

Gender Bias in the Juvenile Justice System

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INTRODUCTION

In recent years, charges of sex discrimination have been heard across the country in all spheres of social interaction, and now, more than ever, cases such as these are occurring in the juvenile justice system at great numbers (Teilmann and Landry 1981). In this literature review I will be examining gender bias in the juvenile justice system. More specifically, the question to be addressed is the extent to which gender bias plays a role in the decision-making process throughout the United States' juvenile justice system. In a world that guarantees "justice for all," it becomes imperative to eliminate such biases in order to eliminate unequal justice. With charges of sex discrimination increasing in the juvenile justice system, literature on this topic becomes extremely important to the field of sociology and, more importantly, for the youths involved in the process. Exploring the numerous studies on this issue will help to establish a better understanding of gender biases throughout the juvenile justice system, with hopes of eliminating such injustices in the future.

BACKGROUND

Justice Defined

Justice, a well-known term in the English language, is one which deserves much attention as it relates to juvenile offenders in the United States. One would expect that similar crimes would receive sanctions, but in many cases this does not happen. In fact, research has shown that gender plays a major role in the decision making process of juvenile incarceration (MacDonald and Chesney-Lind 2001; Mears and Field 2000; Staples 1984).

Gender Bias

Although most female arrests are made for status offenses (acts that would not be criminal if committed by an adult, such as truancy and underage alcohol possession), between 1992 and 1996, the number of female violent crime arrests increased by 25%. However, the number of arrests made for male offenders during this time remained the same (Lederman and Brown 2000). Similarly, according to Walters (1996), the number of female arrests made for violent crimes increased by 125% between 1989 and 1993. During this four year span, arrest rates for boys only rose by 67%. As stated by Lederman and Brown (2000), girls seem to be emerging into the juvenile justice system quite quickly, with the statistics rising to great numbers. Although the arrest rates are increasing, this does not mean that crime itself is increasing. The juvenile justice system, in recent years, has been paying close attention to the female criminal and has therefore been detecting an abundance of female criminality. With the emergence of the female criminal, gender bias has become an increasingly prevalent issue in the juvenile justice system.

Previous studies, ranging from the early 1950's to the present, suggest that court staff "participated directly in the judicial enforcement of the sexual double standard" (MacDonald et al. 2001:175). Illustrations of this double standard are evident in several studies. For example, Chesney-Lind (1971) reported that girls were twice as likely as boys to be held in custody for their offenses and spent five times as long under custody. Schlossman and Wallach (1978) found that girls were committed to training schools twice as often as boys in a Milwaukee sample. Shelden (1981), as cited in MacDonald and Chesney-Lind (2001), also found that girls were twice as likely to be committed to

training schools as boys. Studies such as these help to show the impact of judicial approach in juvenile cases and further emphasize the apparent gender biases throughout the United States.

Numerous studies have attempted to investigate possible reasons for the gender differences in hopes of eliminating future gender biases in the courts (Herz 1998; Horowitz and Pottieger 1991; Lederman et al. 2000; MacDonald et al. 2001; Mears et al. 2000; Staples 1984; Teilmann et al. 1981). As a result of the increased attention to this issue, amendments were made in 1992 to the 1974 Juvenile Justice and Delinquency Prevention Act (JJDPA), providing funding as an incentive to those states barring gender bias. As of June 1996, 23 states received such funding (Walters 1996). The JJDPA was enacted to improve states' juvenile justice systems in several ways, one of which was based on the notion that "children" should not make contact with adults in jails and that status offenders should not be positioned in secure detention. To receive funding from the government, states are mandated to uphold these standards (United States Department of Justice n.d.). Despite these efforts, it has been noted that status offenders, girls in particular, are still receiving harsh sanctions under the juvenile systems (Herz 1998; Lederman et al. 2000; Teilmann et al. 1981).

Theoretical Perspectives

Although most of the research surrounding this topic is atheoretical, a few of the studies conducted suggest Black's theory of quantitative social control. This theory, according to Black, suggests, "the quantity of law applied to certain individuals or groups depends upon the quantity of nonlegal social control to which they are already subject" (Staples 1984:353). More simply, Black believes that juveniles will receive lesser

sentences than adults because they are subject to other forms of influence (parents, teachers, et cetera). In addition Black argues that female juveniles are subject to less of these nonlegal influences than male juveniles and therefore would be given lesser sentences by the court system (Staples 1984). While this theory is not supported throughout the majority of research, I will argue its relevance to the topic.

Specific Aims

This literature review will be divided into the following sections: First, I will discuss the violation of appropriate sex role expectations and how this hypothesis plays a role in gender biases throughout the courts. Secondly, I will examine the possible explanations for disposition decisions (sentencing decisions) that take place throughout the juvenile courts. And lastly, a conclusion will be drawn that ties together Black's theory with the rest of the evidence pointing towards gender biases in the United States' juvenile justice system.

THE VIOLATION OF APPROPRIATE SEX ROLE EXPECTATIONS

As suggested by much of the literature, society's stereotypes of gender may play a large role in the biases present in the juvenile justice system (Herz 1998; Staples 1984; Teilmann et al. 1981). Every society forms its own opinions or stereotypes about what is believed to be "normal." This may include dress, attitude, behavior, emotion and anything and everything that is viewed and accepted by the popular culture. However, these images are very different for males and females and it is argued that the deviant behavior of females is viewed to be a more serious violation of role expectations than it is for males. Females have been noted to receive harsher sentencing because of the way

that they are seen through the eyes of their community members. The standards set for males and females differ greatly in regards to sexuality and morality. As far as history can remember, females have been expected to be polite, proper, and respectable, no matter the situation at hand. However, males have not had this stereotype to live up to and, perhaps more importantly, have not been reprimanded for defying the standards. Kruttschnitt (1981), as cited by Staples (1984), found that “economic rank, respectability, and social integration all have a significant bearing... on the sentences women offenders receive” (p. 351). She has also suggested that informal social controls (e.g., parents/family, teachers/school personnel, society’s expectations, et cetera) are more prominent in the lives of females than males. This suggests the need for formal social controls (e.g., laws, legal institutions, agents of social control- police officers, et cetera) have greater consequences for females than for males (Staples 1984).

Further support for this hypothesis is evident in the works of Donald Black (1976). Black believes that one’s status of respectability is dependent on the quality and quantity of social control to which an individual is exposed. Informal social controls are said to have a significant influence on one’s respectability; but more importantly the combination of low informal and high formal social controls define one’s status of respectability. In other words, according to Black, the lower one’s status of respectability, the harsher the sentence he or she will receive (Herz 1998). He also hypothesized that informal controls are inversely related to formal controls and stated that “in nearly all societies the family has more social control of its own than other groups and relationships.” Therefore, he suggests that a juvenile with weak family controls will be at greater risk in the court system than a juvenile with stronger family controls (1976:108).

Despite evidence suggesting the strong influence that social controls have on juveniles in the system, there are still those that hypothesize that the treatment of young women in the juvenile justice system is “chivalrous and benign” (Gaarder and Belknap 2004:53). It is argued that males are hesitant to accuse and punish women, and criminal acts committed by women are seen to be less serious than those committed by males. According to Staples (1984), women have a greater chance of not being reported, of not being arrested, and of dropping out of the legal process than do their male counterparts. Also, supporting this hypothesis are the results found by Teilmann and Landry (1981): females are less likely to be penalized and incarcerated for committing a delinquent offense than males.

Regardless, it becomes very clear that throughout these numerous studies and years of research, gender biases do occur in the juvenile justice system. It is also evident that there are opposing viewpoints regarding which side of the scale the bias points toward. Although there seems to be some variance in the research, most of the evidence suggests that the appropriate sex role expectations play a significant part in the sentencing of juveniles. The courts tend to see females as being weaker and less dangerous than males, and as a result, are more likely to give out harsher sentences to females (Staples 1984). It seems as though “sex role expectations are embedded in the nature of the social structural status of females” (Staples 1984:353) and until society’s notions about gender identity are altered, gender bias will continue to be a prevalent issue in the United States’ juvenile justice system.

DISPOSITION DECISIONS

As much of the research suggests, gender biases tend to be the most prevalent at vital stage of the process: the disposition (Gaarder et al. 2004; Herz 1998; MacDonald et al. 2001; Schutt and Dannefer 1988; Teilmann et al. 1981). In a study conducted by MacDonald and Chesney-Lind (2001), juvenile court outcomes were divided into three stages: 1) petition, 2) adjudication, and 3) disposition. They concluded that at the early stages of the process it appeared as though gender bias was not an issue. However, at later stages they found that “girls are more likely to receive harsh dispositions for relatively minor offenses” (MacDonald et al. 2001:189). More simply, if a female was able to get through the earlier stages of the system, it was found to be more likely that she would receive harsher sanctions than her male counterpart.

Similarly, Staples (1984) examines the relationship between gender and court disposition in his study. He was able to find support for the theory that female juveniles will receive harsher sentencing at later stages in the process than males who have committed the same offense. Staples (1984) ends his paper by referring back to Black’s theory of social control. He concludes that his results suggest “that the courts’ treatment of females may be guided...by the extent to which these juveniles are subject to nonlegal social control.” Staples further goes on to hypothesize that a juvenile’s subjection to social controls is “a function of the social status of females relative to males” (Staples 1984:364). What many have referred to as chivalrous treatment, Staples (1984) believes to be the result of different social statuses of male and female juveniles. As was mentioned in the previous section, the biases presented throughout the juvenile justice system tend to be related to gender biases inherently embedded in American society.

CONCLUSION

As the above cited research indicates, gender biases seem to be quite prevalent in the juvenile justice system. Throughout this literature review it has been noted that based on Black's theory of social control, appropriate sex role expectations seem to play a major role in the sentencing of juveniles. Disposition decisions also help to shed light on the issue of gender biases. It is evident that the less informal social controls one is subject to leads to a greater amount of formal social controls, which in turn leads to a harsher disposition.

Throughout this paper I have argued that gender bias is a prevalent issue in the United States and that it does indeed play a role in the decision-making process of the juvenile justice system. With the number of cases involving sex discrimination in the juvenile justice system increasing in recent years, it becomes imperative that sociologists take another look at the issue. Future research on this topic will be helpful in establishing a better understanding of gender biases and hopefully eliminate future injustices.

Upcoming research should look at racial as well as gender biases and perhaps try to focus specifically on whom the bias may be coming from (whether it is police officers, probation officers, judges, et cetera). Additional studies with a more focused, random sample will enable sociologists and the public at large to form a well-educated opinion on what might actually be going on in the juvenile justice systems throughout the United States. Living in a country where justice is guaranteed for all, one would expect and undoubtedly deserves to receive equal treatment under the law.

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