in bringing

these facts to light and in generating public concern over women's rising rates of imprisonment. They have also brought about practical changes that have improved the lives of women inmates, including the elimination of some laws that imposed harsher (indeterminate) sentences on women, the expansion of medical services, improvements in job training and educational opportunities, and even some in-prison nurseries, such as the pioneering program at New York's Bedford Hills (Price and Sokoloff 1995). This work has also generated serious policy alternatives that take into account men's and women's different life histories (for example, women in prison are six times more likely to report prior sexual abuse than their male counterparts), the context of their offending (women are much more likely than men to be first-time offenders or to have committed only nonviolent offenses previously), and women's much lower rates of recidivism compared to men (Chesney-Lind 1996; Davis 1997).

WOMEN AS VICTIMS

As in the case of offending, women are underrepresented as victims of crime, at least as victimization is measured by the statistics most widely used by criminologists. The primary source of data derives from the National Crime Victimization Survey (NCVS), conducted annually since 1973 by Census Bureau personnel for the Bureau of Justice Statistics. The NCVS is administered to approximately 101,000 individuals, who are asked questions about their

crime victimization. NCVS data consistently show that men are more likely to be victimized by all kinds of violent crime than are women, except rape and sexual assault. Men's overall rate of violent crime victimization in 1997 was 45.8 (per 1,000 population aged 12 years or older); women's was 33.0. Data on homicide, collected by the FBI, show that men are three times as likely to be victims.

NCVS data also indicate that African Americans and Hispanics are more likely to be victims of violent crime than whites and that the young and those with lower incomes also have higher rates of victimization. Unlike the UCR, the NCVS does publish victimization statistics that are disaggregated by sex and race combined, and the dramatic differences they reveal again demonstrate the danger of treating women (or men) as a unitary category. For homicide, white women have the lowest rates of victimization; African American women's rates are about four times higher, and African American women are more likely even than white men to be victims. African American men's rates of homicide victimization—eight times higher than those of white men—starkly testify to an epidemic level of violence, as does the persistent finding that for violent crimes other than homicide, African American men are about one and a half times as likely to be victims as white men. Among women, African Americans are generally much more likely than whites to be victims of all kinds of violent crime; generally, their rates of victimization most closely match white men's rather than white women's.

Feminist criminology has perhaps made its greatest impact on mainstream criminology in the area of women's victimization. The realm in which this has happened, however, has been somewhat limited, as the literature has generally focused on the kinds of offenses of which women are most likely to be victims. As the foregoing data suggest, rape has been a central concern and so, too, has intimate violence. NCVS data indicate that, although women's levels of violent victimization are lower than men's overall, their victimization is much more likely to be personal; from 1992 to 1996, women were five to eight times more likely than men to be victimized by intimates (Maguire and Pastore 1999). Though there is little question that women face specifically gendered violence of this kind, concentrating only on these offenses has had the effect of highlighting the differences between men and women as victims and excludes an analysis of the ways in which other kinds of victimization (which account for far more incidents overall) may be gendered (Chesney-Lind 1995). Even so, feminist research in these areas has clearly been influential; mainstream criminology texts now invariably include sections on rape and intimate violence, and many discuss feminist empirical work and theory.

Unlike studies of female offenders, which did exist before feminist criminology drew attention to them in the 1970s, there simply was no comparable research in mainstream criminology on women's experiences of victimization or on the crimes that disproportionately affect women. A

rare exception is Menachem Amir's *Patterns in Forcible Rape* (1971). Although this was one of the first attempts to untangle the dimensions along which rape offending varies (for example, sex, race, class, circumstances), the study paid no attention to the experiences of the victims themselves. The effect of this omission becomes particularly clear in Amir's introduction (or perhaps official legitimization) of the concept of "victim-precipitated" rape, which he claimed accounted for about 19 percent of the cases in his study:

[Victim-precipitated rape occurs in] those rape situations in which the victim actually, or so it was deemed, agreed to sexual relations but retracted before the actual act or did not react strongly enough when the suggestion was made by the offender(s). The term applies also to cases in risky situations marred with sexuality, especially when she uses what could be interpreted as indecency of language and gestures, or constitutes what could be taken as an invitation to sexual relations. (266)

Feminist critics, both within and outside criminology, quickly charged that this notion clearly placed criminology in collusion with the rapist, who can apparently claim sexual access whenever he deems that his victim has aroused him (Schwendinger and Schwendinger 1983).

The first influential feminist studies of women's victimization appeared during the 1970s and focused on wife battering and rape. Susan Brownmiller's work (1975), in particular, is a deft synthesis of mainstream criminological research on rape offenders (including Amir's

study) with a radical feminist perspective that views rape as the *sine qua non* of men's control of women under patriarchy. Both in content and in timing, these early feminist accounts posed a powerful challenge even to radical criminology, which was rising to prominence during the 1970s. At the heart of the radical perspective was a view of crime as resistance to class and race domination (Taylor, Walton, and Young 1973) and a conceptualization of the offender as the "rogue male" using the only resources available to him in fighting an unjust system. Radical criminologists were caught off guard by the rising tide of radical feminist research on the experiences of women who disproportionately suffered at the hands of such outlaws (Gelsthorpe and Morris 1988). Roger Matthews and Jock Young, two leading British radical criminologists, have admitted that feminist research convinced them of "the limits of the romantic conception of crime and the criminal" (Matthews and Young 1986, 2). Subsequently, radical criminology has taken a more "realist" turn, attempting to come to terms with women's victimization as well as the fact that the poor and working classes are disproportionately the victims of crime (DeKeseredy 1996).

Unlike research on women's offending, which has been guided largely by liberal feminist ideas and methodologies, women's victimization has been a central issue for radical feminists. The relationship with mainstream criminology has been an awkward one, complicated both by radical feminism's antipositivist assumptions and by its advocacy of

social change. Modern mainstream criminology, born at the turn of the twentieth century, is also called the positivist school. To oversimplify, this means that most traditional criminologists have used the tools of the scientific method, such as the social survey and statistical methodology, to document what has been conceptualized as a universe of pre-existing social categories. Such inquiry has been framed as value neutral, and it posits the discovery of facts about the social world as an eventual goal. In criminology, scholars have gone about measuring crime and victimization as if these behaviors were readily apparent, uncontested, and invariant in their meaning across social groups. The equity studies discussed previously are examples of this approach, and some of its limitations have already been noted.

Radical feminists take this critique one step further. Radical feminist accounts, like Brownmiller's, have argued that violence against women cannot simply be equated with the victimization of men but, rather, that it takes on a different meaning in the context of a social system in which men are dominant over women. Thus women's violence against men is not the same as men's violence against women. Radical feminists have also pointed to the role of social institutions (such as the criminal justice system and the family) and social norms around sexuality and violence in working together to erase and normalize women's victimization. As a result, victims of rape and battery are often persuaded that such things are either normal or

justified, and their victimization may not be apparent, even to themselves. This stance clearly renders any mere quantification of experiences of victimization necessarily incomplete. In addition, radical feminists have argued for the use of research as a tool for social change, a position also at odds with mainstream criminology.

Fault lines have formed around a number of issues, but the ongoing debate over statistics on women's victimization is a particularly apposite case. As noted earlier, the NCVS serves as the primary source of victimization data used by criminologists. Yet before 1992, this instrument did not query sample respondents specifically about rape or sexual assault, asking instead only whether they had been "beaten up" or attacked in other ways. Nor did the survey specifically attempt to measure victimization in the home, inquiring only whether "anyone" had committed violence against the respondent. An extensive redesign process, prompted in part by criticisms from feminist advocacy groups (although general methodological criticisms had also been raised by others), led to the inclusion of questions specifically about rape as well as an item addressing victimization in the home. After the redesign, overall estimates of personal victimization increased by 44 percent, but rape and sexual assault victimization rates increased by 157 percent. The new instrument also produced a 72 percent increase in women's reporting that they had been victimized by intimates, and a 155 percent increase in reports of victimization

by other relatives (Bachman and Saltzman 1995). There is little doubt that the statistical picture has become a more accurate one.

Even so, criminology has remained resistant to the implications of radical feminism's assumption that women may not see violence against them in terms of standard legal categories, such as those used in the NCVS. Much feminist empirical work on women's victimization has employed substantive definitions of these acts, asking respondents in general terms if they, for example, have had sex against their will due to force, threat of force, or incapacity to consent. Such studies typically yield higher prevalence estimates than those reflected in official statistics. For example, while 14.0 percent of the ever-married women in Russell's sample (1982) reported incidents of victimization by their husbands that fit the legal definition of rape, only 0.9 percent of these women mentioned these experiences when asked directly if they had ever been the victim of a rape or an attempted rape. Such research has been the subject of a considerable backlash from critics, however, who typically rely on official statistics, such as the UCR and NCVS, to assert that feminists have vastly inflated the extent of women's victimization.

A second area of dispute has arisen around the radical feminist assumption that any analysis of victimization is incomplete without an understanding of the patriarchal context that shapes the meaning of these acts (Hanmer and Maynard 1987). The implication of this critique is that any simple count of

events, no matter how accurate, will necessarily fail to tell the whole story. Perhaps the best example of this controversy is the debate over statistics on rates of partner or spousal violence, which has crystallized recently around the mutual combat hypothesis. Briefly, this notion arose from research employing an instrument (the Conflict Tactics Scale) that directs respondents to count instances of their own use of a wide spectrum of physically aggressive techniques against their partners during marital or relationship conflicts (Straus, Gelles, and Steinmetz 1980). Surprisingly, studies using this instrument indicate that women are just as likely to use physical violence as men. This result has been offered as a fundamental challenge to feminist constructions of marital violence as a problem experienced primarily by women in the patriarchal context of marriage. Calls for attention to the problem of battered husbands have followed, and the mutual combat hypothesis has achieved wide cultural and disciplinary currency. Criminology texts now largely refer to "partner" or "spousal" violence; I recently reviewed a criminology textbook-in-development that began the section on violence in marriage by framing the problem as one of mutual combat.

Feminist critics have responded that the context in which violence is experienced is crucial. Women are much more likely than men to use violence in self-defense, more likely to be injured by acts of intimate violence directed against them, more likely to feel seriously threatened by it, less likely to be able to effectively

defend themselves, and less likely to have the resources to leave violent relationships (Nazroo 1995; for a review, see Gelles and Loeske 1993). Again, this controversy illustrates the uneasy relationship between criminology's positivist tradition and the antipositivist implications of the assumptions that undergird radical feminist research and theorizing on women's experiences of violence. A similar controversy exists in research on fear of crime, an area in which women's much higher rates of expressed fear are seemingly unaccounted for by their lower rates of victimization. Pioneering work by Elizabeth Stanko (1990) and others, however, has revealed that much of women's victimization is hidden (that is, not accounted for by official statistics), routine, and socially legitimated (Madriz 1997) and that women have ample reason to express high levels of fear.

As in the case of women offenders, activism both within and outside the discipline has been instrumental in framing women's victimization as a legitimate social problem and in making concrete changes in the criminal justice system. Presumptive arrest policies regarding domestic violence incidents, now in place in the majority of U.S. jurisdictions, were prompted in large part by empirical research conducted by criminologists (Sherman and Berk 1984). While such a strategy represents an important symbolic step, indicating that such violence is finally being taken more seriously by the system, subsequent research (Sherman 1992) indicates that such policies are not working as well as

their proponents had hoped, and in some cases, they appear to increase the chances of repeat violence. Debate and research within criminology continue to be influential in shaping policy in this area. Other significant legal and political changes include revisions in laws defining rape or sexual assault; the passage of "rape shield" laws, which do not allow the discussion of victims' sexual histories in court; and the recent passage of the Violence Against Women Act, which defines gender-based victimization as a hate crime and allocates increased funds for battered women's shelters, rape crisis centers, and policing and research efforts directed to reducing the number of crimes against women.

WOMEN AS WORKERS

During the last 25 years, increasing numbers of women have entered criminal justice occupations. Most research to date has addressed women's experiences in policing, prison work, and law, and these will be my focus here. Before the 1970s, few women were employed in any of these jobs. A variety of factors eased women's entry. As has been the case with most male-dominated occupations, legislative change and legal pressure have been most influential; Title VII and the Equal Employment Opportunity Act formally opened all of these occupations to women. Title IX was also important for women in law, as it struck down policies that had either barred them from law schools entirely or kept their numbers to a minimum. Even so,

administrators, coworkers, and clients did not immediately welcome women. Lawsuits challenging recruitment and promotion practices, among other things, were necessary to fully open the doors for women's entry (Martin and Jurik 1996).

Women have also benefited from demographic changes. The sheer number of people employed in all of these jobs has increased dramatically over the last two decades, and women have filled the gap as the supply of male workers has not been adequate to meet the rising demand. This effect has been particularly dramatic in prison work. Between 1983 and 1995, the number of staff in prisons and jails increased 187 percent, but the number of female staff almost quadrupled, increasing by 372 percent (American Correctional Association 1984; Maguire and Pastore 1999). Additional factors, specific to law, policing, and prison work, have also contributed to women's increasing representation in these fields. By 1998, women constituted 12 percent of all police officers, 24 percent of all prison officers, and 34 percent of all attorneys (Bureau of Labor Statistics 1999).

Increasing access has not necessarily meant equal rewards. There is a considerable wage gap in each occupation; women's incomes in policing are only 86 percent of those of their male counterparts; in prison work, 89 percent; and in law, 70 percent. The relatively smaller gaps in policing and prison work are undoubtedly due to the fact that the employer in these cases is the government, a labor market sector in which

recruiting and promotion practices are at least somewhat formalized. Law, on the other hand, is practiced in highly diverse settings, each with its own set of employment practices and its own reward structure. Regardless, women in all three occupations are likely to be found at the lowest rungs of their respective occupational ladders. In policing, for example, women are 16 percent of municipal officers but only 7 percent of state police (National Center for Women in Policing 1999). Women in prison work continue to face blocked access to supervisory positions (Britton 1997), and women in law are concentrated in the least prestigious specialties (for example, family law and public defense) and work in the lowest-paid settings (Pierce 1995).

While there have always been women criminals and women victims, until a quarter-century ago, there was a paucity of women working in criminal justice occupations. What this means is that, although mainstream criminological research existed on police, prison workers, and attorneys prior to 1975, these studies essentially focused on "the men and their work" and lacked an analysis of gender. Subsequently, a considerable volume of literature on women in criminal justice occupations has appeared. I will not attempt to cover the literature on each occupation here (for a review, see Martin and Jurik 1996). Two clear, though sometimes overlapping, areas of research have emerged in studies of women's experiences in all three occupations, however. The first has involved a focus on difference, asking questions about how or whether women

perform their jobs differently from men and about the unique gendered characteristics women bring to their work. The second line of research has contended that these jobs and the organizations in which they are performed are themselves gendered and has looked at the ways in which gendered organizational structures, ideologies, policies and practices, interactions, and worker identities assume and reinforce inequality.

Theoretical and empirical work in the first vein is in some ways a response to critics who have long argued that women, on account of their gender, do not possess the characteristics necessary for success in these heavily masculinized and male-dominated occupations. As a male attorney interviewed by Pierce (1995) put it, "I think Clarence Darrow once said women are too nice to be lawyers. I think he was right. It's not that I don't think women are bright or competent—they just don't have that *killer* instinct" (26). Similar, and usually less charitable, sentiments can be found in both popular and academic discussions of the role of women in prison work and in policing. Research from the difference perspective has attempted to turn this critique on its head, arguing that women are not the same as their male counterparts but that the gendered qualities that they bring with them are actually assets.

In some ways, this line of argument represents a return to the discourse employed by women criminal justice system reformers of the nineteenth century. Claims that women were simply inherently better able to

deal with women victims, suspects, clients, and prisoners were largely successful in persuading state and local governments to hire police-women, whose main responsibility was to deal with delinquent women and girls and to build reformatories, staffed exclusively by women, to hold women inmates (Appier 1998; Freedman 1981). The principal change is that such rhetoric is now being used to argue for the integration of women into male-dominated occupations, rather than the establishment of separate, sex-segregated jobs and institutions. Menkel-Meadow (1987), for example, argues that women bring a "different voice" to the practice of law and that women, by virtue of their socialization and experiences, will be less adversarial, more interested in substantive justice (rather than strict procedural fairness), and will ultimately seek to empower their clients, rather than themselves. Advocates for women in policing have long contended that women's supposedly superior communication skills will make them better at resolving conflicts through dialogue, rather than force, and that they will be more empathetic and effective in working with victims and suspects (Appier 1998; Martin 1997). A similar argument has been made for increasing the number of women officers in men's prisons, where their presence is held to "normalize" and "soften" the work environment (Britton 1997).

On balance, however, empirical research and experience have not been supportive of these kinds of claims. Neither policing, nor prison

work, nor law have been radically transformed or even become much kinder and gentler as women have increasingly moved into these occupations. The reason lies, in part, in a factor left out of the difference equation, the gendered structure of occupations and organizations themselves. This has been the focus of the second line of research. Pierce (1995), for example, finds that the adversarial structure of the legal profession, and litigation work in particular, leaves women few options; to succeed, they must adopt the tactics of their successful male peers, developing qualities such as aggression, intimidation, and impersonality. This creates a double bind for women, as those who take on this role are usually perceived more negatively than their male counterparts. Some women do resist, but most do so at the cost of success, at least as it has been defined by others. The gendered structure of the practice of litigation leaves little room for the meaningful assertion of difference, even if women lawyers were so inclined. Further, the masculinization of these occupations and of the organizations in which they are performed means that the rewards that accrue to difference vary dramatically by sex. Britton (1997) finds that male officers in men's and women's prisons benefit from asserting their unique abilities to use physical force. Women's purportedly unique gendered abilities, such as higher levels of empathy, emotionality, and communication skills, are often seen by administrators and coworkers, particularly in men's prisons, as either dangerous or extraneous.

These kinds of findings should not be taken to mean, however, that difference is immaterial. Women in these occupations do often differ from their male counterparts, particularly in relationship to issues like balancing work and family. Research also demonstrates that many do see themselves as different, both in terms of work styles and personality. It is also clear that we can meaningfully speak of characteristics that have been more or less associated with masculinity and femininity. Whether they display these characteristics or not, research and experience tell us that individual workers will be held accountable for them. An emerging trend in research on women in criminal justice occupations (and research on women and work more generally) recognizes this but at the same time argues that organizational and occupational structures are also important. This approach is in some ways a synthesis of the two perspectives outlined earlier and contends that the crucial issue is context; some work settings are more amenable to, or at least less penalizing of, gendered characteristics associated with women workers (Britton 2000). Miller (1999), for example, finds that community policing draws on traits like empathy, a service orientation, and communication skills and that women are often drawn to the work for this reason. Ely (1995) finds that women in law firms with a higher proportion of women in positions of power are less likely to see feminine-stereotyped characteristics as impediments to success and are more flexible in their ideas about gender overall. Anleu's

research (1992) indicates that women have greater career opportunities in corporate legal departments than in private law firms, at least partly because occupational demands and domestic responsibilities are not as incompatible. Taken together, these findings suggest that while increasing the number of women in these occupations is an important step, structural changes in policing, prison, and legal organizations are also necessary to produce significant change in the direction of equality for women.

EMERGING ISSUES

Kathleen Daly and Lisa Maher (1998) divide feminist criminology into two periods. The first phase, into which much of the work previously described falls, has focused on the tasks of filling in gaps, comparison, and critique. With little knowledge about women offenders, victims, and workers in the criminal justice system available, the first chore of feminist criminology was to provide this information. Though a substantial beginning has been made, it is likely that research in these areas will continue.

The second phase is characterized by work that disrupts the existing frameworks of criminology in more fundamental ways, resulting in the growth of a body of research and theory that Maureen Cain (1990) has called "transgressive criminology." For example, some feminist criminologists have crossed the traditional division between offending and victimization. As research on women

offenders accumulated, it became clear that they were usually also victims, having experienced substantial physical and verbal abuse at the hands of intimates. The "blurred boundaries" thesis argues that women's offending is intimately linked to their previous victimization; a central task for feminist criminology in the years to come will be filling in the black box (Daly 1992) that connects the two. Undoubtedly, this will require a new, more nuanced conception of women offenders that disrupts the dichotomy in which they have been seen only either as innocent victims or as hardened criminals. Some work in this vein has already appeared; Lisa Maher's research (1997), described earlier, is but one example.

This dichotomy is deeply racialized, and this presents yet another challenge for feminist criminology. There is little doubt that the face of the much-mythologized new, more dangerous, female offender is that of a woman of color and that the most innocent victims have always been white. Feminist criminology is just beginning to come to terms with this. Whatever the difficulties posed by official statistics, research and theorizing must continue to reject the essentialism inherent in treating women as a unitary category (Simpson 1989). We already know much about the ways in which race, class, and sexual inequality interweave with women's experiences as victims, offenders, and workers. The challenge for feminist criminology in the years to come will lie in formulating theory and carrying out empirical

studies that prioritize all of these dimensions, rather than relegating one or more of them to the background for the sake of methodological convenience.

Given men's overrepresentation as offenders and victims, the screaming silence in criminology around the connection between masculinity and crime has always been something of a paradox. Feminist criminology has recently begun to draw attention to this issue. Messerschmidt's (1993) was one of the first significant theoretical contributions in this area; it argues that, for men who lack access to other resources, crime can serve as an alternate means of doing masculinity. More recent accounts (see Newburn and Stanko 1994 for a review) have begun to untangle the contexts in which this use of crime is more or less likely and to explore the kinds of masculinities that result. A similar line of research has very recently begun to inquire into the social construction and reproduction of gendered identities among women involved in crime. On a parallel track, studies of work in criminal justice occupations are drawing attention to the individual and organizational construction of gender among both men and women workers (Britton 1997; Miller 1999; Pierce 1995). This research represents a promising direction for the field, both because it finally acknowledges men as men and because it moves us beyond dichotomized, static, individualistic notions about gender.

Finally, one of the most important issues facing activists in the discipline during the coming years will undoubtedly lie in rethinking

feminist criminology's relationship with the state. Those working on issues connected to women offenders have already recognized the perils of the liberal strategy of strict legal equality. Such policies, when imposed in an already unequal and gendered context, have almost invariably disadvantaged women. Victimization activists have been more enthusiastic about the criminal justice system as a force for change but find that even well-intentioned policies, such as presumptive arrest for domestic violence offenders, have had unanticipated negative consequences. Women in policing, prison work, and law have also found that obtaining the legal right of access to these jobs is not enough to ensure equality.

Simply creating new laws to enforce, providing more offenders to incarcerate, and allowing women to work in the system have done little to disrupt its underlying structure, which is deeply gendered and racialized. As Carol Smart (1998) notes, the turning point for feminist criminology will come in realizing that "law is not simply . . . a set of tools or rules that we can bend into a more favourable shape" (31). Smart herself, arguably one of the founding mothers of feminist criminology, has recently disavowed the project entirely, arguing instead for a deconstructionist approach that disrupts and subverts criminology's traditional categories and frames of reference (Smart 1995). Rethinking feminist criminology's relationship to the state and to the criminal justice system does not necessarily mean that feminists in the discipline

(or elsewhere) should reject efforts directed toward legal change. What this critique does suggest is that in feminism's continuing encounter with criminology, conceptions of justice, rather than law, should occupy a much more central place in our thinking (Klein 1995).

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