

Under Oath:
A Content Analysis of Controlled Images of Women in Elkhart, Indiana
Courtrooms.

Josephine Cohen
Undergraduate
Saint Mary's College
jcohen01@saintmarys.edu
November 23, 2010
Faculty Advisor: Dr. Carrie Erlin
Email Address: cerlin@saintmarys.edu

Under Oath: A Content Analysis of Controlled Images of Women in Elkhart, Indiana Courtrooms.

Abstract

The patriarchal structure of Western culture has influenced gender roles and expectations for both men and women. Traditional female gender roles perpetuate biased stereotypes and images of women by failing to address the gendered inequality of these roles. As the number of female offenders entering the criminal justice system increases, traditional criminological theoretical frameworks neglect to identify how an offenders' gender influences the way they are perceived in the legal system. This study analyzes how controlled images of women are portrayed for offenders based on courtroom interactions between legal actors. The findings indicate that male and female offenders were both characterized by these images yet there were intentional and unintentional differences between them.

While the feminist movement increased social awareness for gender equality, traditional female gender roles and expectations continue to influence the way women are portrayed and treated in numerous social settings. The patriarchal structure of Western culture has created male dominate societal norms. Stereotypical beliefs that women are “weak” and “need male guidance” support implicit societal messages that normalize female inequality. Gender discrimination is difficult to detect within social interactions because it occurs in indirect subtle ways. By implementing Rafter and Stanko’s (1982) six controlled images of women to the social interactions of legal actors within the courtroom, implicit messages of gender will be identified as traditional female gender roles influence the way male and female offenders are perceived.

REVIEW OF LITERATURE

Historically, academic research of the criminal justice system has been based on population studies of male offenders. Belknap (2007) noted that until the 1970s, research on criminal offenders either left women out of the samples, or portrayed them in a highly sexist manner. While women still make up the minority of felony offenders over the past decade the growth of female offenders has been higher than that of males (Belknap 2007). With the increase in women offenders, criminologists are now beginning to focus on gender disparity within the processing and sentencing of offender’s in the criminal justice system.

Cassia Spohn (2002) examined the difference between disparity and discrimination in the criminal justice system. Although these terms are often used interchangeably, they do not mean the same thing. Spohn noted that “disparity” refers to a difference in treatment or outcome that does not necessarily result from intentional bias or prejudice (2002:133). “Discrimination” in sentencing exists when legally irrelevant characteristics of a defendant affect the sentence that is imposed; after all legally relevant variables are taken into consideration (Spohn 2002).

Judicial Discretion

In the 1970's, significant efforts were made to reform sentence systems at both the state and federal levels (Nagel and Johnson 2004). These reforms were constructed to minimize judicial sentencing discretion by implementing guidelines to reduce biased racial and class discrimination. The sentencing reform movement emerged from the race-centered civil rights movement and concerns for fairness to prisoners. The purpose was twofold, eliminate racial discrimination and create "equal treatment" for offenders (Daly and Tonry 1997). Policies were restructured to focus on "equal treatment" by basing sentencing on the nature and the seriousness of the crime committed (Daly and Tonry 1997). With the primary focus on creating sentencing policies that limited racial discrimination, the need for gender neutral policies was overlooked. To date the range of judicial discretion based on the offenders' gender has not been examined in the crime sentencing process (Sporer and Goodman-Delahunty 2009).

Previous statistical research in sentencing studies indicated that adult female defendants receive more lenient sentences than adult male defendants (Spohn 2002). Results confirmed that across all racial groups, female offenders were given less harsh sentences (Sporer and Goodman-Delahunty 2009). According to Kesler (2003) female offenders are more likely than males to commit non-violent offenses, which are associated with lower offense levels. She also noted that women are less likely to go to trial and more likely to be assigned a lower charge, with a more lenient sentence than their male counterparts. Nagel and Johnson (2004) found that men tend to commit more violent, "aggressive" acts of crime while women tend to be more "submissive" and commit crimes surrounding prostitution (a patriarchal constructed female gender role) and drug related offenses.

Sporer and Goodman-Delahunty (2009) found that gender-skewed sentencing outcomes are often attributed to stereotypical beliefs that women are less “dangerous,” as they tend to have stronger community ties (through their children), which in return makes them less likely to recidivate. While there is an increase in the number of violent crimes women commit, the fact still remains that women are sentenced more leniently than men. Finkel, Burke, and Chavez (2000) found that women who committed crimes that violated traditional gender role expectations were punished more severely than their male counterparts.

Research regarding judicial perception on sentencing disparity based on the defendant’s gender is limited. Sporer and Goodman-Delahunty (2009) identified how personality attributes and social attitudes were potential determinants that influence a judges’ sentencing behavior. They also noted that studying judicial decision-making processes pose one of the most “difficult methodological challenges” since judge’s enjoy their constitutionally guaranteed independence and are reluctant to have their sentencing decisions examined by others (Sporer and Goodman-Delahunty 2009:381). The North Dakota Commission on Gender Fairness (1996) found that; four out of five judges surveyed answered that a defendant’s gender made no difference in sentencing similarly situated offenders. Contrary to judicial perception, gender has consistently been shown to influence sentencing outcomes (Nagel and Johnson 2004).

Gender Bias in the Criminal Justice System

As the criminal justice system has grown, it has become more open to the special circumstances of women (Belknap 2007). Researchers have taken interest in the special problems or issues women as offenders, clients and victims. The North Dakota Commission on Gender Fairness (1996) conducted an extensive two year research study consisting of focus groups, public meetings, and surveys among North Dakota judges, attorneys, and court personnel

to determine if gender biases still remained within the criminal justice system. As stated by Chief Justice Gerald VandeWalle to Commission members (1996):

Decisions made or actions taken based on preconceived notions about the nature, roles and abilities of women and men rather than upon evaluation of each individual situation strike at the heart of a judicial system that promises fairness and impartiality. Gender inequities frustrate and impugn the struggle by judges, lawyers and litigants alike to achieve justice. (P.4)

Results from the study concluded that attorneys still believed there were biases against women (60 percent) and against men (49 percent), but that it is a more “subtle” kind of bias (1996:5).

The Commission identified how interactions in the courtroom are important exchanges that often encompass and portray implicit messages regarding gender bias. It emphasized how judge’s talk to attorneys and how attorneys talk among themselves, send important messages to the attorney’s colleagues as well as their clients. This may ultimately convey messages about the professional worth of the attorney (North Dakota Commission 1996:11).

Indiana’s Supreme Court conducted a similar study which gathered information about perceptions of race and gender fairness within the state’s judicial system (2002). The Indiana Commission on Gender Fairness found that the vast majority of attorneys and court employees who were surveyed believed that discrimination appeared to be centered on gender (2002:6). Women attorney’s in Indiana reported that they are not treated with the same dignity and respect as their male counterparts and they are often subjected to “demeaning” or “sexist” remarks by colleagues, opponents, judges or other court personnel (Indiana Supreme Court Commission 2002:7). The Commission supported the notion that gender and race “influence” various types of judicial proceedings within Indiana courtrooms (2002). It also identified that little data has been collected that would allow tracking the role of gender, race and ethnicity within the courtroom and judicial proceedings throughout Indiana (Indiana Supreme Court Commission 2002:7).

While previous research has indicated that female defendants received more lenient sentences than their male counterparts; it fails to identify the different perceptions surrounding how the defendant is treated in the crime processing system (Spohn 2002). With the limited amount of research regarding the role of gender in the Indiana's criminal processing system, this study will identify how female gender images are portrayed for male and female offenders in Elkhart, Indiana courtrooms. This study will begin to track how the role of gender is influential in Indiana courtrooms.

THEORY

Early criminology theories were constructed "by men, about men" and focused on male behavior rather than human behavior. With the increase in number of female offenders entering the criminal justice system, traditional patriarchal theoretical frameworks failed to identify and address gender differences of criminal processing in the legal system. To understand the role that women often acquire in the criminal justice system it is important to identify how our Western culture has socially constructed the difference between men and women.

According to Belknap, "Differences between men and women have been divided into two categories: sex differences and gender differences" (2001:8). Sex differences include the biological and anatomical differences between the male and female body (Belknap 2001). Gender differences are those that are ascribed by society and relate to expected social roles, often including clothing, wages, professions and child-care responsibilities. These socially constructed gender roles and expectations create social inequalities for women because of the patriarchal hierarchy that dominates Western culture. The foundation of Western culture has been constructed by a patriarchal belief system that values male dominance in social, legal and political climates (Belknap 2001).

Rafter and Stanko (1982) identified six images of women that are often perceived in the crime-processing system that are influenced by gender norms and expectations. These images are based on implicit and explicit messages of how women ought to behave in specific situations, reinforcing the patriarchal gender expectation of women as being, “dependent, emotional, and in need of manly support” (Rafter and Stanko 1982:2). The six most prevalent images of women that Rafter and Stanko (1982) identified are as follows: women as 1) the pawn of biology, 2) passive (weak), 3) impulsive and nonanalytical, 4) impressionable and in need of protection, 5) masculine characteristics, and 6) purely evil these are the perceptions most commonly associated with women in the criminal justice system (1982:3).

The first image identified by Rafter and Stanko is that women are the “pawn of biology,” this image is most frequently found in criminal justice literature (1982). This perception views women as “gripped by biological forces beyond (their) control” (Rafter and Stanko 1982). Women are inappropriately linked to menstruation and premenstrual syndrome to explain their criminal behavior. “Prostitutes and other female offenders are portrayed as driven by unmanageable sexuality. In both cases, biology, not the woman herself, is in control” (Rafter and Stanko 1982:3). These images are compatible with female gender roles of mother and wife, which also stress biological functions (Rafter and Stanko 1982). This socially constructed image of women as the “pawn of biology” has historically and as well as presently, restricted a woman’s ability to expand her social roles by emphasizing that women suffer from “unpredictable mood swings” (Belknap 2001:19).

The second image identified is of women being “passive and weak” (Rafter and Stanko 1982:3). There are three different variations of this theme which portray women as “helpless” in criminal justice research. According to the first version, women are vulnerable and viewed as

easy prey for criminal types because of their “inherent” physical and emotional weakness (Rafter and Stanko 1982). The second implication of this image illustrates that, “women are followers rather than leaders... they tend to be accomplices to male criminals” (Rafter and Stanko 1982:3). This variation assumes that women will blindly follow male criminal offenders into a life of crime (Belknap 2001). The final variation of this image assumes that women are “incapable” of possessing a role of authority or leadership in a professional sphere, especially one involving crime or important court cases. These images of women as “passive and weak” illustrate how traditional gender roles continue to perpetrate gender biases and inequalities for women in social, legal and political arenas.

According to Rafter and Stanko (1982) the third image is of women being “impulsive and nonanalytical,” they are perceived as acting illogically and intuitively. This perspective supports traditional patriarchal beliefs that women are rarely able to make rational decisions and are in need of a man’s guidance to make logical, intelligent choices (Rafter and Stanko 1982). Women (victims, offenders, professionals) in the criminal justice system are often viewed as “needing guidance” from their male counterparts to learn what behavior is expected from them and what will not be tolerated. Even professional women who work in the criminal justice system struggle to overcome this image constructed from traditional female gender roles.

The fourth image depicted by Rafter and Stanko (1982) portrays women as “impressionable and in need of protection,” it emphasizes the notion that women are easily led astray and are gullible (3). Rafter and Stanko noted how women are perceived as, “childlike and vulnerable, according to this line of reasoning, need a greater degree of protection than men” (1982:3). Female offenders may claim to have felt pressured to into criminal behavior under

false pretenses given by a male who possesses authority and power over the woman. This image reinforces the assumption that women are weak and search for male direction and guidance.

The fifth perception identified is, “the active woman as masculine” which considers any woman who breaks from the stereotypical passive gender role expectation as deviant and thus is more likely to be a criminal (Rafter and Stanko 1982:3). These women are portrayed as having masculine characteristics; “aggressive, dark, too large, hairy, unnatural” (Rafter and Stanko 1982:3). “These women are also likely to be viewed as lesbian (whether they are or not); thus, they are prey to the hostility and discrimination associated with homophobia in society” (Belknap 2001:19). Karlene Faith (1993) observed two consistent images of the “active woman as masculine” by being portrayed as “unruly women” in films and movies. Faith (1993) noted how strong women in movies are often depicted as “masculine” and lesbian characters are portrayed as “villains.”

According to Rafter and Stanko (1982) the final image is “the criminal woman as purely evil” (3). This perception implies that it is worse for a woman to be a criminal than for a man... “because women not only are breaking out of law-abiding boundaries but, perhaps more importantly, are stepping out of stereotypical gender role boundaries (Belknap 2001:19). Traditional beliefs and expectations were that women (or at least “true” women) are more moral than men and should act accordingly. Rafter and Stanko noted that, “when this virtuous woman falls, however, she falls further than any man, for her compliance with proper gender roles is a foundation of social morality. Thus, when women step out of traditional gender roles, they create havoc” (1982:4).

METHODOLOGY

A content analysis of courtroom judicial interactions between 32 male offenders and 12 female offenders and their attorneys was conducted to identify gender disparity within Elkhart,

Indiana's judicial crime processing system. A content analysis is a research technique used to gather and analyze the content of text (Neuman 2007). The content is identified as words, meanings, pictures, symbols, ideas, themes or any message that is communicated. The text is a medium for communication that can be written, visual, or spoken (Neuman 2007). Objective and systematic counting and recording methods are implemented in a content analysis to produce a quantitative description of the symbolic content within the text (Neuman 2007). To identify gender bias or disparity (content) within courtroom interactions (text) representative coding attributes were developed from Rafter and Stanko's (1982) theoretical framework that identified six controlled images of women in the criminal justice system. Content analysis allows messages or implicit meanings (gender biases) of the content to be revealed within the source of communication (courtroom interactions). Since gender biases are often implicitly communicated in social settings, conducting a content analysis of courtroom interactions is an appropriate research method for this study.

Sample

Due to time constraints and the timing of judicial hearings set in Elkhart's court system that were open to the public, the sampled group was determined using a purposive sampling method relative to this study. Data was collected in one and a half to two hour increments, over a four day time span, for a total of nine observation hours. Courtroom observations were coded in Superior Courts 1, 5, and 6 and the Magistrates court. Data was collected from eight cases in Superior Court 1, eight cases in Superior Court 5, and ten in Superior 6. Another 18 cases were collected from the Magistrates Court. A total of 44 cases were observed. All 44 cases were criminal. All four of the judges observed were white males, with a relative age range of 45-60 years old.

From the 44 total criminal cases observed, 32 (73 percent) of the offenders were male and 12 (27 percent) were female. The age for each offender was coded during the initial judicial review of their personal background information, or a “relative age” was determined based on the appearance and behavior of the offender. The average age of female offenders was 30. The average age of male offenders was 31. The race/ethnicity of each offender was identified and coded as white, black, Hispanic or unknown. The majority of sampled male (65.6 percent) and female (66.7 percent) offenders were identified as white. The racial distribution of both male and female offenders is indicated in Table 1.

Table 1: Racial Distribution of Sampled Male and Female Offenders			
Race	Male Offenders	Female Offenders	Total
White	21 (65.6%)	8 (66.7%)	29 (66.9%)
Black	7 (21.9%)	2 (16.7%)	9 (20.5%)
Hispanic	4 (12.5%)	1 (8.3%)	5 (11.4%)
Unknown	0 (0%)	1 (8.3%)	1 (2.2%)
Total	32	12	44

Defendant Characteristics and Attributes

A coding sheet was developed after initial observations of judicial and defendant interactions in several criminal case proceedings in Elkhart, Indiana Superior Court 6. The copy of the coding sheet is attached in Appendix A. Each case was coded for the following: characteristics of the defendant, characteristics of their attorney (if present) along with judicial demeanor and attitude. Defendant characteristics included: sex, relative age, race, and a list of 10 clothing options to code their appearance. When possible (dependent on whether the judge or prosecuting attorney provided information) the defendant’s prior convictions, pending charges (felony or misdemeanors) and their final sentence was collected. If the defendant had an attorney present then the attorney’s sex, relative age, and their race was coded. The attorney’s clothing

was also coded from a list of six options. Judicial characteristics collected were as follows: sex, relative age, and race. The judicial attitude towards the defendant was coded based on 16 attitudes. Since humans are emotional beings the range of an individual's emotions are subject to change during their time spent in one social setting. The judicial attitudes (emotions) coded are subjective in nature but common and identifiable to the majority of participating members in Western society.

Data was collected for both male and female defendants determined by the frequency of operationalized examples and references (attributes) based on Rafter and Stanko's (1982) six images of women identified in judicial, attorney and defendant interactions. Rafter and Stanko's (1982) most common six images of women identified in the criminal justice system are as follows: 1) the pawn of biology, 2) passive (weak), 3) impulsive and nonanalytical, 4) impressionable and in need of protection, 5) masculine characteristics, and 6) purely evil (3). For each of the six images examples and references were constructed based on how Rafter and Stanko (1982) defined each image. The attributes identified for each image were determined by common behaviors and references made of defendants by judges and attorneys within the courtroom setting. In some cases multiple images were coded for defendants based on personal, judicial, and attorney references. Multiple attributes were also coded for a defendant if referenced.

The first image of women, as the pawn of biology, referenced how women were not in control of themselves, 10 examples were operationalized for biological behaviors commonly associated with "not being in control of oneself" (Rafter and Stanko 1982). These examples included: mental illness, hormonal changes, instinctual parental need to provide for children, age, medical diagnosis, substance/drug abuse, driving under the influence, psychotic medications,

drug/alcohol convictions, and addiction. Data was collected for an attribute if referenced in the courtroom by the judge, attorney or the defendant themselves. The second image was women as “passive or weak,” five examples were constructed for this image based on the defendant appearing or being understood as weak (Rafter and Stanko 1982). These examples included: helplessness, physical appearance as defenseless, emotional vulnerability, following male criminal behavior, mental inability for strong personality characteristics. If depicted or referenced in the courtroom, these examples were coded and the statement made portraying the image was coded. The third image was of women being “impulsive and nonanalytical,” four examples for this image were constructed based on defendant’s claiming that they often acted thinking of how they behavior may affect those around them or society as a whole (Rafter and Stanko 1982). The examples included: decisions made based on emotional reaction (impulsive), acting without thinking of consequence, needing guidance or direction that can be obtained through authority figures, and confusion surrounding charges. The fourth image was of women being “impressionable and needing protection,” seven examples of this image were operationalized as behaviors or beliefs of the defendant included fear or “victimization” (Rafter and Stanko 1982). These examples included: victim of circumstance, continued abusive patterns or cycles, fear of authority or power, pressured into criminal behavior, influenced by male dominance, ignorant about alternative choices, and behavior (action) based on another person’s expectations. The fifth image identified was of women having a “masculine image,” seven examples of traditional masculine behaviors or attitudes were operationalized for this image (Rafter and Stanko 1982). These examples included: masculine appearance, violent offenses, aggressive demeanor, confrontational, questioning authority, reference to supporting financially dependent children, and violent behavior that violates female gender expectations. The final

image Rafter and Stanko (1982) identified was of women being “purely evil,” only two examples were operationalized for this image. The two examples were; emphasis on moral implications of crime and references to being a bad (evil, ill-willed, mean-spirited) person.

Strengths and Weaknesses

A weakness of this study was the limited sample size used to collect data. Due to time constraints the number of male cases sampled was greater than the number of female cases. While the findings were calculated into percentages for comparison purposes, the validity of this study would have been stronger if an equal number of male and female cases had been sampled. Another weakness was that while based on Rafter and Stanko’s (1982) theoretical framework of images commonly associated with women in the criminal justice system, the attributes that were operationalized to code data were subjectively construct based on observations within Elkhart, Indiana’s courtroom. These examples may not be relevant in other courtroom settings and could be expanded to include more attributes for each image. A strength of this study was the systematic method implemented to identify implicit gender differences in the treatment of offenders. This study can be easily replicated. It also provides the first statistical analysis of for how the role of gender is portrayed within an Indiana courtroom.

FINDINGS

Out of the 44 criminal cases sampled in the Elkhart County court system, 32 of the offenders were male and 12 were female. All offenders were observed for attributes of Rafter and Stanko’s (1982) six most common images of women in the criminal justice system. Table 2 displays the percentages of both male and female offenders that were portrayed or characterized by these images within the courtroom setting. A copy of Table 2: Percentage of Male and Female Offenders Identified in Rafter and Stanko’s Six Images is attached in Appendix B. The

percentage indicates the proportion of the sub-sample (male or female) who were characterized by each image.

Biological Image

As indicated in Table 2, a higher percentage of male offenders than female offenders were characterized by the biological image of “not having control of oneself” (Rafter and Stanko 1982). Of the 32 male offenders that were sampled, 24 (75 percent) were referenced as having attributes of Rafter and Stanko’s (1982) biological image, compared to eight (66.7 percent) of the 12 female offenders. This finding suggests that it is not only women who are understood as having biological factors that influence the way their criminal behavior is perceived in the courtroom. The frequency of attributes coded for male and female offenders under the biological image is displayed in Table 3. A copy of Table 3: Biological Image Attributes is attached in Appendix B. In total, biological attributes were referenced 94 times. The most significant statistical differences in the biological attributes for male and female offenders surrounded drug related offenses. This notion is supported by the higher percentage of male offenders (28 percent) referenced for substance and drug abuse compared to the percentage (15.8 percent) of female offenders as indicated in Table 3. One example of this occurred in a case in Superior Court 5, a male defendant was charged with drug related offenses which, if convicted, would result in jail time. The defendant’s attorney argued how he “believed his client suffered from an unaddressed addiction issue” he asked the judge that his client be allowed to enter a drug treatment program as “this isn’t his first drug related charge- he obviously has an issue.” For male offenders identifying their drug abuse issues or addiction was used as a way of excusing their criminal behavior.

Passive and Weak Image

As illustrated in Table 2, female offenders were more commonly characterized as passive and weak than male offenders. Of the 12 female offenders that were sampled, nine (58.3 percent) were referenced as having attributes of Rafter and Stanko's (1982) passive and weak image, compared to only seven (28.1 percent) of the 32 male offenders. Table 4 displays the percentage of attributes coded for the nine male and seven female offenders under the passive and weak image. A copy of Table 4: Passive/weak Image Attributes is attached in Appendix B. An important note within this subset is the difference in the percentage of male offenders (55.6 percent) coded as being in a helpless situation in contrast to female offenders (36.4 percent). Male offenders were identified as being in a helpless situation due to their unemployed status or recent job loss. For male offenders, helpless situations were portrayed in cases where failure to meet financial obligations (child support or court fees) was out of their control due to their lack of income. These situations were almost made as a way of excusing their criminal behavior. A 41- year old male offender who faced charges of driving with a suspended license explained to the judge that he "didn't have any other way to work, my ride didn't show up and we needed the money." Female offenders identified themselves as being in a helpless situation by noting minimal or no spousal/family support- financially or emotionally. Female offenders (36.4 percent) were also identified as being more emotionally vulnerable than male offenders (11.1 percent).

Impulsive and Nonanalytical Image

Table 2 indicated that of the 12 female offenders that were sampled, 11 (91.7 percent) were referenced as having attributes of Rafter and Stanko's (1982) impulsive and nonanalytical image, compared to 18 (56.3 percent) of the 32 male offenders. The image of women as

“irrational, emotional beings” (Rafter and Stanko 1982) is supported by the fact all but one of the female offenders was referenced in the courtroom as making impulsive decisions based on their emotional state. These finding supports Rafter and Stanko’s theoretical framework of how women are commonly perceived as being “emotionally dependent on men” and “need guidance from male authority figures to make logical, correct decisions” (1982). Table 5 displays the percentages of each attribute coded for male and female offenders under the impulsive and nonanalytical image. A copy of Table 5: Impulsive and Nonanalytical Image Attributes is attached in Appendix B. Within this subset, 20 percent of female offenders were referenced as making decisions based on emotion, while only eight percent of male offenders were identified as acting out based on emotion. This finding supports stereotypical gender biases that women are not naturally logical thinkers and are unable to have intellectual thoughts. Male offenders (28 percent) were referenced as having more confusion surrounding the charges against them than female offenders (13.3 percent). Male offenders tended to be more confused about the steps involved in criminal case proceedings or regarding the judicial interpretation of the law. An example of this was portrayed in the Magistrate Court by a 27 year old, Hispanic, male offender who did not understand why he had three charges pending... “I don’t understand why I’m being charged on three different accounts for only committing one crime.” Female offenders tended to be confused about why they were even being charged and the severity of the charges. An example of this was also portrayed in the Magistrate Court by a 35 year old, white, female offender. After the judicial review of pending charges in her case, she began asking the judge for legal advice and guidance, repeatedly asking... “Do I need an attorney?”

Impressionable and Needing Protection Image

Of the 12 female offenders that were sampled, seven (58.3 percent) were referenced as having attributes of Rafter and Stanko's (1982) impressionable and needing protection image, compared to 13 (40.6 percent) of the 32 male offenders (as indicated in Table 2). Table 6 displays the percentages of each attribute coded for male and female offenders under the impressionable and in need of protection image. A copy of Table 6: Impressionable and Needing Protection Attributes is attached in Appendix B. Female offenders were identified as being a victim of circumstance 16.7 percent of the time in contrast to male offenders who were referenced as a victim 6.7 percent of the time. Supporting Rafter and Stanko's theoretical framework that identified women as being fearful of the power men have over them; female offenders were referenced as having a fear of authority 33.3 percent of the time while male offenders were only referenced as fearful 13.3 percent of time.

Masculine Image

Of the 32 male offenders that were sampled, 17 (53.1 percent) were referenced as having attributes of Rafter and Stanko's (1982) masculine image, compared to only 3 (25 percent) of the 12 female offenders (as indicated in Table 2). Table 7 displays masculine attributes that were coded for both male and female offenders. A copy of Table 7: Masculine Image Attributes is attached in Appendix B. Due to the small number of female offenders characterized as having a masculine image the percentage of females identified as having an aggressive demeanor appears higher than male offenders. In reality only one female offender was referenced for aggressive behavior.

Purely Evil Image

Of the 32 male offenders that were sampled, three (9.4 percent) were referenced as having attributes of Rafter and Stanko's (1982) purely evil image, compared to only 1 (8.3 percent) of the 12 female offenders (as indicated in Table 2). As indicated in Table 8: Purely Evil

Image Attributes (a copy is located under Appendix B) male offenders characterized with as having a purely evil image, generally had references of prior battery convictions. All three of the male offenders coded for the moral implications of their crime were facing charges that involved violent offenses (battery) against women. These male offenders were noted for abusive domestic violence cycles and were portrayed as bad men that are not worthy of rehabilitation.

DISCUSSION

The findings of this study indicate that female offenders are consistently characterized by controlled biased images of women in the criminal justice system. These images hold implicit messages regarding a woman's value in society. Women suffer the social consequences of these negative stereotypical beliefs and expectations regarding their role in society. Surprisingly, the male offenders in this study had higher percentages in three of the six images Rafter and Stanko (1982) identified for women in the criminal justice system. Male offenders were more frequently characterized with biological, masculine and evil images than female offenders. While it is surprising to discover that male offenders were equally characterized by these controlled images of women, it appeared as if they were intentionally portrayed by the attributes of the images to excuse their criminal behavior. For male offenders these images were purposefully referenced in a way that was used to their advantage. In contrast, female offenders appeared to unintentionally be identified with these attributes in a negative manner as a way of explaining their criminal behavior.

Rafter and Stanko's (1982) biological image identified how the biological function of a woman is in control rather than the woman herself. Attributes of this image were constructed based on the notion of not being in control of oneself. Male offenders who had drug-related criminal charges against them were referenced for biological attributes. More male offenders were identified as having drug abuse (addiction) issues than female offenders. The sociological

implications of this seem to set an implicit societal standard for men and women in regards to being in control. While women are looked down upon for having biological functions (emotional outbursts caused by hormonal changes, which are natural) controlling their behavior, men are excused and perceived as needing help when biological functions (chemical dependency) control their behavior. This image portrays the disparity found in societal standard for women and men. These standards or norms are constructed on traditional gender roles and expectations.

Rafter and Stanko's (1982) masculine image identified stereotypical male characteristics or attributes identified as deviant for women to possess. The masculine image is socially constructed based on stereotypical characteristics that are considered valuable for a man to have, yet if a woman were to possess any of these qualities she is perceived as deviant. The societal acceptance of this message creates gender inequality and hinders social advancement for women who possess strong personality characteristics typically identified as masculine.

This study's research findings support the notion that all of the six images identified in Rafter and Stanko's (1982) controlled images of women are continually portrayed in the criminal justice system, by both male and female offenders. These images send implicit messages that normalize gender inequality for women. These controlled images influence gender norms and expectations for both men and women. Unfortunately these images are creating social inequalities for women by limiting the characteristics women are allowed to possess. While it is surprising to discover that male offenders were equally characterized by these controlled images of women there were intentional references made to excuse their criminal behavior. For male offenders these images were purposefully referenced in a way that was used to their advantage. While female offenders were identified with these attributes in a negative manner as a way of explaining their criminal behavior.

APPENDIX A: CODING SHEET

Elkhart Court: _____ Judge: _____ Entry Date and Time: _____
Trial _____ Hearing _____ Plea _____

Defendant:

Male: _____ Female: _____ Relative Age: _____ Race: _____

Clothing/Appearance:

T-shirt/Jeans _____ Collared shirt _____ Suit and Tie _____ Dress _____

Khaki pants _____ Dress pants/dress shirt _____ Athletic clothes _____

Jacket with logo _____ Prison outfit _____ Suit jacket _____

Notes: _____

Prior Convictions: _____

Original Charge: _____

Pending Charges: _____

Felony: _____

Misdemeanor: _____

Sentence: _____

Attorney: Yes/No

Female: _____ Male: _____ Relative Age: _____ Race: _____

Privately hired: _____ Public Defender: _____ Representing Self: _____

Clothing/Appearance:

Formal suit and tie _____ Dress pants/jacket _____ Formal dress suit _____ Dressy

sweater _____ Khaki pants/collared shirt _____ Dress shirt/skirt _____

Notes: _____

Interactions between client and
attorney: _____

Judicial:

Male: _____ Female: _____ Relative Age: _____ Race: _____

Attitude toward defendant- depicted through courtroom interactions and dialogue:

Angry _____ Stern _____ Friendly _____ Disgusted _____ Hopeful _____ Cautious _____ Rude _____

Compassionate _____ Understanding _____ Confused _____ Annoyed _____ Tolerate _____

Informative _____ Demeaning _____ Sympathetic _____ Authoritarian _____

Observations: _____

Attitude toward defendant's attorney- depicted through courtroom interactions and dialogue:

Angry _____ Stern _____ Friendly _____ Cautious _____ Rude _____ Compassionate _____

Understanding _____ Confused _____ Annoyed _____ Tolerate _____ Informative _____

Demeaning _____ Authoritarian _____ Professional _____

Observations: _____

Biological images:

____ References to Mental Illness/Disorder (depression, bipolar disorder, postpartum depression): _____
____ References to increase/decrease in hormone level (child-birth, birth control or menopause): _____
____ Parental responsibilities: _____

____ References to age: _____
____ New Medical Diagnosis: _____
____ Substance Abuse/Drug abuse: _____

____ Driving under the influence: _____
____ Changes in psychotic prescription medications: _____
____ Reference to prior drug/alcohol convictions: _____
____ Addiction: _____

Observations/Interactions: _____

Passive/Weak images:

____ “Helpless” situation portrayed: _____
____ Physical appearance weak or defenseless: _____
____ Reference to emotional vulnerability : (easy target, prey in situation due to emotional state) _____
____ Reference to “following” male criminal behavior: _____
____ Mental inability to possess “strong” dominate personality characteristics: _____

Observations/Interactions: _____

Impulsive and Nonanalytical images:

____ Decisions made based on emotional reaction (irrational, impulsive): _____

____ Reference to acting without thinking through consequence: _____

____ References to (needing guidance or direction) and can be obtained through male counterparts or other authority figures: _____

_____ Confusion surrounding charges: _____

Observations/Interactions: _____

Impressionable/ needing protection images:

_____ Victim of circumstance: _____

_____ Reference to abusive cycle or patterns: _____

_____ Feelings of being fearful: (scared of someone with “power” or “authority”) _____

_____ Forced or pressured into criminal behavior: _____

_____ Inability to form “personal” opinion influenced by male dominance: _____

_____ Ignorant or uninformed about alternative choices: _____

_____ Behavior based on another person’s expectations: _____

Observations/Interactions: _____

Masculine images:

_____ Reference to stereotypical physical masculine appearance: _____

_____ Violent criminal offenses: _____

_____ Aggressive demeanor: _____

_____ Confrontational attitude: _____

_____ Questioning authority: _____

_____ Reference to financial provider for children (dependents): _____

_____ Violent crime that violates specific female gender expectations: _____

Observations/Interactions: _____

Purely evil images:

_____ Emphasis on moral implications of crime: _____

_____ Reference to being a “bad” person (evil, ill-willed, mean-spirited): _____

Observations/Interactions that support
image: _____

APPENDIX B

Table 2: Percentage of Male and Female Offenders Identified in Rafter and Stanko's Six Images		
Images	Male Offenders	Female Offenders
Biological	24 (75%)	8 (66.7%)
Passive and Weak	9 (28.1%)	7 (58.3%)
Impulsive and Nonanalytical	18 (56.3%)	11 (91.7%)
Impressionable and Need of Protection	13 (40.6%)	7 (58.3%)
Masculine	17 (53.1%)	3 (25%)
Purely Evil	3 (9.4%)	1 (8.3%)
Total:	n=32	n=12

Table 3: Biological Image Attributes		
Attributes	Male Offenders	Female Offender
Mental illness/disorder	3 (4%)	2 (10.5%)
Hormone level	0 (0%)	1 (5.2%)
Parental responsibilities	10 (13.4%)	3 (15.8%)
Age	3 (4%)	2 (10.5%)
New medical diagnosis	0 (0%)	1 (5.2%)
Substance/drug abuse	21 (28%)	3 (15.8%)
DUI	11 (14.7%)	3 (15.8%)
Psychotic prescriptions	0 (0%)	0 (0%)
Prior drug/alcohol convictions	15 (20%)	2 (10.5%)
Addiction	12 (16%)	2 (10.5%)
Total	75	19

Table 4: Passive/Weak Image Attributes		
Attributes	Male Offenders	Female Offenders
Helpless situation	5 (55.6%)	4 (36.4%)
Physical appearance weak	1 (11.1%)	2 (18.2%)
Emotional vulnerable	1 (11.1%)	4 (36.4%)
Following male behavior	1 (11.1%)	0 (0%)
Mental inability	1 (11.1%)	1 (9.1%)
Total	9	11

Table 5: Impulsive and Nonanalytical Image Attributes		
Attributes	Male Offenders	Female Offenders
Emotional decisions	2 (8%)	3 (20%)
Acting w/out consequence	10 (40%)	6 (40%)
Needing guidance	6 (24%)	4 (26.7%)
Confusion of charges	7 (28%)	2 (13.3%)
Total	25	15

Table 6: Impressionable and Needing Protection Image Attributes		
Attributes	Male Offenders	Female Offenders
Victim	1 (6.7%)	2 (16.7%)
Abusive cycle	7 (46.7%)	2 (16.7%)
Fear of authority	2 (13.3%)	4 (33.3%)
Pressured into criminal behavior	1 (6.7%)	2 (16.7%)
Male dominance	0 (0%)	0 (0%)
Ignorant alternative	4 (26.7%)	1 (8.3%)
Behavior based on expectations	0 (0%)	1 (8.3%)
Total	15	12

Table 7: Masculine Image Attributes		
Attributes	Male Offenders	Female Offenders
Masculine appearance	1 (2.9%)	0 (0%)
Violent offenses	4 (11.8%)	0 (0%)
Aggressive demeanor	5 (14.7%)	1 (25%)
Confrontational	9 (26.5%)	1 (25%)
Questioning authority	7 (20.6%)	0 (0%)
Financial provider for children	8 (23.5%)	2 (50%)
Total	34	4

Table 8: Purely Evil Image Attributes		
Attributes	Male Offenders	Female Offenders
Morality Issues	3 (60%)	0 (0%)
“Bad” person	2 (40%)	1 (100%)

Reference

- Belknap, Joanne. 2007. *The Invisible Woman: Gender, Crime and Justice*. 3rd ed. Belmont, CA: Thomson Higher Education.
- Blackwell, Kevin., Max Schanzenback, Michael Yaeger, Cassidy Kesler, and Judge John Gleeson. 2003. "Panel I: Disparity in Sentencing- Race and Gender." Pp. 160-164 in *Federal Sentencing Reporter*. Vol. 15, edited by S. Linn, C. Kesler. Berkley, CA: University of California Press.
- Bonneau, Chris W. and Heather Marie Rice. 2009. "Impartial Judges? Race, Institutional Context, and U.S. State Supreme Courts." *State Politics and Policy Quarterly*. 4:381-403.
- Bushway, Shawn D. and Anne Morrison Piehl. 2001. "Judging Judicial Discretion: Legal Factors and Racial Discrimination in Sentencing." *Law and Society Review*. 35:733-764.
- Daly, Kathleen. 1994. *Gender, Crime and Punishment*. New Haven, CT: Yale University Press.
- Daly, Kathleen., Meda Chesney- Lind. 1988. "Feminism and Criminology" *Justice Quarterly* 5.4: 101-143.
- Daly, Kathleen and Michael Tonry. 1997. "Gender, Race, and Sentencing." *Crime and Justice*. 22:201-252.
- Faith, Karlene. 1993. *Unruly Women: The politics of Confinement and Resistance*. Vancouver: Press Gang Publishers.
- Helfgott, Jacqueline B., 2008. *Criminal Behavior: Theories, Typologies, and Criminal Justice*. Thousand Oaks, CA: Sage Publications, Inc.
- Helms, Ronald and David Jacobs. 2002. "The Political Context of Sentencing: An Analysis of Community and Individual Determinants." *Social Forces*. 2:577-604.
- Hutton, Neil. 1998. "Gender and Sentencing" Pp. 67-114 in *Gender Perceptions and the Law*, edited by Barker, Christine R., Elizabeth A. Kirk and Monica Sah. Brookfield, VT: Dartmouth Publishing Company Ltd.
- Indiana Supreme Court Commission on Race and Gender Fairness. 2002. *Indiana Supreme Court Commission on Race and Gender Fairness Executive Report and Recommendations*.
- Mazella R., and Feingold A., 1994. "The effects of physical attractiveness, race, socioeconomic status and gender of defendants and victims on judgments of mock jurors: A meta-analysis." *Journal of Applied Social Psychology*. 24:1315-1344.

- Meeker, James W., Paul Jesilow, and Joseph Aranda. 1992. "Bias in Sentencing: A Preliminary Analysis of Community Service Sentences." *Behavioral Sciences and the Law*. 10:197-206.
- Nagel, Ilene H., and Barry L. Johnson. 2004. "The Role of Gender in a Structured Sentencing System: Equal Treatment, Policy Choices, and the Sentencing of Female Offenders" Pp. 198-235 in *Gendered (In)justice: Theory and Practice in Feminist Criminology*, edited by Schram, Pamela L., Barbara Koons-Witt. Long Grove, IL: Waveland Press, Inc.
- North Dakota Commission on Gender Fairness in the Courts. 1996. "A Difference in Perceptions: The Final Report of the North Dakota Commission on Gender Fairness in the Courts." *North Dakota Law Review*. Judicial Wing, 1st Floor. 600 East Boulevard Avenue. Bismarck, North Dakota. Retrieved September 2, 2010 (<http://web.lexis-nexis.com.lib-proxy.nd.edu/universe/document? m=bc7d78bfce18a16f44>)
- Neuman, W. Lawrence., 2007. *Basics of Social Research: Qualitative and Quantitative Approaches*. 2nd ed. United States: Pearson Education, Inc.
- Rafter, Nicole., and Elizabeth Stanko 1982. *Judge, Lawyer, Victim, Thief*. Northeastern University Press.
- Spohn, Cassia C. 2002. *How Do Judges Decide? The Search for Fairness and Justice in Punishment*. Thousand Oaks, CA: Sage Publications, Inc.
- Sporer, Siegfried L., Jane Goodman-Delahunty. 2009. "Disparities in sentencing decisions" Pp. 379-401 in *Social Psychology of Punishment of Crime*, edited by M.E. Oswald, S. Bieneck and J.Hupfeld-Heinemann: John Wiley & Sons Ltd.