

CHAPTER 1

Introduction

Changes in Criminal Justice, Occupations, and Women in the Workplace

Before 1972, the number of women employed in the justice system as police officers, lawyers, judges, and correctional officers (COs) was minuscule; those women were excluded from most jobs that entailed the exercise of authority over men. Women worked only as “specialists,” drawing on qualities and skills associated with their gender. For example, policewomen supervised women and juvenile arrestees and performed secretarial work. Women lawyers were concentrated in specialties deemed “appropriate” for women, such as domestic relations; they rarely litigated cases or became judges. Women COs worked in prisons for women or in juvenile institutions where their capacity for “mothering” was considered beneficial for rehabilitating delinquent youth.

As part of a larger societal trend, women have entered the workplace in increasing numbers and moved into occupations traditionally filled by men only. Since the late 1970s, a growing number of women work in all parts of the justice system. In the criminal justice system (CJS), police agencies hire women as patrol officers, and probation and parole departments assign mixed-gender caseloads to women. Local jails, state correctional systems, and the Federal Bureau of Prisons hire women to guard men inmates. Women lawyers handle civil and criminal cases as private or governmental attorneys and serve as judges and magistrates. Women also comprise a growing proportion of the professors in law schools and departments of criminal justice, criminology, and sociology, where they educate the next generation of CJS personnel. Women are also advancing in justice fields; more women have been promoted and hold visible leadership positions. To some extent, the presence of women in these realms is now taken for granted.

Despite these inroads, individual and organizational resistance to women in justice fields continues, and women are often still treated as second-class citizens in the

2 DOING JUSTICE, DOING GENDER

station house, courtroom, and prison. The obstacles faced by women justice workers are part of organizational and societal arrangements that construct and reinforce women's subordination to men. Women in fields numerically dominated by men face many barriers: exclusion from informal work cultures; hostility expressed in social interactions; organizational policies that permit gender segregation, differential assignments, sexual harassment; and the marginalization of women with family responsibilities. The confluence of these barriers often produces fewer recruits, lower pay, slower advancement, and in some cases, higher dropout rates for the women in these fields.

Resistance to women may be associated with the social control functions of justice occupations. Criminologist Frances Heidensohn (1992, p. 99) has argued that social control is a "profoundly gender-linked concept." Women have always helped to maintain social order, initially only informally in the family. Later, women were given institutional authority over children and other women but had to operate within control systems dominated by men; they rarely were granted formal authority over men.

The view that men "own" order and have sole rights to preserve it, seems to be at the core of much of the equality debates. (Heidensohn, 1992, p. 215)

This book examines the organization of justice occupations along gender lines. In investigating these occupations, we note that they involve more than a set of tasks or the source of a paycheck. An occupation provides social and emotional rewards and affects many aspects of life and identity. It influences the manner in which a person is treated by others, even outside of work. It also defines social status and shapes income, lifestyle, and children's life chances. In industrial societies, what one does is a primary source of who one is (R. H. Hall, 1994, pp. 6–9).

We examine the justice system occupations of policing, law, and corrections. We focus broadly on the field of law, both civil and criminal, and more narrowly on municipal policing and correctional security in men's prisons. Our choices reflect both the limited literature available on other aspects of justice work and the intense gender-based resistance to women who enter these three fields.¹ This book addresses the following questions:

1. Historically how have the roles of women working in the justice system changed, and how are such changes connected to larger societal and occupational transformations?
2. What barriers have women in justice occupations encountered at the interpersonal, organizational, occupational, and societal levels?
3. How have women performed in their expanded duties and how have they responded to work-related barriers?
4. What effects have women had on the justice system, victims, offenders, coworkers, and the public?
5. What barriers and challenges are women in the CJS likely to face in the future?

The answers to these questions combine three divergent areas of inquiry: work and occupations, the justice system, and gender studies and changes in each area. We are especially interested in how gender differences are constructed, maintained, challenged, and reconstructed in the workplace.

Gendered divisions of labor in the justice system and elsewhere are part of larger ongoing processes of differentiation in society. Social differentiation, or the practice of distinguishing categories based on some attribute or set of attributes, is a fundamental social process and the basis for differential evaluations and unequal rewards. Differentiation assumes, magnifies, and even creates behavioral and psychological differences to ensure that the subordinate group differs from the dominant one. It presumes that differences are “natural” and desirable. Social differentiation based on gender is found in virtually every society (West & Zimmerman, 1987). Gender differences are produced simultaneously with differentiation along a variety of dimensions, including class, race, ethnicity, religion, and sexual orientation. We will argue that the social accomplishment of such differences occurs simultaneously and is integrally linked with the production of social inequality, shaping the social location of individuals and the social institutions in which they work, live, and interact (Burgess-Proctor, 2006; Fenstermaker & West, 2002). The production of difference is also influenced by the perception and control of human bodies, and we will attend to the ways in which bodies figure in to policing, law, and correctional work.

The next section of this chapter provides a brief overview of the CJS mission. It is followed by discussions of the history of women in justice occupations, and socioeconomic conditions that led to expanding opportunities for women workers.

The CJS: Mission, Processes, and Workforce

The mission of the CJS is to control conduct that violates the criminal laws of the state. The components of the CJS include law enforcement, courts, and corrections; they are responsible for the prevention and detection of crime, and the apprehension, adjudication, sentencing, punishment, and rehabilitation of criminals. Critics argue that the term “criminal justice system” is a misnomer for several reasons. First, although components are linked in the processing of criminal offenses, coordination across agencies often is lacking. Agencies are characterized by internal and interorganizational conflicts over goals, resources, and authority that are complicated because these agencies work at different levels of government and often have overlapping jurisdictions. Second, critics argue that the CJS does not promote justice (Belknap, 2001; Clear, Cole, & Reisig, 2006). The U.S. CJS is large and costly, and its funding often comes at the expense of vital social service and educational programs. Third, the CJS disproportionately focuses on “street crimes” to the exclusion of crimes by corporate executives and other societal elites. This leads to a fourth and related critique: the overrepresentation of poor men of color as offenders convinces many analysts that, across all stages, the CJS not only replicates but magnifies racism (Christie, 2000; Parenti, 1999). Critics also argue that the CJS reinforces class and gender inequalities that characterize the larger social context (Belknap, 2001; A. Y. Davis, 2003).

4 DOING JUSTICE, DOING GENDER

Total expenditures for the CJS in 2001 were more than \$167 billion dollars, about half of which were spent on salaries for the nearly 2.3 million CJS employees (Bauer & Owens, 2004). That year, more than a million persons (or about 46 percent of CJS employees) worked for law enforcement agencies, mostly in 18,000 local police and sheriff's departments, and about 488,000 people (21 percent of CJS employees) worked for local, state, and federal courts. Corrections has several subsystems: local jails; state and federal prisons; community corrections, including probation, parole, and community residential centers; and juvenile corrections. By 2001, these agencies employed 747,000 people (more than double the nearly 300,000 corrections employees in 1982; Bauer & Owens, 2004).

The CJS has undergone significant expansion and transition since women first became involved in the mid-19th century. These changes have been associated with women's expanding roles as CJS workers.

Historical Context of Women in Justice Occupations

The ratio of men to women in occupations, in the justice system and elsewhere, is seldom static. Internal pressures within work organizations and in larger social and economic arenas produce changes. To understand women's situation today, we must consider their CJS work history, and the role of the women's movement in promoting expanding work opportunities for women.

Throughout the 19th century, U.S. justice and crime control were inefficient and corrupt; reforms were sporadic and ineffectual. In both the United States and the United Kingdom, women entered the public sector through participation in moral improvement campaigns to end slavery, adopt prohibition, and establish social welfare institutions such as the juvenile court. A first-wave feminist movement fought for women's right to vote, obtain an education, and own property. Women's groups also addressed a wide range of other social issues, including the identification of economic deprivation and men's moral depravity as causes of poverty, out-of-wedlock pregnancy, and criminality among women. Reformers attacked public indifference to the poor and moral double standards for men and women. By caring for "fallen women," they hoped to bring about a moral reordering of society (Heidensohn, 1992; Schulz, 2004).

At first, women worked through volunteer social services. However, as they succeeded in getting the state to assist and extend social control over the poor, many women sought formal positions in public institutions. They presented themselves as specialists in working with women and children (Rafter, 1990). They argued for police matrons to "save wayward youth and helpless women from the evils of industrialism, alcohol, and other abuses" (S. E. Martin, 1980, p. 22). They demanded that prisons hire matrons to work with incarcerated women and children and that they be housed in facilities separate from men's prisons (Freedman, 1981).

In their efforts to protect women from men and from their own worst instincts, reformers became part of social control systems dominated by men. Ironically, as

reformers tried to curb vice and crime, they simultaneously participated in the oppressive “protection” of their own sex, especially targeting impoverished or working-class women and girls (Chesney-Lind & Pasko, 2004). Although they carved out new forms of women’s work, early CJS professionals reinforced gender stereotypes that subsequently limited women’s career possibilities for more than half a century (Schulz, 2004).

Early in the 20th century, immigration, urban migration, the failure of prohibition, and the rise of organized crime compounded CJS problems and made periodic reform efforts short-lived. In 1931, the National Commission on Law Observance and Enforcement (appointed two years earlier by President Hoover to conduct a national study of the American CJS and known as the Wickersham Commission) detailed the lawlessness of the police and shortcomings of the U.S. justice system. However, the Depression and World War II impeded implementation of the suggested reforms. During this period, women’s CJS work opportunities stagnated. From the 1930s to the 1970s, women’s numbers diminished, and restrictions on their duties continued.

However, a series of social and economic changes that began with World War II culminated in the expansion of women’s work roles. Almost three decades of economic prosperity after this war obscured the seeds of disaffection and rebellion that exploded in the 1960s and 1970s. Precipitating conditions included the middle-class exodus to the suburbs, cultural values focused on consumption, deteriorating inner cities, rising urban crime rates, political corruption, racism, poverty, and gender subordination (Davey, 1995; Echols, 1989). These social tensions converged with CJS problems that had been ignored since the 1920s. The result was a turbulent decade that included the Civil Rights and antiwar movements, urban riots, political assassinations, the women’s movement, and lesbian/gay rights movement.

A second wave of feminism was stimulated by women’s participation in civil rights and antiwar activities, especially when women were denied leadership positions in these movements (Freedman, 2002). Once set in motion, the women’s movement created a dynamic pattern in which legal changes altered social attitudes and led to further demands for change, culminating in greatly expanded work opportunities for women in the CJS and elsewhere. The movement was fueled by increases in women’s education and massive entry into paid work that were largely unnoticed in the 1950s and 1960s. These changes stimulated middle class women’s frustration with the “feminine mystique” (Friedan, 1963) and contributed to the formation of groups such as the National Organization for Women (NOW). NOW supported the anti-sex-discrimination provisions of the 1964 Civil Rights Act and Equal Pay Act of 1963, the Equal Rights Amendment (ERA), and the expansion of abortion rights (Freedman, 2002).

Much of the initial energy of a unified women’s movement was dissipated by the mid-1970s through factionalism and by the unsuccessful battle over the ERA. Nevertheless, congressional passage of the ERA and the 1973 Supreme Court decision in *Roe v. Wade* that made abortion a legal option for women meant that feminism was taken more seriously. Feminist goals, such as women’s rights to paid employment, equal pay for equal work, and jobs in all occupations without limitations

6 DOING JUSTICE, DOING GENDER

imposed by sex discrimination, became more socially accepted. The women's movement became more institutionalized during the 1980s and won many legal victories related to antidiscrimination laws, sexual harassment, and the passage of the Violence Against Women Act of 1994, which was renewed in 1998 and 2005.

By the 1980s, however, women of color and lesbians attacked the second-wave women's movement for centering on the experiences of white middle class women in framing feminist agendas (Moraga & Anzaldúa, 1983). The movement was also criticized for ignoring the experiences of poor women and women with children in its initial program for change. These critiques have led to a broader feminist agenda designed to address the needs of these formerly excluded groups. Expanded feminist approaches stressed multiple sites of inequality and dominance that included race, class, and sexual orientation as well as gender discrimination. This "intersectional" model examines gender "through the lens of difference while at the same time acknowledging the instrumental role of power in shaping gender relations" (Burgess-Proctor, 2006, p. 35).

The social activism of the 1950s through 1970s stimulated a variety of changes in the legal system and in the CJS. These legal shifts converged with economic trends to increase the demand for and supply of women workers in justice occupations.

Legal Changes

During the 1960s and 1970s, legislation extended civil rights and equal employment opportunities to formerly excluded social groups, including women. Interpretation of these laws by courts has shaped both the implementation and effectiveness of this legislation in three areas critical to working women: equal employment opportunity, sexual harassment, and the treatment of pregnancy and maternity leave.

Equal Employment Opportunity Law

Equal employment opportunity law rests on Title VII of the Civil Rights Act of 1964 and the Equal Employment Opportunity Act of 1972, which expanded coverage of Title VII to most private and public employers, including state and local governments. Title VII prohibits discrimination on the basis of race, religion, creed, color, sex, or national origin with regard to hiring, compensation, terms, conditions, and privileges of employment. Employers may not refuse to hire, segregate, or classify employees so as to deprive them of employment opportunities because of sex. An exception is permitted only if it can be proven that sex is "a *bona fide* occupational qualification (BFOQ) reasonably necessary for the normal operation of that particular business or enterprise." This interpretation is warranted only "where it is necessary for the purpose of authenticity or genuineness," such as in hiring an actor or actress. The law prohibits an employer from refusing to hire a woman because of assumptions about the comparative employment characteristics of women in general (e.g., they are not as strong as men), because of gender stereotypes (e.g., that women are less capable of aggressive "salesmanship"), or because of

the preferences of coworkers, employers, clients, or customers (Federal Register, 1965, p. 14927). Title VII also established the Equal Employment Opportunity Commission (EEOC) to enforce its provisions.

In the early 1970s, several cases challenged sex-based classifications that had limited women's work opportunities. In *Griggs v. Duke Power Co.* (1971), the Supreme Court made it easier to win discrimination cases by ruling that the plaintiff does not have to prove that the employer intended to discriminate. Once a plaintiff shows that job qualifications disproportionately exclude a group or class, the burden falls on the employer to prove that the requirements are BFOQs and that no other selection mechanisms can be substituted. Application of this standard (i.e., discriminatory impact regardless of intent) invalidated minimum height and weight requirements that had excluded women from police and corrections work.

In 1965, "affirmative action" began with Presidential Executive Order 11246, which required all federal contractors to develop written affirmative action policies to redress past discrimination by increasing recruitment, promotion, retention, and on-the-job training for women and minorities. During the 1970s, courts and the EEOC gradually interpreted *Griggs* as requiring other employers to establish equal employment opportunity (EEO) plans, such as numerical goals for the hiring and promotion of protected race and sex groups. Some affirmative action programs were instituted by consent decrees (i.e., judicially enforceable settlements that were entered into by both sides) that resulted from successful lawsuits charging race and sex discrimination. Other programs were initiated by employers anxious to avoid court involvement in their personnel practices.

These legal changes were highly significant in expanding women's work opportunities. However, the courts did not always rule in women's favor. For example, some courts permitted exceptions to the prohibitions on BFOQs. In *Dothard v. Rawlinson* (1977), the Court agreed that height and weight requirements for COs in Alabama's maximum security prisons violated Title VII but still ruled that the ban on women working in contact positions was justifiable given that this prison was unsafe for women. The court decisions that followed *Dothard* were less likely to accept BFOQs. However, court decisions in EEO cases have not generally exhibited a consistently linear pattern of progress for either white women or men and women of color.

In the 1980s, the Supreme Court began to limit affirmative action programs and narrow the grounds on which plaintiffs could win discrimination suits. For example, in *City of Richmond v. Croson* (1989), the Supreme Court ruled that in state and local contracting, affirmative action was a "highly suspect tool," and subjected affirmative action plans to "strict scrutiny," holding that they were unconstitutional unless racial discrimination could be proven to be "widespread throughout a particular industry." In addition, the Court mandated that "the means chosen 'fit' this compelling goal so closely that there is little or no possibility that the motive for the classification was illegitimate racial prejudice or stereotype." Such an instance arose in the case of *United States v. Paradise* (1987). The Court upheld the use of racial quotas as a remedy for the systematic racial discrimination in the Alabama Department of Public Safety (state police), which, after 12 years of litigation and court decrees, had failed to end "pervasive, systematic, and obstinate discriminatory exclusion of blacks." It upheld the lower court order to promote one

8 DOING JUSTICE, DOING GENDER

black officer for every white officer promoted to sergeant. In the lone Supreme Court decision specifically involving affirmation for women, *Johnson v. Transportation Agency, Santa Clara County* (1987), the Court upheld a county affirmative action program that set goals for achieving a workforce in which women, minorities, and people with disabilities would be represented in proportion to their population in the county's labor force.

Despite court rulings that began to narrow affirmative action in the 1980s, in 1990 Congress passed one of the most sweeping pieces of civil rights legislation since the Civil Rights Act of 1964: the Americans With Disabilities Act (ADA). A federal statutory provision (Section 504 of the Rehabilitation Act of 1973) prohibited discrimination against qualified but disabled individuals in programs that received federal funds. However, the ADA goes beyond Section 504 to include entities (e.g., public services, private employers) that do not receive federal funds (Almanac of Policy Issues, 2006). The term "disability" refers to an individual who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. It requires the covered entity (e.g., employer or public facility) to provide "reasonable accommodation" for "qualified individuals with a disability" unless the accommodation poses an "undue hardship" on that entity. A "qualified" individual is one who is able to perform the essential functions of employment. "Reasonable accommodation" refers to job restructuring (i.e., part-time or modified work schedules, acquisition or modification of equipment or devices, provision of qualified interpreters, or other similar accommodations) or making existing facilities accessible to and usable by individuals with disabilities. "Undue hardship" refers to accommodations that require significant difficulty or expense (relative to the overall financial resources and type of operation).

The accommodation provision of the ADA has been a useful legal device in affirmative action claims because it recognizes the need for organizations to accommodate the situations of diverse individuals rather than requiring them to assimilate into organizations designed for some "nondisabled" majority. The concept of "reasonable accommodation" has been used as a mechanism for resolving inmate privacy concerns and the opportunity for women COs to work in men's prisons as well as for lactating women seeking accommodations in order to pump breast milk. However, what constitutes a recognized disability and reasonable accommodation under the ADA continues to be a legally unresolved matter, as the body of law interpreting the ADA is still emerging. A number of recent cases have limited the rights of employees (Almanac of Policy Issues, 2006).

In the 1990s, affirmative action was further narrowed but was still permitted in certain circumstances. In *Adarand Constructors, Inc. v. Peña* (1995), the Supreme Court reaffirmed the ruling in *Crosby* (1989) and extended the standard established in that case to federal contracting. The Court again required "strict scrutiny" of affirmative action programs, arguing that they must fulfill a "compelling government interest" and be "narrowly tailored" to fit the particular situation. A month later, President Clinton noted that the Court's decision set stricter standards but reaffirmed a continuing need for affirmative action. He issued guidelines that called for eliminating any program that created quotas, preferences for unqualified individuals,

or reverse discrimination or whose purpose had been served. Nevertheless, many employers have continued to implement voluntary affirmative action policies.

More recent cases involve the status of affirmative action in higher education. In *Grutter v. Bollinger* (2003), the Supreme Court ruled (5–4) to uphold the University of Michigan Law School’s policy permitting race to be one of many factors considered by colleges in selecting students because that selection policy furthered a compelling interest in diversity but was individualized in its approach. At the same time, it ruled (*Gratz v. Bollinger*, 2003) that the university’s formulaic approach used in its undergraduate admissions procedure was not permissible. How much affirmative action will be permitted in the future is uncertain given the continued narrowing of its uses and the replacement of Justices O’Connor (who wrote the *Grutter* majority decision) and Rehnquist by more conservative Justices Roberts and Alito on the high court.

Sexual Harassment Law

Sexual harassment is another important legal issue affecting working women. Sexual harassment, a term that came into use in 1976 (MacKinnon, 1978), is recognized as a form of sex discrimination prohibited under Title VII of the Civil Rights Act of 1964. Two general types of sexual harassment have been addressed by the courts: “*quid pro quo*” and “the hostile work environment.” First, *quid pro quo* harassment involves an explicit exchange: there is a sexual advance or proposition with which the woman must comply, or forfeit an employment or educational benefit. Second, hostile environment sexual harassment occurs “when an employer encourages or tolerates the existence in its workplace of an environment fraught with sexual innuendo and intimidation or other forms of harassing conduct sufficiently severe or pervasive to alter the terms and conditions of a woman’s employment” (Gregory, 2003, p. 125). It includes a variety of overtly sexual behaviors such as touching, teasing, and making comments about a woman’s appearance or sexuality that require no response on the woman’s part but establish a pattern that makes her work environment unpleasant or hostile. “Gender harassment” that is unrelated to sex but includes derogatory comments or behavior directed toward a woman solely because of her gender may also meet the legal criteria of a hostile work environment (Gregory, 2003, p. 150).

At first, courts refused to view sexual harassment as sex discrimination under Title VII (*Barnes v. Train*, 1974). However, by 1977, several lower courts ruled that *quid pro quo* sexual harassment was a form of sex discrimination (Gregory, 2003, p. 122). The courts first recognized hostile environment harassment in *Bundy v. Jackson* (1981), a case involving a woman prison counselor. Bundy claimed that she had been harassed by several supervisors and that her rejection of their overtures had blocked and delayed her job advancement. The court reasoned that whether or not the complaining employee lost tangible benefits (i.e., *quid pro quo* harassment), the employer had condoned a hostile and discriminatory work environment that violated Title VII. Unless employers are prohibited from maintaining a “discriminatory environment,” a woman employee could be sexually harassed with impunity as long as the action stopped short of firing or taking other formal action against her when she resisted.

In *Meritor Savings Bank FSB v. Vinson* (1986), the Supreme Court, in its first ruling related to sexual harassment, unanimously affirmed that both *quid pro quo* and hostile environment sexual harassment are prohibited by Title VII and that employers may be held liable for acts of sexual harassment committed by their employees. According to the facts presented, the plaintiff, Michelle Vinson, had acquiesced to sexual relations with her immediate superior out of fear of losing her job, but neither reported the problem nor used the bank's complaint procedure. The alleged harasser denied all allegations of sexual misbehavior; the bank claimed that because it did not know of the situation, it could not be held responsible. The Court held that in hostile environment cases, the victim does not have to demonstrate economic harm, but for sexual harassment to be actionable, it must be so severe or pervasive that it alters the conditions of the victim's employment.

In 1991, the U.S. Senate hearings for Clarence Thomas's confirmation to the U.S. Supreme Court, and Anita Hill's testimony against his confirmation, more than any single act, brought sexual harassment "out of the closet" as a legitimate harm. This controversy also pitted the woman's perception of harassment against the viewpoint claimed by her harasser. In *Ellison v. Brady* (1991), the Ninth Circuit Federal Appellate Court developed the "reasonable woman" standard stating that this, rather than the traditional legal standard (i.e., the "reasonable man" or "reasonable person"), should prevail in determining whether conduct is "sufficiently severe or pervasive to alter the conditions of employment and create an abusive working environment."

During that same year, Congress amended Title VII of the Civil Rights Act to provide victims an opportunity to seek damage awards in sexual harassment cases. Prior to that time, although Title VII made employers liable for sexual harassment in their agencies, it included no provision for damages, and relief was purely equitable (i.e., victims were eligible only for back pay awards). Acknowledging that employers require more than an injunctive order and the likelihood of having to pay a meager back pay award to encourage them to do the right thing, Congress amended the title so that sex discrimination would come at a price. It mandated that defendants recompense women for their injuries by providing for punitive damages when the employer's behavior was particularly egregious, but it left unclear just what that situation required. The goal of this initiative was to combat sex discrimination as well as recompense the victims.²

In *Harris v. Forklift Systems, Inc.* (1993), the Court clarified this standard, ruling that for a work environment to be abusive, the harassing conduct does not have to "seriously affect [an employee's] psychological well being" or lead her to "suffer injury." The Court adopted what it termed "a middle path" between conduct that is "merely offensive" and that which causes psychological injury. Determination of what is sufficiently severe and pervasive to be actionable is based on the totality of the circumstances and depends on such factors as its frequency, its severity, and whether it physically threatens or humiliates or unreasonably interferes with the employee's work.

In 1998, two cases clarified the extent of employer liability. The Supreme Court ruled that employers are held to a standard of strict liability for unlawful harassment that "culminates in a tangible employment action such as discharge, demotion or

undesirable assignment” by supervisors (*Faragher v. City of Boca Raton*, 1998). When there has been no tangible employment action, an employer may raise an affirmative defense to liability by proving that (1) it exercised reasonable care to prevent and correct sexually harassing behavior and (2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities to avoid harm (*Burlington Industries v. Ellerath*, 1998). Simply having a policy is not enough; the employer must take reasonable steps to prevent sexual harassment and stop it when it occurs. This includes a duty to distribute its policy to employees, train managers in dealing with complaints, create multiple reporting channels once harassment starts, and have follow-up procedures in place. While the law is still evolving, these cases have established that an affirmative defense is not available when the supervisory harassment involves a tangible job benefit like a promotion, nor is it available to shield employers from liability where the employing organization’s response is ineffective or unreasonable. Antiharassment policies must be effectively implemented and enforced, provide multiple reporting channels, and protect the victim against retaliation.

Pregnancy and Family Leave

A third important area of law that affects women workers is pregnancy and maternity leave. In two decisions, *Geduldig v. Aiello* (1974) and *General Electric Co. v. Gilbert* (1976), the Supreme Court held that exclusion of pregnancy-related disabilities from an insurance plan was not sex discrimination. When existing benefits or opportunities are offered equally to men and women, it was not discrimination to withhold additional benefits that might be particularly valuable to one sex. The basic principle of the *Gilbert* decision is that Title VII protections did not cover pregnant women because the act protected only against discrimination based on gender. According to the Court, failure to provide disability benefits for pregnancy made a distinction between two groups of women—the pregnant and nonpregnant—rather than a distinction between women and men. Thus, it was not discrimination.

In 1978, Congress rejected the Court’s view and amended Title VII with the Pregnancy Discrimination Act (PDA). The PDA prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions and requires employers who provide employment benefits to treat pregnancy like any other temporary disability. The law assures women of at least the same minimum benefits offered men; it permits, but does not require, an employer to provide additional protection for pregnant workers.

In *Newport News Shipbuilding and Dry Dock Co. v. EEOC* (1983), the Supreme Court specifically acknowledged that Congress overturned the holding in *Gilbert* with the PDA. Women now are bringing and winning class action cases regarding pregnancy discrimination in benefits, as well as in hiring and promotion decisions. For example, in 2002 the EEOC settled a class action pregnancy discrimination case against Verizon charging that its predecessor companies discriminated against women on maternity leave by denying them service credit for the time they were on leave. The number of pregnancy discrimination claims filed with EEOC between 1992 and 2000 increased by nearly 25 percent (Gregory, 2003, p. 96).

As with other forms of antidiscrimination law, pregnancy discrimination law has both expanded and restricted women's employment opportunities. Even when pregnant women are treated badly by their employers, they do not necessarily have a "lawful" claim of employment discrimination. According to the PDA, such discrimination exists only in situations where pregnant women are treated less favorably than nonpregnant employees with temporary disabilities who work in similar circumstances. Moreover, employers have also become more savvy about hiding pregnancy discrimination practices in order to protect themselves from legal claims (Gregory, 2003). The scope of the PDA is still a matter of contention. While all Circuit Courts recognize that it covers pregnancy, some Circuit Court decisions still apply the PDA narrowly to pregnancy but not to claims based on related situations that only women face, such as breastfeeding, contraception, and infertility treatments; others include these conditions within its scope (Eldredge, 2005).

In an effort to provide additional time off for employees who need to care for their families, the U.S. Congress passed the Family and Medical Leave Act in 1993. This law states that "covered" employers must grant an "eligible" employee up to a total of 12 work weeks of unpaid leave during any 12-month period for one of more of the following reasons: (1) birth and care of the employee's newborn child, (2) placement with the employee of a son or daughter for adoption or foster care, (3) care for an immediate family member with a serious health condition, or (4) medical leave when the employee is unable to work because of a serious health condition. Among the list of requirements for eligibility under this act are specifications that the employee must work at least 24 hours per week for an employer who has 50 or more employees (U.S. Department of Labor, 2006). Individuals whose employment situation does not meet these criteria are not eligible for family leave. Those who do take leave time must be able to cover the pay loss that they will experience. In contrast to the United States, workers in many European countries are guaranteed more lengthy and paid family leave options (Freedman, 2002).

Despite inconsistencies, legal decisions have advanced the employment opportunities of white women and men and women of color. Social movement and legal activism and economic trends have also promoted changes within the justice system, and such changes have further transformed women's work roles in policing, corrections, and law.

Systemic Reforms and Expanded Opportunities for Women

Efforts to reform and professionalize justice system staff and to expand legal education have increased women's employment opportunities in justice fields. Social activism contributed to the creation of new law schools and their burgeoning enrollments. Eliminating gender barriers in admission to law schools, as well as the opening of a number of new law schools, has led to a major shift in law school enrollments. The proportion of women law students has increased, and women also comprise a growing proportion of lawyers working in the civil and criminal justice systems.

The occupation of law has traditionally been viewed as a prototypical profession. Definitions of a profession vary, but the recognition of any occupation as such depends on the power of those in the field to persuade lawmakers and the public that they are a profession and deserve that status on the basis of possession of unique expertise and the ability to apply this knowledge (R. H. Hall, 1994, pp. 44–53). Often, a group seeks such recognition to gain the higher salaries, greater social standing, and increased autonomy associated with the label (Seron & Ferris, 1995).³ In contrast to law, CJS occupations have not traditionally been viewed as professions.

As civil rights law and related court interpretations opened many educational and employment opportunities previously closed to persons of color and white women, the CJS was expanding and facing pressures to reform and professionalize its staff. During the 1960s, discontent with the CJS and its inability to respond to growing urban problems led to a simultaneous emphasis on “law and order” and rational planning and reform. The former was a shorthand expression for a general fear not only of street crime, but of the violence and demonstrations surrounding the Civil Rights and antiwar movements. However, it was also a critique of the violent methods used by CJS officials in responding to these matters. In 1965, President Johnson expanded the federal government’s role in criminal justice processes. He appointed the President’s Commission on Law Enforcement and the Administration of Justice (the President’s Crime Commission) to analyze the nature and origins of crime in the United States and to make policy recommendations. The Commission recommended that criminal justice agencies be shaped to form an integrated “system,” with better coordination among police, courts, and corrections. It called for upgrading CJS personnel by recruiting white women and people of color, widening women’s assignments, raising selection standards, and providing more rigorous training to all system personnel.

To implement these recommendations, Congress passed the Omnibus Crime Control and Safe Streets Act of 1968. The Act created the Law Enforcement Assistance Administration (LEAA), which supplied funds to states for criminal justice planning, innovative programs, and personnel training. LEAA funds and higher educational qualifications led to expanded community college and university programs in criminology and criminal justice in the 1970s. Although Congress abolished the LEAA in the 1980s, the program’s growth, combined with EEO regulations, generated many women graduates from associate’s and bachelor’s degree programs in criminal justice and related fields. (Today, more than half of the students in such programs are women.) The equalization of educational opportunities in general and the expansion of criminology graduate programs in particular also allowed many women to earn graduate degrees and become the researchers and professors who educate future CJS practitioners (Wilson & Moyer, 2004). These trends produced a growing pool of white women and of men and women of color to fill concomitant CJS demands for more highly educated workers.

As further impetus for expansion and reform, prison riots during the 1970s and 1980s forced federal and state officials to address crowded and squalid living conditions in prisons and inmates’ demand for rights (Goldstone & Useem, 1999). These riots occurred in a context of expanding legal services for the poor and growing civil

14 DOING JUSTICE, DOING GENDER

rights for racial and ethnic minority groups who were disproportionately incarcerated (Hawkins & Alpert, 1989). Court-ordered racial integration of prisons heightened tensions in overcrowded facilities. Courts intervened to protect inmates' constitutional rights. Commissions formed to deal with the prison riot crisis recommended solutions similar to those of the President's Crime Commission: increased rationalization, centralization, and staff professionalization (Clear et al., 2006). Even as these reform efforts were emerging, competing movements advocated the end of rehabilitation as a goal for prisons. Whether or not rehabilitation had been seriously attempted, it was abandoned and replaced with mandatory sentencing and other get-tough sentencing policies (Cavender, 2004).

Changes in CJS personnel practices combined with EEO regulations removed many arbitrary and culturally biased personnel practices, such as selection criteria and assignments based on friendship or on attributes unrelated to job performance. Administrators' control over officers' personal lives, from hair length to living arrangements, has been increasingly challenged by new generations of officers. Universalistic standards produced more opportunities for people with particular skills regardless of how well they "fit" into the informal group and, thus, have created more diverse CJS staffs with respect to gender, race, ethnicity, and sexuality.

CJS reforms entailed discourses that challenged the arbitrary use of force in policing and corrections. In this context, discourses refer not just to language but to frameworks for understanding, frameworks that may include texts to guide actions. In the case of CJS reform efforts, detailed rules were written to govern the use of force by police and COs, making it a means of last resort. Police and correctional administrators believed that professionalizing their personnel by raising training and educational requirements would reduce unlawful acts of violence and abuse by staff, and protect CJS agencies from external control by courts and community boards (Jurik & Musheno, 1986).

Well-trained professional officers were to rely on interpersonal skills, exercise restraint, and avoid relying on brute force. Since women have not generally been associated with the use of physical strength to attain their ends, this attempt to undermine the centrality of force in police and corrections has served to bolster the position of women workers (Britton, 2003; National Center for Women & Policing, 2002b). Emphasis on communication skills and teamwork also supported arguments that women could work in the CJS even in formerly all-male positions. Reform discourses also suggested that white women and men and women of color would be more likely to empathize with citizens, arrestees, and offenders and less likely to engage in brutal and arbitrary treatment.

These arguments alone might not have been sufficient to expand CJS jobs to women had it not been for the 1973 Crime Control Act, which amended the 1968 Omnibus Crime Control and Safe Streets Act. The Crime Control Act prohibited discrimination against women in the employment practices of any agencies that received LEAA funds. LEAA Equal Employment Opportunity guidelines required agencies to assess their recruiting and hiring practices, analyze promotion and training procedures, formulate an EEO program, and file it with the state planning agency through which most of its funds were disbursed. Other guidelines prohibited hiring standards (e.g., minimum height requirements) that discriminated

against women and were not associated with successful police job performance. LEAA threatened to withhold payments to grant recipients who failed to comply with these regulations. Loss of LEAA monies was a serious threat to law enforcement agencies (Feinman, 1986). Gradual enforcement of the EEOC guidelines caused a ripple effect throughout the CJS, so that by the late 1970s, departments had begun to hire more white women and people of color (U.S. Department of Justice, 1981; Walker, 1985).

In addition to reform and legal rationales, women provided an important pool of workers for justice system expansion. Economic recession and industrial restructuring of the 1970s and 1980s strained middle- and working-class families, forcing more married women, including those with young children, into the paid workplace. Rising divorce rates increased the number of single mothers in search of decent-paying jobs. These conditions converged with increased educational opportunities to produce a labor pool of high school- and college-educated women available for professionalizing CJS jobs. During the same period, demographic factors led to a shortage of qualified white men willing to work for CJS wages (Jurik & Martin, 2001).

Men staff and supervisors did not always welcome reform and professionalization strategies or the increased presence of women within their ranks. Many complained that these changes feminized their occupation and gave them less power than before. Staff resentment was fueled by the tendency of police and correctional professionalization efforts to focus on individuals without accompanying organizational changes (Jurik & Musheno, 1986). Many reform advocates hoped that professionalization would promote gender neutrality, fairness, efficiency, and respect for the CJS and its workers (National Research Council, 2004), but many officers also believed that they lost the autonomy needed to do their jobs (Hogan, Lambert, Jenkins, & Wambold, 2006). In the case of corrections, reforms have done little to alleviate images of COs as performing society's dirty work (Tracy & Scott, 2006). Some men police officers have also protested reform efforts and community policing methods for feminizing their work (S. L. Miller, 1999).

Despite men's resistance, the CJS continued to expand, and women provided an important source of the labor for its monumental growth. Ronald Reagan's election as President of the United States in 1980 accelerated the political shift to the right that began in the 1970s. Reagan launched a war on drugs that increased penalties for consumption as well as sale of drugs. He also promoted more punitive determinate sentencing policies and appointed judges likely to agree with judicial interpretations that would erode defendant rights. These policies added still greater numbers to the populations of persons who were arrested, tried, convicted, and incarcerated and, in so doing, further stimulated the demand for CJS personnel.

Thus, social movements, legal activism, economic shifts, and changes in the CJS have prompted the expansion of women's work roles in policing, law, and corrections that we described at the beginning of this chapter. Women have indeed made tremendous progress in these fields, but this progress is not always linear. There are setbacks and continuing barriers. The path toward equality with men in the workplace will entail understanding and challenging the barriers that we begin to describe in the following section.

Women and Today's Justice Occupations

In this book, we argue that women's experiences in justice occupations must be examined in relation to prevailing social conditions and the ways that those forces shape the climate of justice work organizations. In part, continuing opposition to women in justice occupations is related to the structure of work organizations in today's society and its mismatch with women's disproportionate responsibilities for family care work.

Since the 1980s, the growing public sense of economic insecurity and fears of crime have continually encouraged the growth of the CJS and demands for CJS workers. These conditions have expanded the opportunities for white women and men and women of color in the United States. However, this social climate has also reinforced barriers to women by promoting seemingly gender-neutral organizational conditions that differentiate and subordinate women who work in these fields.

There has been a societal backlash against civil rights and feminist activism and renewed support for a tough stance on street crime (Davey, 1995; Faludi, 1991). The implementation of antidiscrimination laws and expanded feminist political agendas have been slowed by the rise of political and social conservatism in the United States along with increased social and economic inequalities. Conservative politicians have challenged the gains of the Civil Rights Movement by exploiting public fears (Davey, 1995). Social conservatives in the "pro-life" movement have threatened to roll back women's control over their own bodies by criminalizing abortion. Dominant societal images of women's proper roles shape workplace experiences, but visions of the proper role of the CJS in society are also influential in framing the opportunities available to women workers in justice fields.

Although police and correctional administrators have tried to "professionalize" personnel and implement equal opportunity hiring and promotional policies, their efforts have not necessarily improved the respectability and working conditions of CJS personnel or brought about full equality for all workers. These efforts have been met with resistance by men staff who fear "reverse discrimination" and the feminization of their work. Moreover, the image of "professionalized" police and correctional officers may disadvantage as well as benefit women. Images of the professional are linked closely with images of masculinity, such as objectivity and universalism in making decisions; images of women, in contrast, portray them as too emotional and attached to others to make impartial judgments.

These components of a professional image have provided numerous rationales for the exclusion of women from the legal profession. Ironically, law, which has traditionally been seen as a model profession, appears to be "deprofessionalizing" or, to use Kritzer's (1999) term, entering into a "postprofessional phase" that combines three elements: lawyers' loss of exclusivity, increased segmentation in applying abstract knowledge due to greater specialization, and the growth of technology that has made their specialized knowledge widely available. Other service providers (e.g., accountants and paralegals) are encroaching on the work that was previously the exclusive preserve of lawyers; their major clients (large corporations) are seeking ways to limit and monitor the costs of their services; and the independent practitioners who once dominated the profession are being replaced by salaried

employees. Most lawyers now work in large bureaucratic firms, corporations, or government organizations, including prosecutors' offices (Carson, 2004), where they experience a significant loss of autonomy. Increased competition between law firms has meant increased monitoring of partner and associate attorney billable hours and a reduction of the sometimes more meaningful pro bono work for social causes. Establishment of non-partnership career tracks in many large firms is another manifestation of changing professional status, if not deprofessionalization, of lawyers. There is a danger that women may be disproportionately relegated to such positions (Reichman & Sterling, 2002).

Ironically, recent social trends have both promoted and undermined the position of women in justice occupations. Get-tough-on-crime discourses have remained popular for more than three decades. The war on drugs has continued apace, and get-tough policies now include more stringent enforcement of immigration laws. The terrorist destruction of the World Trade Center on September 11, 2001, has led to a war on terrorism that entails increased detention of undocumented immigrants and citizens of Middle Eastern descent. The political rhetoric and increasingly punitive practices that accompany it have now effected huge increases in the numbers of those arrested and convicted and the mass imprisonment of men and women, particularly men and women of color (Christie, 2000).

This milieu has resulted in the mushrooming of CJS expenditures and personnel. For example, total expenditures grew 366 percent, from about \$36 billion in 1982 to \$167 billion in 2001, an increase of 165 percent in constant dollars (Bauer & Owens, 2004). Although serious crime fell substantially in the 1990s to levels not seen since the 1960s, get-tough programs have continued to thrive. For example, President Bill Clinton succeeded in getting funding (distributed through the U.S. Justice Department's Office of Community Oriented Policing Services) to hire 100,000 new officers and establish community policing programs.

Since the mid-1980s, there has been a strong movement in policing away from a centralized command-and-control model and toward a community policing model that develops partnerships with neighborhood residents and gives rank-and-file officers more discretionary power to deal with particular situations. Community policing discourses have been supportive of the growing diversity among sworn personnel in terms of race, ethnicity, gender, and sexual orientation, but the extent of implementation and the effects of these new models are unclear.

The emphasis on crime control has been accompanied by other political movements to dismantle the welfare state (Davey, 1995). The war on terrorism and continuing high rates of unemployment and underemployment continue to heighten public fears and promote state fiscal crises. These conditions have led to decreased spending for welfare, social services including mental and physical health care, and other social investments such as education and physical infrastructure. Budget cuts have increased the proportion of the population in need and, at the same time, reinforced public demands for "law and order." The CJS must now deal with higher proportions of individuals who are learning disabled, mentally ill, noncitizens, drug addicts, victims of natural disasters and terrorism, and persons with chronic health problems. Agencies must do this without adequate expenditures for treatment programs and other relevant social services (Clear et al., 2006). These special-needs

populations combined with system overcrowding promote uncertainty and danger for those processed by and working in the system.

Budget limitations in the face of growing CJS responsibilities have encouraged governments at all levels to search for ways to promote efficiency and reduced costs for policing courts and corrections. There have been many efforts to promote greater interagency coordination for surveillance activities. Subcontracting and full-scale privatization of government CJS functions have greatly expanded (Hallett, 2002; Useem & Goldstone, 2002).

Even non-privatized policing and correctional agencies are affected by a “new managerialism” that mandates that government agencies are organized and function more like businesses. Such agencies are expected to be more cost-effective, treat clientele as customers, and vest greater responsibility for quality and cost-effective product in frontline staff (Jurik, 2004). Along these lines, police rely on greater numbers of non-sworn, or civilian employees, who are not entitled to the same union representation, hiring and retention rules, and benefit packages as regular police. Law firms and legal departments both in the corporate world and in government also are larger and more bureaucratic; the nature of attorneys’ practice has expanded to new areas of law (e.g., environmental issues), has become more specialized, and increasingly involves corporate rather than individual clients. Finally, lawyers and CJS workers face greater pressures and demands for longer hours that leave workers less time for leisure and family life (Reichman & Sterling, 2002). These characteristics are becoming a standard component of work not only in justice fields, but in the American workforce more generally.

These justice system trends have important implications for workers, especially women. The ever-growing demands on the CJS, the sheer numbers of people processed in it, and the budgetary limitations on the funding of programs and services mean that justice workers are increasingly overburdened, work in overcrowded and dangerous situations, and perform lots of routine and unpleasant tasks. Inadequate programs and services plus dangerous working conditions fuel stress and resistance to women. Opponents claim that women are neither physically nor emotionally strong enough to meet the challenges of contemporary justice work. The pressures of new managerialism reinforce demands for constant availability, while inflexible work schedules may be more difficult for women, given their still relatively greater family responsibilities. Despite any resistance generated by these conditions, however, women are still a vital source of labor for this expanding system. Their presence in it is likely only to increase in years to come.

Contents of the Second Edition of This Book

The following chapters provide a conceptual framework for understanding gender differentiation in the workplace, look more closely at women’s experiences and contributions in our three focal justice occupations, and then identify themes across occupations. Chapter 2 begins with a review of alternative perspectives on the barriers to women in traditionally men’s occupations. It elaborates our framework for examining the social production of gender differences along with those related to

race, ethnicity, and sexual orientation and explores the subordination of women in policing, law, and corrections work. Chapters 3 through 8 form the heart of our analysis. We divide the discussion of each occupation into two chapters: police in Chapters 3 and 4, law in Chapters 5 and 6, and corrections in Chapters 7 and 8. For each occupation, the initial chapter deals with the historical and contemporary situation of women and the barriers that they face in everyday work situations. The second chapter for each occupation connects these everyday barriers to their larger organizational and societal milieu. Chapter 9 integrates these issues by comparing barriers, problems, and achievements of women across justice occupations. It examines women's effects on the occupation, work organization, and clients by addressing the question, "Do women make a difference?" It also looks toward the future, changes we regard as likely, and policies and practices needed to promote progress.

The analysis illuminates the gendering of justice organizations and occupations. It demonstrates that these jobs are not gender-neutral, "empty" positions waiting to be filled by the "best qualified" candidate (Acker, 1990). It reveals how these work organizations operate according to ideologies, customs, and practices that produce and reproduce gender inequality (P. Y. Martin, 1991, p. 208). Labor markets, occupations, organizational hierarchies, supervisory practices, procedures for hiring and advancement, work groups, and work activities are all infused with gendered images and consequences.

In this revised edition of *Doing Justice, Doing Gender*, we have maintained our overall theoretical framework but have incorporated into it the growing literature on the simultaneous production of gender, race, class, and sexual orientation in social interaction and social organizations, sometimes referred to as "doing difference" (Fenstermaker & West, 2002). We have updated statistical material and have incorporated material related to the changes that have occurred in each of the occupations in the past decade as well as in laws and policies shaping organizational practices. We have also incorporated more discussion of how the body both frames and is framed by work experiences in justice fields. Also new is an international dimension. While our primary focus is on the United States, we have incorporated some materials and many citations for those who want to explore further the status of women employed in justice occupations worldwide.

A Note on Perspective and Terminology

Recent scholarship about gender and racial equality has criticized traditional social science notions of objectivity and universality, claiming that what one writes or chooses to study is influenced by the writer's social location. Critics assert that claims of objective knowledge are based on elite, white, heterosexual, European-orientated, man-centered perspectives. They suggest that writers identify themselves in terms of gender, race, sexual orientation, social class, and any other relevant biographical information to enable readers to better evaluate the truth of claims attached to the knowledge that is being presented (P. H. Collins, 2000).

With this in mind, both authors are white, heterosexual, and middle class. Susan Martin grew up in suburbia and has lived with her husband in the Washington,

D.C., area for 35 years. She has two grown sons and four grandchildren. Nancy Jurik was raised on a small farm in the southwestern United States during the 1950s and 1960s, and now lives in the Phoenix area with her husband and colleague Gray Cavender. She is a professor in the School of Justice & Social Inquiry at Arizona State University.

Our book follows a feminist approach: it places women at the center of inquiry in building a base of knowledge and an understanding of gender as it intersects with race, class, and sexual orientation and is featured in all aspects of human culture and relationships (Andersen, 2005). Feminism is not treated as a single theory; it embraces a world view and movement for social change; it includes a diverse set of perspectives identifying and representing women's interests; it holds distinct agendas for ending women's oppression that vary according to the specific structures and situations confronting women of various races, ethnicities, socioeconomic statuses, and sexualities.

One aspect of our feminist commitment is to avoid sexism and racism in language. This is no easy matter; it has resulted in phrases that sound awkward because they do not conform to customary language usage.

Historically, the term "sex" referred to biological categories of individuals—men or women—determined by hormones, anatomy, and physiology. Since the 1960s, the term "gender" has come to refer to the aspect of human identity that is socially learned—masculinity or femininity. With the gradual recognition that biological and cultural processes are more interrelated than previously assumed, conceptualizations of sex or gender as unchanging attributes of individuals have yielded to recognition of the importance of interaction in constructing each. We follow the usage and definitions of Candace West and Don Zimmerman (1987), who distinguish among three separate concepts: sex, sex category, and gender. Sex is the application of socially agreed on biological criteria for classifying people as men or women, usually based on chromosomal typing or genitalia. In everyday life, people are placed or proclaim their membership in a sex category based upon visible indicators such as clothing and hair style. Gender refers not simply to what one "is" but something one "does" or enacts on an ongoing basis. Hence, the book's title includes the phrase "doing gender," which will be more fully explained in Chapter 2 (West & Zimmerman, 1987).

We use the terms "women of color," "men of color," or "people of color" to refer collectively to racial and ethnic groups that are not of white-European origin. The terms "African-American" and "black" are used interchangeably to refer to Americans with African heritage. In the absence of more detailed racial-ethnic breakdowns, the undifferentiated term "Hispanic" refers to individuals who are of Puerto Rican, Mexican-American, or other Latin-American heritage. For the same reasons, the undifferentiated terms "Asian-Americans" and "American Indians" are employed.

Despite our determination to present data addressing gender and race, often this was impossible because data on CJS workers rarely are compiled along both gender as well as racial and ethnic lines, and there are very limited data about variations in the CJS work experiences of women from different racial or ethnic groups. Even when race-gender breakdowns exist, they often are grouped into distinctions of

“white” and the undifferentiated category “nonwhite.” Nevertheless, whenever possible, we describe the experiences of women justice workers from various racial and ethnic groups. Likewise, the presumption of heterosexuality and continuing “closeted” status of many homosexuals have led to limited research on the experiences of gays and lesbians in the workplace. We discuss the available research and analyze the ways in which the heterosexual presumption is used to control women justice workers.

Endnotes

1. We would have liked to have focused on women’s activities in the practice of criminal law. Apart from several studies comparing sentencing by men and women judges, there simply are no studies available on women in criminal law per se.

2. Although the law gives victims the opportunity to recover damages, the process of damage determination in sexual harassment litigation exacts a cost for the plaintiffs in terms of humiliation (Fitzgerald, 2003). To prove that the damage inflicted harm and that the defendant organization was responsible usually means the woman must undergo a psychological evaluation by a clinician determined by the defendant. This often results in victim-blaming and additional emotional distress.

3. Most definitions of the concept of profession include (1) a theoretical body of knowledge based on lengthy study and not possessed by outsiders; (2) formal organization of members; (3) occupational self-regulation through control of recruitment and training, and performance standards based on a code of ethics; (4) a service orientation toward clients and the community; and (5) a distinctive occupational culture (Trice, 1993). Seron and Ferris (1995) emphasize autonomy or authority to control their work as the key element.

