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Gender and Sentencing: An Analysis of Indicators

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Abstract

Research examining the role of gender in criminal sentencing has focused on gender bias, in that females are sentenced to lesser punishments than males for the same offense. What many studies have not addressed is the extent to which sentencing guidelines have affected gender bias. In other words, does gender bias exist, even in the presence of sentencing guidelines?

This study addresses this question by examining the factors that influence a judge's decision to sentence males and females to particular punishments. In this study, the sample is split among males and females and various legally relevant and irrelevant factors are analyzed to determine which variables are significant indicators of punishment for each sex. Results indicated that judges consider both legally relevant and irrelevant factors when sentencing females, but legally relevant factors only when sentencing males. This suggests that gender bias still exists despite the use of sentencing guidelines.

There has been much research that has examined the role of gender in criminal justice decision-making. Some studies have focused on the role of gender in arrest decisions (e.g., Ghali and Chesney-Lind, 1986; Visser, 1983; Simon and Landis, 1991; Chesney-Lind, 1978), while others have examined the role of gender in sentencing decisions (e.g., Mann, 1996; Ghali and Chesney-Lind, 1986; Edwards, 1984; Meeker et al., 1992; Heilbrun, 1982; Curran, 1983; Steffensmeier et al., 1993). The literature on this subject attempts to support or negate the hypothesis that females are treated differently than males in the criminal justice system due to gender bias. In other words, the reluctance of the criminal justice system to treat female offenders the same as male offenders is thought to result from chivalry, the portrayal of women as responsible for the family, and the idea that women are somehow more rehabilitative than men (Edwards, 1984).

Many previous studies examined sentencing outcomes by comparing case and offender characteristics for males and females in an effort to distinguish why women were treated more leniently than men. A comparison of males and females with regard to the type or length of sentence they receive will in most cases reveal that females are treated more leniently than males. What some studies ignore, however, are the particular factors that a judge considers when sentencing men and women to a particular punishment. In other words, what factors influence a judge's decision to

sentence a male or female to probation or incarceration? This study analyzed the role of gender and other factors in sentencing decisions for four types of dispositions - probation, fine, incarceration – and length of sentence, if incarcerated, in a northern Florida county. By splitting the sample according to gender, this study examined the factors (both legally relevant and irrelevant) that influenced a judge's decision to sentence to a particular punishment. Despite Florida's sentencing guideline system, it was hypothesized that judges considered different (i.e., legally irrelevant) factors when sentencing females to a particular punishment.

Prior Research

As stated above, a number of studies have examined the role of gender in sentencing decisions. Heilbrun (1982) examined the mean periods of incarceration for women and men committing the same crimes. For three offenses - robbery, burglary/theft, and forgery - females served shorter periods of time in prison. For the other offenses studied - murder, manslaughter, assault, and drug crimes - gender did not have a significant effect on length of incarceration. Heilbrun, however, only controlled for type of offense, and no other variables.

In their study on gender and sentencing decisions, Simon and Landis (1991) found that women were less likely than men to be convicted. For those women who were convicted, women were less likely than men to receive harsh sentences. Also, Simon and Sharma (1979) found discrepancies in sentences to probation, in that women were more likely to be sentenced to probation than men, controlling for legal and social variables. Musolino's (1988) research supports the Simon and Sharma (1979) results, but not the results of the Simon and Landis (1991) research. In her interviews with judges in Washington, D.C., Musolino (1988) found that women tended to receive preferential treatment at the sentencing stage, but not in the determination of guilt or innocence.

A study by Mann (1996) examined homicide cases in a study of six cities. Mann found that fewer than half of the women arrested for murder received prison sentences, even though more than one-third had violent prior records. On average, women served six-and-one-half years less in prison than their male counterparts for the same offense.

Curran (1983) tested the chivalry hypothesis in her examination of felony cases in Dade County, Florida. Controlling for several variables, including seriousness of the charge, number of counts, prior record, and occupation, Curran examined gender's effects on negotiation, prosecution, conviction, and severity of disposition. Results indicated equal treatment of the sexes for negotiations, prosecution, and conviction, but that females were sentenced more leniently than males.

Adult case files in Honolulu were examined in a study by Ghali and Chesney-Lind (1986). Results indicated that gender did not have a significant impact on imprisonment, fine, or probation at the district court level. At the circuit court level, gender had a significant effect on the probability of being sentenced to probation, in that females were

more likely to be sentenced to probation than males, controlling for variables such as age, race, employment status, education, and prior record. The authors suggested that gender's effects on dispositions are inconsistent, in that preferential treatment is indicated for one variable - probation – but not others. Indeed, these findings mirror the results of the other studies mentioned. Apparently, there was some gender bias in criminal justice decision-making, but not in every case.

The above studies provide a comparison of types and lengths of sentences for males and females. Before sentencing guidelines, the differences between the sexes could be explained by the chivalry hypothesis, maternal sympathy, or any other gender-based reason. However, with the introduction of sentencing guidelines, are judges forced to treat the sexes equally, or are they still practicing gender bias?

In a study of women sentenced under US Sentencing Guidelines, King (1996) examined whether the guidelines were gender biased. The author examined three concepts: 1) Were the guidelines facially biased? In effect, did the language of the guidelines distinguish between genders? 2) Was there bias in the application of the guidelines, in that judges applied the guidelines differently to each gender? 3) Did the guidelines have a disparate impact? In other words, if application of the guidelines was equal, did it impact females differently than males? According to King, the answer to the first two questions was "no," but the answer to the third question was "yes." Apparently, applying the guidelines equally had a disparate impact on women. This impact involved family responsibility, in that families suffered because women were treated in the same way as males. As a result, judges used this reason to grant more downward departures for women. Although females comprised only sixteen percent of the prison population, they comprised fifty-six percent of downward departures. Technically, gender is not a relevant factor when considering downward departures from the guidelines, but females benefited more than males because females assumed primary responsibility for their families (King, 1996). This result was also found in Daly's (1989) research, which consisted of interviews with judges. Results indicated that judges were concerned with the care of dependent children, which accounted for differentials in sentencing between males and females. Since females were more likely to care for dependent children, judges pointed out that family responsibility, not chivalry or paternalism, was the basis behind their decisions (Daly, 1989).

Steffensmeier et al. (1993) studied Pennsylvania sentencing data with regard to imprisonment and length of term. Controlling for a number of variables, including severity of sentence, prior record, race, age, and caseload, the authors found that females were less likely than males to receive jail or prison. However, the authors found negligible effects of gender on sentence length. The authors hypothesized that judicial discretion and departure from sentencing guidelines may have played a role in the discrepancy in sentencing decisions. Reasons specified for this included a non-violent prior record, mental or health problems, caring for dependents or pregnant, and showing remorse.

Other studies have looked at judicial discretion under the sentence guidelines but did not focus particularly on gender (e.g., Stolzenberg and D' Alessio, 1994; Miller and Sloan, 1994). Gelacek et al. (1996) examined departures from the U.S. Sentencing Guidelines in thirty US District Courts in 1991 and 1992. The authors found that, depending on the district, the use of downward departures varied. Some gender-based reasons for departure were analyzed (e.g., pregnancy, sole caretaker of children) and some district courts rejected many downward departures for these reasons since they were not legally relevant justifications for departure. Despite this, other courts applied downward departures for these reasons. At least in the federal courts, some judges were willing to use legally irrelevant variables to justify downward departures for women. The current study examined sentencing by splitting the sample among females and males, and analyzing sentence dispositions for each gender in order to understand what factors were considered when sentencing each gender to a particular disposition. The purpose was to determine if legally irrelevant factors were considered when determining a particular sentence for women.

Data and Methodology

Data were gathered from closed adult felony case files between 1994 and 1996 in Leon County, Florida. Florida has a presumptive sentence guideline system, which calculates a point total and provides a range of punishment for that total. A point total is based on four main factors: offense, prior record, victim injury, legal status of defendant at the time of the offense (called legally relevant variables). For instance, a point total of 13-14 authorizes a punishment ranging from 2 Yi and 5 Yi years in prison (Florida Sentencing Guidelines Commission, 1991). For purposes of this study, two of the four factors were not utilized in this study - victim injury and legal status at the time of the offense. Since victim injury applies mainly to violent offenses, it was excluded because it would apply to some cases, but not to the majority of cases (i.e., non-violent) in the study. For legal status, few (i.e., less than 10%) of the offenders were on probation or parole, thus providing a small number of cases for analysis. Also, compared to offense and prior record, the two excluded variables do not compose a substantial portion of the point total.

In addition to a range of punishments, Florida law lists twelve justifications for downward departures from this permitted range. These include the following:

1. the departure results from a legitimate, uncoerced plea bargain;
2. the defendant was an accomplice or minor participant in the offense;
3. the capacity of the defendant to appreciate the criminal nature of his conduct or to conform that conduct to law was substantially impaired;
4. the defendant requires specialized treatment of a mental disorder;
5. the need for restitution to the victim outweighs need for a prison sentence;
6. the victim was an initiator, willing participant, aggressor, or provoker;
7. the defendant acted under extreme duress or under domination of another person;

8. before the identity of the defendant was determined, the victim was substantially compensated;
 9. the defendant cooperated with the state to resolve the current offense or any other offense;
 10. the offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse;
 11. at the time of the offense, the defendant was too young to appreciate the consequences of the offense;
 12. the defendant is to be sentenced as a youthful offender
- Source: Florida Statutes (1996).

Therefore, a judge may exercise discretion in a defendant's favor by either a) sentencing him to a prison term on the lower end of the punishment range or b) applying a downward departure and sentencing him to a punishment that is less than that which is permitted. It should be noted that there are no gender-specific justifications for downward departures under Florida law.

Only cases in which formal charges had been filed were used in this study. This was done to examine decisions in the formal processing of defendants, and not in the initial stages of processing in which many cases are dropped or not referred for formal processing. Also, at this stage of processing, convictions are more likely to result, thus enabling a good assessment of sentencing decisions. A random sample of 200 cases was drawn from the sampling frame, with the final sample consisting of 84 females and 116 males. Of this sample, only 198 were used, since two cases were excluded because of dismissal or acquittal. All other cases resulted in plea bargains and a sentence imposed by a judge. Once the sample was selected, information for all independent and dependent variables was coded.

Independent Variable

The primary variable of interest was gender and was coded as a dichotomous variable. Table 1 provides an illustration of the variables used in the analysis.

Control Variables

A flaw in some previous studies (e.g. Heilbrun, 1982) was the absence of control variables which could have an impact on sentencing decisions. For this study, the following control variables were used. All but two (race and age) are legally relevant or case-based variables.

Seriousness of the charge(s). The seriousness of the charges against defendants could have a significant impact on sentencing decisions, considering it is one of the four legally relevant variables used to calculate a sentence in Florida. This study utilized the following point system to produce an aggregate measure of both the number and seriousness of the charges filed. Each crime was assigned points based on its designation in Florida statutes as first degree felony, second degree felony, third degree

felony, and so forth. Specifically, each life felony was accorded twenty points, each first degree felony was accorded twelve points, each second degree felony eight points, each third degree felony four point, each first degree misdemeanor two points, and each second degree misdemeanor one point. This point system is similar to the system used in Florida when assessing where defendants fall within sentencing guidelines. In Florida, a different number of points is assessed for different types of offenses. For example, a first degree murder charge assesses 136 points, while a first degree robbery charge assesses 70 points. The number of counts are included in the point system to produce an aggregate measure of seriousness of the charge, prior record, victim injury, and legal status at the time of the crime. The total number of points determines what sentence a

Table 1: Variables Used in the Analysis

<u>Independent variables</u>	<u>Operationalization</u>
Gender	0=male 1=female
Seriousness of charge(s)	Aggregate point system 20 points = life felony 12 points = 1st degree felony 8 points = 2nd degree felony 4 points = 3rd degree felony 2 points = 2nd degree misdemeanor 1 point = 1st degree misdemeanor
Prior record	Aggregate point system Same system as for seriousness of charge
Bail status	0=in jail 1=out of jail
Length of disposition	Number of days from arrest to disposition
Race	0=non-white 1=white
Age	Age of defendant in years
<u>Dependent Variables</u>	<u>Operationalization</u>
Probation	0=no 1=yes
Fine	0=no 1=yes
Incarceration	0=no 1=yes
Sentence length	Length of incarcerative sentence expressed in days

defendant will receive. For the purposes of this study, a simplified point system, absent victim injury and legal status at the time of the crime, was utilized in order to make the point system more understandable to those not familiar with the more complex system in place in Florida. In doing so, the system used in the study retained the essence of the actual system in place.

Prior record. Prior record could have a significant impact on decisions in that it is one of the four legally relevant factors used in sentence calculation in Florida. The study utilized the formula described above to produce an aggregate measure of the extent of prior record. Each previous conviction was assigned points based on convictions listed in the case file.

Bail status. Cases were coded to indicate whether the defendant was released or jailed pending proceedings. Though not a legally relevant variable, this case-based variable is considered by many to be a predictor of outcome (e.g., Hermann et al., 1977; Feeney and Jackson, 1991) in that those in jail awaiting trial may be treated more harshly than those out of jail awaiting trial. Therefore, it is used because judges may use this as a legal justification for a sentence.

Attorney type. This variable was coded to distinguish between those defendants with retained counsel and those defendants with public defenders. This variable was used to provide an indicator of financial ability to pay bail, fines, or fees.

Length of disposition. This refers to the time taken to dispose of a case. Some literature on this subject (e.g. National Center for State Courts, 1992) suggests that disposition length could have a positive effect on decisions in that the longer the delay, the more readily a judge will dispose of a case or sentence leniently. Although not a legally relevant variable, this case-based variable was included since judges may use this as a legal justification for a sentence. It was coded as the number of days between arrest and imposition of sentence.

Race. This variable was coded to indicate whether a defendant was white or non-white. This variable was included to examine if, as a legally irrelevant variable, it was an indicator of sentence.

Age. The actual age of the defendant, not a range of ages, was coded. The youth of the defendant is a justification for a downward departure under Florida law.

Table 2: Descriptives and Bivariate Relationships

	<u>Females</u>		<u>Males</u>	
Number	84		116	
Offense	violent	15%	violent	23%
	property	72%	property	47%
	drug	13%	drug	23%
			other	7%
Prior record	none	49%	none	32%
	violent	15%	violent	46%
	property	71%	property	25%
	drug	14%	drug	19%
			other	10%
Race	non-white	60%	non-white	59%
	white	40%	white	41%
Attorney	retained	49%	retained	47%
	appointed	51%	appointed	53%
Bail status	in jail	23%	in jail	29%
	out of jail	77%	out of jail	71%
Length of disposition	135 days, avg.		138 days, avg.	
Mean Age	30.6		31.8	
Probation	89%		84%	
Fine	61%		53%	
Incarceration	34%		57%	
Sentence Length	188 days avg.		308 days avg.	

Dependent Variables

Four sentencing decisions were analyzed. These are discussed below.

Probation. This variable assessed whether or not convicted defendants were sentenced to probation.

Fine. This variable examined whether or not convicted defendants were assessed a fine.

Incarceration. This variable assessed whether or not convicted defendants were given an incarcerative sentence.

Sentence length. For those defendants sentenced to jail or prison (including time served), the length of sentence was coded in days.

Data Analysis

Table 2 provides an illustration of the distribution of the sample, as well as information examining the relationship between gender and the sentencing decisions. Results from Table 2 indicated that males and females were fairly evenly distributed in the categories of each independent variable, and that males and females were treated similarly when being sentenced to probation. A slight discrepancy occurred for females and males when assessed a fine, in that females were slightly more likely than males to receive a fine. A larger discrepancy occurred for incarceration and sentence length, in which a higher percentage of males than females were incarcerated and for longer periods of time. Leniency for females was indicated, but simple bivariate analyses do not convey the information that the current study was designed to assess. In order to understand these relationships fully, regression analyses were utilized to control for all independent variables. The sample was split based on gender of the defendant, and a separate set of results was obtained for men and women. In doing so, it was determined which variables were the strongest indicators of the dependent variables for each gender.

Table 3 provides the strongest indicators of PROBATION for females and males. Since PROBATION was coded as a dichotomous variable, logistic regression was used. Results indicated that for females, prior record was the only significant predictor of PROBATION. Those female

Table 3: Results of Regression Analyses for Probation

Variable	b	Odds Ratio	Sign.
Females			
Attorney Type	-.0914	.9126	.9240
Offense	.0301	1.0306	.6073
Bail Status	1.2335	3.4333	.1641
Prior Record	-.1109	.8950	.0037**
Length of Disposition	.0004	1.0004	.8543
Age	-.0133	.9867	.7943
Race	-.6529	.5205	.4905
Constant	2.3736		.3715

-2 Log Likelihood = 38.018.

**statistically significant at .05 level

Males			
Attorney Type	-.0263	.9740	.9696
Offense	-.0438	.9572	.2056
Bail Status	1.3181	3.7362	.0465**
Prior Record	-.0529	.9484	.0298**
Length of Disposition	-.0015	.9985	.5779
Age	-.0291	.9713	.3287
Race	.9096	2.4833	.2069
Constant	.5861		.7260

-2 Log Likelihood = 77.313.

**statistically significant at .05 level.

defendants with a more extensive prior record were less likely to be sentenced to probation than female defendants with a minor prior record. For males, bail status and prior record were the significant predictors of PROBATION. Those male defendants who were out of jail were over three times more likely to be sentenced to probation than male defendants who were in jail. Also, male defendants with more extensive prior records were less likely to be sentenced to probation than male defendants with minor prior records.

Table 4 provides the strongest indicators of FINE for females and males. Because FINE was a dichotomous dependent variable, logistic regression was used in the analysis. For females, none of the variables in the analysis were significant predictors of FINE. For males, prior record and length of disposition were the significant predictors of FINE. Those male defendants with extensive prior records and longer dispositions were less

likely to receive a fine than those defendants with minor prior records and shorter dispositions. As for females, that there were no significant

Table 4: Results of Regression Analyses for Fine

Variable	b	Odds Ratio	Sign.
Females			
Attorney Type	.3784	1.4600	.4682
Charge	-.0222	.9781	.1316
Bail Status	.6895	1.9928	.2449
Prior Record	-.0295	.9709	.2651
Length of Disposition	.0002	1.0002	.8543
Age	.0229	1.0231	.4298
Race	.1441	1.1550	.7791
Constant	-1.8027		.2650

-2 Log Likelihood = 100.889.

**statistically significant at .05 level

Males

Attorney Type	-.3615	.6967	.4552
Charge	.0261	1.0264	.4246
Bail Status	.6606	1.9359	.2139
Prior Record	-.0595	.9422	.0161**
Length of Disposition	-.0071	.9930	.0042**
Age	.0135	1.0136	.5065
Race	-.7620	.4667	.1254
Constant	1.3208		.3024

-2 Log Likelihood = 138.118.

**statistically significant at .05 level

predictors of FINE indicated that other factors were taken into account for this disposition.

Table 5 provided the strongest predictors of INCARCERATION. Since INCARCERATION was coded as a dichotomous dependent variable, logistic regression analysis was performed. For females, the strongest predictors of INCARCERATION were bail status and race. Those female defendants who were out of jail were much less likely to be incarcerated than female defendants who were in jail. Also, white female defendants

Table 5: Results of Regression Analyses for Incarceration

Variable	b	Odds Ratio	Sign.
Females			
Attorney Type	-.0272	.9732	.9673
Charge	-.0398	.9610	.1318
Bail Status	-3.6195	.0268	.0001**
Prior Record	.0405	1.0413	.2252
Length of Disposition	.0019	1.0019	.4271
Age	.0272	1.0276	.3998
Race	1.4056	4.0778	.0421**
Constant	2.8439		.1658

-2 Log Likelihood = 67.750.

**statistically significant at .05 level

Males

Attorney Type	-.2168	.8051	.6524
Charge	.0005	1.0005	.9879
Bail Status	-1.0186	.3611	.0635
Prior Record	.0527	1.0541	.0593
Length of Disposition	.0052	1.0053	.0340**
Age	-.0226	.9776	.2700
Race	.1599	1.1734	.7445
Constant	1.8931		.1431

-2 Log Likelihood = 134.413.

**statistically significant at .05 level

were four times more likely to be incarcerated than non-white female defendants. For males, the significant predictor of INCARCERATION was length of disposition. Male defendants with longer dispositions were slightly more likely to be incarcerated than male defendants with shorter dispositions.

Table 6 provides the results for the analysis of SENTENCE LENGTH. Because SENTENCE LENGTH was coded as a continuous variable, ordinary least squares regression analysis was performed. For females,

Table 6: Results of Regression Analyses for Sentence Length

Variable	b	β	Std. Error	Sign.
Females				
Attorney Type	169.753	.309	122.939	.183
Charge	6.614	.181	7.264	.373
Bail Status	-153.936	-.279	111.243	.182
Prior Record	7.322	.280	5.498	.198
Length of Disposition	.078	.110	.140	.582
Age	8.025	.238	6.116	.204
Race	-144.919	-.264	105.616	.185
Constant	-8.256		264.451	.975

$R^2 = .43$

**statistically significant at .05 level

Males

Attorney Type	230.159	.181	131.180	.086
Charge	22.884	.286	7.777	.005**
Bail Status	-294.485	-.230	144.142	.046**
Prior Record	23.705	.441	5.462	.000**
Length of Disposition	1.068	.188	.628	.094
Age	-11.225	-.160	7.355	.132
Race	-20.363	-.016	138.936	.884
Constant	229.475		362.663	.529

$R^2 = .517$

**statistically significant at .05 level

there were no significant predictors of SENTENCE LENGTH, again suggesting that other variables accounted for the decision to impose a particular sentence length. For males, the significant predictors were seriousness of the charge, bail status, and prior record. For seriousness of the charge and prior record, significant positive relationships resulted. As the seriousness of the charge increased by one point, sentence length increased by 22 days; as prior record increased by one point, sentence length increased by roughly 24 days. For bail status, a significant negative relationship resulted. The sentence length of male defendants who were out of jail was 294 days shorter than those in jail.

Discussion

The results presented above indicated differential processing of females and males when it comes to sentencing. For PROBATION, judges considered prior record for females and prior record and bail status for males, all of which are legally relevant and/or case-based variables. At least for probation, it could be argued that females

were sentenced based on a legally relevant factor, although not on the exact same factors as males.

For FINE, judges did not consider any of the variables used in this sample for females, yet considered prior record and length of disposition for males, two legally relevant variables. That no legally relevant factors were indicated for females suggests that judges are considering legally irrelevant factors for these decisions. It is possible that a woman's lack of financial resources (which would justify discretion or downward departure) could explain a judge's decision to impose a fine. However, type of attorney was an indicator of a defendant's ability to pay, and it was not significant in the analysis. It would appear that factors unrelated to financial resources explained a judge's decision to impose a fine on a woman.

For INCARCERATION, bail status and race were the significant predictors for females, while length of disposition was the significant predictor for males. A case-related indicator (bail status) suggests that judges were considering legally relevant factors, though not the two most applicable ones (offense and prior record). Also, it is interesting to note that the legally irrelevant variable that was significant in these analyses (Race) applied to females and not to males. In this analysis of INCARCERATION, white females were more likely to be given an incarcerative sentence than non-white females. This finding disputed the results of some researchers (e.g., Spohn, 1985), who proposed that leniency was reserved for white female defendants. This could be explained by the fact that, in the current study, white female defendants had more felony charges brought against them than non-white female defendants.

For SENTENCE LENGTH, there were no significant predictors for females, while seriousness of the charge, bail status, and prior record were significant predictors for males. As with FINE, that there are no legally relevant or case-based factors indicating SENTENCE LENGTH for females suggests that judges may be applying legally irrelevant factors to a female's sentence.

That legally relevant factors were considered in three dispositions for males, and case-based factors were considered in the remaining disposition for males suggested that judges were abiding by Florida's sentencing guidelines in most circumstances for males. Judges seemed to be relying on particular offense/offender/case-based characteristics to sentence males to a particular punishment. For women, judges did not seem to be abiding by the guidelines as strictly. Only one sentence indicated a legally relevant predictor, while two indicated no predictors and the remaining indicated a case-based predictor and a legally irrelevant predictor. The purpose of sentencing guidelines is to provide judges with a structured system of sentencing. In effect, certain offense and offender characteristics are to be used to determine a particular punishment. Since Florida does have sentence guidelines in place, it would seem that the results would be more similar with regard to the significant predictors of the dispositions. The discretion afforded to judges for permitted ranges and downward departures in Florida's sentence guideline system may account for the disparity given the fact that so few legally relevant variables were taken into account in the disposition of cases for females. Of the

justifications for downward departures, two can be excluded since they did not apply to the cases in the study. None of the offenders were youthful, so justifications 11 and 12 (see above) did not apply. The remaining justifications could have impacted a judge's decision for a downward departure, but would not appear in these analyses since the case files did not contain this information. Therefore, it is difficult to determine why males were more subject to sentence guidelines than females.

In conclusion, results of this study did indicate that there was differential processing of female and male defendants in the criminal justice system. Although some variables were left out of the analysis (e.g., victim injury, legal status at time of offense, judge interviews), the results did point to the fact that, regardless of sentence guidelines, some sort of gender bias did exist in the processing of cases. This gender bias may be the result of more women being sentenced at the lower end of the permitted punishment range or the application of more downward departures for women (for whatever reasons), which could undermine the purpose of sentence guidelines. Also, that previous research (see above) has shown that disparity has reverted to pre-guideline levels suggests that a structured sentencing guideline system is not adequate to reduce disparity in criminal sentences.

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