

1985

Familial Social Control and Pretrial Sanctions: Does Sex Really Matter

Candace Kruttschnitt

Daniel McCarthy

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Candace Kruttschnitt, Daniel McCarthy, Familial Social Control and Pretrial Sanctions: Does Sex Really Matter, 76 J. Crim. L. & Criminology 151 (1985)

This Criminology is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

FAMILIAL SOCIAL CONTROL AND PRETRIAL SANCTIONS: DOES SEX REALLY MATTER?*

CANDACE KRUTTSCHNITT
DANIEL MCCARTHY*****

I. INTRODUCTION

The literature pertaining to gender and criminal involvement and gender and criminal court sanctions has largely remained disconnected. We propose that the major explanatory themes in these two bodies of literature have a common element—sex-based differences in informal social control. We then test two hypotheses which examine the relationship between familial social control and the pretrial release decisions accorded to male ($N = 1,558$) and female ($N = 1,365$) offenders over a sixteen year period (1965-1980). We find that: (i) the effect of familial social control on evidence of gender-based leniency in the allocation of pretrial freedom varies substantially over the sixteen year period; (ii) generally a defendant's gender does not condition the influence of familial social control on pretrial release status; and (iii) the legal determinants of pretrial freedom provide the strongest evidence of gender-bias in the allocation of this criminal sanction. The implications of our work for future studies of the sex-sanctioning issue are also discussed.

In an earlier article that used longitudinal data to examine the effect of sex on two criminal court sanctions, the conclusion emerged that gender-related statuses had a significant effect on reducing evidence of sex-based leniency in the allocation of pretrial

* This research was supported by grant no. SES-8108095 from the National Science Foundation, of which Dr. Kruttschnitt was the Principal Investigator. All correspondence concerning this Article should be sent to Candace Kruttschnitt, Department of Sociology, 1114 Social Sciences, 267 19th Avenue South, Minneapolis, MN 55455.

** Associate Professor, University of Minnesota Department of Sociology. Ph.D., 1979, M.A., 1975, Sociology, Yale University; B.A., University of California at Berkeley, 1973.

*** Graduate student, University of Minnesota Department of Sociology.

release decisions.¹ The purpose of this Article is to explore whether and how familial social control, perhaps the most salient gender-related status, affects the apparent leniency accorded women in the pretrial release decision. Analysis of this issue will begin by attempting to sort out the major explanatory variables used in the extant research on both sex and offense patterns and sex and criminal court sanctions. Despite the recent proliferation of research on gender and crime, scholars concerned with the sex-sanctioning issue have, seemingly, worked in isolation from scholars concerned with the relationship between sex and patterns of criminal involvement. These two bodies of research, however, are highly interrelated not only because "[p]atterns of crime statistics are affected by the decisions of criminal justice personnel,"² but also because of their common explanatory theme—the sex-based system of informal social control.

II. COMMON FEATURES OF THE GENDER-CRIME, GENDER-SANCTIONING RESEARCH

The present analysis of the gender-crime and gender-sanctioning research is intentionally non-exhaustive. Instead, this analysis is directed at providing a starting point for reconceptualizing the available data on these two issues.

As Figure 1 illustrates, the literature is categorized according to the dependent variable or what is being explained. The literature can readily be divided according to those studies that attempt to explain sex-based differences in criminal involvement (i.e., "criminal behavior") and those that attempt to explain sex-based differences in sanctioning (i.e., "behavior of the legal system"). This initial dichotomy can be further broken down according to the level of the primary explanatory variable. Those studies which use individual attitudes and/or values are designated as "individual" paradigms and those studies that use either the social location of individuals relative to others or the economic and cultural statuses of such individuals are designated as "structural" paradigms.

Individual paradigms that focus on the question of the sex-based differences in patterns of criminal behavior predict that the sex-role attitudes of men and women explain their differential involvement in crime. Although articulated to varying degrees, this

¹ Kruttschnitt & Green, *The Sex-Sanctioning Issue: Is It History?*, 29 AM. SOC. REV. 591 (1984) [hereinafter cited as Kruttschnitt, *The Sex-Sanctioning Issue*].

² Nagel & Hagan, *Gender and Crime: Offense Patterns and Criminal Court Sanctions*, 91, 98 in 4 CRIME AND JUSTICE (Morris and Tonry eds. 1982) [hereinafter cited as Nagel, *Gender and Crime*].

FIGURE 1
OPERATIONALIZING AND CATEGORIZING THE VARIOUS THEORETICAL
APPROACHES TO THE QUESTIONS OF SEX DIFFERENCES
IN THE INCIDENCE OF CRIMINAL BEHAVIOR AND
SEX-BASED DIFFERENCES IN CRIMINAL COURT SANCTIONS

DEPENDENT VARIABLE	EXPLANATORY VARIABLES	
	Individual (Attitudes/Values)	Structural (Social/Cultural Statuses)
Criminal Behavior	Sex role attitudes explain differences in the types and rates of criminal behavior exhibited by men and women. <i>See, e.g.,</i> Pollak, 1950 ^a ; Morris, 1965 ^b ; Adler, 1975 ^c ; Giordano, 1976 ^d ; Jensen & Eve, 1976 ^d ; Eve & Edmonds, 1978 ^d ; Cullen, <i>et al.</i> , 1979 ^d ; Giordano & Cernkovich, 1979 ^d ; Lewis, 1981 ^d ; Norland, <i>et al.</i> , 1981 ^d ; Gora, 1982 ^d .	Women's economic and cultural statuses determine the degree to which they will be involved in criminal behavior. <i>See, e.g.,</i> Nye, 1958 ^j ; Morris, 1964 ^d ; Hoffman-Bustamante, 1973 ^d ; Rosenblum, 1975 ^d ; Simon, 1975 ^k ; Smart, 1976 ^l ; Weis, 1976 ^d ; Harris, 1977 ^m ; Bowker, 1978 ^d ; Steffensmeier, 1978 ^d ; Bartel, 1979 ^d ; Balkan, <i>et al.</i> , 1980 ⁿ ; Steffensmeier, <i>et al.</i> , 1980 ^d ; Steffensmeier & Steffensmeier, 1980 ^d ; Young, 1980 ^d ; Campbell, 1981 ^d ; Harris & Hill, 1981 ^d ; Steffensmeier, 1981 ^d ; Willis, 1981 ^d ; Leonard, 1982 ^o .
Behavior of the Legal System	The gender role attitudes of deviance processing agents explain sex-based differences in criminal court sanctions. <i>See, e.g.,</i> Pollak, 1950 ^a ; Reckless, 1957 ^d ; Nagel & Weitzman, 1971 ^d ; DeFleur, 1975 ^d ; Foley & Rasche, 1976 ^d ; Chesney-Lind, 1977, 1980 ^d ; Bernstein, <i>et al.</i> , 1979 ^c ; Hagan, <i>et al.</i> , 1979 ^f ; Moulds, 1980 ^g ; Steffensmeier, 1980 ^h ; Moyer & White, 1981 ^d ; Shelden, 1981 ^d ; Smart, 1981 ^d ; Teilman & Landry, 1981 ^d ; Nagel & Hagan, 1982 ⁱ ; Curran, 1983 ^d ; Visher, 1983 ^d .	Sex-based differences in economic and cultural statuses explain sex-based differences in criminal court sanctions. <i>See, e.g.,</i> Turk, 1969 ^p ; Black, 1976 ^q ; 1980 ^r ; Harris, 1977 ^m ; Hagan, <i>et al.</i> , 1979 ^f ; Balkan, <i>et al.</i> , 1980 ⁿ ; Kruttschnitt, 1980-81 ^d , 1982 ^a , 1982 ^b ^d , 1984 ^d ; Daly, 1983 ^d ; Kruttschnitt & Green, 1984 ^t ; Staples, 1984 ^d .

^a O. POLLACK, *supra* note 8.

^b MORRIS, *supra* note 4.

^c F. ADLER, *supra* note 6.

^d See citation as provided in the APPENDIX of this Article.

^e BERNSTEIN, *et al.*, *supra* note 54.

^f HAGAN, *et al.*, *supra* note 18.

^g MOULDS, *supra* note 9.

^h STEFFENSMEIER, *supra* note 11.

ⁱ NAGEL & HAGAN, *supra* note 2.

^j I. NYE, *supra* note 12.

^k B. SIMON, *supra* note 13.

^l C. SMART, *supra* note 3.

^m HARRIS, *supra* note 26.

ⁿ S. BALKAN, *supra* note 14.

^o E. LEONARD, *supra* note 14.

^p A. TURK, *supra* note 15.

^q D. BLACK, *supra* note 17.

^r D. BLACK, *supra* note 22.

^s KRUTTSCHNITT, *supra* note 22.

^t KRUTTSCHNITT & GREEN, *supra* note 1.

research is presumably based on one aspect of sex-role theory—i.e., the notion that both socialization and the later development of the consciousness and self-perception vary with one's sex.³ An early example of this explanatory paradigm can be found in Morris'⁴ attempt to ascertain the nature of the relationship between sex and attitudes toward non-conformity. Morris found that girls were more critical than boys of delinquency and felt more shame when questioned about their involvement in known offenses. These sex-based attitudinal differences are interpreted as providing a greater protection for girls from the pressures of delinquency.⁵ Adler's⁶ theory of masculinization of female behavior, based on reported increases in women's criminal behavior, spawned a resurgence in this theoretical perspective. Maintaining that the attitudes of *all women* have changed, she suggests that female offenders are becoming more competitive with male offenders and more aggressive in their criminal pursuits.⁷ Subsequent tests of this proposition primarily have been concerned with whether exposure to the tenets of the women's movement has affected women's traditional sex-role attitudes such that women would be more apt to engage in crime and delinquency than heretofore.

A shift from the attitudes of the offender to the attitudes of the deviance processing agents provides the most popular explanatory paradigm for sex-based sanctioning differences. For example, in a classic study of women involved in crime, Otto Pollak postulated that the general protective attitude of men toward women and chivalry on the part of male officers of the law, in large part, account for both the preponderance of reported male criminality and the lack of incarcerated female offenders.⁸ The scholarly attention devoted to women offenders over the past ten years has resulted in a refinement of this chivalry/paternalism thesis⁹ and the addition of the complementary "evil woman thesis" which suggests that women will be more harshly sanctioned than men because their criminal activity violates the sex-role stereotypes of deviance processing agents.¹⁰ This literature offers little explanation for the hypothesized protec-

³ C. SMART, *WOMEN, CRIME AND CRIMINOLOGY: A FEMINIST CRITIQUE*, at 66 (1976).

⁴ MORRIS, *Attitudes Toward Delinquency By Delinquents, Nondelinquents and Their Friends*, 5 BRIT. J. CRIMINOLOGY 249 (1965).

⁵ R. SMART, *WOMEN AND CRIME*, at 68 (1976).

⁶ F. ADLER, *SISTERS IN CRIME: THE RISE OF THE NEW FEMALE CRIMINAL* (1975).

⁷ *Id.* at 13-15.

⁸ O. POLLAK, *THE CRIMINALITY OF WOMEN*, at 151 (1950).

⁹ Moulds, *Chivalry and Paternalism: Disparities of Treatment in the Criminal Justice System*, in *WOMEN, CRIME AND JUSTICE* (S. Datesman & F. Scarpitti eds. 1980).

¹⁰ Velimesis, *The Female Offender*, 7 CRIME & DELINQ. LIT. 94 (1975).

tive or punitive judicial attitudes toward women offenders.¹¹ Consequently, the evidence still suggests that sex-role socialization lies at the basis of these presumed stereotypical attitudes of deviance processing agents.

As previously noted, structural explanations for sex-based differences in criminal involvement use the economic and cultural positions of an individual, compared to others in society, as causal variables. The notion of restricted opportunities has been a central theme in this literature and it has evolved from a focus on sex-based differences in social control to a focus on sex-based differences in labor force opportunities. Ivan Nye, for example, proposed that not only the family but the wider social environment was more concerned with controlling the behavior of girls than boys, and this resulted, predictably, in the reportedly lower rates of female delinquency.¹² More recently, the emphasis has shifted to an examination of the sexual division of the labor market. Some scholars argue that increases in women's participation in the paid labor force will increase their opportunities for committing certain offenses.¹³ Others, however, argue that the longstanding exclusion of women from the more lucrative economic positions explains the reported increases in women's involvement in property crimes.¹⁴

Structural explanations for sex-based differences in criminal sanctions primarily have focused on the way in which the stratification system (or the means by which material rewards and prestige are allocated) varies with gender. Austin Turk postulated that powerlessness is a key variable in understanding why certain classes of people are disproportionately subject to arrest.¹⁵ However, realizing that this variable could not account for the sex differences in reported crime rates, Turk notes that the confinement of women in the home restricts the activities of females more than those of males.¹⁶ The implication is that the traditional division of labor has provided women with a buttress, in the form of familial responsibilities, against legal invocations. Black¹⁷ and Hagan,¹⁸ also posit, in

¹¹ Cf. Moulds, *supra* note 9; Nagel, *Gender and Crime*, *supra* note 2; Steffensmeier, *Assessing the Impact of the Women's Movement on Sex-based Differences in the Handling of Adult Criminal Defendants*, 26 *Crime & Delinq.* 399 (1980).

¹² I. NYE, *FAMILY RELATIONSHIPS AND DELINQUENT BEHAVIOR* (1958).

¹³ See, e.g., B. SIMON, *WOMEN AND CRIME* (1975).

¹⁴ See, e.g., E. LEONARD, *WOMEN, CRIME AND SOCIETY: A CRITIQUE OF THEORETICAL CRIMINOLOGY* (1982); S. BALKAN, R. BERGER & J. SCHMIDT, *CRIME AND DEVIANCE IN AMERICA: A CRITICAL APPROACH* (1980).

¹⁵ A. TURK, *CRIMINALITY AND LEGAL ORDER* (1969).

¹⁶ *Id.* at 165-69.

¹⁷ D. BLACK, *THE BEHAVIOR OF LAW* (1976).

¹⁸ Hagan, Simpson & Gillis, *The Sexual Stratification of Social Control: A Gender-Based*

slightly different ways, that the sex-based system of stratification covaries with the informal social control found in families and kinship groups.

Black proposes that stratification explains social control of every kind—legal and non-legal—and that inequality of wealth varies directly with social control; those who have the most wealth also have the greatest capacity to exercise social control.¹⁹ With regard to non-legal instances of social control, Black draws particular attention to the way in which authority in both modern and aristocratic families is allocated to those with the most economic resources. For example, he suggests that: "[M]ost wives are dependent upon the wealth of their husbands, and so, in general, they are criticized and disciplined more by their husbands than are their husbands by them. This difference decreases as the income and other wealth of the wife increases and with equality it disappears."²⁰

Although Black is not concerned with articulating a gender-based theory of crime, another proposition of his theory—that formal social controls (such as legal activity) are inversely related to informal social controls (such as family and kinship activity)—speaks precisely to this issue.²¹ That is, if women are subject to more informal social control vis-a-vis their positions of economic dependency, they will be subject to less formal, legal control.²²

Hagan and his colleagues are concerned with proposing a gender-based theory of crime, and the fundamental perspective underlying their thesis is Black's proposition concerning the inverse relationship between formal and informal social controls.²³ Their application of this proposition to the gender-crime issue is carefully linked to an examination of the sex-based system of stratification. Elaborating on Scull's thesis²⁴ that advancing capitalism increasingly moved workers out of the home and in so doing created separate formal systems of crime control, they note that crime control was a gender-specific phenomenon: women were subject to the informal controls of family life while men were subject to the formal

Perspective on Crime and Delinquency, 30 BRIT. J. SOC. 25 (1979) [hereinafter cited as Hagan, *Sexual Stratification*].

¹⁹ D. BLACK, *THE BEHAVIOR OF LAW*, *supra* note 17, at 31-32.

²⁰ *Id.* at 32.

²¹ *Id.* at 107.

²² See also D. BLACK, *THE MANNERS AND CUSTOMS OF THE POLICE* 125-26 (1980); Kruttschnitt, *Women, Crime, & Dependency: An Application of the Theory of Law*, 19 CRIMINOLOGY 995 (1982a).

²³ Hagan, *Sexual Stratification*, *supra* note 18, at 27.

²⁴ Scull, *Madness and Segregative Controls: The Rise of the Insane Asylum*, 24 SOC. PROBS. 337 (1977).

control mechanisms of the public sector. Thus, combining Black's proposition with Scull's thesis, they hypothesize that women will be both the objects and instruments of informal social controls.²⁵ Women rarely will incur legal controls because of the amount of informal control to which they are subject; and, because of the sexually-stratified nature of the control structures, women will be instrumental in maintaining informal controls within the family.

Finally, note that other structural attempts to explain the relatively lenient treatment accorded women by deviance processing agents also center on the traditional family structure that has kept women out of the public sector and firmly within the confines of the home. As Harris states, the reassignment of women from homes to prisons would cause a number of disequilibrating outcomes, including the breakup of the nuclear family.²⁶

In summary, two recurring propositions appear throughout the foregoing discussion: (1) the sex-based system of stratification, and 2) sex role socialization. An element common to both may be the difference in the quantity of informal social control to which men and women are subject. Consistent with both Black²⁷ and Hagan,²⁸ the law and its application will be identified with formal social control and family, kinship and peer group activity with informal social control.

The relationship between informal social control and the sex-based system of stratification is best depicted in the previously noted works of Black²⁹ and Hagan and his colleagues.³⁰ To reiterate, the exclusion of women from the public arena and from the competition for economic rewards has resulted in their being the objects of informal "familial" control. With regard to sex role socialization, studies indicate that parents give more freedom to their male children than their female children.³¹ Moreover, above and beyond the additional liberties given male children, the very characteristics that parents traditionally instill in their male children—aggression, independence and self-assertiveness—as opposed to the characteristics they foster in their female offspring—passivity, compliance and dependence—connote the absence or presence of social

²⁵ Hagan, *Sexual Stratification*, *supra* note 18, at 28.

²⁶ Harris, *Sex and Theories of Deviance: Toward a Functional Theory of Deviant Type-Scripts*, 42 AM. SOC. REV. 3, 13 (1977).

²⁷ D. BLACK, *supra* note 17.

²⁸ Hagan, *Sexual Stratification*, *supra* note 18, at 27-28.

²⁹ D. BLACK, *supra* note 17.

³⁰ Hagan, *Sexual Stratification*, *supra* note 18.

³¹ See J. NEWSON & E. NEWSON, *FOUR YEARS OLD IN AN URBAN COMMUNITY* (1968); H. YORBURG, *SEXUAL IDENTITY* 169 (1975).

control.³² Therefore, the amount of informal social control in men's and women's lives is assumed to covary with these two predictors of sex-based differences in criminal involvement and sex-based differences in responses to criminal involvement. Accordingly, a key assumption of this study, most eloquently stated by Black, is that law is inversely related to other non-legal forms of social control.³³ Familial social control is used as an indicator of non-legal or informal social control in order to test the narrower proposition that controlling for the quantity of familial social control in male and female offenders' lives will eliminate sex-based discrepancies in the allocation of criminal court sanctions.

In addition, as noted in this review, a number of scholars maintain that a causal factor in the reported increases in female crime is the shift in sex role socialization. The informal social controls to which women traditionally have been subject are thought to have diminished. If true, familial social control presumably would be less important to a court's determination of a female offender's sanction than heretofore, simply because familial social control no longer would be a salient "female" trait. Thus, within a sixteen year time frame, it will be argued that the effect of familial social control on the sanctions accorded female offenders will diminish over time.

III. THE STUDY DESIGN

A. THE SAMPLE

The study encompasses a stratified random sample of male ($N = 1,558$) and female ($N = 1,365$) criminal defendants who were processed through the Department of Court Services in Hennepin County (Minneapolis), Minnesota. The sample was stratified on the basis of sex, offense of conviction—*theft, forgery and drug law violations*—and year of conviction—1965 through 1980. The information gathered on each subject was obtained from the presentence investigation report.

B. THE VARIABLES

1. *Pretrial Release Status*

The dependent variable is pretrial release status. Pretrial release refers to the terms under which a defendant may be allowed to remain free in the interim between arrest and case disposition. Because the data relate primarily to individuals who were convicted of

³² Hagan, *Sexual Stratification*, *supra* note 18.

³³ D. BLACK, *supra* note 17, at 107.

the offense(s) with which they were charged, the sample may not be representative of the total population subject to pretrial release decisions.³⁴ Nevertheless, the following patterns, which have important theoretical implications for this study, warranted an examination of this preconviction decision. First, pretrial release is a disposition where leniency toward women has been particularly evident.³⁵ Second, previous research indicates that any evidence of sex discrimination in the decision to incarcerate was due largely to the fact that women are significantly more likely to obtain pretrial freedom than men.³⁶ The decision to examine this pre-adjudicatory stage, therefore, is based not only on its noted impact on later stages of the dispositional process,³⁷ but also its direct relevance to the sex-sanctioning issue.

The majority of studies examining the pretrial release decision dichotomize this variable according to whether the defendant obtained pretrial freedom.³⁸ However, as Nagel and Hagan point out, a dichotomy that merely indicates whether the defendant was detained prior to adjudication merges the judicial determination of the release condition offered with the defendant's ability to make bail.³⁹ In other words, the natural ranking as to the degree of restrictiveness placed on defendants is lost because individuals who were released on their own recognizance are not differentiated from those who had to meet a set of conditions (e.g., surety bond, ten percent cash deposit) for release. Further, an analysis which is primarily concerned with whether the court is extending preferential treatment to females should be sensitive to the degree to which women are given less restrictive options for obtaining pretrial freedom than men. Thus, as Table 1 illustrates, an ordinal level measure of pretrial release is used: individuals obtaining bond prior to release are

³⁴ See, e.g., Klepper, Wagin & Tierney, *Discrimination in the Criminal Justice System: A Critical Appraisal of the Literature*, in 2 RESEARCH ON SENTENCING: THE SEARCH FOR REFORM 55-128 (A. Blumstein, et al. eds. 1983).

³⁵ Nagel, *Gender and Crime*, *supra* note 2.

³⁶ Kruttschnitt & Green, *The Sex-Sanctioning Issue: Is It History?*, 29 AM. SOC. REV. at 545-47 (1984).

³⁷ See also Bernstein, Kelley & Doyle, *Societal Reaction to Deviants: The Case of Criminal Defendants*, 22 AM. SOC. REV. 793 (1977); Lizotte, *Extra-Legal Factors in Chicago's Criminal Courts: Testing the Conflict Model of Criminal Justice*, 25 SOC. PROBS. 569 (1978); Spohn, Gruhl & Welch, *The Effect of Race on Sentencing: A Re-examination of an Unsettled Question*, 16 LAW & SOC. REV. 71 (1981-82).

³⁸ See, e.g., Bernstein, Kick, Leung, & Schultz, *Charge Reduction: An Intermediary Stage in the Process of Labeling Criminal Defendants*, 56 SOC. FORCES 362 (1977); Farrell & Swigert, *Prior Offense as a Self-Fulfilling Prophecy*, 12 LAW & SOC. REV. 937 (1978); Myers, *Offended Parties and Official Reactions: Victims and Sentencing of Criminal Defendants*, 20 SOC. Q. 529 (1979); Spohn, Gruhl & Welch, *supra* note 37.

³⁹ Nagel, *Gender and Crime*, *supra* note 2, at 119.

ranked between those initially released on their own recognizance and those who never obtained pretrial freedom.⁴⁰

TABLE 1
VARIABLES, SCALES, ADJUSTED FREQUENCIES AND RELATED
STATISTICS WITHIN CATEGORIES OF SEX

VARIABLES	SCALES	ADJUSTED FREQUENCIES		CHI SQUARES/ DIFFERENCE OF MEANS	r
		Females (0) (N=1,365)	Males (1) (N=1,558)		
<u>Dependent:</u>					
Pretrial Release Status	0. Own Recognizance 1. Out on Bond 2. Detained	55.8 (722) 30.3 (392) 13.8 (179)	32.5 (480) 41.4 (612) 26.1 (385)	p=.000	.23
<u>Independent:</u>					
Offense Severity (maximum statutory penalty)	Interval	$\bar{X} = 7.59$ (s.d. 4.36)	$\bar{X} = 8.03$ (s.d. 6.25)	p=.026	.04
Prior Offense History(2)	Interval	$\bar{X} = -.20$ (s.d. .68)	$\bar{X} = .17$ (s.d. 1.10)	p=.000	.20
Pending Criminal Court Cases	Interval	$\bar{X} = .11$ (s.d. .40)	$\bar{X} = .24$ (s.d. .65)	p=.000	.11
Employment Status	0. Unemployed 1. Part-time 2. Full-time	62.6 (749) 11.5 (138) 25.9 (310)	49.4 (656) 9.7 (129) 40.8 (542)	p=.000	.15
Familial Social Control(2)	Interval	$\bar{X} = .20$ (s.d. .94)	$\bar{X} = -.20$ (s.d. .78)	p=.000	-.23

(2) The range of possible scores on this variable, for males and females respectively, appears in Note 45.

2. Independent Variables

As can be seen in Table 1, three "legal" variables are included, each of which is an important determinant of the pretrial release

⁴⁰ Note that in a preliminary analysis the pretrial release decision was dichotomized and a high value was assigned to those defendants who were detained. Although dichotomizing this variable produces results comparable to the results presented in this Article, for the previously noted theoretical reasons, the ordinal level measure is employed. See also Bernstein, Kelley & Doyle, *Societal Reaction to Deviants: The Case of Criminal Defendants*, 42 AM. SOC. REV. 793 (1977); Hagan, Nagel (Bernstein) & Abonetti, *Differential Sentencing of White-Collar Offenders in Ten Federal District Courts*, 95 AM. SOC. REV. 802 (1980).

decision:⁴¹ prior offense history, pending criminal court cases and offense severity.⁴² Also shown are indicators for the offender's employment status and the quantity of familial social control in his/her life. Employment status is included both because courts use this variable in determining whether the defendant is a "flight risk" and because employed individuals have a better chance of making bond or a cash alternative if bail is set. Thus, employment involving the interaction of peer and work groups can be viewed as an indicator of informal social control.⁴³ Although the primary concern is with the informal social control found in the family setting, this variable will be examined, at least in part, in light of its relationship to this study's underlying assumption regarding the relationship between law and other types of informal social control.

Note, however, the information that is not readily apparent from Table 1. In order to maximize the information obtained on each offender's life history and in order to increase the stability of the parameter estimates, additive scales were created for the prior offense history and familial social control variables. The specific items included in the prior offense history scale are: total number of arrests and convictions, total number of years previously on probation and total number of years previously incarcerated. The items comprising the familial social control scale are: household composition, number of children under seven years of age, number of children actually living with the offender, and the offender's degree of economic dependency. The centrality of the familial social control

⁴¹ See, e.g., Nagel, *The Legal/Extra-Legal Controversy: Judicial Decisions in Pretrial Release*, 17 LAW & SOC. REV. 981 (1983).

⁴² There has been considerable debate about the appropriateness of utilizing maximum statutory penalty as a means of operationalizing offense severity. See, e.g., Hagan & Bumiller, *Making Sense of Sentencing: A Review and Critique of Sentencing Research*, in 2 RESEARCH ON SENTENCING: THE SEARCH FOR REFORM 12-13 (A. Blumstein, et. al. eds. 1983). To control for each of the offenses subsumed within the offense categories of theft, forgery and drug law violations, a set of dummy dichotomous variables were used in a preliminary analysis. Comparing the results of these yearly equations to those that used maximum statutory penalty revealed no differences in the coefficients. Because the reliability of regression statistics is affected by the number of independent variables relative to the sample size (see F. KERLINGER & E. PEDHAZUR, *MULTIPLE REGRESSION IN BEHAVIORAL RESEARCH* 446-47 (1973)), and because the yearly models are, in some cases, based on a relatively small sample, using the statutory maximum penalty as a measure of offense severity provided a sounder methodological approach.

Race and educational attainment were not included in the equations because previous analyses revealed that they had no significant effect on either the dependent variable or our variables of theoretical concern. See Kruttschnitt & Green, *The Sex-Sanctioning Issue: Is It History?*, 29 AM. SOC. REV. 591 (1984).

⁴³ See, D. BLACK, *supra* note 17, at 111-12.

scale to our analysis warrants a brief explanation as to why these specific variables were chosen as indicators of familial social control.

First, the supervisory activities that occur in all domestic settings are one of the most rudimentary aspects of familial social control. Household composition is included, then, in an attempt to capture this activity by ranking the individuals with whom the offender lived, from low to high social control, as follows: (0) living alone, (1) living with one other adult (e.g., spouse/relative), (2) living with only their children, and (3) living with their children and another adult. Second, both the number of children living with the offender and the number of children under seven years of age are included because child-rearing responsibilities, especially when the children are young, place considerable constraints on adults' actions. Finally, a measure of economic dependency is included to recognize that aspect of familial social control that results from the economic inequality within a household.⁴⁴

Although the data contained information regarding the offender's source of support, a cross-classification of individuals according to their marital status and source of support is included in order to ensure the presence of familial control in conjunction with the economic support. For example, two women may be equal in their degree of financial dependency, but if one relies on her husband for support and the other relies on the government for support (e.g., a welfare recipient), the quantity of familial control to which they are subject will differ. Cross-classifying source of support and marital status resulted in twelve categories of dependency which also were ranked from low—e.g., the totally independent individuals who were self-supporting and single—to high degrees of familial control—e.g., the totally dependent individuals which included the unemployed who were supported by their spouses.

C. ANALYSES

The analysis begins with the creation of these familial social control and prior offense history scales. Both were initially derived from principal component factor analyses with orthogonal rotation. One-factor models fit the data quite well, resulting in two factors with eigen values exceeding +1. An examination of the factor loadings on the principal factor for each item within each set showed all factor loadings higher than .90, with most of the loadings .60 or higher. Based on the factor weights, standardized scores were computed for each individual for the variables within each factor, thus

⁴⁴ *Id.* at 32; D. BLACK, *THE MANNERS AND CUSTOMS OF THE POLICE* 123 (1980).

creating two additive scales.⁴⁵

The pretrial release decision analysis is based on ordinary least squares regression. A separate equation is estimated for each of the years encompassed by the data set. A concern with the effect of familial social control on the sanctions accorded female offenders over time, and a concern with providing the most accurate estimation of the gender-sanctioning relationship over a sixteen year period suggested this methodology.⁴⁶ The initial year-by-year analysis was done in three steps: 1) a regression of pretrial release status on sex and the three legal variables; 2) a regression of pretrial release status on sex, the legal variables and employment status; and 3) a regression of pretrial release status on all of our independent variables.⁴⁷ The second phase of the analysis involved examining separately the effect of each of the independent variables on the pretrial release decision for males and females over the sixteen year period.⁴⁸

IV. RESULTS

A. DOES FAMILIAL SOCIAL CONTROL ELIMINATE EVIDENCE OF GENDER-BASED LENIENCY IN PRETRIAL RELEASE DECISIONS?

Table 2 presents the results of three year-by-year sets of OLS analyses. The first set of equations, which controls only for the offender's offense, pending criminal cases and prior offense history, largely are consistent with previous research: female defendants fare better than male defendants in pretrial decisions.⁴⁹ More specifically, in twelve of the sixteen years examined, women were more likely to obtain freedom prior to the adjudication of their cases than men. The over-time trends also are consistent with a previous analysis and suggest that the changing social and political climate of

⁴⁵ For the prior offense history scales, scores for males range from a low of $-.592$ to a high of $+13.415$; for females the range extends from $-.592$ to $+7.840$. For the familial social control scale, males' scores range from $-.983$ to $+9.764$ and females' scores range from $-.983$ to $+4.450$.

⁴⁶ See also Greenberg, *Socioeconomic Status and Criminal Sentences: Is There an Association?*, 42 AM. SOC. REV. 174, 175 (1977); Thomson, & Zingraff, *Detecting Sentencing Disparity: Some Problems and Evidence*, 86 AM. J. SOC. 869, 874-75 (1981).

⁴⁷ Only the sex coefficients are reported for this portion of the analyses because of the cumbersome nature of reproducing all 48 equations. The full equations are available from the authors upon request.

⁴⁸ The entire sample population was used for the analyses of the pretrial release decision; attrition in the sizes of the samples upon which these equations are based is due to the manner in which missing data are handled by the normal listwise regression procedure. Further, an examination of all equations and their corresponding matrices revealed no identification problems.

⁴⁹ See Nagel, *Gender and Crime*, *supra* note 2.

TABLE 2
SEX COEFFICIENTS FOR THREE SETS OF YEARLY EQUATIONS WHICH
REGRESS PRETRIAL RELEASE STATUS ON SEX AND (I) A SET OF
LEGAL VARIABLES, (II) EMPLOYMENT STATUS, AND (III) FAMILIAL
SOCIAL CONTROL†

YEAR	CONTROLLING FOR LEGAL VARIABLES			CONTROLLING FOR EMPLOYMENT STATUS			CONTROLLING FOR FAMILIAL SOCIAL CONTROL		
	b for sex	R ²	(N)	b for sex	R ²	(N)	b for sex	R ²	(N)
1965	.485*	.10	(82)	.604**	.23	(78)	.600**	.23	(78)
1966	.077	.09	(96)	.100	.20	(88)	.092	.20	(88)
1967	.103	.20	(115)	.026	.23	(109)	.026	.23	(109)
1968	.071	.15	(175)	.059	.21	(155)	.052	.21	(155)
1969	.424**	.16	(138)	.373**	.15	(118)	.360**	.15	(118)
1970	.321**	.20	(199)	.310**	.22	(188)	.273**	.24	(188)
1971	.307**	.23	(236)	.376**	.30	(223)	.361**	.31	(223)
1972	.364**	.11	(154)	.448**	.23	(90)	.428**	.25	(90)
1973	.187*	.17	(176)	.229*	.22	(162)	.132	.33	(162)
1974	.050	.27	(192)	.117	.24	(141)	-.041	.28	(141)
1975	.232*	.25	(173)	.204*	.27	(162)	.132	.28	(162)
1976	.199*	.13	(173)	.198*	.16	(162)	.151	.18	(162)
1977	.185*	.10	(216)	.223*	.13	(203)	.153	.16	(203)
1978	.346**	.17	(187)	.426**	.23	(164)	.385**	.25	(164)
1979	.266*	.21	(162)	.384**	.26	(150)	.333**	.28	(150)
1980	.180*	.11	(205)	.205*	.15	(189)	.138	.16	(189)

† Significance levels are reported for a one-tailed test because direction is predicted: * $p \leq .05$
 ** $p \leq .01$

the late 1960's and early 1970's had no impact on evidence of gender-based leniency in the allocation of this criminal court sanction.⁵⁰

A second set of equations includes the employment status coefficient. Generally, the addition of this variable increases the percentage of variance explained (R^2) in the pretrial release decision. Because (1) the offenders least likely to be released pending court disposition are those who are considered to be flight risks, and (2) employment provides some assurances against risk of flight, this finding is not terribly surprising.⁵¹ However, the apparent effect of this variable on the sex coefficients was unanticipated. Adding employment status to the equations not only fails to reduce the apparent advantages judges give to females, but it also accentuates some of the previously noted sex differences. Specifically, in eight of the twelve years in which sex previously was shown to be a significant

⁵⁰ Kruttschnitt, *The Sex-Sanctioning Issue*, *supra* note 1.

⁵¹ Note, however, that there is some evidence that judges may be moving away from this traditional focus on whether the defendant is likely to be a flight risk to an assessment of the defendant's dangerousness. See, e.g., Goldkamp, *Bail: Discrimination and Control*, 16 CRIM. JUST. ABSTRACTS 103 (1984).

predictor of pretrial freedom, introducing the offender's employment status increased the size of the sex coefficient. Because the workplace provides a structure of informal social control and because, historically, paid labor force participation has been more characteristic of males than females, holding constant this potentially "male-dominated" status may have diminished any advantages male offenders had in the competition for lenient sanctions.

A third and final set of equations illustrates the effect of adding the familial social control indicator to our explanatory model. Sex is no longer a significant predictor of pretrial freedom in five of the twelve years where it was previously significant: 1973, 1975, 1976, 1977 and 1980. Why the sex effect diminishes in only these specific years is an open, and sociologically intriguing, question in that it does not fit neatly into a political or socio-historical explanation. Certainly, because these five years all post-date the beginning of legislative reform aimed at eliminating sex discrimination,⁵² judicial behavior may have been affected by the women's rights movement. In other words, introducing a variable that would equalize sex-based differences in stratification after 1972 results in a diminishing sex effect. This interpretation finds support from the fact that from 1970 through 1980 the addition of the familial social control variable consistently increases the amount of explained variation in the pretrial release decision. However, such an explanation cannot account for the relatively sizeable and significant effects of sex on pretrial release decisions in *both* 1978 and 1979. Thus, in an effort to further understand the way in which this indicator of informal social control is affecting the pretrial decisions accorded males and females while simultaneously moving toward a test of our second hypothesis, the data was reanalyzed within categories of sex. The results are found in Table 3.

B. WHAT ARE THE EFFECTS OF FAMILIAL CONTROL OVER TIME ON FEMALES' ABILITY TO GAIN PRETRIAL FREEDOM?

Table 3 suggests that familial social control is a significant predictor of pretrial freedom for women primarily in the early to mid-1970's (1971 through 1975). The latter half of the 1970's, however, reveals no definitive pattern. While familial social control has no significant effect on pretrial sanctions in 1976, 1978, 1979 or 1980, it does surface as a significant variable in 1977.

Given the thrust of the gender-crime and gender-sanctioning

⁵² H. BROWN, A. FREEDMAN, H. KATZ & A. PRICE, *WOMEN'S RIGHTS AND THE LAW: THE IMPACT OF THE ERA ON STATE LAWS* (1977).

TABLE 3

SIGNIFICANT UNSTANDARDIZED COEFFICIENTS FROM REGRESSING PRETRIAL RELEASE STATUS ON FIVE INDEPENDENT VARIABLES WITHIN CATEGORIES OF SEX†

YEAR	FEMALES					MALES								
	OFFENSE SEVERITY	PENDING CASES	PRIORS	EMPLOY. STATUS	FAMILIAL CONTROL	R ²	(N)	OFFENSE SEVERITY	PENDING CASES	PRIORS	EMPLOY. STATUS	FAMILIAL CONTROL	R ²	(N)
1965						.31	(17)						.22	(61)
1966						.16	(28)						.28	(60)
1967		.890**				.21	(46)		.201*				.31	(63)
1968						.29	(41)		.432**	.301**			.22	(114)
1969				-.482**		.08	(61)	.021**	.193*	.176*			.18	(57)
1970		.939**	.196*			.25	(87)		.210*	.194*			.17	(101)
1971		.669**	.288**			.26	(126)		.471**	.218*			.26	(97)
1972					-.117*	.19	(43)		.205*				.29	(47)
1973	.028*		.343*		-.262**	.21	(94)		.515**	.156*			.43	(68)
1974		.506**	.212*		-.189**	.20	(82)		1.122**	.288**			.36	(59)
1975		.679*			-.148*	.17	(76)		.636**				.32	(86)
1976		1.099**		-.213**		.28	(73)			.093*			.16	(89)
1977					-.164*	.09	(104)	.034*	.515**	.136**			.21	(99)
1978			.162*			.12	(74)		.391**				.22	(90)
1979		.395**	.259*	-.216*		.22	(77)		.531**				.33	(73)
1980		.495**				.16	(102)		.242*	.216*			.17	(87)

† Significance levels are reported for a one-tailed test because direction is predicted: * $p \leq .05$ ** $p \leq .01$

literature, familial social control presumably would have a more consistent impact on the pretrial sanctions accorded females, especially in the 1960's. The limited findings for this variable may, in part, be due to the fact that by analyzing the data within both years and sex cohorts, the female data base is substantially reduced. The attrition of cases is particularly evident in the early years and, of course, makes it more difficult to achieve statistical significance. Nevertheless, even assuming that familial social control might have been an important predictor of women's pretrial release statuses in the mid to late 1960's, the emergence of this variable as a significant predictor of women's sanctions in 1977 makes it difficult to discern whether there is in fact any "time-specific" effect.

Of central concern, however, is the finding that the determinants of the pretrial decisions for males and females appear quite distinct. For example, whereas familial social control has a significant effect on a woman's ability to remain free prior to the adjudication of her case in six of the sixteen years, a man is accorded the same benefit only in one of the sixteen years (1973). Similarly, employed men are significantly more likely to obtain pretrial freedom than unemployed men in eleven of these sixteen years; for women, the comparable set of circumstances appears in only three years. Even the legal variables appear to interact with sex. Pending criminal cases and prior offense history emerge as significant predictors in almost every year for males. For females, however, the effect of these variables is much leaner and more sporadic.

In order to test whether these apparent male-female differences are significant, the statistical significance of these coefficients across equations was calculated for each year.⁵³ Table 4 presents the t-

⁵³ Table 3 tests whether the coefficients for males and those for females differ significantly from zero, not whether they differ significantly from each other. It is possible, for example, that the coefficient for a variable is significant for males but not for females while, at the same time, the coefficients for males and females do not differ significantly from one another. In order to address this issue, we calculated the slopes for each independent variable for the different populations using the following t-test:

$$t = \frac{b_1 - b_2}{\sqrt{\text{Var}(b_1) + \text{Var}(b_2)}}$$

where b_1 is, for example, the employment coefficient for females and b_2 is the employment coefficient for males. $\text{Var}(b_1)$ and $\text{Var}(b_2)$ are the estimated variances of the coefficients for females and males, respectively. See Cohen, *Comparing Regression Coefficients Across Subsamples*, 12 SOC. METHODS & RESEARCH 77 (1983).

This problem also could be addressed by combining the two populations, treating sex as an independent variable, and creating interaction terms for sex and each of the other independent variables. See F. KERLINGER & E. PEDHAZUR, *MULTIPLE REGRESSION IN BEHAVIORAL RESEARCH* (1973). However, because the data are analyzed within yearly intervals thereby decreasing the number of cases for each equation, the addition of interaction effects may cause spurious significant t-values. See

values for both the coefficients that appeared to be sex-specific predictors of pretrial release (i.e., the variables which had a significant effect on the sanctions accorded to only one group in any given year) and those that appeared to have virtually the same effect, regardless of gender, on pretrial release status. The most consistent evidence of gender bias appears in the legal variables. One or more of these coefficients have a significantly different effect on pretrial release decisions, depending on the defendant's gender, in eleven of the sixteen years. The employment status and familial social control coefficients provide somewhat weaker evidence of sex-specific effects in that significantly different slopes appear in just one-half of the years in which sex differences previously occurred (see Table 3). This is particularly noteworthy in the case of familial social control where the slopes for males and females differ significantly from one another in only three years.

TABLE 4
T-RATIO FOR SLOPES OF SEX FOR EACH INDEPENDENT VARIABLE

Year	INDEPENDENT VARIABLES				
	OFFENSE SEVERITY	PENDING CASES	PRIORS	EMPLOY. STATUS	FAMILIAL CONTROL
1965				.472	
1966		.259		1.757*	
1967		1.792*	-2.037*		
1968	2.327**	1.365	.345	3.938**	
1969			-2.352**		
1970		2.832**	.029		
1971		1.557	.822	1.571	4.122**
1972		.249		3.739**	-3.839**
1973	-.811	-1.151	1.824*	2.537**	-.470
1974		2.074*	-.864		.031
1975		.162			-2.156*
1976		4.175**	-1.150	-.857	
1977	-5.970**	1.358	-1.670*	1.071	-1.152
1978		-.570	2.828**	1.809*	
1979		-1.048	3.292**	.428	
1980		2.663**	-.984	1.519	

* $p \leq .05$

** $p \leq .01$

There are several possible explanations for this finding. One possibility is simply that familial social control is not generally used

as a gender-specific determinant of pretrial release. This interpretation is consistent with our finding that familial control had little effect on the gender-sanctioning relationships initially observed (i.e., Table 2) and the finding of Bernstein and her colleagues that single-parent males appear to receive the same dispositional advantages accorded female heads-of-households.⁵⁴ Another possibility, which speaks to both the familial control and employment findings, is that changes in the social roles of men and women have produced a convergence in the way in which these extra-legal variables affect the gender-sanctioning relationship. This interpretation, however, ignores the fact that most of the significant differences in the slopes occur after 1970 and, as late as 1978, the relationship between employment and pretrial release status differs for men and women. Taken together, then, a rather complex set of interactions emerge which clearly cannot provide a "yes" or "no" answer to the question of how and when informal social controls mediate the gender-sanctioning relationship. Although some gender-specific effects on pretrial release decisions are evident, this observation must be qualified in light of its sporadic appearance over the subject time span.

V. CONCLUSION

This Article began by reviewing the explanations most commonly given for both the relationship between sex and criminal involvement and the relationship between sex and criminal sanctions. A unifying element in these explanations was then identified: the difference in the quantity of informal social control to which men and women are subject. Utilizing Black's proposition that legal and non-legal forms of social control are inversely related, and assuming that familial social control is one aspect of informal social control, the hypothesis that holding constant the quantity of familial social control in the lives of male and female offenders would reduce any noted evidence of gender-based leniency in the allocation of pretrial freedom was introduced. Given the assumed changes in sex role socialization and the increases in the numbers of women employed outside of the home, the effect over time of familial social control on the sanctions given to female offenders was examined as well.

The initial hypothesis received only partial support. The addition of familial social control to the equations eliminated the apparent preferential treatment given to women in only five of the twelve years where sex was shown to be a significant predictor of the pre-

⁵⁴ Bernstein, Cardascia & Ross, *Defendant's Sex and Criminal Court Decisions*, in *DISCRIMINATION IN ORGANIZATIONS* 350 (R. Alvarez & K. Lutterman eds. 1979).

trial release decision. In light of previous analysis of the sex-sanctioning question,⁵⁵ these findings strongly suggest the importance of examining how a wide variety of gender-related statuses affect pretrial release decisions. Specifically, in earlier work, other variables which were assumed to reflect some of the social and cultural differences between men and women in our society (e.g., history of psychiatric treatment and physical health problems) were included, in addition to indicators of economic dependency and household composition. While this earlier study suggests that the variables relating to familial social control were key factors in explaining sex-based sentencing differentials, these findings were not improved by focusing specifically on the familial social control variable. This suggests a reconsideration of a broader explanatory framework that would include not only an array of gender-related statuses but also the attitudes of the judiciary. Nagel has referred to this as "bench bias," or the tendency of particular judges to prefer some outcomes to others regardless of the type of case.⁵⁶ Certainly the sporadic effect of sex on pretrial release decisions between 1965 and 1980 suggests that "bench bias" may, in fact, be a factor.

Testing the second hypothesis, an examination of how familial social control affects pretrial release outcomes over time for females, revealed that: (1) irrespective of time period, there is little evidence that familial control is a sex-specific determinant of sanctioning, and (2) the strongest evidence for gender bias appears from the way in which sex conditions how the legal variables impact pretrial release decisions. Nagel and Hagan note in their careful review of the extant gender-sanctioning literature that no research has sought to ascertain what predicts the allocation of pretrial freedom for males and females.⁵⁷ Having found some evidence of significant sex differences in the criteria used for determining who will obtain pretrial freedom, an exploration to determine what lies at the base of this seemingly discriminatory pattern is needed.

Here again the findings with regard to familial social control suggest that a broader look at the determinants of informal social control in the lives of men and women is in order. That is, even though women's lives traditionally have been circumscribed by family responsibilities, it is clear from both this study and previous work⁵⁸ that this factor alone cannot explain the differential treat-

⁵⁵ Kruttschnitt, *The Sex-Sanctioning Issue*, *supra* note 1.

⁵⁶ Nagel, *The Legal/Extra-Legal Controversy: Judicial Decisions in Pretrial Release*, 17 *LAW & SOC. REV.* 481, 506 (1983) [hereinafter cited as Nagel, *Pretrial Release*].

⁵⁷ Nagel, *Gender and Crime*, *supra* note 2, at 121.

⁵⁸ Kruttschnitt, *The Sex-Sanctioning Issue*, *supra* note 1.

ment women are accorded in criminal court. In fact, it is only when the effects of *both* employment and familial control over the sixteen years are examined that any consistent evidence of informal social control interacting with the defendant's gender is found. Unfortunately, the findings lack one distinct measure of informal control that would allow for a cleaner assessment of how sex covaries with this variable so as to impact pretrial release status. Nevertheless, because there is evidence of gender bias based on either familial control or employment status in roughly one-half of the years examined, either (1) the reported shifts in women's social positions are over-rated since women are still the primary caretakers of children even with the addition of careers,⁵⁹ or (2) despite actual status changes there is still a residual sex effect in the courts based on gender per se. The data only suggest these possible interpretations; they are, of course, subjects for future research.

Second, having found strong evidence of an interaction between sex and the legal determinants of pretrial release, a few tentative explanations emerge. On the one hand, judges may be less interested in women's—as opposed to men's—offense histories if they routinely find them to be both quantitatively and qualitatively less problematic. On the other hand, the judiciary may assume that women would be less dangerous if freed prior to adjudication than men regardless of their offense history. Because “perceived likelihood of dangerousness” has been shown to be a key extra-legal factor in the determination of pretrial decisions,⁶⁰ and because this variable fits into sex-role stereotypes, this variable may be particularly important in future attempts to explain the sex-specific criteria used for allocating pretrial freedom.

This study, of course, only begins the arduous task of sorting out how, and suggesting why, the determinants of pretrial decisions differ for males and females. The results are tempered by contextual effects in that they apply to only one criminal court jurisdiction and in that the significance of our predictors vary over time. Certainly there is ample room for debate and future research. Nevertheless, finding substantial sex-based differences in the criteria used for allocating pretrial release outcomes suggests the need to explore the criteria used by other deviance processing agents. As noted at the outset, scholars interested in sanctioning patterns have much to gain from examining the criminal involvement literature. For too

⁵⁹ See, e.g., Cummings, *Value Stretch in Definitions of Career Among College Women: Horatio Alger as Feminist Model*, 25 SOC. PROBS. 65 (1977).

⁶⁰ Nagel, *Pretrial Release*, *supra* note 56, at 512-13.

long these two bodies of research have remained distinct. This study suggests that both can be successfully combined, and indeed should be reexamined to further our understanding of the bases for gender bias in the allocation of criminal court sanctions.

APPENDIX

REFERENCES TO ARTICLES IN FIGURE 1 NOT CITED
IN BODY OF ARTICLE

Bartel, *Women and Crime: An Economic Analysis*, 17 ECON. INQUIRY 29 (1979).

L. BOWKER, WOMEN, CRIME AND THE CRIMINAL JUSTICE SYSTEM (1978).

A. CAMPBELL, GIRL DELINQUENTS (1981).

Chesney-Lind, *Judicial Paternalism and the Female Status Offender*, 23 CRIME & DELINQ. 121 (1977).

Chesney-Lind, *Re-Discovering Lilith: Misogyny and the New Female Criminal*, in THE FEMALE OFFENDER: SELECTED PAPERS FROM AN INTERNATIONAL SYMPOSIUM (Griffith & Nance eds. 1980).

Cullen, Golden, & Cullen, *Sex and Delinquency: A Partial Test of the Masculinity Hypothesis*, 17 CRIMINOLOGY 301 (1979).

Curran, *Judicial Discretion and Defendants' Sex*, 21 CRIMINOLOGY 41 (1983).

K. Daly, Gender, the Family and Judicial Leniency Toward Women: Implications for Feminist Theory, Presented at the 78th Annual Meeting of the American Sociological Association (1983).

DeFleur, *Biasing Influences on Drug Arrests Records: Implications for Deviance Research*, 90 AM. SOC. REV. 88 (1975).

R. Eve & K. Edmonds, Women's Liberation and Female Criminality: Or 'Sister, Will You Give Me Back My Dime?', Presented at the Annual Meeting of the Society for the Study of Social Problems (1978).

L. Foley & C. Rasche, A Longitudinal Study of Sentencing Patterns for Female Offenders, Presented at the Annual Meeting of the American Society for Criminology (1976).

P. Giordano, Changing Sex Roles and Females' Involvement in Delinquency, Presented at the Annual Meeting of the Midwest Sociological Society (1976).

Giordano & Cernkovich, *On Complicating the Relationship Between Liberation and Delinquency*, 26 SOC. PROBS. 67 (1979).

J. GORA, THE NEW FEMALE CRIMINAL: EMPIRICAL REALITY OR SOCIAL MYTH? (1982).

A. Harris & G. Hill, CHANGES IN THE GENDER PATTERNING OF CRIME 1953-1977.

- A. Harris & G. Hill, *Opportunity v. Socialization*, 62 SOC. SCI. Q. 658 (1981).
- Hoffman-Bustamante, *The Nature of Female Criminality*, 8 ISSUES IN CRIMINOLOGY 117 (1973).
- Jensen & Eve, *Sex Differences in Delinquency? An Examination of Popular Sociological Explanations*, 13 CRIMINOLOGY 427 (1976).
- Kruttschnitt, *Respectable Women and the Law*, 23 SOC. Q. 221 (1982b).
- Kruttschnitt, *Sex and Criminal Court Disposition—The Unresolved Controversy*, 21 J. CRIME & DELINQ. 213 (1984).
- Kruttschnitt, *Social Status and Sentences of Female Offenders*, 15 LAW & SOC. REV. 297 (1980-81).
- Lewis, *Black Women Offenders and Criminal Justice: Some Theoretical Considerations*, in COMPARING FEMALE AND MALE OFFENDERS (Warren ed. 1981).
- Morris, *Female Delinquency and Relational Problems*, 43 SOC. FORCES 82 (1969).
- Moyer & White, *Police Processing of Female Offenders*, in WOMEN AND CRIME IN AMERICA (Howker ed. 1981).
- Nagel & Weitzman, *Women as Litigants*, 2 HASTINGS L. J. 171 (1971).
- Norland, Wessell & Shover, *Masculinity and Delinquency*, 19 CRIMINOLOGY 421 (1981).
- Reckless, *Female Criminality*, 3 NAT. PROBATION & PAROLE A. J. 1 (1957).
- Rosenblum, *Female Deviance and The Female Sex Role: A Preliminary Investigation*, 26 BRIT. J. SOC. 169 (1975).
- Shelden, *Sex Discrimination in the Juvenile Justice System: Memphis, Tennessee, 1900-1917*, in COMPARING FEMALE AND MALE OFFENDERS (Warren ed. 1981).
- Smart, *Criminological Theory: Its Ideology and Implications Concerning Women*, in WOMEN AND CRIME IN AMERICA (Howker ed. 1981).
- Staples, *Toward a Structural Perspective on Gender Bias in the Juvenile Court*, 27 SOC. PERSP. 399 (1984).
- Steffensmeier, *Crime and the Contemporary Woman: An Analysis of Changing Levels of Female Property Crime, 1960-1975*, 57 SOC. FORCES 566 (1978).
- Steffensmeier, *Patterns of Female Property Crime 1960-1978: A Postscript*, in WOMEN AND CRIME IN AMERICA (Howker ed. 1981).
- Steffensmeier, Rosenthal & Shehan, *World War II and Its Effect on the Sex Differential in Arrests: An Empirical Test of the Sex-Role Equality and Crime Proposition*, 21 SOC. Q. 403 (1980).

Steffensmeier & Steffensmeier, *Trends in Female Delinquency*, 18 CRIMINOLOGY 62 (1980).

Teilman & Landry, *Gender Bias in Juvenile Justice*, 18 J. RESEARCH CRIME & DELINQ. 97 (1981).

Thorton & James, *Masculinity and Delinquency Revisited*, 19 BRIT. J. CRIMINOLOGY 225 (1979).

Visher, *Gender, Police Arrest Decisions, and Notions of Chivalry*, 21 CRIMINOLOGY 5 (1983).

Weis, *Liberation and Crime: The Invention of the New Female Criminal*, 6 CRIME & SOC. JUST. 17 (1976).

C. Willis, *Sexual Equality, Female Labor Force Participation and Female Crime*, Presented at the 76th Annual Meeting of the American Sociological Association (1981).

Young, *Women, Race, & Crime*, 18 CRIMINOLOGY 26 (1980).