

Effect of Gender on Treatment of Violent Offenders

An Honors Thesis (HONR 499)

by

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Abstract

In the following thesis project, I investigate if there is a gender bias in the sentencing of violent crimes. The first part of this thesis uses previous research to explore two theories that could explain a possible gender bias. The backlash theory states that women should be sentenced more harshly because they receive more severe treatment as punishment for transgressions against their gender roles – these transgressions being both committing a crime and exhibiting violent or aggressive behavior. The chivalry theory states that, as a result of gender roles placing men in a more powerful, dominant role in society and women in a weak, submissive role, the men in power will feel nurturing and protective over women and will therefore lessen their punishment. About half of past research finds that men are sentenced more severely after committing a violent crime, while the other half finds that women receive harsher sentences. In the second part of this project, I conduct my own content analysis of violent crimes in Indiana over the last 10 years, from 2010 to 2020. I took a sample of 60 cases from this data and conducted statistical analyses to determine if there was a significant difference in sentencing by gender. After conducting these analyses, I found that there was not a significant difference in this sample. This analysis could have been limited by the size of the sample I took or the data I had to throw out because of sentencing data complications.

Acknowledgments

I would like to thank Dr. Katie Lawson for advising me through this project. Her help during this long and difficult task was only a small fraction of the help and guidance I receive during my college career at Ball State University.

I would like to thank Jeff and Bri for encouraging me to pursue this daunting task.

Process Analysis Statement

As the first project I have done on this level – both in terms of intensity and length – it was very intimidating for me to begin work on this thesis. There were little enforced guidelines and, though I had come up with a topic by the beginning of the semester, it was difficult to decide how to start working because I was so overwhelmed by the work ahead of me. After Dr. Lawson and I decided on deadlines throughout the semester, however, it became quite a bit easier to divide the work I had to do and to begin researching. We set up a system in which I would have the sections of my thesis checked over multiple times before my deadline goal. We also planned to split my thesis into two sections. This not only made the work ahead of me more manageable to begin, but also helped me get into the specific mindsets of the different types of work I needed to do for both parts. The first section would be an analysis of previous research done on the topic, from backgrounds of both gender psychology and legal psychology. The second section would be my own content analysis of violent crime case sentences. It includes data from violent offense cases from the state of Indiana from 2010 to 2020. This section concludes with my own findings, and how this new data is relevant to the topic. As a whole, these sections would combine to form my findings on gender biases in sentencing of violent crimes, and if these potential biases assigned more severe sentencing to either male offenders or female offenders.

Regarding the first section, it was more difficult than I thought it would be to find a definitive answer to my research question in the research available. In fact, I found that about half of the research concluded that women who committed violent crimes were sentenced more harshly than men, and the other half concluded the opposite. This made it difficult to even write my Findings section; because I could not conclude a definite answer, it was hard to organize.

Fortunately, after Dr. Lawson suggested I organize this section by theory, then my conclusions, my findings made a lot more sense. Another struggle that I had in my work on the first section was finding research that was not behind a paywall. Unfortunately, my Ball State University credentials did not allow me access to all the research that could have been helpful. I did manage to find quite a bit of very helpful research, but finding the research that I was able to access for free was a significant challenge that I did not expect initially.

As I began work on my content analysis, I struggled in finding a resource for the data I planned to use. I originally intended on sampling data from the United States as a whole, but I quickly found that there were no resources through which I could request the data I required on a country-wide basis. There were a few sites through which I could find information about individual cases, but for my purposes, I needed bulk data about only violent offenses. Next, I limited my search to Indiana-based court resources. The information I found online showed that the Indiana Office of Court Services (IOCS) was the resource that would allow me full access to the data I needed. Unfortunately, the IOCS required me to go through the process of a bulk data application, in which I filled out an application specifically requesting what data I wanted, and what I would be using it for. It was interesting to learn how justice system professionals talked about court cases – I learned the specific codes I needed to refer to the exact offenses I was requesting, and exactly what information would be necessary for my project. In this way, I was able to learn how the Indiana justice system stores and distributes their data. Though I was able to learn about the justice system during the application process, I lost about three weeks waiting for my application to get approved. In addition, the data set I was originally given excluded sentencing data because of the complicated nature of the way that sentencing data is formatted in the IOCS database. The IOCS workers I was corresponding with later gave me the complete

sentencing information of cases, but only the cases that were charged with a single offense, as a result of data complications. After finally receiving the data I needed, I did struggle slightly with applying my statistical knowledge in a practical way; remembering which statistical analyses would be the most helpful was difficult. I did figure out which tests I needed to run and, after remembering the more practical knowledge I learned while doing statistical analyses for my classes, finding the statistical answers I wanted was less challenging.

I was especially motivated to complete and excel at this project in preparation for graduate school. Through the completion of this project, I proved to myself that I am capable of doing research projects I would expect of a professional psychologist. I was able to learn not only information, but also skills needed for me to be more effective in my future career. This project also likely improved my graduate school applications; some students do not have the opportunity to complete a thesis project at all, and my fledgling ability to talk about my research improved my interview performance. Unfortunately, it was stressful for me to complete this project while also applying for graduate school, taking classes, and working. Most of my work on this thesis project was done while I was applying for six graduate programs in Forensic Psychology, both Masters and PhD programs. Though I feel that I was able to complete both my applications and this thesis to my satisfaction, it was a struggle to manage my time and energy.

As a whole, this thesis was an intensive learning experience. It brought together many of the skills I have learned and nurtured while in Ball State University's Psychological Science department. Time management, APA research writing style, understanding of scientific papers, statistical analysis abilities, and self-reflection are a few of these skills. This thesis particularly helped me solidify my writing style in research projects. I have grown significantly as a writer, and writing for APA-style research papers specifically have helped me make my writing more

cohesive. Writing plainly and directly, as research papers like this require, enables me to think about exactly what I want to say to my readers. Through nurturing skills like this, I believe this paper has made me a more capable psychologist. To me, this thesis shows my growth during my time at Ball State University and is one of the most notable accomplishments from my undergraduate career.

Introduction

The United States' justice system strives to create and implement equitable sentencing standards. With the addition of our Federal Sentencing Guidelines in 1984, our court systems formulated a minimum and maximum sentence for each offense, that all judges had to follow. In 2005, after *United States v. Booker*, the guidelines were changed from mandatory to recommended. In the interest of keeping sentencings fair, it is common for judges to adhere to the advisory guidelines. However, judges can decide on any reasonable sentence they wish, and these actions might contribute to preferential sentencing (Sorensen, Sarnikar, & Oaxaca, 2012).

Though the courts try to avoid preferential sentencing, it is possible that persistent bias may go unrecognized by the system. Preferential sentencing may be worsened by the unconscious judgements of court officials, which could have a significant effect on treatment of offenders. These unconscious judgements may even stem from society's biases about gender. Research has shown that people will fall in line with prescribed gender stereotypes when making judgements about characteristics or ability. For example, when reading the same passage about a person jogging, with only the name changed to either a traditionally male or female name, participants will judge the male in the story to be more athletic than the female. In height estimation tasks, participants will determine that the male model is taller than the female model, even when they are of matched height. These gender roles also affect perception of weight, financial success, verbal ability, writing quality, and leadership competence (Biernat, 2003).

Though biases like this could have a significant impact in sentencing disparity, there seems to be limited research regarding gender bias in criminology. Outdated perspectives and misinformation are common in this field. Early research in criminology "either ignored sex differences or, worse, engaged in severe misconceptions of the basis for female involvement in

crime” (Tracy, Kempf-Leonard, & Abramoske-James, 2009, pp. 172). Today, not all research may be entirely accurate on this topic because the experimental methods taken must take into account the androcentrism common in society. Chesney-Lind (1986) writes that research like this “either simply plugs gender into often dated and monosexual criminological theories – the ‘add women and stir’ approach – or it uncritically builds on an existing literature on female criminality that is overly simplistic and sex-biased” (p. 84). This means that research must be intentional in creating methods that measure gender differences; if measured as an afterthought, conclusions could likely be inaccurate.

The purpose of the present paper is to examine whether the treatment of violent offenders in the United States differs based on the gender of the offenders. I intend to find an answer through analyzing psychological research done in this field and actual violent crime cases. I hypothesize that there will be a bias and, based on my understanding of the backlash effect, I believe that violent offenders who are women will have harsher punishments than violent offenders who are men. Gender roles predict that men are more aggressive, so the court system might judge female offenders more harshly for showing the male trait of aggression.

Women’s Crime Statistics

Though researchers examining gender differences in criminology have widely different opinions on certain findings, they tend to agree that women’s crime parallels societal gender roles. Statistics suggest that crime profiles differ significantly between men and women (Butcher, Park, & Piehl, 2017). Women commit less crime compared to men, charged with only 12.3% of the criminal cases in 2019 (United States Sentencing Commission, 2019). A woman is also less likely to be incarcerated in comparison to a similar man – men are about 15 times more likely to be incarcerated (Starr, 2012). One study even concludes that gender is the single most

significant characteristic that predicts criminal behavior (Tracy, Kempf-Leonard, & Abramoske-James, 2009). Compared to women, men have an “overwhelmingly disproportionate relationship to delinquent and criminal behavior” (Tracy, Kempf-Leonard, & Abramoske-James, 2009, pp. 172). In addition, most crimes committed by women are either less serious, non-violent, or feminine-coded (i.e., larceny theft, drunk driving, fraud, disorderly conduct, drunkenness, or prostitution) (Tracy, Kempf-Leonard, & Abramoske-James, 2009). This makes women’s violent crime somewhat unusual. Most violent crime (i.e., murder, manslaughter, forcible rape, robbery, and aggravated assault) is committed by men. Men also make up 85% of homicide charges (Gauthier & Bankston, 2004). Despite this, data also shows that men and women have the same rate of offenses regarding intimate partner homicide. Some studies find that women actually commit homicide of intimate partners more frequently than men (Nooruddin, 2007). However, as a whole, women committing violent crime is a significant deviation from gender norms.

Contributing to further gender norm deviation, recent years have shown a significant rise in women’s violent crime in countries including the United States, Canada, the United Kingdom, and Australia. These rates are increasing in particular for female minors. For example, Carrington (2013) finds that, between the years 2000 and 2009, there was about an 18% increase in assault arrests for females under the age of 18. This contrasts with only a 0.2% increase for males of similar conditions. Another study concluded that both men and women demonstrated increasing rates of violence, beginning in 1988 (Tracy, Kempf-Leonard, & Abramoske-James, 2009). In recent years, the length of prison sentence served for delinquent conduct has become equal between girls and boys (Tracy, Kempf-Leonard, & Abramoske-James, 2009). Regarding violent crime specifically, this study found that “the rate of female violence has stabilized in recent years (2001-2006) and is higher than that of the baseline period (1980-1988)” (Tracy,

Kemph-Leonard, & Abramoske-James, 2009, pp. 185). For the past 10 years, “female arrests for simple assault increased by 10.1%, compared to a 4.4% decline for males” (Tracy, Kemph-Leonard, & Abramoske-James, 2009, pp. 187). These trends show an increase not only in women’s crime, especially compared to men’s crime, but also an increase in women’s violent crime.

Researchers have not found a definite answer as to the increase in these rates of women’s crime. This phenomenon could be caused by more expansive law enforcement efforts in the justice system that led less serious offences, that were previously not policed or overlooked, being brought into the system. These changes in policy could focus on crimes that are disproportionately committed by females. Following with this theory, as girls’ visibility in public spaces has increased in recent years, there may also be a social “widening of behaviour deemed unacceptable” (Carrington, 2013, pp. 66). Due to girls’ and women’s increased agency in society, their rates of crime may also increase as a natural result of this increased agency. This could also lead to an increase in policing focus, as women and girls become more socially autonomous.

In recent years, not only have women become more autonomous, but cultural representation of women and women’s violence has changed as well. Carrington writes that girls’ appropriation of aggressive or violent behavior, “which has traditionally been reserved for boys”, then “permits girls to re-create feminine identities that simultaneously challenge and reproduce their subordinate position in relation to boys” (2013, pp. 68). This redefinition of feminine behavior, and the increase in social acceptance of female violence, leads to a normalization of aggressive or violent behavior. Carrington (2013) theorizes that widespread use of the internet may contribute to normalizing female violence. This study demonstrates that

Google search results concerning fighting have been searched more times when the term “girl” is in the search than “boy”. These searches have also dramatically increased between the years 2009 and 2013. For example, “girls fight video” increased in hits from 73.3 million hits in 2009 to 567.0 million in 2013. The search “boys fight video” increased from 31.5 million to 267.0 million in the same time. The increase in these searches shows a normalization in people seeking out violence online, which could contribute to an increase in real-life violence (Carrington, 2013).

Backlash Theory

The backlash effect is defined as social and economic sanctions for counterstereotypical behavior (Rudman & Fairchild, 2004). This paper specifically looks at the backlash theory to explain negative repercussions that happen when women or men go against their gender roles. For example, women committing any crime is against their gender norms, as researchers theorize that, because women who break the law violate gender norms, as a consequence of this digression of their gender roles, they will receive more severe treatment (Administrative Office of the United States Courts, 1993). This theory also includes women who demonstrate more aggressive behavior. Gender roles dictate that women are not supposed to be aggressive or violent, while men are given lenience in their aggressive behavior. This results in male violence being normalized and female violence being seen as deviant. For example, in Condry and Ross’ (1985) study, the researchers showed participants a video of two small children playing roughly. The children were dressed in snowsuits, which hid their actual gender. After viewing the video, the participants were asked to judge the level of aggression shown by the children. In each participant group, they were told that the two children’s genders were a different combination (i.e., boy-boy, boy-girl, girl-boy, and girl-girl). The participants rated the boy-boy condition as

significantly less aggressive than the other conditions, which included at least one girl. This demonstrates the normalization of male aggression, while viewing the same behavior from females as unusually aggressive.

Related to the backlash theory is the concept of a “double deviant”, who is a person who violates both the law and their prescribed gender roles (e.g., a woman breaking the law and committing an act of masculine-typed aggression). This concept is believed to worsen the effects of backlash theory, as double deviants are seen as even further threatening existing social norms. Female deviants are punished for their social deviancy more than men, because “unlike men who fall into a deviant category, women are deemed more immoral because deviance supposedly goes against their very nature” (Administrative Office of the United States Courts, 1993, pp. 37). Following this logic, not only might there be a difference in treatment of men and women, but there may be a difference in treatment of women offenders as a result of the type of crime committed. As violent women are subject to the concept of double deviance, women who commit a masculine-typed crime may be sentenced more harshly than those with feminine-typed offenses.

Chivalry Theory

The other theory popular in this field is the chivalry theory. This theory states that, because gender roles dictate that women are naturally submissive and domestic, men feel that they must protect women. Following with this theory, men in the justice system – like judges or prosecutors – might be more lenient with women offenders as an act of protection (Chesney-Lind, 1986). The writer who originated the theory, Otto Pollak, even wrote that “men hate to accuse women and thus indirectly to send them to their punishment, police officers dislike to arrest them, district attorneys to prosecute them, judges and juries to find them guilty and so on”,

implying that this protective nature of men over women compounds with every subsequent part of the justice system (Pollak, 1950, pp. 151). After Pollak popularized this concept in his book, *The Criminality of Women*, the chivalry theory was widely accepted. Unfortunately, because so many scholars quickly recognized this theory as fact, there was little in-depth research to support or not support it. Even with little data to conclude one way or the other, the chivalry hypothesis “found its way into virtually every standard criminology text” (Chesney-Lind, 1986, pp. 88). This theory is mentioned in almost all of the research cited in the present paper.

Though this theory sounds entirely beneficial towards women, there are certain aspects that have a negative bias. The chivalry theory acts as paternalism toward women offenders. Paternalistic behaviors may yield more lenient treatment, yet this theory centers around the idea that men rightfully have amplified power and agency over women. The chivalry theory implies that “‘superior’ male criminal justice actors have power over ‘inferior’ female offenders and frequently exert this power under the premise that the female offender’s punishment is ‘for her own good’” (Administrative Office of the United States Courts, 1993, pp. 37). This line of thinking strips the women offenders of their agency, as a result of their femininity. The more lenient treatment that women may receive as a result of the chivalry theory is underscored by the anti-feminist ideals that the theory represents. Chivalry theory also encompasses selective chivalry. This means that a man might only act chivalrous with women who adhere to social norms. For example, a woman who committed a feminine-typed crime would be sentenced more leniently than a woman who committed a masculine-typed crime (Rodriguez, Curry, & Lee, 2006).

Gender Bias in the Juvenile Courts

In the United States juvenile courts, it is clear that there is a difference in treatment between girls and boys. Bishop and Frazier (1992) conclude that, concerning criminal offenses (not status offenses) male juvenile offenders are more likely than females

“(1) to be recommended for formal processing (prosecution) by intake officials, (2) to be petitioned to court by prosecutors for adjudication, (3) to be detained in secure facilities until adjudication, and (4) to receive judicial dispositions (sentences) that involve incarceration or similar liberty constraints” (Bishop & Frazier, 1992, pp 1184).

As an example of these biases, they write that the typical intake profile is a white teenager who committed a misdemeanor, and who had one prior referral, also for a misdemeanor (Bishop & Frazier, 1992). A male who fits this profile has about a 54% chance of being recommended for formal processing, while a female with the same characteristics has about a 45% chance (Bishop & Frazier, 1992).

Girls are more likely than boys to be charged with status offenses (noncriminal offenses like running away from home, incorrigibility, and being a “person in need of supervision”). About 40% of girls in juvenile court are charged with status offenses (Chesney-Lind, 1986). These offenses are not classified as criminal acts and instead, the purpose of these offenses is more to control these minors – possibly including how they conform to their gender roles. Chesney-Lind writes that the “vague language found in the relevant statutes seems to invite ‘discretionary’ application of their provisions”, meaning that the parents, police, and juvenile court authorities have greater abilities to police gender roles or morals, rather than strictly law violations (1986, pp. 88). In addition to being tried for status offenses more often, girls were also significantly more likely than boys “to receive the harshest sanction available in a juvenile court

[...] commitment to a juvenile prison – for status offenses and even for technical violations of probation” (Tracy, Kempf-Leonard, & Abramoske-James, 2009, pp. 202). Girls also tend to be “committed to a facility at much younger ages than those of males” (Tracy, Kempf-Leonard, & Abramoske-James, 2009, pp. 203). This implies a paternalistic bias, similar to the chivalry theory. However, unlike the chivalry theory, this seems to be a reaction in which the male justice system actors treat girls more harshly.

This research suggests a double standard of justice in the juvenile courts. Research into the juvenile justice system points out that “both female status offenders and male delinquents are differentially disadvantaged in the juvenile justice system” (Bishop & Frazier, 1992, pp. 1186). Though girls and boys likely receive gender biased treatment, they are affected more severely in different situations, with the “continuation of protectionist policies toward female status offenders, as well as an attitude toward non-status offenders (delinquents) that sanctions differentially harsher penalties for males and more leniency toward females” (Bishop & Frazier, 1992, pp. 1186). Data supports the conclusion that girls receive equal treatment at the early stages of the juvenile judicial process, like petitioning and adjudication. However, at disposition, girls are more likely to receive harsher sentences for more minor offenses, like running away from home (MacDonald & Chesney-Lind, 2001).

Findings

There are wildly contrasting findings in research on this topic. A large part of the research find that women receive greater sentencing leniency, while an equal amount of conflicting research finds that women are sentenced in a harsher manner. Clearly, there is no single verdict to the research question of this paper. These contrasting conclusions may be a result of confounding variables (e.g., offense type, seriousness of offense, prior record, prior

disposition, race, or age) or a flaw in the study's methods or measurements of offender treatment (Administrative Office of the United States Courts, 1993).

Support of Backlash Theory

Research shows that type of crime likely has implications for women's sentencing. Rodriguez, Curry, and Lee (2006) found that, for feminine-coded crimes like property and drug offenses, female offenders are less likely to be sentenced to probation or prison, and, if sentenced to prison, they are likely to receive shorter sentences. To contrast this, their study found no gender-related differences relating to odds of incarceration or probation in violent crime cases. Another study concluded that "male aggressors who assaulted females received the highest scores for sentence length; however, means did not significantly differ from female aggressors who assaulted males" (Russell & Kraus, 2016, pp. 7). This finding shows that female violent offenses that violate gender norms might be treated just as harshly as male violent offenses. The data implies that women committing violent crimes yields less lenient treatment than more feminine-coded crimes. In Rodriguez, Curry, and Lee's (2006) data set, men were about twice as likely to receive a prison sentence than women, with prison sentences that were, on average, 3.22 years longer than women's sentences. Surprisingly, when looking just at violent crimes, women benefitted from this effect the most, with sentences about 4.49 years shorter. This is about a year less than the data set's average. However, this finding is lessened because, compared to the total sample, the violent crime prison sentences tended to be longer than other offenses. These researchers concluded that female offenders will only receive milder sentences than their male counterparts when the nature of their offenses do not betray gender norms (Rodriguez, Curry, & Lee, 2006).

Following with the backlash theory, the concept of “double deviancy” seems to have an effect on offender treatment. How the offender’s crime threatens, or falls in line with, social norms, could affect the sentence they receive. Nooruddin theorizes that “women who kill their batterers should be treated severely by the court system since their actions threaten existing sexual hierarchies in a society that accords men dominance over women” (2007, pp. 325). In this case, a woman who killed her batterer would be a double deviant because of her violation of the law, and violation of gender norms through disallowing a man dominance over her. The study concluded that, “for both black and white women, killing one’s batterer raises the probability of conviction significantly, in both substantive and statistical terms” (Nooruddin, 2007, pp. 339). This suggests that an offender being a double deviant of norms causes harsher treatment in the court system.

Support of Chivalry Theory

There are also conflicting ideas regarding at what phase of the court process these sentencing disparities might happen. Bishop and Frazier looked to police bias and bias at the preliminary stages of judicial processing. Even after controlling for age, minority status, and neighborhood, “women were slightly less likely than men to be referred for prosecution for felony offenses and significantly less likely than men to be referred for misdemeanors” (Bishop & Frazier, 1984, pp. 387). Their subsequent 1992 study found that, in the juvenile justice system, “males are more likely than females to be recommended for formal processing, to be held in secure detention facilities, to be petitioned to court by prosecutors, and to be incarcerated or transferred to criminal court at the judicial disposition of their cases” (Bishop & Frazier, 1992, pp. 1176). Chesney-Lind (1986) claims that there is no difference in treatment from prosecutors, and that treatment disparities come from the judicial level – and that these judges tend to give

women offenders more lenient treatment. Steffensmeier, Painter-Davis, and Ulmer (2017) drew similar conclusions. One of the judge's assessments from their data indicated that the judge was more forgiving of female offenders, especially younger female offenders. He tended to view these cases through the lens of "situational contingencies (e.g., male influence, family-related pressures)", which caused him to believe that these women would rarely offend again (Steffensmeier, Painter-Davis, & Ulmer, 2017, pp. 828). Rodriguez, Curry, and Lee (2006) also found that, although their study found no difference in odds of receiving prison time, women received significantly shorter sentences than men. These contradictory findings seem to suggest that there could be real biases at numerous stages in the justice system.

There are significant differences between women's and men's perceived crime profiles. Russell and Kraus' (2016) study shows that, after having participants read about a case of violent assault, participants were more likely to believe that male aggressors initiated the assault compared to female aggressors. This demonstrates a social bias assuming that men are more aggressive and violent, yet this bias may be accurate. Starr theorizes that "men might well commit violent crimes with greater force, a difference not fully captured by the arrest code (beyond the labeling of some assaults as 'aggravated')" (2012, pp. 14). This could also be a limitation in offense coding that could affect offender treatment. Swatt and He (2006) found support for the theory that female homicides of intimate partners commonly stem from a defensive reaction to abuse. They concluded that "females were much more likely to have experienced prehomicide injury (53.6%) than males (3.5%)" and were also "more likely to use a knife (78.6%) than were males (28.1%)" (Swatt & He, 2006, pp. 286). These factors were so significant that these two factors positively predicted if an offense was committed by a man or woman. The linking of female intimate homicides to injuries prior to the offense and the use of a

weapon (specifically a knife) implies that these offenses are most likely defensive; pre-homicide injuries suggest that the crime was reactionary, while the use of a knife suggests that the female offender did not believe that they could physically overpower their intimate partner (who would be, statistically, more likely to be a man). This demonstrates that females charged for homicide are more likely to have been acting in defense than male homicide offenders. This can also mean that if women, on average, receive lighter sentences compared to men in regard to homicide charges, it may be as a result of the defensive nature of their crime.

Research Confounds

There are certain limitations that lead to contrasting results of the studies used. I believe that most of the variance in findings is due to the way that the research is conducted. Unfortunately, I have learned that, in a topic so nuanced, there is no one correct way to measure gender bias. Research is also changing, depending on when it is conducted. Bishop and Frazier write that “even in those recent studies that report significant gender differences” “the magnitude of these differences is considerably smaller than typically found in earlier years” (1992, pp. 1165). This suggests that the United States justice system is either becoming more equitable regarding gender bias, or is changing in a manner that hides differential treatment in order to continue discrimination subtly. The geographical area studied also has an effect on sentencing, as one study found that “men were about 1 ½ times more likely than women to be incarcerated in Miami and more than 2 ½ times more likely than women to be incarcerated in Chicago and Kansas City” while the offender’s race/ethnicity “affected the likelihood of incarceration in Chicago and Miami but not in Kansas City” (Spohn & Beichner, 2000, pp. 164). Other variables that may affect the conclusions are including but not limited to: measurement of bias (e.g., in-out decisions, sentence length, bail amount), stages of the cases studied (e.g., arrests, pre-trial, bail,

plea-bargaining, fact-finding, final sentencing), offense types studied (e.g., violent offense, property offenses, drug offenses), and offense coding (e.g., crime type, specific offense, no differentiation).

Effects of Intersectionality

Intersectionality is defined as a multidimensional framework that acknowledges multiple characterizing aspects of a person or group (e.g., black women have identities as both a black person and a woman) (Crenshaw, 1989). It is important to address these multiple identities because “social statuses do not simply operate in social life independently, but intersect with each other and, therefore, cannot be studied fully in isolation” (Steffensmeier, Painter-Davis, & Ulmer, 2017, pp. 810).

The identities of gender, age, and race/ethnicity all have effects on sentencing. Compared to the effect of race or age, one study concluded that effects from offender gender are the largest, in favor of female defendants receiving a smaller chance of incarceration and an average shorter sentence. There was a curvilinear effect in sentencing for the age identity, as “offenders over 50 and under 21 receive the least severe sentences, while those aged 21 to 34 receive the harshest sentences” (Steffensmeier, Painter-Davis, & Ulmer, 2017, pp. 821). In addition, the offenders who identified as Black or Hispanic were both more likely to receive a prison sentence, and more likely to receive longer sentences than those who identified as white. With an additional gender distinction, however, they found that these race effects were weaker among the women offenders, and were only significant for the factor of an offender receiving a prison sentence or not (Steffensmeier, Painter-Davis, & Ulmer, 2017).

Along with having individual effects, gender, age, and race/ethnicity all interact to create an effect on the outcome of the judicial process. The joint effects of these characteristics “are

considerably larger than the main effects of individual status characteristics” (Steffensmeier, Painter-Davis, & Ulmer, 2017, pp. 828). Identities who are most at risk of receiving harsher sentences are adults aged 21-34, racial/ethnic minorities, and males. The groups that received the harshest sentence predictions were younger black male defendants (ages 18-20, 21-34) and Hispanic male defendants. White women had the lowest mean predicted sentence. The differences in predicted sentencing are substantial when comparing the most dissimilar groups. For example, “young adult minority males (black, Hispanic) have a roughly 25 percent greater probability of incarceration than the oldest white female defendants”, while “young adult (21–34) and middle-aged (35–49) Hispanic males receive sentences about 30 percent to 40 percent longer than the youngest black, white, and Hispanic female defendants” (Steffensmeier, Painter-Davis, & Ulmer, 2017, pp. 826). This demonstrates the importance of considering the effects of intersectionality on findings of this topic, as the effects of characteristics like age and race/ethnicity also seem to have significant effects on sentencing disparity.

Experimental Research

The previously reported research findings mainly focus on correlational research, which examines the associations between gender and sentencing. Unlike correlational research, experimental designs allow for researchers to understand cause and effect relationships. Experimental designs are set up so that researchers can, ideally, control for all variables so that the independent variable that they intend to study will be the only variable different. These experimental studies in gender control for confounds by creating the same design for every participant, with the exception of gender. Mock juror studies result in findings about potential jurors’ biases, as well as information about how society as a whole might view certain cases. Information like this is helpful in knowledge about cases that are determined by a jury, but less

helpful regarding cases that are decided by a judge. The following experimental studies all study how participants react to different manslaughter cases, with either a male or female defendant. The researchers found that participants tended to find female defendants more sympathetic, and assigned them somewhat lighter sentences than male defendants.

Mossière and Dalby's (2008) study had participants act as mock jurors in a fictitious manslaughter trial. They were given records that identified the defendant as either a man or a woman, which was the only variable changed between the two groups. Also included with the information about the trial was a fictitious expert witness report that stated that the defendant met the criteria for psychopathy. After reading the information provided, the participants were asked if they believed that the defendant from the case was guilty of manslaughter, beyond a reasonable doubt. They could choose between two answers – either “guilty” or “not guilty”. Participants who chose the “guilty” answer then answered the second question, which asked what sentence the participant believed the defendant should receive (either incarceration or probation) and for how long that sentence should be (in which the participant specified an amount of time). The researchers found that the participants found the male-coded defendant guilty slightly more often, with slightly harsher sentences. They also found that the female participants were slightly more likely to give “guilty” verdicts than male participants. However, none of these effects were significant (Mossière & Dalby, 2008).

Zhao and Rogalin conducted a similar experiment that studied participant reaction to both the perpetrator's nonverbal cues and gender. The participants read through a fictional manslaughter report, in which the defendant was to have ran over a person while drunk driving. The defendant appeared either distressed or relaxed, and was either a female or male – both of these variables were manipulated in each group, with four separate groups. The participants

answered how sorry, remorseful, and sad the perpetrator appeared, on a scale of 0 = not at all to 10 = extremely. They also judged how often they thought the perpetrator typically drove while intoxicated, from 0 = not at all to 10 = very often, and how likely the perpetrator was to continue, from 0 = not at all likely to 10 = extremely likely. Lastly, the participants answered how long the perpetrator should be imprisoned, from 1 = up to 5 years to 6 = life imprisonment. In the groups which did not include distress cues, the jurors believed that the male perpetrators had driven while intoxicated more often and were more likely to continue future drunk driving than female perpetrators. The researchers found that the participants who read the report that included distress cues perceived more emotional distress from the perpetrator, regardless of perpetrator gender. The researchers concluded that there was not a significant difference in sentence bias between distressed men and distressed women (Zhao & Rogalin, 2017).

Another study had participants act as mock jurors determining a case in which the defendant had killed an abusive partner (in a married, heterosexual relationship). They manipulated both defendant and victim gender, both the defendant and victim's heights, and information about a child being present. The researchers found that the participants were more likely to encourage conviction for a male abuse victim killing his abusive wife, and less likely to find a female victim guilty for killing her abusive husband. Participants were also more sympathetic toward a female defendant. There was an abuser height and abuser gender interaction. Participants were more likely to convict a woman defendant when her abuser was taller than her. However, abuser height did not have an effect for men defendants. Lastly, when participants were informed about a child being present, they perceived the crime as an act of protection of the child. These findings suggest that jurors would be more likely to acquit a female victim for killing her abusive husband – unless the husband was taller than her – and

would be more likely to find a male abuse victim guilty for killing his female abuser (Hodell et al., 2014).

Conclusion

Based on these findings, I can conclude that there is a significant difference in both criminal behavior and societal reactions to violent crime, based on the gender of the offender. However, due to the complex and conflicting nature of research done in this topic, the data does not definitively support nor contradict my hypothesis. I hypothesized that there would be a gender bias on sentencing of violent offenders, and that women would be sentenced more harshly. There is evidence that both supports and fails to support this theory, yet I could find no conclusive research to yield an answer.

Introduction to Content Analysis

This second section contains a content analysis of criminal cases in Indiana from the past 10 years. The first section focused on previous research done in the topic, while this section contains new research and will conclude with new findings on the topic. Again, this paper sets out to study a possible gender bias in sentencing of violent crimes. I hypothesize that violent offenders who are women will have harsher punishments than violent offenders who are men, based on the backlash theory. According to gender roles, men should be more aggressive, so the court system might judge female offenders more harshly for showing aggression.

Method

I received my data from the Indiana Office of Court Services, which is the primary organization that maintains criminal records for the Indiana court systems. There was no way to request data for criminal offenses from the entirety of the United States, but I was able to receive data from the entire state of Indiana. In this bulk data request, I requested criminal records from

the years 2010 to 2020 that were classified as violent offenses, as defined by the FBI. The offenses included murder, manslaughter, forcible rape, robbery, and aggravated assault (Uniform Crime Reporting (UCR) Program - FBI, 2012).

Information in this data set included the following for each case: case number, file date, the court in which the case was decided, case status (ex., decided, pending), case type (ex., Felony 1, Felony 2, Felony 3, etc.), judge name, disposition date, disposition description (ex., “Guilty Plea or Admission”, “Bench Trial”, “Jury Trial”, etc.), offense statute and description, sex, eye color, hair color, race, ethnicity, confinement agency, commencement date, sentence time (in days and years), suspended time (in days and years), credit time (the time off an offender’s sentence for the time that they have already served, in days), and consecutive/concurrent sentencing (ex., yes or no). For my purposes, I included most of this data when creating my sample data set, and made minor changes as some of the data was not relevant to my analysis. I did not include eye color, hair color, confinement agency, or commencement date as these variables were not relevant to my research question. As I will explain later, I also only included cases with a “Decided” status, so the variable of case status was also not relevant. When coding for the time of the sentence, suspension, and credit, I condensed the format to a single number for each variable, instead of marking both years and days. The sentence and suspended time were both typically for longer periods of time and were also typically marked in years, so I formatted both these times as years, rounded to the thousandth decimal place. Credit time was almost exclusively formatted in days, so I coded for this variable in days.

The data included 23,502 cases. Of these cases, 2,087 of them had a female perpetrator and 20,041 had a male perpetrator. There were 1,374 cases that were entered without a gender, which I did not use for my analysis. In addition, there were 13,087 cases that had an “Undefined”

sentence; these resulted from the cases that were sentenced with multiple charges. Unfortunately, if a case has multiple charges (ex., armed robbery and forgery), these charges are not sentenced separately – creating a sentence that may be significantly different than the usual charge of the crimes that I wanted to analyze. These undefined-term cases were also not included in my analysis. I also did not include the 463 cases that were marked as “Pending”, as there was no sentencing information attached to them. Without these unusable cases, I had 10,063 cases that made up my total sampled cases, with 930 female-coded cases (9.24%) and 9,132 male-coded cases (90.75%).

To get the sample I used to generate my results, I first separated the useable cases into the female-coded and male-coded cases. Next, I used a number generator to randomly sample from these cases. I took 30 cases from both the female and male group – for 60 total cases in my analysis data set.

Results

I ran an independent samples t-test to measure sentence (years), suspended (years), and credit (days) by gender. The mean sentence (years) for the female-coded cases ($M = 9.57$, $SD = 12.25$) did not significantly differ from the male-coded cases ($M = 14.87$, $SD = 18.91$), $t(58) = -1.29$, $p = .20$. In the suspended (years) category, the values for the female-coded cases ($M = 1.75$, $SD = 2.29$) and male-coded cases ($M = 1.63$, $SD = 1.64$) did not significantly differ, $t(58) = .22$, $p = .83$. Lastly, the credit (days) values for female-coded cases ($M = 181.57$, $SD = 215.86$) and male-coded cases ($M = 184.47$, $SD = 279.48$) were also similar, $t(58) = -.04$, $p = 0.96$. Therefore, these findings do not support the hypothesis that the female-coded cases would receive more severe sentences than the male-coded cases.

This analysis did not support my hypothesis. The two groups – the female-coded cases and male-coded cases – did not significantly differ. After examining the sentencing data by gender, I found that none of the data was significant enough to support evidence of a gender bias within sentencing for this data set.

Conclusion

This analysis sampled from violent crime cases from 2010 to 2020 in the state of Indiana. This section includes my process of data collection and sampling – from 23,502 total cases to the 60 cases included in the final sample – as well as my statistical analysis and conclusions. I initially hypothesized that I would find support of a gender difference in sentencing of violent crimes, with women receiving harsher punishments than men. Some of the analysis-based previous research done on the topic was used to fine-tune my content analysis design. I did not seek out to replicate any previous studies, but my consumption of both gender-based and legal-based studies aided in fine-tuning the type of data I analyzed. Unfortunately, there were no significant findings from this content analysis. Like the first part of this thesis in which I examined previous research, I did not find evidence of a gender bias in violent offense cases.

There were a few limitations to this study that future research could address. One of the biggest limitations to this study was the relatively small sample size. There were only 60 cases I sampled from a total 10,063 usable cases. I would advise future studies to take significantly larger samples in order to reach more accurate findings. Another limitation I ran into was the many cases that were unusable from my original data sample. About half of the original cases were thrown out because the cases addressed multiple offenses, and due to the way that the IOCS stored sentencing data, a researcher would not be able to tell which offenses yielded which punishments. For future research, there may be a way to receive more extensive sentencing data

from the case records that could give punishments divided by offenses. However, this information may be impossible to obtain, which would render all violent crime cases which were filed with multiple offenses unusable. Lastly, future research studies might be able to obtain more extensive case information to examine both potential confounds and to analyze more sentencing variables other than the ones included in my data set.

The work done from this analysis is a significant data point within the topic of gender differences in violent crime. This analysis yielded information about the data available about violent crime in Indiana from this point in time. It may also serve as potential guidelines to potential future research in Indiana-specific criminal cases – this research explains how to receive data and what data would be available with a bulk data request. Though the results of my content analysis were not significant, these findings are important because they show that future analyses should improve on my design in order to study the data available more thoroughly. In addition, my exploration of previous research can also serve as a fairly comprehensive glance into the topic of gender differences in violent crime. Especially considering the limited research done on gender bias in criminology, I have come to find that any study could be an important part of significant findings in the future.

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