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AN ATTRIBUTIONAL APPROACH TO EXPLAINING PERCEPTIONS
OF FEMALE OFFENDING: IMPLICATIONS FOR TREATMENT

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ABSTRACT

Attribution theory is used to provide a conceptual analysis of how personal responsibility and blame are differentially ascribed to fictional male and female offenders. Thirty drug and alcohol counsellors participated; half read a description of a crime committed by a female and the other half read a description of a crime committed by a male. The counsellors rated the offence in terms of the attributional domains of internality, control and stability and then listed potential treatment targets. Offender sex influenced the attribution of blame with counsellors tending to attribute less blame to an offender of the same gender. This effect was particularly pronounced in the case of the female counsellor. Treatment targets were similar for both the male and female offender, with one exception; punishment of some kind was more likely to be considered a necessary outcome when the offender was male.

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INTRODUCTION

Offender gender is one of the most salient and dramatic features of recorded crime. In New Zealand in 2001, women constituted just over half of the population, and yet made up only 20 percent of all recorded arrests, 17 percent of convictions and 4 percent of those sentenced to custodial sentence (Statistics New Zealand, 2005). Extrapolating from these figures means that the equivalent male statistics are 80 percent, 83 percent and 96 percent, respectively. Thus women not only constitute a disproportionately low number in terms of arrest, but they are also less likely to be convicted and less likely to serve a custodial sentence. It is notable that women constitute a smaller part of the statistical offender community at each stage in the judicial process, while male offenders constitute a larger part of the same community at each stage. Throughout history, and worldwide, women represent only a small minority of those both charged and convicted (Newman, 1999). Why this should be so has been an issue of some contention. It may be that this “criminality gap” is the result of inherent differences in the lives of women and men. Alternatively it could be that female offenders are perceived differently, and as a result are treated differently by those systems charged with the enforcement of the law.

Research on the whole supports the suggestion that women are preferentially treated in the judicial process. Steffensmeier, Kramer and Streifel’s (1993) review of studies states “most report that adult female defendants are treated more leniently than adult male defendants” (p. 413) and Daly and Bordt’s (1995) analysis found that close to 60% report

outcomes favouring the female defendant. The lesser sentencing of the female offender seems to be largely accepted, as increasingly sophisticated methods and controls continue to provide evidence of discrepancy. The contentious issue now appears to be “why do such discrepancies exist”?

Some suggest this lesser sentencing is both justified and justifiable in light of actual differences between male and female offenders. Daly (1994), for example, suggests that the reason for differential treatment lies not in the biased perception of women, but in the reality of their responsibilities for others. Offenders with strong family ties tend to receive less severe sentences, and such offenders are more likely to be women. Thus the apparent bias is actually a mirage, a reflection of difference only in the extent to which males and females are solely responsible for the care of children. Others have theorized about the oppression and victimization of women, suggesting that a gender-neutral judicial approach would further victimize those already occupying a subordinate social position (Chesney-Lind & Pasko, 2004; Cook, 1987; Edwards, 1987). In both cases, the female offender is different, and is treated differently, because her social circumstances are different. Such theories hold that there are basic differences between male and female offenders that society recognizes and acts upon.

Others argue that female offenders are treated differently only because they are perceived differently and that leniency is the result of a bias based on stereotypical representations of men and women. Jeffries' (2001) examination of statistical data relating to judicial decisions in Christchurch courts found that sentencing and remand

outcomes were consistently harsher for males *regardless* of either personal circumstance or social ties. A traumatic personal history in the case of a female defendant was deemed to be a mitigating factor, whereas the same historic factors were either dismissed as irrelevant or deemed to have permanently shaped the male offender into a criminal. Jeffries' also found that responsibility for the care of children was considered differently depending on the defendant's gender. Incarceration of the female offender was perceived to be harmful to her children, while incarceration of the male offender was seen as the effective removal of antisocial influence and the means by which a family could be returned to normality. Male offenders were portrayed as destructive to family harmony, and their removal deemed to be in the best interests of the children. Where family disharmony was portrayed as destructive to women, the same disharmony was considered to be caused by men. Pre-sentence reports and judicial statements were found to reflect images of the female offender as dependent, emotional and victimized. While male offenders were held fully responsible for their acts and denied mitigation, the social circumstances of women were seen as mitigating and allowed judges to hold them less responsible for criminal activity. Jeffries analysis of the data therefore suggests that it is the *perception* of difference creating differential outcomes, rather than actual differences between the male and female offender.

The leniency extended to the female offender has put feminist discourse into something of a bind as there are several important implications. If a bias exists, it is clearly beneficial to the adult female in that it results in lenient judicial treatment. However, if the exoneration of female criminality is based on stereotypic evaluations of the offending

behaviour, such stereotypes reinforce sexism in that they deny active responsibility and agency by repositioning the female offender as a “passive, ineffectual, unstable and irresponsible” character (Allen, 1987, p.91). Thus this apparent protection offered to the female offender is at some cost to women in general.

Whilst there is no doubt that women have in the past occupied a subordinate societal position, these continued notions of the global oppression of women seem to be outdated, at least in many Western nations. Global and stereotypical assumptions about the nature of women as a social class may influence the judgment of individual offenders in such a way as to perpetuate a kind of inequality. If one is more inclined to accept the notion of a “victimized” or “oppressed” offender when considering the actions of the female, the victimization and/or marginalization of the male offender may be discounted, resulting in differential outcomes. Differential outcomes may also occur when the fully intentioned and reasoned criminality of an individual female offender is excused on the basis of a perceived victimization that does not exist (Pearson, 1997).

While gender inequalities as they relate to judicial outcomes have been the focus of much previous work, and such inequalities are clearly important, this thesis intends to examine the perception of criminality by counsellors responsible for the rehabilitation of drug addicted offenders. If stereotypes guide the perception of female offenders, there are implications for the effectiveness of treatment in addressing recidivism, as inappropriate treatment targets may be selected.

In many ways this research intends to complement that of Jeffries' (2001) examination of court proceedings. Where her analysis sought to examine "real" differences between male and female offenders that might explain the lesser sentencing of women, this study will examine differences only in perception. As discussed earlier, Jeffries' research suggests that the leniency extended to female defendants cannot be explained by actual differences between men and women, and that therefore the lesser sentencing of females must be the result of a bias that exonerates female criminality. The intention of this study therefore is to examine the perception of one crime, and whether it differs if committed by a male or a female. If perceptual differences arise that seem to absolve the female offender of personal responsibility, this would support Jeffries' contention that the leniency extended to women is the result of bias.

The perception and assignation of personal responsibility for any action can be considered within the framework of Attribution Theory. When one perceives and evaluates the actions of another, there is an implicit assessment of cause, and the nature of the cause relates to the extent to which an individual is deemed personally responsible. Thus in regard to the above discussion, if the cause of a crime is believed to lie in societal inequality, the individual is less likely to be held personally accountable for a specific criminal action. Ewart and Pennington (1987) demonstrated that sentencing decisions can be explained in an attributional manner, such that sentence severity can be correlated with the extent to which causes are perceived to be internal, stable and controllable. These three components of attribution theory are thus used to operationalize the concept of personal responsibility. The present study sets out to examine the applicability and utility

of Attribution Theory as a means to both investigate and explain the treatment provider's perception of male and female offenders.

This thesis begins with a discussion of the literature as it relates to the judicial outcomes of male versus female offenders. This is followed by an overview of current explanations for the judicial leniency that appears to be extended to the female offender. The assignation of personal responsibility as it relates to judicial outcomes will be discussed and Attribution Theory presented as an alternative means by which to consider differences in the perception of male and female offenders.