



# CRIME CONTROL AND WOMEN

Feminist Implications  
of Criminal Justice Policy

Edited by  
**Susan L. Miller**

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SAGE Publications

*International Educational and Professional Publisher*

Thousand Oaks London New Delhi

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*For information:*



SAGE Publications, Inc.  
2455 Teller Road  
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SAGE Publications Ltd.  
6 Bonhill Street  
London EC2A 4PU  
United Kingdom

SAGE Publications India Pvt. Ltd.  
M-32 Market  
Greater Kailash I  
New Delhi 110 048 India

Printed in the United States of America

*Library of Congress Cataloging-in-Publication Data*

Main entry under title:

Crime control and women: Feminist implications of criminal justice policy /  
edited by Susan L. Miller.

p. cm.

Includes bibliographical references and index.

ISBN 0-7619-0713-0 (cloth : acid-free paper). — ISBN 0-7619-0714-9  
(pbk. : acid-free paper)

1. Criminal justice, Administration of—Social aspects—United States.
2. Sex discrimination in criminal justice administration—United States.
3. Female offenders—United States. 4. Prisoners' spouses—United States.
5. Women—Crimes against—United States. 6. Social control—United States.
7. Feminist theory—United States. I. Miller, Susan L.

HV9950.C74314 1998

364'082'0973—dc21

97-45284

98 99 00 01 02 03 04 10 9 8 7 6 5 4 3 2

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## Foreword

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❖ Thoughtful observers of current political trends cannot help but note a fundamental but largely undebated change in our national agenda. Without much fanfare, mindless spending that was once associated with the “cold war” is being replaced by that for a new war: the “war on crime.”

Susan L. Miller’s timely collection of essays *Crime Control and Women* suggests that women have an important, though often unrecognized, stake in this new war, and that women’s concerns must be placed at the center rather than at the periphery of any discussions of crime and crime control. That is precisely what the essays in this volume accomplish.

What is women’s stake in what seems, on the surface, a set of policies driven by a public and well-publicized agenda to get tough on crime, particularly violent crime, which virtually all acknowledge is an almost exclusively male problem? Indeed, given that women are far more likely than men to fear criminal victimization, it would seem at least superficially that women would welcome the protection offered by the renewed focus on criminal victimization.

Well, as this excellent set of readings illustrates, things are not quite that simple. First, crime is down, not up, in U.S. society. A recent study by the American Bar Foundation (1995) found, for example, that with reference to rates of violent crime, “in no instance is the rate higher than 20 years ago and in most categories it is now substantially lower.” Murder rates, as an example, were higher in 1933 than in 1992 (American Bar Foundation 1995, p. 4). Similarly, recent data released by the U.S. Department of Justice show that murder, rape, robbery, and aggravated assaults are at a 23-year low (Bureau of Justice Statistics, 1997a, p. 1).

Although crime levels have remained relatively stable or decreased, the public perception is clearly that crime is out of control. Between 1989 and 1994, for example, the proportion of citizens who reported that they were “truly desperate” about crime increased from 34% to 62% (Madriz, 1997, p. 6). As Lynn S. Chancer notes in this collection, the public fear of crime is driven more by media constructions and political grandstanding about the crime problem than it is by direct, personal experience. And as Mona J. E. Danner notes about one of the high profile “solutions” to the crime problem—“Three Strikes and You’re Out”—women definitely need to ask what we will pay for this pitch.

Well, for starters, the pitch is for prisons and prison construction, and the cost here, both socially and fiscally, is staggering. In 1930, the number of U.S. citizens in state and federal prisons stood at just over 100,000. It took about five decades for that figure to double. Then, in 1980, the U.S. love affair with incarceration began in earnest; in that decade alone, the number of men and women in prison nearly tripled. By 1996, the number of men and women in U.S. prisons stood at a staggering 1,182,169, with about another 500,000 of our citizens in jail (Bureau of Justice Statistics, 1997b, p. 1).

The bill that we are paying for the current imprisonment binge is also immense. Mauer (1994) estimates that the cost of incarceration is \$26.8 billion annually. A conservative estimate is that each new prison cell costs about \$100,000 to build and about \$22,000 per bed to operate (Donziger 1996, p. 49). As a direct result of the building boom in corrections, corrections budgets are by far the fastest growing segment of state budgets—increasing by 95% between 1976 and 1989. During this same period, state expenditures for lower education dropped slightly (2%), higher education dropped by 6%, and state expenditures for welfare (excluding Medicare) dropped by 41% (Donziger 1996, p. 48). This means that monies that once went to support low-income women and their children in the community, as well as the dollars to provide them with educational opportunities, are being cut back dramatically to fund jails and prisons.

Political and media constructions about crime are clearly racialized, which has laid the political groundwork for both the “solution” to the crime problem as well as those who are constructed as the “criminals.” *Crime* has become a code word for *race* in the United States. Currently, nearly 1 out of 3 African American boys and men between the ages of

20 to 29 are under some form of correctional supervision (Mauer & Huling, 1995, p. 3).

As a result, correctional supervision, especially detention and imprisonment, seems increasingly to have replaced other historic systems of racial control (slavery, Jim Crow laws, ghettoization) as ways of keeping women and men of color in their “places” (Schiraldi, Kuyper, & Hewitt, 1996). This clearly has consequences for both girls and boys, women and men who are born nonwhite in a country with a lamentable history of racism. One scholar, commenting on this trend, observed, “‘prison’ is being re-lexified to become a code word for a terrible place where blacks reside” (Wideman cited in Schiraldi, Kuyper, & Hewitt 1996, p. 5). And this is not an understatement.

And as Bush-Baskette clearly documents in this volume, although the public construction of the criminal is male, the hidden victims of many of the get-tough policies have been women, particularly women of color. Increases in women’s imprisonment have outstripped male increases for every year, largely because, although “violent” crime captures the headlines, the upcriming of drug offenses, combined with dramatic changes in sentencing guidelines, has resulted in a huge increase in the imprisonment of women of color, particularly African American women.

Have these changes, though, brought about a safer world for women? Well, actually, not. A closer look, even at the victimization data mentioned earlier shows that the great reduction in criminal victimization has occurred in areas of male victimization, whereas women’s victimization has either remained stable or actually increased (Bureau of Justice Statistics, 1995, p. 1). Why? Because the violence women experience is often at the hands of someone they know, and macho crime policies (whether they invoke the images of boot camps or wars) do little to protect women; in fact, most of the widely accepted understandings of women’s vulnerability, as Elizabeth A. Stanko observes in this volume, tend to mislead women completely.

What will make for a safe society? Certainly, as the editor suggests in her opening essay, a return to a concern for social justice is an essential starting point. We also need to look past punitive and masculinist methods such as punishment-imprisonment to other forms of restorative justice, such as the community conference methods described in this volume by Braithwaite and Daly. In addition to healing rather than

harming the social fabric, such interventions are also far more affordable. This collection ably demonstrates that women do have a stake in redirecting the current macho war on crime, which more often than not harms women while also fueling racial tensions and exacerbating poverty. Our work can, in fact, lay the groundwork for more humane ways to reduce both crime and victimization by putting justice first and hatred last.

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# Acknowledgments

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◆ The idea for this book began over coffee conversations at the American Society of Criminology conference in Boston. A group of criminologists wondered aloud why no one is looking at the consequences of the popular crime control policies and how they will affect women. Feminist scholars have, in fact, been contributing to this dialogue, yet these ideas and research are not collected in any single forum. It has been a joy to gather and solicit the chapters that comprise this collection. Together, they provide a road map of issues to continue examining and raising questions about—over more coffee, in classrooms, in journals, and in the public discourse.

Books cannot be written in isolation from the encouragement and feedback of others. I have been fortunate to have such support. Most important, I would like to thank the contributors to this collection, for without their enthusiasm and thoughtful scholarship, the book would not have come to fruition. I owe a big intellectual debt to other criminologists whose work embraces the discussion of policy implications of criminological theory and research. I also want to thank my students at Northern Illinois University and at the University of Delaware for their eagerness to understand the relevance of policy development and implementation. I am sure they can recite this refrain in their sleep: “What are the ramifications of this policy? Who is left out? What can we do to improve on this?” Claire Renzetti, Kay Forest, and Dan Curran were all optimistic and upbeat sounding boards as I navigated my way through this project. Terry Hendrix and Dale Grenfell had faith in the value of this book and helped greatly with the operational end of the process.



Last, I would like to thank my parents for raising me to value social justice and for encouraging my efforts to seek answers to complicated issues.

# Introduction

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◆ This is a book that I wish did not have to be written, for it is a book that reveals the limitations of current criminal justice policies. Crime control policies of the 1990s reflect a nation afraid of crime, eager to embrace and support punitive policies, regardless if the policies are driven blindly by political expediency, popular sound bites, and sloganeering, with most policies oblivious to the impact they exert on citizens who vary by gender, race, and social class. Many criminal justice policies have not been informed by accumulated knowledge drawn from empirical research, nor do they demonstrate a commitment to social justice. The chapters contained within this collection, however, provide just such crucial knowledge. Some chapters in this book speak about the women and children whose lives have been affected by the men they love or indirectly hurt by policies designed to control people other than themselves. Other chapters confront current policies and critique their underlying philosophy and the (perhaps) unintended consequences of these policies or strategies. Two chapters look at discourses about crime and victimizations in the public arenas by examining police safety campaigns aimed at women and the print media's treatment of sensational crimes involving the nexus of social class, race-ethnicity, and gender. Overall, the scholars engage in a lively critique of crime control efforts and their attendant impacts on the lives of citizens, both law-abiding and non-law-abiding. What commonalities these chapters share are a vision of hope for the future direction of criminal justice policies and practices and the corresponding social changes that may result once those voices previously ignored or marginalized are brought in closer to the center of policy making.

Connections between criminal justice policy and women have been made in the media as well as in popular debates over the images and

treatment of women victims and offenders. For instance, beginning in the 1980s, the criminalization of pregnancy was a hot topic; the media followed prosecutors who tried to control women's bodies by accusing them of either drug trafficking or child abuse because they used drugs during pregnancy. In another arena, the courts responded to the 14th Amendment argument over parity in rehabilitative, educational, and vocational programs and medical treatment in women's prisons vis-à-vis men's prisons. In the legislative sphere, several governors commuted the sentences of imprisoned battered women who had killed their abusers after sustaining years of abuse. And as a nation, we were seemingly intoxicated by the news coverage of the Nicole Brown Simpson murder case, Lorena Bobbit, Bob Packwood, William Kennedy Smith, Mike Tyson, Tailhook, Anita Hill, the Spur Posse, and by the movie *Thelma and Louise* (to name just a few).

Despite the growing recognition in both the popular press and in more scholarly analyses of women entangled in the criminal justice system (whether as workers, victims, or offenders), unintended consequences or hidden costs of these new areas of inquiry were revealed: In the 1990s, although pregnant addicts were moved to family court rather than punished in criminal courts, treatment slots remain disproportionately filled by *white* female substance abusers. In a related vein, today, the goal for female inmates to attain parity with male inmates is viewed as a double-edged sword in which women end up with far more prison cells than with improved conditions or programs—and in fact, women may indeed need different programs (such as increased medical treatment, specifically prenatal, gynecological) than men do. And in the courtroom, images of battered women as weak and incompetent mothers emerge in cases concerned with women who have killed their abusive partners in self-defense; these women's stories are used against them subsequently when they fight for child custody.

Alongside this mixed bag of victories for women as well as the backlash against women, the 1990s also ushered in an unprecedented emphasis on crime control strategies so “we” would win the war on crime: harsher penalties (including mandatory minimum sentences; “truth in sentencing” laws, community notification of released sex offenders; “three strikes, you’re out” legislation; boot camps), increased sanction severity, revived interest in retributively based punishments, as well as the removal of certain steps in death penalty appeals. What also were discarded or severely curtailed were rehabilitatively based prac-

tices and long-term strategies that went beyond aftercare and, instead, focused on prevention, education, treatment, or intervention. This “law-and-order” orientation has been both politically and popularly embraced; its message capitalizes on fear, misinformation, and media-sensationalized treatment of atypical crimes. Increases in government funding for criminal justice system concerns have also paved the way for the new so-called war on crime. In fact, to indicate just how pervasive crime funding priorities are, we need only to see that at the same time criminal justice expenditures rose by 150% between 1972 and 1988, funding for education increased nationwide by only 46%.

Despite little evidence that these policies do in fact decrease crime, efforts to limit judicial discretion, increase incarceration, and punish offenders more severely have steamrolled ahead, gathering little resistance, and these policies have not been subjected to rigorous analysis of policy impacts or scrutiny of the empirical research conducted on such programs. Some dissenting voices and actions from this conservative “get tough” approach, however, have been raised: In 1993, approximately 50 of the 680 federal judges refused to hear drug cases, with 2 New York City federal judges concluding “that the emphasis on arrests and imprisonments rather than prevention and treatment, has been a failure, and that they were withdrawing from the effort” (Bertram & Sharpe, 1996, p. 12). Boot camps, community service, restitution, and day fines were embraced as viable intermediate sanctions. Community policing has caught the nation’s interest by storm, although this new style of policing has been criticized as being “a conveniently elastic term which is often loosely used to accommodate virtually any policing activity of which its proponents approve” (Weatheritt, 1987, p. 7), and we do not yet know if this new policing approach works. We have also seen over a decade of reforms in rape law, such as shielding the past sexual history of victims, removing corroboration requirements, and marital rape exemptions (Tong, 1984). Analyses of these reforms often reflect that the reforms provide an educative function, heighten sensitivity of criminal justice personnel and the public, and permit expert witness testimony that recognizes rape trauma syndrome and the deleterious effects of long-term battering on women (Caringella-MacDonald, 1988). At the same time, discretion remains an enduring component of police decision making and prosecutorial and court action. And despite the legal reforms instituted, problematic definitions that trivialize sexual assault and wide variations by state of legal elements of crimes

of sexual violence remain, diminishing the efficacy of the reforms (Caringella-MacDonald, 1988).

Using a feminist perspective, this edited collection seeks to unearth the hidden or unexamined implications of some of these crime control policies. Specifically, the chapters examine the policy implications for women and, when relevant, children. Often, the people most disenfranchised or powerless in society are the ones who lose the most from so-called new policies, yet these same people have little voice in the daily reality in which they live as a consequence of such policies. As the authors of the chapters in the collection maintain, it is often the women and children who are left out, sometimes unintentionally, by the cumulative impact of crime control policies, which adversely harm women. This collection also offers hope for a different vision for the future, a vision of justice that can enhance fair treatment and work on alternative ways of establishing social control that do not result in being at women's expense. Thus, the authors look at the consequences and costs of the current crime control efforts as well as enforcement strategies and sentencing practices.

Mona J. E. Danner's chapter leads the collection by tackling the seductive charm of the crime control baseball analogy, in her chapter, "Three Strikes and It's *Women* Who Are Out!" She explores three ways in which women pay the hidden economic and emotional costs of the crime bills. The expenditures associated with the expansion of the criminal justice system will be paid for in part by the savings to come from cuts in government-sponsored social services, which disproportionately benefit women and their families. Because most social service employees are women, women's employment and financial stability will be disproportionately affected. Men will benefit more from the new jobs created in criminal justice (and women will be less ideologically attracted to these kinds of new positions). And increased imprisonment (of men) leaves more women with the sole responsibility for caring for family needs without the possibility of either public assistance or public employment.

"Three Strikes and You're Out" is an example of short-sighted legislation—huge amounts of money will be needed to pay for the construction and maintenance of prisons for felons' lives. Not much analysis has been conducted yet, but a 1994 RAND Corporation study of California's new Three Strikes law found that the cost will run between \$4.5 and \$6.5 billion annually and will divert money from health and education (Greenwood, 1994). Given the high costs, the

RAND study concludes that the law will not be applied equally, which may lead to unplanned consequences, such as nonviolent petty offenders being incarcerated for decades, decreased reliance on plea bargaining (causing backlogs and huge increases in court costs), as well as racial disparities in enforcement practices (see California Legislative Analyst's Office, 1995; Donziger, 1996; Schiraldi, Kuyper, & Hewitt, 1994).

In Chapter 2, James Massey, Susan L. Miller, and Anna Wilhelmi explore the issues of civil forfeiture of property as a valuable weapon used by the government to quickly and efficiently confiscate assets from suspected drug traffickers. Since the turn of the century, the federal government has become increasingly involved with criminal cases, with drug cases in 1990 representing the largest category (Friedman, 1993, p. 268). The federal government has "the muscle and the jurisdiction to make a big noise, to mount campaigns, to wage 'wars,' with airplanes, Coast Guard cutters, and all sorts of paraphernalia" (Friedman, 1993, p. 275), but its impact is limited and often futile. Prison populations continue to grow with convicted drug dealers, so, next, civil forfeiture of assets was embraced as a weapon in the war on drugs's arsenal. However, the forfeitures of so-called guilty property punishes not only the alleged guilty party involved, but also innocent third parties, specifically women (and sometimes, children). Women as spouses, owners, or girlfriends are victimized by the government's forfeiture of property. Massey et al.'s analysis focuses on the complexities of civil forfeiture, the negative impact on women as innocent third parties, and the stated justifications offered for the punishment of these women through an examination of federal court cases involving this issue.

Merry Morash and Lila Rucker, in Chapter 3, address the popular intermediate sentencing option of boot camps, designed as a shock incarceration strategy for first-time nonviolent offenders to instill discipline and respect for authority. The authors suggest that following a military boot camp model creates the antithesis of producing prosocial, empathetic, rehabilitated offenders. Rather, through the practice of demeaning treatment and meaningless physical tasks and punishments, it promotes a climate of masculinity that emphasizes aggressiveness, power abuses, and insensitivity to others' pain. Indeed, research has shown that although boot camps remain publicly popular and cost less than traditional prisons, offenders' recidivism is not dramatically different from incarcerated offenders unless a meaningful vocational or educational training component is included in addition to aftercare

support on release (see MacKenzie, Layton, Brame, McDowall, & Souryal, 1995). Given the contradictions raised by providing training designed to prepare men for war within a correctional setting, Morash and Rucker thus question the efficacy of the boot camp as a sound punishment strategy.

In Chapter 4, Elizabeth A. Stanko explores the area of women's fear and safety concerns in Britain. No less relevant to U.S. issues about the communication of fear to women, Stanko reveals that police advice to women continues to follow misguided offender stereotypes by highlighting stranger danger, causing women to fear the infrequent offender. Police give advice admonishing women to protect themselves—which puts the onus on women to prevent crimes. The social and political climate in the United States today emphasizes offenders' low self-control, evilness, immorality, and lack of a work ethic (see Gottfredson & Hirschi, 1990; Messner & Rosenfeld, 1994, for examples) while simultaneously holding individuals (particularly women) personally responsible for avoiding victimization. Stanko challenges these practices and exposes the consequences for women of such police behavior and advice.

Lynn S. Chancer, in Chapter 5, offers a provocative analysis of media representations of the confluence of race, class, gender, and ethnicity in high profile violent crimes. She addresses these issues through local and national newspapers' coverage of three cases: the New Bedford gang rape, the Central Park jogger rape, and the Bensonhurst "mistaken identity" murder. As her work reveals, these cases play out scenarios in which there is rampant victim blaming or victim exoneration (and hence, offender bashing) depending on one's position in society and in his or her community. Chancer's concern is that the media accounts can act as inanimate players in creating public opinion and support for social control efforts. When competing claims collide, infighting occurs, relegating systemic changes to the background and reinforcing conservative approaches to crime control (see also Elias, 1993). In addition, acceptance or rejection of issues aired in public forums also influences how the criminal justice system treats women and how these women are treated within their local communities.

In Chapter 6, Susan L. Miller, with her work "The Tangled Web of Feminism and Community Policing," explores feminist thought and controversies related to a traditionally masculinized component of the

criminal justice system—the police. She raises the philosophical issues and contradictions contained in the tension between traditional policing styles and beliefs and alternative policing strategies, such as community policing. Her argument is that traditional policing has emphasized a more autonomous, efficient, impersonal model, and this image has been used to prevent women from equal participation in the institution because of their (stereotypical) tendency to value relational connections, care, and personal connections. Yet the new genre of policing, community policing, stresses the “feminine” side of justice. Miller explores the consequences of what happens when traditionally female traits are elevated to desirable characteristics and how this might affect male and female officers’ skills and job performance evaluations. This notion of gendered skill in the community policing context is reminiscent of recent work on gender and technology in which “skill” remains differentiated by gender under circumstances when it is advantageous for organizations to draw these distinctions (see Acker, 1992; Cockburn, 1991).

In the seventh chapter, “The War on Drugs as a War Against Black Women,” Stephanie R. Bush-Baskette provides a set of questions to guide future research on the topic of racial disproportionality and the incarceration of black women. Too little research has been conducted on black female criminality and the treatment of black women by the criminal justice system. Bush-Baskette begins her chapter by noting the increase in the numbers of female offenders incarcerated between 1980 and 1990 for nonviolent property crimes and drug offenses, and asks: Has the well-publicized “drug war” resulted in these increases in female incarceration, as opposed to simply greater drug use by females? And are black women more likely to be disproportionately incarcerated relative to white females for the same offenses? The chapter examines how the interactive effects of racial stereotyping and gender may be embedded in criminal justice system treatment. In other research, Chesney-Lind (1995), looking only at gender, found that mandatory sentencing for drugs had a profound effect on women, although women’s involvement continues mostly to be with minor offenses compared to their male counterparts. Tonry (1995), examining only black men, revealed that black men have been disproportionately affected by the war on drugs compared to similarly situated white male offenders. Bush-Baskette asks whether the goals of the war on drugs and the



mandatory sentencing initiatives are to decrease drug use and reduce violent crime and how these efforts relate to black female offenders.

In Chapter 8, Zoann K. Snyder-Joy and Teresa A. Carlo address the destructive emotional and social costs related to family life when parents—mothers in particular—are separated from their children because of mothers' imprisonment. They remind us that when fathers are locked up, their children are typically cared for by their girlfriends, wives, or their own mothers. Yet when women are incarcerated, important bonds that have been empirically demonstrated to be related to lower truancy, less promiscuity, better grades, and higher self-esteem of children disintegrate. The state, in acting as the punitive parent, trains women to become "better" parents in their prison programs, whereas no such attempt is made with incarcerated fathers. Thus, the burden of maintaining and improving parental bonds in the face of punishment becomes a goal that often seems out of reach. Snyder-Joy and Carlo's analysis of a program designed to lessen the deleterious effects of mother's imprisonment, with a Michigan women's prison children visitation program, offers hope for what the future *could* look like if we were to take the importance of familial bonds seriously.

An alternative strategy to the traditional criminal justice system response to violent men is explored by John Braithwaite and Kathleen Daly in Chapter 9. They discuss the failure of current punishment methods in addressing the masculinist structures that facilitate violence and turn instead to what they feel is a more promising approach, namely, community conferencing. This approach combines shaming elements and ritualized reintegration ceremonies as well as other key principles of republican criminology, such as victim and community empowerment (see Braithwaite, 1989; Braithwaite & Pettit, 1990). Although some feminist researchers have criticized the use of mediation-type efforts in addressing intimate violence because it privileges, or equalizes, relationships already characterized by power imbalances and patriarchal structures, Braithwaite and Daly discuss how these asymmetries can be addressed within the communitarian conference approach (see Fine-man, 1991; Rifkin, 1989),

Last, in Chapter 10, Claire M. Renzetti provides a synthesis of the issues raised in this collection. She examines the broader connections between crime control policies, violence against women, and how these issues are not just about crime control but, rather, share similar features that guide social policy in general, such as welfare reform. Renzetti's