

Part I

GENDER-SENSITIVE
VERSUS
GENDER-NEUTRAL

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Chapter 1

A GENDERED APPROACH

In emphasizing voice, I have tried to work against the dangers I see in the current tendency to reduce psychology to biology or to culture, to see people as either genetically determined or socially engineered and thus without the capacity for voice or resistance.

—Carol Gilligan (2009, January)

Women comprise a minority of those in the criminal justice system, just 6.9% of the prison population and 12.9% of the jail population (West & Sabol, 2009). Women make up 23% of persons on probation, and 12% of those on parole (Bureau of Justice Statistics, 2009b). Their rate of increase has been about twice that of the increase of males in confinement. Nevertheless, women are still a small minority of the total incarcerated population, and they are receiving treatment in a system run by men and designed for men.

According to government statistics, girls were 15% of juvenile offenders in residential placement (Snyder and Sickmund, 2006). Females in detention make up 14% of those who were charged with delinquent offenses and 40% of those in placement for status offenses (e.g., running away). Probably due to changes in law enforcement patterns in making arrests for domestic violence situations (as explained in the report), the female arrest rate has increased since 1994 while the male rate has declined.

Although gender-specific programming is coming into its own within juvenile institutions, at the adult level, traditional approaches abound. Within the adult corrections, a focus on equality that is equated with sameness lingers—this misunderstanding of the true spirit of equality often results in identical

treatment models for men and women. We might do better to speak of equity or fairness rather than equality in the treatment accorded to diverse populations. An emphasis on equity rather than equality would entail a consideration of differences. From an equity principle, when people are in like circumstances, they should be treated alike, but when their circumstances are different, then equity and fairness may require differential treatment. This is what we learn from Rawls (1971), author of the definitive document on justice.

The reason that a gendered approach is crucial to the treatment of females within the criminal justice system is because girls are different from boys—physiologically, psychologically, and socially, and in more or less the same way, women are different from men.

In her argument for juvenile reform, Francine T. Sherman (2005) summarizes male-female differences:

Adolescent girls who are in the justice system differ from boys developmentally in their focus on relationships; their internalized responses to trauma in the form of depression, self-mutilation, and substance use; and their externalized responses to trauma in the form of aggression. In addition, the pathways girls take into the justice system differ from those of their male counterparts in the prevalence and type of trauma, family loss, and separation they experience....

Girls are more likely than boys to be detained for minor offenses and technical violations and are more likely than boys to be returned to detention for technical violations. Running away and domestic violence, both common in the lives of girls, tend to result in their detention and system involvement. All of these differences demand particular attention in criminal justice reform. (p. 16)

The fact that female offenders are seen as less of a security risk than male offenders opens the door to the possibility of a more flexible approach, one that is even community rather than institutional centered. Consider the next contrasting vignettes from the popular press. The first shows the personal dimension of our one-size-fits-all sentencing structure. The second confirms the value of suiting the punishment to the individual.

CONTRASTING CASE HISTORIES

One of the real-life stories told by organizers at the third annual Mothers in Prison, Children in Crisis rally was that of Sally Smith (Wirpsa, 1998). The

rally was part of a national campaign advocating alternative programs for women convicted of drug-related violations. Among the facts presented were these: Women are the fastest-growing population in prisons and jails; the majority had been sentenced for nonviolent crimes; and two-thirds of female inmates are mothers of dependent children. One such woman, caught up in the current draconian anti-drug laws is Sally Smith.

Sally had lived every moment in absolute terror of her husband. Sometimes she was beaten with a baseball bat and furniture and hospitalized; other times she was locked in a closet until her visible wounds healed. Her abuser was a drug dealer. When caught, he was able to reduce his sentence by implicating his wife as a conspirator. This is how Sally Smith came to be sentenced to life without parole under Michigan's mandatory minimum sentencing laws (Families Against Mandatory Minimums, 1997). This is not an isolated case, as any visit to a women's prison will confirm.

Sherri Lechner's story, highlighted in *Ozarks Magazine* by Ross (2006) is more uplifting, and typical of cases that are referred to a drug court. Drug court is a fairly recent development that provides close supervision and intensive treatment in lieu of imprisonment. A native of the Ozarks, Sherri had the miserable childhood typical of most addicts. Neglected for the most part by her father, Sherri was taken by him to live in Texas because her mother was going to prison there on a drug charge. In the six years she spent in Texas, she was molested multiple times by a relative and a family friend and was introduced to alcohol, cocaine, and methamphetamines at about age 10, also by a family member.

After failing the eighth grade, Sherri returned to Springfield, Missouri, where she lived with her brother, Mike, in a neighborhood known for drug activity, called "the Holler" on the west side of town. Her mother came and went, often "on the run."

Within a year, at age 15, Sherri became pregnant. She did not use during her pregnancy. After the birth of her daughter, her drug use escalated from smoking meth crystals to daily intravenous use. She sent her child to live with a friend because, she said, her drug life and relationship with a man were more important.

In trouble for drug possession and related crimes, Sherri prayed to become pregnant again so she could get off drugs. Her prayers were answered. Then to avoid going to prison, she agreed to go through Judge Calvin Holden's drug court. It took two and a half years, but she finally graduated from the rigorous program in 2002. Sherri occasionally tells her story at graduation for the drug court class. She now works as a substance abuse technician at the same treatment center where she had once been a patient. She is working toward her

GED. She married her boyfriend after he was released from prison, where he earned his GED and read the Bible. He works as a truck mechanic and began classes at Ozark Technical Community College last fall, working toward a degree in social work.

In the stories of these two women, one can find the interconnection between social policy and women's victimization, in the first instance, and between social policy and women's salvation, in the second. These examples, moreover, provide a stark contrast between progressive and standard sentencing practices, a contrast that relates to differing correctional philosophies. Sherri was given her life back including career planning and she did not lose custody of her children; Sally, however, became one of the many hidden victims of the nation's crackdown on drug use. Nor was she helped by falling in the clutches of the gender-neutral laws that prescribe equality of punishment for women linked with male criminals, the circumstances notwithstanding.

Another theme that transcends these vignettes is the fact that when mothers are sent away to prison, the stage is set for a pattern of shame and victimization that often passes through the generations. But if preventive measures are taken, as happened in Sherri's case, this pattern can be arrested. A second theme that emerges here is the role of a drug-using boyfriend in a woman's life, setting in motion a downward spiral into lawbreaking and punishment.

In this book, we examine such programs with a focus on their implications for female victims of crime and the offenders. The task of this chapter is to make a convincing case for specialized programming for girls and women who are in the correctional system. The subject of this chapter is therefore gender, with a focus on the female. Our starting point is an overview of research on the biology of gender and gender differences relevant to female offending. A consideration of right-brain/left-brain differences that relate to gender also is provided. We also explore how these differences are played out in behavior, both in the classroom and in pathways to crime.

We examine also the basic principles on which the programming is based, principles that go under the rubric of restorative justice. This chapter discusses the concepts that underlie this form of justice and build on them to formulate a paradigm that links progressive thinking in social work, the strengths approach, to its counterpart in criminal justice, the restorative justice model.

BIOLOGICAL FACTORS

A biological approach accepts that there are fundamental differences between male and female and that these differences interact with cultural norms to

influence differences in male/female criminality. Traditional and liberal (as opposed to radical) feminists who stress gender equality tend to disparage biological research, as Pollock (1999) suggests, because the theories hark back to the days when women were told they must fill their natural role as “mother of the species” and work in the home. The focus on sex differences in brain function, and especially such books that lack empirical rigor, such as *The Female Brain* by Louann Brizendine (2007), have been widely criticized by other scientists. In a recent *Newsweek* article highlighting Brizendine’s book, neuropsychiatrist Nancy Andreasen asserts that nurture plays such a huge role in human behavior that focusing on biology is next to meaningless. “Whatever measurable differences exist in the brain,” says Andreasen, “are used to oppress and suppress women” (2006, p. 46). Belknap (2007) agrees: “Central to the patriarchal ideology,” she suggests, “is the belief that women’s nature is biologically, not culturally determined” (p. 10). Historically, the focus on biological differences favored the male and held women to domestic pursuits and service jobs, and thus kept them out of the power structure.

As for myself, between science and ideology, I prefer to go with science. And scientific research tells us that much of what constitutes an individual’s personality is genetically and biologically determined. I do agree with Bloom, Owen, and Covington (2003) that separating biological effects from the social and cultural effects is problematic. In any case, following Belknap, we can draw a distinction between *sex* and *gender*; sex is biologically determined and gender is societally based. *The Shorter Oxford Dictionary* (2007) indicates that both terms refer to male and female differences but that gender refers to cultural attributes.

Unlike liberal feminists, who are apt to stress equality and sameness of the genders, equal pay for equal work and the like, and to refute any claims of difference that could be used to hold women down, some radical feminists have been more willing to appreciate, even to celebrate, the differences. From this perspective, biological differences, far from being denied, can be seen as favoring the female of the species (Goodkind, 2005; van Wormer, 2007). Many such women-centered theorists, according to Robbins et al. (2006), celebrate the power in “women’s ways of knowing” and “the woman’s voice.” This acknowledgment of difference is consistent with a scientifically based imperative to explore sex differences that manifest themselves in every system of body and brain (Gur, Gunning-Dixon, Bilker, & Gur, 2002). This position is interesting because it harks back to the Mother Goose nursery rhyme, popular in the early nineteenth century, that begins “What are little boys made of?” In any case, feminists of the liberal school, such as Goodkind (2005), find such a focus on difference objectionable because it fails to take into

account variation within and between genders. She warns against “essentializing” gender role differences and “portraying them as inherent and even biologically determined” (p. 59).

The position of this book is that in search of knowledge about human behavior, a holistic, biopsychosocial approach is essential. A holistic approach, such as that favored here, states that gender role difference is not a case of nature *versus* nurture but of *both* nature and nurture.

The basic biological factors that impinge on gender differences in criminality are informed by research on physiology and neurology. In making the case for gender-sensitive programming in corrections, a logical starting point is a review of some of the scientific literature on sex differences.

Research Based on Animal Studies

Evolutionists such as Wrangham and Petersen (1996) offer a challenge to traditional feminist cultural determinism. Their conclusions are bolstered by ape studies in which male chimpanzees compete aggressively for rank and dominance (to be the alpha male) while male predators attack the weak, and female chimps often bond with the predators. Is the frequency of male violence a mere artifact of physical strength? they ask. For answers, they look to human society.

Examining data drawn from global crime statistics on same-gender murder (to eliminate the factor of male strength), Wrangham and Peterson found the statistics to be amazingly consistent. In all societies except for Denmark, the probability that a same-gender murder has been committed by a man, not a woman, ranges from 92% to 100%. In Denmark, all the female-on-female murders were cases of infanticide. We need to remove our inhibitions based on feminist politics, these researchers argue. We need to study violence such as murder and rape as biological phenomena. The origins of male violence, as Wrangham and Peterson conclude, are found in the social lives of chimpanzees and other apes, our closest living nonhuman relatives. Because some of the great apes, specifically the bonobos, are considerably less aggressive, more research is needed on this matter. Although evolutionists like Wrangham and Peterson may tend to exaggerate aggressive tendencies in males, others draw on the link between testosterone and aggression in humans and nonhuman animals to explain the male propensity for physical aggression (Palmer, 2008).

Brain Research

The advent of human brain-imaging techniques such as positron emission tomography and functional magnetic resonance imaging has heightened

awareness of sex differences by revealing sex influences on brain functions for which the sex of participants was previously assumed to matter little, if at all. But these differences do matter, as neuroscientist Cahill (2006) asserts, and they are observed in gender differences in human behavior.

Brain research tells us what ideology cannot: that a sizable portion of human behavior is neurological. Women's brains are smaller than men's, but they have a higher processing quality. The region at the base of the brain that includes the amygdala is involved in emotional arousal and excitement is about the same size in men and women. But women have a significantly higher volume in the orbital frontal cortex than men do. This suggests, according to Gur et al. (2002), that when anger is aroused, women are better equipped than men to exercise self-control.

In his summary of recent neurological research, Cahill (2006) concludes that there are sex influences at all levels of the nervous system, from genes to behavior. Such research has shown sex differences in many areas of brain and behavior, including emotion, memory, vision, hearing, facial expressions, pain perception, navigation, neurotransmitter levels, stress hormone action on the brain, and diseases, including addiction. Recent animal research has increasingly documented new, often surprising, sex influences on the brain.

The picture of brain organization that emerges from Cahill's perspective is of two complex mosaics—one male and one female. Investigators are increasingly realizing that they can no longer assume that essentially identical processes occur in men and women, notes Cahill, nor that identical therapies will produce identical results.

Right-Brain/Left-Brain Research

Our brain consists of two separate structures—a right brain and a left brain—linked by a row of fibers. In most people, the left side specializes in speech, language, and logical reasoning (a fact that has been known for years due to the impact of strokes on this or the other side of the brain). The right hemisphere specializes in reading emotional cues (Cabeza, 2002). Much has been made of the differences in the kind of consciousness and in the functioning of the right and left hemispheres of the brain (Saleebey, 2001). The left brain is equated with reasoning while the right brain has been presumed, almost contemptuously, to be more primitive than the left, feminine as opposed to masculine.

Andreasen (2001) indicates that the right hemisphere can be considered a companion language region, as we know from direct functional imaging observations. She cautions us therefore against too much simplification in

breaking the brain into component parts. We almost never do only one mental activity at a time. Advances in neuroscience have taught us to what extent the brain is a system; no single region can perform any mental or physical function without coactivation and cooperation from multiple other regions. “The human brain,” notes Andreasen, “is like a large orchestra playing a great symphony” (p. 85).

Scientific research throughout the 1990s revealed significant differences in male and female learning styles and that these differences were related in part to brain structure. Shaywitz and Shaywitz (1995), for example, demonstrated through brain scanning that when listening to someone speak, men used the left side of their brains. Women, in contrast, used both sides of their brains to process the same information. The female brain, in other words, was found to be more decentralized. More recent studies, such as that by Cela-Conde et al. (2009) of Spain, asked males and females to examine photographs of natural landscapes. When they looked at a scene they deemed beautiful, both men and women had greater electrical activity in one region near the top of the brain. In women, this activation occurred in both halves of the brain, but in men it was restricted to the right hemisphere.

Women, as Saleebey (2001) indicates, seem to be more hemispherically egalitarian than men. We see this in the impact of strokes, which are more clearly identifiable—right and left—in men than in women. Compared to men, women have more pathways between the right and left brains and between the right brain and body. *The New Feminine Brain* by brain scientist Mona Lisa Schulz (2005) applauds this difference as a unique female strength. This hyperconnectivity between the sides of the brain, Schulz suggests, enables women to make right-brain emotional hunches and to talk about them with left-brain language.

Several independent studies suggest that, for gay men, cognitive performance on measures that typically elicit sex differences is shifted in a “female-like” direction (Rahman & Wilson, 2003). Klar (2004), in his investigation of brain hemispheres in male homosexuals, found differences that relate to left- and right-handedness and suggest a biological/genetic factor in sexual orientation. Research on the causes of transgenderism is pointing increasing to early brain development in the womb (van Wormer, 2007). There are thus many situations in which a child’s brain may say he/she is female while the genitalia are those of the male. Learning about the nature of transgenderism—and we still have a lot to learn—reinforces other research concerning the innateness of gender identity as male and female. The particular forms that such differences take, however (e.g., whether one

wears dresses or polishes one's toenails), are socially constructed and vary by society.

PSYCHOLOGY OF GENDER

During the prepuberty period, girls mature much faster than boys. More boys than girls have best friends at school while the quality of their friendships is different—girls' friendships have a higher level of intimacy, exchange of confidences, and caring (Newman & Newman, 2008). There is no doubt that the male/female physical differences are as pronounced as ever at this stage of development and that these differences coincide with psychological differences.

Studies of adolescent girls indicate that from the 7th to 10th grades, they regress in self-confidence and intellectual development (Pipher, 1994). Obsessions with body image and efforts to appeal to the opposite gender take center stage. Given the salience of pressures toward role conformity, especially in high school, girls who are gender nonconforming have an especially difficult time.

Traditional theories of moral development equated maturity with the growth of independence and detachment from the primary relationships of childhood. In a radical break with the Freudian school, Jean Baker Miller (1976), a psychoanalyst by training, authored the groundbreaking book *Toward a New Psychology of Women*. Miller argued that girls and women developed their sense of self through intimate relationships with others. Inspired by Miller's work and by her research on adolescent girls, psychologist Carol Gilligan further conceptualized gender differences in growth and development. Her now-classic study *In a Different Voice* (1982) revealed the key factors that went into young women's decision making (whether to have an abortion). Her findings effectively showed that the dominant theories of moral development were irrelevant to the life course of young women. Far from growing in the direction of social autonomy, young women were seen to develop their sense of self through intimate relationships with family and friends. Caring and connectedness were the transcending themes in their lives.

Gilligan's methodology consisted of listening to women's voices. From her interviews with 29 young women facing a decision on whether to end a pregnancy, she filtered out these three progressive stages of moral development: (1) orientation to personal survival, (2) goodness viewed as self-sacrifice, and (3) the morality of postconventional or nonviolent responsibility. At the most advanced level of maturity, women have learned to tend to their own interests

as well as to the interests of others. Gilligan concluded that women, unlike men, hesitate to prioritize justice in making decisions in that their decisions take into account the complexities of personal relationships.

A model can be considered useful and to possess power if it can explain both deviant or norm-breaking and normative behavior. In my view, Gilligan's model meets this test. Thus we can reverse her theory to explain its opposite—a failure in moral development can lead into criminal or other lawbreaking activity. This behavior can relate to the pursuit of selfish goals, such as stealing from another. Or the failure could represent involvement in a dysfunctional relationship or a surrender of the self to an addictive substance or behavior. Significantly, Gilligan (1979) referred to this paradox of interconnectedness in an early paper: "Women's moral weakness, manifest in an apparent diffusion and confusion of judgment, is thus inseparable from women's moral strength, an overriding concern with relationships and responsibilities" (p. 77).

In studies on problems facing adolescent girls, renewed attention was paid to Gilligan's (1982) thesis that the way girls think, interact, and develop is psychologically distinctive from the male based model. Due to the growing awareness by educators of the disparities in the treatment of boys and girls in the coed classroom, and in the juvenile justice system, programs were designed as non-coeducational, with the needs of females specifically in mind.

In the 1990s, a great deal of attention was paid to girls' psychological needs. The publication of works such as the American Association of University Women's (AAUW) (1995) study *How Schools Shortchange Girls* and Mary Pipher's (1994) *Reviving Ophelia* was accompanied by a wave of media accounts and follow-up studies questioning the premise that gender equality exists in U.S. schools. Evidence was provided in such studies as these to show that boys get the bulk of educational resources and are called on in class more frequently by teachers.

Why, asked Pipher (1994), are more American girls falling prey to depression, eating disorders, addictions, and suicide attempts than ever before? The answer, she found, is our look-obsessed, media-saturated society, a culture that stifles girls' creative spirit and natural impulses. Girls generally have a free spirit, she argued, until they reach puberty around age 11 or 12; then their confidence and energy drop precipitously.

Gilligan's model was tested in an academic paper that examined judicial rulings on the basis of gender. Martin, Epstein, and Boyd (2007) found that gender does make a difference in the rulings consistent with Gilligan's model. The key finding of the study was that when a woman was present on a judicial

panel, male judges were significantly influenced in how they decided the cases investigated—gender discrimination cases. The fact of male and female differences in approaches to ethical decision making was widely discussed when President Obama was choosing a nominee for the U.S. Supreme Court. Arguments concerning the importance of having women on the bench were built on the “different voice” theory of Carol Gilligan as well as on empirical research from the legal literature (Lithwick, 2009). A distinction was drawn between a male’s emphasis on autonomy and an ethics of rights and justice in resolving a case and women’s subscribing to an ethics of care with an emphasis on the social impact of a decision.

In short, the contribution of pioneers in the psychology of gender, such as Jean Baker Miller and Carol Gilligan, to moral development research and to relational theory has been of major significance to a number of fields. The foundation for what we now call gender-specific, gender-sensitive, or gender-responsive treatment for girls and women is here in these theories. Nevertheless, Gilligan’s theoretical model has been criticized by some feminists for its “difference feminism,” its emphasis on male-female psychological differences as well as the claim that women’s decisions are not based on a notion of justice.

SOCIOLOGY OF GENDER

The focus on girls’ needs shifted during the latter part of the twentieth century, as the literature and media shifted focus away from the neglect of girls’ special needs to the neglect of the needs of boys. It was not girls whose needs were being neglected by the school system, according to the stories in the popular press—it was boys. The title of Christina Sommers’ (2000) widely publicized book summed up the shift in sentiment: *The War Against Boys: How Misguided Feminism Is Harming Our Young Men*. A barrage of newspaper articles cited psychologists and other commentators to redefine the crisis in our educational system as a boy, not a girl, crisis (“Eleven-Plus to Be Abolished,” BBC News, 2004; Tyre, 2006). The statistics seemed to bear the commentators out. Boys drop out of school, are diagnosed as emotionally disturbed, and commit suicide 4 times more often than girls; they get into fights twice as often, they murder 10 times more frequently and are 15 times more likely to be the victims of violent crime (Kimmel, 2000). Attention deficit hyperactivity disorder, autism, and dyslexia are far more prevalent among boys than among girls.

By 2008, the AAUW came out with a second report drawing on statistical data of educational achievement that refuted claims of a boy crisis and

pointed to social class and ethnicity as the major factors in school failure (Strauss, 2008).

Shaywitz (2003) attributes the focus on boys' as opposed to girls' problems in growing up to their more troublesome behavior. Her own research in the schools found that teachers identified boys as the ones with learning problems. Yet when children were tested individually, comparable numbers of boys and girls were having problems. Arguing over which gender has the most problems is counterproductive. Education needs to be individualized to support the learning needs of both girls and boys and of students who do not conform to gender role expectations.

From the earliest age, little boys and girls have a sense of gender role expectations and the behaviors that pertain to their own gender. This sense is constantly reinforced by family members, what Saleebey (2001) refers to as "that steady hum of voices that tells boys and men to do everything we must to ensure that we are not girls" (p. 381). The masculine ethos, accordingly, is very strong and has a significant impact on behaviors. What are the typical norms for male adolescence? Saleebey lists: drinking four cans of beer in 30 minutes, picking fights, playing sports, driving recklessly, and making unsuccessful sexual advances. Where the father-son relationship is unhealthy or nonexistent, a constriction of emotions apart from expression of anger is often the result. In Latino culture, the code of male honor, or *machismo*, prevails; the man is defined as the provider, protector, and head of household (Colon, 2007).

In her later work on gender, *The Birth of Pleasure*, Gilligan (2002) shares insights on what happens to a five-year-old boy—repression—and the adolescent girl—repression as well—that reveal much about detrimental forces in the cultural landscape. Masculinity, she notes, often implies an ability to stand alone and forgo relationships, whereas femininity connotes a willingness to compromise oneself for the sake of relationships. Since the initiation of boys into the codes of masculinity intensifies around the age of five, while girls are given more leeway to express themselves until adolescence, there is a common ground here that is rarely recognized. The difference is that the girl, when she comes face-to-face with societal norms—what Gilligan calls "a process of revision"—the girl is more likely than the boy to name and openly resist the loss to her freedom.

Women share a common bodily experience of femaleness as well as the social oppression of sexism whether they are consciously aware of the fact or not. Girls are often socialized to assume subordinate roles and to value sexual attractiveness over academic or career success. Stereotyping of women's roles furthers oppression by making it hard for individuals born

female to develop a sense of self-worth and to find validation of their own needs.

GENDER DIFFERENCES IN OFFENDING

Just as the risk factors for female offending is gendered—related to trauma, relationships, and so on—so too are the offenses themselves. Research shows, for example, that girls and women are less physical in their aggression than boys, and their violence, when it occurs, is often rooted in significant relationships, whereas male violence is often related to dominance issues, gang rivalries, or the commission of other crimes (Okamoto & Chesney-Lind, 2003). The increasing use of detention for girls who in earlier years would have been treated in the community often mandates treatment according to the standard (male-centered) juvenile justice model.

For girls and women, the most common pathways to problematic behavior are based on matters of survival (psychological survival from abuse and physical survival in the face of poverty) in conjunction with substance abuse (Bloom, Owen, & Covington, 2004). Often the precipitating factor in a woman's criminalization is childhood trauma. The underlying depression related to the trauma may lead into later alcohol and other drug use and unhealthy relationships. This process of criminalization is most evident in the lives of (1) abused and runaway girls, (2), battered women forced to live and work on the streets, and (3) women addicted to substances, especially women of color (Gilfus, 2002). Part II of this volume—"Pathways to Crime"—explores the role of early childhood victimization in later substance use, unhealthy relationships, and criminality. This personal history of victimization provides further support for the argument that female offenders have issues unique to their gender that must be addressed.

According to the National Institute of Corrections, to help offenders become productive citizens, "we must revisit some of our efforts and acknowledge that gender makes a difference" (Sydney, 2005, p.1). The institute makes these recommendations for effective gender responsiveness:

- Acknowledge and accommodate differences between men and women.
- Assess women's risk levels, needs, and strengths and construct supervision case plans accordingly.
- Acknowledge the different pathways through which women enter the community corrections system.
- Recognize the likelihood that women offenders have a significant history of victimization.
- Build on women's strengths and values, including recognizing that relationships are important to women.

Acknowledge and accommodate the likelihood that women are primary caregivers to a child or other dependent. (Sydney, 2005, p. 3)

To summarize the discussion so far, the evidence presented of male-female gender differences in behavior and values, argues for specialized treatment tailored for girls' and women's special needs. Facilities and interventions already are designed with males in mind, and, although some improvements might be in order to help humanize those establishments for all offenders, our concern in this book is with the restructuring required to reflect the treatment needs of the minority of offenders who are female.

KEY CONCEPTS

The next concepts, except for the first one, are foundational to gender-specific policies and the gender-based therapies that are discussed in the following pages of this book.

Female Offender

I must admit to strong reservations about use of this value-laden term. It refers to girls and women who have gotten into trouble for behavior that is against the law. Included here are juveniles whose behavior, such as running away, are status offenses rather than crimes. The incongruity of this term with the strengths perspective is obvious because of the negative connotations and the fact that the label puts the sole responsibility on the girls and women for being in trouble with the law. Canadian feminist writers use the less pejorative term *women in conflict with the law*. That term does not include girls, however, and makes for clumsy wording in the sentence structure. *Convict* has certain advantages in this regard in that it puts the onus on the state for the label and can be appropriately used for persons who are innocent of any wrongdoing, as many so-called offenders are. The term could not be used to refer to juveniles, however, and the connotations are more negative than even the term *offender*. So for want of a better term and because other feminist criminologists and the federal government use the term *female offender*, I reluctantly have decided to use it as well.

Gender Sensitive, Gender Specific, Gender Responsive

These terms, which I use interchangeably in this book, refer to policies and interventions that take into account girls' and women's special needs by virtue of their gender. As the reader will note, this chapter utilizes the term *gender* in its biological as well as psychosocial sense. This is in contrast to the focus of

most other feminist scholars who study gender in terms of economic and social disadvantages and differentiate gender, which is social, from sex, which is used in a biological sense (Belknap, 2007; Robbins, Chatterjee, & Canda, 2006). *The Shorter Oxford English Dictionary* (2007) defines *gender* in two ways: as a form of grammar as masculine or feminine for a noun, and for sex. *Gender* relates to the categories of “the two sexes.” The term is derived from Latin from *genus* for “race, stock.” According to this definition, it does not seem incorrect, therefore, to study biopsychosocial aspects of gender, to refer to both physiological and social attributes of this sex category. A focus on female gender usually refers to behaviors that are culturally based, whether they are derived from biological distinctions or not. Consider rituals surrounding pregnancy and childbirth, for example, which differ across societies. My point is that the category of female gender often brings our attention, at least indirectly, to aspects of female physiology and developmental issues, such as menstruation and childbirth, and vulnerabilities to certain crimes, such as rape.

An article on gender in *Social Work* by Barb Burdge (2007) argues that social workers should reject the traditional dichotomous constructs of gender altogether in favor of a more accurate and affirming conceptualization. Greater flexibility in this regard would be a means of eliminating gender oppression, as Burdge further suggests. From her perspective, the traditional either/or concept that dichotomizes gender into male and female is merely a social construction “supposedly reflecting ‘natural differences’” (p. 246). Indeed, there is much overlap between the characteristics traditionally assigned as male and female, while society does tend to exaggerate gender distinctions. And we can certainly agree that patriarchal culture punishes gender nonconformity and “spawns a hierarchy of gender categories in which the non-male category is devalued” (p. 246).

Burdge’s recommendation that our conceptualization of gender be expanded to include transgendered persons (people who are anatomically of one sex but who strongly feel that they belong to the other sex) is well taken: Many individuals do exist “outside the gender binary,” and we need to provide a viable identity option for such persons. Some Native American tribes had a revered category for “two-spirited” persons who were believed to possess spiritual powers. This is in sharp contrast to the dominant U.S. society’s attempts to force individuals to conform to the gender to which they were ascribed at birth. The American Psychiatric Association (2000), for example, includes in its listing of mental disorders “gender identity disorder.”

In recognition of the fact that a flexible understanding of gender is essential to be inclusive of all personality types and identities, we still need a female-centered approach to meet the needs of girls and women in the

system. These needs are related both to socio-emotional concerns and to health issues.

Programming that is gender sensitive would offer a comprehensive, gender-based design that incorporates both the treatment interventions and the physical environment, including the architecture of the building in which the treatment and/or confinement takes place. Gender-sensitive treatment can of course be oriented toward males to help them work on issues related to their sex, such as masculinity and stresses pertinent to being a boy or man in our competitive society. Much of what passes for gender-neutral programming, such as boot camps and medium-maximum-security-level prisons is really oriented toward training and punishment of male offenders. Whether this kind of tough treatment is apt to bring out the best qualities in offending males or whether it is more likely to reinforce their worst qualities is a matter that deserves consideration.

Most definitions in the correctional literature speak of gender-specific or gender-responsive programming as programming tailored to the special needs of girls in detention. For example, the project of the Annie Casey Foundation on detention reform describes gender-responsive practices in this way:

Gender-responsive detention reform should include practices, policies, and programs that address: (1) systemic inequities that result in inappropriate confinement of girls (for minor offenses, technical violations, family chaos, and as the result of lack of cross-system collaboration); and (2) girls' needs and pathways into detention that are different from those of boys. Reform of systemic inequities and development of gender-responsive detention and disposition alternatives should minimize girls' returns to detention, prevent detention "dumping," and reduce detention awaiting placement. (Sherman, 2005, p. 40)

Exemplary programs described in Sherman's report provide community services that are strengths based (offered in San Francisco and Boston) and the providing of home-based alternatives to detention such as that offered by Philadelphia's Department of Human Services.

For the purposes of this book, it is helpful to delineate what gender-sensitive treatment is not. (See Table 1.1.)

A basic assumption of this book and of gender-based counseling is that in the pathway to crime for an adolescent, there is no clear-cut dichotomy between victim and offender, that victimization and offending are interactive and interconnected. A disproportionately high percentage of women in prison

Table 1.1. What Gender-Sensitive Treatment Is Not

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- Maternalistic or paternalistic treatment, such as that which existed up until the 1970s, in which female offenders in the system were infantilized in institutions and denied equality in employment.
 - Advocating a double standard in sentencing practices in the belief that girls need more protection than boys, such as from running away.
 - Treatment solely for females. (There are gender-specific programs being developed for males as well.)
 - Necessarily feminist. (Many legislators and other public officials and treatment providers advocate gender-based therapies for female offenders based on their knowledge of gender differences rather than out of a feminist philosophy.)
 - A focus on just one aspect of a girl's or woman's life (e.g., on cooperative behavior or relationships).
 - A therapy that attributes all personal problems to gender-related stresses and gender roles. (This treatment attends to a combination of factors, such as race and class, simultaneously.)
 - Hierarchical. (Consistent with women's leadership style, a collaborative relationship is developed between the woman and the treatment provider.)
 - Focused exclusively on the "here and now" to the neglect of concerns from past experiences.
 - Limited to the psychological dimension in therapy to the neglect of other concerns—for example, educational and relational.
-

are victims of early childhood sexual and physical abuse. As described earlier, the link to crime might have been via substance abuse originating in adolescence and/or self-destructive relationships with drug-dependent criminal men. Each negative choice or entanglement reinforces the others.

Gender, Race, and Class

Woven into this book is the theme of power relations in the society that must inform all our discussions of criminal justice. Just as the relationship between the personal and political is interactive, so is the link among gender, race, and class. In working with women of color, of any color, it is necessary to be aware of the intersection of gender, race, and class rather than the power of each factor separately. It is on the basis of gender, race, and class in combination that an individual is deemed deserving of protection and respect or as a threat and/or burden to society. Our understanding must be multidimensional, therefore. Thus we can come to see that a woman, say, a victim of domestic abuse, who is both African American and poor inhabits a world in which the forces of gender, race, and class reinforce each other simultane-

ously; the effect of membership in multiple categories is synergistic rather than additive. Beth Richie's (1996) notion of *gender entrapment* of battered Black women reveals how behaviors that are highly functional in one milieu can be problematic in another. Richie, who based her understanding on in-depth interviews with battered African American women at the Rikers Island Correctional Facility, defines this term in this way:

I use gender entrapment to describe the socially constructed process whereby African American women who are vulnerable to men's violence in their intimate relationship are penalized for behaviors they engage in even when the behaviors are logical extensions of their racialized gender identities, their culturally expected gender roles, and the violence in their intimate relationships. (p. 4)

Gender, race, and class are constructs highly relevant to criminology in that the ultimate social control of the oppressed is carried out in the criminal justice system. All the state's institutions—the law, the social welfare system, and the media—are controlled by the dominant group. Inequality is built in the system and legitimized through the mass media. The most striking example at the present time is the typical female offender: a drug-dependent, poor woman of African American or Latino heritage.

Equality with a Vengeance

This term, introduced in criminal justice literature by Chesney-Lind and Pollock (1994) and Bloom and Chesney-Lind (2000), refers to the gender-blind treatment of women by the major institutions of society. Such treatment was an outgrowth of the liberal feminist theme of seeking equal treatment for men and women since they were equal under the law (Failing, 2006). Unintended consequences have resulted. Gender-neutral policies have dumped single mothers off the welfare rolls while gender-neutral mandatory sentencing for drug law violation has brought unprecedented numbers of women and especially poor and minority women into prison. Strict adherence to an equality standard for these women subjects them to discipline according to the male model without allowance for their motherhood roles or in many cases their history of personal victimization. A flawed notion lurks beneath the current policies: the assumption that women have achieved full equality and that men are suffering the consequences. The brunt of the backlash against policies of affirmative action that have benefited women at the higher echelons is borne by the women least able to take

advantage of the new professional opportunities and the least likely to identify themselves as feminist. Negative press claims of violent girls and women further aggravates the situation (see Chapter 3).

PARADIGM SHIFT

The history of social justice is a history of paradigm shifts related to our conceptions about the nature of crime and the purpose of punishment. From the 1980s through the first part of the twenty-first century, the ascendancy of the conservative right in conjunction with corporate business interests built on the doctrine of free market principles contributed to the development of backlash politics. The erosion of social service benefits in the welfare state has been matched in the criminal justice system by the passage of draconian laws against drug use and the mass building of medium- and maximum-security prisons nationwide. The personal targets of the attack included racial and ethnic minorities, immigrants, women on welfare, and users of illicit drugs.

Within the criminal justice system, the antifeminist, anti-minority rights backlash has been disguised through various code words, such as equality, without any allowance for gender differences, family values, and the war on drugs. In the writing of the mandatory sentencing laws and laws related to women's reproductive functions, the patriarchy joined with conservative politicians to reinforce class, gender, and race privilege. The contemporary media focus on male victimization and female violence did not help the situation. In response to a negative portrayal in the media of the founders of the women's movement, the younger generation grew wary of the term *feminism* itself.

Change in ideology often precedes changes in practice, and vice versa. For example, public intolerance of secondhand smoke helped spawn new laws; new laws in turn reinforced attitudes about public smoking. Today, regarding the treatment of offenders, there is evidence of pending change at both levels. From grassroots activity to the highest levels of government, rehabilitation is returning to the national consciousness. Although the statistics concerning incarceration rates would seemingly indicate otherwise—in 2008, the total jail and prison population soared to over 2,300,000 (West & Sabol, 2009)—there is some indication that America's long-standing fervor for harsh punishment is on the decline. Evidence for the shift in national consciousness is revealed in these developments:

- The number of executions in the United States has declined markedly each year from 1998 (BJS, 2009a).
- Surveys show that a large majority of respondents favor drug treatment over incarceration (Curley, 2009).

- Congress passed the Second Chance Act to help inmates return to their communities (“Shrinking the Prison Population,” *New York Times*, 2009).
- The new drug czar favors greater funding for drug treatment including drug courts instead of the war on drugs (Leinwand, 2009).
- Congress is expected to soon reauthorize the Juvenile Justice Delinquency Prevention Act, which emphasizes gender-responsive treatment for girls (American Bar Association, 2009).

At the same time as these promising developments are taking place, however, arrest rates for juvenile females are soaring, and conditions in confinement for girls and women continue to be poor. In light of the difficulties of transforming a male-based system to one responsive to the needs of females, there is a great deal of work to be done.

SUMMARY

The case for offering gender-sensitive treatment to girls and women in trouble with the law was bolstered, in this chapter, through a review of biological, psychological, and social facts about female growth and development. Gender-sensitive treatment, following Gilligan’s insights, means attending to women offenders’ experiences as relational human beings and recognizing a primary problem that girls and women face is fear of being alone without a significant other on whom to depend.

Gender-sensitive strategies in community correctional organizations include attention to such intimate relationships, family-of-origin issues including personal violence, self-concept, cultural issues, addictive and mental disorders, employment, child care, and parenting. Within residential settings, the introduction of gender-specific programming has far-reaching implications for shaping service delivery. From assessment and classification of women in the system to treatment programming and counseling practices, female-friendly strategies can be highly effective in engaging participants. Now we turn to a consideration of the relevance of such strategies for working with girls who have gotten into trouble with their families and with the law.