

Sexism In The Juvenile Justice System

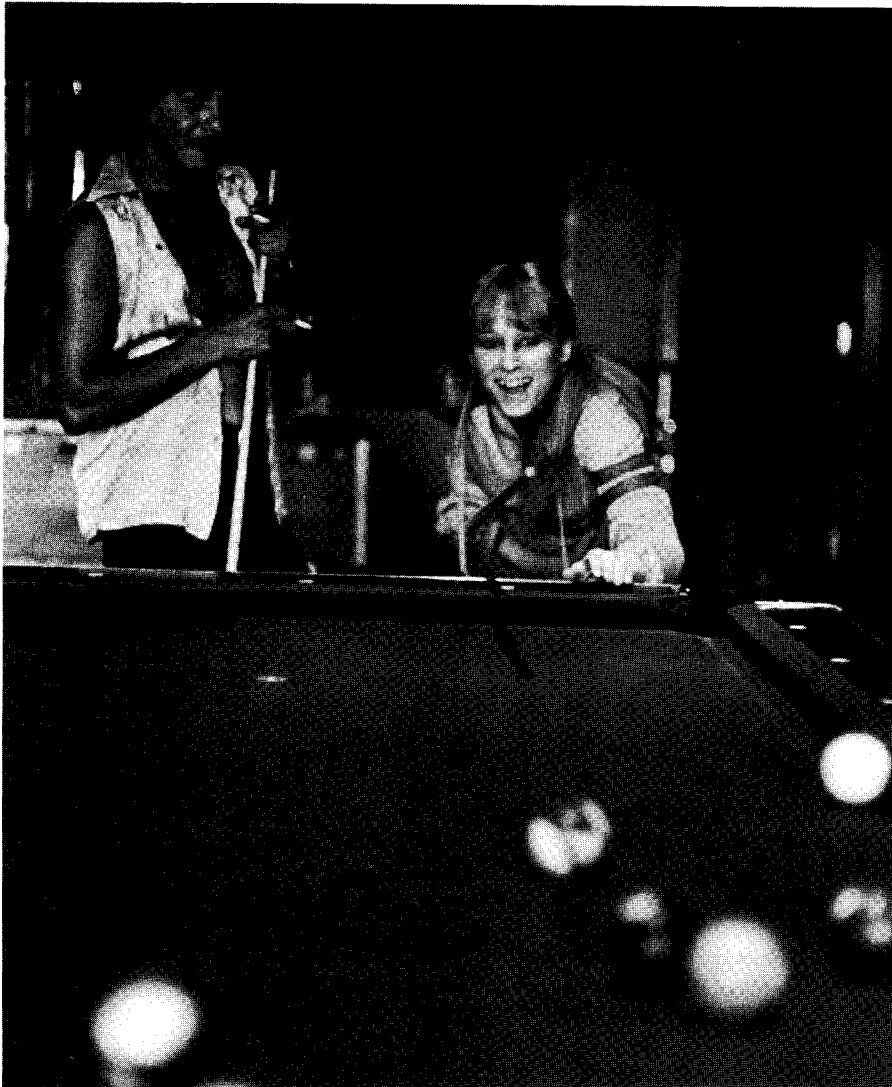


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Cet article montre les différentes attitudes vis à vis des jeunes délinquant(es). Le système de justice voit les jeunes gens comme étant en conflit avec leur environnement et étant à la recherche de la perfection alors qu'il voit les jeunes filles comme ayant des problèmes d'assimilation. Il y a aussi une tendance à voir la délinquance féminine d'un point de vue sexuel.

Les examens internes font partie intégrante des procédures juridiques pour les filles et on présume qu'elles ont besoin d'être protégées contre la sexualité des autres et la leur propre.

Il y a aussi plus de chance pour les filles d'être évaluées par un psychiatre car on considère qu'elles ont tendance à s'autodétruire. Le système pense qu'un comportement hostile est normal pour un garçon mais non pour une fille.

To be adjudged a juvenile delinquent in Canada indicates that a child or youth is in need of guidance and proper supervision. A juvenile delinquent is a child who violates any municipal by-law or ordinance or any provincial or federal statute, is sexually immoral or commits any similar "vice" or "is liable by reason of any other act to

be committed to an industrial school or juvenile reformatory under the provisions of any federal or provincial statute" (Juvenile Delinquents Act).

The concepts of being in a "state of delinquency" and of being "in need of guidance and supervision" may be seen to have contradictory origins. The idea of "care and protection" of the young person is derived from the British system of *parens patriae*, in which the state acts as and for the parent. The young person committing an offence is viewed as not being responsible for his/her actions and therefore s/he is not subjected to court procedures and the possibility of imprisonment. Behaviour such as "sexual immorality," running away from home, truancy, and incorrigibility, all of which are, or have been, defined as status offences and are offences for which an adult could not be charged, also call for supervision, care, and/or protection.

What is contradictory under the concept of *parens patriae* is the fact that over the past seventy years, since the first Juvenile Delinquents Act was enacted, a sizable proportion of young people have lost their liberty in the name of humanitarianism. The juvenile delinquent has been committed, for any of a wide number of reasons, to a training or reform school, which is seen by most people as the young person's equivalent of a prison. Many of these children committed crimes for which an adult would be charged, while others were "out of control," underage youngsters whose behaviour was unacceptable to either their parents, the school, the child-welfare agency, or other social-control agency which set standards for what is acceptable youth behaviour. The Juvenile Delinquents Act enables the state to take the necessary action to control these children. A new act, the Young Offenders Act, is before parliamentary committee. This act endeavours to correct the most blatant inequities against children which the Juvenile Delinquents Act allowed.

Many authors who write about



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crime/delinquency appear to be writing about two distinct species when they write about males and females. They stereotype male/female behaviour based upon traditional views of what men/women do or should do. The male delinquent is viewed as being in conflict with his environment, as striving toward mastery of the world about him, while delinquent girls are viewed as having problems in their relationships with others. Just as there are different pathways or careers followed by males and females within the education system which leads to different jobs in the labour force and roles in the home, a streaming process can be seen to be in operation within the criminal and juvenile justice systems.

There are expectations and requirements within society that males and females should, and do, behave differently. Stereotypes become reinforced and prescriptive measures are hardened by being placed into a "scientific" context. Psychologists and psychiatrists look for, expect, and require differences. These attitudes overlap into all areas of society, including the area of "deviant" behaviour. The stereotyping of males as aggressive and active and females as passive and submissive is the basis upon which the greater involvement of men within the criminal justice system is

explained. Aggressing against the law is more in keeping with the male role. The criminal activities for which numbers of women are confined (self-victimizing narcotics and alcohol-related offences) fit the concept of the passive, self-destructive nature of women. Female and male behaviour is reinterpreted to conform to preconceived conceptions of appropriate behaviours for females and for males.

While much has been written about the male delinquent, the female delinquent has been of much less interest to researchers. There has been a tendency to describe female delinquency in terms of sexual delinquency. Another tendency has been to exclude female offenders or to subsume findings on them within the general category of delinquent. Some researchers have questioned the validity of the belief that female delinquency is essentially sexual in nature and have directed our attention to self-report studies which show not only greater variability in the delinquent behaviour of juvenile women but also decidedly less difference between male and female delinquent behaviour than is indicated by official statistics. Official statistics tend to reinforce societal beliefs and attitudes about the behaviour of the sexes and indicate to us how the justice system re-

sponds to behaviour defined as delinquent. These statistics also indicate who within the population fits into the concept of "delinquent youth." What follows briefly explores the statistics on juveniles and the responses of various officials to male and female youth who enter the system.

Statistical data for 1978 for Canada indicate that, of the 78,078 offences for which male juveniles were charged, almost 82 per cent were criminal-code violations while 3.8 per cent were for status offences such as immorality and vice, liquor-related offences, and education-related offences. Criminal-code offences were 64.2 per cent of the 12,619 charges against juvenile women, while status offences were 21.8 per cent of their charges. The juvenile male-female ratio for Canada for charges on all offences was 6.2 to 1. Of those brought to court 85.7 per cent of male and 83.8 per cent of females were found delinquent. The male-to-female delinquency findings for Canada was 4.4 to 1. Thus juvenile females charged for delinquency across the country had a somewhat greater chance of being adjudged delinquent than males charged for delinquency. This is particularly interesting considering that females have fewer criminal-code charges and more status-offence charges than do males. Prior to the repeal of acts enabling courts to place juveniles in correctional institutions for incorrigibility, being out of control, and so on, Canadian data showed high proportions of female placement in training schools. In 1973 the male-to-female ratio in training schools was 1.9 to 1 compared with a charge rate of 5.2 to 1 for juvenile males to females.

While there are indications that this disparity has altered considerably of more recent date, there is evidence that the placement of females out of their homes for out-of-control behaviour remains disproportionately high. Placement for such behaviour is made to group homes rather than training schools. Evidence is also available that girls have been kept in training schools for longer periods of time than have

boys and that girls are less likely to be returned to their own homes after placement than boys.

Even when girls are charged for criminal behaviour, it is often their status-type behaviour that is emphasized. Chesney-Lind in her Hawaiian study discovered that girls referred to court for car theft were often questioned about their sexual activities and, she found, internal examinations were a regular part of the procedures taken with these young women. A number of studies from a wide cross-section of jurisdictions have clearly located that the juvenile-justice system has concerned itself with the sexual/out-of-control behaviour of young women and that status offences are responded to more harshly within the juvenile-justice system. One author states: "girls are treated as though they are in need of protection from their own or others' sexuality."

A 1981 study conducted in the juvenile-justice system of Metropolitan Toronto by this author showed that there is a greater tendency to refer female juveniles for psychiatric assessment than male delinquents, that the school system uses truancy charges in order to bring girls defined as being "out of control" into the court system for psychiatric assessment and out-of-home placement, that girls are placed in detention centres for their status offences and behaviours much more frequently than are boys. It was found that officials within the system maintain distinct images of who fits the category "delinquent." Males, especially lower-class males, from sole-support families, living in certain neighbourhoods and, often, in subsidized-housing complexes, were defined as being "delinquent." Females were seen as being "self-destructive" rather than delinquent. Such a perspective does not acknowledge the young women who *do* participate in aggressive behaviour and who may be desirous of gaining mastery over their environment, other than by defining their behaviour in pathological terms, because it is not "sex-appropriate." At the same time, male self-destructive behaviour is

cast aside as inconsequential and considered anti-social. However, paradoxically, suicide rates, alcohol- and drug-abuse rates are higher for males in the general population and more young males are seen in psychiatric clinics than are young females, which suggests that there is such a thing as self-destructive male behaviour.

Young women who come to juvenile court are young and poor. Status offences involve their acting in a way that is too old for their legal age and these juveniles are often referred to as "pseudo-mature." Anger, aggressiveness, and hostility are not acceptable stereotypical female responses. Female sexuality is viewed in much more passive terms than is male heterosexual behaviour, and indeed the issue of heterosexual behaviour as practised by males does not come to court unless there is an element of violence involved. The court emphasizes female victimization in sexual terms and also male sexual violence. It is very clear that the juvenile-justice system has distinct operating standards which are different for boys and girls.

Efforts to rewrite the Juvenile Delinquents Act have taken many years because of controversy about what such an act should emphasize. Essentially, disagreements have surfaced on issues which may be described as child-welfare and "in-the-best-interest-of-the-child" concerns versus legal and civil-rights con-

cerns. The Young Offenders Act is before parliamentary committee and may be finally legislated during 1982. This act will remove status offences from the Young Offenders Court; however, the problems will not just go away. Each province will still be required to handle provincial concerns such as status offences (including truancy), and alternative ways of dealing with such issues are being sought.

However, as long as there are sexist attitudes concerning status issues on the part of officials involved with the system, girls will be brought to court, whether on criminal charges or for status offences, because the underlying concerns are their sexual activities and/or out-of-control behaviours. While laws may change, paternalistic attitudes remain with us. The next few years will show to what extent the justice system and provincial child-welfare system are prepared to change to meet the realities of today's understandings about sex roles. A review of existing services and of the needs of the adolescent women who enter our child-welfare and juvenile-justice system is required in order to determine what programs and services are needed by these young women. Paternalism must be replaced by a system of services and programs which enables these young women to gain the skills and abilities to take control over their own lives rather than being viewed and treated as helpless victims.

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