

AMICI

Summer 2003
Volume 10 - Number 2



Newsletter of the Sociology of Law Section of the American Sociological Association.

Sociology of Law SECTION OFFICERS 2002-2003

Chair

Carol Heimer,
Northwestern University

Chair-Elect

Wendy Nelson Espeland,
Northwestern University

Past Chair

John Hagan,
Northwestern University

Secretary/Treasurer

Caroll Seron (2004)
Baruch College, CUNY

Council Members

Valerie Jenness (2003)
UC-Irvine

Matthew Silberman (2003)
Bucknell University

Patricia Ewick (2003)
Clark University

Jo Dixon (2004)
New York University

Abigail Cope Saguy (2004)
UCLA

Terence C. Halliday (2004)
American Bar Foundation

Newsletter Editor

Mathieu Deflem,
Univ. of South Carolina

"Whatever form law and legal practice may come to assume..., it will be inevitable that, as a result of technical and economic developments, the legal ignorance of the layman will increase."
—Max Weber

AMICI ONLINE

www.amicionline.org

Editor's Preface

This issue of Amici features a final group of papers that were presented at the ASA annual meeting in Chicago, August 2002. We are indebted to the presenters who were willing to share insights from their ongoing research activities. The present papers are written by Justine Eatenson Tinkler and Celesta Albonetti, whom I thank for their contributions.

—MD

SOCIOLOGY OF LAW RESEARCH: More Papers from the 2002 ASA Meeting

Defining Sexual Harassment: Ambiguity, Perceived Threat, and Knowledge

Justine Eatenson Tinkler

Stanford University
jtinkler@stanford.edu

Introduction

Socio-legal scholars have long been interested in the processes involved in the emergence and transformation of disputes. Arguably the most important process in the emergence of a dispute is the "naming" stage in which an individual perceives an experience to be injurious. While there has been much in the way of theorizing about this stage (Felstiner, Abel, and Sarat 1980; Coates and Penrod 1980), there has been little empirical work. This study attempts to address that gap with an empirical analysis of the changes over time in how workers come to see certain forms of sexual attention in the workplace as sexual harassment.

In the late 1970s, the courts ruled, for the first time, that sexual harassment in employment is an illegal form of sex discrimination. Legally, this violation falls under Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the basis of race, religion, national origin, and sex. The legal recognition that sexual harassment may violate one's right to equal employment opportunities has had enormous legal as well as cultural consequences. Since the 1970s, the legal definition has been subject to a number of changes that have broadened the scope of what constitutes sexual harassment as well as who should be liable. As the definition has evolved, employing organizations have been left with the task of interpreting ambiguities in the law and educating their employees about the line between acceptable and unacceptable behavior in the workplace. Virtually every employing organization has adopted a sexual harassment policy and most firms have created departments for the express purpose of dealing with such issues (Edelman, Uggen & Erlanger 1999). Given the legal and organizational responses to changing conceptions of what constitutes equal employment opportunity, how do individual workers respond to and interpret the ever-changing discourse on sexual harassment?

This paper examines how the development of sexual harassment as a perceived legal and social injustice may inform our general knowledge of the constitutive effects of law. I suggest that as laws enter the consciousness of ordinary citizens, interpretation is contingent on the nature of the law *and* the processes by which people get information about the law. In terms of the nature of the law, two important dimensions I consider are the ambiguity of it and the extent to which it threatens established patterns of social interaction. How people learn about the law further mediates how its actual content is interpreted. I propose that changes in norms, the law, and information dissemination affect how people assess the boundary between normal workplace interactions and sexual harassment.

—See *ASA Meeting Papers* page 3.

New Amici Newsletter Editor Sought

Next academic year, 2003-04, will be my last as Editor of this newsletter. Section members are encouraged to think about taking up this very rewarding task. Please contact me or the incoming section Chair if you are interested in doing this fun job.

Mathieu Deflem
 Newsletter Editor
 University of South Carolina
 Department of Sociology
 Sloan College
 Columbia, SC 29208
 deflem@gwm.sc.edu

Wendy Espeland
 Section Chair
 Department of Sociology
 Northwestern University
 1810 Chicago Avenue
 Evanston, Illinois 60208-1330
 wne741@northwestern.edu

Editorial Note

As next year will be my last as Newsletter Editor, my fellow section members are more than ever encouraged to submit ideas for contributions to their newsletter. As always, I welcome original research essays in the sociology of law, essays on teaching issues in the sociology of law, and books in our sociological specialty to be considered for a discussion symposium.

*Mathieu Deflem,
 Amici Newsletter Editor,
 University of South Carolina,
 Deflem@gwm.sc.edu*

ASA 98th Annual Meeting, Atlanta, August 16-19, 2003

Details of the meeting can be found on pages 11-12 of this newsletter. The Sociology of Law **Business Meeting** will be held on Saturday, August 16, 2003 at 11:30 a.m.-12:10 p.m. The Sociology of Law **Reception** will also be held on Saturday, at a time and place to be announced in the Final Program.

All section members are welcome!

Book of Note

STATES AND WOMEN'S RIGHTS by Mounira M. Charrad

Focusing on law and women's rights, the book *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco* (University of California Press, Berkeley, 2001) by Mounira M. Charrad, University of Texas at Austin, has received several awards: the Distinguished Contribution to Scholarship Award for the Outstanding Book in Political Sociology, American Sociological Association, Section on Political Sociology, 2002; the Hamilton Award for the Outstanding Scholarly Book in any field, University of Texas at Austin, 2002; an Award (co-winner) for the Best First Book in the field of History from the Phi Alpha Theta International Honor Society in History, 2002; and Honorable Mention, Best Book in Sociology, Komarovskiy Award from the Eastern Sociological Society, 2003.

At a time when the situation of women in the Middle East is of global interest, this book emphasizes the diversity of state policies on Islamic law and considers why women's legal rights vary so greatly from one country to another. Showing how Islamic law is mediated by political power, the study argues that we need new formulations to understand the development of Middle Eastern states and their policies. It offers a comparative-historical framework centered on the relationship between the state and kin-based political groups in the process of nation-building to explain why women's rights were expanded in Tunisia, but not in Algeria and Morocco.

ERRATUM

There was a typo in the title of Mary White Stewart's essay in the previous issue of *Amici* (10:1). The title should read: "Clarifying the Political and Social Context of Corporate Crime: A Case Study of Breast Implants". In the same issue, also, the second subtitle in the Fleury essay should have been numbered II (not III). The Editor apologizes for his silly mistakes.

...Amici Quotes...

"Ohhh, I can be very litigious!"
 —Kramer.

Amici

Volume 10, No. 2
 Summer 2003

TABLE OF CONTENTS

Defining Sexual Harassment: Ambiguity, Perceived Threat, and Knowledge by Tinkler..... 1

The Joint Conditioning Effect of Defendant's Gender and Ethnicity on Length of Imprisonment Under the Federal Sentencing Guidelines for Drug Trafficking/Manufacturing Offenders by Albonetti.....5

Section Election Results..... 11

The Sociology of Law Section at the ASA Annual Meeting..... 11

New Newsletter Editor Sought..... 2

The Content of the Law

While the link between legal rules and social norms is never unidirectional, in some circumstances law can be seen as “constitutive of new expectations in existing social relations” (McIntyre 1994, p.114). For example, the notion that snooping reporters or town gossips violate the rights of individual privacy is not the result of normative rules reified into law, but rather, legal standards that over time changed the norms of acceptable behavior. Sexual harassment is an example of such a phenomenon, as changed legal principles have guided new expectations about appropriate social relations in the workplace.

Ambiguity. The ambiguity of the law affects how people understand and define it. The legal history of sexual harassment highlights the increasingly ambiguous nature of the law. The earliest sexual harassment cases, filed in the mid-1970s, involved claims by women that their supervisors had made sexual favors a condition of their employment (quid pro quo). By the mid-1980s, sexual harassment law had broadened to include hostile environment harassment¹. Because the legal definition of sexual harassment was narrow in the mid-1970s, the incidence of it appeared uncommon. By the 1980s, sexual harassment law had broadened to include much of what was considered normal interaction in the workplace. Since the Supreme Court ruled in 1986 that both quid pro quo and hostile environment harassment were violations of Title VII, lawmakers have struggled to determine what is meant by unwelcome, what is considered severe enough to interfere with work, and who should be held liable for sexual harassment. When quid pro quo harassment was the only illegal form of sexual harassment, there were fewer opportunities for confusion, as the injuries were economic and the behavior was severe. However, when hostile environment harassment is offensive, but not abusive, unwelcome, but not protested, or severe, but not pervasive, the law provides few answers to when sexual conduct becomes actionable misconduct. As such, organizations trying to prevent lawsuits and juries trying to award damages have been left to interpret the law with very few actual rules.

Threat to Norms. That sexual harassment law is ambiguous makes it anything but unique. The judicial system functions on the premise that formal legal doctrine can be interpreted in a number of ways. However, when laws threaten norms of social interaction, the ambiguity of the law may make interpretation highly contingent. Zimring and Hawkins (1971) argue that when the law is used to promote social change, it is likely that compliance requires those accustomed to the illegal conduct to significantly reorient their values and behavior. They further argue that when the customary behavior is widespread, it is more likely that the law threatens normally socialized individuals. As such, those who don't adhere to the custom may be less likely to support a law aimed at “normal” rather than deviant individuals. These assumptions are useful in thinking about who sexual harassment laws threaten and how they are received given their target offenders. While there are women who sexually harass, the overwhelming majority of harassers are men. Moreover, sexual harassment laws, in their ambiguity, potentially implicate all social interactions of a sexual nature. Given this fact, the effectiveness of the law depends on men and women reorienting deeply entrenched beliefs and norms about gender and workplace interaction. If we take the assumptions laid out by Zimring and Hawkins to be reasonable, then how people have defined sexual harassment over time has likely changed as gender norms have changed.

Sexually harassing behavior depends on the response of others to legitimately confer power on the harasser. The extent to which it is legitimated reflects the extent to which resistance to such behavior would threaten norms of social interaction. Likewise, when the group sanctions sexually harassing behavior, the victim of the harassment may gain legitimacy through the threat of legal action. As gender norms change, what may have at one time been considered a legitimate behavior, may become negatively sanctioned by the group. Given broadening opportunities for women in the workplace coupled with general changes in how women are supposed to be treated, I expect that pressure for sexual favors by supervisors became largely unacceptable soon after the legal recognition of quid pro quo harassment. Based purely on changing norms, I would also expect that sexual teasing and remarks had become increasingly unacceptable over time. However, the ambiguity inherent in hostile environment harassment makes interaction norms more vulnerable. Because hostile environment harassment is based on a number of contingencies that are undefined legally, it is more difficult to say whether the sexual conduct is “normal” or “deviant”.

The above reasoning leads to certain suppositions about how people define the law. First, based on changes over time in norms and the law itself, we may expect the following:

➤• *Over time, people increasingly define both quid pro quo and hostile environment harassment as forms of sexual harassment.*

➤• *The greater the ambiguity of the law, the greater the resistance to defining it broadly.²*

➤• *When a law threatens established norms of interaction, people's attitudes are likely to affect how they define it, whether they know the legal definition or not.*

Sources of Information

Law and society scholars have long emphasized the “legal ignorance” of ordinary citizens (Suchman and Edelman 1997). The vast majority of people have never read formal legal doctrine and as such, how they define and understand the law is mediated by how they learn about it. People learn about the law through the media, professionals, personal experience and in the case of Equal Employment Opportunity (EEO) laws, their employers. By 1989, 88% of federal organizations had created EEO rules and 45% had created specific grievance procedures (Edelman et al. 1999). Sexual harassment rules likely resembled the laws, as the EEOC guidelines served as a model for the creation of most policies (Stein 1999). While these numbers suggest that most employees would have been well-informed by the late 1980s, research has shown there to be a gap between the creation of EEO policies and the dissemination of them (Edelman 1992). Thus, there may have been variation in the extent to which employees were provided with accurate information about the law.

For citizens who have never had a personal experience with the law and do not know their workplace policies, the media may serve as the primary source of information. The media played an important role in framing the issue of sexual harassment as well as making it a spotlight of debate in the early 1990s. In five major newspapers between 1978 and 1985, no more than 20 stories per year referred to sexual harassment. Between 1985 and 1990, the average number of

¹ Hostile environment harassment is legally defined as, “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature...that unreasonably interferes with an individual's work performance or environment”.

² For the purpose of this analysis, when I refer to a broad definition of sexual harassment, I mean that both quid pro quo (operationalized as “unwanted pressure for sexual favors”) and hostile environment harassment (operationalized as “unwanted sexual remarks, jokes or teasing”) committed by either a coworker of supervisor constitute sexual harassment. When I designate the definition as narrow, I mean that it is limited either by what behaviors constitute harassment or who can be accused of sexual harassment – coworker, supervisor or both.

stories steadily increased to about 45 per year, while in 1991 the term "sexual harassment" appeared in 603 articles. From 1991 to 1994, the average declined to about 400 stories per year.³ The drastic jump in media attention in 1991 provides evidence that the public's awareness and knowledge of sexual harassment changed dramatically with Anita Hill's sexual harassment accusations against Clarence Thomas at the time of his Supreme Court confirmation hearings (Stein 1999).

The media attention given to this conflict provided Americans with the opportunity to evaluate what constituted sexual harassment as well as question the consequences of making accusations and challenging existing norms of social acceptability. In one sense, this transformation in the public's consciousness gave women the sense that they were entitled to work in an environment free from unwanted sexual attention, but on the other hand, "naming" such an injustice came with a heavy price tag. In recognizing the threat that sexual harassment accusations could pose to powerful institutions, the public, with the help of the media, became aware of the ambiguities in the law and the potential for its misapplication. In light of previous research indicating that when people don't know the law they define it based on what they think it should be (Darley et al. 2001), employees whose workplace did not provide sexual harassment training may have had definitions that more often reflected their own beliefs as well as those propagated by the media. Based on the above argument, I expect that:

- *Knowledge of the EEO policy definition increases the odds of defining sexual harassment accurately.*
- *Employees whose primary source of information was not EEO policies, but the media, may have been more likely to perceive the ambiguity and threat to norms as a problem.*
- *Between 1987 and 1994, the rise in media attention decreased the odds of defining sexual harassment broadly.*

Data and Methods

The data used in this analysis come from the U.S. Merit Systems Protection Board study, "Sexual Harassment in the Federal Workplace: Is it a Problem?"⁴ In this study, investigators surveyed federal employees nationwide on their views and experiences with sexual harassment over a two-year period from 1978-80 and then again in 1987 and 1994. I conducted two analyses using this data. The first is a multinomial logit analysis of how people's knowledge of workplace policies and generalized beliefs about sexual harassment affect how they defined hostile environment harassment in 1994. The second part of the study is a log-linear analysis of changes over time in how people define quid pro quo and hostile environment harassment, using time as a proxy for changes in norms, information dissemination, and the law itself.

Results

The results confirm that over time, people's definitions of sexual harassment have expanded both in terms of what behaviors constitute sexual harassment as well as who is culpable. By 1994, there was only a 4 percent chance that people would define neither behavior as harassment as

compared to defining both as harassment ($p < .001$). Moreover, the relative odds ratio increased for each time period. While this finding shows a trend toward expanding the definition of harassment, there is some evidence for a backlash among a growing minority of employees in 1994. Among employees who did not consider sexual remarks to be harassment, the odds of defining pressure for sexual favors as harassment declined slightly, but significantly between 1987 and 1994. This result suggests a marginal rise in the number of people denying the legitimacy of sexual harassment accusations altogether.

The findings also indicate that when people believe that the law is ambiguous or threatening to norms of interaction, they are less likely to report it as the law.⁵ The fact that over time, more people have broadened their definitions of sexual harassment suggests that people may be less concerned with the law's potential to upset established patterns of interaction. The results of this analysis lend support to the notion that legal sanctions against sexual harassment have over time delegitimated previously accepted behaviors. As such, what may have initially been a regulation that seriously threatened norms of social interaction may be more acceptable because workplace norms have changed.

I also found that people who have more accurate information about the law define it more accurately. People who were familiar with their workplace sexual harassment policies were nearly 3 times more likely to define sexual remarks as harassment than those who did not know their policies ($p < .001$). A workplace policy in 1994 would have defined unwanted sexual remarks as harassment so this evidence suggests that knowledge of the law is an important predictor of how people define it. Interactions between *policy knowledge* and *beliefs* further illustrate this. The results show that people's knowledge of the law differentially mediates the effect of attitudes. For people who did not express great concern over the potentially negative effects of sexual harassment laws, knowledge of the law increases the probability of defining sexual harassment more broadly. On the other hand, for people who have stronger negative beliefs about sexual harassment rules, their attitudes seem to be more important than their knowledge in predicting their response.

This differential effect of policy knowledge may help explain the findings with regards to changes over time in how people define sexual harassment. As mentioned above, people who have negative attitudes about sexual harassment rules are less likely to define it broadly. For the *average* person, knowledge of the law reduces this relationship. Given that by 1994, 72% of all employees were familiar with their workplace policies, it may not be surprising that over time, more people expanded their definitions. I interpret this to mean that because most people had been exposed to an accurate source of information (in their workplace policy), the negative effect of the media and its focus on the ambiguity of the law may not have been as salient to most people as their own legal knowledge.

That the most negative attitudes about sexual harassment rules reduce the positive effect of policy knowledge on defining sexual harassment broadly may also provide an explanation for the small rise in 1994 in the odds of not defining quid pro quo or hostile environment harassment as such. While purely

³ Using the California Digital Library, I searched for the term "sexual harassment" for every year between 1978 and 1994. The number is the total from the search of the NY Times, LA Times, Christian Science Monitor, Washington Post and Wall Street Journal.

⁴ Data comes from the U.S. Merit Systems Protection Board. Sexual Harassment In The Federal Workplace: 1978-1980, 1987, and 1994 [Computer file]. ICPSR version. Washington, DC: U.S. Merit Systems Protection Board [producer], 1994. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 1997.

⁵ The "beliefs" measures are created from questions that ask people to what extent they agree with the following three statements: 1) Some people are too quick to take offense when someone expresses a personal interest in them through looks or remarks, 2) Fear of being accused of sexual harassment has made my organization an uncomfortable place to work, and 3) The normal attraction of one person for another in the workplace is ("to a great extent" to "to no extent") misinterpreted as sexual harassment.

speculative, it seems plausible that with the rise in public exposure to sexual harassment issues, there was a visible backlash, but not among the majority. It may be that people with the most traditional views, who have not adapted to changes in the roles of women in the workplace, perceive the threat to workplace norms more seriously. If these people have less flexible attitudes, then the more they are forced to attend sexual harassment policy training sessions and the more they hear about sexual harassment in the news, the more they may resist the law.

Theoretical and Legal Implications

Sociologists have historically viewed law as a reflection of existing social and economic relations, rather than constitutive of such relations. While this approach is surely more fruitful than that of legal formalists, research provides evidence that law is not merely molded by society but can also be constructive of social relations (McIntyre 1994). The results of this study do not imply a causal direction, but do suggest the conditions under which laws encounter resistance to social change and when they might have a more constitutive effect. The fact that both information and generalized beliefs affect how people define sexual harassment lends weight to the notion that laws can affect social norms, not as independent entities, but rather as resources interpreted by people. By locating variation in legal consciousness in both the content of the law and how people learn about it, future research may be better equipped to understand why some laws never change the social order and others have an enormous impact.

This study also has important implications for how law may most effectively promote social change. I find that people with more accurate information about the law are more likely to define it accurately. In the area of employment discrimination, this finding supports the implementation of EEO policy training for employees. On the other hand, that policy knowledge increases the odds of defining sexual harassment narrowly among people with the most resistance to sexual harassment rules highlights the differences in how individuals approach the law. Future work needs to investigate the conditions under which organizations can effectively train employees about laws that potentially upset established norms of interaction.

Together, the findings from the analyses provide evidence that future sociolegal research should take note of how variations in the content of the law as well as how people learn about it affect how citizens interpret and use it. Anti-discrimination laws may be especially vulnerable when it comes to changing existing social relations. If certain dimensions of the law are associated with a disjunction between what the law says is injurious and what citizens believe is injurious, the effectiveness of certain laws may be highly contingent. Understanding these contingencies may bring sociologists closer to understanding the role of law in everyday life and legal theorists closer to understanding the role of social structure in the construction of law.

References

- Coates, Dan and Steven Penrod. 1980-81. "Social Psychology and the Emergence of Disputes." *Law and Society Review* 15 (3-4): 655-680.
- Darley, John M, Paul H. Robinson, and Kevin M. Carlsmith. 2001. "The Ex-Ante Function of the Criminal Law." *Law and Society Review* 35: 165-186.
- Edelman, Lauren B. 1992. "Legal Ambiguity and Symbolic Structures: Organizational Mediation of Civil Rights Law." *American Journal of Sociology* 97: 1531-1576.
- Edelman, Lauren B, Christopher Uggen, and Howard S. Erlanger. 1999. "The Endogeneity of Legal Regulation: Grievance Procedures as Rational Myth." *American Journal of Sociology* 105 (2): 406-454.

Felstiner, William L.F., Richard L. Abel and Austin Sarat. 1980-81. "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming..." *Law and Society Review* 15 (3-4): 631-654.

McIntyre, Lisa J. 1994. *Law in the Sociological Enterprise: A Reconstruction*. Boulder, CO: Westview Press.

Stein, Laura W. 1999. *Sexual Harassment in America: A Documentary History*. Westport, CT: Greenwood Press.

Suchman, Mark C. and Lauren B. Edelman. 1997. "Legal Rational Myths: The New Institutionalism and the Law and Society Tradition." *Law and Social Inquiry* 21: 903-41.

Zimring, Franklin and Gordon Hawkins. 1971. "The Legal Threat as an Instrument of Social Change." *Journal of Social Issues* 27: 33-48.

* * *

The Joint Conditioning Effect of Defendant's Gender and Ethnicity on Length of Imprisonment Under the Federal Sentencing Guidelines for Drug Trafficking/Manufacturing Offenders⁶

Celesta A. Albonetti

University of Iowa

calbonet@blue.weeg.uiowa.edu

Introduction

During the last three decades, numerous studies have focused on the effects of extralegal defendant characteristics on sentence outcomes. Much of this research has examined the effects of the defendant's gender and/or the effects of the defendant's ethnicity on sentence severity. These studies have produced important findings establishing relationship between a defendant's gender, ethnicity and sentence outcomes.

Applying the uncertainty avoidance/causal attribution theory (Albonetti 1999, 1998, 1991) of discretion decision-making, I hypothesize that the effects of guidelines departures and guilty pleas on length of imprisonment will vary significantly across gender/ethnic defendant groups. In addition, I hypothesize that the defendant's gender and ethnicity will condition the effect of legally relevant variables, such as guidelines final offense level and the defendant's criminal history, on length of imprisonment. From the uncertainty avoidance/causal attribution perspective, I expect that the effect of the guidelines offense level and the defendant's criminal history category will exert a significantly stronger affect on the length of imprisonment for black males, compared to the other gender/ethnic groups. These two variables are expected to exert a significantly lower increase in length of imprisonment for white females. From the uncertainty avoidance/causal attribution perspective, the defendant's gender and ethnicity are salient to attributions of an enduring predisposition to criminal activity and dangerousness. As such, these defendant characteristics influence judicial sentencing decisions. The analyses herein are conducted on defendants sentenced during the fiscal year 1995-1996 for federal drug trafficking/manufacturing.

Federal Sentencing Guidelines

With the passage of the Sentencing Reform Act of 1984 (Pub. L. No. 98-473, 98 Stat. 1987 (1984) [codified as amended at 18 U.S.C. §§ 3551-3586 (1988)]). Congress established the United States Sentencing Commission for the purpose of developing a sentencing structure that would eliminate

⁶ This manuscript is excerpted from Albonetti, Celesta A. 2002. "The Joint Conditioning Effect of Defendant's Gender and Ethnicity on Length of Imprisonment Under the Federal Sentencing Guidelines for Drug Trafficking/Manufacturing Offenders." *The Journal of Gender, Race & Justice* 6: 38-60.

"unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct..." (28 U.S.C. § 991(b) (1) (B) (Supp. 1993)). As a result of the Sentencing Reform Act, deterrence and just deserts became some of the overriding principles of federal sentencing. Framers of the federal sentencing guidelines sought to design a sentencing structure that institutionalizes reform principles of honesty, proportionality, and uniformity. The latter principle of uniformity is partially captured by Section 5H1.10 of the U.S. Sentencing Commission Guidelines Manual (1995) that defendant characteristics, such as gender and ethnicity, are legally irrelevant to sentencing.

With the enactment of the Federal Sentencing Guidelines, judicial discretion was substantially curtailed by requiring federal judges to follow a sentencing process that defined the offense characteristics and defendant characteristics (prior record of criminal activity) that must be considered when imposing a sentence. However, the guidelines provide for judicial and prosecutorial discretion through guilty pleas agreements and sentence departures (United States Sentencing Commission Guidelines Manual, 1995 at §§ 5K1.1-5K2.15). Recent legal and policy analyses suggest that sentence departures and plea agreements are potential mechanisms by which the reform goals of uniformity and proportionality may be undermined (Gyurci 1994; Lee 1994). My research examines whether a defendant's gender and ethnicity, as joint characteristics, alter the effects of guidelines departures, guilty pleas, and legally relevant case information on length of imprisonment.

Theoretical Perspective

Previous research has formulated several theoretical perspectives as explanations for findings that extra-legal defendant characteristics affect sentence severity. Conflict theory argues that the defendant's socio-economic status inversely affects sentence severity (Chambliss and Seidman 1971; Lizotta 1978). Previous findings that females receive more lenient sentences than males has been explained as evidence of a "chivalry factor" (Moulds 1980) or a "paternalism factor," (Moulds 1980) which focuses on the power differentials between males and females in society. Moulds suggests that society views females as in need of protection and, as a result, judges are reluctant to impose similar sentences for female and male defendants. Other researchers suggest that sentence leniency that is typically afforded to females is due to higher levels of social integration of women, usually expressed in terms of economic dependency (Kruttschnitt 1982) and family dependency (Daly 1987). Another explanation of gender-specific sentencing patterns, the "evil women" thesis (Smart 1977), suggests that females receive longer sentences than males when their criminal actions contradict gender-defined stereotypes.

Drawing from the earlier research, the uncertainty avoidance/causal attribution theoretical perspective (Albonetti 1999; 1998; 1991) was formulated as a merger of the social psychological perspective of causal attribution in punishment (Carroll and Payne 1976; Shaver 1975) and the rational decision-making focus on "bounded rationality" (March and Simon 1958; Thompson 1967). This perspective suggests that in the face of uncertainty about a defendant's culpability and future criminal activity, judges develop "patterned responses" (March and Simon 1958) that are the "product of an attribution process influenced by causal judgements" (Fontane and Emily 1978). Sentence outcomes are a product, in part, of these "patterned responses" that express gender and ethnic stereotypes. From this perspective, defendant's gender and ethnicity influence sentencing decisions because of socially constructed stereotypes that differentially link these defendant

characteristics to culpability and to causal judgments of an enduring predisposition to criminal activity.

I suggest that judges rely on a defendant's gender as a basis for attributing criminal culpability. Further, I suggest that among drug traffickers, female involvement is typically secondary in nature and that it revolves around interpersonal relationships, usually with a spouse or male significant other. From causal attribution theory, the situational nature of female involvement in drug trafficking may explain the sentence leniency that female defendants are expected to receive. In contrast, I suggest that male involvement in drug trafficking is stereotypically primary in nature and self-directed. Therefore, I suggest that a stable, enduring predisposition for future criminal activity is more likely to be attributed to males than females. According to uncertainty avoidance/causal attribution sentencing theory, findings of sentencing leniency can be understood in terms of the above gender-based causal attributions of criminal activity. This formulation suggests that the defendant's gender should be conceptualized as one context within which judges impose sentences. In other words, the defendant's gender, as a basis for attributing criminal causality, exerts a conditioning effect in the relationship between mechanisms of discretion, guilty pleas, legally relevant case characteristics, and sentence severity. My study of the sentencing of white-collar offenders under the Federal Sentencing Guidelines provides support for the conditioning effect of the defendant's gender in the relationship between guidelines departures and length of imprisonment (Albonetti 1998).

Drawing further from the uncertainty avoidance/causal attribution perspective, I suggest that the defendant's ethnicity is a second contextual variable for understanding differences in the effects of guidelines departures, guilty pleas, and legally relevant variables on sentence severity. My earlier study of sentencing of federal drug users provides empirical support for this contention (Albonetti 1991). Previous research has linked the defendant's ethnicity to attributions of dangerousness and recidivism (Ulmer 1997; Albonetti 1991). As such, the defendant's ethnicity offers a second variable that conditions the effect of guidelines departures on length of imprisonment. Therefore, I suggest that federal judges attempt to reduce uncertainty surrounding the discretionary aspects of sentencing by relying on attributions that differentiate defendants in terms of their gender and ethnicity. Gender-specific and ethnic-specific attributions provide a context of sentencing that jointly act to condition the effects of guidelines departures, guilty pleas, and legally relevant case information on length of imprisonment, controlling for federal circuits.

From the uncertainty avoidance/causal attribution theoretical perspective, I hypothesize that the effects of guidelines departures on length of imprisonment will vary across defendant's gender/ethnicity. More specifically, I hypothesize that white females will receive the greatest sentence reduction from a guidelines departure. I hypothesize that black males will receive the least sentence reduction from a guidelines departure. Furthermore, I hypothesize that the effect of guidelines departures on length of imprisonment will be statistically similar for black and Hispanic males.

Data and Analytical Procedures

To test the above hypotheses, I use the Monitoring of Federal Criminal Sentences, 1995-1996 data on 13,217 defendants convicted of a drug trafficking or manufacturing guideline offense in federal courts.⁷ The study involves two stages of

⁷ The data were collected and coded by the U.S. Sentencing Commission based on data provided by district courts and U.S. magistrates. They are available at Inter-university Consortium Political and Social Research (ICPSR) at the University of Michigan, Ann Arbor.

analysis. The first stage consists of estimating univariate descriptive statistics for defendant characteristics, guidelines-defined legally relevant variables, sources of discretion, and the length of imprisonment. The univariate statistics are estimated separately for six gender/ethnic defendant groups. These groups are the following: black males ($n=4554$), black females ($n=605$), Hispanic males ($n=3433$), Hispanic females ($n=423$), white males (3587), and white females ($n=615$). Table 1 provides the descriptive statistics for each group.

The second stage of the analysis involves estimating six regression equations of length of imprisonment, one equation for each of the six-gender/ethnic defendant groups. Each Tobit equation regresses log length of imprisonment on defendant characteristics (education, citizenship, dependents), guidelines-defined legally relevant variables (final offense level, criminal history level, guidelines maximum sentence, type of drug, exposure to a drug mandatory minimum penalty, safety valve provision and number of counts), two mechanisms of discretion (guilty plea and guidelines departures), and federal circuits. Estimating the regression equation separately for each gender/ethnic defendant group provides an analytical means of examining whether the defendant's gender and ethnicity, in combination, condition the effects of mechanisms of discretion, guidelines-defined legally relevant variables, and other defendant characteristics on length of imprisonment.

Findings

Table 1 reports the coding and univariate statistics for the variables included in the analyses of federal sentencing for defendants convicted of drug trafficking/manufacturing during the fiscal year 1995-1996. The statistics are provided separately for each of the six gender/ethnic defendant groups: black/males, black/females, Hispanic/males, Hispanic/females, white/males, and white/females. Table 1 indicates that, compared to the other five gender/ethnic defendant groups, black males receive the longest length of imprisonment (mean=108 months). Hispanic males and white males received similar periods of imprisonment (mean_{Hispanic males}=65 months, mean_{white males}=66 months), which were both shorter than black male imprisonment. Among female defendants, black females received the longest length of imprisonment (mean=54 months). Hispanic females and white females received similar sentences (mean=44 and 40, respectively), which were both shorter than black female sentences. Clearly in terms of the dependent variable, length of imprisonment, males are sentenced more severely than females. In addition, Table 1 indicates that, regardless of gender, black defendants are sentenced to substantially longer periods of imprisonment than white or Hispanic defendants.

The multivariate analysis addresses the central question posed in this research. Do the defendant's gender and ethnicity, considered jointly, condition the effect of guidelines departures, guilty pleas and legally relevant variables on length of imprisonment, controlling for federal circuits? Table 2 reports the tobit regression coefficients obtained in the multivariate equations of length of imprisonment. The equations are estimated separately for each of the six gender/ethnic defendant groups. Table 2 reveals that substantial assistance departures (5K1.1) produce significant reductions in length of imprisonment for each of the defendant gender/ethnic groups. However, Table 3 reveals that the effect of receiving a substantial assistance departure on length of imprisonment significantly varies across defendant groups (Clogg et al., 1995). Specifically, among males, white defendants received a significantly greater sentence reduction from a substantial assistance departure compared to black and Hispanic defendants ($WM < BM$, $z=7.89$; $WM > HM$, $z=8.31$, $p=.01$, respectively). Furthermore, the effect of substantial assistance departures on length of imprisonment is similar for black males

compared to Hispanic males. Table 3 also indicates that for eight of the nine male/female contrasts, females received significantly greater sentence reductions from a substantial assistance departure. It is only the contrast of Hispanic females to white males that produces a similar effect of a substantial assistance departure on length of imprisonment. Of the six gender/ethnic defendant groups, white females received the greatest benefit from a substantial assistance departure. Furthermore, consistent with the uncertainty avoidance/causal attribution perspective, females received significantly greater reductions from a substantial assistance departure compared to males.⁸

Regarding the effect of non-substantial assistance departures, Table 2 indicates that receiving this type of guidelines departure significantly reduced the length of imprisonment in each of the six gender/ethnic defendant groups. Table 3 reports that the defendant's gender and ethnicity combined conditioned the effect of non-substantial assistance departures on sentence severity. Specifically, white and Hispanic females received a similar sentence reduction from a non-substantial assistance departure. However, among females, black defendants received significantly lower reductions compared to white and Hispanic defendants (Table 3: $BF < WF$, $z=2.61$, $p < .01$; $BF < HF$, $z=2.57$, $p < .05$). Table 2 and Table 3 indicate that white and Hispanic females received greater reductions from a non-substantial assistance departure compared to males, regardless of the ethnicity of the male defendant (Table 3: $HF > BM$, $z=4.43$; $WF > BM$, $z=3.65$; $HF > HM$, $z=5.38$; $WF > HM$, $z=4.10$; $HF > WM$, $z=2.05$; $WF > WM$, $z=1.97$; each significant at $p \leq .05$). Black females received sentence reductions similar to males (Table 3, $BF = HM$, $BF = WM$, $BF = BM$). Table 3 also reveals that, among males, white defendants received the greatest sentence reduction from a non-substantial assistance departure ($WM > BM$, $z=4.57$; $WM > HM$, $z=6.83$, each significant at $p < .05$).

Table 2 indicates that pleading guilty compared to a trial conviction produced significant effects on the length of imprisonment only for male defendants. For black males and white males, pleading guilty resulted in significantly shorter sentences ($b = -.06$, $b = -.15$, respectively). However, for Hispanic males, guilty pleas produced significantly longer sentences ($b = .08$). The expected sentence discount associated with pleading guilty rather than going to trial occurred only for black males and white males. Females did not receive a significant decrease in sentence length from pleading guilty. Table 3 reports that the effect of pleading guilty on the length of imprisonment was significantly different only in the comparison of black males with Hispanic males ($BM > HM$, $z=3.13$, $p < .05$). More specifically, Hispanic males received a significant increase in the length of imprisonment due to a guilty plea, whereas, black males received a significant decrease in length of imprisonment.

Table 2 indicates that the final guidelines offense level (the vertical axis of the sentencing table) produced a significant increase in length of imprisonment for each of the six gender/ethnic defendant groups. However, Table 3 reveals that the effect of the final guidelines offense level significantly

⁸ Table 3 indicates the following z values: $HF > BM$, $z=3.97$; $WF > BM$, $z=5.71$; $BF > HM$, $z=5.50$; $BF > WM$, $z=2.89$; $HF > HM$, $z=4.23$; $WF > HM$, $z=6.18$; $WF > WM$, $z=3.46$. The obtained z-test statistics are statistically significant at $p < .05$.

TABLE 1 - Descriptive Statistics and Coding for Variables Included in Length of Imprisonment Equation for Federal Drug Trafficking Cases (1995-1996), Estimated Separately for Gender/Ethnicity Combinations.

<u>Variables</u>	<u>Black Male</u> (N=4554)	<u>Black Female</u> (N=605)	<u>Hispanic Male</u> (N=3433)	<u>Hispanic Female</u> (N=423)	<u>White Male</u> (N=3587)	<u>White Female</u> (N=615)
Departure:						
Substantial Assistance	32%	39%	22%	26%	36%	44%
Non-Substantial Assistance	5%	9%	17%	19%	6%	9%
No Departure*	63%	52%	61%	55%	58%	47%
Guilty Plea						
Guilty Plea	86%	91%	92%	94%	92%	94%
Trial*	14%	9%	8%	6%	8%	6%
Mandatory Minimum Exposure						
Mandatory Minimum Exposure	76%	65%	68%	59%	64%	53%
No Mandatory Minimum*	24%	35%	32%	41%	36%	47%
Safety Valve Applied						
Safety Valve Applied	14%	29%	32%	42%	20%	29%
Safety Valve Not Applied*	86%	71%	68%	58%	80%	71%
Guideline Offense Level						
Guideline Offense Level	x=25 sd=7	x=28 sd=7	x=24 sd=7	x=23 sd=7	x=22 sd=8	x=24 sd=8
Guideline Maximum Sentence	x=161 sd=110	x=98 sd=99	x=94 sd=80	x=74 sd=63	x=102 sd=86	x=75 sd=66
Criminal History						
Criminal History	x=2 sd=2	x=2 sd=1	x=2 sd=1	x=1 sd=1	x=2 sd=1	x=1 sd=1
Drugs:						
Powder Cocaine	22%	32%	34%	31%	31%	27%
Crack Cocaine	68%	52%	4%	4%	8%	14%
Heroin	6%	7%	16%	29%	9%	8%
Marijuana	3%	7%	42%	32%	36%	29%
Methamphetamines	1%	2%	4%	4%	16%	22%
More than 1 count	72%	81%	82%	87%	75%	83%
1 count*	28%	19%	18%	13%	25%	17%
Education:						
Less than High School	46%	47%	64%	54%	40%	37%
High School	33%	30%	20%	25%	34%	36%
Some College	19%	21%	13%	17%	21%	24%
College Graduate	2%	2%	3%	4%	5%	3%
Citizenship:						
U.S. Citizen*	94%	92%	42%	59%	85%	94%
Legal Alien	4%	6%	30%	25%	9%	4%
Illegal Alien	2%	2%	28%	16%	6%	2%
Dependents (Yes)						
Dependents (Yes)	69%	74%	73%	70%	60%	58%
No Dependents*	31%	26%	27%	30%	40%	42%
Circuits:						
Circuit 0 – D.C.*	2%	1%	1%	1%	1%	1%
Circuit 1	1%	2%	4%	3%	6%	6%
Circuit 2	6%	10%	9%	17%	11%	8%
Circuit 3	5%	6%	3%	3%	4%	3%
Circuit 4	23%	20%	2%	2%	10%	9%
Circuit 5	13%	10%	30%	24%	10%	11%
Circuit 6	12%	9%	3%	4%	10%	10%
Circuit 7	6%	7%	2%	2%	5%	3%
Circuit 8	7%	8%	1%	2%	10%	11%
Circuit 9	4%	5%	25%	15%	17%	18%
Circuit 10	3%	3%	5%	5%	6%	6%
Circuit 11	18%	19%	15%	22%	11%	14%
Length of Imprisonment** (months)						
Length of Imprisonment** (months)	x=108 sd=86	x=54 sd=58	x=65 sd=62	x=44 sd=48	x=66 sd=48	x=40 sd=47

* Reference category

** Among uncensored observations, for black males, x=111, sd=85; for black females, x=62, sd=57; for Hispanic males, x=66, sd=62; Hispanic females, x=48, sd=48; for white males, x=72, sd=66; for white females, x=49, sd=47.

varied across some of the defendant groups. Consistent with the “evil women” thesis (Nagel and Hagan 1983; Velimesis 1975), females, compared to males, generally received significantly stronger increases in length of imprisonment due to increases in the final guidelines offense level (BM<BF, $z=3.33$; BM<WF, $z=5.33$; BF>HM, $z=3.47$; HM<WF, $z=9.90$; HF<WM, $z=2.0$; WM<WF, $z=2.78$; $p<.05$ for each z value). An exception to this pattern is the findings that the effect of guidelines offense levels on length of imprisonment is similar for black females, compared to white males, and for Hispanic males, compared to Hispanic females.

Table 3 also reveals that, among female defendants, ethnicity significantly conditions the effect of the guidelines offense level and length of imprisonment. Specifically, white females, compared to black females, experienced a

significantly stronger increase of the final guidelines offense level on length of imprisonment ($z=2.85$ $p<.01$). Moreover, black females, compared to Hispanic females, received significantly greater increases in sentence length due to increases in the guidelines offense level ($z=1.96$, $p=.05$).

Table 3 also reveals that among males, the defendant's ethnicity conditions the effect of the final guidelines offense level on length of imprisonment. The effect is significantly stronger for white males, compared to black and Hispanic defendants (BM<WM, $z=9.28$; HM<WM, $z=8.62$; each significant at $p<.01$). However, it is noteworthy that among minority males, the effect of the final guidelines offense level on length of imprisonment is similar (BM=HM).

Table 2 indicates that the defendant's gender does not uniformly condition the effect of the criminal history category

TABLE 2 - Tobit Regression Coefficients and Level of Significance for Variables in the Log Length of Imprisonment Equation for Federal Drug Trafficking Cases, 1995-1996, Estimated Separately for Gender/Ethnicity Combinations^c

Variables	Black Male (N=4554)	Black Female (N=605)	Hispanic Male (N=3433)	Hispanic Female (N=423)	White Male (N=3587)	White Female (N=615)
Departure:						
Substantial Assistance (5K1.1)	-.81 ^a	-1.36 ^a	-.81 ^a	-1.27 ^a	-1.11 ^a	-1.49 ^a
Non-Substantial Assistance	-.52 ^a	-.58 ^a	-.44 ^a	-1.14 ^a	-.83 ^a	-1.25 ^a
Guilty Plea	-.06 ^b	.21	.08 ^b	-.16	-.15 ^b	-.08
Mandatory Minimum	.24	.33 ^b	.17 ^a	.05	.22 ^a	.18
Safety Valve	-.09 ^a	-.20	-.08 ^a	-.03	-.09 ^b	-.10
Guideline Offense Level	.12 ^a	.17 ^a	.12 ^a	.13 ^a	.16 ^a	.22 ^a
Criminal History	.18 ^a	.23 ^a	.19 ^a	.35 ^a	.27 ^a	.36 ^a
Guideline Maximum Sentence	-.002 ^a	-.005 ^a	-.002 ^a	-.002	-.006 ^a	-.01 ^a
Drugs:						
Crack Cocaine	.06 ^b	-.04	.05	-.10	.13 ^b	.28
Heroin	.04	-.52	.04	-.01	.03	.03
Marijuana	-.22 ^a	-.52 ^b	-.04	-.32 ^b	.04	-.12
Methamphetamines	.003	-----	-.06	-.06	.20 ^a	.19
Counts	-.17 ^a	-.14	-.10 ^a	-.04	-.15 ^a	-.32 ^b
High School	.01	-.19	-.01	.11	-.01	.04
Some College	-.03	-.15	-.10 ^a	.16	-.12 ^b	-.13
College Graduate	.05	.29	-.05 ^b	.21	-.23 ^b	.09
Legal Alien	.001	.41 ^b	.06 ^b	.31 ^b	.13 ^b	.41
Illegal Alien	.10	.51	.12 ^a	.46 ^a	.18 ^b	-.22
Dependents	.005	-.12	-.005	-.04	-.04	-.15
Log Likelihood	-3883.95	-882.34	-2552.51	-565.23	-4677.67	-937.27
χ^2	5986.84	518.80	4589.36	360.64	3378.70	491.36
df	29	29	29	29	29	29
p	.000	.000	.000	.000	.000	.000
Pseudo R^2	.44	.23	.47	.24	.27	.21
No. of left-censored obs.	105	76	61	41	284	124
No. of uncensored obs.	4449	529	3372	382	3303	491

^a Significance level is $p \leq .001$ / ^b Significance level is $.001 < p \leq .05$ / ^c Equations control for k-1 federal circuit dummy variables.

(horizontal axis of the sentencing table) on length of imprisonment. Among Hispanic defendants, females experienced a stronger increase in sentence length due to increases in the defendant's criminal history category, compared to males (Table 3, $z=2.70$, $p < .01$). However, among both black and white defendants, the effect of criminal history points on length of imprisonment was similar for males and females (Table 3, BM=BF; WM=WF). Furthermore, among male defendants, whites received a significantly greater effect of the criminal history category on length of imprisonment (Table 3, BM<WM, $z=7.08$; HM<WM, $z=8.40$, each significant at $p < .01$). Table 3 indicates that the effect of criminal history on length of imprisonment did not significantly vary for Hispanic males and black males (BM=HM). Among female defendants, ethnicity did not condition the effect of the defendant's criminal history category on sentence length (Table 3, HF=WF; BF=WF; BF=HF). Interestingly, Hispanic and white females, compared to black males, experienced a strong increase in the length of imprisonment due to increases in the defendant's criminal history category (Table 3, BM<HF, $z=2.85$; BM<WF, $z=3.12$, each significant at $p < .01$). In addition, Table 3 reports that white females received a significantly stronger increase in sentence length due to increases in the defendant's criminal history points, compared to Hispanic males ($z=2.75$, $p < .01$). In general, the sentence reductions that females experienced in terms of guidelines departures, both substantial assistance departures and non-substantial assistance departures, are not experienced in terms of the effects of the final guidelines offense level and the defendant's criminal history category. In fact, in terms of these two dimensions of the federal sentencing table, females appear to be treated more harshly than males, with some variation across ethnicity. This finding is consistent

with earlier findings reported for gender differences in sentencing for white-collar offenders in 1991-1992 (Albonetti 1998) and hypotheses from the uncertainty avoidance/causal attribution perspective and the "evil women" thesis (Nagel and Hagan; 1983; Velimesis 1975).

Conclusions

Findings from the gender/ethnic regression equations and tests of the null hypothesis of equality of coefficient estimates provide support for the differential effect of guidelines departures on length of imprisonment. Consistent with expectations under the uncertainty avoidance/causal attribution perspective, regardless of ethnicity, females, compared to males, experienced greater sentence reductions from a substantial assistance departure. Furthermore, among females, ethnicity makes a difference, to the disadvantage of Hispanic and black females. White females receive the greatest sentence advantage from a substantial assistance departure. Ethnic differences in the effect of substantial assistance departures on length of imprisonment are also observed among male defendants. Compared to Hispanic and black males, white males received the strongest sentence reduction from a substantial assistance departure.

The joint conditioning effect of the defendant's gender and ethnicity in the relationship of non-substantial assistance departures and length of imprisonment differs somewhat from that observed in substantial assistance departures. Females did not receive consistently greater sentence advantage from non-substantial departures. White females continued to receive the greatest sentence reduction, but Hispanic females received statistically similar sentence reductions. Among females, black females received the lowest sentence from a non-substantial

assistance departure. It is important to note the finding that black females received sentence reductions similar to reductions males received. This suggests that black females are treated more similar to black and Hispanic males, than to white and Hispanic females in the effect of non-substantial assistance departures on length of imprisonment. As such, ethnicity for black defendants appears to trump the sentence advantage from non-substantial assistance departures otherwise accorded to females.

Findings from the analysis also reveal how the defendant's gender and ethnicity jointly condition the effect of guidelines-defined legally relevant variables on length of imprisonment.

Consistent with the uncertainty avoidance/causal attribution perspective and the "evil women" thesis, females generally received significantly stronger sentence disadvantage from increases in the guidelines offense level (the vertical axis of the sentencing table). Again, the defendant's ethnicity mattered in the differential effect of the guidelines offense level on sentence severity. Contrary to the uncertainty avoidance/causal attribution perspective, the effect of the guidelines offense level on length of imprisonment is greater for white females, compared to black females. Differences in the effect of the guidelines offense level on length of imprisonment also varied between Hispanic and black females, with black females being penalized more severely. Among males, the defendant's ethnicity again mattered, contrary to expectations under the uncertainty avoidance/causal attribution perspective. White males, compared to Hispanic and black males, received a significantly greater increase in length of imprisonment due to an increase in the vertical axis of the sentencing tables.

One final observation is noteworthy. My research indicates that the effect of the defendant's criminal history category on length of imprisonment varies across the six gender/ethnic groups. Among male defendants, ethnicity again matters. Contrary to expectations under the uncertainty avoidance/causal attribution perspective, Hispanic and white males, compared to black males, received significantly greater increases in length of imprisonment.

Taken together, the findings from this research indicate the necessity of examining the joint conditioning effects of the defendant's gender and ethnicity in the relationship between mechanisms of discretion, guilty pleas, and legally relevant variables on length of imprisonment imposed in felony convictions. These findings offer partial support for the proposed uncertainty avoidance/causal attribution perspective. An important implication of these findings is that the defendant's gender and ethnicity do not operate independently as conditioning variables in estimating sentencing models.

TABLE 3 - Z-Values* for Differences in Coefficients Across Gender/Ethnic Groups

Variables	5K1.1 Departures	non-5K1.1 Departure	Guilty Plea	Safety Valve	Drug Mandatory Minimum	Guideline Offense Level	Criminal History Category
BF>BM(Z=5.30)	BF=BM	BF=BM	F=BM	BF=BM	BF=BM	BF<BM(Z=-3.33)	BF=BM
HF>BM(Z=3.97)	HF=BM	HF>BM(Z=4.43)	HF=BM	HF=BM	HF=BM	HF=BM	HF<BM(Z=2.85)
WM>BM(Z=7.89)	WM>BM(Z=4.57)	WM>BM(Z=4.57)	WM=BM	WM=BM	WM=BM	WM<BM(Z=9.20)	WM<BM(Z=7.08)
WF>BM(Z=5.71)	WF>BM(Z=3.65)	WF>BM(Z=3.65)	WF=BM	WF=BM	WF=BM	WF<BM(Z=5.33)	WF<BM(Z=3.12)
BF>HM(Z=5.50)	BF=HM	BF=HM	BF=HM	BF=HM	BF=HM	BF>HM(Z=3.47)	BF=HM
BF>WM(Z=2.39)	BF=WM	BF=WM	BF=WM	BF=WM	BF=WM	BF=WM	BF=WM
HF>HM(Z=4.23)	HF=HM	HF>HM(Z=5.38)	HF=HM	HF=HM	HF=HM	HF=HM	HF<HM(Z=2.70)
WM>HM(Z=6.31)	WM>HM(Z=6.83)	WM>HM(Z=6.83)	WM=HM	WM=HM	WM=HM	WM<HM(Z=8.62)	WM<HM(Z=8.40)
WF>HM(Z=6.18)	WF>HM(Z=4.10)	WF>HM(Z=4.10)	WF=HM	WF=HM	WF=HM	WF<HM(Z=9.90)	WF<HM(Z=2.75)
HF=WM	HF=WM	HF=WM(Z=2.05)	HF=WM	HF=WM	HF=WM	HF<WM(Z=2.10)	HF=WM
HF=WF	HF=WF	HF=WF	HF=WF	HF=WF	HF=WF	HF=WF	HF=WF
BM=HM	BM=HM	BM=HM	BM=HM	BM=HM	BM=HM	BM=HM	BM=HM
WF>WM(Z=3.46)	WF=WM	WF>WM(Z=1.97)	WF=WM	WF=WM	WF=WM	WF<WM(Z=2.78)	WF=WM
BF=HF	BF=HF	BF<HF(Z=2.57)	BF=HF	BF=HF	BF=HF	BF=HF	BF=HF
BF=WF	BF=WF	BF<WF(Z=2.61)	BF=WF	BF=WF	BF=WF	BF<WF(Z=2.85)	BF=WF

*All reported Z-tests are significant at p<0.05
 BM=Black Male
 BF=Black Female
 WM=White Male
 WF=White Female
 HM=Hispanic Male
 HF=Hispanic Female

References

Albonetti, Celesta A. 1991. "An Integration of Theories to Explain Judicial Discretion," *Social Problems* 38:247-66.

_____. 1997. "Sentencing Under the Federal Sentencing Guidelines: An Analysis of the Effects of Defendant Characteristics, Guilty Pleas, and Departures on Sentence Outcomes for Drug Offenses, 1991-1992." *Law and Society Review* 31: 789-822.

_____. 1998. "The Role of Gender and Departures in the Sentencing of Defendants Convicted of a White-Collar Offense Under the Federal Sentencing Guidelines." In *Sociology of Crime, Law, and Deviance*, edited by Jeffrey Ulmer, pp 3 – 46. JAI Press.

Carroll, John S. and John W. Payne 1976. "The Psychology of the Parole Decision Process: A Joint Application of Attribution Theory and Information Processing Psychology." In *Cognition and Social Behavior*. Edited by John S. Carroll and John W. Payne, pp. 109-123 Hillsdale, N.J.: Erlbaum.

Clogg, Clifford C., Eva Petkova and Adamantios Haritou 1995. "Symposium on Applied Regression Statistical Methods for Comparing Regression Coefficients Between Models." *American Journal of Sociology* 100: 161-93.

Daly, Kathleen 1987a. "Discrimination in the Criminal Courts: Family, Gender, and the Problem of Equal Treatment." *Social Forces* 66: 152-75.

Fontaine, Gary and Catherine Emily 1978. "Causal attribution and judicial discretion: A Look at the Verbal Behavior of Municipal Court Judges." *Law and Human Behavior* 2: 323-37.

Gyurci, Julie 1994. "Note: Prosecutorial Discretion to Bring a Substantial Assistance Motion Pursuant to a Plea Agreement:

Enforcing a Good Faith Standard." *Minnesota Law Review* 78: 1253-83.

Hawkins, Darnell F. 1981. "Causal Attribution and Punishment for Crime." *Deviant Behavior: An Interdisciplinary Journal* 2: 207-30.

Kruttschnitt, Candance 1982. "Women, Crime, and Dependency." *Criminology* 19: 495-13.

Lee, Cynthia Kwei Young 1994. "Prosecutorial Discretion, Substantial Assistance, and the Federal Sentencing Guidelines." *UCLA Law Review* 42: 105-180.

March, James G. and Herbert Alexander Simon 1958. *Organizations*. New York: Wiley.

Moulds, Elizabeth F. 1980. "Chivalry and Paternalism: Disparities of Treatment in the Criminal Justice System." In *Women, Crime and Justice*. Edited by Susan Datesman and Frank Scarpitti, pp. 277-99. New York: Oxford Press.

Nagel, Ilene H. and John Hagan 1983. "Gender and Crime: Offense Patterns and Criminal Court Sanctions." In *Crime and Justice: An Annual Review of Research*. Edited by Michael Tonry and Norval Morris, vol. 4, pp. 91-44. Chicago: The University of Chicago Press.

Shaver, Kelly G. 1975. *An Introduction to Attribution Process*. Cambridge, Mass.: Winthrop.

Simon, Herbert 1957. *Administrative Behavior: A Study of Decision Making Processes in Administrative Organizations*. New York: Macmillan.

Smart, Carol 1977. *Women, Crime and Criminology*. London: Routledge and Kegan Paul.

Thompson, James D. 1967. *Organizations in Action*. New York: McGraw-Hill.

Ulmer, Jeffrey T. 1997. *The Social Worlds of Sentencing: Court Communities Under Sentencing Guidelines*. Albany, New York: State University of New York Press.

U.S. Sentencing Commission, 1995. *Guidelines Manual*. The United States Sentencing Commission: Washington, D.C.

Velimesis, Margery 1975. "The Female Offender." *Crime and Delinquency Literature* 7: 94-112.

ASA Sociology of Law Section

2003 ELECTION RESULTS

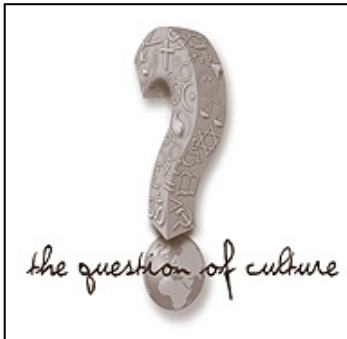
The Sociology of Law Section is pleased to announce the following results of our section's past elections:

Our new Chair-Elect is:
Joachim J. Savelsberg

Joining the Section Council are:
**Elizabeth Hoffman, Kathleen E. Hull,
and Laura Beth Nielsen**

Congratulations to all!

Thanks to Patricia Ewick who chaired the Nominations Committee and to John Sutton, Sarah Gatson, and Elaine Draper who also served on the committee.



American Sociological Association 98th Annual Meeting

The Question of Culture

Hilton Atlanta & Atlanta Marriott Marquis | Atlanta, GA | August 16-19, 2003

The Sociology of Law section day in 2003 is the first day of the meeting, Saturday, August 16. Section members are encouraged to attend the panels organized by our section. Details of the section panels are provided below. More information can be found on the ASA website: <http://www.asanet.org/convention/2003>.

Sociology of Law Section Paper Session:
Social Movements and Law
Saturday, 8/16/2003 from 8:30 a.m.-10:10 a.m.

Organizers:
Kathleen E. Hull, University of Minnesota
Anna-Maria Marshall, UIUC

Participants:
Marc Steinberg, Smith College, Presider

David Jacobs, Ohio State University:
The Historical Determinants of Executions: Political Process and Capital Punishment

Lynn C Jones, Northern Arizona University:
Saving a Movement from Destruction: Lawyers as Framers, Strategists, and Preservers During Abeyance

Tamara Kay, University of California, Berkeley:
Bypassing the Law: The Effects of Labor Laws on Union Organizing Strategies

Jodi L. Short, University of California, Berkeley:
Creating Peer Sexual Harassment: Mobilizing the Institutionalization Process for Legal & Organizational Change

Marc Steinberg, Smith College, Discussant

Sociology of Law Section Invited Panel:
**Outside the Law:
Alternatives and Challenges to Legal Systems**
Saturday, 8/16/2003 from 4:30 p.m.-6:10 p.m.

Organizer:
Wendy Espeland, Northwestern University

Participants:
Wendy Espeland, Northwestern University, Presider

Kim Lane Scheppele, University of Pennsylvania:
Law in a Time of Emergency: Terrorism and States of Exception

John Hagan, Northwestern University and ABF:
Mediating Legal and Cultural Sources of Authority at the International Criminal Tribunal for the Former Yugoslavia

Ron Levi, Northwestern University:
Mediating Legal and Cultural Sources of Authority at the International Criminal Tribunal for the Former Yugoslavia

Susan S. Silbey, Massachusetts Institute of Technology:
Governing Green Laboratories: Alternative Responses to
Environmental Regulation

Andreas Glaeser, University of Chicago, Discussant

Sociology of Law Section Roundtables

Saturday, 8/16/2003 from 10:30 a.m.-11:25 a.m.

Organizer:
Elizabeth A. Hoffmann, Purdue

Table 1:
Steven E. Barkan, University of Maine:
Criminal Prosecution and Trial: A Neglected Dynamic in the Study of
Law and Social Movements

Douglas S. Snyder:
Legal Aid in the United States: Past and Current Challenges

Table 2:
Mellisa Katharine Holtzman, Ball State University:
Custody Disputes Between Biological and Nonbiological Parents in the
State of Iowa: Is Law Autonomous,
Nonautonomous, or Semi-Autonomous

Nancy L. Fischer, Macalester College:
Presuming Defendant's Guilt or Disbelieving Children? Moral Panic
Theory vs. Feminist Theory

Table 3:
Vanessa Barker, New York University:
Democratic Punishment: How Routine Activities of Governance Impact
State Reliance on Confinement

Scott R. Maggard, University of Florida:
Discrepancies in Cocaine Sentencing: A Test of Black's Theory of Law

Table 4:
Modhurima Dasgupta, Lewis & Clark College:
Indigenous Land Rights, Development, and Social Action Litigation in
the Indian Supreme Court

Erich W Steinman, University of Washington:
Tribal Governments as Sovereign Governments: The Struggle for
Legitimacy

Section on Medical Sociology Paper Session co-sponsored with the
Section on Sociology of Law

Professional Authority:

Issues at the Interface of Medicine and Law

Monday, 8/18/2003 from 8:30 a.m.-10:10 a.m.

Organizers:
Sydney A. Halpern, University of Illinois
Robert Dingwall, University of Nottingham
Participants:
Terence C. Halliday, American Bar Foundation (Presider & Discussant)

Stefan Timmermans, Brandeis University:
When a Baby Dies: Brokering Conflicting Legal and Medical
Expectations

Shobita Parthasarathy, Northwestern University:
A Test Case: Building Genetic Testing for Breast Cancer and Moral
Order in the United States and Britain

Bari J. Meltzer, University of Pennsylvania:
On Their Backs: Labor Support Doulas and the Quest for Legitimation
in the Birthplace

Ming-Chen M., Lo, University of California-Davis:

Modernity and the Social Formation of Professions

Regular Sessions

Organized by Katherine Beckett, University of Washington

Legal Institutions and Processes

Saturday, 8/16/2003 from 2:30 p.m.-4:10 p.m.

Participants:
Jeffery T Ulmer, The Pennsylvania State University:
Interdistrict Variation in Guilty Plea Processes in Four US District
Courts

Alexes Harris, University of Washington:
Organizational Concerns and Political Tensions: The rise of the
prosecutor in the contemporary juvenile court.

Rebecca L. Sandefur, Stanford University:
Attrition from the Legal Profession and Mutable Labor Markets for
American Lawyers, 1957, 1994

William R. Freudenburg, University of California, Santa Barbara:
The Intersection of Corporate Cash, Science, and the Law: Toward A
Closer Examination

Race, Law, and Justice

Sunday, 8/17/2003 from 8:30 a.m.-10:10 a.m.

Participants:
Christopher Uggen, University of Minnesota:
Ballot Manipulation and the 'Menace of Negro Domination': Racial
Threat and Felon Disfranchisement, 1850-2000

Richard W. Brooks, Northwestern University:
Covenants & Conventions

Suzanne E. Shanahan, Duke University:
Law and Racial Conflict in the United States, 1869-1924

Susan Olzak, Stanford:
Law and Racial Conflict in the United States, 1869-1924

Devon Johnson, Harvard University:
Understanding the "Lock 'Em Up" Mentality of White Americans:
Attributions, Emotions and Racial Prejudice
