

Gender and Status Offending: Judicial Paternalism in Juvenile Justice Processing

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Abstract

This study examines the relationship between gender and juvenile justice processing outcomes for status offenders. The feminist criminological concept of judicial paternalism suggests that official justice systems, as gendered institutions with traditional patriarchal norms, will treat delinquent girls differently than delinquent boys. This paternalistic effect should be especially prevalent for status offenses, which are used to enforce institutional (parental, school, civic, parochial) authority. Using 1999-2001 juvenile processing data for 3,329 status offense referrals to the Oklahoma Office of Juvenile Affairs ($N = 3,329$) and controlling for age, race, prior history, type of status offense, and measures of social class and urban environment, our results indicate that (a) girls outnumber boys among status offenders, (b) girls are more likely than boys to have their petitions filed for review, (c) girls are less likely than boys to be adjudicated guilty, and (d) girls are just as likely as boys to receive an incarcerated custody sentence as opposed to probation. We argue that these results illustrate the manifestation of the juvenile justice system as a gendered institution in which the adjudication of status offenders reflects judicial paternalism.

Keywords

female delinquency, juvenile delinquency, juvenile justice, courts, judges

Introduction

Female offenders tend to be overshadowed in proportion to males at virtually every stage of criminal justice processes. As a result, criminological theories tend to neglect

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the inclusion of women, despite evidence that female and male offenders have notably different experiences within the justice system (Belknap & Holsinger, 2006; Britton, 2011; Chesney-Lind, 1977; Chesney-Lind, 1989; Chesney-Lind & Sheldon, 2004; Pollock, 2002; Tracy, Kempf-Leonard, & Abramoske-James, 2009).

Gender differences are especially salient in the case of juvenile status offenses. Status offenses are acts considered deviant by a recognized authority due to the minority status of the offender. Status offenses for minors include (but are not limited to) running away, violating curfews, engaging in truancy, and consumption of alcohol or tobacco. Scholars note that while boys are more likely to enter the juvenile justice system for criminal offenses, girls are more likely to enter as status offenders (Chesney-Lind & Sheldon, 2004; Datesman & Scarpitti, 1977; Mann, 1979; Odem, 1995; Sheldon, Horvath, & Tracy, 1989). Although male and female juveniles both commit status offenses in similar proportions (Cernkovich & Giordano, 1979; Chesney-Lind & Sheldon, 2004; Snyder & Sickmund, 1999),¹ status offenses are unique because they represent the only area in the juvenile justice system where girls outnumber boys (Carr, Hudson, Hanks, & Hunt, 2008; Maguire & Pastore, 2001; Teilmann & Landry, 1981; Tracy et al., 2009).

Feminist scholars suggest that this gender differential reflects a double-standard which curtails female offenders' autonomy by pathologizing female disobedience (Carr et al., 2008; Chesney-Lind, 1977; Chesney-Lind & Sheldon, 2004; Feld, 2009). This gender bias reflects the historical origin of status offense laws as a means of "protecting" young women from threats against White, middle-class, Victorian morality (Odem, 1995), and thus manifests into attitudes and discretion biases referred to as "judicial paternalism" (Chesney-Lind, 1977; Daly, 1989).

This study examines juvenile justice processing outcomes among male and female status offenders to test the applicability of two interpretations of judicial paternalism, the chivalry hypothesis (Crew, 1991; Gruhl, Welch, & Spohn, 1984) and the "evil woman" hypothesis (Erez, 1992). In addition, we situate these feminist concepts within the larger theoretical framework of formal and bounded rationality in the criminal justice system (Belknap, 2007; Black & Reiss, 1970; Carter, 1979; Cohen & Klugel, 1978, 1979a, 1979b) to integrate feminist perspectives on gender with mainstream criminological research.

The Juvenile Justice System and Gender in Historical Perspective

Within the context of patriarchal societies, institutions arise to respond to the needs of men, including women only peripherally as issues arise (Acker, 1990; Britton, 2011; Carr et al., 2008). The development of the juvenile justice system provides one such example. The juvenile justice system evolved from the child-saving movement of the late 1800s. The original intent of the juvenile justice system was to separate youth from adult offenders; adults who committed criminal acts were to be punished, while youths who committed criminal acts would receive treatment (Platt, 1977; Rothman, 1980; Ryerson, 1978; Tanenhaus, 2004). Initially, only criminal offenses were brought before the courts, but soon after reformers created a new type of

offense—status offenses. Boys and girls alike were no longer adjudicated for criminal acts alone, but also for behaving in a manner that was considered “inappropriate” for their age (Feld, 2009).

The acts considered appropriate for juveniles were shaped by Progressive Era expectations of gender. At that time, middle-class sexual morality became rationalized by appealing to a “scientific” concern regarding the spread of venereal disease. Sexual immortality was no longer a personal shortcoming, but a social menace (Hawkes, 2002). First prostitutes, then working-class women/girls in general, were presented as the traffickers of sexual diseases by media campaigns aimed at protecting the “troops” (Luker, 1998). Thus, the social threats of an out-of-control and criminal male youth and increasing amounts of venereal disease spread by “immoral girls” helped to foster the juvenile justice system as a needed and valuable social institution. Although the juvenile justice system played a paternalistic role in sentencing boys as well as girls, girls and boys were held to different standards of behavior. For girls, the violation of traditional moral codes regarding femininity became a state matter, as did the rehabilitation of delinquent girls into their proper roles as dependent, controllable, and virtuous young women (Chesney-Lind, 1989; Odem & Schlossman, 1991). Thus, the juvenile justice system focused on curtailing the criminal behavior of boys and enforcing the sexual morality of girls (Chesney-Lind, 1977; Chesney-Lind & Sheldon, 2004; Freedman, 1981; Odem, 1995; Schlossman, 1977; Sutton, 1988; Tanenhaus, 2004).

In the juvenile court system, status offenses became a means to control adolescent female sexuality (Schlossman, 1977; Sutton, 1988). The early twentieth century laws of morality relied on the assumption that young women require protection from degenerative outside forces and from themselves. In comparison with men, women during this era were presumed to have a reduced capacity for decision making. Therefore, it was imperative for patriarchal authority figures like fathers, husbands, or judges to intervene in the lives of women (especially young women) for their own good—further curtailing female autonomy. When fathers were not around, or unable to control their daughters, the justice system became a surrogate parent by upholding traditional, patriarchal family values, often through the “policing” of female sexuality (Sutton, 1988; Tanenhaus, 2004).

The paternalistic treatment of young women in the juvenile justice system continued into the late 20th century. Although the Juvenile Justice and Delinquency Prevention Act (JJDP) was passed in 1974 and reauthorized in 1992, with aims at deinstitutionalizing status offenders and redressing gender inequity, some scholars suggest that the juvenile justice system continues to disproportionately punish girls in ways that curtail their autonomy (Carr et al., 2008; Feld, 2009). To examine the extent of judicial paternalism in the juvenile justice system, scholars must first confirm that gender inequality is occurring. Though there are several ways to test for gender inequality in the juvenile justice system, we have chosen to examine juvenile sentencing decisions in cases of status offenses. In the following sections, we explore the factors that affect sentencing decisions—specifically the influence of bounded and formal rationality—and how sentencing decisions relate to the institutional context in which status offenses arose.

Formal and Bounded Rationality in Juvenile Justice Processing

Theories of criminal justice processing tend to follow two generalized approaches: formal rationality and bounded rationality. The formal rationality perspective suggests that appropriate legal factors such as offense severity and past criminal record explain most of the variation in sentencing outcomes (Bailey, 1981; Bishop, 2005; Black & Reiss, 1970; Carter, 1979; Cohen & Klugel, 1978, 1979a, 1979b; Dixon, 1995; Marshall & Thomas, 1983; Thomas & Sieverdes, 1975; Ulmer, 1997). The formal rationality perspective derives from Max Weber's (1947) work on the rationalization of society and the creation of bureaucracy. The justice system is an example of what Weber called a rational-legal authority, in which authority is based on the office one holds. Presumably, society expects that formal rationality is applied in sentencing decisions, as well as throughout the criminal justice process in general. Police, prosecutorial, and judicial decisions are expected to be influenced only by universally applied legally relevant rules. Studies in sentencing disparity under the formal rationality model indicate that when accounting for legal factors such as criminal history, placement in pre-adjudication detention, and seriousness of charge, the influence of extralegal factors is minimized (Belknap, 2007; Carter, 1979; Clarke & Koch, 1980; Dannefer & Schutt, 1982; Kempf-Leonard & Sontheimer, 1995; Phillips & Dinitz, 1982; Teilmann & Landry, 1981).

The bounded rationality perspective emphasizes the influence of extralegal variables, suggesting that social attitudes, expectations, and biases—including race, gender, and class—play a substantial role in judicial discretion (Albonetti, 1987; Guevara, Herz, & Spohn, 2006). Judges are unlikely to gain substantial idiosyncratic knowledge about each individual and situation that appears before them in court, and must rely on culturally constructed stereotypes, past experiences, social attitudes, and motivations to supplement rational-legal factors in sentencing decisions (Albonetti, 1987; Bridges & Steen, 1998). Empirical evidence supports the contention that extralegal factors like race, gender, and social class contribute to processing outcomes even when legal factors are considered (Bishop, 2005; Bishop & Frazier, 1996; Bortner, Sunderland, & Winn, 1985; Bray, Sample, & Kempf-Leonard, 2005; Conley, 1994; Frazier & Bishop, 1995; Guevara, Spohn, & Herz, 2004; Leiber, 1994; Thornberry & Christensen, 1984; Wordes & Bynum, 1995; Wordes, Bynum, & Corley, 1994).

In specific regard to gender, scholars have found support for bounded rationality. Ridgeway (2011) defines gender as assumptions of difference between men and women, which structure a hierarchal system of norms that are embedded in social relations and social institutions, like the criminal justice and juvenile justice system. Justice scholars have found evidence that girls and boys are sometimes treated differently in the juvenile justice system. For example, Hancock (1980) found that girls' sexual morality is mentioned far more often in court referrals than boys', and Gelsthorpe (1986, p. 137) observed that among seemingly identical cases of "problem behavior," police are much more likely to justify intervention for girls than boys, citing the "moral danger" in girls' sexual vulnerability and their need for protection. Recent research has also confirmed that gendered attitudes continue to characterize the

treatment of girls in the juvenile justice system, where workers demonstrate inordinate concern with girls' morality and sexual promiscuity (Baines & Alder, 1996; Belknap, Holsinger, & Dunn, 1997; Bond-Maupin, Maupin, & Leisenring, 2002; Mallicoat, 2007). In the following section, we discuss how the concern with protecting girls' morality manifests itself in juvenile justice decisions, comparing two models of judicial paternalism: the chivalry and evil woman hypotheses.

Judicial Paternalism: Leniency Versus Harshness for Girls

The existence of bounded rationality in the juvenile justice system is a source of debate among scholars. In addition, when evidence of bounded rationality is found, meaning that scholars find sentencing inequality among groups in the juvenile justice system, the cause of the inequality is still unknown. Chesney-Lind (1977) asserts that the unequal treatment between male and female offenders is a consequence of judicial paternalism. The main concept behind judicial paternalism is protection; specifically, protecting women from the criminal justice system, protecting women from themselves, and/or protecting children from losing their mother due to incarceration (Daly, 1989). Therefore, judicial paternalism can be viewed as a type of bounded rationality, acting as an extralegal variable that influences judicial discretion.

However, the way that judicial paternalism influences judicial outcomes is unclear (Britton, 2011). Scholars have noted that judicial paternalism can lead some members of the justice system to be more lenient toward females than males, while other scholars note that judicial paternalism can also lead members of the justice system to treat females more harshly than males. The chivalry hypothesis, an extension of judicial paternalism, holds that male judicial decision makers apply chivalrous attitudes toward female offenders. Consequently, women who commit the same criminal acts as men are treated with more leniency, granting them protection from the usual callousness of the criminal justice system (Crew, 1991; Farnworth, Teske, & Thurman, 1991; Gruhl et al., 1984; Pollak, 1950). When examining the effects of gender on criminal justice processing outcomes, researchers have found support for the chivalry hypothesis (Blackwell, Holleran, & Finn, 2008; Daly, 1994; Farnworth et al., 1991; Franklin & Fearn, 2008; Kempinen, 1983; Kruttschnitt, 1984; Spohn, 1999; Spohn & Welch, 1987; Willison, 1984). Additionally, studies with juvenile offenders indicate that girls receive more leniency than boys, even after prior record and offense seriousness are considered (Bishop & Frazier, 1992; Farrington & Morris, 1983; D. R. Johnson & Scheuble, 1991; Morris, 1987; Visher, 1983).

Though research finds support for judicial paternalism leading to leniency, some scholars have also asserted that judicial paternalism can cause female offenders to be treated more severely. Horowitz and Pottieger (1991) suggest that when women violate perceived traditional gender roles, they actually receive harsher punishments than do men. This form of selective paternalism is known as the "evil woman" hypothesis. The evil woman hypothesis states that women who act "unladylike" are punished twice: once for the actual criminal act, and again for violating gender norms (Crew, 1991; Erez, 1992; Spohn, 1999). Steury and Frank (1990) argue that women are expected to

follow traditional gender roles and commit “feminine” crimes, and thus women who commit crimes that are considered masculine (e.g., violent acts) receive harsher punishments. This study examines the extent to which gender—an extralegal factor (bounded rationality) that carries explicit sociohistorical attitudes involving paternalism—contributes to juvenile processing outcomes for status offense cases by testing the two facets of judicial paternalism: the chivalry and evil woman hypotheses.

Gender and Status Offending

Unlike criminal offense cases, court processing decisions in status offense cases are less about how much protection to afford the public than how much protection to afford the offender. The act of truancy, for example, is of little direct harm to the public; rather, the offense is primarily of harm to the offender him/herself. Thus, status offenders deemed capable of making their own decisions and taking responsibility for their actions, as well as those whom a judge considers beyond help, may be less likely to receive judicial attention (e.g., referral filings, adjudication, sentencing).

Despite evidence that male and female juveniles commit status offenses in similar proportions (Cernkovich & Giordano, 1979; Chesney-Lind & Sheldon, 2004; Snyder & Sickmund, 1999), girls are more likely to be brought into court for status offense referrals than for other types of offenses, and the proportion of girls brought to court for status offenses outnumbers the proportion of boys (Chesney-Lind & Sheldon, 2004). Some scholars argue that when girls commit status offenses, they violate cultural ideals of White, middle-class femininity. Since the juvenile justice system was created as a method of reforming youths and reinforcing traditional family structure, status offenses are meant to act as a form of surrogate parental control (Bishop & Frazier, 1992; Chesney-Lind, 1977; Hancock, 1980).

Though research suggests that boys and girls in the juvenile justice system for status offenses are treated differently, the directionality of judicially paternalistic attitudes is uncertain. Utilizing the evil woman hypothesis, one would expect girls to be treated more punitively than boys. Austin, Krisberg, DeComo, Rudenstine, and Del Rosario (1995) found that a larger proportion of girls were committed for status offenses than boys, while Sheldon et al. (1989) report that girls were more likely than boys to receive formal processing for the same offense, and Mann’s (1979) study found that girls received harsher punishments than boys for running away.

Meanwhile, some scholars have found support for the chivalry hypothesis, with girls being treated more leniently than boys in the juvenile justice system (Bishop & Frazier, 1992; Farrington & Morris, 1983; Morris, 1987; Visser, 1983). MacDonald and Chesney-Lind (2001, p. 173), meanwhile, observed both leniency and harshness at different stages of the juvenile justice process; girls’ cases were more likely to be “handled informally” at early stages in the system, while “the courts’ benevolence fades as girls move into the disposition phase.”

Other studies have found support for formal rationality, indicating that boys and girls receive similar treatment in status offenses (Teilmann & Landry, 1981), and when extralegal variables were controlled, little difference was apparent in the treatment of

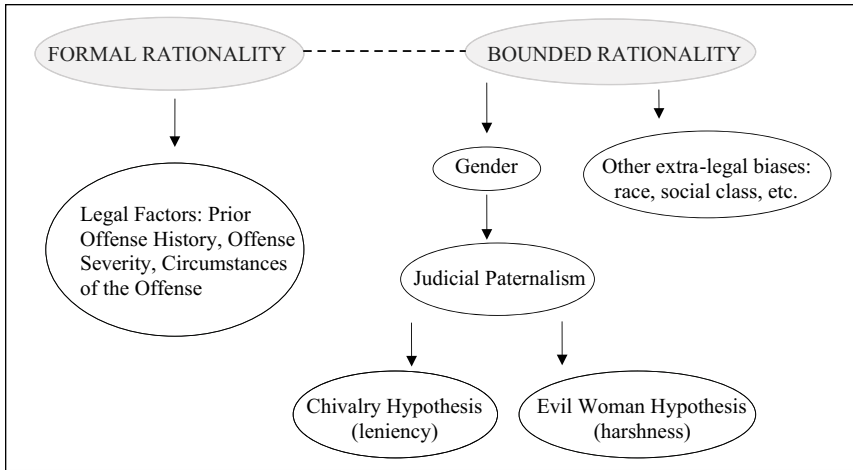


Figure 1. Diagrammatic illustration of theoretical framework.

male and female status offenders (D. R. Johnson & Scheuble, 1991). Thus, past research has produced mixed results; some finding support for bounded rationality through the evil woman or the chivalry hypotheses (both reflecting judicial paternalism), and others supporting formal rationality. Though evidentiary support exists for the formal rationality perspective, we expect to find judicial discretion to be influenced by gender—or the existence of bounded rationality. We predict the occurrence of bounded rationality for two reasons. First, status offenses emerged in the justice system as way to control youth from behaviors that were deemed undesirable for their age. Second, scholars have demonstrated that the policing of female morality has been a concern of the juvenile justice system both historically as well as in the present day. Thus, we hypothesize that girls will be treated more harshly throughout all stages of the juvenile justice system. We expect to find support for the “evil woman” hypothesis, a branch of judicial paternalism under the bounded rationality perspective. In this analysis, we will first determine the proportion of status offenders who are girls, and then examine the filing, adjudication, and disposition decisions among all status offenders.

Figure 1 diagrammatically illustrates the theoretical role of judicial paternalism and the chivalry and evil woman hypotheses as conceptualized in this study, within the framework of formal and bounded rationality. We propose that judicial paternalism is a form of bounded rationality in the juvenile justice system, and in the case of status offenses judicial paternalism presents itself through the evil woman hypothesis, causing justice officials to treat girls more harshly than boys when committing the same crime.

Hypotheses

Using data collected from the Oklahoma Office of Juvenile Affairs (OJA) from 1999 to 2001, we examine the extent to which judicial paternalism occurs for status offense

cases in the juvenile justice system. To the extent that judicial processing outcomes indicate support for bounded rationality vis-à-vis gender effects, we can begin to address whether these differences reflect judicial paternalism through the chivalry and evil woman hypotheses. Thus, drawing from the literature reviewed above, we developed the following hypotheses:

Hypotheses 1: Consistent with bounded rationality in the form of judicial paternalism, girls will outnumber boys among status offenders.

Hypotheses 2: When controlling for age, race, prior history, type of status offense, and measures of social class and urban environment, girls will be more likely to have their cases formally filed for review than boys, reflecting facets of both the chivalry and evil woman hypotheses.

Hypotheses 3: When controlling for age, race, prior history, type of status offense, and measures of social class and urban environment, girls will be less likely to be adjudicated guilty than boys, reflecting judicial paternalism through the chivalry hypothesis.

Hypotheses 4: Reflecting the evil woman hypothesis, and consistent with MacDonald and Chesney-Lind's (2001) finding of harsher treatment in the disposition phase of the juvenile justice system, when controlling for age, race, prior history, type of status offense, and measures of social class and urban environment, girls will be more likely than boys to be sentenced to custody as opposed to probation.

Method

The Oklahoma OJA supplied data for all juvenile offenders referred to that agency between July 1, 1999 and June 30, 2001. The original number of juveniles in the referral data set totaled 29,729. After eliminating 4,218 (12.2%) of the cases due to missing data or because the juvenile was referred for a non-offense (material witness, order to detain, etc.), we filtered the remaining cases ($N = 25,511$) using each juvenile's current offense, which had been pre-sorted in the original data by the most severe current count. We retained all cases whose current count was listed as a status offense (Runaway, Truancy, School Behavior Problems, Beyond Parental Control, and In Need of Supervision), producing a total of $N = 3,329$ status offenders. While female offenders comprised only 31.5% of the original set of all offenders, they became the majority (57.3%) among status offenders.

Dependent Variables

A referral to the OJA can take the form of arrest by law enforcement, but can also occur through a parental or school request. Unfortunately, the OJA does not provide information about the circumstances under which referrals are made, other than the offense type. Upon processing a referral, the agency makes an "intake" decision that reflects whether the juvenile will be referred to court for formal handling through a

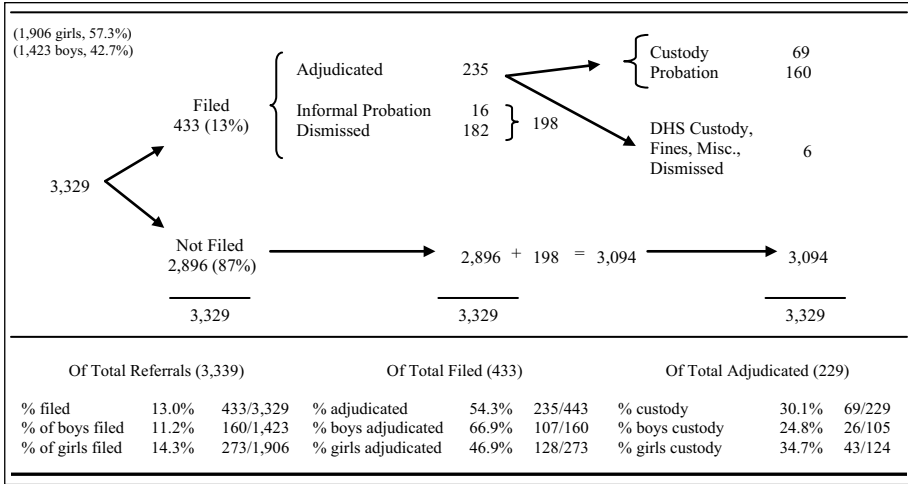


Figure 2. Diagrammatic illustration of juvenile justice outcomes, all status offense referrals 1999-2001.

filed court petition. During this process, the juvenile justice system gathers information concerning the alleged offense contained in the referral, the juvenile’s prior record, and any other relevant information. The district attorney, based on the information provided by the OJA, makes the final intake decision as to whether to dismiss the case (take no action) or to file a petition. Our dependent variable *filed* reflects filed petitions (coded 1) versus referrals that did not result in filed petitions (coded 0).

Once a petition has been filed, the adjudication process commences. Controlled primarily by the district courts, the judicial outcome can take the form of dismissed, not guilty, informal probation, guilty (adjudicated delinquent), or transferred to adult court. As no status offenders were transferred to adult court and none were found not guilty, and only a small proportion were informally probated (see Figure 2), we collapsed our dependent variable *adjudicated* to reflect those found guilty (coded 1) from the rest (coded 0).

Similar to the adjudication process, the district courts make disposition or sentencing decisions. Once a juvenile has been adjudicated as a delinquent, two primary disposition decisions are available: custody or probation. Several other options for juvenile court offenders, such as Department of Human Services custody, fines, and dismissal, accounted for only 6 of a total of 235 adjudicated delinquents, and were eliminated from the final dependent variable *custody*, leaving only those sent to custody in a juvenile detention center (coded 1) or placed on official juvenile probation (coded 0).

Figure 2 illustrates the juvenile processing pathway of status offenders through the Oklahoma OJA, as well as the proportions of male and female juveniles who experience each justice processing outcome.

Independent Variables

The study utilizes eight independent/predictor variables to examine juvenile justice outcomes on the three dependent measures. These independent variables are categorized into the three groups, consisting of (a) general demographic indicators (b) measures of social class and environment, and (c) measures of offender and offense characteristics.

Demographic indicators include gender, age, and race. As our theoretical focus concerns the way that female juvenile status offenders are treated by the justice system, our coding for gender assigns 1 for girls and 0 for boys, and the dummy variable is thus called *Female*. *Age* is a ratio-level variable. For race, we expand on previous studies that use dichotomous definitions of race (Bishop & Frazier, 1988; Bortner & Reed, 1985; Frazier & Cochran, 1986; Guevara et al., 2006; J. B. Johnson & Secret, 1990; McCarthy & Smith, 1986; McGarrell, 1993; Thornberry, 1973) by using a multiple category taxonomy that considers *White*, African American (*Black*), *Hispanic*, and *Native American*, rather than simply comparing Whites with non-Whites. Measures of social class and environment include three items. *Government Aid* is a dummy-level variable indicating whether or not the juvenile's family receives government aid, including Medicaid, TANF, disability, food stamps, or emergency assistance. Juveniles whose families are not indicated as receiving government aid are coded 0. *Poverty Rate in Zip* is a ratio-level variable indicating the percentage of families living below the poverty level in the juvenile's residential zip code. The zip codes also indicate a characteristic of the juvenile's residential environment that we categorize into three levels of geographic area: *Metro*, indicating residences within the two largest metropolitan statistical areas in the state (Oklahoma City and Tulsa), *City-Town*, for all residences that lie in areas designated to lie within cities or towns, and *Rural* for residences in areas that are rural (unincorporated, or not designated as a city or town).

The official offender and offense characteristics comprised of measures for the number of prior referrals, as well as dummy variables for the types of status offenses. The variable *Number of Priors* is a ratio-level indicator of the number of times the juvenile has been referred to OJA, including the current referral. Thus, juveniles with a score of 0 are "first-timers," while those with a score of 1 have been referred one time in the past, those with a score of 2 have been referred two times in the past, and so forth. Finally, status offenses are distinguished in four mutually exclusive categories: *Runaway*, for juveniles who are alleged to have run away from their parents or legal guardians, *Truancy*, for juveniles considered to be habitual truants, *Behavior Problems*, for juveniles who have exhibited either unacceptable behavior at school or whose parents have declared them to be out-of-control, and *In Need of Supervision*, a catch-all designation for juveniles whose precise status offense designation is uncertain.² Table 1 displays all of the independent and dependent measures in the analyses and their definitions.

Results

Table 2 displays descriptive statistics for the 3 dependent variables and 16 independent variables. The overall and gender-specific proportions on the processing outcome

Table 1. Variable Definitions.

Variables	Definition
Demographic characteristics	
Female	Female = 1, else = 0
Age	Years old
White	White = 1, else = 0
Black	Black = 1, else = 0
Hispanic	Hispanic = 1, else = 0
Native American	Native American = 1, else = 0
Social class and environment	
Government aid	Family receiving aid = 1, else = 0
Poverty rate in zip	Percentage of families below poverty in zip
Metro area	Oklahoma City or Tulsa MSA = 1, else = 0
City-town	Cities and towns other than Oklahoma City or Tulsa = 1, else = 0
Rural	Rural (unincorporated) areas = 1, else = 0
Priors and current offense type	
Number of priors	Number of prior referrals to the OJA
Runaway	Runaway = 1, else = 0
Truancy	Habitual truant = 1, else = 0
Behavior problems	Out-of-control at home or school = 1, else = 0
In need of supervision	Count type "In Need of Supervision" = 1, else = 0
Juvenile justice outcomes	
Filed	District attorney filed petition = 1, else = 0
Adjudicated	Found guilty (adjudicated delinquent) = 1, else = 0
Custody	Sentenced to juvenile custody = 1, else = 0

Note. MSA = metropolitan statistical area; OJA = Office of Juvenile Affairs.

variables are also depicted as part of the flow diagram in Figure 2. The proportions in Table 2, however, are accompanied by Chi-square statistics for gender differences. Girls are significantly overrepresented, compared with boys, in the likelihood of having their petitions filed, while among all status offenders with filed petitions, girls are significantly *underrepresented* in being adjudicated as guilty. For those adjudicated, the frequency outcome for being sentenced to juvenile custody, as opposed to probation—showing 34.7% of adjudicated girls sent to custody and only 24.8% of adjudicated boys—was only significant at the .10 level.³

Most of the race and social class measures were evenly distributed across gender. A slightly larger proportion of boys than girls were African American, as well as belonging to families that received government aid, but again these difference were barely significant (only at the .10 level). Notably pronounced, however, were gender differences in status offense types. Girls were substantially overrepresented among runaways: 49.9% of girls were runaways compared with only 34.0% of boys. The other

Table 2. Descriptive Statistics and Comparisons Across Gender.

Nominal variables	Overall	Boys	Girls	Chi-square
	<i>N</i> = 3,329	<i>N</i> = 1,423	<i>N</i> = 1,906	
	<i>n</i> / <i>N</i> (%)	<i>n</i> / <i>N</i> (%)	<i>n</i> / <i>N</i> (%)	
Disposition				
Outcome—Filed	433 / 3,329 (13.0)	160 / 1,423 (11.2)	273 / 1,906 (14.3)	6.83**
Outcome—Adjudicated	235 / 433 (54.3)	107 / 160 (66.9)	128 / 273 (46.9)	16.24**
Outcome—Custody	69 / 229 (30.1)	26 / 105 (24.8)	43 / 124 (34.7)	2.66†
Race				
White	2,153 / 3,329 (64.7)	915 / 1,423 (64.3)	1,238 / 1,906 (65.0)	0.15
Black	497 ^a / 3,329 (14.9)	228 / 1,423 (16.0)	269 / 1,906 (14.1)	2.34†
Hispanic	182 / 3,329 (5.5)	72 / 1,423 (5.1)	110 / 1,906 (5.8)	0.80
Native American	497 ^a / 3,329 (14.9)	208 / 1,423 (14.6)	289 / 1,906 (15.2)	0.19
Social class and environment				
Government aid	1,222 / 3,329 (36.7)	543 / 1,423 (38.2)	679 / 1,906 (35.6)	2.25†
Metro area	957 / 3,329 (28.7)	402 / 1,423 (28.3)	555 / 1,906 (29.1)	0.30
City-town	956 / 3,329 (28.7)	401 / 1,423 (28.2)	555 / 1,906 (29.1)	0.35
Rural	1,416 / 3,329 (42.5)	620 / 1,423 (43.6)	796 / 1,906 (41.8)	1.09
Offense type				
Runaway	1,435 / 3,329 (43.1)	484 / 1,423 (34.0)	951 / 1,906 (49.9)	83.8**
Truancy	708 / 3,329 (21.3)	354 / 1,423 (24.9)	354 / 1,906 (18.6)	19.34**
Behavior problems	210 / 3,329 (6.3)	117 / 1,423 (8.2)	93 / 1,906 (4.9)	15.40**
In need of supervision	976 / 3,329 (29.3)	468 / 1,423 (32.9)	508 / 1,906 (26.7)	15.29**
Continuous variables				
				<i>t</i> test
Age	<i>M</i> = 14.9	<i>M</i> = 14.8	<i>M</i> = 14.9	3.36**
	Median = 15.0	Median = 15.0	Median = 15.0	
	<i>SD</i> = 1.8	<i>SD</i> = 1.9	<i>SD</i> = 1.6	
Prior referrals	<i>M</i> = 1.3	<i>M</i> = 1.7	<i>M</i> = 1.1	-6.70**
	Median = 0.0	Median = 1.0	Median = 0.0	
	<i>SD</i> = 2.5	<i>SD</i> = 2.9	<i>SD</i> = 2.0	
Poverty rate in zip code	<i>M</i> = 13.3	<i>M</i> = 13.3	<i>M</i> = 13.2	-0.35
	Median = 12.2	Median = 12.3	Median = 12.1	
	<i>SD</i> = 6.2	<i>SD</i> = 6.2	<i>SD</i> = 6.1	

^aThe equivalent frequencies for Native Americans and African Americans, as well as for metro and city-town areas, have been rechecked and confirmed as coincidental.

†*p* < .10. **p* < .05. ***p* < .01.

three status offenses, truancy, behavior problems, and being in need of supervision, were all more prevalent among boys.

Girls were only slightly (but significantly) older (14.9 years old compared with the mean of 14.8 for boys) and had substantially less referrals. More than half of girls had

Table 3. Bivariate Pearson Correlations.

Independent variable	Dependent variable		
	Filed	Adjudicated	Custody
Female	.045**	-.194**	.108†
Age	.025	-.142**	-.075
White	.017	-.018	-.024
Black	-.027	-.004	-.013
Hispanic	-.007	-.104*	.049
Native	.008	.090	.018
Government aid	.011	.291**	.256**
Poverty rate in zip	-.049**	.061	.049
Metro	.119**	-.557**	-.152*
City-town	-.048**	.371**	-.051
Rural	-.065**	.251**	.166*
Priors	.014	.158**	.191**
Runaway	-.135**	-.262**	.171**
Truancy	-.061**	.147**	-.163*
Behavior	-.056**	.127**	-.001
Supervision	.232**	.084	.008

† $p < .10$. * $p < .05$. ** $p < .01$.

no prior referrals (hence the median of 0), and the average was 1.1 compared with 1.7 for boys. Neither boys nor girls were more likely to live in poor geographic areas.

Bivariate Relationships

Pearson correlation coefficients, presented in Table 3, indicate the bivariate relationships between each of the 3 outcome variables and the 16 independent variables. As similarly reflected in the chi-square results in Table 2, being female increases the likelihood of having a status offense case filed, decreases the likelihood of being found guilty, and increases the likelihood of being sentenced to custody. However, as in the chi-square, the Pearson correlation between being female and being sentenced to custody is weak and only significant at the .10 level. Some of the strongest correlates include the greater likelihood of status offenders whose family receives government aid being adjudicated guilty and sentenced to custody, the reduced likelihood of being adjudicated guilty and being sentenced to custody for status offenders in a metropolitan area (Oklahoma City or Tulsa), and the increased likelihood of being having a case adjudicated guilty for status offenders in a non-rural city or town outside of the two metro areas. In addition, runaways were less likely to have petitions filed and less likely to have cases adjudicated guilty, but more likely to be sentenced to custody, and those in need of supervision were less likely to have their petitions filed.

Multivariate Models: Tests of Hypotheses

We use binary logistic regression in each of the multivariate analyses to test hypotheses. The first hypothesis, that girls will outnumber boys among status offenders, was confirmed in the descriptive data (Figure 2 and Table 2). Of all 3,329 status offenders referred during the period, 57.3% were girls while only 42.7% were boys.⁴

The binary logistic regression models depicted in Table 4 test the second hypothesis, that girls will be more likely than boys to have their petitions formally filed for review. Controlling for age and race in Model 1, gender (coded in this study as being female = 1) retains its significant positive relationship with the likelihood of having a case filed. Interestingly, this relationship (which remains the same when social class and geography variables are added) intensifies when offense type is taken into account. Interpreting the odds ratio column in Model 3, girls are 55% more likely than boys to have their petitions filed than are boys. Clearly, the gender difference in filing was not due to differences in offense types; girls' overrepresentation among runaways and underrepresentation among other offense types appears to have been suppressing a greater gender effect than observed in the bivariate relationship. We conclude that the multivariate analyses confirm Hypothesis 2:

Controlling for age, race, prior history, type of status offense, and measures of social class and urban environment, girls are significantly more likely than boys to have their petitions formally filed for review.

The models in Table 5 test the third hypothesis, that girls will be less likely than boys to be adjudicated guilty. Accounting for age and race, girls remain less likely to be adjudicated guilty than boys (only 45% as likely). Once social class and geographic variables are taken into account, the odds are only slightly less pronounced (42% as likely) and increase modestly to 47% once offense type is added to Model 3. Unlike petition filing, type of status offense no longer appears to make a difference in the outcome, even though bivariate correlations between offense types and adjudication were significant. We conclude that Hypothesis 3 is confirmed:

Controlling for age, race, prior history, type of status offense, and measures of social class and urban environment, girls are significantly less likely than boys to have their cases adjudicated guilty.

Finally, Table 6 displays regression models testing the fourth hypothesis, that girls will be more likely to be sentenced to juvenile detention (custody) than boys. Recall that the bivariate relationship between gender and custody (contrary to our expectation, girls were more likely to be sentenced to custody) was barely significant, and only at the .10 level. Once age and race are considered in Model 1, the already weak relationship disappears entirely and is not recovered when social class, geographic, and offense variables are added in Models 2 and 3. Thus, we fail to confirm Hypothesis 4, and draw the conclusion that:

Table 4. Bivariate Logistic Regression for Petition Filed.

	Model 1		Model 2		Model 3	
	B	Exp (B)	B	Exp (B)	B	Exp (B)
Female	0.268*	1.31	0.262*	1.30	0.437**	1.55
Age	0.037	1.02	0.070*	1.07	0.085*	1.09
Race						
White (ref)	—	—	—	—	—	—
Black	-0.220	0.80	-0.278	0.76	-0.288	0.75
Hispanic	-0.126	0.88	-0.232	0.79	-0.138	0.87
Native American	0.027	1.03	0.173	1.19	0.148	1.16
Government aid			0.331**	1.39	0.244	1.28
Poverty rate in zip			-0.022*	0.98	-0.019*	0.98
Geographic area						
Rural (ref)			—	—	—	—
Metro			0.882**	2.41	0.713**	2.04
City-town			0.064	1.07	-0.099	0.91
Number of priors					0.034	1.04
Offense type						
Runaway (ref)					—	—
Truancy					0.393*	1.48
Behavior problems					0.034	1.04
In need of supervision					1.486**	4.42
Constant	-2.585**	0.075	-3.23**	0.04	-4.177**	.015
-2 log likelihood	2,562.35		2,497.16		2,335.97	
N	3,329		3,329		3,329	

Note. Coefficients (B) and Odds Ratios (Exp B).

* $p < .05$. ** $p < .01$.

Controlling for age, race, prior history, type of status offense, and measures of social class and urban environment, girls are just as likely as boys to be sentenced to juvenile custody.

Figure 3 displays the comparative predicted probabilities for girls and boys outcomes on each of the dependent measures in Model 3 of each logistic regression, in which all the control variables are taken into account. When age, race, prior history, type of status offense, and measures of social class and urban environment are considered, girls have a 12% probability of having their petitions filed for review, whereas boys have only a 9% probability. Likewise, girls have a 54% likelihood of having their cases adjudicated guilty, while boys have a 77% chance. The predicted probabilities for being sentenced to custody appear to be substantial (24% for girls compared with 18% for boys) but did not reach significance in the regression model (which showed that girls were 34% more likely than boys to be sentenced to custody) due to the small number of observations ($n = 229$).

Table 5. Bivariate Logistic Regression for Adjudicated Guilty.

	Model 1		Model 2		Model 3	
	B	Exp (B)	B	Exp (B)	B	Exp (B)
Female	-0.808**	0.45	-0.866**	0.42	-0.757**	0.47
Age	-0.188**	0.83	0.038	1.04	-0.001	0.99
Race						
White (ref)	—	—	—	—	—	—
Black	-0.008	0.99	0.454	1.56	0.517	1.68
Hispanic	-0.748	0.47	-0.368	0.69	-0.128	0.88
Native American	0.341	1.41	-0.247	0.78	-0.165	0.85
Government aid			1.103**	3.01	1.036**	2.82
Poverty rate in zip			0.004	1.00	0.002	1.00
Geographic area						
Rural (ref)			—	—	—	—
Metro			-2.010**	0.13	-2.096**	0.12
City-town			1.234**	3.44	1.237**	3.45
Number of priors					0.230**	1.26
Offense type						
Runaway (ref)					—	—
Truancy					0.021	1.02
Behavior problems					1.945	6.99
In need of supervision					0.465	1.56
Constant	3.498**		0.345	1.42	0.290	1.34
-2 log likelihood	566.79		415.98		396.93	
N	433		433		433	

Note. Coefficients (B) and Odds Ratios (Exp B).

† $p < .10$. * $p < .05$. ** $p < .01$.

Discussion

Our most basic findings begin with confirmation of the first hypothesis that girls in fact outnumber boys among status offenders. This result is consistent with past research (Carr et al., 2008; Maguire & Pastore, 2001; Teilmann & Landry, 1981; Tracy et al., 2009), and as far as we can determine, no other offense category appears to be associated with a plurality of girls in the juvenile justice literature. Certainly, this gender gap may be thought to reflect behavior differences between girls and boys, but recall that male and female juveniles self-report these offenses in similar proportions (Cernkovich & Giordano, 1979; Chesney-Lind & Sheldon, 2004; Snyder & Sickmund, 1999). Thus, we suggest that the greater likelihood of referring girls to the juvenile justice system for such status offenses reflects bounded rationality in the form of judicial paternalism.

Additionally, after controlling for measures of age, race, prior history, type of status offense, and measures of social class and urban environment, girls are more likely than

Table 6. Bivariate Logistic Regression for Custody-Detention: Coefficients (B) and Odds Ratios (Exp B).

	Model 1		Model 2		Model 3	
	B	Exp (B)	B	Exp (B)	B	Exp (B)
Female	0.481	1.62	0.370	1.45	0.289	1.34
Age	-0.099	0.91	0.128	1.14	0.100	1.12
Race						
White (ref)	—	—	—	—	—	—
Black	-0.091	0.91	0.444	1.56	0.774	2.17
Hispanic	0.430	1.54	0.701	2.02	0.643	1.90
Native American	0.065	.107	0.022	1.02	0.299	1.35
Government aid			1.276**	1.02	1.304**	3.69
Poverty rate in zip			-0.017	0.98	-0.022	0.98
Geographic area						
Rural (ref)			—	—	—	—
Metro			-1.068*	0.34	-1.805**	0.16
City-town			-0.418	.066	-0.504	0.60
Number of priors					0.216**	1.24
Offense type						
Runaway (ref)					—	—
Truancy					-2.150**	0.12
Behavior problems					-1.351	0.26
In need of supervision					-0.713	0.49
Constant	0.335	1.40	-3.218	0.04	-2.215	0.11
-2 log likelihood	275.85		256.33		231.49	
N	229		229		229	

* $p < .05$. ** $p < .01$.

boys to have their status offense cases filed for review (confirming the second hypothesis), less likely than boys to be adjudicated guilty (confirming the third hypothesis), and just as likely as boys to be sentenced to custody as opposed to probation (disconfirming the fourth hypothesis). We predicted the greater likelihood of case filing (the second hypothesis) as an effect of judicial paternalism through both the chivalry and evil woman hypotheses. Prosecutors' greater willingness to file petitions for girls' rather than boys' status offenses may stem from an interest in protecting girls through greater scrutiny of their cases (chivalry hypothesis), or from an inclination to want to punish female status offenders for violating gender norms (evil woman hypothesis).

Whether confirmation of the second hypothesis reflects chivalric leniency or harshness against evil women may be illuminated to some degree by the outcome of the adjudication phase of the juvenile justice process. The third hypothesis predicted that girls would be less likely to receive guilty adjudications, and was confirmed by data from the 433 status offenders whose petitions were filed. Note from the operational

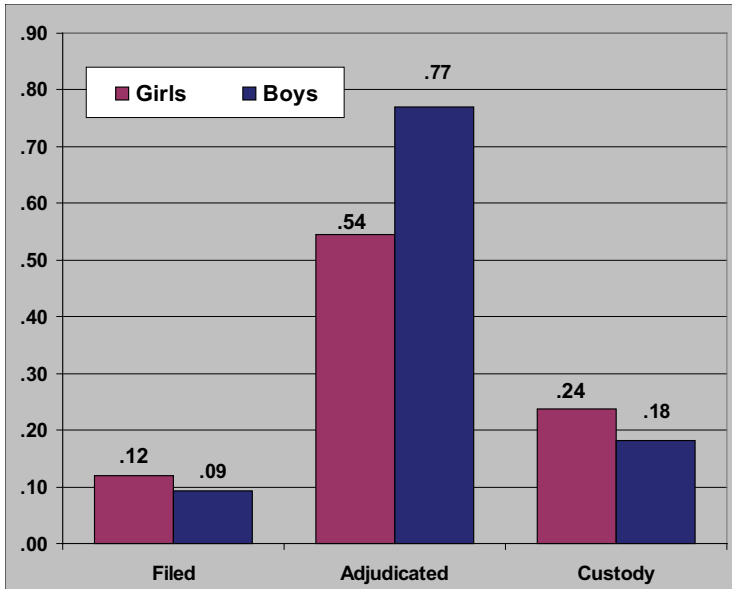


Figure 3. Predicted probabilities for three levels of disposition by gender.

Note. Predicted probabilities reflect binary logistic regression equations (see Model 3 in each of Tables 4, 5, and 6), imputing gender and mean values for all other variables (predicted values = $1 / [1 + e^{-\log \text{odds}}]$).

definition of this dichotomous dependent variable (and Figure 2) that the alternative to being adjudicated guilty was primarily dismissal, with a few receiving “informal probation.” Thus, after prosecutors filed petitions for status offenses, courts were more likely to allow the cases to be dismissed, or in a few cases sent to informal probation, when the cases involved girls than boys. We proposed that confirmation of this hypothesis would reflect chivalry, the idea being that once girls had been properly looked after by filing the petition and having the case formally reviewed (the disparity in favor of filing petitions against female status offenders was, in this interpretation, the result of protective, chivalric attitudes), the juvenile justice system did not see a reason to subject them to the harsh conditions of either probation and custody.

However, if confirmation of the second and third hypotheses supports the conclusion that bounded rationality is being manifest through chivalric attitudes, why did the final analysis disconfirm the fourth hypothesis? Although girls were more likely sentenced to custody than probation in the bivariate analyses, the relationship was very weak, and disappeared when control measures were considered in the multivariate models. Thus, when status offenders are adjudicated guilty, girls are just as likely as boys to receive a custody sentence as opposed to a probation sentence. It seems unlikely, however, that formal rationality suddenly reasserts itself in the final phase of the juvenile justice process. Alternatively, once female status offenders are adjudicated guilty, the juvenile court appeared to either (a) no longer view female status offenders

in the same chivalric light or (b) consider custody a more “protective” outcome than probation. Considering the greater inclination of the court to dismiss girls’ petitions once filed, we find the latter interpretation counterintuitive, and thus the possibility remains that some degree of judicial paternalism in this last phase may reflect harshness toward female status offenders in a way that is incongruent with previous phases.

Limitations

The use of data from one state, Oklahoma, presents an important challenge in the generalizability of the findings. While single-state data collection is common in criminal justice research, we certainly cannot assume that the population, justice system, or social processes (e.g., legal proceedings, attitudes of judges and other juvenile justice professionals) in Oklahoma are closely similar to all other states in the United States. However, we can situate the state’s demographics in comparison with national averages, and infer some degree of representativeness to suggest that these data may not be too dissimilar. Oklahoma’s 3.8 million residents make it a less populous state than the average of 6.2 million (4.5 million in absence of the four most populous states: California, New York, Florida, and Texas), but is demographically more similar to U.S. averages than many others. In 2012, 23.5% of Americans were under 18 (24.6% of Oklahomans), 63.0% non-Hispanic White (67.9% of Oklahomans), and 14.9% below poverty (16.6% of Oklahomans; U.S. Census, 2012). Overall crime reporting was somewhat higher for both violent (387 per 100,000 population in the United States and 469 in Oklahoma) and non-violent offenses (2,859 per 100,000 in the United States and 3,401 in Oklahoma); however, Oklahoma’s arrest rate of 3,561 per 100,000 population was slightly lower than the nation’s 3,918 (Uniform Crime Reports, 2012). Finally, while Oklahoma’s adult incarceration rate of 631 per 100,000 population is higher than the nation’s 492 (Carson & Sabol, 2012), the rate of juvenile detention is somewhat lower at 219 per 100,000 population, compared with 279 for the United States (Sickmund, 2010). Using juvenile justice data from other states in future research will serve to further confirm, disconfirm, and expand on our findings.

Another important limitation in the present study is the age of the 2001 data. While the challenge of obtaining the most current juvenile system records, especially those that involve outcomes of court proceedings, can make the use of slightly older data necessary and common—for example, Guevara et al. (2006) use data from 1990 to 1994—justice practices and norms certainly undergo changes in the span of 12 years. Such developments are of interest to researchers studying gender differentials in the treatment of juveniles, and we urge readers to keep these temporal effects in mind.

Conclusion and Directions for Future Research

While the present study cannot precisely determine the extent to which judicial paternalism reflects the leniency of the chivalry hypothesis or the harshness of the evil woman hypothesis, both the petition filing phase and the adjudication phase maintained significant gender disparities after controlling for measures that reflected either

formal rationality (prior offenses, type of status offense) or other non-paternalistic bounded rationality (race, social class, urban environment). Thus, the data suggest the possibility of both leniency and harshness occurring at different stages in the justice process, and thus confirm the presence of judicial paternalism as a form of bounded rationality. Future studies may benefit from attempts to measure prosecutors' and judges' attitudes regarding male and female juvenile offenders in order to discern greater nuances in the way that paternalism is asserted.

Authors' Note

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Notes

1. Offenses with comparable gender ratios include running away, defiance of parental authority, and alcohol and tobacco use.
2. The Office of Juvenile Affairs (OJA) does not provide any greater detail on the circumstances surrounding these designations, thus we advise interpreting them with caution. Especially "In Need of Supervision," which is the precise wording of the offense category in the OJA statutory code, may involve a variety of juvenile offender situations.
3. Due to smaller numbers of observations in the last stage of the outcome process, larger proportionate differences can still fail to (or only weakly attain) statistical significance.
4. Given $N = 3,329$, this difference is large enough to satisfy face validity without performing a chi-square.

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