

# SOCIAL STATUS AND SENTENCES OF FEMALE OFFENDERS

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To date, most disposition studies have been limited to exploring the effects of male defendants' social characteristics on severity of disposition; the few studies that have included female defendants have done so primarily to see if the sex of the offenders differentially affected sentencing. Utilizing the propositions set forth in *The Behavior of Law* (Black, 1976), this research looks at the role played by a woman's social status in determining the type of criminal court disposition she receives. Conviction data from a sample of 1,034 female defendants are explored to estimate the effects of (1) economic rank (2) prior criminal record, (3) age, and (4) employment status, controlling for the offense of conviction, on severity of criminal court disposition. The analyses indicate that women's various social characteristics are in fact good predictors of the nature and extent of their sentences and, further, that indicators of respectability and stratification/social integration contribute most to explaining these criminal court dispositions. Accordingly, the propositions of Black's theory of law are generally supported by the results of this study.

## I. STATEMENT OF THE PROBLEM

Since at least the late 1920's (Sellin, 1928), social scientists have been interested in the degree to which the criminal adjudication process might be affected by the social characteristics of defendants. Studies utilizing labelling and conflict perspectives have addressed issues ranging from factors affecting the decision to fully prosecute a case (Myers and Hagan, 1979) to factors determining length of prison sentence (Chiricos and Waldo, 1975; Lizotte, 1978). Much of this research has emphasized the relationship of two traditionally "suspect" variables—race and socioeconomic status—to various dispositions (see, e.g., Bedau, 1964; Judson *et al.*, 1969; Chiricos *et al.*, 1972; Thornberry, 1973; Scott, 1974; Burke and Turk, 1975; Chiricos and Waldo, 1975; Bernstein *et*

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*al.*, 1977a; 1977b). Little attention has been paid, however, to sentencing patterns for women offenders.

Most "disposition" studies retain female defendants in the sample merely to gauge the effect of introducing sex as a predictor variable (see, e.g., Bedau, 1964; Baab and Furgeson, 1967; Bernstein *et al.*, 1977b). Accordingly, we are left to assume either that social-status variables have an identical effect on the sentences males and females receive, or that their effect on women remains unknown. A recent study, which explores how gender interacts with defendants' social and legal characteristics (Bernstein *et al.*, 1979: 335), focused on a test of the "preferential versus discrimination hypothesis." However, devoting full attention to predicting the sanctions accorded female defendants was beyond the scope of that study. In addition, the authors' inability to develop a scientific rationale for their findings (see Bernstein *et al.*, 1979: 353) may have resulted from this lack of existing knowledge concerning the sentencing patterns relevant to women offenders. Until we begin exploring precisely how a woman's status affects her treatment in a criminal courtroom, we cannot determine whether it is sex per se or the social locations attendant to a particular sexual status that affect any observed gender-related sentencing patterns. A disposition study focusing specifically on female defendants is, therefore, long overdue.

This study seeks to determine the effect of a woman's economic rank, prior criminal history, age, and employment status on the severity of her criminal courtroom disposition. The hypothesized relationships between these characteristics and severity of disposition are derived from the propositions set forth in Donald Black's *The Behavior of Law* (1976). This choice of theoretical framework has implications for the hypotheses to be tested, the variables to be included, and, in some cases, the stage of the legal system to be examined (see, e.g., Bernstein *et al.*, 1977a; 1977b). We couch our exploratory work on female defendants within Black's theory of law because it explains concisely an array of legal activity. In particular, since the propositions of this theory describe patterns relevant to all instances of legal life, whether the issue is severity of sentence or plea negotiation, the outcome of the adjudicatory stage is predicted. In addition, Black's macrotheoretical propositions are designed to explain variation in the treatment of individuals without regard to their behavior or motivation (1976: 7-8). Instead, the amount of law to which individuals are subject can be accounted for by their respective

locations in social life, e.g., by their status. Since much of the literature on women offenders has adopted a biopsychological framework (see Klein, 1973), the focus has been on explaining the offender and her conduct (see, e.g., Adler, 1975; Simon, 1975) rather than the legal system and its conduct toward women. In testing Black's theory, therefore, we address an implicit concern with the relationship between social status and law (see, e.g., Turk, 1969; Quinney, 1970; Chambliss and Seidman, 1971), and an explicit concern with how the social status of women affects the quantity of law to which they are subject.

Although Black's propositions are relevant to all aspects of legal life, this study focuses on only one stage in the criminal justice system: sentencing. Sentencing is a particularly data-rich aspect of the adjudication process because it often lays out a defendant's entire background before the court. Many scholars view conviction, rather than sentencing, as most important because it determines the severity of offense (Bernstein *et al.*, 1977b: 365). Seriousness of offense, in turn, is generally regarded as the major predictor of legal sanctions (see, e.g., Jacob and Eisenstein, 1975-1976; Tiffany *et al.*, 1975; Wellford, 1975; Gottfredson and Hindelang, 1979). By contrast, Black's theory takes seriousness of offense simply as one indication of more or less law; it is another aspect of the dependent variable, "quantity of law" (1976: 9; 1979). Following Black, then, we ask: how does a woman's economic rank, prior criminal history, employment status, and age affect the sanction she receives upon conviction of a criminal offense?

## II. THE DATA

### *Sample*

Data on sentencing decisions were obtained from a sample of 1,034 female defendants who were processed through an adult probation department between 1972 and 1976 in a middle-sized county in northern California. Information on these defendants was acquired by coding the available material in the probation files: a state criminal record, letters of reference, and a presentence investigation.

We sampled for five specific types of female offenders both to secure variation in our independent variables and to control for specific offense. Additionally, in order to ensure that the number of women in each offense category was an accurate reflection of that respective population, two additional steps

were taken. *First*, beginning in 1976 back through December of 1972, all women convicted of disturbing the peace, assault, forgery, or drug law violations were selected for the sample. *Second*, since petty theft offenders were disproportionately over-represented, we randomly selected five of every eight petty theft cases.

### *Variables*

**Sentencing as an Indicator of The Behavior of Law:** The concept “quantity of law” is operationalized in this study by ranking a variety of sentencing outcomes, thereby creating an ordinal level measure and treating it as interval. This method accords with the arguments presented by Labovitz (1967; 1970; 1971) and Boyle (1970), and has been employed by a variety of legal sociologists (see, e.g., Baab and Furgeson, 1967; Cartwright and Schwartz, 1973; Hagan, 1975). Specifically, as can be seen in Table 1, the dependent variable ranges from fines to prison sentences. Falling between these two extremes are categories involving type and quantity of probation and indicators of the length of the jail sentence. The detail given to gradations of probation is due to the fact that 91 percent of the women received either formal or court probation, regardless of whether they were given a jail sentence.<sup>1</sup>

**Race and Income as Indicators of Stratification:** Stratification is any uneven distribution of the material conditions of existence—including, for example, food, shelter, and property; in a broad sense, it is inequality of wealth (Black, 1976: 11). Taking stratification as a variable, Black posits that some of the patterns we observe in legal life can be explained by reference to an individual’s respective economic rank. In particular, “where the victim’s rank is constant, or where, for these purposes, it may be assumed to be so . . . whatever the crime, wealth is an advantage for the offender” (Black, 1976: 25).

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<sup>1</sup> The difference between formal probation and court probation is that in the former, the defendant is responsible to a probation officer rather than to the court, and is thereby subject to complete supervision and regulation. For example, the conditions of formal probation state such directives as follows:

- (1) Probationer shall be under the supervision and control of the Probation Officer of this County, shall report as directed and obey all reasonable and proper instructions given by said Probation Officer.
- (2) Probationer shall seek employment and, as far as possible, remain employed during the term of his probation.
- (3) Probationer shall obey all laws and, unless otherwise instructed by the Probation Officer, shall abstain from the use of all intoxicating liquors.
- (4) Probationer shall not leave this State without first securing permission from the Probation Officer and is further required to at all times keep his Probation Officer advised of his whereabouts.

Table 1. Variables: Scaling, Notation, and Frequencies

Notation Variable	Scale	Disturbing the Peace (N=92)	Assault (N=115)	Petty Theft (N=286)	Forgery (N=214)	Drugs (N=327)
Y	Severity of Disposition					
	1. Sentence Susp./Fine	2% ( 2)	1% ( 1)	0% ( 1)	1% ( 2)	1% ( 3)
	2. Court Prob.	22 (20)	7 ( 8)	18 ( 53)	5 ( 10)	9 ( 29)
	3. Formal Prob. (0-1 years)	20 (18)	7 ( 8)	11 ( 32)	7 ( 16)	11 ( 37)
	4. Formal Prob. (+1 year)	21 (19)	36 ( 41)	18 ( 52)	34 ( 73)	39 (128)
	5. Jail (less 1 month)	25 (23)	21 ( 24)	35 ( 99)	18 ( 39)	7 ( 24)
	6. Jail (+1 mo. - 6 mo.)	8 ( 7)	15 ( 17)	10 ( 28)	17 ( 36)	17 ( 55)
	7. Jail (+ 6 mo. - 1 year)	1 ( 1)	9 ( 10)	4 ( 11)	11 ( 24)	10 ( 34)
	8. Prison Interval	1 ( 1)	3 ( 4)	0 ( 0)	5 ( 11)	4 ( 13)
X <sub>1</sub>	Monthly Income	$\bar{x}=463$	$\bar{x}=413$	$\bar{x}=438$	$\bar{x}=331$	$\bar{x}=339$
X <sub>2</sub> a.	Defendant's Race	76% (70)	51% ( 59)	-----	58% (124)	-----
	0=White	22 (21)	45 ( 51)	-----	38 ( 81)	-----
	1=Black					
X <sub>2</sub> b.	Defendant's Race					
	Black	-----	-----	71% (203)	-----	83% (273)
	1=Black	-----	-----	29 ( 83)	-----	17 ( 54)
	Other = all races except black/white	-----	-----	83% (238)	-----	96% (313)
	1=Other	-----	-----	17 ( 48)	-----	4 ( 14)
	White (excluded)	-----	-----	54% (155)	-----	79% (259)

Notation Variable	Scale	Disturbing the Peace (N=92)	Assault (N=115)	Petty Theft (N=286)	Forgery (N=214)	Drugs (N=227)
<b>X<sub>3</sub></b>	Interval Scale	$\bar{x}=98$	$\bar{x}=86$	$\bar{x}=1.65$	$\bar{x}=1.57$	$\bar{x}=1.17$
<b>X<sub>4</sub></b>	0=No 1=Yes	53% (49)	56% (64)	53% (151)	35% (76)	41% (133)
Years on Probation	1=Yes	47 (43)	44 (51)	47 (135)	65 (138)	59 (194)
Age	0=No	81 (75)	77 (89)	84 (239)	85 (183)	88 (287)
21-30 years	1=Yes	19 (17)	23 (26)	16 (47)	15 (31)	12 (40)
31-40 years	0=No	76 (70)	86 (99)	82 (236)	95 (203)	97 (316)
40+ years	1=Yes	24 (22)	14 (16)	18 (50)	5 (11)	3 (11)
20 years or less	Excluded	11 (10)	19 (22)	19 (54)	16 (34)	25 (82)
<b>X<sub>5</sub></b>	0=No 1=Yes	78% (72)	87% (100)	86% (246)	77% (165)	79% (257)
Employment Status	1=Yes	18 (17)	12 (14)	12 (35)	20 (43)	17 (56)
Temporarily Unemployed	0=No	84 (77)	88 (101)	85 (243)	89 (191)	91 (289)
Retired, Health Problems	1=Yes	13 (12)	11 (13)	12 (38)	7 (17)	5 (17)
Welfare/Not Looking	0=No	80 (74)	77 (89)	76 (218)	67 (144)	73 (238)
Housewife	1=Yes	16 (15)	21 (25)	21 (63)	29 (64)	23 (77)
Student	0=No	80 (74)	78 (90)	85 (244)	89 (192)	83 (272)
Employed	1=Yes	16 (15)	20 (24)	12 (37)	7 (16)	13 (43)
	0=No	93 (86)	96 (110)	89 (255)	96 (206)	88 (287)
	1=Yes	3 (3)	3 (4)	9 (26)	2 (2)	8 (28)
	Excluded	29 (27)	29 (34)	28 (82)	29 (63)	28 (92)

In order to test this proposition, we use both the race and income of the defendant as indicators of her rank in society (see, Black, 1976: 17, 20-22, 24-25).<sup>2</sup> In addition, the specific offense categories comprising this analysis generally allow us to assume that the victim's rank is constant: the "victim" was an organization in 85 percent of the disturbing the peace offenses and 94 percent of the petty theft offenses; drug offenses, of course, are regarded as "victimless" crimes. In the remaining two offense categories, there is little variation between the victim and defendant's race, thereby raising the potential of multicollinearity.<sup>3</sup> Thus, assuming that the victim's rank is, in fact, constant, we expect that blacks and low-income defendants will receive the harshest sentences.

**Prior Criminal Record as an Indicator of Respectability:** Black's theory states that the amount of social control to which individuals have been subjected defines their level of respectability, and that, moreover, law varies inversely with the respectability of the offender (1976: 117). Based on this proposition, we would expect that women who have substantial prior records will get sentenced more severely than those who lack such records. Considering the frequency with which

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<sup>2</sup> With regard to the defendant's income, since adjusted income figures are highly correlated with actual income figures, net monthly income was not adjusted for inflation. Second, women who did not report their income (10 percent to 20 percent of each offense category) were assigned to the mean of their respective offense categories.

Two different ways of operationalizing the defendant's race were employed. In the disturbing the peace, assault, and forgery offense categories, there were less than five individuals whose race was neither black nor white. Accordingly, in these three offense categories, defendants with a race other than black or white were combined with blacks; in the remaining two offense categories (petty theft and drugs), defendants with a race other than black or white constituted a separate dummy variable. In all cases, whites comprised the omitted category.

<sup>3</sup> The correlation between victim and offender's race in the assault offense category is .82. This correlation reflects the fact that the vast majority of the offenses were intra-racial (i.e., white-white and black-black). As such, by entering the offender's race alone we are, in a sense, addressing the direction of deviance. However, in order to ensure that we were not overlooking the effect of racial composition, we regressed sentencing on a dichotomous variable which represented these intra-racial offenses and excluded the remaining cases from the analyses (see also, Myers and Hagan, 1979: 445). While the sign of the resulting coefficient was in the direction predicted by previous research (see Johnson, 1941; Garfinkel, 1949; Wolfgang and Riedel, 1975; Black, 1976), with black-victim offenses being treated more leniently than white-victim offenses, neither was this relationship statistically significant nor did it appear to have any substantial effect on the remaining coefficients.

In the case of forgery offenders, we found that there were only 94 victims who were not organizations, and 83 of these victims were white. As a result, there was little variation between the victim and offender's race. Thus, we enter only the defendant's race and note that, generally, given the nature of our offender population, we are more equipped to address the location of deviance than its direction.



probation is given to females, it was assumed that this variable would be the most effective measure of prior criminal history.<sup>4</sup>

**Age as an Indicator of Culture/Stratification:** Age as a social characteristic has more than one kind of relevance to predicting quantity of law. For example, to the degree that youthful years are associated with more unconventional dress, tastes, and ideas (see Black, 1976: 71), youth predicts more severe legal sanctioning than does old age. Similarly, since younger people generally have acquired less property and wealth than older people, the relatively disadvantaged economic status associated with youth should contribute to severe dispositions (see Black, 1976: 25). From even another perspective, age can be seen as covarying with both morphology and social control. On the one hand, if a crime by an unemployed person is more serious than a crime by an employed person (Black, 1976: 51), then those on the extremes of the age continuum should be subject to more law than are those in their productive working years. On the other hand, if reaching the age of majority produces less familial control, it should also produce more legal control (Black, 1976: 107). Accordingly, age is a social characteristic which coexists with a variety of statuses predictive of more or less legal control. However, since the modal age for our offender population is 21 years, we are precluded from exploring how age, via morphology and social control, affects legal control. Therefore, turning to stratification and culture, we assume that younger women will generally have both lower rank and a less conventional life style than will older women and, as such, will incur the harsher sentences.<sup>5</sup>

**Employment Status as an Indicator of Morphology/Stratification:** Employment is one indication of morphology—the distribution of people in relation to one another, including their division of labor, networks of interaction, intimacy, and integration (Black, 1976: 37). Since Black predicts that, all constant, law varies

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<sup>4</sup> It should be noted that previous probation time captures only those women who have had prior convictions. As such, utilizing this variable might be seen as ignoring the effect of a prior arrest record and therefore eliminating an important source of variation in the data. The interval variable of prior arrests was tested in place of probation time in this analysis and had absolutely no effect on the direction or significance of the independent predictors of dispositions. The amount of explained variance, however, was reduced. Consequently, it seems that time on probation is the more powerful explanatory variable for predicting the sentences of female defendants.

<sup>5</sup> Black does not provide a proposition which predicts the direction of the relationship between age and law. However, since the relationships we have specified may take a curvilinear form, and since Black does predict curvilinearity between various statuses and law (1976: 39, 41, 74), we coded age into a set of dummy dichotomous variables.



inversely with the integration of the offender (1976: 51), we would expect that unemployed women would receive more severe dispositions than employed women. However, examining only an employment-unemployment dichotomy leaves out a number of statuses which are indicative of both social integration and, in the traditional sense, unemployment. For example, we might expect that a woman who is unemployed could also be either a student or housewife, both of which indicate a high degree of social integration.<sup>6</sup> Moreover, since more social integration bids less law, the failure to include these relevant unemployment statuses could obscure the predicted relationship. Similarly, we would also expect to see a difference between the criminal justice system's treatment of those women who are temporarily unemployed or actively seeking work, and its treatment of welfare recipients or those uninterested in gaining employment. Thus, in order to ensure that we are accurately measuring the defendants' social integration, we examine the effect of a number of employment statuses on severity of dispositions.

Additionally, employment, as operationalized above, has relevance to more than just morphology. Welfare recipients are not only certified as "outside the economy, not fully participating in society" but also as "poor" (Ritti and Hyman, 1977: 164). Thus, this indicator should be viewed as an extension of our measurement of stratification.

Finally, we note that a careful reading of Black's work suggests that each proposition predicting a given legal decision is couched in the context of "all else constant." We take this to mean that other variables assumed or known to have an impact on legal life must be held constant. Therefore, we view such variables as income, race, and number of years previously spent on probation not only as predictors of the quantity of law but also, reciprocally, as control variables (see also, Hagan, 1974: Chiricos and Waldo, 1975; Black, 1976).

### III. THE ANALYSIS

Since a number of theoretically important variables must be held constant simultaneously, multiple regression was

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<sup>6</sup> In some of the recent stratification literature, "housewife" has been categorized as a labor force occupation (see, e.g., Bose, 1973; Fee, 1976; Rosenfeld, 1978). This researcher acknowledges the importance of considering this status as "full-time labor." However, as it appears that utilization of the status as a labor force occupation has not as yet gained wide acceptance, it was considered more appropriate for this analysis to categorize only those women who receive wages for their work as employed females.

selected as the method of statistical analysis.<sup>7</sup> Furthermore, it was assumed that the form and strength of the relationships between the independent and the dependent variables could best be analyzed by examining both the standardized and unstandardized regression coefficients.<sup>8</sup>

The regression analyses produced five separate correlation matrices; and, while it is too cumbersome to reproduce these matrices in print, we note that none of the correlations were .50 or above.<sup>9</sup> Thus, we assume that our data are free from any serious multicollinearity problems, and report the results of the regression analyses below in Table 2.

**Social Statuses Which Predict Severe Sanctions:** From Table 2, we can see that the likelihood of a woman receiving a harsh sentence increases if either (1) she is economically disadvantaged or, (2) she has been subject to previous legal control.

Examining, first, the relationship between stratification and law, we find that in three of the five offense categories either the defendant's race or her income significantly affects the sentence she receives.<sup>10</sup> Specifically, black women convicted of either disturbing the peace or drug law violations are sentenced more severely than their white counterparts; lower-income women convicted of forgery receive the more severe sentences. Table 2 also reveals that welfare recipients receive relatively severe sentences. In fact, the status of welfare is generally given the greatest weight and appears to have a more consistent impact than either race or income alone on the sentences accorded these women.

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<sup>7</sup> Since we are generally utilizing sets of variables as a means of assessing the impact of particular statuses on the quantity of law to which female defendants are subject, many readers may feel that, in lieu of examining the significance of individual coefficients, an F test for the increment to  $R^2$  produced by a given set of variables would be more appropriate. We chose not to perform such "set tests" for the simple reason that a number of the variables included in this analysis have relevance to more than one status. For example, as previously noted, age may be important to the sentencing process because of its relevance to both stratification and culture; similarly, the employment variables indicate not only morphology but also, in some instances, stratification. Accordingly, the difficulty of establishing an independent set test of a number of the propositions of Black's theory (1976) and the hypotheses included herein emerges.

<sup>8</sup> A significant level of .10 was chosen for this study. The chosen level reflects a concern for the possibility of a type II error and the exploratory nature of this work (see Bernstein *et al.*, 1977a; Morrison and Henkel, 1970).

<sup>9</sup> The correlation matrices for each of these analyses are available from the author upon request.

<sup>10</sup> The reader should be aware that when the data are taken from an entire universe, as is true of the majority of offense categories in this study, tests of significance are still useful (see Winch and Campbell, 1969; 142-143; Blalock, 1972: 238-239).

Table 2. Severity of Disposition: Regression Coefficients (b), Standardized Regression Coefficients (Beta) and Related Statistics<sup>1</sup>

Variables	Disturbing the Peace	Assault	Petty Theft	Forgery	Drugs
	Beta	Beta	Beta	Beta	Beta
	b	b	b	b	b
X <sub>1</sub> Monthly Income	-.000	.000	.000	-.001**	-.000
X <sub>2</sub> Defendant's Race					
a. Black	.532**	.301	-.083	.105	.415**
b. Other	---	---	-.287**	---	-.466
X <sub>3</sub> Years on Probation	.167**	.232**	.166**	.182**	.149**
X <sub>4</sub> Age					
a. 21-30	-.298	-.465	-.228	-.234	-.740
b. 31-40	-.113	-.647*	.229	.355	-.088
c. 41+	-.509	-.920**	-.450*	-.165	-.103
X <sub>5</sub> Employment Status					
a. temporarily unempl.	.318	-.209	-.160	.841**	.315
b. retired/health	.118	.127	-.273	.262	.261
c. welfare/not looking	.472	-.205	.656**	1.050**	.924**
d. housewife	-.172	-.671**	-.143	.220	.181
e. student	-1.973**	-2.011**	-.330	-1.040	-.775**
	R <sup>2</sup> =.22 N = 87	R <sup>2</sup> =.21 N = 111	R <sup>2</sup> =.24 N = 271	R <sup>2</sup> =.28 N = 205	R <sup>2</sup> =.21 N = 301

\* significant .10 (one-tailed test)

\*\* significant .05 (one-tailed test)

+ significant .05 (two-tailed test)

1 Discrepancies in the total N between Tables 1 and 2 are due to missing data.

Welfare is a social status particularly relevant to women (see Devens, 1979: 47-48). Because it is highly correlated with income (ranging from a low of  $-.27$  to a high of  $-.43$ ) and race (ranging from a low of  $.20$  to a high of  $.44$ ) within offense categories, we wanted to determine whether the relatively severe sentences accorded to black and low-income defendants were, on the one hand, due to either their race or income level or, on the other, their status as a welfare recipient. Therefore in a separate analysis, we decomposed the total effects of race and income on sentencing into 1) indirect effects through welfare and 2) direct effects (see Alwin and Hauser, 1975). The decomposition revealed, first, that most of the effect of race on sentencing was direct (ranging from a low of 55 percent to a high of 96 percent), rather than indirect through welfare. Accordingly, the impact of race on sentencing appears to have little to do with the fact that blacks are more likely to be welfare recipients than whites. Second, excepting only petty theft offenders, the direct effect of income on sentencing (ranging from a low of 55 percent to a high of 80 percent) is also far more substantial than the indirect effect. Thus, low-income women are given the more severe sentences primarily because of their status as welfare recipients. It is also noteworthy that in three offense categories the total effect of income is significant; but since in two of these offense categories roughly one-third of this effect is indirectly transmitted through welfare, its direct effect on sentencing failed to be statistically significant. In summary, while there are some joint effects of variables (particularly income and welfare), the findings do suggest that each of these indicators makes an independent contribution to the dispositions women offenders receive.<sup>11</sup>

Next, Table 2 reveals that the presence of a prior criminal record has a notable impact on sentence severity. Specifically, regardless of the offense of conviction, women who have spent previous time on probation are significantly more likely to receive the harsher sentences. Moreover, as indicated by the beta weights, a previous probation disposition is one of the most important factors in a judge's determination of the severity of the defendant's current disposition. Clearly, then, being an ex-offender not only represents a particularly negative status in social life (see Goffman, 1963; Irwin, 1970: 135-136) but also a status which will predict, for women, more severe legal

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<sup>11</sup> The statistics upon which this reanalysis is based are available from the author upon request.

sanctioning in any subsequent criminal adjudications (see also Bedford, 1974).

**Social Statuses Which Predict Leniency:** The likelihood of receiving a lenient sentence increases not only if a female defendant is employed, but also if she holds an alternative “socially integrated” status.

In particular, we find that by comparison to employed women, students generally receive less severe sentences; we also find this judicial leniency for assault offenders who are housewives. By contrast, welfare recipients are sentenced more severely than employed women; forgers who are temporarily unemployed also receive harsher sentences. Accordingly, there does in fact appear to be a significant relationship between the types of sentences accorded women offenders and their degree of social integration. A woman may not be engaged in full-time employment, but if she is perceived as either working toward that goal or fulfilling that goal in the home, she will probably be treated at least as well as, if not better than, she would be if she were employed. If law is imposed at all, it is likely to be imposed in smaller quantities.

Finally, turning to age, we find that, excepting only one segment of the petty theft and forgery offenders (31-40 age bracket), the coefficients for age are all negative, indicating that, by comparison to women 20 years of age or younger (the omitted category), the older defendants are sentenced less severely. While these variables generally have no significant effect on severity of disposition, we do not therefore conclude that a woman's age is an inconsequential factor in the adjudication process. Instead, we suggest that its effect on sentencing may be obscured by its relationship with other social statuses. As noted, a woman's age can overlap with her employment status, her rank, her degree of conventionality, or even the quantity of social control to which she is subject. Thus, while our findings with regard to age do not support Black's work, we do feel that further analyses should explore the degree to which age interacts with various alternative social characteristics.

#### IV. DISCUSSION

The following discussion considers both the relevance of this study to Black's theory of law and, more generally, the consequences of analysis for future studies of the relationship between the defendant's sex and criminal court dispositions.

First, our data indicate that the propositions of Black's theory of law are generally consonant with what actually happens in the courtroom; observable patterns in sentencing do correspond to a woman's location in social life. Specifically, women who fall into the lower economic rank, women who are on the periphery of social life, and those who have experienced prior legal control in their lives will most likely receive the more severe sentences. The findings of the study, however, remain unclear as to the effect of age on severity of disposition.

Second, while Black's propositions are given general support by this study, the analyses also suggest a number of caveats which should be noted by the reader. Defendants who are Asian-American and Mexican-American elude the stratification spectrum: the signs of the regression coefficients indicate that they are receiving less severe sentences than white defendants. Although this relationship is statistically significant in only one case, it implies that the criminal court differentiates between the sanctions it accords to nonblack minorities and those it accords to blacks. Future research should probe this surprising result.

We also find that none of our indicators of stratification bear a significant relationship to the sentences of assault offenders. An examination of this data reveals no apparent reason for this outcome. However, given that characteristics of particular offenses, such as victim-offender relationships, can confound the associations between race and disposition (see, e.g., Bullock, 1969; Kelly, 1976), we might expect that a failure to control for a particular variable may have affected the analysis. For example, a characteristic unique to the assault offenders is the intimate nature of their relationship to the victims: the vast majority (81 percent) are friends, relatives, or lovers. By contrast, such a relationship exists in only 27 percent of the forgery cases; in the remaining offense categories, organizations comprise the greater proportion of the victims. Since the majority of assault cases involved equally ranked victims and offenders (i.e., white-white and black-black) and, at the same time, offenders who were intimately related to their victims, it may well be that the independent effect of rank emerges only when the victim-offender relationship is held constant. In other words, if law varies directly with the relational distance between the victim and offender (see Black, 1976: 40-48), and if the victims of these intra-racial offenses are largely intimates, then relational distance may suppress the effect of rank. Thus, while the relational distance of female

offenders to their victims is a topic for future scholarship (Kruttschnitt, forthcoming), we would suggest that it might also be a causal factor in finding results unique to one offense category.

In a related vein, we note that the impact of women's social characteristics on their sentences generally varies across offense categories. While it is beyond the scope of this paper to explore this finding, we offer some conjectures as to its implications for the sociology of law. Black's theory of law suggests that offense is just one aspect of the concept of the quantity of law. As such, regardless of the specific conduct involved, the status which predicts crime of conviction should also predict severity of disposition. However, the results of this study suggest not only that social status affects sentencing, but also that this relationship is mediated by offense of conviction. Accordingly, the offender's conduct, or the situational dimension of the offense, becomes problematic. Therefore, future research should address not only why, under given conditions, some conduct is treated as more serious than other conduct (Black, 1979: 25), but also why, within offense categories judged to be equally serious (e.g., the misdemeanors of petty theft and disturbing the peace), conduct still emerges as a variable in its own right.

Third, and finally, we note that both indicators of respectability and stratification/social integration contribute most to explaining the type of sentences women offenders receive. With regard to respectability, this finding, not surprisingly, concurs with the opinions of courtroom personnel. Specifically, our conversations with probation officers revealed that their evaluations of these defendants frequently focused on the extent of a woman's prior record. For example, after discussing the nature and scope of our research with us, one probation officer summarily gave his opinion of what predicts sentencing: "Judges don't read the defendant's social characteristics, they are more interested in priors." By contrast, the manner in which the social integration variables would interact with sentencing was not readily apparent. However, these variables are of particular interest in that they suggest greater attention to the variety of social statuses women occupy. Most scholars only examine, in relation to deviance processing decisions, whether the defendant is employed (see, e.g., Landes, 1974; Bernstein *et al.*, 1977a; 1979; Myers and Hagan, 1979). Statuses which indicate both unemployment and social integration are thereby overlooked.



The effect of bypassing such statuses becomes apparent in analyses which attempt to explore the sex-sentencing configuration. For instance, whereas Bernstein *et al.* (1979) find that married women are significantly less likely than their unmarried counterparts to be imprisoned, they also discover that marital status does not affect the sentences males receive (1979: 352). In light of our analysis of various employment statuses, we would speculate that their treatment of the employment status variable may explain this apparent sex-based distinction. Specifically, employment status is held constant in their analysis, and the effect of partialling this variable out is radically different for males and females. For males, controlling for employment eliminates the major social location of married men—"breadwinner" (see Berk *et al.*, 1980: 779). By contrast, it seems probable that most women carry the role of homemaker, regardless of their employment status. As such, partialling out the effect of labor force participation should not affect the marital status coefficient for females. According to Bernstein *et al.* (1979: 347), this appears to be the case. Thus while our results remain exploratory, they do suggest that an accurate analysis of the relationship between sexual status and legal control may hinge on a consideration of the social statuses particularly relevant to each gender.

## V. CONCLUSION

This study contributes to our knowledge of sentencing—its predictability as to female defendants—and tests a theory which predicts the adjudication of female defendants based on their social characteristics. Specifically, testing Black's theory of law, we found that economic rank, respectability, and social integration all have a significant bearing, in the predicted direction, on the sentences women offenders receive.

Social scientists have generally explained differences in sentencing, apparently based on the sex of the defendant, as being due to either judicial paternalism or courtroom personnel's sex-role expectations (see, e.g., Reckless and Kay, 1967; Nagel and Weitzman, 1971; Bernstein *et al.*, 1977b; 1979). However, since we have noted that law reacts to women's social status, we suggest that differences in sentencing can be predicted without addressing the court's attitude toward the place of women in society. Specifically, observed gender-related sentencing patterns would be a function not of sex *per se*, but of the particular social locations each sex holds relative to the other. Our study primarily addresses how two of the

more traditional predictors of severity of disposition—economic rank and prior criminal record—affect the sentences of women offenders. However, by also exploring a number of indicators of social participation, we have found that statuses which are particularly relevant to the lives of women, such as employment in and outside of the home and being a welfare recipient, bear significantly on the sentencing process. Before we can conclude that sexual status itself influences deviance processing decisions, we must explore the relative effects of gender-related social characteristics on the criminal justice system's decision-making process. Such an exploration would be fruitful not only for understanding sex-based sentencing disparities but also for projecting how the police and the courts will handle future female criminality.

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