

Introduction

Chapter 1 Gendering Criminology Through an
Intersectional Lens

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PART I



Gendering Criminology Through an Intersectional Lens

The more stigmatized their social position, the easier it is to victimize them. The further a woman's sexuality, age, class, criminal background, and race are from hegemonic norms, the more likely it is that they will be harmed—and the more likely that their harm will not be taken seriously by their community, by anti-violence programs, or by the general public.

—Richie (2012, pp. 15–16)

This book presents the current state of women, girls, gender, and justice, in criminology (the study of crime), focusing on the United States. To understand this requires two approaches. First, it is necessary to comprehend historical developments of the status of women and girls in the home, society, and the workplace. Second, sexism does not occur in a vacuum; rather it intersects with race/ethnicity, class, sexuality, (dis)ability, immigration and nation status, and so on. Therefore, it is vital to use an *intersectional* approach to examine the impacts of gender (P. H. Collins & Bilge, 2016; Potter, 2015). To this end, this book includes relevant historical factors, many with lasting legacies, and addresses criminology through a gendered and intersectional lens.

In addition to reporting the challenging state of justice in the past and present United States, this book also identifies successes and progress in theories, research, policies, and practice. Given that a larger portion of this book is more about the injustice than justice experienced by crime victims, defendants/offenders, and workers,

the term *criminal legal system* is used in lieu of what many people refer to as the *criminal justice system*. In sum, most of this book reports on the unjust processing of girl and women victims and defendants/offenders, and the challenges of women working in the criminal legal system as police, jail/prison staff, lawyers, and judges. However, advances in society, criminology, the criminal legal system, and justice will also be identified. The purpose of this chapter is to introduce readers to this book and to expose them to an overview of the important concepts and phenomena necessary to understand gender and crime. These significant concepts include a presentation of women and girls' invisibility in criminology and criminal legal system studies and society, relevant concepts and definitions, and an understanding of how the images of women and girls in society have affected their experiences as victims, offenders, and professionals working in the criminal legal system.

The bulk of *The Invisible Woman* is the three sections between the first and last chapters: offending (Section II), victimization (Section III), and criminal legal system workers (Section IV). The offending section, Section II, includes chapters on criminology theories (Chapters 2 and 3), gender patterns in offending and being labeled "offender" (Chapter 4), gendered contexts in offending (Chapter 5), gender differences in how the criminal legal system (CLS) processes offenders (Chapter 6), and gender differences in punishing and incarcerating offenders (Chapter 7). Section III, the victim section, is on gender-based abuses. *Gender-based abuses* (GBAs) are abuses committed disproportionately against women, girls, queer (LGBTQI+) and gender-nonconforming individuals. Chapter 8 introduces GBAs, Chapter 9 focuses on sexual victimizations (e.g., rape and sexual harassment), and Chapter 10 is on intimate partner abuse (also known as intimate partner violence and "domestic violence") and stalking. Section IV is on women workers in the criminal legal system (CLS), with chapters devoted specifically to jail/prison work (Chapter 11), police work (Chapter 12), and court work (i.e., lawyers and judges) (Chapter 13). The book closes with Section V, a summary of advances that have been accomplished in gender and crime (Chapter 14).

Diversity Among Women and Girls

As stated in the first paragraph, understanding the effects of sexism cannot be conducted in a vacuum because sexism is not experienced the same by everyone. Rather, gender intersects with such characteristics as race/ethnicity, class, sexuality/sexual identity, (dis)ability, nationality, immigration status, age, and so on. Significantly, gender role stereotypes, experiences, and opportunities vary for women and girls of different classes, races/ethnicities, (dis)abilities, sexualities, religions and nationalities (e.g., Arnold, 1990; Bachman, Zaykowski, Lanier, Poteyeva, & Kallmyer, 2010; Belknap, 2010; Belknap, Holsinger, & Little, 2012; Brennan, 2002; Burgess-Proctor, 2006; Chigwada-Bailey, 1997; C. F. Collins, 1997; P. H. Collins & Bilge, 2016; Corliss, Cochran, Mays, Greenland, & Seeman, 2009; Dorr, 2004; Garfield, 2005; Jones, 2010, 2018; Scherer & Reynolds, 2019). Historically, feminist scholarship has focused too strongly on the lives and experiences of white, straight, middle-class women and girls, with missing, inadequate, or sometimes, offensive assessments of race/racism, class/classism, sexuality/homophobia, and other marginalizing characteristics. Significantly,

research consistently documents how the greater the matrix of oppression (the more oppressed groups one is a member), the more marginalized and discriminated against the individual (P. H. Collins & Bilge, 2016; Richie, 2012). Although the term *intersectional feminism* is more recent, the meaning has been promoted by women of Color from across the globe since at least the 1800s (P. H. Collins & Bilge, 2016; Roberts & Connell, 2016).

In 1988, African American feminist scholar D. K. King published her classic article, “Multiple Jeopardy, Multiple Consciousness,” to address African American women’s multiple jeopardies (marginalizations) in terms of race, gender, and typically class, but also how African American women become invisible under “African American” when “male” is assumed, *and* under “women” when “white” is assumed. In 1990 African American legal scholar A. P. Harris defined *multiple consciousness* as a “process in which propositions are constantly put forth, challenged, and subverted” (p. 584). This challenge and subversion, according to Harris (1990), is due to the phenomenon of *gender essentialism*, whereby women’s experiences are “isolated and described independently of race, class, sexual orientation, and other realities of experience” (p. 585). Around the same time, Asian American legal scholar Matsuda (1989) described how law school typically trains in bifurcated thinking, by separating what one *believes* is relevant from what one’s legal training has *taught* is relevant. This requires a “shifting” between one’s lived experiences “and the white consciousness required for survival in elite educational institutions” (p. 8). Matsuda closed with this directive:

I cannot pretend that I, as a Japanese American, truly know the pain of, say, my Native American sister. But I can pledge to educate myself so that I do not receive her pain in ignorance. And I can say as an American, I am choosing as my heritage the 200 years of struggle by poor and working people, by Native Americans, by women, by people of color, for dignified lives in this nation. I can claim as my own the Constitution my father fought for at Anzio, the Constitution that I swore to uphold and defend when I was admitted to the bar. It was not written for me, but I can make it my own, using my chosen consciousness as a woman and person of color to give substance to those tantalizing words “equality” and “liberty.” (p. 10)

More recently, Lopez and Pasko (2017) describe the invisibility of Latinas in criminology research: Latinx people “have historically been classified as White people” in official U.S. data, and Latinas’ experiences in the CLS are often “blurred with those of Latino boys and men” (p. 196).

This book makes visible women and girl victims, women and girl defendants/offenders, and women working in the criminal legal system (CLS), acknowledging that women and girls’ experiences are not identical but are impacted by their race, class, sexual identity, national origin, and other personal and potentially marginalizing and privileging characteristics. Many of these have been long-ignored/invisible. Although there is significant scholarship and awareness needed in many areas of criminology, fortunately there is increasing research on LGBTQI+, Indigenous (e.g., Morris & Wood, 2010), Latinx individuals (Flores, Camacho, & Santos, 2017; Lopez, 2017; Lopez & Pasko, 2017), and people with disabilities (Scherer & Reyns, 2019). Notably, *queer*

criminology is an essential and growing subfield within criminology (Ball, 2016; Buist & Lenning, 2016; Panfil, 2017; D. Peterson & Panfil, 2014; E. S. Peterson & Skinner, 2019; Wodda & Panfil, 2018; Woods, 2017).

A crucial concept in this analysis is the Global South. *Global South* is a shift from using terms such as *Third World*, *Underdeveloped*, or *Developing* countries to broadly refer to geographic regions in Asia, Africa, and Latin America. Replacing the prior labels for the Global North (previously referred to as Developed and First World nations) and Global South “marks a shift from a focus on development or cultural difference toward an emphasis on geopolitical power relations” (Dados & Connell, 2012, p. 12). Significantly, “colonization itself was a gender-structured process, colonial societies were strongly gendered in new ways and postcolonial societies to have produced new configurations of gender relations” (Roberts & Connell, 2016, p. 137). Moreover, racism, nationalism, and “deeply troubling expressions of violent masculinity” are embedded in many criminological theories from the Global North, at the same time that they fail to address the present criminogenic impact from the “violence of coloniality itself” (Carrington & Hogg, 2017, p. 181). In 1998, Indigenous scholar and criminologist L. Ross (1998) wrote that Native American “loss of sovereignty is implicitly tied to Native criminality in complex, historical ways” (p. 2). In sum, there is a presumptuousness when scholars of the Global North, particularly in the United States, where most criminological theories have been developed, assume that their theories should apply world-wide (Belknap, 2016; Carrington & Hogg, 2017; Liu, 2009; Suzuki, Pai, & Islam, 2018).

In addition to using Global South/North as terms for the nation inequities described earlier, I will largely use Indigenous and Native American somewhat interchangeably but will not use “Indian” to refer to Indigenous peoples in the United States (unless quoting someone who uses this term). Similarly, “Hispanic” is an offensive identifier to many given “its association with Spain, the nation that oppressed their ancestors in Mexico and Central and South America” (Delgado & Stefancic, 2017, p. 69). Thus, consistent with others and the cumbersomeness of using Latina/Latino/Latinas/Latinos, “Latinx” is used to comprise all of these. Some people decry this is being too “PC” (politically correct). I contend it is important not to continue troubling labels that are offensive to the people being labeled, and that people should have the right to identify themselves rather than continue labels started by colonists or other outsiders. This is not perfect (i.e., Latinx); not everyone who is Latinx prefers this term. At the writing of this edition of this book, however, it is arguably the most respectful and accurate term.

What Is Feminism?

Feminism and feminists recognize that gender inequalities exist in society and value change that enhances gender equality. African American feminist hooks (1984) defines feminism simply as “the struggle to end sexist oppression” (p. 26). She compares patriarchy to racism and other forms of oppression and points out that for sexism to end, racism and other forms of oppression cannot remain intact. Feminism, therefore, is part of the larger movement to end domination in all of its forms (hooks, 1990). “The aim of feminism is not to benefit solely any specific group of women, any particular race or class of women. It [feminism] does not privilege women over men.

It has the power to transform in a meaningful way all our lives” (hooks, 1984, p. 26) The need for feminism, then, arises from the desire to create a world without gender and other forms of oppression.

Unfortunately, a number of myths have damaged the concept of feminism as a legitimate issue and approach. The media and politicians sometimes exaggerate or manipulate statistics and incidents in order to condemn feminism and keep women in gender-specified roles (e.g., see Faludi, 1991). Daly and Chesney-Lind (1988) identify three myths about feminism: (1) Feminism lacks objectivity, (2) feminist analysis narrowly focuses on women, and (3) there is only one feminist perspective. Regarding charges that feminism lacks objectivity, Daly and Chesney-Lind point out that men and nonfeminists are no more objective about gender issues than are women and feminists. The problem is that too often “men’s experiences are taken as the norm and are generalized to the population” (p. 500). With regard to the criticism that feminism focuses too narrowly on women, in fact, feminist analysis does not ignore men and masculinity; rather, men are included in—but are not always the center of—the analysis. Obviously, it is impossible to study gender without studying different genders, but it is also important to study the roles of masculinity and femininity and how they are framed depending on who is doing them. Feminist criminologists have increasingly included studies of men, sometimes only men (or boys), to examine the role of *masculinity* to explain phenomena such as offending (Jones, 2018; Panfil, 2017; Presser, 2008).

In her book *The Chosen Ones: Black Men and the Politics of Redemption*, N. Jones (2018), an African American, feminist, criminology scholar, reports on a five-year ethnographic study she conducted of San Francisco’s Fillmore neighborhood. “*The Chosen Ones* is written from the perspective of Black men who see the ghosts of the destruction they brought to their neighborhoods as young boys and who now want to make good” (p. 86). Jones identifies the confusing and contradictory messages Black men confront about Black masculinity while trying to both “find a new place in their families and in their neighborhood” and redefine “in word and deed what it means to be a man worthy of a measure of respect that is not solely rooted in physical dominance” (p. 16). Indeed, these men must negotiate this while the criminal legal system (CLS) is “organized around the bodies of Black men” (p. 27).

Feminist theory, overall, “is a woman-centered description and explanation of human experience and the social world. It asserts that gender governs every aspect of personal and social life” (Danner, 1991, p. 51). Yet it is important to recognize there are variations of feminisms. “The subject of feminism is by no means static or consensual but rather is a field of arguments, disagreements, transformations, and problematizations that vary over time” (Martinez, 2018, p. 327). For example, there are Marxist, socialist, liberal, radical, postmodernist, intersectional, Black, African American, Chicana, Asian American, Indigenous, Native American, Queer, Spanish, Brazilian, French, second wave, third wave, institutional, para-institutional, and many other feminisms and feminists. Crossley’s 2017 book, *Finding Feminism: Millennial Activists and the Unfinished Gender Revolution*, is a study of diverse millennial feminist activists (e.g., racial diversity, women, men, queer, trans, etc.) on three U.S. college campuses, identifying and documenting a range of young activist women and men engaged in intersectional feminism, and challenging the

enactments of privilege and discrimination in the intersections of gender, race, class, sexuality, and other inequalities.

Thus, not all feminists think alike. On the other hand, there is a common thread among feminists: Gender inequality and discrimination exist, are disproportionately experienced by and perpetrated against girls and women, and need to be challenged. Increasingly, feminists have embraced hooks's (1984) perspective that fighting sexism cannot be achieved without also fighting racism, classism, homophobia, and so on. Despite the differences between some of the "feminisms," they all push to rethink and improve women's, girls', and gender-nonconforming individuals' lives. Feminist changes may help men and boys, too; for example, feminism has been key in improving fathers' roles in nurturing their children (Berton, Bureau, & Rist, 2017).

Criminology has often included the field of *deviance* whereby crime is deviant, but so are other instances of marginalized people acting and being out of culturally and often legally prescribed spaces. Wodda and Panfil (2018) document *sex-negativity*, "a perspective that treats any form of sexuality aside from heterosexual marital sex as deviant and abnormal," as a method practiced by both early CLS practitioners and criminologists preoccupied with women and girls' sexuality" (p. 583). Thus, Wodda and Panfil advocate for moving toward *sex-positive feminist criminology*, which includes "positive notions of [sexual] desire, affirmative (or 'yes means yes') [sexual] consent, and concern for the well-being of self and others" (p. 589) and "recognizes the uniqueness of individual sexuality" (p. 590). Sex-positive feminist criminology is "more than merely endorsing the right to engage in (or not engage in) sexual behaviors. The kind of sex-positivity we support is structural—a way to think about sexuality, wanting, and desire in a way that encompasses a wealth of intersectional human experience" (p. 600).

An important and contested development in feminisms has been concern about the incongruity of advocating for more state-sanctioned punishment of perpetrators of gender-based abuses (GBAs, such as rape and intimate partner abuse) while many feminists, and particularly feminists of Color, have provided significant and realistic concerns about the sexist, racist, classist, and counterproductive police, court, and prison systems. Following World War II, and mostly in the 1960s through the 1990s, the liberal law-and-order era in the United States started whereby liberal social policies were "balanced" by implementing conservative CLS policies that resulted in more police, prisons, incarceration, and no one was more criminalized and targeted than people of Color, primarily African Americans (Bumiller, 2008; Mack & McCann, 2018; Murakawa, 2014; Thuma, 2014). Significantly, many scholars stress that liberal Democrats, such as President Bill Clinton, were central to the carceral and racist state (e.g., Middlemass, 2017; Murakawa, 2014; Stevenson, 2015). The resulting "racialized and gendered policies . . . not only fail to respond to the needs of those harmed, but also target and disenfranchise communities of color" (Mack & McCann, 2018, p. 331). To this end, in 2000, a number of well-known feminist criminologists of Color, including Angela Y. Davis and Beth Richie, formed INCITE!, a grassroots organization specifically designed to address these inconsistencies between advocating for victims of GBAs at the same time as addressing the violence perpetrated against people and communities of Color in and by the criminal legal system (see <http://www.incite-national.org/page/about-incite>).

Bumiller's (2008) powerful book *In an Abusive State* convincingly documents how feminist campaigns against sexual violence “evolved in alliance with the state,” placing “cultural anxieties associated with sexual terror . . . on the public agenda, polarized gender- and race-based interests and fueled notions” (p. xv). Whittier (2016) identifies *carceral feminism* as “feminist activism aimed at increasing state enforcement against violence against women” (p. 792). Stated alternatively, carceral feminists ultimately favor the more official CLS “justice” responses to social justice responses; the latter are aimed at addressing structural problems that intersect with gender inequality, such as poverty and racism. Whittier stresses that it is unlikely anyone identifies as a carceral feminist, as “carceral feminism is a term of critique meant to point out the dangers of relying on the state’s punitive power to advance women’s liberation” (p. 792). Perhaps nowhere has carceral feminism played a larger role than in responses to sex trafficking, as carceral feminism is most heightened in cases of gender, sexuality, and the law (Bernstein, 2010, 2012), which will be addressed later in this book. Goodmark’s (2018) book *Decriminalizing Domestic Violence* provides a compelling analysis for how domestic violence laws are harmful not only to intimate partner abuse offenders but also to the victims, arguing that responses and policies be developed more through viewing this as a human rights, public health, community, and economic concern rather than a CLS concern. Collectively, in contrast to what has been identified as *carceral feminism* is *abolitionist feminism* or *anti-carceral feminism*, an approach initiated by INCITE!, which is increasing in support and referenced repeatedly in this book.

Women and Girls’ Invisibility

The title of this book was chosen to reflect the strong theme of *invisibility* in the three major areas covered in the book: (1) women and girls as offenders, (2) women and girls as victims, and (3) women professionals working in the CLS. Before the 1980s, the research on women, girls, and crime was scant, practically invisible. It was as if their victimizations, offending, and existence were unimportant or meaningless. With the second wave of the U.S. women’s/feminist movement (the 1960s and 1970s), more women hoping to study what is now referred to as feminist criminology, were accepted into law school, and criminology, psychology, social work, and sociology advanced degree programs, resulting in feminist criminology growing at increasing rates. The first edition of this book was published in 1996, when there was far less research published on women, girls, and crime, and most of it was in the United States and England. Fortunately, this research has significantly expanded not only in the United States and England, but around the world. However, this makes it much more difficult to adequately include all this research, so the book’s focus is on the United States.

This book is dedicated to the missing and murdered Indigenous women and girls (#MMIWG). Later in this book we will come back to MMIWG, but it is necessary to identify colonization and resistance to it as very much related to feminist criminology, just as slavery is. The same could be said about the United States that is stated in this quote from Canada’s 2019 MMIWG Report:

In the 16th century, “explorers” commissioned by European states arrived in what is now Canada to claim newly “discovered” lands for their benefactors, with the purpose of drawing out its resources for their funders in Europe. They were looking for resources—loot—and hoped to find them in the Americas. While the term “explorer” may suggest a kind of harmless searching or wandering, these voyages were anything but that. Instead, they set the stage for a full-scale assault on Indigenous Nations and communities that has lasted nearly 500 years. (National Inquiry into the Missing and Murdered Indigenous Women and Girls, 2019, p. 234)

Historically, women and girls were left out of victimization and offending studies or, if included, were typically done so in sexist, racist, classist, homophobic, and other stereotypic ways. A study of U.S. and British criminology publications from 1895 to 1997 found “a glaring and persistent deficiency” in the representation of women and girls in criminology studies, which was attributed at least in part to the underrepresentation of women criminologists (Hughes, 2005, p. 21). Similarly, historical accounts of criminology often ignored women criminologists’ contributions to the field (Laub & Smith, 1995).

On a more positive note, significant pro-feminist changes have occurred: Criminology scholarship and university curricula more often include women and girls, and academia is producing more feminist and queer scholars and publishing outlets (such as journals). Moreover, intersectional feminist criminology is more routinely expected in publications. The growth of feminist and intersectional scholarship is evident in every new edition of *The Invisible Woman*, whereby there is far more research to review on women, girls, and LGBTQI+ as offenders and victims, and within the context of race, class, sexuality, and so on. Unfortunately, a 2015 study found that although women’s representation as authors in criminology journals indicates increases over time, they are still very underrepresented in six mainstream (compared to the two gender-specialized) criminology journals (Eigenberg & Whalley, 2015). Similarly, a study of pictures in “Intro to Criminal Justice” textbooks found there were three times as many depictions of men as women per chapter (Love & Park, 2013). When women did appear, they were most likely victims or peripheral people. Men were five times more often than women to be portrayed as any category of CLS professionals (i.e., police officers, judges and lawyers, and guards) and seven times more than women as police officers (which, we will find in Section III of this book, is the least gender diverse of CLS jobs).

Women and Girls as Offenders

Most criminology theories are concerned with what “causes” crime and thus focus on factors related to offending, primarily male juvenile offending. Until the late 1970s, it was highly unusual for these studies to include girls or women in their samples. Although gender is the strongest factor indicating a person’s likelihood to break the law, these (almost exclusively male) researchers rarely thought it necessary to include women or girls in their samples. The irony is that “sex, the most powerful variable regarding crime has been virtually ignored” (Leonard, 1982, p. xi). Criminology theories were constructed “by men, about men” and explain

male behavior rather than human behavior (p. xi). Significantly, studying why women and girls offend less frequently than men and boys “could arguably provide clues for dealing with men’s criminality” and provide more deterrence to offending (A. Morris, 1987, p. 2).

When the researchers included girls in their samples prior to the 1980s (and too often since then), it was typically to see how girls fit into boys’ equations. That is, rather than include in the study a means of assessing how girls’ lives might be different from boys’ lives, girls’ delinquency has typically been viewed as peripheral and unnecessary to understanding juvenile offending and processing. It is not a coincidence that the criminal behavior of women and girls (regardless of race) (Leonard, 1982; A. Morris, 1987) and people of Color (regardless of gender) (A. Morris, 1987; Ross, 1998; Wotherspoon & Hansen, 2019) has historically (and, to some extent, currently) been attributed to biological causes, whereas white boys and men’s crimes are more frequently attributed to economic and social factors such as social class, access to opportunities to learn crime, and area of residence in a city.

Another aspect of the invisibility of female offenders is the “correctional” institutions provided for women and girls. The jails, prisons, and delinquent institutions for women and girls, both historically and presently, vary drastically from those for boys and men, mostly to the disadvantage of girls and women. Moreover, historically, treatment and punishment issues/opportunities differ vastly for women based on race (Butler, 1997; C. F. Collins, 1997; P. H. Collins, 1990; Freedman, 1981; Rafter, 1985; Young, 1994). The excuse for the lack of research on institutions housing women and girl offenders, as well as the lack of training, vocational, educational, and counseling programs available to incarcerated women and girls, is that women and girls make up a small percentage of offenders. This lack of interest in and opportunities for women and girls are particularly disturbing given that since the 1970s, their incarceration rate grew much faster than men’s (Hammett & Drachman-Jones, 2006; Immarigeon & Chesney-Lind, 1992; Kline, 1993; Lo, 2004; Mumola & Beck, 1997; Sokoloff, 2005).

Women and Girls as Victims

Section III of this book focuses on the victimization of women and girls. The most common crimes committed against women and girls—sexual abuse (including rape), intimate partner abuse (domestic violence), and stalking—are not only some of the most invisible and underreported crimes, but they are also some of the most frequent, abusive, fear-inducing, humiliating, and often, violent and dangerous, crimes.

Research on violence against women and girls, also known as *gender-based abuse*, has also increased exponentially in recent years. This is in part due to the increased number of women and feminists in academia and has been greatly aided by the implementation of the federal Violence Against Women Act (VAWA) of 1994, the first U.S. federal legislation addressing gender-based abuse (Murshid & Bowen, 2018). VAWA was signed into law by President Clinton in 1994, and the Office on Violence Against Women was established in 1995 to implement this act, and it was reauthorized in 2000, 2005, and 2013 (Stuart, 2005; Valente, Hart, Zeya, & Malefy, 2001; Whittier, 2016). Due to VAWA, research on violence against women (e.g., domestic violence, sexual assault, and stalking) has been funded, and programs in

a variety of agencies (e.g., police, courts, Native American communities) regarding violence against women have been implemented and funded at unprecedented rates (Stuart, 2005). VAWA 2000 included a substantial expansion of protections for immigrant victims of domestic violence and sexual assault and was passed with the Victims of Trafficking and Violence Protection Act of 2000 (Murshid & Bowen, 2018). The 2013 reauthorization of VAWA was passed only after being critically threatened by a partisan standstill primarily due to Republicans' reluctance to expand the program to gay, lesbian, bisexual, and trans victims and undocumented immigrants and reticence to increase authority to American Indian tribes to address intimate partner abuse in their communities (Deer, 2018; Whittier 2016). The VAWA 2013 debates were fraught with both sexist and racist rhetoric, framing "the racialized 'criminal alien' sexually threatening to the 'vulnerable' woman" (Mayers, 2019, p. 61). Immigrants were dichotomized into "deserving" and "undeserving" of citizenship, in efforts to enhance border control with Mexico (Mayers, 2019, p. 61).

The VAWA reauthorization needed in 2018 expired due to the U.S. federal government shutdown under President Trump (December 2018–January 2019). In April 2019 the U.S. House of Representatives passed a VAWA Reauthorization bill, including trans victims and banning convicted domestic violence abusers from purchasing guns, but at the date of writing this, it has not been considered by the U.S. Senate.

Women as Professionals in the Criminal Legal System

The final major area covered in this book, Section IV, is women's employment in the CLS. The three major types of employment opportunities in this system are work in prisons and jails, policing/law enforcement, and the courts (i.e., lawyers and judges). Section IV of this book examines historical and current issues for women employed as correctional officers (guards), police, and lawyers and judges. In all of these professions, women have faced considerable resistance to entering these jobs and receiving promotions. Women's disadvantage in the workplace is a "more enduring feminist concern," and this is disproportionately so in CLS professions given the sexist "assumptions about gender norms for women" (Rabe-Hemp & Miller, 2018, p. 231). This resistance was and is based primarily on the attitude that women are unsuitable for these jobs because working with male offenders requires "manly"/hyper-masculine men. "Before the 1970s, almost all criminal justice employees in the world were men" (Rabe-Hemp & Miller, 2018, p. 231). Title VII, a 1972 amendment to the 1964 Civil Rights Act, proved crucial for women's professional entrance into jobs in the criminal legal system. Unfortunately, women's advancement in both numbers and rank has been slow. Despite current efforts by law schools and police departments to hire more women, the numbers of women in these occupations are still quite low, as are the number of women working in men's penal institutions (the majority of incarceration facilities) and women becoming partners in private law firms. As reported later in this book, even today some women working in these fields (policing, prisons/jails, legal firms, and courts) still face some minor and major resistance, sexual harassment, gender discrimination, obstacles, and hostility from some male administrators, coworkers, and the public (Helfgott, Gunnison, Murtagh, & Navejar, 2018).

Blurring of Boundaries of Women's Experiences in Crime

In addition to acknowledging the invisibility of women offenders, women victims, and women working in the criminal legal system, it is important to recognize the overlapping of these categories in many women's experiences. Given the extraordinarily high rates of gender-based abuse (see Chapters 7 through 9), it would be difficult to have women working in the criminal legal system who had *not* been victimized by GBA. Similarly, the offending chapters (Chapters 2 through 6), including some criminology theories (e.g., pathways and cycle of violence theories) address the well-documented relationship between gender-based abuse and other victimizations and offending behaviors. Many of these accounts suggest that the likelihood that prior victimization (especially gender-based abuse victimization) and offending (especially sex work/prostitution, running away, and drug offenses) are significantly related. For example, women and girls escaping abusive homes often have few legal avenues and engage in crimes such as sex work, selling drugs, and property crimes, in order to survive.

As discussed earlier, women victims, offenders, and professionals in the CLS have historically remained invisible. Because of the shame associated with sexual abuse and abuse by a partner, these crimes are not routinely reported to the criminal legal system, research interviewers, or even family members and health care officials. Similarly, offending women have remained invisible because, until recently, they made up less than 5% of the prison population. Although no actual count exists, U.S. prisons have housed, and continue to house, countless women who killed their very abusive mates as a last resort (e.g., Browne, 1987; Richie, 1996). Finally, roles for women professionals in the criminal legal system were largely nonexistent until the 1970s. The goal of this book is to make issues surrounding women and crime more visible, to trace the changes in society and the criminal legal system that have occurred, and to propose changes that still need to occur. But first, to understand these issues, it is important to have an understanding of feminism and the difference between sex and gender.

Sex Versus Gender

Differences between men/boys and women/girls have been divided into two categories: sex differences and gender differences. *Sex differences* are biological differences, including differences in reproductive organs, body size, muscle development, and hormones. Even biologically it is not always clear what sex someone is; 1 in 2,000 births are intersex individuals, and the pattern has been to have the doctor decide the sex at birth in these "questionable" cases (Kessler, 1990). *Gender differences* are those that are ascribed by society and that relate to expected social roles. Examples of gender differences include clothing, wages, child-care responsibilities, and professions. Not only are most differences between males and females *gender* (as compared to *sex*) differences, but gender-based differences are rooted largely in inequality (MacKinnon, 1990). Because society creates these inequalities, society must also be the solution to restructuring the images and opportunities of women and men (and girls and boys) to achieve equality.

Sex and gender differences are further complicated by the recognition that sex is not a female–male binary and that people are born with unclear biological sex

markers, including “ambiguous” genitalia (not clearly distinguishable whether the body part is a penis or a clitoris) and ranges of hormones and chromosomes (Sanz, 2017). Sanz (2017) points to Global North scientists’ devotion to a sex binary since the 18th century and their commitment to disavowing the extensive biological distributions among the “sex” continuum. The acceptance of sex as nonbinary makes the social construction of gender as peculiar as it should be considered. Forbes’s (2014) definition of *trans* (an abbreviation of the word transgender) is simply people who “live as the gender that is not associated with their birth sex” (p. 388). Thus, a proposed way of moving feminist criminology forward is to trans framework, that is, to move beyond a gender binary (male–female binary), to help address the multitude of ways that gender privileges and oppresses (Musto, 2019, p. 50).

Court cases on sex discrimination have historically confused sex and gender differences, often ruling to the disadvantage of women on the basis that cultural/societal (or gender) differences are “immutable” (Rhode, 1989, p. 3). That is, legal discourse has historically failed to distinguish sex differences from gender differences, viewing both as inherent and not recognizing the role society plays in perpetuating gender inequalities. Inherent in this distinction between sex and gender are the concepts of sexism and patriarchy. *Sexism* refers to oppressive attitudes and behaviors directed at any gender; that is, sexism is discrimination or prejudice based on gender. In practice, the discrimination, prejudice, and negative attitudes and behaviors based on sex and gender are directed primarily at women (e.g., women are not as “good” as men, women exist for the sexual pleasure of men, women are defined by their beauty, etc.). Sexism can be further divided as it is in Chapter 6, distinguishing between *benign* and *benevolent sexism*, and include *structural sexism*, described in Chapter 7. Homan (2019) defines *structural sexism* as “systematic gender inequality in power and resources” and distinguishes between its enactment at the state (macro), marital dyad (meso), and individual (micro) levels (p. 487). Although Homan applies structural sexism to health inequality, it applies also to the criminal legal system and justice inequality. Marital status as a gendered/sexist phenomenon is raised frequently in this book, as is macro structural inequality in terms of how laws, policies, police, courts, prisons/jails/youth detention institutions perpetuate gender inequality for women/girls as victims, offenders, and workers in the criminal legal system. Homan stresses that structural sexism must be studied “across a variety of status characteristics, including race, education, marital status, sexual orientation, and parental status” (p. 509).

Patriarchy, on the other hand, refers to a social, legal, and political climate that values male dominance and hierarchy. Central to the patriarchal ideology is the belief that women’s nature is biologically, not culturally, determined (Edwards, 1987) and that laws are from men’s standpoint, consistent with men’s experiences (MacKinnon, 1989). What feminists identify as (socialized/constructed) gender differences (e.g., the ability to nurture children), therefore, are often defined as sex differences by the patriarchy. Patriarchy and its privileges, then, remain as part of the defining quality of the culture and thus of criminology and the criminal legal system. Starting in the 1970s, some feminists have advocated for “feminist or woman’s law” in order to “describe, explain and understand women’s legal position, especially for the purpose of improving women’s position in the law and society” (Dahl, 1986, p. 240). Jurisprudence is the philosophy or science of law.

Feminist legal scholars developed *feminist jurisprudence* to understand the law “as an institution of male dominance” (Haney, 2000, p. 644). Yet feminist legal scholar Smart (2002) questions whether even feminist jurisprudence can “de-center” the legal system when patriarchy is so ingrained in it.

In sum, understanding the distinction between sex and gender informs us that most differences between men and women and boys and girls are societally based (gender), not biologically determined (sex). Although this is encouraging in that we are more likely to be able to change society than we are to alter biology (and the ethics of biological changes are daunting), this book examines how gender differences are strongly entrenched in tradition and have negatively affected the lives of women and girls, including in the criminal legal system. Furthermore, sex differences, such as the ability to become pregnant, have also worked to women’s disadvantage in employment and many law cases.

Importantly, then, gender is a social (not biological) construct, but in some sense so, too, is “sex” when it has historically, and often currently, been decided by doctors whether intersex newborns are “boys” or “girls” when they do not clearly fit into one or the other of the female-or-male gender/sex binary. In trying to view gender as beyond a binary, I use the terms *female* and *male* reluctantly in this book given the biologically heavy associations with those words. But it is also very cumbersome to use phrases such as “girls and women” and “boys and men” so I still sometimes use *female* and *male*, if reluctantly, also recognizing that sex and gender are nonbinary. It is also necessary to stress that similar to sex, race, too, is socially constructed. A large body of research documents the phenomenon that biological racial categories do not exist (Delgado & Stefancic, 2017; Haney-López, 2006; Mendez & Spriggs, 2008; Wing, 2003; Zuberi, 2001). This is not to deny the very real practices and experiences of sexism and racism, but rather to understand that sex and race are socially constructed, and the social construction has been used to deny rights to Indigenous, African American, Latinx, and Asian American people (Hernández, 2017).

What Are Feminist Methods?

It is useful to recognize that not only does feminist theory distinguish itself from many theories (other than Marxist and radical theories) in its efforts to be applied and result in societal and political changes (*praxis*) but also that in many senses, feminist theory purports a variety of means of collecting data, particularly in terms of hearing women and girls’ voices. For example, Maher (1997) writes in her book on women crack users that she was partially motivated to conduct her research because of the ways these women were presented as “monsters” in the media: “I want to present the accounts of a group of women we hear much about but little from” (p. x). Additionally, it is important to address the idea that feminist theory and methods are not designed to understand women exclusively. Notably, to fully address male offending, using feminist theory and applications of masculinity can help explain males’ likelihood of offending. Instead, historically criminology researchers designed theories to explain boys and men’s criminality and then, sometimes, tried to “fit” them to girls and women (also known as “the add-women-and-stir approach” and “the generalizability problem”) (Daly & Chesney-Lind, 1988; Naffine, 1996).

The maleness of crimes is true of the United States of America, of Britain, of Australia and indeed of all Western countries. Men are the vast majority of violent and non-violent offenders. . . . In view of this remarkable sex bias in crime, it is surprising that gender has not become the central preoccupation of the criminologist, rather than an afterthought. Surely it would be natural to ask the “man question”: what is it about men that makes them offend and what is it about women that makes them law-abiding? (Maher, 1997, p. 6)

The focus on method in criminology has been “empirical criminology,” or rather, how can we *scientifically* understand such important criminological and criminal processing questions as “Why do (some) people commit crimes?” “What policies best deter offenders from future offending?” “How are decisions made by the police, prosecutors, judges, parole review boards, and others?” “How frequently do different types of crimes occur?” “What increases people’s chances of victimization?” and “How can victims of crimes best recover?” We can approach answers to these research questions empirically (scientifically) through many methods. Although more research focuses on or includes women, an ongoing problem is when gender/sex is simply used as a control variable in statistical models. It is usually more appropriate to at least conduct separate models for males and females to determine if the variables are operating the same in significance, power, and direction.

Feminist methods might mean composing more sensitive questions to quantify a rate or determining how best to construct interview, survey, and focus group items about the research questions that need to be asked. Concerning the issue of more sensitive questions, for example, it was common before the 1980s to measure rape occurrence as the number of rapes reported to the police. Feminist researchers later began asking women directly, knowing that many rape victims do not report their victimizations to the police. Next, it became apparent that asking women whether they have been raped “lost” a number of rapes, given that many raped women and girls (and we now know, raped men and boys) do not define their experiences as “fitting” the legal definition of *rape*. Now it is known that the best method to capture rape rates is to ask study participants whether they have been “forced or coerced to have sex” rather than simply to ask, “Have you been raped?” The former wording captures a far more accurate measure of rape.

Finally, feminist research methods, perhaps more than any other method, have attempted to focus on the relationship between the researcher and those studied:

Insofar as women’s perspectives and experiences are subordinated in scientific inquiries and the larger culture, feminist researchers seek to eliminate hierarchies of knowledge construction. We are sensitive to our place in such hierarchies, so we disclose the multiple, historically specific positions we hold in relation to both study questions and participants. (Presser, 2005, p. 2067)

Presser’s (2005) study of males convicted of violent crimes (including rape) is a prime example of *reflexivity*, where she consistently addresses the way power relations between the interviewees and her (the interviewer) became part of the data. For example, the ways some of these men mildly coerced and threatened her during data

collection not only influenced the method but also the findings. *Feminist standpoint theory* is a starting point for many feminist studies and stresses that “the way we do research is framed by our standpoint” and our perception of “knowledge is always situated, as our materially grounded and socio-culturally formed standpoint within a particular society influences what we can know about our world” (Dengler & Seebacher, 2019, p. 247). Dengler and Seebacher (2019), in their work on decolonial and socioecological transformations, warn that Global North feminist researchers need to “overcome our situatedness and partiality by including heterogeneous voices and perspectives from other lived realities both in the Global South and the Global North alike” (p. 247). This caution can be expanded to those of us who have never been incarcerated or even arrested but who are conducting research on incarcerated adults and children.

Criminological feminist research methodology, then, involves many choices, including the research topics, means of collecting and interpreting data, understanding the researcher’s relationship with the participants, *reflexivity* (the critical examination of the research process itself), and a commitment to policy and action. We need to ensure we identify “strategies for social change and ending domination in all its forms” (Flavin, 2001, p. 281) and an obligation to use our findings to make these changes . . . not solely publish our findings (Belknap, 2015; Flavin, 2001).

The Effect of Societal Images on Women Regarding Crime

It is difficult to understand how women victims, offenders, and professionals are viewed and treated in the CLS without first understanding the images of women in society. Feminist research includes documenting that women have been dichotomized into either “Madonnas” or “whores” (Feinman, 1986; McDermott & Blackstone, 2001, p. 89). These sexuality-driven images of women and girls are both historic and current in the societal and formal/system processing of women and girls as offenders, particularly regarding their sexuality (Chesney-Lind & Merlo, 2015; McDermott & Blackstone, 2001). In her paradigm-shifting book, *Black Feminist Thought*, P. H. Collins (1990) identified four “interlocking” sexist, racist, classist *controlling images* of Black women in the United States: *mammies*, *matriarchs*, *Jezebels*, and *welfare mothers*. *Mammies* are a controlling image caricatured from slavery but of the postslavery, financially exploited Black women hired to do the emotional and household labor in white homes that would otherwise be expected of white wives and mothers. This is at the expense of the Black women’s own families given their time in white homes. *Matriarchs* are the controlling image that condemns Black women for failing their own children (often while they were financially exploited doing the emotional and domestic labor in white homes) with a corresponding devastation on society from these women’s supposedly errant and irresponsible Black children (then adults) (pp. 74–75). “Such a view diverts attention from the political and economic inequality affecting Black mothers and children and suggests that anyone can rise from poverty if he or she only received good values at home” (p. 74). Third, *Jezebels* are Collins’s controlling image of Black women as sexually aggressive or “whores,” an

image also originating in slavery and justifying the sexual exploitation and assault (e.g., wet nurses and rape) of Black women and girls (p. 77). Finally, *welfare mothers* are Collins's controlling image related to the "breeder" image of slavery combined with Black women's increasing dependency on the "welfare state" since World War II. Clearly, these images portray the lasting impacts of slavery while not only denying the legacies of slavery and racism interlocking with sexism and classism, but actually fostering the continued stereotyping and oppression of Black womanhood.

Young (1986) challenges the Madonna/whore typology to the extent that it may apply only to white women. She claims that whereas the Madonna/whore dichotomy implies a good girl/bad girl dichotomy, categories for women of Color include no "good girl" categories. Instead, she views women of Color as falling into four categories, all of which are negative. The *amazon* is seen as inherently violent and capable of protecting herself; the *sinister sapphire* is vindictive, provocative, and not credible; the *mammy* is viewed as stupid, passive, and bothersome; and the *seductress* is sexually driven and noncredible as a victim or professional (Young, 1986). These are like P. H. Collins's (1990) "controlling images" of Black womanhood. DeFour (1990) discusses the additional ramifications for women and girls of Color regarding sexual harassment. She argues that these women may be more at risk of sexual harassment victimization yet receive the least serious responses due to societal portrayals of them as "very sexual" and "desiring sexual attention" more than their white sisters. DeFour points to cultural myths portraying Latinas as "hot-blooded," Asian women as "exotic sexpots," and Native American women as "devoted to male elders" (p. 49). Thus, not only are women and girls treated differently than men and boys for identical sexual behaviors, but *among* women there is often discrimination in expectations due to damaging myths.

The widely known 1990 movie *Pretty Woman* received numerous accolades as a romantic comedy. The movie portrayed a sex worker who married one of her patrons. One could argue that the effect of this "feel-good" movie on girls would be, "Wow! Sex work/prostitution results in finding handsome, rich, doting, wonderful husbands!"—hardly the message mainstream U.S. culture supports. The movie *Thelma and Louise* released shortly thereafter, in 1991, depicted two women taking a road trip during which one, Louise, shoots and kills a man trying to rape the other, Thelma, in a parking lot outside of a bar. Louise fears (it would seem legitimately, given information provided later in this book) that she is going to receive serious prison time for killing the man attempting rape. This results in the two women trying to evade the police. Despite six Oscar nominations and one win for *Thelma and Louise* (and one Oscar nomination and no wins for *Pretty Woman*), a significant number of people, including journalists, portrayed *Thelma and Louise* as a "bad" message for girls. Notably, the reviews for *Pretty Woman* never came to that conclusion. One could argue that the takeaway message is "sex work is fun and rewarding and helps women find wealthy, attractive, and doting husbands, but don't shoot a man trying to rape your friend."

A final example of popular images of criminals that are gendered and raced is the way school shootings are portrayed in the media. The media have ignored the strong gender and race patterns of school shootings: The perpetrators are primarily white boys, and the targets have disproportionately been girls (Danner & Carmody, 2001; Farr, 2018; Moore, 2003; Newman, 2004; Steinem, 1999). Farr's (2018) careful and

comprehensive analysis of 29 kindergarten through 12th grade U.S. rampage¹ school shootings (31 shooters) between 1995 and 2015 found all the shooters were boys, 81% were white (13% were full or part Native American and 6% were Latino), and 97% (all but one) identified as heterosexual. Three-fourths of the shootings were in high schools, and 93% were in suburban or rural schools. Farr refers to the pressure of masculinity status for adolescent boys—to be cool, tough, straight (heterosexual), and repudiate femininity. Farr found all school shooters were made aware of failures at masculinity by classmates, through such means as “emasculating bullying, rejection by girlfriends, and marginalization in general” (p. 93).

Certainly, it is ideal that girls reject unwanted flirtation and romances, so this is not to blame girls who have broken up with or have never had any interest in being with boys who later became shooters. The 2018 Parkland, Florida, Marjory Stoneman Douglas High School shooting occurred after Farr’s (2018) data collection, but one of the victims, Shana Fisher, had been increasingly aggressively pursued by the shooter (<http://www.latimes.com/nation/la-na-texas-shooter-20180519-story.html>). Farr found many school shooters reported rejection by a girlfriend or potential girlfriend, and many “described their experiences of sexualized physical victimization by male peers, such as being tea-bagged (having another boy shove his genitals in their face), having another or other boys urinate on them, having their head pushed into the toilet)” (p. 82). In addition to their masculinity status failings, “all of the shooters had at least one of three long-standing personal troubles: psychiatric disorder, family dysfunction, or situational volatility” (p. 93). Thus, rampage school shootings are impacted by cultural demands about adolescent boys’ masculinity status but also clearly intersect with personal troubles. Notably, one recommendation that Farr concludes with is requiring schools to address “adolescent masculinity issues in their curriculum” (p. 94).

Summary

Given the history of criminology as “one of the most thoroughly masculinized of all social science fields . . . the phrase ‘feminist criminology’ may well seem something of an oxymoron” (Britton, 2000, p. 58). Feminist criminology has been growing since the 1970s and is having an increasingly strong impact on this male-dominated field: “Feminist criminologists have been at the forefront in pointing out that when women and other marginalized groups are ignored, devalued, or misrepresented, society in general and the understanding of crime and justice in particular suffer as a result” (Flavin, 2001, p. 271). Relatedly, in 2006 H. Potter developed Black feminist criminology through her research on how “Black women experience and respond to intimate partner abuse and how the criminal legal system responds to battered Black women” (p. 106).

This chapter presented the numerous ways that women and girls’ experiences as victims, offenders, and professionals in the criminal legal system (CLS) have been made invisible. Concepts such as sex, gender, feminism, patriarchy, toxic masculinity, and carceral feminism were explored. In addition to including race and class along

¹Farr’s (2018) definition of a *rampage* school shooting is one where the intent was to kill multiple people, at least one of whom was a student, or firing into a group of people that included at least one student.

with gender in intersectional feminist criminology, sexuality is vital, as is viewing gender past a male–female binary phenomenon. This chapter discussed the importance of including LGBTQI+ individuals in assessing gender, feminism, and crime, and not assuming a monolithic experience for women, girls, and LGBTQI+ individuals, and the reasons why race, class, sexual and gender, and other variables must be considered when discussing and researching women and girls' experiences and behaviors. Thus, in addition to Musto's (2019) recommendation to trans gender in order to successfully transform feminist theory, research, and practice, she and many others (as cited in this chapter) stress the need to resist carceral feminism. A. P. Harris (2011) summarizes much of what this chapter attempted to introduce, that is, how an intersectional analysis is necessary and the past and current challenge of revamping our criminal legal system where justice is rarely achieved for victims or offenders:

Although destructive masculinity and its prominence in the criminal justice system have seemingly not changed much in the past decade, at least two new developments have taken place. First, scholars and activists committed to ending domestic violence and violence against sexual minorities have become increasingly disenchanted with the criminal justice system, and increasingly aware of its insidious role in the decimation of poor black and brown communities. Meanwhile, racial justice scholars have become increasingly aware of the toll that destructive masculinity takes on those communities. (p. 17)

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