

Second Edition

DOING JUSTICE, DOING GENDER

Women in Legal
and
Criminal Justice
Occupations



Susan Ehrlich Martin
Nancy C. Jurik

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Second Edition

DOING JUSTICE, DOING GENDER

*Susan Martin dedicates this book to her late mother, Harriette Ehrlich,
and to her grandchildren, Jacob, Rose, Oliver, and Nicole.*

Nancy Jurik dedicates this book to her mother, Carolyn Nekuza Jurik.

Acknowledgments

This revised version of *Doing Justice, Doing Gender* is the outcome of the equal collaboration of the authors who undertook this revision at the urging of Sage editor Jerry Westby. Our goal, as in the initial version, is to produce a readable but thorough and theoretically grounded examination of the changes that have occurred in the criminal justice organizations, occupations, and women's work in them both over the past 40 years and, in this edition, in the past decade. As our readers will discover, there is both good news and bad news. The numbers of women in policing, legal careers, and corrections work have grown, and more women are moving up the career ladder to become supervisors and partners in law firms. Nevertheless, discrimination and informal barriers to women's achievements in these occupations continue. In this edition, we have maintained our theoretical perspective and the organizational structure of the earlier book. We have updated the material by discussing new trends in each of the occupations and how these affect women, and we have included new research findings and statistical material. In addition, given growing globalization and the presence of women in justice occupations worldwide, we have included some materials on women in each occupation from an international perspective.

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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

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).

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