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Does Victim Gender Increase Sentence Severity? Further Explorations of Gender Dynamics and Sentencing Outcomes

Theodore R. Curry
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Theoretical and empirical research pertaining to the influence of gender on sentencing outcomes has focused almost exclusively on the gender of offenders. What this literature has not fully considered is how the gender of crime victims might affect sentencing outcomes. Using data for offenders convicted of three violent crimes in the seven largest metro counties in Texas in 1991, the authors find evidence that offenders who victimized females received substantially longer sentences than offenders who victimized males. Results also show that victim gender effects on sentence length are conditioned by offender gender, such that male offenders who victimize females received the longest sentence of any other victim gender/offender gender combination. However, whereas these effects are observed for sentence length, no victim gender effects are observed on whether offenders received an incarcerative or nonincarcerative sentence. The authors address the implications of their findings for theory and subsequent research.

Keywords: gender; victim gender; sentencing; Texas

Criminal justice policy makers and scholars have a long-standing interest in seeking to uncover and explain instances of differential or unequal treatment within the operation of the criminal justice system—that is, the extent to which factors other than the behavior of offenders influence, for example, sentencing outcomes. The literature on the effect of extralegal variables initially centered on the race, socioeconomic status (SES), and gender of offenders. Lately, however, and especially for sentencing decisions,

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researchers have begun to assess potential differences in sentencing within more specific contexts, such as comparing outcomes for different types of crimes (e.g., Farnsworth & Teske, 1995), comparing regional differences (e.g., Keil & Vito, 1992), different historical periods (Boritch, 1992), and different contextual features of criminal courts (e.g., Myers & Talarico, 1987). They have also begun to assess interactive or conditional effects among different characteristics of offenders, such as their race/ethnicity, gender, age, and SES (e.g., Crawford, 2000; Koons-Witt, 2002; Mustard, 2001; Spohn, 1999; Spohn & Beichner, 2000; Spohn & Holleran, 2000; Steffensmeier, Kramer, & Streifel, 1993; Steffensmeier, Ulmer, & Kramer, 1998; Wooldredge, 1998). Efforts to explore potential sentencing differences within more specific contexts, to use improved analytic strategies that control for the effect of legal variables such as offense seriousness and prior record, and to employ interactive, conditional, and additive models have done much to improve our knowledge on sentencing outcomes (e.g., Steffensmeier et al. 1993, 1998; Wooldredge, 1998).

A relatively unstudied dimension of this literature pertains to the effect of victim characteristics, rather than offender characteristics, on sentencing outcomes. Most notably, the existing studies have explored how different racial or ethnic combinations among victims and offenders can affect the likelihood of incarceration, sentence length (e.g., Hunter, Ralph, & Marquart, 1993; Kingsnorth, Lopez, Wentworth, & Cummings, 1998; Kingsnorth, MacIntosh, Berdahl, Blades, & Rossi, 2001; Kingsnorth, MacIntosh, & Wentworth, 1999; LaFree, 1980; Myers & LaFree, 1982; Spohn, 1994; Walsh, 1987), and the meting out of capital sentences (e.g., Baldus, Woodworth, & Pulaski, 1990; Keil & Vito, 1990, 1992). Hawkins (1987) further contended that to adequately understand differences in sentencing, the race and ethnicity of crime victims must be an explicit consideration (see also Thomson & Zingraff, 1981).

We agree with Hawkins' emphasis on crime victim characteristics and, in addition, propose that the gender of victims may also affect punishment outcomes. In view of the increasing attention given to the effects of offender gender on sentencing and the growing awareness that victim race/ethnicity may affect sentencing, the relative neglect of victim gender is surprising (but see Glaeser & Sacerdote, 2000; Myers, 1979; Spohn, 1994). Moreover, of the few studies that do consider victim gender, only Glaeser and Sacerdote (2000) considered potential interactions or conditional effects between victim gender and offender gender. Using a sample of defendants convicted of violent crimes in the seven largest counties in Texas in 1991, our study seeks to help fill this gap in knowledge by assessing (a) the direct effects of both

victim gender and offender gender on sentencing outcomes and (b) whether victim gender effects, when they occur, are conditioned by offender gender.

THEORY AND RESEARCH ON GENDER AND SENTENCING

Prior research has rarely addressed the relationship between the gender of crime victims and criminal justice outcomes, sentencing, or otherwise. Particularly instructive, however, are the few studies that specifically address sentencing outcomes, the focus of this article. Early research by Myers (1979) employed a sample of felony offenders in Marion County in the city of Indianapolis, Indiana, between 1974 and 1976 and found that offenders who victimized females were no more likely to receive a prison sentence than offenders who victimized males. However, her sample was small in size, including only 154 cases, and pertained only to offenders convicted at trial (excluding those who pleaded guilty). A second study by Spohn (1994) of violent felony offenders in Detroit from 1976 to 1978 also found that victim gender did not affect the in/out decision or the measure of sentence length. Although these efforts provide important information regarding the potential for victim gender effects, the Myers studies (1979) and the Spohn studies (1994) considered victim gender as a control variable, not an explicit focus of the research. Furthermore, they did not consider how victim gender might interact with other victim and offender characteristics, such as offender gender. A more recent study by Glaeser and Sacerdote directed attention more closely to victim gender effects and provided some assessment of potential victim gender interactions with offender gender. Using data from a large, random sample of "murder cases in 33 large urban counties in the United States, 1988," Glaeser and Sacerdote found that offenders who murdered women received longer prison sentences and, in a cross-tabulation analysis of means, that males who murdered females received longer sentences than any other victim gender/offender gender combination.

Although somewhat less instructive, given the paucity of research on victim gender effects on sentencing, it is also reasonable to consider research assessing the influence of victim gender on other stages of criminal justice processing. In three separate analyses of data from "murder cases in 33 large urban counties in the United States, 1988," results demonstrated that the likelihood of receiving a charge reduction is lower when homicide victims are female and that offenders who murder females are more likely to be convicted (Baumer, Messner, & Felson, 2000; Beaulieu & Messner, 1999;

Glaeser & Sacerdote, 2000). But a victim gender effect is not observed for conviction on a reduced charge compared to an acquittal (Baumer et al., 2000; Beaulieu & Messner, 1999) or for the probability of a first-degree charge at arrest (Glaeser & Sacerdote, 2000).

These initial efforts to explore the relationship between victim gender and criminal justice outcomes have yielded inconsistent results. However, this research generally neglected to consider potential interactions between victim gender and other important features of victims and offenders, such as offender gender (but see Glaeser & Sacerdote, 2000). In some cases, the research relied on small sample sizes and older data sets (Myers, 1979; Spohn, 1994), and the more recent research has focused exclusively on homicide and has employed the same data set (Baumer et al., 2000; Beaulieu & Messner, 1999; Glaeser & Sacerdote, 2000). Furthermore, this research is largely atheoretical (but see Baumer et al., 2000). Consequently, we argue that this understudied topic deserves further attention. Given the inconsistent findings and general lack of theoretical guidance, however, hypothesizing will be difficult.

We therefore turn to theory and research pertaining to the relationship between offender gender and sentencing for guidance regarding potential relationships between victim gender and sentencing. In general, this literature has argued that female defendants will be treated in a more lenient fashion than male defendants because of some combination of the putative physical and emotional characteristics of women and the stereotypical social roles that women are thought to fulfill. A number of somewhat-related theories have relied on features of this rationale: chivalry or paternalism (see Crew, 1991; Daly, 1987; Rafter & Stanko, 1982), bounded rationality (Albonetti, 1991), focal concerns (Steffensmeier et al. 1993; 1998), and blameworthiness attribution (Baumer et al., 2000).

According to the chivalry or paternalism argument, cultural stereotypes about gender lead to preferential treatment of female offenders. These stereotypes promulgate a sexist view that women are passive creatures who are physically and emotionally weak compared to men and are therefore dependent on men for their safety and well-being. When specifically connected to sentencing, chivalry stipulates that the passivity, weakness, and dependence associated with females indicate that they are in need of protection rather than punishment from the criminal justice system. In turn, the predominantly male role players in the criminal justice system are, because of chivalrous attitudes that males should protect and defend females from danger and discomfort, thought to be less willing to harm women with highly punitive sentences. Combined, these stereotypical views of gender are thought to reduce sentence severity for female offenders compared to males. A considerable

amount of research has sought to test the chivalry thesis and, whereas the vast majority of findings show that women offenders are treated preferentially compared to men when sentences are meted out, others studies show no differences. There are even a few that show women are actually treated more harshly.¹

Interestingly, whereas chivalry has only been considered in light of how offender gender might affect sentencing outcomes, chivalry appears equally applicable to questions regarding how victim gender might affect sentence severity. Most notably, the chivalrous desire to protect women could manifest itself in terms of harsher sentences for those who use violence against women. The stereotyped weaknesses and dependency women are thought to possess may tap into their supposed need for protection, and one way that the desire to protect women could be realized is through singling out offenders who use violence against women for harsher sentences than for offenders who victimize men. Furthermore, in cases in which men violently victimize women, even more gender stereotypes come into play. Not only are females victimized, but the victimization is done by men—the very group that is allegedly duty-bound by chivalry to protect women. And the masculine norms that may excuse male violence when it is directed toward other males are also being violated when violence is directed toward supposedly passive, dependent, and physically and emotionally weaker women. Thus, in addition to harsher sentencing in general for offenders who victimize females, we argue that chivalry also implies that the most severe sentences would be meted out to male offenders who victimize females.

However, whether applied to victim gender or offender gender, the chivalry thesis does not elaborate how cultural norms and stereotypes are translated into differential sentencing outcomes. That is, given chivalry, how, specifically, is sentencing influenced? Historically recognized differences in the respective spheres of men and women may in fact yield differential sentencing outcomes for men compared to women, as chivalry argues. But the chivalry approach has not articulated a discernible process that explicates how judges actually utilize gender stereotypes in a manner that affects sentencing decisions (see also Spohn & Beichner, 2000).

Potential insights into answering this question come from the somewhat related concepts of bounded rationality (Albonetti, 1991), focal concerns (Steffensmeier et al., 1993; 1998), and blameworthiness attribution (Baumer et al., 2000). Although not positioned as either competitors against or as elaborations of chivalry, these theories suggest that the relationship between gender and sentencing arises because judges do not have complete information on either offenders or their cases. Decisions about sentences, therefore, are not completely rational but are limited by the available information. To man-

age the uncertainty produced by information gaps, or to supplement or interpret available information, judges may develop patterned responses to deal with certain types of cases. They may, for example, attribute certain qualities to offenders based on their gender. Albonetti (1991) argued that because female offenders may be viewed as less of a risk to the community or as potential reoffenders, offender gender is one mechanism that judges use to reduce or manage uncertainty. This results in harsher sentences for male offenders. Steffensmeier et al. (1998) conveyed a similar process whereby focal concerns are used by judges as a perceptual shorthand to deal with uncertainty about cases (see also Steffensmeier et al., 1993; Ulmer & Kramer, 1996). Compared to females, male offenders may be seen as more culpable for their crimes and, hence, more blameworthy. Males may also be viewed as posing a greater risk to the larger community and being more likely to reoffend. Furthermore, males may be seen as better able to do time in prison or jail. These focal concerns may lead to milder sentences for women.

Several studies have found support for these related arguments. Qualitative interviews have shown that judges viewed female defendants as less blameworthy and less dangerous than their male counterparts because they have greater family responsibilities, stronger community ties, better potential for reform, and present greater costs for corrections. These factors may have explained their generally milder sentences in these studies (Daly, 1989a, 1994; Steffensmeier et al., 1993; 1998; Ulmer & Kramer, 1996). Quantitative research by Daly (1987) found that gender differences at the in/out sentencing stage disappeared when she controlled for whether defendants were married and had dependent children (see also Daly, 1989b), implicating that women who are "familied" may be viewed as less dangerous or less blameworthy for their crimes than men. Spohn (1999), however, discovered that the sentencing leniency accorded females was not contingent on marital status or number of dependents (see also Mustard, 2001; Spohn, 2002).

Although not directly addressing sentencing outcomes, Baumer et al. (2000) connected attribution theory (see Weary, Stanley, & Harvey, 1989) to the blameworthiness argument and asserted that in cases in which females have been victimized, greater levels of blame are attributed to offenders, perhaps because of the greater overall male participation in violence in society and more negative perceptions toward the use of violence against women compared to men. Such attributions may lead to harsher outcomes for victimizers of women in any criminal justice outcome—including sentencing—because female victims will be seen as more legitimate and less responsible for their victimization, whereas offenders will be seen as more responsible for their actions and, hence, more culpable or blameworthy. Although not mentioned by Baumer et al. (2000), in cases in which male offenders victim-

ize women, offenders may be viewed as especially blameworthy, and such an interaction between victim and offender gender may produce the most severe sentencing outcomes compared to any other victim gender/offender gender combination.

Yet, as so conceptualized, the theories of bounded rationality, focal concerns, and blameworthiness attribution implicitly rest on many of the same arguments and stereotypical views of gender roles and relations as does the chivalry thesis, and so they may not represent so much of a departure from chivalry as an extension, or elaboration of it when explicitly considering how and why judges may make gender-based decisions regarding sentencing. When viewed in combination, it is plausible to consider that the more proximate causes of any gender-based sentencing differences may collectively be the focal concerns of judges who use gender as part of their perceptual shorthand when meting out sentences; the content of these focal concerns may, in turn, stem from the gendered cultural features of society asserted by chivalry. Thus, the focal concerns of judges explain how chivalry manifests itself in milder sentences for women, whereas chivalry explains the content of focal concerns pertaining to gender. Therefore, building on the accumulated theoretical arguments, we hypothesize that not only will offender gender affect sentencing but also that victim gender will influence sentencing—as will the interaction between victim gender and offender gender. Specifically, harsher sentences will be meted out to male offenders and offenders who victimize females, and, compared to any other victim gender/offender gender combination, male offenders who victimize females will receive the harshest sentences of all.

Although we utilize existing theories—chivalry, focal concerns, and blameworthiness attribution—to generate the hypotheses in our research, we also wish to stress a major lapse in these theories. We argue that it makes little sense to consider how gender affects an outcome, such as sentencing violent offenders, without considering the wider implications of gender. In particular, we stress that the gender of violent crime offenders does not exist in isolation from the gender of their victims. The rationale used by chivalry and focal concerns theories to account for offender gender effects are quite malleable when applied to victim gender, and we are at a loss to explain its relative exclusion from prior theory and research. For its part, although Baumer et al.'s (2000) blameworthiness attribution view focuses on victim gender, it does not consider the gender of offenders. In sum, although there are many potential implications of gender for sentencing and other criminal justice outcomes, we contend that future studies should include the gender of crime victims as well as that of offenders or at least acknowledge its relevance.

*METHOD**Sample*

Data came from a project entitled Sentencing Dynamics Study: A Sourcebook of Felony Sentencing Practices in Urban Texas in 1991, a data collection effort mandated by the 72nd Texas Legislature. A random sample consisted of 7,729 offenders convicted of a felony between January 1 and September 30, 1991, in what were then the seven largest Texas metropolitan counties (i.e., Bexar, Dallas, El Paso, Harris, Nueces, Tarrant, and Travis) for 10 major categories of crime, representing 93.3% of all convictions in these counties (Fabelo, 1993). Offenders were randomly sampled within each offense category and each county. Because the gender of crime victims is the primary concern of this research, we restricted analyses to those 1,242 offenders convicted of assault, robbery, and homicide. An advantage of these data was that they represented seven large metro counties rather than a single court or jurisdiction in which idiosyncratic effects could alter results. A second advantage was that, because they came from the same state, there were no jurisdictional differences in terms of legal definitions and proscribed punishments (cf., Spohn & Beichner, 2000).

At the time these data were collected, Texas employed an indeterminate sentencing structure that afforded judges varying degrees of discretion in their sentencing decisions. For example, offenders convicted of a first-degree felony could receive a life sentence or a sentence anywhere between 5 and 99 years. Second-degree felonies were punishable by sentences ranging between 2 and 20 years, and third-degree felony sentences ranged between 2 to 10 years. In contrast to the vast discretion afforded by these extremely large sentencing ranges, judges possessed considerably less discretion at the in/out sentencing stage. Most notably, those convicted of an act statutorily defined as "aggravated" were usually not eligible to receive probation but rather were required to receive incarceration. For our sample, capital murder, murder, aggravated robbery, and aggravated assault were defined as aggravated offenses. However, for nonaggravated types of homicide (i.e., manslaughter, involuntary manslaughter, and attempted murder), robbery, and assault, judges possessed much greater latitude over whether offenders received incarceration. These rather broad statutory provisions were the only legal parameters that limited judicial discretion. Texas code did not contain any presumptive sentencing guidelines or mandatory minimum sentences beyond these stipulations. Texas judges were therefore endowed with vast amounts of discretion in regards to the length of sentences those receiving jail

and prison time might receive but considerably less discretion at the in/out sentencing stage.

Dependent Variables

The dependent variables (as well as independent and control variables), their coding schemes, and their means and standard deviations are presented in Table 1. Because convicted offenders face up to two distinct sentencing outcomes, we utilize two alternative conceptualizations of sentence severity. First, some offenders received prison or jail time, whereas others received a suspended sentence, fine, probation, or some other intermediate sanction that involved no time spent behind bars. Indeed, many previous studies of sentencing outcomes have shown that the in/out decision may be the point in the criminal justice system in which disparities are most pronounced, especially when gender is concerned (e.g., Steffensmeier et al., 1993; Wooldredge 1998). About 65% of 1,242 offenders in our sample received an incarcerative sentence. A second sentencing outcome, sentence length, pertains only to those 812 offenders who are sentenced to either jail or prison time; it refers to the number of years in their sentences and ranges from less than 1 year to 99 years. However, in our sample, 29 offenders received life sentences and 2 offenders a death sentence. Those with life sentences were recoded to 100 years, and the cases receiving a death sentence were recoded to 101 years.² The average sentence length for these offenders was 20.139 years. Finally, a small segment of our total sample of violent offenders (69, or about 5%) received a split sentence, involving both jail or prison and some type of probation, such as shock probation. Unfortunately, because the measure of sentence length used in these data does not differentiate between time spent in prison or jail and time spent on probation, potential analyses would equate, for example, those with 1 year in prison and 9 years of probation with those receiving 5 years of prison and 5 years of probation, as both would score 10 total years on sentence length. Strategies to analyze those receiving split sentences, such as those proposed by Myers and Talarico (1987, p. 20), are not possible with these data, and such cases were excluded from all analyses. Because split-sentence cases represent such a small proportion of our total sample, we do not view this as hampering our efforts in a substantial way.

Independent and Control Variables

The primary focus of this research is the effect of gender of victims on sentencing outcomes and the potential interaction of victim gender with

TABLE 1: Coding and Descriptive Statistics for Variables (N = 1,242)

<i>Variable</i>	<i>Coding</i>	Mean	Standard Deviation
Incarceration sentence (in/out)	0 = No, 1 = Yes	0.654	0.476
Sentence length (N = 812)	Years	20.139	21.113
Victim female	0 = Male, 1 = Female	0.280	0.449
Offender male	0 = Female, 1 = Male	0.899	0.301
Victim gender/offender gender	Dummy coding		
Victim female/offender female		0.038	0.191
Victim male/offender female		0.063	0.243
Victim male/offender male		0.657	0.475
Victim female/offender male (reference category)		0.242	0.429
Victim stranger	0 = No, 1 = Yes	0.471	0.499
Victim injury	Ordinal (1-5)	2.933	1.550
Offender age	Years	27.808	9.521
Victim race/offender race	Dummy coding		
Victim White/offender White		0.165	0.371
Victim non-White/offender non-White		0.552	0.498
Victim non-White/offender White		0.079	0.270
Victim White/offender non-White (reference category)		0.204	0.406
Prior convictions	Count	2.134	2.834
Disposition seriousness	Ordinal (1-5)	2.017	0.844
Total current convictions	Count	1.325	0.768
Aggravated disposition	0 = No, 1 = Yes	0.433	0.496
On probation	0 = No, 1 = Yes	0.379	0.485
Released on bond	0 = No, 1 = Yes	0.320	0.467
Private attorney	0 = No, 1 = Yes	0.267	0.442
Guilty plea	0 = No, 1 = Yes	0.870	0.337
County of conviction	Dummy coding		
Bexar County		0.098	0.298
El Paso County		0.232	0.422
Dallas County		0.108	0.310
Nueces County		0.035	0.183
Tarrant County		0.104	0.305
Travis County		0.052	0.221
Harris County (reference category)		0.372	0.484
Offense type			
Homicide		0.315	0.465
Robbery		0.366	0.482
Assault		0.319	0.466

offender gender to affect sentencing. Direct effects on both sentencing outcomes are assessed using dummy variables tapping into victim and offender

gender. For this sample, about 28% of all victims are female, whereas slightly more than 10% of offenders are female (see Table 1). Efforts to explore the interactive or conditional effects between victim and offender gender employ a series of dummy variables. The combination of female victim and male offender (about 24% of the sample) is used as the reference category because this combination is predicted to receive the harshest sentencing outcome. The other combinations are victim female/offender female (4% of sample), victim male/offender female (6% of sample), and victim male/offender male (66% of sample).

Also included in the analyses are other characteristics of victims and offenders, such as whether offenders victimized strangers or not, the extent of victim injury, offender age, and the racial dynamic between victims and offenders. Whether the victim and offender were acquainted or were strangers is a dummy variable with about 47% of all cases in the sample involving a stranger relationship between victim and offender. Victim injury is measured on an ordinal scale, with items 1 (*no bodily injury*), 2 (*bodily injury not requiring treatment*), 3 (*bodily injury requiring treatment*), 4 (*bodily injury requiring hospitalization*), 5 (*victim died*). Offender age is measured in years, with the average offender being almost 28 years old at the time of conviction and sentencing (unfortunately, no data are available on victim age). The combination of victim race/offender race is captured with a series of dummy variables, with combination of victim White/offender non-White used as the reference category, as sentence severity is predicted to be harshest for this group compared to the other combinations.

The sentencing literature (e.g., Steffensmeier et al., 1993) consistently points to the need to control for “legally relevant” variables that could affect sentencing outcomes—most notably prior criminal record and offense severity. Prior criminal involvement could be measured in a number of ways with these data (e.g., number of jail or prison sentences and whether respondents had prior probation, parole sentences, or revocations), but the only measure that is statutorily authorized to affect sentencing outcomes is prior convictions (Steffensmeier et al., 1993). In addition, the number of prior convictions had the strongest and most consistent relationships on sentencing outcomes in these data and was strongly correlated with most of the other potential prior record measures. Therefore, we employ the total number of prior misdemeanor and felony convictions in any state or federal court to measure the offender’s prior criminal record (see also Spohn & Beichner, 2000).

The seriousness of offender’s current criminal behavior is measured in three ways. Disposition seriousness refers to the level of the conviction charge of the most serious disposed offense, with 1 (*felony reduced to misde-*

meanor), 2 (*third-degree felony*), 3 (*second-degree felony*), 4 (*first-degree felony*), 5 (*capital felony*). Total current convictions refers to the total number of charges offenders were convicted of in the current sentencing event. Aggravated disposition taps into whether offenders were found guilty of an aggravated offense (i.e., capital murder, murder, aggravated robbery, or aggravated assault). Whereas alternative measures of sentence severity are available in these data, they presented problems for analyses. Specifically, whether offenders were found to have used a weapon was correlated at above .90 with aggravated disposition, and whether the case was given an enhancement because of either habitual or repeat offending did not affect sentencing outcomes when other variables were controlled. Thus, these alternative measures were not employed in statistical analyses.

In addition to features of the offenders' prior records and the seriousness of their crimes, we also control for four important features of offenders' cases that might influence sentencing outcomes (see also Spohn & Beichner, 2000). About 38% of these offenders were on probation (or parole or a deferred adjudication) at the time of their arrest, and the rest were free from any such restrictions. Approximately 32% of offenders were released on bond and pending trial. Of the offenders, 27% employed a private attorney, and the rest used a public defender, a court-appointed attorney, or represented themselves. In addition, 87% of offenders entered a guilty plea, and the remainder pleaded not guilty.

Although our data came from Texas and the content of laws and sentencing provisions was consistent across counties, it is possible that, in practice, actual sentences may have varied across counties because of, for example, unemployment rates (see Myers & Talarico, 1987). Therefore, we control for county of conviction with a series of dummy variables. Harris County (Houston) represents 37% of the convictions in our sample and is used as the reference category. The sample conviction percentages for the remaining counties are in Table 1.

Finally, we also consider the specific offenses for which members of our sample were convicted. In our sample, offending was fairly evenly distributed among the three offenses, with about 32% of offenders being convicted of assault, 37% for robbery, and 32% for homicide. Typically, offense type would be controlled for in analyses such as these by creating dummy variables for two of the three offense types and leaving the third as the reference category (much as we do for the victim gender/offender gender combinations). Unfortunately, when we created these dummy measures, we found that they were highly correlated with either disposition seriousness or victim injury, indicating a level of multicollinearity that precluded their use in analyses.³

RESULTS

Data were analyzed using both logistic regression (for the in/out decision) and OLS regression (for sentence length). However, testing for the effects of victim gender and other variables at the sentence length stage excludes some members of the sample who were included in the analyses for the in/out decision. We therefore corrected for potential sample selection bias with a hazard function (e.g., Berk, 1983). This procedure utilized logistic regression to estimate the probability of incarceration for each member of the sample; we then included this probability as a control variable in the OLS regression equations that tested for effects at the sentencing-length stage. Assessing direct effects at both sentencing stages is relatively straightforward using additive models. However, to test for hypothesized conditional effects, we use a series of dummy variables to explore conditional effects between victim gender and offender gender, as this approach enables a clear determination of cell-specific effects to assess a range of potentially different outcomes (see Mustard, 2001).

Hypotheses are first tested using the in/out decision as a measure of sentence severity. Results from the first column of Table 2 show that victim gender does not have a direct effect on whether violent offenders receive an incarcerative sentence, thereby disconfirming the hypothesis that offenders who victimize females will receive harsher sentences in this case. Another notable feature of these results is that male offenders are no more likely than female offenders to receive an incarcerative sentence. Thus, for this sample of violent offenders, neither victim gender nor offender gender affect the likelihood of incarceration. This latter result contradicts many previous studies that found that offender gender does have strong effects at the in/out sentencing stage (e.g., Farnworth & Teske, 1995; Kruttschnitt & Green, 1984; Mustard, 2001; Spohn & Holleran, 2000; Spohn, 1999; Steffensmeier et al., 1993; 1998).

It is interesting that other features of victims and offenders also tend not to affect the odds of incarceration. Whether victims were strangers has no effect on the odds of incarceration; likewise, the offender's age has no effect, and the racial combination of victims and offenders has no effect. The only feature of either victims or offenders that does affect the chances of receiving an incarcerative sentence is victim injury, which increases the odds of incarceration by 1.375 with each unit increase in the extent of victim injury. However, this variable is as much a legally relevant factor for sentencing as it is a feature of violent crime victims. We should also note that all measures of offense seriousness (i.e., disposition seriousness, aggravated disposition, and total current convictions) affected the odds of incarceration, as did features of the

offenders' cases, such as prior convictions, being on probation, being on parole, having a deferred conviction, being released on bond, and entering a guilty plea. The use of a private attorney, however, had no effect. The series of dummy variables tapping into county of conviction showed that, compared to Harris County (the reference category), the likelihood of incarceration was lower in El Paso, Dallas, Nueces (Corpus Christi), and Tarrant (Ft. Worth) counties, but there were no evident differences for Bexar (San Antonio) or Travis (Austin) counties.

Equation 2 of Column 1 tested whether victim gender and offender gender interact to affect the likelihood of incarceration. Although the other independent variables are included in this equation, they are not reported as they are substantively the same in terms of magnitude, direction, and significance of effects. Not surprisingly, because neither victim gender nor offender gender had direct effects on the odds of incarceration, none of the victim gender/offender gender combinations is significantly different from the reference category of victim female/offender male. Thus, these results disconfirm the hypothesis that victim gender and offender gender have conditional effects on sentencing severity when the in/out decision is used as measure of sentencing severity.

The lack of significant findings for our hypotheses at this stage of the analysis may stem from two main considerations. First, many (43%) of the offenders in our sample were convicted of aggravated offenses, for which probationary (out) sentences were usually not an option.⁴ Second, legal variables have such strong effects on the likelihood of incarceration. For example, each unit increase in disposition seriousness increases the odds of incarceration by 2.067, being convicted of an aggravated offense increases incarceration odds by 1.531, each unit increase in prior convictions increases the odds of incarceration by 1.297, and being on probation, parole, or deferred conviction leads to an increase of 5.171 in incarceration odds. Previous studies on the in/out decision also found that victim gender had no effects (Myers, 1979; Spohn, 1994). For this particular sample of violent crime convictions, then, extralegal variables such as victim gender do not directly affect the chance of incarceration. Instead, legal variables appear to be the main causes of whether defendants receive an in or out sentence. However, when sentence length is used as the dependent variable, a number of victim and offender characteristics do demonstrate effects supportive of our hypotheses.

As a second measure of sentence severity, analyses of the causes of sentence length refer only to those offenders who received a jail or prison sentence and include a hazard function that controls for bias in whether offenders were selected at the in/out sentencing stage for inclusion among those

TABLE 2: Effects of Victim and Offender Characteristics on Sentencing Severity

	Incarceration Likelihood (n = 1,242) Equation 1			Sentence Length (n = 812) Equation 1		
	Odds			B	Beta	p
	B	Ratio	p			
Victim female	-0.021	0.980	.914	4.179	.089	.001*
Victim stranger	0.299	1.349	.118	2.525	.060	.053
Victim injury	0.318	1.375	.000*	3.533	.271	.000*
Offender male	0.081	1.085	.761	6.727	.085	.002*
Offender age	-0.008	0.992	.388	0.162	.068	.025*
Victim race/offender race (reference category = victim White/ offender non-White)						
Victim White/offender White	-0.167	0.846	.552	-0.449	-.008	.820
Victim non-White/ offender non-White	-0.174	0.841	.439	-2.025	-.048	.181
Victim non-White/offender White	-0.220	0.803	.510	-3.711	-.045	.139
Disposition seriousness	0.726	2.067	.000*	10.503	.396	.000*
Aggravated disposition	0.426	1.531	.030*	0.622	.015	.661
Prior convictions	0.260	1.297	.000*	0.638	.091	.006*
On probation	1.643	5.171	.000*	5.086	.120	.000*
Released on bond	-1.530	0.216	.000*	-8.566	-.145	.000*
Private attorney	-0.315	0.730	.155	-3.751	-.067	.027*
Guilty plea	-1.175	0.309	.000*	-20.574	-.366	.000*
Total current convictions	0.327	1.386	.013*	2.700	.111	.000*
County of conviction (reference category = Harris County)						
Bexar County	0.394	1.483	.215	4.306	.066	.022*
El Paso County	-0.830	0.436	.000*	-2.734	-.054	.072
Dallas County	-0.697	0.498	.012*	-1.558	-.019	.504
Nueces County	-1.579	0.206	.001*	-0.516	-.004	.888
Tarrant County	-0.730	0.482	.013*	-0.607	-.008	.768
Travis County	-0.102	0.903	.806	-1.328	-.015	.588
Constant	-0.844	0.430	.180	-18.563		.000*
Hazard function				5.971	.149	.000*
-2 log likelihood	929.649		.000*	F test	27.748	.000*
				R ²	.447	
df		22		df	23	
Victim female/offender female	-0.381	0.683	.389	-7.868	-.063	.026*

(continued)

TABLE 2 (continued)

	Incarceration Likelihood (n = 1,242) Equation 2 ^a			Sentence Length (n = 812) Equation 2 ^a		
	Odds			B	Beta	p
	B	Ratio	p			
Victim male/offender female	0.038	1.039	.914	-10.385	-.104	.000*
Victim male/offender male (reference category = victim female/offender male)	-0.045	0.956	.827	-4.348	-.097	.001*

a. Effects for all other independent and control variables were analyzed, but not reported, in Equation 2 as they are substantively the same compared to Equation 1 in terms of direction, magnitude, and significance.

* $p < .05$.

analyzed for sentence length. Because the unstandardized regression coefficients in these analyses represent the change in number of years of incarceration produced by a change in one unit of a given independent variable, these results are readily interpretable. The second column of Table 2 shows that, in Equation 1, offenders who victimize females receive sentences that are, on average, 4.179 years longer than those for offenders who victimize males. These results support our hypothesis. Male offenders receive an average of 6.727 additional years to their sentences compared to female offenders. Each unit increase in victim injury adds 3.533 years, whereas each unit increase in offender age adds 0.162 years. However, none of the victim race/offender race combinations showed a significant difference from the combination of White victim and non-White offender, and the victim stranger is not significant either. All of the legally relevant variables were significant, as were measures tapping into important features of offenders' cases—whether they were on probation, on parole, on deferred conviction, released on bond, used a private attorney, or entered a guilty plea. Aggravated disposition, however, was not significant.

Results for the county of conviction showed that sentences were on average 4.710 years longer for defendants convicted in Bexar County compared to Harris County (the reference category), but none of the other counties showed significant differences. When compared to the results for the in/out decision, Harris County tends to be more likely than the other Texas metro counties to sentence offenders to prison and jail, but, for those offenders receiving incarceration, Harris County does not tend to mete out longer sentences. These results are somewhat surprising given that judges possess more

discretion for sentence length than for the in/out decision and Harris County's reputation for being highly punitive toward offenders (see Bauldaff, 1999). Nonetheless, it appears that to the extent that Harris County is more punitive, harsher sentences result at the in/out stage rather than at the sentence length stage. Together, all variables in the model accounted for nearly 45% of the variation in the length of sentences offenders received.⁵

Additional analyses in Equation 2 of Column 2 tested whether victim gender and offender gender produce conditional effects on the length of incarcerative sentences with three dummy variables using cases in which males victimized females as the reference category. The direct effects of the independent and control variables were included in the equation but not reported, as they are similar to those in the Equation 1. Results indicated that when male offenders victimized females, such cases received sentences that range from 4.348 to 10.385 years longer than the other victim gender/offender gender combinations. These findings support the hypothesis that offender gender conditions the effect of victim gender on sentencing severity.

In sum, results testing the hypotheses that victim gender has direct and conditional effects on sentencing severity are entirely disconfirmed for the in/out decision and strongly supported for sentence length. In terms of the likelihood of incarceration, victim gender had no direct effect and no conditional effect with offender gender, which also failed to directly affect the likelihood of incarceration. For analyses of sentence length, however, direct effects show that offenders who victimize women receive substantially longer sentences than offenders who victimize men, and that the effect of victim gender is enhanced in cases when males are the offenders.

DISCUSSION

Theory and research on the influence of extralegal factors on criminal justice decision making, such as sentencing outcomes, is a topic of enduring interest in criminology. Whereas many previous efforts focused on features of offenders, such as their race/ethnicity or gender, Hawkins (1987) presented a strong argument that the characteristics of victims are also essential for understanding sentencing outcomes. Although Hawkins was specifically referring to the racial dynamic between victims and offenders, we build on his position by arguing that to more fully assess the effect of gender on sentencing, researchers must consider both the gender of crime victims and the offender gender. The rationale for our approach is that gender is a multifaceted concept and that for an outcome, such as the sentencing of violent offenders, the gender of these offenders does not exist in isolation from the

gender of their victims. Researchers endeavoring to assess gender effects at sentencing, or any other criminal justice outcomes, should therefore be mindful of these wider implications. We build on the few extant studies of victim gender (Glaeser & Sacerdote, 2000; Myers, 1979; Spohn, 1994) not only to assess the direct effects of victim gender but also to assess whether victim gender interacts with offender gender. To accomplish this, we employed data from a sample of felony convictions from the seven largest metro counties in Texas in 1991 and tested for victim gender effects at two distinct sentencing stages—whether offenders received an incarcerative sentence and, if they did, the length of these sentences.

To generate hypotheses about the effects victim gender might have on sentencing, we primarily relied on a combination of theoretical arguments regarding the effects of offender gender. For its part, chivalry or paternalism asserted that stereotypical views of women as physically and emotionally weak, passive, and dependent on males for protection will lead to milder sentencing outcomes for female offenders (see Crew, 1991; Daly, 1987; Rafter & Stanko, 1982). Yet the chivalry perspective, although providing a rationale for the existence of gender stereotypes, does not precisely explain how such stereotypes actually culminate in sentencing differences for women compared to men. A second theory, focal concerns (Steffensmeier et al., 1993; 1998), asserted that judicial discretion is guided by a perceptual shorthand that attributes certain qualities to offenders based on, for example, their gender. Here, female offenders may be seen as less blameworthy for their crimes or as less of a danger than male defendants and, as a result, receive milder sentences (for similar points of view, see also Albonetti, 1991; Baumer et al., 2000). However, although focal-concerns theory explains how and why judges use gender stereotypes to produce gender differentials at sentencing, it does not explain the source of these stereotypes. Thus, although both chivalry and focal concerns predict preferential treatment toward women at sentencing, each explanation accounts for something the other leaves out. We therefore employ chivalry to account for the content of gender stereotypes and focal concerns to explain how and why judges use these stereotypes at sentencing.

We applied this general line of reasoning, which heretofore has focused on the gender of offenders, to the gender of victims. Our prediction that offenders who victimize females will receive harsher sentences than those who victimize males stems from chivalrous notions that females are stereotyped as in need of protection from the criminal justice system and from Baumer et al.'s (2000) "blameworthiness attribution" view, which posits that females are seen as less responsible or blameworthy for their victimization than males. Our findings support this prediction for the length of sen-

tences offenders receive and show that offenders who victimize women receive sentences that average 4.179 years longer than for offenders who victimize males. We also found support for the hypothesis that offender gender conditions the effect of victim gender such that the longest sentences are meted out to male offenders who victimize females, and this difference is considerable, with the female victim/male offender dyad receiving sentences that range from 4.348 to 10.385 years longer than the other victim gender/offender gender dyads (see also Glaeser & Sacerdote, 2000). However, none of our hypotheses received support when the in/out decision was used to measure sentence severity (see also Myers, 1979; Spohn, 1994). Thus, although victim and offender gender dynamics have substantial effects on sentence length, no effects are observed for the chances of incarceration in these data.

One key to explaining our inconsistent results on victim gender effects is the combination of features of our sample, pertaining only to violent crime, and characteristics of the Texas code. At the time our data were collected, Texas used an indeterminate sentencing structure that allowed for large ranges between minimum and maximum sentences for offenders receiving incarceration. Whereas vast judicial discretion was present for sentencing length decisions, considerably less discretion existed for the in/out decision because offenders convicted of aggravated offenses were typically not eligible to receive probation. A second consideration toward explaining our results is the substantial effects of legally relevant variables. For example, each unit increase in disposition seriousness increased the odds of incarceration by 2.067, and incarceration odds increased by 1.297 for each prior conviction offenders had. Other features of offenders' cases yielded similarly strong results. These measures, along with a sample of violent offenders and limited judicial discretion at this sentencing stage, likely contributed to the nonsignificant findings for victim gender and other extralegal variables regarding whether offenders received incarceration. On the other hand, the vast discretion judges possess for sentence length seemed to have allowed for extralegal variables to become influential, such as our findings for the effects of victim gender and its interaction with offender gender.

When viewed in relation to previous efforts, the results from our study tend to correspond to prior findings. For example, Glaeser and Sacerdote (2000) also found that victim gender affected sentence length and that this effect was enhanced by offender gender. Spohn (1994), however, found no direct effect of victim gender on sentencing length. Similar to our findings, prior studies by Myers (1979) and Spohn (1994) also showed that victim gender does not affect the in/out decision. Collectively, our findings and those from previous studies indicate that victim gender may not affect the chances

of incarceration—especially for violent crime—but that victim gender may have important effects on sentencing length.

However, the relevance of victim gender for sentencing outcomes stems from more than the mere fact that it may produce statistically significant effects. It also expands our understanding of the implications of gender for sentencing. These implications give some pause for concern. First, fair and equal treatment under the law are constitutional rights in the United States, and any systematic disparity in sentencing because of extralegal characteristics, such as our findings on victim gender, appears in contradiction to this guarantee. This “equal treatment” argument (see Chesney-Lind, 1997, pp. 161-163; Spohn, 2002, pp. 149-150) seems especially applicable when those convicted of serious violent offenses are considered. Second, theory and research suggest that the milder sentences accorded to female offenders are based on stereotypical views of gender. If this is correct, then gender-based sentencing outcomes will serve to reify these stereotypes. And, of course, these gender stereotypes are detrimental toward women because, even as they favor women at sentencing, they may serve to control women in other arenas. We posit that sentencing differences based on victim gender are also ultimately because of gender stereotypes. Therefore, just as offender gender is viewed by scholars as essential for understanding sentencing outcomes and for its wider implications on gender issues for society as a whole, we believe that victim gender deserves the same consideration.

To the extent that victim gender effects on sentencing are viewed as problematic, scholars and policy makers may wish to consider how they may be reduced. From a policy standpoint, the introduction of sentencing guidelines that reduce judicial discretion could minimize sentencing differentials for victim gender. Much prior research has indicated that they may reduce the effect of other extralegal variables (see Meithe & Moore, 1985; Stolzenberg & D'Alessio, 1994; for a review, see Spohn, 2002, pp. 263-309). In spite of their utility, sentencing guidelines do have certain shortcomings. First, although reducing judicial discretion, guidelines may shift discretionary decision-making power toward prosecutors in terms of implementing charges and plea bargaining, thereby, not actually reducing discretion, but rather displacing it (Meithe, 1987). Second, guidelines may increase the overall severity of sentences offenders receive and result in greater levels of incarceration in general and, perhaps, for women in particular (Chesney-Lind, 1997; Spohn, 2002, pp. 263-280). Finally, guidelines do not directly address the gender stereotypes that appear to be the fundamental causes of differential sentencing outcomes by victim gender or offender gender. Texas, however, has not implemented sentencing guidelines and still retains the same indeterminate sentencing parameters today that it did in 1991.

In summary, our research highlights a largely unrecognized source of sentencing differentials and argues for the importance and relevance of victim gender to theory and research on the effects of extralegal variables on sentencing decisions. From a more practical standpoint, it is important that members of the criminal justice system be aware that victim gender may affect sentencing as this information may be used to influence future decision making, as well as the formation of policy and procedural guidelines. However, policy changes, such as introducing sentencing guidelines, may not actually alter the influence of extralegal variables. Instead of reducing discretion, they may merely shift it from judges to prosecutors because they do not address the gender stereotypes that are theorized as the fundamental causes of gender-based sentencing disparities.

In closing, we critique the adequacy of our research design and data. In terms of the data, our sample contains a number of desirable features. Because the sample pertains to sentencing outcomes in the seven largest metro counties in Texas, these data neither are limited to a single jurisdiction in which idiosyncratic effects may be more likely to alter results, nor do they suffer from potential differences in crime definitions and sentencing guidelines that might occur in studies that employ data from more than one state. In addition, the comprehensiveness of the data allows for a fairly strong research design. Notably, we were able to control for many important features of offenders and their cases that might affect sentencing outcomes, such as offense seriousness (i.e., disposition seriousness, total current convictions, and aggravated disposition), the number of prior convictions, as well as several other variables pertaining to features of their criminal cases (i.e., whether offenders were on probation, parole, or deferred adjudication; whether offenders were released on bond; whether they retained a private attorney; whether they pleaded guilty; and what their county of conviction was). And although we explored the effect of victim gender dynamics on sentencing outcomes, we also controlled for other salient features of victims and offenders—their race/ethnicity dynamic, their relationship to each other, and the offender's age—that better situate our research on gender within a "multiple inequalities" framework (Daly, 1997). Finally, we assessed outcomes at two separate stages of criminal sentencing, that is, the likelihood of incarceration and, for those receiving incarceration, the length of those sentences, and we controlled for sample selection bias from one sentencing stage to the next.

A number of shortcomings, however, are also present in these data and our research design. Perhaps most conspicuously, they contain no measure of family status for either victims or offenders, which recent research has indicated may influence the effect of gender dynamics on sentencing outcomes (see Daly, 1987; 1989b; but see Spohn, 1999; Mustard, 2001). In addition,

we were unable to assess the effects of SES for either victims or offenders, although our measure of whether offenders retained the services of a private attorney may be something of a proxy for offender SES. We were also unable to control for victim age or to examine sentence outcomes for those receiving split sentences. Our data also contain no information about other key criminal justice system decision-making points—such as arrest, charge dismissal, or charge reduction—that could influence our sample and results. Finally, our data contained no information on judicial attitudes, and we were, as a result, unable to assess how judicial focal concerns might have affected sentencing outcomes.

Thus, although our data enable a fairly thorough assessment of victim gender effects, they are lacking in some respects. Subsequent efforts may be able to explore how some of these other variables might affect the relationships uncovered here and in previous efforts and, perhaps, further explore how victim gender effects might operate at other stages of criminal processing, such as arrest and prosecution. Future efforts may also help to determine whether victim gender effects might be more consistent or substantial in certain regions, time periods, or localities that vary along the rural to urban continuum. Finally, efforts should strive to broaden our understanding of gender dynamics at sentencing and other criminal justice decision-making points by exploring, for example, the potential interactions between victim gender and the race/ethnicity of victims, the race/ethnicity of offenders, or the age and SES of victims and offenders.

NOTES

1. Most recent studies found at least some support for offender gender effects, indicating that, compared to males, female offenders received more lenient sentencing outcomes (e.g., Curran, 1983; Engen & Gainey, 2000; Farnworth & Teske, 1995; Ghali & Chesney-Lind, 1986; Kruttschnitt & Green, 1984; Mustard, 2001; Myers & Talarico, 1987; Spohn, 1999; Spohn & Spears, 1997; Spohn & Beichner, 2000; Spohn & Holleran, 2000; Spohn, Welch, & Gruhl, 1985; Steffensmeier et al., 1993; 1998; Wooldredge, 1998). However, some research has found that gender has no effect on sentencing outcomes (e.g., Albonetti, 1991; Crew, 1991; Koons-Witt, 2002) or that females actually received harsher treatment than males (e.g., Boritch, 1992; Chesney-Lind, 1977; 1997). For reviews of the offender gender and sentencing literature, see Steffensmeier et al. (1993) and Daly and Bordt (1995).

2. Separate analyses were run with cases receiving life or death sentence removed. The results were substantively similar in terms of magnitude, direction, and significance of effects.

3. To assess whether our lack of controls for offense type might affect results, we performed supplementary analyses with dummy variables for assault and robbery (with homicide as the reference category) and produced results that were substantively similar in terms of significance and direction of effects, indicating that our inability to control for offense type does not alter results.

4. Because Texas code limits judicial discretion at the in/out sentencing stage for offenders convicted of an aggravated offense, we reanalyzed the data with such cases removed. Our results show that victim gender and offender gender still fail to demonstrate significant effects, and the remaining variables have effects that are similar to reported analyses.

5. An examination of potential problems with multicollinearity using variance inflation factors (VIF) showed that none of the coefficients in our equations were prohibitively large, indicating no substantive problems with multicollinearity.

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